



**TYNWALD COURT
OFFICIAL REPORT**

**RECORTYS OIKOIL
QUAIYL TINVAAL**

PROCEEDINGS

DAALTYN

HANSARD

**JOINT COMMITTEE ON THE
CONSTITUTIONAL PRINCIPLES RAISED
BY THE ELECTORAL REFORM BILL 2011**

**CO-VING TINVAAL MYCHIONE PRINSABYLYN
BUNRAGHTOIL TA GIRREE ASS BILLEY LHIASAGHEY
REIHYSSAGH 2011**

Douglas, Monday, 19th March 2012

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Members Present:

Chairman: Mrs B J Cannell, MHK
Mr L I Singer, MHK
Mr D A Callister, MLC
Mr A F Downie, MLC

Clerks:

Mr R I S Phillips
Mr J King

Apologies:

Mr R P Braidwood, MLC
Hon. P A Gawne, MHK

Business Transacted

Page

Procedural 3

Evidence of Mr N Cringle OBE 3

Mr Quayle was called at 10.50 a.m.

Procedural 13

Evidence of Mr R Quayle 13

The Committee sat in private at 11.46 a.m.

Joint Committee on the Constitutional Principles raised by the Electoral Reform Bill 2011

*The Committee sat in public at 10.00 a.m.
in the Legislative Council Chamber,
Legislative Buildings, Douglas*

[MRS CANNELL *in the Chair*]

Procedural

The Chairman (Mrs Cannell): Good morning and welcome to this sitting of the Joint Committee on Constitutional Principles raised by the Electoral Reform Bill 2011. I am Mrs Brenda Cannell MHK, and I chair this Committee. The other members of the Committee are, from the Keys, Mr Gawne, Mr Singer and from the Council, Mr Downie, Mr Braidwood and Mr Callister. Mr Braidwood has submitted his apologies this morning and Mr Gawne is indisposed.

For the benefit of *Hansard*, could I ask anybody, members of the public here if they would please switch off their mobile phones? It is no good just keeping it on silent, because it does in fact interfere with the recording equipment. Also for the benefit of *Hansard* I shall be making sure that we do not have two people speaking at once.

The Electoral Reform Bill 2011 is a Private Member's Bill in the name of Mr David Callister MLC. It makes two main proposals; first that the Island should be divided into eight constituencies and second; that each constituency should return three MHKs and one MLC. The Bill passed its First Reading in the Legislative Council on 14th June 2011. On 25th October 2011 the Legislative Council decided that the constitutional principles raised by the Bill should be referred to a joint committee under Standing Order 4.7 of Tynwald Court. On 22nd November 2011, the House of Keys agreed to form a Joint Committee.

Today, we welcome two very distinguished witnesses. We first of all have Mr Noel Cringle, who is a former President of Tynwald Court and Speaker of the House of Keys, and no doubt has a length of both experience and knowledge in respect of the workings of both the House of Keys and the Legislative Council, and of course Tynwald Court.

Our second witness today is Mr Robert Quayle, who is a former Clerk of Tynwald Court, and of course he has stepped into the fray on numerous occasions and acted as Counsel to the Speaker and of course acted as the Clerk in Tynwald Court.

If I could, first of all, welcome Mr Noel Cringle and ask him to come forward, please. I apologise: there is no tea for you this morning, Mr Cringle, (**Mr Cringle:** Okay.) but feel free to pour yourself a glass of water.

EVIDENCE OF MR N CRINGLE OBE

Q1. The Chairman: First of all, can I thank you for your letter of 17th January 2012, and also for your additional information, which was very interesting. If I could, first of all, start by asking you whether or not you think this is a good piece of legislation that is before the Legislative Council at the present time; and if not, why not?

Mr Cringle: Good morning Committee and an interesting question to start off – ‘is it a good piece of legislation?’ As a piece of written work, I imagine, as I tell you in my letter that, in fact, mechanically it would work. Whether it is good or not, will ultimately be before the Keys and the Council to decide. In my view, it is definitively flawed.

Q2. The Chairman: In what way?

40 **Mr Cringle:** It is flawed in a number of ways, but I equally tell you that, in my correspondence and there is no need, I do not think at this particular stage, to go through each individual item, Chair, because if in fact, as a Committee, you are considering the electoral reform procedure of the Isle of Man, are we definitively looking at this particular piece of legislation alone, or in fact, are you looking at the principles of election to the Keys and the Council in the Isle of Man as it currently is? Are you looking at the whole of the package, or just looking at this particular Bill?

45 If you are looking at just this particular Bill, I could very easily start off on clause 2(2) where it says:

‘(ca) he is not a member of the Council;’

50 Well, I sometimes wonder why that is in, in effect and how can a Member of Council become a Member, if he cannot stand?

If in fact, you turn over the page and you look at 10B, what happens when a Council Member, for example, decides to resign, to stand for the House of Keys? In fact, can he do so? If there is a by-election which crops up through death or whatever in the House of Keys and a Member of the Legislative Council, under this particular legislation, wishes to stand down to become a Member of the House of Keys, stand for that by-election seat, the procedure, or the ability of that person to stand down is not clearly spelt out in this particular legislation; and similarly it goes on, upon the death of a Legislative Council Member, *vice versa*, could a Member for the Keys stand for that Council seat? It is unclear and it needs to be spelt out in the Bill if, in fact, you are going to alter the law.

Q3. The Chairman: May I, Mr Cringle, say that what you are advocating therefore is, although you say that it could mechanically work as piece of legislation, it would require amendment in order for it to become satisfactory, in your opinion?

65 **Mr Cringle:** Unquestionably.

Q4. The Chairman: Can I just say that what we are formed to consider is the constitutional principles raised within the legislation, and that being that there should be eight constituencies and that Members of the Legislative Council should be elected by public vote. Do you have any objection to those two principles?

Mr Cringle: Both of them.

75 **Q5. The Chairman:** You have objections to both?

Mr Cringle: Both of them, and I think, Madam Chair, I have spelt it out again in my letter. I think it is quite straightforward and plain. Certainly, as far as the election to the Legislative Council by the public goes, I think it will be a mistake. I say that quite openly and quite straightforwardly to the Committee. As I said in my letter to you, I think ultimately that that would lead, without question, to the Isle of Man going down a unicameral system of parliament.

If they are publicly elected to the Legislative Council, there is no way in which, in the future, Members of the Legislative Council elected in that manner would bow down to, the Members of the Legislative Council... I think what a lot of people do not realise is that, in fact, the Legislative Council *can always* be over-ridden by the House of Keys, the elected assembly, if the House of Keys so wish.

Q6. The Chairman: Mr Cringle, in your letter, you do not actually oppose the idea of unicameralism, do you?

90 **Mr Cringle:** Not of unicameralism and I thought I was quite plain, Madam Chairman, that in fact in the Bill, in my letter, I thought I was quite plain in telling you that in fact, if that is the way... and I am not against change, if Members of the House of Keys ultimately change, so be it. I am not against change. That will happen and always has happened and will happen again.

95 The point I was making in my letter to you was that, if the Members of the Legislative Council are publicly elected, without doubt, in my book, it will lead to the Isle of Man becoming unicameral, because if the Members of the Legislative Council elected publicly on the same

mandate as the House of Keys, why should they, as a body, say, 'We will take notice of what the House of Keys say and accept their decision'? They would not do so – no need for them.

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The Chairman: I might just invite Members of my Committee now to question.
Mr Callister.

Q7. Mr Callister: Thank you very much.

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I will try to avoid calling you 'Mr President', Mr Cringle. You were in Tynwald a long time – a long time in the Keys, of course, as well. Particularly in the Keys, there were several attempts during those years to have a publicly elected Legislative Council, from Victor Kneale and other Members and so on, even in recent times with Mr Quayle's Bill. Did you ever vote in favour of any of those Bills in the past?

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Mr Cringle: I am sure you have checked the record, Mr Callister: I have not, but I can equally tell you that, as time goes by – and you will also realise, as you even get older, Mr Callister – sometimes your recollection and your ability to decide at the time will change.

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I can tell you, for example, in relation to electoral reform in my very first manifesto of 1971, Mr Callister, I was proposing single-seat constituencies. I would not today.

Q8. Mr Callister: Yes, thank you for that.

Now, do you agree that this Bill does not promote a unicameral system?

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Mr Cringle: It doesn't, but it will.

Q9. Mr Callister: It might be a precursor of that, but the Bill that is before us really only provides for two things, that is eight three-seat constituencies, which would allow for Members of the Council to be elected into those same constituencies, have the same mandate and so on. As for being overridden by the Keys, this Bill does not change that, in fact, because it still leaves the House of Keys... Provided they can find the 17 votes, they can pass anything.

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Mr Cringle: Yes, I accept what you are saying in that regard, Mr Callister.

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My view is that, as I say in my letter to you, it will lead to unintended consequences, and the unintended consequences will be that the Members of the Legislative Council will not, in future, accept what they are accepting easily today.

Q10. Mr Callister: That again is purely a matter of opinion. The Bill does not say that.

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Currently there are five Members of the Legislative Council who have no public mandate – and they are, of course, Mr Butt, Mr Turner, the new Member Mr Wild, the Lord Bishop and myself – so that is a majority of the Council: 9 out of 33 in Tynwald. Over 27% of the representatives of the people have no public mandate. Is that something that should be a matter of concern?

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Mr Cringle: Not particularly, because in fact the Legislative Council are a revising Chamber and have specific duties. As I have already pointed out – and you accept, Mr Callister – the Legislative Council will always and can always be overridden by the House of Keys, should the elected House so desire. I accept that five of you have no public mandate at the present time. That was at the wish of the House of Keys, the representatives sent to the House of Keys by the public of the Isle of Man. They have that duty. The House of Keys have a duty to elect the Members to the Legislative Council. Nobody else can do that; only the House of Keys.

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If I go back to my early days in Tynwald Court, and even before being in Tynwald Court, it was the custom that senior Members of the House of Keys were moved on to the Legislative Council. That was the then wish of the House of Keys because the House of Keys felt, in fact, that those with knowledge of the law which had been passed and some knowledge of procedure would serve better in the revising Chamber. In more recent times, it has been the desire of the House of Keys – nobody else; the desire of the Members of the House of Keys – to elect people who they thought, from outside, would be satisfactory.

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I think, in fact, memory serves me right, or maybe it doesn't, but I think the first to be elected from outside was probably Deemster Luft.

The Chairman: Thank you, Mr Callister.

160 **Mr Callister:** Can I just go on from that –

The Chairman: Can I come back to you?

Mr Callister: – because my question is not finished?

165 **The Chairman:** Can I just come... Oh, okay.

Q11. Mr Callister: If, then, at sometime in the future, all nine representatives – all nine Members of the Legislative Council – had no public mandate, then would that concern you?

170 **Mr Cringle:** No, not if the House of Keys are responsible for electing them. I have already said, Mr Callister, the House of Keys has a duty to elect the revising Chamber, the Legislative Council. It is their *duty* and it is what the House of Keys do that is predominant. If the general public get cross with that, the general public will *vote out* the Members of the House of Keys.

175 **The Chairman:** Thank you, Mr Callister. Mr Singer.

Mr Singer: Good morning.

180 **Mr Cringle:** Good morning.

Q12. Mr Singer: You mention the words ‘specific duties’ of the Legislative Council, but ‘specific duties’... There are ‘specific duties’ that are relevant to LegCo Members and they are clearly defined, so surely LegCo Members cannot demand more, if these duties remain the same, however large their electorate are going to be?

185 **Mr Cringle:** I see exactly where you are coming from, Mr Singer, I understand the angle which you are taking, but in fact, I would suggest to you that that is not the way it would happen. I am quite satisfied that there would be contention, there would be disagreement, there would be a continual pull and I think the public of the Island would realise quite easily what is going to happen and what would happen and if the public then realise, the pressure would come on, even greater, to go down the road of a unicameral system. That it is my view, Mr Singer.

190 **Q13. Mr Singer:** But surely the public would be quite well aware, when they were voting for a Member of the Legislative Council, what their duties were. I would think, rather than support the Legislative Council demanding more powers, surely they would say, ‘No, we voted you in with these powers – carry on with those and don’t demand any more.’

200 **Mr Cringle:** I would think, Mr Singer, that that is a premise which is flawed simply by the fact that you would imagine *today* that the general public of the Isle of Man would know what the duties of the Legislative Council are *today*, and you would admit that you are not going to change them particularly by this Bill.

205 I am satisfied, sitting here, *absolutely* satisfied, that the biggest percentage of the public of the Isle of Man do not realise the difference between a Member of the House of Keys and their duties and a Member of the Legislative Council and their duties, and a lot of the public of the Isle of Man do not realise that the Legislative Council can always be overridden by the House of Keys. That message does not get firmly across to the general public of the Isle of Man. My intent is that it will do.

210 **Q14. Mr Singer:** There would probably be four to five years before an election and surely, it is the responsibility of the House of Keys and Legislative Council in those five years to get it over to the public, what in fact they are voting for and if they do not do that, then they have failed.

Mr Cringle: Which is quite common –

215 **Mr Singer:** If it happens, it happens.

Mr Cringle: – and happens on regular occurrences, and that is why, in fact, since the change of the nominated Members to the Legislative Council, it has taken probably, nearly enough a century

220 now for the public to understand that the Keys has the duty to elect the Members to the Legislative Council. I know it is strange, but I can assure you that it is true.

Q15. Mr Singer: I am sure you would be a leader in making sure that the public got to know what the position was.

225 **Mr Cringle:** Well, I am trying, that is exactly part of the reason that I decided that I would give evidence to this Committee, Mr Singer, otherwise I would just be a normal person in the community, as I am. I decided that, in this instance, it was necessary maybe to come and give evidence to the Committee.

230 **The Chairman:** Thank you, Mr Singer.
Mr Downie, do you have any questions?

Q16. Mr Downie: Yes. Good morning, Mr Cringle.
235 I do not know whether you have had... yes, you obviously have had an opportunity to peruse the Bill, but I would just like to get your views on section 11, and I will read section 11. It says:

240 'Section 11 is substituted to make new provision about constituencies. In particular, a "Boundary Committee" appointed by the Governor in Council has to draw up 8 constituencies, subject to the approval of Tynwald and each of these constituencies is to return 3 members of the Keys and 1 member of the Council.'

As we both know, we have both been involved in politics in the Isle of Man for a long time, I would like to have your views on how you see this causing an upheaval within the various areas in the Isle of Man and the loss of all the traditional sheadings and some of the problems that that particular section will bring, if this Bill is advanced.

245 **Mr Cringle:** Sorry, Mr Downie, could I just go back to... Could you just go over your question again? I was finding it a little bit difficult to find section 11 in relation to what you... I think you were reading from the notes at the start of the page, were you? (**Mr Downie:** Yes.) Right, so you were not actually reading from the Bill itself; you were simply reading from the explanatory memorandum in paragraph 5. Is that right?

Mr Downie: Yes, and I would also say to you that the Bill is quite complicated and it is not easy for people to understand, so –

255 **The Chairman:** Can I just interject, please? We are here to actually ask questions and seek the opinion of our witness.

Q17. Mr Downie: I am asking Mr Cringle to give me an opinion on section 11, which is on the front page of the explanatory memorandum, and how that would work, how he sees it would work.

260 **Mr Cringle:** I think I also say, in my letter to you, in relation to that particular matter, that in fact this particular Bill, as you say, is difficult, and if you look at the repeal provisions you will see that in fact it ought to be read with many other pieces of legislation as well, in order for it to fit.

265 But your premise here, on section 11:

270 '... is substituted to make new provision about constituencies. In particular, a "Boundary Committee" appointed by the Governor in Council has to draw up 8 constituencies, subject to the approval of Tynwald and each of these constituencies is to return 3 members of the Keys and 1 member of the Council.'

As I have said already, when you read that particular piece, if you wish to divide the Isle of Man up into eight constituencies, that is practical and can be done mechanically. Mr Callister has made the point, in his notes to this Bill, that in fact he refers to the Butler Commission coming up and saying that there should be eight constituencies – I think is what Mr Callister said – and I say to you in my letter, Madam Chair, that in fact my recollection of the Butler Commission is the fact they had numerous suggestions, not just the one suggestion which Mr Callister refers to as being the practical one.

275 Yes, I can understand that it can and could work. Anything could work. I mean to say, I remember very well when STV was introduced into the Isle of Man, there was even talk that that would be the be-all and the end-all and in fact, all we needed is to vote for 24 Members of the

House of Keys in one constituency for the Isle of Man. You could just have all 24 elected on a long list. People would vote from 1, 2, 3, 4, all the way down to 24. All those things are practical.

285 I think we have got to be careful that, if you go down this particular road, what you are doing is not only changing the balance between Keys and Council, you are changing the balance between rural and town dweller and you are changing the whole tradition and structure of our Tynwald Court. As I said, Madam Chair, I am not against change and I am happy if, in fact, the change will work and be practical.

290 I am *unhappy* that I honestly believe that setting it out in this way, it will lead to further disagreements between the branches. It will lead to the branches, effectively, being at arm's length, instead of working cohesively under guidelines which have been accepted for a century.

295 **Q18. The Chairman:** Can I just come in there, Mr Cringle. If the Bill were to go forward – and possibly amended, who knows – and it did lead... or it was decided that it would go forward where there were elections across eight constituencies seeking the election of three Members of the House of Keys plus one Member of the Legislative Council, that seat being distinguished from the House of Keys – in other words, you are electing three Members of the House of Keys to undertake what they do now, but their primary role is studying primary legislation etc, and the Legislative Council Member who would also be elected in that particular constituency will be elected to do what the Legislative Council do at present – would you agree with me that, in fact, if that were to go forward, the only difference would be that the Legislative Council would have a constituency base to look after, akin to the House of Keys Members, and that, in fact, would be the only difference?

300 Bearing in mind that Members of the Legislative Council get the same pay as a Member of the House of Keys and all the privileges that go with that office are shared equally right across the board between both Chambers, the only difference which would result is that Members of the Legislative Council had a constituency base to look after, which currently they do not. How, in the face of that, which is the reality of the inevitability of a Bill like this going through, would that not be a good thing?

310 **Mr Cringle:** You can argue that it would be a good thing, but I would argue backwards, Mrs Cannell, that, in fact if there was a general election called in these constituencies and you had three seats being elected to the House of Keys and one to the Legislative Council and as you point out, all being equal in all regards, other than that, can I suggest to you that if I was a politician in the Isle of Man standing for election, I would wish to stand for the House of Keys and not the Legislative Council. Why would anybody want to stand in the same election at the same time, to be elected to the Legislative Council, when the opportunity is there for them in the same constituency to fight for a seat in the House of Keys, which is the predominant body? I mean to say, it is a nonsense, absolute nonsense.

320 **Q19. The Chairman:** Well, you say it is a nonsense and I accept the fact that you yourself were elected as a Keys Member (**Mr Cringle:** Absolutely.) and were a Member of the Keys, so obviously you are going to have that fighting spirit and I am pleased to see it is still there.

325 What I would suggest to you is that, if the constituents, the people were asked to elect three Members of the House of Keys and a Member of the Legislative Council, whose role would be to study legislation, to check that the legislation that comes forward from the House of Keys is in fact fit and good and proper and very much exercise a very important and essential scrutiny role, that role would, in fact, attract, possibly, candidates who were interested in that aspect of the work?

330 **Mr Cringle:** Well, you say they would. In my view –

The Chairman: I am suggesting that it might be possible that you would attract that sort of learned person into that role.

335 **Mr Cringle:** All things are possible, Mrs Cannell, I do not disagree with that. All things are possible, but in reality, if you are telling me that all these Members are equal in all respects, pay and equal in all respects, other than the strict duty which you are going to spell out to them even clearer, I assume, why would anybody – why would *anybody* – wish to put themselves forward to be a Member of the Legislative Council, when the opportunity is there for them, in that *same constituency*, to be a Member of the House of Keys, where they could become a Minister, Chief Minister, or whatever? Politically, I find it very difficult to say that anybody would wish to stand for the Legislative Council, deliberately putting themselves out of the battle.

Q20. The Chairman: Could I suggest to you that possibly the reason... I believe it has been a personal choice of each Chief Minister as to whether or not the selection for ministerial positions has come mostly from the Keys or a combination of both the Legislative Council and the Keys, and you would agree that there is nothing laid down that differentiates between the two branches, but surely, given the scenario – and I am just painting it as a possible scenario that *might* flow... Is it not a case that, when the two branches meet in Tynwald Court every month, the Members of the Legislative Council, elected under the situation that I am suggesting might flow, have the power of the voice, they also have the power of the vote, and they invariably disagree with the House of Keys and are able to block votes, to block motions, to block initiatives coming forward, or to block any opposition that might flow from the House of Keys?

So what I am suggesting to you is that, despite the fact that the only difference is that they would have a public mandate, they would have to have due regard to public opinion. That is the only practical difference, is it not? All of their powers would remain, and it is quite a useful power, is it not, to have a Legislative Council with a small number of Members who, if they are in disagreement with the majority vote in the House of Keys, can actually stop a matter from going forward? That is a useful tool is it not?

Mr Cringle: Madam Chairman, I am sitting here absolutely *amazed* that you can tell me across this floor that you think the Members of the Legislative Council can block the House of Keys. I have been in the House of Keys and the Legislative Council. I refused to be nominated to the Legislative Council, by virtue of the fact that I was aware that the House of Keys are predominant and the Legislative Council can *delay* in Tynwald Court, but they have *no power* to defeat the House of Keys and it is entirely at the wish of the House of Keys, whether or not they accept the delay or the defeat of the Legislative... or the wish of the Legislative Council. The House of Keys, Mrs Cannell, are *predominant* and the House of Keys will remain predominant, even under Mr Callister's Bill.

Q21. The Chairman: Mr Cringle, if I could just come back and say to you, after 16½ years in the House of Keys, I fully appreciate the power and the process that we have. Nevertheless, you can get a situation – and it has arisen from time to time – where, because the branches have been in disagreement, *at that particular moment in time*, that particular initiative or motion has fallen and it comes back to the case of whether counting all of the votes that were in favour, both in the Legislative Council and in the House of Keys is sufficient to come back at a subsequent sitting of Tynwald Court to go for a combined vote of both branches.

I am aware of the processes that are available, but I am not stressing this as my opinion or what I am thinking, I merely put it to you to try and expand upon your thinking this morning.

Mr Cringle: I am still rather surprised at your words there, Mrs Cannell, because in fact if the House of Keys and the Legislative Council votes are called separately in Tynwald Court and the branches are in disagreement, the ruling from the Chair is, with the branches in disagreement, that motion fails to carry. You know and I know, Mrs Cannell, that should the House of Keys wish, at that stage, for that vote to be taken collectively the next month, the House of Keys can so do. The Legislative Council can *not* so do, if it happens in reverse.

The point I make all the time to you, Mrs Cannell, is that the House of Keys, should they wish, are predominant. It is the wish of the elected assembly that makes the vote count, and sometimes the House of Keys Members, I can tell you, Mrs Cannell, not only as being a House of Keys Member for some time, but sitting as President of Tynwald Court... I am very well aware that sometimes the Members of the House of Keys have, not even reluctantly, been glad to bow to the wishes of the Legislative Council. They have not always fought the battle which they thought they wished to fight in the first place.

Q22. The Chairman: Mr Cringle, you raise a very important point at the beginning of your comments there, where you talked about the process, which I referred to, where a Member of the House of Keys can bring the matter back for a combined vote of both branches and you state that the Legislative Council Members do not have that opportunity, but would you agree with me that, in fact, that provision is provided for in Standing Orders and so if Standing Orders were amended, Council might in the future have and share that provision to bring a vote back?

Mr Cringle: I would object strongly if that was to be the case.

The Clerk (Mr Phillips): You would have to have primary legislation.

The Chairman: Okay. If I could move on.
Mr Callister, you have more questions?

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Mr Callister: Yes, please.

Mr Cringle: Sorry, Mr Callister, but I take it, Mrs Cannell, that you heard my comment, that, if that was to be the case that you would alter Standing Orders, I would object strongly, because the House of Keys, the elected assembly, should always be predominant.

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Mr Callister: Mr Cringle, the Butler Commission... You are quite right, they made a number of possibilities, but their preferred option was eight three seats.

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Mr Cringle: And which did the Keys take, Mr Callister?

Q23. Mr Callister: That never got to legislation, or their report didn't, anyway. It was not picked up because the Member who was very keenly interested in it was more interested in the single transferable vote at that time, I think.

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Anyway, if we go to the duties of the Members of the House of Keys, how do the duties of the Members of the Legislative Council differ from the House of Keys now, apart from sitting in the Legislative Council? How do they differ now?

Mr Cringle: The Members of the Legislative Council act purely, as you know, Mr Callister, in this assembly, dealing with legislation effectively as a revising Chamber. That has also changed and there are changes happening all the time. You and I both know that, certainly in the 1970s and 1980s, it was common practice enough for the Legislative Council to *start* legislation. Today, they can still start legislation, but it does not happen as much as it did previously, so in fact it becomes more of a revising Chamber. I accept the Chair's view before that it is the wish of the Chief Minister to decide whether or not Members of the Legislative Council should be Ministers – absolutely correct, I accept that 100% – and if the Chief Minister decides a Minister should be in the Legislative Council, that is his wish. I would rather suggest that it is more unlikely to happen as years slip by. So the duties of the Legislative Council and the Members of the House of Keys are very similar, except, as again the Chair tried to point out earlier, that Members of the House of Keys have a direct link to a constituency.

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Q24. Mr Callister: Yes, the point about Ministers is an interesting one, because at the present time, certainly the past and seemingly the present Chief Minister regard that Council Members should not be Ministers, certainly at this point anyway. If they were publicly elected, of course, any one of them then could be appointed as a Minister, which would be another benefit.

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However, the duties of –

Mr Cringle: Could I say in answer to that, Mr Callister, if they were publicly elected, they possibly could be open to both, but if you remember also that, Tynwald Court and the House of Keys, in effect, when Mr Corkill ceased to be Chief Minister, instead of picking a Chief Minister from the House of Keys at that particular stage, the then House of Keys decided, in fact, to pick a Chief Minister from the Legislative Council.

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Q25. Mr Callister: They picked a *former* Chief Minister, yes.

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Mr Cringle: He was a Member of the Legislative Council.

Q26. Mr Callister: Yes, but that has now apparently changed. That is what I am coming to. If it now proceeds almost as the practice that the Members of Legislative Council cannot be Ministers, it lets the electorate down because there could be very capable people who are sitting on Legislative Council, perfectly capable of taking over ministerial roles –

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Mr Cringle: Then they should stand for election and the public should elect them.

Q27. Mr Callister: That is the whole point of this Bill, because when or if it ever got through, then it would not matter whether they were elected to the Council or the Keys. It would not matter.

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Mr Cringle: It is the same argument again, Mr Callister –

465 **Mr Callister:** The question is –

The Chairman: No, just one at a time, please, gentlemen!

470 **Q28. Mr Callister:** The question I did ask, was how the duties differ now and they do not differ, apart from the fact that the Council sits in this Chamber, because they take on duties and responsibilities in Departments, in Boards, on Tynwald Committees, they have a voting power in Tynwald, they have a voice in Tynwald. Apart from the legislative side of things, they are in no way different now and they would be no way different if this Bill were to be passed.

475 **Mr Cringle:** I accept what you are saying and that is why I say it, in fact, in my correspondence and my letter back to you, that if you go down this road, you will have to consider the numerical strength of the House of Keys, because I am convinced that the two *branches*, when they do act separately, will not accept that the House of Keys are predominant, because the Legislative Council will have the same *mandate*. So there is no reason for them, when they are acting as separate branches, one to bow to the other.

480 So I suggest to you again that it will ultimately lead to being a unicameral system and at that stage, as I pointed out to you in my correspondence, you will need to look at the numbers game because, currently, why the Members of the Legislative Council and the Members of the House of Keys have the same duties when they are Members of Tynwald Court, is for the numerical strength to be able to fill the positions of Ministers and Departmental Members and even
485 Committee Members. I accept entirely, we may only be 80,000/85,000 population of the Isle of Man, but if we are as a nation to govern ourselves, it cannot be done without a sensible number, and to restrict the numbers down to just 24 Members of the House of Keys would be impractical in my book.

490 So, as I say, if you go on a unicameral system, you may very well have to look at the numbers game of how many are *elected* to Tynwald Court.

Q29. Mr Callister: Well, we really are not here to talk about the unicameral system.

Can I just ask one more question, Chairman? (**The Chairman:** Yes.) That is, the question was put, ‘Why should anyone want to stand for the Legislative Council, rather than the House of
495 Keys?’ In 1993 there were nine people seeking seats on the Legislative Council – among them was a gentleman in this room to whom we will be speaking to later. If there were nine people looking at that stage, and this was a public election, I rather suspect there might well be similar numbers. Even if there weren’t, there will be people who will be interested in the legal and legislative side, probably a bit more senior than young people coming in in their 30s and 40s, who would be
500 attracted to serve on a Legislative Council. That is my view.

Mr Cringle: I accept that that is your view and I have put my view this morning, Mr Callister, which is apparently in total disagreement.

505 The fact that there were nine members, nine people prepared to put themselves up for election in 1993 to become a Member of the Legislative Council has got nothing to do with this Bill because, in fact, that was not under this proposed system at all. Those people were being elected knowing what the position was. They were not standing for the House of Keys. It was not for the similar constituency or anything else; it was for a separate job in a separate branch of our Tynwald Court. We must remember that currently we have two branches of our Tynwald Court.
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The Chairman: Mr Callister, thank you.

Mr Callister: Thank you, Madam Chairman.

515 **The Chairman:** Mr Downie, do you have anything further to add because I would rather like us to wind up now.

Mr Downie: Not at this point, but I do not want to be accused of rambling on, so I will just keep my counsel at the moment.
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The Chairman: Right. Can I invite either of the Clerks, possibly, to raise any questions that they feel have not been covered by the Committee this morning to please feel free to do so now?

525 **Q30. The Clerk (Mr Phillips):** This is a very, very political Committee so I am a bit shy about asking a question as I am not in politics, but the primacy of the Keys at the moment seems to be very established. Do you think its justification for remaining the primary branch would continue if both branches were equally elected – elected in the same way, I mean to say?

530 **Mr Cringle:** Definitively, no. I think it would automatically change, whether you tried to keep it in law or not, and I think it is wrong in premise. I think the elected assembly of the House of Keys should always be predominant. I have long held that belief and as I told you before, as a Member of the House of Keys, I refused to accept nomination to the Legislative Council – on every seat, incidentally.

535 **Q31. The Clerk (Mr Phillips):** I know we are looking at the Bill as it is, but it might be interesting to think about the possibility of whether it would be possible to stand for both the Council and the Keys. Do you think that would be a solution to the difficulty which you identified about why people would want to stand for the Council?

540 **Mr Cringle:** But effectively then, we are getting even closer to being unicameral, aren't we? That is where I come from, in reality. As I say in my letter, whilst I can accept change, I am not convinced that this is the right change. I am convinced of the primacy of the House of Keys. If the House of Keys want to do something, it is my belief that the House of Keys should be able to do it. They are the elected representatives and I am worried that if we go down this route, ultimately the proper change would be to go to a full unicameral situation. I will not be around to see it, but there we are. That is the way it is. I can only give, Madam Chairman, my view as I see it now.

550 **Q32. The Clerk (Mr Phillips):** I have got one final question. You were an MHK for Rushen, and obviously with three representatives you are used to people working together for one constituency. Do you think there would be any problems, or indeed benefits, in having every constituency with four elected representatives, one being in the Council and three being in the Keys? Do you think that would affect the way constituency work was done?

555 **Mr Cringle:** It would not affect it to a great extent and certainly, I have been a Member serving with three in Rushen. So four in Rushen would not make that much more of a difference, if you were looking at it in that way. I am just not convinced it is the right way to do it and as I said, in 1971, when I first stood for election to the House of Keys, young, bright, anxious, democracy much to the fore, single-seat constituencies; I was standing in a three-seat constituency, demanding that we had single-seat constituencies. I have changed my view. I would not now wish the Isle of Man to go down to single-seat constituencies. I think it would probably bring party politics in quicker, and I am not satisfied that party politics in a small nation such as ours, would be the way forward, but that is another line.

565 So on balance, I would think that two-seat constituencies, 12 twos are probably my favourite at the present time, but you must be careful when you are doing that, that, in fact, what we are not getting out of kilter is the balance between urban and rural.

Q33. The Clerk (Mr Phillips): I was about to ask you about that. Do you think, whether you thought that one size fits all actually is –

570 **Mr Cringle:** I did try to put it in my letter. I did try to keep my letter brief!

The Clerk: – whether you think the one size fits all actually is appropriate as a model?

575 **Mr Cringle:** One thing does not suit everybody, does it?

The Chairman: Thank you.
Mr King, do you have anything further that you would like to ask?

580 **Q34. The Clerk (Mr King):** One question, please, Mrs Cannell.
Mr Cringle, one of the aspects of the supremacy of the Keys at the moment is that, in the Council a majority of the voting Members are Members elected by the Keys so there are nine voting Members here, eight of whom were put here by the Keys. It was not ever thus and I was looking at the dates and although the Council began to be reformed in 1919, it was not until 1969 that a majority up here was placed here by the Keys. That is over 100 years since the last big

585 electoral reform of 1866. So having reformed the Keys in 1866 it was over 100 years before the Keys fully asserted its supremacy. The question is, if you make a reform in the Council, like the 1866 reform and make it directly elected, how long would it take for the reformed Council to assert its supremacy?

590 **Mr Cringle:** You are living in a different century. We are living in different times altogether. Things change and they can change very quickly today.

Whilst I accept entirely that, in the days when not everybody could read and write, change happened slowly, today change happens *too* quickly, and I think that there are times when in fact you make a change and you wish that maybe a little bit more reflection had taken place. That is why I am convinced that the reflection of a second Chamber is of benefit to Tynwald Court, and as long as the House of Keys are predominant, I am satisfied with the current position. Change the current position so that you lose the predominance of the elected assembly in the Isle of Man and I begin to have a worry.

600 Yes, I understand the change of the Legislative Council, and certainly in my political time, in my political life, I remember full well trying to politically change the Legislative Council to take the *judiciary* out of the Legislative Council. That is in *my* time. We were successful in doing it.

The Chairman: Mr Cringle, thank you every so much for coming in this morning.

605 **Mr Cringle:** Pleasure.

The Chairman: You always give a robust view and we fully appreciate it. Thank you.

Mr Cringle: Thank you.

Mr Quayle was called at 10.50 a.m.

Procedural

610 **The Chairman:** Now, if I can call our second witness, please: Mr Robert Quayle. Welcome, and please feel free to help yourself to a glass of water if you feel the need. Thank you for agreeing to come and give us evidence this morning and also for submitting your letter to us.

EVIDENCE OF MR R QUAYLE

615 **Q35. The Chairman:** If I can just start off by saying you have a slightly different view from our previous witness in that in your letter – bearing in mind that you both acted as Clerk of Tynwald on numerous occasions and also sat on the Boundary Review Committee; you have seen things from both sides, as it were – you are actually saying that eight three-seat constituencies for the House of Keys is in fact a practical and workable solution. You seem to favour eight three-seat-constituency sections as opposed to perhaps 12 two-seat constituencies. Is that correct?

620 **Mr Quayle:** Madam Chairman, I do not think it is correct. I think what I have said is that eight three-seat constituencies is perfectly possible from a range of options. You can have 24 ones, you can have 12 twos, you can have eight threes, you can have one of 24. If you are going to have a directly elected Legislative Council of eight Members, assuming you stick with the eight, the eight constituencies makes a logical division to use for the House of Keys as well.

625 What I have an inherent objection to is the current multiplicity of constituencies – some with three, some with two, some with one – which I think is inherently undemocratic, and the Butler Commission recommended that should cease, but that is 35 years ago.

630 **Q36. The Chairman:** Sticking with your eight three-seat constituencies, you went further in your letter, because you said from a Boundary Review Commission point of view, it would have less negative impact on towns and villages and communities and parishes, did you not?

635 **Mr Quayle:** When I sat as Chair of the Boundary Commission, one of the things we struggled with was to try and marry the obvious loyalty to the old sheadings, the local parish boundaries and the division between town and country, and it was very difficult to do, virtually impossible. There were compromises that had to be made the whole time, not least because the population has shifted and that sort of thing. Some people do not even remember what sheadings are, let alone where they are.

640 As you got down to the small number of Members returned and the larger number of constituencies, it actually got more difficult to respect those old boundaries. It was probably easier to do it on the eight threes, or the eight constituencies, rather than on the 24 ones and it was merely that, that there were difficult balances to draw.

645 **The Chairman:** Can I invite any of my members now, talking I think, specifically, if we could stick to the boundary review aspect, possibly to start off with, before we then tackle the thorny issue of the actual election of the Members of the Legislative Council –

Mr Downie: I would like to start please.

650 **The Chairman:** Mr Downie.

655 **Q37. Mr Downie:** Mr Quayle, you have obviously got a lot of experience: a former Clerk of Tynwald, you chaired the Boundary Commission. You heard Mr Cringle give his evidence and explain how he felt that there would perhaps be some dichotomy between town and country. If we were to go down the specific route that is outlined in the Bill here, the eight three-seats plus one, how do you feel that would work, when 65% of the Island's population live in Douglas, Braddan and Onchan? What effect will it have on the rural community?

660 **Mr Quayle:** I think that one of the things that changed over the last 35 years is that there is a less clear distinction between urban and rural constituencies. I think the old differences of interests have changed over the years and there is a less obvious distinction. The Boundary Commission, I think, felt that it was less pressing to maintain the distinction and sometimes it is very difficult to say where should the distinction be drawn? Where does the town end and the country begin? We are getting a much more homogeneous society and it is somewhat more difficult to draw that clear distinction between rural interests and urban interests.

665 I readily accept that the majority of the population in the Isle of Man now live in what we would describe as urban settlements. It creates practical difficulties, for instance, in the area in which I live. I live on the edge of Peel. I suppose you could say, traditionally it was in the country, but Peel seems to be coming out to join us. It was actually difficult matching the population in the traditional Glenfaba constituency with the increasing population in Peel and saying Glenfaba should have one and Peel should have one as well. Peel, with a far greater population, was effectively disenfranchised in favour of the rural area, which was being enfranchised unevenly, compared to urban constituencies. It is a practical difficulty of drawing the distinction in the same way as it had been in the past and I think my Commission – and others may have reached a different conclusion – felt that maybe it was no longer a distinction which was as relevant as it had been.

The Chairman: Mr Downie, do you have anything further?

680 **Mr Downie:** I would just to ask for your comments, really, on what has been proposed in the Bill with the 24 –

The Chairman: Mr Downie, if we could just focus on the boundary aspect of it.

685 **Mr Downie:** I will be talking on the boundaries.

The Chairman: Yes, but other Members would like the opportunity to also ask questions on the boundary aspect, I believe.

690 **Q38. Mr Downie:** I am talking about the boundaries, if you would let me continue. (**The Chairman:** Yes.)

The Bill refers to the three seats plus one. Would you not agree that it is going to be extremely difficult to break that down, bearing in mind that we have, as you say, conurbations now which have been established? Let me try and clarify that.

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I have always agreed with the present system where it has been based on population so you have three in Rushen, three in Onchan, you have got Douglas North, South, East and West, and so on, but there has always, would you agree, been give and take in Tynwald because people have been prepared to sit and listen to the other person's argument? If we go down the route where we have three-seat constituencies plus one, it is going to change the whole thing and it will be much more difficult to get the same perspective down in debates in Tynwald.

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Mr Quayle: I think if you go to the three plus one, where every Member of Tynwald is elected in some form or another from the electorate, it would be less easy for some to feel that they have a stronger mandate for particular things than others do, because they will all be representing roughly an equal number of constituents and with a direct relationship to those constituents.

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I was particularly intrigued with – and this may be transgressing on the next part of your questions, Madam Chairman... that Mr Cringle gave about how the duties of the Legislative Council and the House of Keys differ. I would say they do differ because House of Keys Members represent their constituents. They represent those who have elected them, whereas Legislative Council Members do not.

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Q39. Mr Downie: Final question, then: how do you think the system would work when a Member of the Legislative Council would have a mandate from somewhere between 10,000 and 11,000 constituents, if we went down this route?

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Mr Quayle: I am wondering whether I should reserve my answer until we get to that principle, because I do have concerns about that and I am very happy to expand on those if...

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The Chairman: Members, do you have any questions in respect of the boundary aspect of it?

Mr Callister: Not on boundaries, no.

Q40. The Chairman: Well, it looks as though we are going to move on to the other components of your contribution.

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If I can just refer to your letter dated 3rd February 2012, on the second page, under (3), you suggest there, and it is written, that any proposal to have Legislative Council Members elected directly, unless appropriately constrained, would have the effect of reducing the legislative supremacy of the House of Keys. What would you consider to be appropriate constraint to prevent that situation from happening?

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Mr Quayle: Madam Chairman, perhaps I could preface my remarks by saying that I am aware that the whole question of whether the Legislative Council should be directly elected or not directly elected has been a matter of debate for many years, not just here but in other places as well. I remember going to Denmark in 1978 with a delegation from Tynwald and we were shown round the parliament there and we were shown the redundant upper house chamber. It was a very fine chamber, but totally redundant, sadly, and we were told that a delegation from an Eastern European country had visited the previous week and asked what had happened to the former members: had they been shot? *(Laughter)*

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I am conscious that solutions are slightly less emotive now, but I think there is a fundamental problem that I see in all the debates on the future of the Legislative Council, that there has got to be some decision reached as to what actually the purpose of the Legislative Council is. Is it there to be a revising Chamber, to bring the wisdom of years of experience to the legislative process? Or is it there to be part of the legislative process with an equal claim to represent the views of the people of the Isle of Man? I think at the present time there is no clear answer on that, and until there is an answer on that it is very difficult to come up with an appropriate solution.

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I am attracted personally by the model that is used in other Scandinavian countries, if my information is still current – and don't forget it is some years since I have been involved – whereby they do actually elect the whole of the parliament, as I understand it, at one go, and they then effectively divide up the responsibilities, once they are elected. So all the members are directly elected, but, once elected, they perform different functions and that upper houses tend to be more revising, but at the same time they are equally elected and they do this using the priority

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system – that those who perhaps came fourth out of four sit in the revising chamber, as their mandate is possibly less pressing than those who were elected the first three positions.

755 My thought was that if you were to go down that route – and I am not suggesting you should necessarily recommend that route, but if you were to go down that route –, one way of actually emphasising the fact that the two Chambers have different roles would be to predetermine the priority in which Members were allocated to those respective Chambers.

Q41. The Chairman: Thank you for that.

760 You will be aware, no doubt, that several years ago there was a yet another Select Committee established to look at, in particular, this aspect of the Nordic proposition of having unicameral system, and that did not find majority favour – in fact, it fell. At that time the basis of argument from those who were opposed to such a change was that how would you and how could you divide, having had a membership of 32 elected by public franchise? They come in, they are all expecting to exercise the democratic right and voice for the people: how can you then suddenly just tithe a section off and say, ‘Right, well, there are your duties. You are going to do that’? How would you consider would be the best way of overcoming that particular hurdle because it was one of the main hurdles for argument at the time?

770 **Mr Quayle:** Madam Chairman, I did not follow that debate. I tend not to follow too many debates in Tynwald, since I stepped out of active involvement.

I think the only way you could do it is actually by... as I suggested, the allocation of the relevant Chamber would depend on the position you came in the poll. If you come in as one of the first three seats, perhaps you can claim to have a stronger mandate than the person who came in the fourth position, or if you wanted the upper House to be the more important Chamber, as it is in the States, you could say the first past and elected goes into the upper Chamber and the next three... I think Ireland has lists and multi-seat constituencies. I am not totally familiar with the system, but I think there are precedents elsewhere for ways in which you can allocate responsibility.

780 I think it is a lot easier to do it, if you have people all being elected by the same constituencies. I think, if you were to say that the Legislative Council is elected by eight constituencies but a House of Keys is elected by 12 constituencies, you would have problems then in deciding who was the more important.

785 **Q42. The Chairman:** Sorry, if I can just pursue this and then I will call you, Mr Singer.

Would you not consider, though, that the solution that you have offered up that might be the answer to that particular criticism, which was levied at the time, would in fact, in itself cause conflict, in that why should, on the ballot paper, the person with the highest number of votes polled be regarded as a prospective candidate for the Legislative Council? Is that not demeaning to the others that come up beneath him? Would it also surprise you to know that another former Clerk of Tynwald’s view was the opposite, that the last Member to be elected to the election ought to take a seat in the Legislative Council?

795 Would you agree with me that either mechanism would, in fact, cause conflict and disharmony between those Members who were elected and that possibly, a way around all of this is to merely assemble as an assembly of 32 elected Members and for motions to be made to elect *en bloc* a number of Members from that elected Chamber to sit in a Legislative Council setting and that it would go to the vote and would be carried by a majority? It might be a fairer way of doing it.

800 **Mr Quayle:** Can I approach those questions in reverse order, in the order in which I can remember them? I think the first one is that the problem then is that you might get the Legislative Council made up of the Members from two or three constituencies, unless you were specifically to say that it had to be one from each constituency. The second problem is that if you go to the Legislative Council... As Mr Cringle has pointed out, if you are in the Legislative Council, you are one of eight, or one of nine if you count the Bishop, whereas in the House of Keys you are one in 24. Your vote inherently is more valuable if you are one of eight rather than one of nine.

Q43. The Chairman: That is assuming that the numbers would remain the same.

Mr Quayle: Yes, assuming that the numbers remain the same.

810 Now, the other questions you raise... I think no system is perfect. Wasn’t it Winston Churchill who said democracy is a terrible system but nobody has thought of anything better? Unfortunately, there is conflict in elections. Inevitably, with a first-past-the-post system you get somebody who

815 comes in head of the poll, and if they are fortunate enough to be in a multi-member constituency, the second and maybe the third or even the fourth person gets elected. In the one time I stood in the House of Keys election, I came second, but because I was in a one-Member constituency, I did not get elected. So there is conflict and disappointment. I am not quite sure how you decide if you do not go in the order of favour amongst the constituents, really. It has to be one solution, anyway.

820 **The Chairman:** Okay. Thank you.
Mr Singer.

825 **Q44. Mr Singer:** Coming back, and accepting eight constituencies electing four Members, in your personal opinion should the Keys remain the powerhouse or not? Under the Nordic system, if the first person was put into the Legislative Council, that would clearly change the responsibility of Legislative Council to become that much more important, and yet, considering if you put the fourth person in, isn't that like you go to Legislation Council as a consolation prize?

830 So how do you balance that to the public to explain what is happening and actually to the Keys and spreading the power between the Keys and the Legislation Council? It appears as though what you are advocating, particularly if you put the first person in, gives a complete change to the complexion of Government.

835 **Mr Quayle:** I totally agree, Mr Singer, and I think that if you were to advocate that the first person on the list of the four elected in each constituency was to go to the Legislative Council, you have basically made the Legislative Council the powerhouse of Tynwald, and it would be impossible to resist claims by the Legislative Council to have the constraints on their power – the delaying function and, under the Constitution Acts, the ability just basically to have a Constitution Bill pushed through, irrespective of the Legislative Council's views at a second attempt... I think those constraints would be unsustainable if the Legislative Council was to become the powerhouse. I think Tynwald itself has to make a decision as to whether it wants the House of Keys to remain the prime Chamber or whether it is –

840 **Q45. Mr Singer:** Therefore, would you prefer that the fourth person went to the Legislation Council (**Mr Quayle:** Yes.) and that is the consolation prize?

845 **Mr Quayle:** I think if I was going to be in your position and voting, that would probably be the way I would go, but I am not, fortunately, in that position and I am merely giving you the option of a number of... I am well trained as a Clerk, you see. I tend to give options rather than actually nailing my colours to the mast!

850 **The Chairman:** Mr Singer? Okay.
Mr Callister?

855 **Q46. Mr Callister:** Thank you.
Yes, Mr Quayle, on the role of the Legislative Council from a public point of view, have you any assessment of how you think the public regard the Legislative Council? Whether they understand what it does? Whether they care, indeed, what it does? Have you any thoughts on that?

860 **Mr Quayle:** I think the general member of the public actually is largely ill informed about the more arcane functions of the legislature. I think most people seem to think that the term 'the legislature' and 'the Legislative Council' are synonymous and they get very muddled up about it. I suppose that I am unusual in that I do have some knowledge of the workings of it, even though I may not be terribly up to date, but I think there is a lot of confusion. I do not think the wider public understand generally that the Legislative Council only have, effectively, a delaying and revising function at the moment. I think there is a high degree of confusion about the exact roles of the two Chambers.

865 **Q47. Mr Callister:** There was much more public interest two years ago in March 2010, when, in the attempt to fill the fourth position on the Legislative Council, it took 29 ballots over a period that ran from 15th March to 21st June. That must have been damaging to the whole way the political system and the voting system works, certainly from the public point of view. It was regarded as farcical.

875 **Mr Quayle:** It is not the first time, Mr Callister, that there have been quite a lot of ballots. As
you rightly pointed out earlier this morning, I am not quite sure whether I had the good fortune, or
the honour to be a candidate, at a Legislative Council – in fact I think I was a candidate at several
– I responded to people asking if they could put my name forward, feeling that I had something to
contribute and I think the level of support I received varied from eight to one, depending on how
the votes went, but I remember there were several votes on each of the occasions that my name
880 was before the House and I subsequently decided that maybe it would be more appropriate for me
not to allow my name to go forward in future years. But I do think there was a degree of public
concern that it was taking the House of Keys such a long time to make up its mind. I do not think
that was a reflection on the Legislative Council; I think there was a great deal of regret that the
House of Keys could not actually make a decision as to who they wanted to put up there.

885 **Q48. Mr Callister:** I suppose I should remind you that in 1993, it was the year you got your
eight votes for Legislative Council –

Mr Quayle: Thank you!

890 **Mr Callister:** – when eventually, I think, Mrs Christian, Mr Lowey, Brian Barton, oh, and
Arthur Luft, I think –

Mr Quayle: I lost to very distinguished company!

895 **Mr Callister:** Yes, but right. You also, as you said, stood for the House of Keys: do you think
that you are more likely with hindsight to be elected by people in the public, rather than the
Members of the Keys? If you stood in either again?

900 **Mr Quayle:** I do not think it is likely I will be elected by either, Mr Callister (*Laughter*) to be
brutally honest, and I am not entirely sure I would want to!

Q49. Mr Callister: What are your chances? Would you say, ‘I’ve got more chance of being
elected by the public than I have in the House of Keys’?

905 **Mr Quayle:** I think it all depends. I think the sort of people who get elected in the House of
Keys elections and who are successful in the House of Keys elections are people who get very
involved in their local communities, are well known and liked amongst those who they are seeking
their support of.

910 In my case, I thought that maybe my particular experience in education, my knowledge and
qualifications might be of benefit to Tynwald, which is why I put my name forward, but I am not
entirely sure that the majority of the electorate in Glenfaba were as convinced that they knew me
well enough to give me their support and they were not really terribly interested in what the
qualifications I had were. It was basically whether they thought I was a good chap really, and they
obviously decided I wasn’t.

915 I remember at that... was it the 1991 General Election I think I stood against Mr Gilbey? I
remember there were a vast number of graduates of distinguished universities who put their names
forward and only one got elected. So it was nothing to do with qualifications or suitability; it was a
question of whether the electorate had confidence in you, knew you well enough to feel that you
could represent their views and I do not know whether I have ever studiously courted their support
920 in that way.

Q50. Mr Callister: Members of the Legislative Council at the present time are making the
same decisions in the House of Keys when they vote and they have departmental duties. They
have departmental policies to follow. They are in fact making important matters that affect the
925 public in every way, particularly with financial matters. There are two Members of the Legislative
Council at the present time who are Members of the Treasury and they have an enormous
influence on what happens financially and the way it affects the public. Is that the way that we
should continue in what is supposed to be a sort of modern democracy?

930 **Mr Quayle:** I think you are possibly muddling the two functions up of being in parliament and
being in Government, which of course is very easy to muddle in the Isle of Man because
everybody theoretically who is elected to parliament, to Tynwald, is eligible to be part of the
Government. There have been patches during the last 10-20 years when certain Members have

935 resolutely declined or not been given the opportunity of participating in Government, but in
general you do both. I think the general public think they are electing you to Government, rather
than to parliament, but there is a distinction.

I accept the fact that if you are a Member of a Government Department, you do have a
significant influence and it is irrelevant whether you are in Legislative Council or Keys Member.
940 The current practice of having your Ministers drawn from House of Keys is only a convention – it
is not something that has happened forever.

I can remember when I became Clerk of Tynwald in the long distant past that the most
important role in the whole of the Government at that stage was held by a Member of the
Legislative Council who had actually failed to be elected in the House of Keys and had been
appointed by the Governor to the Legislative Council originally. So there was not that distinction
945 in those days between the role of LegCo and House of Keys; but it is again one of the quirks of the
Manx system that if you are elected to parliament, you are also elected, effectively, to
Government. I think it is harder to draw a distinction between LegCo Member and House of Keys
Members in their Government roles than it is actually in their parliamentary roles.

950 **Q51. Mr Callister:** Do you regard the Isle of Man as being 100% democratic?

Mr Quayle: I do not think *anywhere* is 100% democratic. I think it is an almost unattainable
objective. I think there are problems with the Isle of Man's democracy and one of them is the fact
that the House of Keys constituencies are of multiple sizes. That, in a way, I find more galling than
955 maybe the LegCo being appointed, because I could see a role for the Legislative Council, as long
as Tynwald agreed that was the role they wanted to do, LegCo being full of people who are
appointed for their particular gifts, but I think it would have to be understood that, if they were
appointed rather than elected, that their role would be maybe even more constrained than it is and
they would not have, ultimately, the power to withstand the public wish, as articulated through the
960 House of Keys.

Mr Callister: Or have a power of vote, in that case.

965 **Mr Quayle:** Well, maybe. It would be constrained in some way.

Q52. Mr Callister: So you can be elected to the Legislative Council with 13 votes, but if you
are going into the House of Keys, you will certainly need long hundreds and thousands in most
cases. There is something wrong with that, isn't there?

970 **Mr Quayle:** It certainly means that if you are in the Legislative Council, you do not get the
telephone calls at night from all your enraged constituents.

Mr Callister: Oh yes, you do! (*Laughter*)

975 **Mr Quayle:** In theory Legislative Council Members only have 24 constituents because they are
dependent on 24 Members to re-elect them!

Q53. The Chairman: Can I just come in with just a couple of questions flowing on from that
little exchange of views. Do think it is fair, in view of all of this that the Members of the
980 Legislative Council should be paid the same and be on the same terms and conditions as Members
of House of Keys?

Mr Downie: Madam Chairman, I do not think that is in the –

985 **Mr Quayle:** I do not think that is in the Bill at all.

The Chairman: Can I just set the record straight?

990 **Mr Quayle:** Members were not paid at all, when I arrived.

Q54. The Chairman: Times have changed.

May I just set the record straight in terms of the discussion before, about the delay some years
ago in electing Members of the Legislative Council by the House of Keys – just to set the record
straight that that is provided for within Standing Orders. Each Member had their own view as to

995 why or not they would support a candidate or not and in fact, that is all covered by our Standing
Orders. In fact, a Member can choose not to mark their ballot paper and put in a blank paper if
they are not happy with the selection of those candidates put before them and so rather than, at the
time, I think, the press and certain individuals called the House and said that the House was
1000 bringing itself into disrepute, in fact, it was *not* bringing itself into disrepute; it was exercising its
democratic right that it had at that time and still has now with the current system that is in place,
where Members of the House of Keys elect the Members of the Legislative Council.

Mr Singer: Could I ask –

1005 **Mr Quayle:** I was not disagreeing that the ability to do it is there, Madam Chairman; what I
was saying was, I do not think a lot of people outside felt it reflected particularly well on the
House of Keys, that they took so long to reach the decision. I do not disagree that they were
perfectly entitled to do so.

1010 **The Chairman:** That's right. It is provided for.

Q55. Mr Singer: But in taking so long to reach the decisions, it was not just once, do you
think that possibly contributed to more pressure from the people for reform; that if the House of
Keys had, in a relatively short time, elected Members to the upper Chamber, there would not have
1015 been this pressure from the public to say, 'What's going on? We need a change.'?

Mr Quayle: I think there has always been a degree of pressure to change, because people have
felt that, for various reasons, the current system is unsatisfactory and gives rise to possible
problems. I do not know whether it increased as a result of those prolonged elections or not. I do
1020 not really feel I am in a position to give a view on that.

Mr Downie: Another question, please.

1025 **The Chairman:** Yes, Mr Downie.

Q56. Mr Downie: Mr Quayle, you are obviously very well skilled in parliamentary procedure.
I would like to ask you how you think the current situation in the UK with the House of Lords,
who are not democratically elected and yet can still fulfil ministerial positions and senior positions
1030 in the UK government, actually compares with the Isle of Man?

Mr Quayle: I believe, Mr Downie, that there are not any current members of the Cabinet from
the House of Lords, other –

1035 **The Clerk (Mr Phillips):** There are. There must be, in fact, the Leader of the House of Lords
for a start.

Mr Quayle: The Leader of the House of Lords, that was the one Cabinet position – and that is
presumably the Lord Chancellor, or whatever he is called now?

1040 **The Clerk (Mr Phillips):** No, he is not.

Mr Quayle: Well, it shows I am not very up to date with such matters, but I think the one
distinction, of course, in the past in the UK, though not recently, the government has taken the
opportunity of ennobling people who they wanted to bring into government, who perhaps were not
1045 in the House of Commons already, or in political life, making them members of the House of
Lords, so they were eligible to serve in government in some capacity or another. I think there are
quite a few – as I would say – departmental ministers in the House of Lords, but not necessarily so
many Cabinet ministers, but Mr Phillips is much more of an expert on that than me, so –

1050 **Q57. Mr Downie:** But would you not agree that the system that we have, where the electoral
college is indeed the House of Keys, who have a mandate from the people, is much more
acceptable, in modern terms, than the system that exists in the United Kingdom?

1055 **Mr Quayle:** Well, I suppose you could say the government of the day claim they have a
mandate from the people. It may not be a very large one, but after all, the elected government

appoints the ministers and they have a mandate in the same way as the House of Keys has a mandate, I suppose.

1060 **Q58. Mr Downie:** Would you not agree it is not the elected Government that appoints people into the Legislative Council, it is the 24 Members of the House of Keys, and some people would argue that it is more difficult to get a majority in the House of Keys than it actually would be to get a mandate out on the doorsteps?

1065 **Mr Quayle:** I am not sure I want to be drawn on that one, Madam Chairman. Discretion may be the better form of...

Q59. The Chairman: Thank you, Mr Downie.
Can I just revisit your letter that you sent to us. You mentioned in there... You talked about the fact that the Boundary Review Commissions do not meet and do not review the boundaries often enough – not often enough as you would like. Are you aware that it is now Tynwald policy that there shall be a boundary review and it shall be held regularly, and that was fairly recently adopted?

1075 **Mr Quayle:** I think it has been adopted as a result of a recommendation from the most recent boundary committee, I was the chairman of the previous one, whose recommendations were not accepted.

1080 Obviously, we were appointed very close to a General Election and we sought the guidance of Tynwald on a number of issues of principle. It was too late to make any changes for that particular election, and I think we managed to come forward with recommendations that did not tie in with the aspirations of the particular Member who had moved for our original appointment. But we were, I think, the third Boundary Commission in my time of being involved in Tynwald, or on the edges of Tynwald, that have made recommendations that have not been accepted. Some have been totally rejected. I think some of ours were accepted but most were rejected.

1085 There has not been a very strong record in Tynwald of accepting the recommendations of boundary commissions and I think that with the change of population, which we referred to earlier, and the change in dynamics between urban and rural and all that sort of thing, it is appropriate to review the constituencies from time to time. You will always upset some Members who may feel threatened by those decisions, but at the end of the day, I think a more democratic division of the constituencies is an imperative.

1090 **Q60. The Chairman:** Is it not also better for the constituents, in that with a two-seat or three-seat constituency they have a choice of Members to go to with their area of concern, whereas if they only have one Member and they do not get any co-operation, or feel that they are not getting co-operation from that Member, then they are invariably stuck and have nowhere else to go to?

1095 **Mr Quayle:** The answer to that, Chairman, is that if you get one Member in a two-seat constituency who is strongly in favour of something and the other Member who is strongly against it, their votes cancel out, so there are strengths and weaknesses.

1100 **Q61. The Chairman:** Nevertheless, it gives the constituent a choice, does it not?

Mr Quayle: It does.

1105 **Q62. The Chairman:** Can I just again refer back to your letter. You again criticise the way in which the legislation is being drafted, but you would accept, would you not, that this has been put together by the Attorney General's Chambers (**Mr Quayle:** Oh, yes.) and that, in fact, to get a Bill before the branches in this way, which contains a schedule for the repeal of provisions within legislation, has become quite common practice in recent times?

1110 **Mr Quayle:** Oh, yes, Madam, I accept that it is common practice, and it is probably good practice, as far as legislative draftsmen are concerned. I was expressing the view that important constitutional changes of great moment to the Isle of Man, I think, are much better in a Bill that stands on its own so that you do not have to fuel the fees of lawyers who then pour over 65 different bits of legislation to find out actually what is relevant. It is just –

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Q63. The Chairman: Are you therefore optimistic, then, that we will in fact come forward with a standalone piece of legislation in order to complement its status?

1120 **Mr Quayle:** I would love to feel that is the appropriate way forward for change at this moment.

The Chairman: Thank you.

Can I call upon the Clerks to see if there is anything further – sorry, Mr Callister.

1125 **Q64. Mr Callister:** Can I just be sure about your views on the number of constituencies, whether they are twos, threes, or whatever? I share very much your view that the multi-seat constituency method now needs to go, but if you had to denote a preference, would it be eight threes, or 12 twos, or 24 ones?

1130 **Mr Quayle:** I am in favour of doing anything in the Isle of Man which leads to Tynwald taking a more national view of its responsibilities. I think that the difficulty with small constituencies, perhaps returning one or even two Members is that there is a tendency to think very much more in terms of local issues. I would love to feel that Tynwald is going to shift its horizon to the more national issues and if having larger constituencies, but returning a greater number of Members was a way of achieving that, I personally feel that would be a desirable objective.

1135 I am also in favour of local government taking much more of a role for looking after local issues and maybe having smaller constituencies for local government, but I think in terms of national government, it is desirable to lift the aspirations of our legislators out of potholes and things like that, which so often get so much constituency time absorbed in it.

1140 So my personal view is that, in a community like the Isle of Man, a smaller number of constituencies with larger numbers of Members is probably the best way forward. Certainly, if you are going to go for a directly elected Legislative Council of eight on that assumption, eight constituencies makes sense. If you were going to have a Legislative Council of 12, then you would have 12 constituencies instead. I think generally, eight is a pragmatic way forward.

1145 **Q65. Mr Callister:** If you were going to go for election of eight Members into those constituencies, what precisely is your view of that? In other words, election by the public of the Legislative Council Members.

1150 **Mr Quayle:** This may surprise you, but actually I think the Legislative Council has a function, and that, as a revising Chamber, with those elected from various walks of life who have got something to contribute other than having had experience as elected Members, it is a perfectly valid option, but if Tynwald decides that it wants the whole of itself to be elected, I think you have got to break away from this idea that you can have some people elected in some way and some people elected in another way, because I think it just confuses the situation. Is that sufficiently clear? (**Mr Callister:** Yes.)

1155 What I do think, Mr Callister, is the one thing I found in the Bill uneasy was the concept that would have the Legislative Council directly elected but at a different time than the House of Keys. I found that very confusing and I think that would cause immense further confusion to have the Legislative Council elected at intervening periods in the House of Keys but representing the same sort of people. I think that would throw up enormous anomalies.

1160 **Q66. Mr Callister:** The reason that is there, is to leave the system and the work that they do in exactly the same way as it operates now and also for continuity on the Legislative Council, because it is much more important for continuity on a membership of eight than it is on 24.

1165 **Mr Quayle:** Again, I think it enshrines the confusion in roles, because if the Legislative Council is going to be directly elected, I have to say that there is going to be undeniable pressure for the Legislative Council to have the constraints on its power removed, because they would have been directly elected. If they are *not* going to be directly elected, yes, the constraints are appropriate, because those who are not directly elected should not have the power to frustrate the wishes, ultimately, of those who are directly elected.

1170 **The Chairman:** Thank you. Clerk.

1175 **Q67. The Clerk (Mr Phillips):** Just picking up on something that Mr Downie was going to ask you at the beginning and I wondered if you have any remarks about the difficulty in

constituency representation between three elected Members of the House of Keys and one Member of the Council with perhaps a larger number of votes to his or her name and whether you think that might create any difficulties or even bring any benefits?

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Mr Quayle: I think that there has got to be one clear method of doing it. If you are going to have four Members elected by eight constituencies, there has got to be some clearly defined way in which those who are elected are allocated to either the Legislative Council or the House of Keys. I think to have anything other than a statutory provision, which says, for instance, maybe the first past the post becomes a LegCo Member and the next three become House of Keys Members or *vice versa* is essential. If you were to leave it for them to sort of toss up between themselves or maybe even have elections once they are elected into Tynwald and Tynwald decides which one is going to serve in which place, I think that would be confusing. I think it has got to be clearly set out –

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Q68. The Clerk (Mr Phillips): The Bill actually talks about people, I think... it rather assumes people would stand for the Legislative Council, wouldn't they? They would be self-selecting in terms of their candidacy.

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Mr Quayle: I think the danger is that, as drafted, those who are going to stand for the Legislative Council would have to understand that, even though they were seeking direct election from the people, they were being elected to a body that, as it currently stands, has actually less power because it only has delaying functions, effectively. The problem is that, once elected, they might argue that they should no longer be subject to those delaying powers because they have been directly elected.

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Q69. The Clerk (Mr Phillips): What I am really driving at is whether you think any particular difficulties would arise, connected with what you have just said, because the Members of the Legislative Council would individually have greater mandates, just on numbers of people voting for them, than any Member of the House of Keys?

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Mr Quayle: Yes, I think that is one of the problems, and that is where the pressure would come from. If I was a Legislative Council Member elected directly by the electorate, I would be saying to my House of Keys colleagues, 'Well, actually, why do you think you are more important than I am?'

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Q70. Mr Singer: Because that is how the duties are defined in the first place when they are standing for the upper Chamber. The duties are there: 'this is what you do'. So why should they be able to claim any more?

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Mr Quayle: Because the same people are electing them. They have got a stronger mandate. I think that is the problem, even though it may be constrained in some way because of convention or statute.

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What I am saying – and I rather agree with Mr Cringle on this – is that the pressure would be to change the system. I do not have such an aggravation about a unicameral system because, if that is how you describe Tynwald if all directly elected, you could say Tynwald is a unicameral system that divides into two distinct Chambers for the purpose of legislative activity. But you have to remember in Tynwald itself, when votes are still taken by branches, a Legislative Council vote is effectively one in eight, whereas a House of Keys vote is one in 24. If you are looking at the relative value of the votes, a Legislative Council Member has effectively a more valuable vote. I accept the fact that the House of Keys can turn around and say, 'Well, we want that to be voted on as one body at a subsequent sitting,' but still, at the initial vote, the Legislative Council vote is one in eight and the House of Keys vote is one in 24.

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Q71. Mr Singer: Whatever the pressure put on by those eight for more power, there are 24 to say no.

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Mr Quayle: But, of course, those can divide. There are all sorts of unusual divisions that take place in votes in Tynwald, Mr Singer, as I am sure you are aware; most unusual things can happen!

The Chairman: Can I just say, all of the things that you have discussed over the last couple of minutes have all been raised before, by way of argument for no change. We have not actually touched upon or identified anything new.

1240 **Mr King,** can I just call on you? Is there anything you would like to add?

Q72. The Clerk (Mr King): Thanks very much, Madam Chairman, I would like to ask a question, which is something that has come up only briefly so far.

1245 The Committee has been convened to look at constitutional principles, and if we said that a constitutional principle is the principle of legitimacy and part of legitimacy is about people understanding the way they are being governed, it has come through in the discussion that, possibly, members of the public do not all appreciate the role of the Legislative Council as it stands at the moment, and it has also been touched on that members of the public maybe do not all appreciate the distinction between the parliamentary function and the executive function.

1250 I have learned within the last five years that there is an industry in these islands called Parliamentary Outreach and there is a whole lot of people who work in parliaments, whose job it is to try to explain these things to the residents, and we do a bit of that here.

1255 My question is simply, was that the case when you were Clerk of Tynwald, or is it a recent development?

Mr Quayle: What? The lack of understanding?

The Clerk (Mr King): No, the industry of Parliamentary Outreach.

1260 **Mr Quayle:** The industry of Parliament... I do not know. I was not aware of it, so presumably it was not there when I was there.

1265 We did make attempts from time to time to explain the distinctions, but I think a large number of people were not terribly interested, to be honest. As long as they were getting the decisions they agreed with, they were not terribly worried about how they were reached. When they were getting decisions that they did not agree with, they complained about Tynwald, and Members of Tynwald in particular.

1270 **Q73. The Clerk (Mr King):** Do you think it would make any difference to this kind of debate, if there was a wider understanding of the existing system?

1275 **Mr Quayle:** It probably would, but I question whether there is an enormous amount of interest. As I say, most people have a rough idea. They want to exercise their right to vote – at least most of them do – but I am not entirely sure that they are that interested in the arcane differences between Legislative Council duties and House of Keys duties, the average man in the street.

Q74. The Chairman: Thank you, Mr King.

Can I just add, is it not our responsibility as Members of the parliamentary assembly, to actually inform, advise the public out there?

1280 Would you also not agree with me that you hit the nail on the head when you said that when members of the public are happy with the decisions that are reached, there is very little to be said in the public arena, but when decisions are being taken that affect their lives and perceptions are reached, then in fact they become very angry and it is at that point, when it is realised the level of ignorance out there with our general public that indicates our failure in fact to communicate to them, and that we should be doing it more and more to encourage participation in elections, greater participation in local elections and pride in our community, and that we should be focusing on that anyway?

1285 **Mr Quayle:** Yes.

1290 **The Chairman:** Yes.

Mr Callister has one final question.

1295 **Q75. Mr Callister:** I just have to come back to the point made by the Clerk of Tynwald in respect of the voting power, if this Bill went forward, in the Council in relation to the Keys' voting power. The Members of the Legislative Council, under this system, may very well have a larger vote and a greater majority than certain Members in their constituency for the Keys. Nevertheless, the collective vote of the three Members of the Keys will always exceed –

Mr Singer: That is what he said.

1300 **Mr Callister:** – yes, I think you did say that, but I want to make it clear – will always exceed the vote of the one Member of the Legislative Council.

The Chairman: Is that a question, Mr Callister? What is he agreeing?

1305 **Mr Callister:** I am asking if Mr Quayle agrees with that.

1310 **Mr Quayle:** I think if you have eight constituencies, three Members in the House of Keys all vote together from the same constituency, if the Member of the Legislative Council who represents the same constituency votes the other way, effectively they cancel each other out, because three eights are 24, if my maths serves me right! So three Members voting one way in the House of Keys is the equivalent of one out of eight voting in the Legislative Council. So they would cancel each other out; they would not necessarily override the votes of the Legislative Council. Is that not correct mathematically?

1315 **Q76. The Chairman:** Apart from the mathematics, is that not democracy in action, because as a constituency MHK or Member of the Legislative Council representing a constituency, you will get a wide divergence of views from your electorate, some in support of a particular proposal and some very much against it?

1320 **Mr Quayle:** But the difference is, Madam Chairman, if you have the branches voting separately, three out of 24 cannot carry anything and one out of eight cannot carry anything either, but the one in eight has a greater weight than three out of 24, I think and it requires all three to vote together.

1325 **Q77. Mr Singer:** But practically speaking, even if they went against each other and the vote did not carry, the Keys could still bring it back.

1330 **Mr Quayle:** If the two branches were in disagreement, yes, but the House of Keys has got to have voted in favour before it can be brought back. In the House of Keys, you cannot have it failing by 11 votes to 12, say.

Q78. Mr Singer: So the eight may vote for, but they have no power if the Keys vote against them.

1335 **Mr Quayle:** Yes, I accept that.

The Chairman: Now, Hon. Members, I am now getting a lot more interest from my Committee members and I will allow one more question, Mr Downie, and this will be the last.

1340 **Q79. Mr Downie:** Does this not just make the point the point that Mr Cringle was making? What is the point in having two groups of representatives in Tynwald where everybody is democratically elected? Surely, to save time and money and expense and to improve procedure, you just have a unicameral system, where there was a majority vote. You only need the separation when they are dealing with the legislation. When they come together, they act as one body, surely.

1345 **Mr Quayle:** That is certainly a possible solution, yes. I am not quite sure what the practice is in the Scandinavian countries where they do divide into two for legislative functions. I suspect they vote together when they meet together, but I am a bit out of such with such matters, so I cannot clarify.

1350 **Q80. Mr Downie:** The point I was making is most of the things we talk about in Tynwald deal with policy and deal with finance, and if everything is taken collectively, it would speed the system up.

1355 **Mr Quayle:** They could all have... They could combine it together, but as you rightly say, there would seem to be a question mark over whether it would be appropriate to vote as branches in Tynwald, if everyone was directly elected.

1360 **The Chairman:** It would be a very interesting outcome, would it not, if that were the case,
(*Laughter*) bearing in mind that we now vote electronically? We might get some surprising
decisions taken.

Can I thank you on behalf of the Committee for agreeing to come and giving us some very
interesting cause for thought. Thank you. Thank you to everybody else, and thank you to Mr
1365 Cringle. I have been admiring his photograph there to my right, which is now hanging in the
Chamber very proudly – (**Mr Singer:** Still smiling!) still smiling today.

Thank you, gentlemen. Thank you, members of the public. We will now sit in private. Thank
you very much.

The Committee sat in private at 11.46 a.m.