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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, Friday, 20th April 2012

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Members Present:

Chairman: Mrs B J Cannell, MHK
Hon. P A Gawne, MHK
Mr L I Singer, MHK
Mr R P Braidwood, MLC
Mr D A Callister, MLC
Mr A F Downie, MLC

Clerks:

Mr R I S Phillips
Mr J King

Business Transacted

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Mr Roger Tomlinson was called at 3.27 p.m.

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The Committee adjourned at 4.08 p.m.

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

*The Committee sat in public at 2.30 p.m.
in the Legislative Council Chamber,
Legislative Buildings, Douglas*

[MRS CANNELL *in the Chair*]

Procedural

The Chairman: Good afternoon and welcome to those who are here.

This is a sitting of the Joint Committee on the 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 Council, Mr Downie, Mr Braidwood and Mr Callister. We also have the Clerk of Tynwald assisting us and also the Clerk of the Legislative Council.

For the benefit of *Hansard*, could I ask those present to please switch off their mobile phones and do not just put it on silent, because it does, in fact, interfere with the *Hansard* equipment. Also, for the benefit of *Hansard*, I shall be making sure that we do not have two people speaking at once. Again, this is difficult for *Hansard* to pick up and decipher who is saying what, when two people are speaking at the same time. So I hope that matters do not get too heated this afternoon, and that one will give way to the other, when they are speaking.

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 and, on 25th October 2011, the 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 this Joint Committee.

Today, we welcome two distinguished guests to give us some evidence, and our first, of course, is the Hon. Member, Mr Lowey, who is a Member of the Legislative Council, and also the MLC who moved in Council that this Committee be struck to consider the constitutional principles. Welcome, Mr Lowey.

Mr Lowey: Thank you, Chair.

EVIDENCE OF MR E LOWEY

Q81. The Chairman: May I first ask you, in your own mind – and we have read through all of the evidence and also looked through a previous Bill which you ran with yourself, some years ago – what precisely are the constitutional principles contained within this Bill that you find concerning?

Mr Lowey: Well, anything that wants to change the constitution, I think deserves careful scrutiny – the direct elections and the repercussion that will follow. If it was directly elected, I, like other members who I know expressed an opinion on this to your Committee, believe that it will fundamentally alter the balances and checks that are in place now, sooner rather than later – i.e. if we are all elected, then I believe that there will be pressures for the supremacy of the Lower House, as I call it.

40 The Keys, which we now recognise as the legitimate and primary voice, will not be primary
any more. In fact, if you look around the world, you will see that upper houses that are voted on
larger electorates tend to be the dominant partner in their constitution and I believe that would
happen here. I do not think that is required. I do not think it is what the people would expect, but I
think that is what would happen, almost as sure as night follows day. So that gives me concern.

45 The second thing I am concerned about is – and people do not give it enough weight – the
historical links of parish and constituencies and what I would call local loyalties. I understand,
with the demographics of people emigrating and moving around from place to place, there has to
be a balance from time to time, but I think sometimes, in looking at simply weighing out the
electorate into absolute equal numbers, that in itself destroys what I would call localities and
history, and I think that is well worth keeping. I am a Manxman, I am proud of our history and our
heritage, and I believe that equally gives me concern.

50 **Q82. The Chairman:** I have two questions following that.

55 You say that any change to the constitution requires scrutiny, and I am sure we would all agree
with you, and also the loss of the supremacy of the House of Keys and the boundary issue, but
then, surely, the same arguments could apply, or the same concerns could apply, to the actual Bill
you took through yourself several years ago, where it suggested that there should be a senate, that
MLCs should be elected as senators, as a senate, and that the Island should be split into eight
constituencies.

Mr Lowey: Five.

60 **The Chairman:** Sorry, yes, it was five constituencies. Surely the same arguments could apply,
that because it was changing the constitution of the Legislative Council and dividing the Island up
into five, each returning a senator – with probably a greater majority than any Keys Member could
muster in the House of Keys – would, in fact, shift the supremacy aspect from the House of Keys
to the Legislative Council. As a consequence of that, of course, when the Bill reached the Keys, it
65 fell.

I am just curious as to your reasons for concern raised on this Bill, when you actually ran with
a Bill yourself which also, one could argue, raised similar concerns.

70 *Mr Lowey:* I am sure, Mrs Cannell, you will remember, I introduced the Bill on behalf of the
Legislative Council. It was not *my* Bill; it was the Legislative Council's Bill. I was the spokesman
on behalf of the Legislative Council and that was nearly... it started its debate in the Legislative
Council in 1998. It was introduced in 1999 so the Council gave very serious thought.

75 My concerns were equally expressed then, what I have expressed today, to the Council. The
Council agreed that, at that particular time, it would be... 14 years have gone by: 14 years where
we have had many attempts by the House of Keys to rectify the system and every one have fallen
at some stage in the House of Keys – if not, they have never been progressed.

80 Can I also say, in this particular Bill, it actually wants in my own – to use your phrase, 'my
Bill' – my Bill actually said it would keep the old constituencies that were in existence and group
them together, so there was no changing. This Bill wants to change. They want a Boundary
Commission and to redraw boundaries, where three members and the Legislative Council are
elected from the same area. So, therefore, the point I am making about historical boundaries being
changed, in this Bill, which was not the same as in – if you will pardon the expression – 'my' Bill
in 1999.

85 **Q83. The Chairman:** But then your Bill in 1999, it was in your name. I am just looking at it
now:

'To make new provision for the name and constitution of the Legislative Council and for connected purposes.'

90 I am just trying to whittle down, Mr Lowey, what specifically about Mr Callister's Bill you
find most concerning, to the point where you felt that you had to move a motion in the Legislative
Council to strike this Joint Committee. What precisely is it that gives you concern?

95 *Mr Lowey:* Let me come back to what I have just said. Since 2000, when it went to the House
of Keys, my Bill, if you like, was rejected by the House of Keys, although it encompassed, that
Bill, the primary objective of the Keys at that particular time, which was an elected upper House.
Forget the title. That was dressing on the set, but the principle was agreed, but was rejected

because of the way in which it was going to be voted upon, elected upon, but it was voted out by the Keys.

100 This particular Bill, I believe, is going up a blind alley, where you are going to get all the same arguments, and it will come to grief when it gets into another place. I do not believe it will stand too much scrutiny in the Legislative Council. That is an arrogance on my part to say that, but that is my belief. You asked for my belief. I will not be supporting the Bill, but I do believe that, when it gets to the Keys, all the same local arguments will apply.

105 **Q84. The Chairman:** Just to confirm, it is, is it not, Tynwald policy now – as approved in December last year, if my memory serves me right – that the Isle of Man should have equal representation across the constituencies and, of course, we do have a Boundary Committee at the moment looking at that?

110 **Mr Lowey:** Yes.

Q85. The Chairman: That is Tynwald policy and, of course, we do not have that situation in the House of Keys at the moment, do we?

115 **Mr Lowey:** No, there are variations.

There will always be variations, Madam Chairman, because I do not believe, because of – the way I have said it – demographics. People move around. Let me take Peel, for example, in the last five years – Ballawattleworth and the extension and the expansion and there is a drift of people to that particular area. Conurbations such as the capital will always attract people. The area in which I live, Ballasalla, with it being near an airport... Historically, where do progress and development take place? Show me a country where it does not evolve around an airport. There are the growth areas there which, from time to time, need to be balanced. I do not think you will ever get it equal in the sense of absolutely, and I believe that there should be a plus or a minus of some description, which I am sure the Boundary Committee, which is now sitting, will have to take into account. It will never be exact.

120 **Q86. The Chairman:** Nevertheless, if we moved to a position where the Boundary Committee are regularly reviewing boundaries – say, once every 10 years – then we may get closer to equal representation than we currently have, would you agree?

125 **Mr Lowey:** You might. I am not saying you will, but I am not able to say that you will not.

The Chairman: Thank you.
135 Mr Singer, do you have any questions for Mr Lowey?

Q87. Mr Singer: I have got one, Mr Lowey, and I have mentioned many times, particularly to the two previous witnesses, and I have never, in my view, received a straightforward answer. It is all to do with the checks and balances that you spoke about, and the primacy of the Keys, and it seems to be the view of witnesses that Legislative Council Members will consider that they have more power, because there would be more people voting for them.

140 My question to them has always been that, if it is quite clearly in a Bill that the powers of the Legislative Council are defined, they have to live within those powers, however many people have voted for them, so the checks and balances are in position. The only answer I seem to have got is 'Well, yes, it may be like that now, but we do not know what it is going to be like in the future.' To me, that is not an answer, because they would have their powers clearly defined. Have you got a better answer for me?

145 **Mr Lowey:** No, I have not, and I would suggest that, if you look around the world, the answers are already there. They may have started off with closely defined remits, but then they have expanded and then the same arguments would be used that are being used today about equality and the value and worth of a vote.

150 **Q88. Mr Singer:** But is it not the fact that, whatever happens, you are going to have 24 Members in the Keys and you are going to have eight Members in the Legislative Council, so if ever the Legislative Council feel at any time that they deserve more power, they are most likely to be defeated by the Keys if the Keys wish to keep that primacy?

160 **Mr Lowey:** Yes. My view is quite clear. It is not to give the Legislative Council *more* powers – I think they have got adequate powers, as they are, to hold back things maybe for a month or three months, nine months at the most, and they are seldom used – but I think the mere fact they are there makes people think twice and I think it is a useful check and balance.

165 **Q89. Mr Singer:** So you do not think, in fact, that the fact that they would be elected by a greater majority or a greater number of voters in the Legislative Council than in the Keys would make a difference, that things should change?

170 **Mr Lowey:** I do believe that if you – as I said in my opening remarks – I do believe there will come a time when those who are there, if you like, with a bigger mandate from a bigger electorate will say then ‘We demand a bigger say.’ That will happen. As sure as night follows day, that will happen.

175 **Q90. Mr Singer:** But surely, they can demand as much as they like. If they have not got the voting power, then they will not get it.

Mr Lowey: Change comes with the power of persuasion –

Mr Singer: So, really, you have given it –

180 **Mr Lowey:** – and the people will be persuaded that those with the biggest vote... It does not happen now, of course, because in the Keys you can be elected on 800, 900 votes – I know there are constituencies which are bigger, of course – but bear in mind that when you have a bigger constituency and have a multi-number of candidates, when you break it down, roughly they are equal weight of numbers. So if there are 4,000 or there are 5,000, there are two Members, or if
185 there are 2,200 then there is one Member. So, by and large, it works out on equality of numbers. Not exact – I accept that it is not exact – but, in the broad-brush approach, I think it can be justified.

190 **Q91. Mr Singer:** Would you agree with me, then, that the answer you have given me is exactly the same as other people have given (**Mr Lowey:** Absolutely.) and is without logic?

Mr Lowey: It is the same. I do not dodge that one, but I do think it is... worth the answer that has been given to you before and recited by me again today. History will prove he was right.

195 **Mr Singer:** I shall move on to the next witness, then.

The Chairman: Mr Callister.

200 **Mr Callister:** Thank you, Madam Chairman. I have got a number of questions. Good afternoon, Mr Lowey.

Mr Lowey: Good afternoon, Mr Callister.

205 **Q92. Mr Callister:** Do you believe the present system which elects Members to Tynwald is 100% democratic? Fully democratic?

Mr Lowey: I believe it is democratic, yes.

210 **Mr Callister:** Is it fully 100% democratic?

Mr Lowey: It is democratic, yes.

Mr Callister: It is democratic, but not 100% democratic.

215 **Mr Lowey:** It is democratic; it is how you define ‘democratic’. The constitution –

Q93. Mr Callister: Well, if you have 25% of the Members who are representing the public who have no public mandate, is it democratic, then?

220 **Mr Lowey:** Let me put it this way: to go back to Mr Singer's point, if it is clearly defined in the constitution, that is the way it works. That is the way it works, to quote Mr Singer, and our constitution now says that the House of Keys will elect at various times, every five years, four Members of the Legislative Council. To get elected, you have to have 50% plus one of the House.

225 **Mr Callister:** Thirteen votes.

Mr Lowey: Thirteen votes – well, it does not matter; it is of the electorate that is there. That is the constitution.

230 If you wish to change the constitution – and your Bill does wish to change the constitution – then so be it. That is the legitimate way to go about it. But at the moment, the constitution says that. Now, do not say it is not democratic, because I do believe it is democratic. It is what is in place.

235 **Q94. Mr Callister:** In the past, of course, Members of the Legislative Council have almost invariably, with a few notable exceptions, come from the Keys, where they have been experienced politicians. Some of them have done a number of years, all of them clearly have had a mandate, some of them several times over. But, recently, Legislative Council elections have changed very much from that policy, in that they have elected Members of this Council, who have no public mandate as such and, in fact, there are now five Members of the Council who have never faced a public election, so that is a majority of the Members voting, and it is *possible* that, in the future, there might well be an entire Council which has no public mandate. Are you happy with that?

245 **Mr Lowey:** Mr Callister, the electorate could elect people with no political knowledge into the Keys, so... And it is the choice of the Keys who they elect. It is their choice to elect what I would call – to use your phrase – politically inexperienced personnel into the positions. 'Election' means 'choice' and the Keys have chosen who they want to represent them in the Legislative Council. I see nothing wrong with that.

250 **Q95. Mr Callister:** So you would be happy if all the Members of the Legislative Council were sitting here, making decisions, without a public mandate?

Mr Lowey: No, I would be happy –

255 **Mr Callister:** No, that is the question: would you, or not?

Mr Lowey: I do not think that would ever happen, but I do believe it is left...

260 Let me be specific. I believe it is the democratic right of the lower House... You cannot give people duties and rights and then tell them how and what to do. My view is that the House of Keys are charged to elect four people every five years to the Council. That is their duty, that is their job, that is their choice.

265 **Q96. Mr Callister:** Can I move on to constituency matters? You have been elected to the House of Keys a number of times in the constituency of Rushen and, no doubt, if you went out tomorrow, they would probably elect you again! Nevertheless, do you think that model has worked well for Rushen, three-seat constituency?

Mr Lowey: Yes, I do.

270 **Q97. Mr Callister:** Do you think it might work around the Island?

Mr Lowey: I think the system we have got works quite well round the Island, a variation... I cannot see the case for a one-cap-fits-all solution.

275 **Q98. Mr Callister:** Did you in Tynwald vote for the recent move to have equal constituencies or not?

Mr Lowey: Yes, I did.

280 **Q99. Mr Callister:** Well, that is in conflict with –

Mr Lowey: No, it is not in conflict at all, no.

285 There are times, Mr Callister, in politics, where you have to try and get a consensus. Sometimes you give a bit and take a bit and see where the flow takes you, but if you ask me, should... I mean, the options were given, did you want 21 single seats? No, I do not. I believe you would then become the Hon. Member for – and you can give me an estate in Onchan, for example, a big estate – Whitebridge, or whatever the estates are up in Onchan and I apologise to my friends in Onchan for not recognising – Birch Hill, alright, Birch Hill is –

290 **Mr Callister:** Parish pump, you mean?

Mr Lowey: Exactly, yes. I think we are a national Government and we should be looking at it in a wider field than that.

295 All you would need to do is concentrate on a very small number of issues, or local issues, to be popularly elected all the time. I do not think it is about popularity. We are a national Government and we are growing into an international... working more and more in an international field, and I think you have to do that.

300 The one-size-fits-all scenario, in my view... I would not support that, or everybody being the same. I think what we have got is a choice, a variety, and the results have been pretty good. Any political setup that you have should be judged on the results it brings to its citizens, and I think the system of government that we have had over the years has brought very good, positive results to its citizens.

305 **Q100. Mr Callister:** Well, that may be the case, but we do not know what the alternative would have been, had the system been different. However, I take it from what you have said that you would not want to see either Rushen or Onchan change from their present constituency of three seats.

Mr Lowey: I have not seen a case made for it.

310 **Q101. Mr Callister:** Can I just come to your previous Bill, the Constitution Bill 1999 and ask... Well, I think you said why you brought it forward, because the other Members were insisting. It does not seem to read that way from the *Hansards*, but anyway... (*Interjection by Mr Lowey*)

315 Were you disappointed when the Keys rejected it?

Mr Lowey: Yes. Shall I tell you why?

320 I thought the principle that they were enunciating, loudly and almost unanimously, was they wanted an elected House. When Council having... and remember, we had people in there, Mr Delaney, who was at an ardent advocate of an elected Upper House. He always was; I still believe he would be today, if he was here, telling us... He is still with us, I mean, but if he was in this room today, he would be saying 'Amen'!

325 My point is that the unanimous thought was that they wanted to have an elected House, so we said, 'Okay, here it is and, by the way, do not alter the boundaries, because that is where you are going to get into trouble' and all the rest of it. We thought we were being practical and assisting in the Keys' wishes, the directly elected House. I have to say, my disappointment was that they threw it out for all the wrong reasons. The reason they threw it out, I *believe*, was because it emanated from the Legislative Council.

330 **Q102. Mr Callister:** If someone brought that Bill forward today, would you still support it?

Mr Lowey: No, I do not think I would.

Mr Callister: You would not?

335 **Mr Lowey:** No, I would not.

The Chairman: Mr Callister, could I ask you to pause there for a moment, please?

340 **Mr Callister:** Yes, indeed.

The Chairman: Thank you.

Mr Braidwood.

Q103. Mr Braidwood: Thank you, Chair.

345 I do not want to dwell too much on the Constitution Bill 1999, which I voted against in the
Second Reading in the Keys, but it was not because it was emanating from the Legislative
Council... I did not think it was workable, although it was Senate-based without any change in
constituencies – I think it was going to be two elected members from the whole Douglas area of
350 East, West, South and North – one of the reasons was, it did not give a proper, proportional
representation to members in Douglas.

I would like to go on a little bit about Mr Singer, about if we have an Electoral Reform Bill,
change of boundaries. As you know, the Boundary Commission will be reporting to Tynwald in
December this year and, as has already been mentioned by the Chair, that we are trying to get a
355 proper, proportional representation for each seat, so there is not too much of a discrepancy
between them. One of the arguments all the time was this super-MHK would be elected for the
Legislative Council and would have more of a mandate than the Members of the Keys. Would it
not be better then, if we said, if it was a unicameral situation, parliament, with 16, say, times two
seats, such as in Norway, where a proportion is put, if you wanted to have an upper chamber as
360 such, or you could elect so many people, such as the eight to a legislative council, or would you
prefer a unicameral parliament, and then everybody sits as one, so we would get rid of Legislative
Council, we would get rid of the Keys and we would sit as one chamber, as we do, as, really, we
are tricameral, when Tynwald sits together?

Mr Lowey: Can I say, all those ideas were viewed and discussed by the Legislative Council in
365 1998-99 when we were dealing with this Bill.

I have to say that, as I said in my opening remarks, I am a Manxman, I am proud of my history,
I am proud of the fact that we are a tricameral situation. It is our differences that make the
difference – I think I coined that when I was chairman of the Tourist Board for a short while: I can
370 always remember the thing that makes us different, unique and stands out. If you are asking me
and putting me on a thing, the way it is going, I would have said that we are going to be drifting
into a unicameral situation and I do not think the benefits of that – no-one has yet persuaded me
that what we are replacing our existing formula, *that actually works*, and I say this to the
Committee again, tell me *why* you want to change something that is obviously working and
375 *producing* sound government, in which, what I would call business is allowed to thrive and
prosper? I can think of nowhere in the western world that has done better in the last 25 years than
the Isle of Man under the system we have.

To take Mr Callister's point that we do not know whether, if we had a different system, it
would be better; no, I have to concede that to you, but what we can prove positively – not a
380 negative, but a positive – is that the system we have got has allowed us to establish a reputation
internationally as a safe place to do business, international business and that is where our future
lies, in international business.

No longer are we a small nation just dealing internally, or within the British Isles, we are now
an international centre, based on our record of sound government and that includes the system that
385 we operate under.

The Chairman: Mr Lowey, sorry, if I can just interject there, I was just going to say that,
whilst we would not disagree with you, I do not think that has any relevance to the actual issue
that we are seeking evidence on at the moment, in terms of how we prosper and flourish, etc.

I just ask Mr Braidwood, do you have another question or can I move on now to another
390 Member?

Mr Braidwood: Move on to another Member, Chair, and I can always come back.

The Chairman: Thank you.

395 **Q104. Mr Gawne:** I am interested in this 'proud of our history' thing, because I am, too. (**Mr
Lowey:** Good lad!) It is fair to say, isn't it, that the Legislative Council governed the Isle of Man
up until about 1960, with the Governor?

400 **Mr Lowey:** Yes, you are quite right.

Q105. Mr Gawne: And the Legislative Council was basically appointed officials, up until about... was it 1958, or was it a bit later than that, when you first started getting – ?

405 **Mr Lowey:** Rid of the Deemsters and the Water Bailiff, yes.

Q106. Mr Gawne: So, effectively, if you are proud of your history, are you saying we should go back to a system where the chief executives of the Departments should run the Isle of Man?

410 **Mr Lowey:** I think you know me better than that, Mr Gawne. I know what you are trying to do and what you are trying to hit.

I am proud of my history and the way in which it has evolved and I have been part of that involvement, you know, by getting rid... I voted against it, you know, the Governor's powers, if you want this, Sir Charles Kerruish. I was a henchman of Sir Charles Kerruish. I did not need
415 much encouragement.

I also led the charge of demolishing what I would call the Governor-appointed Members here, not the House of Keys, the Governor appointed four Members: he appointed all of them at one time, but he then appointed two Members and then the Keys appointed him, and we have evolved and we have all very rapidly over a short period of time...

420 So when I say I am proud of my history, I am proud of the history as it was that has led us to where we are now. You cannot wash your history out, but I am proud of it. I really am proud of my history, but you change –

Q107. Mr Gawne: I am, too, but I suppose this is because I am quite genuinely interested in trying to understand what the right thing to do is here.

We have, in a relatively recent period, if we are talking about history over a millennium, which we can reasonably do with our parliament, in a relatively short period, during the last 30 or 40 years, we have done a massive amount in terms of constitutional reform. The question, I suppose that we are here today to ask ourselves is whether we have reached the end of that journey or
430 whether we need to continue and I suppose that is a question I would put to you. Have we actually completed all the reforms that we need to complete, or do you believe that the Bill that you had originally promoted in 1999, and even Mr Callister's Bill, are adding something to that journey?

Mr Lowey: I would say, the pace of reform, we could not carry on like we did. You could
435 argue...

I want to get away from a dilettante debate. This is the problem, I think, when we are dealing with this. It is a bit like Humpty Dumpty. I am afraid we can go one step too far too fast and, like Humpty Dumpty, once you break the egg, you try putting it back together again.

440 **Mr Gawne:** Absolutely.

Mr Lowey: It is very difficult. As I said, I have been part of the charge for reform, I think the pace of reform has got to slow down, somewhat. I think it is time to allow it to settle. It has settled for about five or six years, but I do think we need a little bit more time than that, before you move
445 on to the next phase.

All I am saying is, when you do move on, we have got to be extremely careful that we are not perceived... I did mention, and the Chair said it was not relevant to what we were discussing, but I think it is relevant, with due respect to Madam Chair, that opposition is different now in how we operate in the world and, therefore, I do think it is very important. It is not a personal thing for me.
450 What I am wanting to protect is the monster that I have been partly responsible for creating – you know I am being Eddie now – but what I have helped to create, I want to make sure that that is a healthy baby that would be able to grow up and produce the rewards that we have been producing in the last 23 or 25 years.

455 **Q108. Mr Gawne:** Being Eddie has made reading through the *Hansard* all the more enjoyable, it must be said, (*Laughter*) because the quote about Nelson putting the telescope to the wrong eye and all that, it is good stuff!

Is there, though, an argument to suggest that, because we have established Council of Ministers, you could almost say we have got four branches to our system? We have got a debate that takes place in Council of Ministers and, yes, that is the executive, but it heavily influences what goes on in the parliament. You have then got the Keys and you have got LegCo and you have got Tynwald and there is all those four respective bits. Is there not a need now to perhaps
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strengthen the parliament bit? Do we not – and I suppose there is the question I do not think you have answered yet, should the public elect Members of the Legislative Council?

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Mr Lowey: I am enjoying this.

First of all, can I say to Mr Gawne it should be clear what the branches are for: they are legislative branches. The Keys is a legislative body. The Legislative Council is a reviewing legislative body. It is a body. It is a legislative body. Tynwald is policy and finance. I am simplifying the matter. The executive Government, i.e. the Council of Ministers... now, prior to the Council of Ministers it was the Executive Council and, prior to that, it was the Governor that was the chancellor of the exchequer and the chairman of certain Boards that he wanted in as his advisers. So that is nothing new. That is nothing new. It really isn't anything new. The system has always been there.

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I think what people get mixed up in, the general public, you see, I do not believe have a grasp of what Government is about and what House of Keys... I think they are persuaded that it is Question Time on the radio and when the radio goes off, you finish.

That is when you start! Your job is bringing legislation through. You know that. I know that. The man on the street, I would say, Joe Public, have got a job to get their minds around that, I really do, and they cannot distinguish between Tynwald, the Keys and Legislative Council. That is an education job for us and that is why I welcome very much, and it has been produced now for a good number of years, of getting young people involved in the school sixth forms and all the rest. I think that is part of educating the next generation to what the realities of Government is about.

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The Chairman: Thank you, Mr Lowey.
Mr Gawne, do you have any more questions?

Mr Gawne: Just one.

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The Chairman: One more. Okay.

Q109. Mr Gawne: I have one for... and I think I ought not ask this question, but were you a Minister who is genuinely interested in getting proper scrutiny of his legislation, which branch would you prefer or would you believe, in the current setup, would deliver that scrutiny best?

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Mr Lowey: I am very much into scrutiny. I have had the privilege of serving for the last five years, Madam Chairman, on the Scrutiny Committee.

I enjoyed that work, along with Mr Braidwood and others. I enjoyed the work of scrutiny. I enjoyed the work in those –

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Mr Gawne: Which branch, Legislative Council or Keys, is going to do the – ?

Mr Lowey: Oh, without a doubt, the Legislative Council. Primarily it is smaller, it is less adversarial, you can tease out arguments and get to the root which, in larger establishments, which the Keys... and I loved being in the Keys. I often wonder, and scratch my head, why did I ever leave the Keys? We talk about elections: I know. I have fought six elections in the Legislative Council, 1982 and then on.

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Q110. Mr Gawne: Having identified, then, that LegCo is the best place to scrutinise legislation, go back to the unanswered question, should the public elect Members of the Legislative Council?

Mr Lowey: I have said that I disagree with that.

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Q111. The Chairman: You disagree with that?

Mr Lowey: I disagree with that.

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Q112. The Chairman: You disagree with that, despite the fact that you moved a Bill in 1998?

Mr Lowey: I moved it on behalf of Council. I moved the Bill, yes, certainly, and I have explained why I moved it.

525 **The Chairman:** Okay, thank you.
Thank you, Mr Gawne.
Mr Downie.

Q113. Mr Downie: Thank you, Madam Chair.
530 Mr Lowey, you are a politician of almost 40 years' standing in the Isle of Man. You have, no doubt, seen plenty of examples where electoral colleges elect their upper house. In your experience thus far, would you agree that the system that we have in the Isle of Man, where the House of Keys elect Members of the Legislative Council, actually works?

535 **Mr Lowey:** Without a doubt. I can put my finger almost on the time... Yes, I have, and I thank Mr Downie for saying it.

You know I was on the executive of the Commonwealth Parliamentary Association. I was privileged, not once but twice, in the 1980s and the 1990s for four years each term, and I have seen lots of different types of evolving democracies. I always remember being very uptight about single, unicameral... Dr Banda... I cannot remember the country now that he was the president of,
540 and they were a single party, and I argued the case against them.

Afterwards, I spoke to the MPs from that area. They had their democracy in a different way within the parties, but in the one part he said, 'We were not ready for that.' He said, 'We look to people like the Isle of Man, where they have had 1,000 years of continuous growth and development, and we look at it and see how balanced you are. Our aim is to get to a political
545 situation like you.' So there is a whole variety of various stages of development in the world and I have had the privilege of witnessing some of them.

I think there is absolutely nothing wrong with the way in which we are electing people to the Legislative Council. Where it went off the rails was when we had Dr Orme come in and he did not know many local people and, from that moment, you could put your finger on it – that is when the
550 Keys were finding difficulty in electing it, because in the old days they used to elect and they would stay in their seats almost like electing a pope. They were in enclave until they actually elected somebody. They only thing they did not do was send up some white smoke to say that they had elected somebody. Now, of course, you have to write manifestoes and... But that is a matter for the Keys. I do not wish to involve myself in the way in which they do it. But what I do know is
555 that, from that moment on, we seem to have got trouble and it just seems to me that it is a pity, because it should be a privilege to go to the Legislative Council and serve in a different way.

The Chairman: Mr Lowey, thank you. We appreciate that you –

560 **Mr Lowey:** I could go on all day!

The Chairman: You are opposed to any change and you think the present system works. We have heard that earlier on.

565 Mr Downie, do you have any fresh questions?

Q114. Mr Downie: Yes, I can ask now, if you see, Mr Lowey, it seems to me that there is a certain group of people who want change, who are pushing for change, and I get the same feeling from the group of people pushing for change, that they would also like to see a Chief Minister democratically elected –
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Mr Lowey: That is the next thing.

Mr Downie: – by the public. Would you not agree with me, our present system has brought political stability to the Isle of Man? We are not facing what they are facing in other jurisdictions
575 and other parliaments and I am sure you would advocate, we tinker with these things at our peril. As you said, if the egg is broken, it takes an awful lot to put it back together again – in fact, that never happens.

The Chairman: Mr Downie, thank you, but I think we already have Mr Lowey's agreement to all of those issues which we covered earlier on in our evidence.
580 Mr Callister.

Mr Callister: Yes, thank you, finally, Chairman. We are here, Mr Lowey, essentially because of your move to have this joint committee.

585 **Mr Lowey:** Yes, indeed.

Q115. Mr Callister: What do you expect to gain from this process, apart from causing a delay, making it into a talking shop and pre-empting the due process of movement of this Bill through the branches?

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Mr Lowey: Mr Callister, you will know that I spoke to you about this Bill.

What worries me regarding the constitution is that we spend so much time talking about the constitution, both branches, over the past decade, and we do not seem to be advancing very fast or very far. I wanted – and I had plans, as you know, to move a resolution in Tynwald in November to allow one of the standing select committees of the new House, dealing with constitution, to deal with this and my view was to move a resolution, which would have asked that committee to look into the constitution and report back within three to six months to deal with the problem once and for all. If it could not get agreement, then it should be forgotten for another 10 years. I could not do that, because your Bill was on the rolling stocks, because of this and you cannot introduce a resolution into Tynwald while there is a Bill on the subject before the House, before the branches.

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That is the reason why I suggested it go to a select committee of both Houses and I was hoping, certainly not for delay, I was hoping that you would have been reporting by now, that we would not have gone through... I think the principles have been enunciated by so many people over the past decade, that we need not have gone over all those details, but I would have thought a working machine. The last Bill that came up to the Legislative Council from the Keys was legally flawed. We were told by the Attorney General it was illegal, it would not receive Royal Assent and the Legislative Council was not prepared to pass a Bill that it had been advised was illegal and could not be... would not receive the Royal Assent. So I wanted to avoid that. I believe, if you are dealing with constitutional matters, it should be at the beginning of a House, of a parliamentary session.

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Get it in, get it on the stocks, settled for the next time when you have the elections. My only other view on that is, that I was also in favour of a split election to have continuity. I do not believe that stands scrutiny now and certainly not on cost, because it would cost £170,000 to have the elections on a split basis. I believe they should be at the one time, if you are going to have them at one time and we are not in favour of that, but if it was going to be, it should be all together at one given time. It was certainly not for delay, certainly not for delay.

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The Chairman: Thank you, Mr Lowey.

Mr Callister, have you received a reply from Mr Lowey?

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Q116. Mr Callister: I have not had the answer to what Mr Lowey expects to gain from this process.

Mr Lowey: I hope that this Committee will make proposals that will meet with the approval of both branches. I am ever the optimist, Mr Callister! (*Laughter*)

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Mr Braidwood: *Status quo!*

The Chairman: Thank you, Mr Lowey.

Mr Singer.

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Q117. Mr Singer: Can I put two scenarios to you, in relation to many of the things that you have said.

You said that you believe we have here very sound democratic government. (**Mr Lowey:** Yes.) So do you believe that it is constitutionally acceptable that non-elected members should be making decisions, even though they are not elected, on behalf of the electors or would you think that, perhaps, the duty of Legislative Council Members should be purely to review legislation?

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If I can put the other side of the coin to you, if you go back to last Tuesday, in the Keys, when we had the vote on the education, in fact, with the non-elected members, the decision would have gone the other way, if that had been acceptable as an overall vote.

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Mr Lowey: You think it is democratic, then, just to have noddling dogs in the upper Chamber?

Mr Singer: No, I am saying –

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Mr Lowey: That is the corollary.

Mr Singer: No, it is not.

650 **Mr Lowey:** But let me come –

Mr Singer: What I am trying to say –

655 **The Chairman:** Sorry, gentlemen, one at a time.

Q118. Mr Singer: What I said was: as they are non elected, would it not be more correct for them to be elected to review legislation and not to make decisions on finance etc, because they have not been elected by the electorate to do so?

660 **Mr Lowey:** You are now adding... ‘elected’, you said. The Members of the Legislative Council *are* elected.

Mr Singer: By the public.

665 **Mr Lowey:** You added that at the very end, if I may say so, Mr Singer.

Mr Downie: Who elects the House of Lords?

670 **Q119. The Chairman:** If I may just interject, I think what Mr Singer is trying to say is that the people... the public’s view is that there should be no taxation without representation.

Mr Lowey: *Some* people, Madam Chairman. If I say that, as far as I am concerned, I am elected. I am elected every five years – no longer, no less than a Member of the House of Keys, and –

675 **The Chairman:** We accept that, Mr Lowey. You are elected democratically under the existing system.

Mr Lowey: Constitution, yes, indeed.

680 **The Chairman:** Yes, but what we are looking at, of course, is a proposal to change that situation.

Mr Gawne, do you have another question?

685 **Q120. Mr Gawne:** Yes, building on that very topic –

Mr Lowey: Right, I am conscious of it.

690 **Mr Gawne:** – 50% of the democratically elected representatives in the House of Keys, together with one other, have to vote for you, if you wish to become a Member of the Legislative Council, so there potentially could be an argument that says your position in the Legislative Council is more democratic, because more representatives of... (**Mr Lowey:** Yes, indeed!) I am not surprised to see that you agree with that.

695 **Mr Lowey:** I would agree with that. But then you would expect me to agree with that, wouldn’t you?

Mr Gawne: I just thought it was important to put that point.

700 **Mr Lowey:** Yes, indeed, I appreciate that.

Q121. Mr Gawne: Relatively minor and possibly would be deemed a trivial matter, but your Bill in 1999 specifically made reference to *yn Shennad* as well as the Senate. Was there any particular reason for that?

705 **Mr Lowey:** No...

Mr Gawne: I am delighted it was in, but...

710 **Mr Lowey:** No, again, I said I am proud of my Manx history and I just thought that it would be nice, rather than calling it the Senate, call it the Manx equivalent of the Senate and that was endorsed by all the Members of the Legislative Council at that particular time. But it was not about titles, it really wasn't, and I know that irritated a lot of people, that somehow we were aggrandising ourselves.

715 The same argument was used, if I may say so, through the Chair, when we appointed Ministers – remember, it was the chairman of boards. It was not for the use of grand titles, 'the Hon. Minister', it was for external purposes, to differentiate: we were not a County Council, we were a jurisdiction, a Government in our own right and that is the reason why. It was not for internal use, it was for external use and that is virtually the reason for that particular use at that particular time.

720 **The Chairman:** Thank you, Mr Lowey.
Mr Braidwood, I think you have one remaining question?

Q122. Mr Braidwood: One final question to Mr Lowey.

725 Would you agree with me that it is only in this last decade that the problem of elections to the Legislative Council has arisen, because of the change in the voting for Members to the Legislative Council? It used to be where a Member of the Keys had to vote for four people and it was only when it was changed to such as a plump vote or vote for one, two or three that this caused, then, the disrepute of the elections to Council?

730 **Mr Lowey:** Yes, I would agree. Actually, you can trace it to a specific time. I tried to illustrate it and perhaps it was wrong of me in this forum to use an individual, but I do genuinely believe that it was that particular individual that you could put the time to, but it is the last decade.

735 I regularly, somehow, find the media's attention that somehow all the reforms are being thwarted by the Legislative Council when, in fact, the majority of the times, it never reaches the Council. It is failing, if you like, the Lower House, for a variety of legitimate reasons that are expounded at that particular time by the Keys.

The Chairman: Thank you, Mr Lowey.
I would ask the Clerks whether or not there is any remaining question you would like to raise?

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The Clerks: No, thank you.

The Chairman: It just remains for me to thank you, Mr Lowey, for your attendance.

745 **Mr Lowey:** Thank you, Chairman. Thank you, as always, and my colleagues round the table.

Of course, I know every one of them and it has been an extreme journey for me to be nearly 40 years in both Houses and I genuinely do care about the constitution of the Isle of Man, that we hand it on to the next generation in a stronger position to deliver to the people of the Isle of Man. That is my sole and only aim; certainly not... *[Inaudible]*

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The Chairman: Thank you, Mr Lowey.
We appreciate your attendance today, thank you.

Mr Lowey: A pleasure.

Mr Roger Tomlinson was called at 3.27 p.m.

EVIDENCE OF MR R TOMLINSON

755 **Q123. The Chairman:** If I might call our second witness today – and apologies, we are running over time, we are a little bit late.

Thank you. Mr Roger Tomlinson. You are, as I understand it, the former chair of the Positive Action Group, but no doubt you are still quite involved with the Positive Action Group?

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Mr Tomlinson: Yes.

The Chairman: Yes, thank you.

Your submission to us – for which we thank you, we received on 1st February this year – is quite an interesting one and, of course, your view is more or less the complete opposite of Mr Lowey, the witness we have just received at the present time. But I note in your... I think it is on the second page and it is bullet point 7...

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I do not know if you have a copy of your submission with you, Mr Tomlinson?

Mr Tomlinson: Yes.

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Q124. The Chairman: You say here that it does not appear to have an impact on any constitutional principle – talking about the fact that Members of the Legislative Council elected by the public you regard as a modern progression to democracy of our parliament, but you also cite that you do not think there are any constitutional problems with it. You have had the benefit of listening to our previous witness, and I would invite you to elaborate on that – why you do not think there are any constitutional problems in terms of the Bill that is before us at the moment.

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Mr Tomlinson: Well, that was the question that you asked Mr Lowey, and I listened very carefully to what he said in his first answer. It struck me that he was not talking about constitutional principles; he was talking about constituency principles, because he then went on to elaborate on the size of constituencies, and how they should remain the same, effectively. He then went on to talk about the supremacy of the House of Keys, that he wants to maintain that. Well, I cannot see anything in this Bill that would really alter that fact.

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Q125. The Chairman: Right, okay. Can I ask you, has Mr David Callister's Bill been discussed with the Positive Action Group? So the paper that you have submitted, then, is a formulation of the Group's view.

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Mr Tomlinson: Yes, it is, of course.

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The Chairman: Yes, okay.

Right, I would ask any of our Members whether or not they would like to raise some questions? Mr Gawne.

Q126. Mr Gawne: Are you, would you not agree, doing what Mr Lowey rather neatly suggested was putting in the Nelson touch, sticking the telescope to the bad eye and not noting the fact that, by having two elected branches, what currently exists is inevitably going to come under increasing tension as one lot of elected people who are elected by the same number of people as the other lot of elected people are going to start asserting respective power bases and start –

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Mr Tomlinson: Based on what premise, though?

Mr Gawne: If the Members of the Legislative Council are elected by the total population of the Isle of Man and Members of the House of Keys are elected by the same number of people, you have got two bodies elected by the same number of people. Currently, the House of Keys has the upper hand –

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Mr Tomlinson: But that premise –

Mr Gawne: – but it would be perfectly reasonable, in a democratic society, to say that, actually, democracy should be equal in both branches.

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Mr Tomlinson: But that premise of 'flawed' is simply because what you are talking about is a numbers game, isn't it? So if in Rushen, for example, you could say that you have been elected by 6,900 electors. In Glenfaba, David Anderson can say, 'I have been elected by 2,000.' Does that give you a greater primacy and premaxy over David Anderson in the legitimacy of what you do and what you say? I do not think it does.

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Q127. Mr Gawne: I think, in relation, though, to the branches, if... I do not know... Is it about 40,000 or 50,000 voters on the Isle of Man?

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Mr Tomlinson: Sixty thousand.

825 **Q128. Mr Gawne:** Sixty thousand registered voters vote in the Members of one branch and the same number vote in the Members in another branch. Are we saying that their vote is not as important for the Legislative Council as it is for the House of Keys? We could, of course, be quite specific and say, actually, you are voting people into this branch for this purpose and you are voting them into that branch for another purpose, and then the electorate has the opportunity to choose how they want to...

830 **Mr Tomlinson:** Yes, I think what you are doing is, you are saying the Member of the elected Legislative Council would be representing 60,000 people. I do not think it necessarily would mean that in the eyes of the public.

835 **Q129. Mr Gawne:** I should say, at this point, I have ticked most of the comments you have made, because they happen to fit in with my prejudices, but I do think it is important that I challenge them –

Mr Tomlinson: Absolutely, without question.

840 **Q130. Mr Gawne:** The other issue that we are talking about here and this is one that Mr Lowey touched on, but I did not have time to question him on it: equal representation. I think, most people's view, from what I am hearing, seems to mean equal-sized constituencies. That does not necessarily have to be the case, though, does it?

845 **Mr Tomlinson:** No, I think the principle that Tynwald has voted to support is the equivalency of the constituencies – which is what you are talking about – and the equality of representation. The Boundary Review Committee will come back on that, but I do not think they are going to come out with any definite size of the respective constituencies. I think what they will do is, within a percentage of say 15%.

850 **Q131. Mr Gawne:** Proportional representation would give that degree of equivalency without messing around with constituency sizes, wouldn't it?

855 **Mr Tomlinson:** I cannot see, from Mr Lowey's argument, why one cannot change constituencies, I think it is essential to change constituencies, the size of constituencies. It is ridiculous that Glenfaba has only 2,000 with one Member, and where I live, in Maughold, there are over 3,000 voters. It is just not right.

860 **Q132. Mr Gawne:** I certainly would agree with you there but, in terms of the size of constituency, in terms of the number of seats elected, you could... Let us say it was 2,500 per single seat. You could reasonably have 7,500, 5,000 or 2,500 electors voting three, two or one Members in, under the likes of STV or some form of proportional representation. Effectively, in a three-seat constituency, you still have only got one first preference vote. So you do not need necessarily to change or to equalise the size of constituency –

865 **The Chairman:** Sorry, Mr Gawne.

Mr Tomlinson: Isn't that a different argument, though?

870 **The Chairman:** Sorry, if I can just pause everybody there, but I think we are moving off the point a little bit when we start talking about STV and the method of voting.

875 **Mr Gawne:** Well, I definitely do not, because I quite seriously think that we are looking at sizes of constituencies, if we are talking about equalising size, you can have that equal representation, without having constituencies of an equal size – that is the point that I am asking and I think you are disagreeing with me, so I am happy to –

The Chairman: Okay. Mr Downie.

880 **Mr Downie:** Hello, Mr Tomlinson.

Mr Tomlinson: Hello, Mr Downie.

Q133. Mr Downie: Nice to see you here, giving evidence.

885 If I was to tell you that this Committee had received a total of 31 submissions – 14 of those from local authorities – on such a big constitutional issue as this, would you be surprised?

Mr Tomlinson: No, I would not, not at all, because we are talking about parliamentary business as opposed to political topics.

890 **Q134. Mr Downie:** But would you agree with me what we are actually doing here is looking to change the constitutional make-up of the Isle of Man and if, for whatever reason, we do get it wrong, would you not agree if it is not put together properly into something that works and does not cause friction, it could undo the stability of the structure within the present parliament of the Island?

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Mr Tomlinson: If I accept what you say, yes; but, I do not accept what you say. I do not think you are affecting the constitution in the Isle of Man. Will you have a Legislative Council? Yes. Will you have a House of Keys? Yes. Will you have a Tynwald? Yes. It is not being affected at all.

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Q135. Mr Downie: But would you not agree also that if everybody is elected and everybody has a mandate from the people, which is what I think you aspire to, what is the point in having a tricameral system? Somebody will look at it and say, ‘Well, wouldn’t we not be better saving money and have a one size fits all and a couple of committees?’ And then all our history, our House of Keys, our Legislative Council, our Tynwald has just gone.

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Mr Tomlinson: I do not accept that at all because I think that parliament, just as politicians have to reflect what goes on in society generally, the parliament should be reflected and the structure of the parliament should be reflected for the modern times in which we live, and the way that those members of parliament are elected should reflect that.

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Q136. Mr Downie: But, to make an analogy, you have obviously been watching what is going on in the UK at the moment, where there is a similar argument taking place about the House of Lords, none of whom are democratically elected. Theirs is what we term the mother of parliaments, for want of a better word – I would be happy to say the Isle of Man is probably the grandmother of parliaments – but I think, like Mr Lowey, the secret of our success has been that we have actually put together a system that works, so perhaps that is probably why so many of us who have been around here for quite a while and, in fact, are looking to come to the end of our terms, do not really want to see too much major change.

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Mr Tomlinson: All we are talking about is how do you hold your position within the Legislative Council? Are you elected by the college, as you are now, or are you elected by the public? You will still hold your position. The Legislative Council will still exist, they will still operate, they will still be the revising chamber The constitution is not being altered at all.

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Mr Downie: No, but to come back –

Q137. The Chairman: If I can just interject there, I think what Mr Downie is hedging towards suggesting is that if one can imagine that the Bill does go through, it does get support, it is enacted, and we do roll forward in terms of the public being allowed to vote a Member of the Legislative Council at the same time as they vote their Members of the House of Keys that, once they are elected and they are in, there may then be an argument at some point in the future from the Legislative Council to the effect of, ‘Hey, we have got the public vote as well. Why we so restrained in terms of our activities?’

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Mr Tomlinson: Isn’t it about a job description?

The Chairman: Quite.

Mr Callister.

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Q138. Mr Callister: Thank you, Chairman.

Mr Tomlinson, could you accept that, whatever the constitutional principles are in this Bill, all it actually does is change the voting system whereby the public will vote the Legislative Council,

945 other than 24 Members of the Keys, and that in order to give equality throughout the whole system, if you have equal membership of the constituencies, so that all four people – that is three Keys and one Council – are elected to the same electorate, that is all that this is trying to do? You say that may not be changing the constitution; Mr Lowey says it is. That is the first point I would like to make. Can you agree with that?

950 **Mr Tomlinson:** Yes, I can, of course.

Q139. Mr Callister: In the document we received from you, the final sentence says:

955 ‘The Positive Action Group fully endorses the Bill.’

Have you heard anything since this was written, or since this afternoon’s contribution from Mr Lowey, that changes that view?

960 **Mr Tomlinson:** No, I have not.

In fairness, I have not got the historical perspective that many Members here have got, or indeed Mr Lowey with his 40 years. Perhaps that historical perspective is hampering his thinking. Perhaps I am coming here as a non-politician, as a non-parliamentarian, and have less experience, certainly on the Isle of Man, and perhaps I am looking at it from the outside with a fresh view. The historical perspective is very important, but also it can be a hindrance.

965 I just feel that what is going on with democracies throughout the world, and also here in the Isle of Man... I am sure, as politicians, you have detected it in recent years, the involvement of the public in specific issues. Certainly in the last few weeks, since the Budget, that has been most prominent. It happened with the reciprocal health arrangement and it has happened with other things: the general public is more involved with politics. To take Mr Downie’s point that they are interested because that may have been reflected in the 31 replies that you have received, whether they are interested in the structure –

970 **Mr Downie:** Twenty-one.

975 **Mr Tomlinson:** Twenty-one, sorry. Whether they are interested in the structure and perhaps understand the structure, I do not know, but for Mr Lowey to say that the public do not understand that and have no interest in it, if that is what he did say, I do not believe that. I think that once people get involved with a specific issue in politics they will maintain that, and surely that is what we want to do, isn’t it, as a body? We want to involve the public in politics. I think that this Bill would create... Certainly in 2016, I think, at the next General Election, it would generate an interest in politics, which is what we all want.

The Chairman: Thank you.
Mr Braidwood.

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Q140. Mr Braidwood: Thank you.

990 Following on, Mr Tomlinson, at the moment Government – even local authorities, because there is a local authority election, which is next Thursday, 26th, so we are trying to encourage people and they have... It looks like there are elections in most of the local authorities and the areas, because we are trying to involve more people, but do you not think that, at the present time, people are getting more involved in situations, because you could say, 10 years ago, when everything that people asked for was basically coming through on budgets, the money was there, they were not too bothered; but now with money tight and in some instances, we have had to cut, budgets are cut, then people are more interested, because it is affecting them more. That is initially, I think, where they are becoming more involved.

995 Also, I know I have spoken to... I did not stand in the last general election. I have had four elections, with being on the Legislative Council, but I asked a lot of the candidates and the people who were elected, was it an issue on the doorstep, being elected to Legislative Council – the elections to Legislative Council. The majority said no. Do you think it is in the eyes of the public that the general election to Legislative Council is not a priority, there are other things which take the priority and it is only a certain vocal minority who are raising this?

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Mr Tomlinson: I think I probably agree with you that the general public are not interested in this particular aspect now, but I think they are interested in democratic principles, and that is

1005 what we should be talking about. We should be talking about the democratic principles with this Bill, rather than the constitutional principles.

I mentioned the historical perspective, which is really valuable, that Mr Lowey and certain gentlemen around this table do bring to this debate, but it perhaps hinders their perspective on the whole democratic scene that is going on throughout the world, and why should we be divorced from that?

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1015 **Q141. Mr Braidwood:** Would you prefer, because we have talked about this and the Constitution Bill of 1999 and Electoral Reform Bill of 2011, which you agree with and we have got your paper to say that, with the eight constituencies and the election... would it, do you think, and I put that question to Mr Lowey, and Mr Downie has also raised it, about would it be better at a unicameral parliament where we have an election, and that is a straight election, than having eight and three?

1020 **Mr Tomlinson:** With respect, Mr Braidwood, I am going to sidestep that because I do not think that is within the remit of this Committee. I think that may be a consequence that certain people here in this room fear, but that may be years in advance.

The Chairman: Thank you, Mr Tomlinson.
Oh, I have got a lot of interest from Members here.
1025 Mr Gawne... Well, I will ask Mr Gawne and then Mr Singer.

1030 **Q142. Mr Gawne:** Yes, a couple of things, really. We have heard a lot about historical perspective and how dangerous it might be to change from what we have got. Are you aware of any politically stable democratic systems elsewhere in the world which actually allow the electorate to elect all their representatives?

Mr Tomlinson: I am not, no.

1035 **Q143. Mr Gawne:** Oh, right, well, the United States of America is one really good example, which is a politically stable democratic country, where the electorate do elect their... Are you sure...? Maybe you did not understand the question?

Mr Tomlinson: No, I did not, no.

1040 **Q144. Mr Gawne:** Right, I suppose I am putting the perhaps ironic point, the people who are suggesting that we have to maintain this system we have –

Mr Tomlinson: Oh, I see the point you are making, of course.

1045 **Q145. Mr Gawne:** There are, indeed, lots of systems around the world where the electorate are allowed to vote for their representatives.

I suppose the other question that I would put to you is how much of a difference do you think it is actually, in reality, going to make, in terms of the decision-making processes that take place in the different branches, if the Legislative Council were elected by the public?

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1055 **Mr Tomlinson:** I think it is absolutely fundamental. Can I explain why? As a voting member of the public, rather than a politician, I think the public, every five years, has the power and that power is the cross that they put on their voting paper. As soon as they have done that and they have posted it in the box, they can forget about it for the next five years, because what we do is we abrogate the power to the 24 MHKs. The power that those MHKs have then is then translated into electing, during the course of the parliament, the Legislative Council. So the power of the voter has been diluted.

1060 Also at the same time, at the beginning of a parliament, that power is invested in those MHKs to elect the Chief Minister – the most important person within the Government. So I feel that if this came in, it would give more power to the electorate and would be perceived as being extending the democratic process. In so doing, I think it would interest the public, particularly to take on what Mr Downie said in an earlier comment, about the election of the Chief Minister. Surely, to elect the Chief Minister by the public would interest the public and get them involved in politics – but that is an aside, and perhaps outside the remit of this Committee.

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The Chairman: Yes, it is, but fair point, Mr Tomlinson. It was referred to earlier, so I have given you a degree of latitude on that.

Mr Singer.

1070 **Q146. Mr Singer:** I support many of the points, as does Mr Gawne, in your PAG document, but can I put this to you: Legislative Council at the moment is elected by the Keys. They either elect MHKs to the Legislative Council, who should have experience in legislation, or they elect people from outside the Keys, but they are chosen by the MHKs for the specific job and their general experience. Within your PAG charter, it says:

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‘... the people to have the right to elect Members of the Legislative Council.’

1080 So if you have this public vote, is it necessarily the best if you are having a separate election, because could one not question the reasons why people are seeking election? Those reasons may not be purely to undertake the defined duties of the Legislative Council. You do not know who you are voting for and whether actually that is their interest. They may be just seeking election for whatever reason.

And secondly –

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Mr Tomlinson: I am sure –

The Chairman: I am sorry, Mr Singer. Could you rephrase that question because I am having difficulty in understanding it myself.

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Mr Singer: So am I. *(Laughter)*

More simplistic.

1095 If you... people... you go out to public vote, okay? And people put their name down for the Legislative Council. The Legislative Council’s duties are defined and are to look at legislation. Right? You or anybody can put their name down and they are not necessarily going to be... the people elected are not necessarily going to be those people who are looking to be... to scrutinise legislation, they are going to have many other reasons. Is that not a risk that anybody in the public being able to put their name forward? Whereas the MHKs are putting people forward, who will most probably, one would hope, be the... they would realise what their job is and could do that job?

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Mr Tomlinson: I do not want to point the finger at anybody who has recently been elected, but the most recent person elected to the Legislative Council I have never heard of politically and I take an interest in politics. I have never heard of a political involvement by the latest elected Member of the Legislative Council.

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1110 **Q147. Mr Singer:** But that person may have experience in looking at... was, in fact... had experience in legislation, drawing up legislation and the MHKs knew that and therefore they elected him, whereas, fine, going out to public... anybody can come forward, you are not necessarily going to have people who are going to add to the Legislative Council and be able to do the job properly, which is proper scrutiny.

Mr Tomlinson: I think what you are saying is that you need qualifications to be a Legislative Council Member, are you?

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Mr Singer: Do you? Should you be able to show that?

Mr Tomlinson: Do you need qualifications to be an MHK?

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Mr Singer: No, you do not.

Mr Downie: You have still got to convince your electorate.

Mr Singer: Yes.

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Mr Tomlinson: Yes, quite. That is part of the process.

The Chairman: I am sorry, Members, one voice at a time, please.

1130 **Q148. Mr Singer:** I will come to one other point. As you talk about electing four people for a constituency and splitting one off to go to the Legislative Council, how do you decide who you split off? Is it the one who comes fourth and gets the consolation prize, or do you do the first one, who... All these people have put their names forward to sit in the Keys. Would it be right to split them off?

1135 **Mr Tomlinson:** My understanding – and perhaps I am wrong – is that the person who wants to be considered for the Legislative Council would declare that within the electoral process.

Q149. Mr Singer: And if they do not, if nobody wants to?

1140 **Mr Tomlinson:** I presume – I do not know – we would have to ask the mover of the Bill what would happen in that instance.

Mr Singer: So, again, we could end up with somebody in the Legislative Council who basically is not interested in the Legislative Council –

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Mr Braidwood: A second election.

Mr Singer: – but they have to go there, and therefore the function of the Legislative Council... their efficiency is reduced.

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The Chairman: Sorry, if I could just interject here, equally under the current system, a member of the public can stand as a Member of the House of Keys and be elected on a manifesto. So they are elected in terms of what policies they would support, what policies they would pursue. They may or may not be in the House of Keys, for possibly two or three years, before they then put their name forward to go up into the Legislative Council. Looking back historically, invariably those Members who only sat and had two years' or maybe three years' experience in the House of Keys were elected to the Legislative Council.

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So Mr Singer, I think your question is somewhat unfair, (*Interjection by Mr Singer*) because the same thing... I am finished, Mr Downie. The same thing could be said, in terms of the quality of the candidates coming forward for the Keys with very little experience being elevated to the Legislative Council, perhaps without any kind of legislative experience to talk of. I think –

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Mr Singer: The Keys have the choice, though.

1165 **The Chairman:** Sorry, Mr Singer, I think it is an unfair question to actually put to Mr Tomlinson at this time.

Mr Callister.

1170 **Mr Singer:** Well –

The Chairman: Sorry, Mr Singer.

Mr Callister.

1175 **Q150. Mr Callister:** I just wanted to clarify that *my* Bill has separate elections for the Members to the Legislative Council and, for this very reason: that if you try to elect all four people at the same time, you will never get agreement on the method to put people into the Legislative Council. It simply will not work. It has been tried before. Victor Kneale tried it and failed.

This Bill, quite frankly – and I am going to ask you to agree with this; I am sure you will – is probably the most sensible way and the least destructive way of moving forward.

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Mr Tomlinson: I think if you combine it. I think there is a window of opportunity, certainly, if you combine it with what has been agreed by Tynwald in regard to the principles forwarded by the Boundary Committee. There is no doubt that this is a once-in-a-lifetime opportunity to progress that in that manner.

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Mr Callister: Thank you.

The Chairman: Thank you, Mr Tomlinson.
Mr Downie.

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Mr Downie: Yes, I am just going to change the subject slightly, Madam Chairman –

The Chairman: Yes, if it is in the remit of the Committee, Mr Downie.

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Q151. Mr Downie: – because part of the remit of the Committee is to look at the work carried out by the Boundary Review Committee, and you did mention something about one person, one vote, and the fairness of the boundaries and so on. I have some sympathy with your the view because, as a Member who has represented a Douglas constituency in the past – and I think this is where the problem arises – you have eight Members representing Douglas, three in Onchan, one in Marown if you want to stretch it out, but you have 65% of the Island’s population living in that conurbation. Would you not agree with me that the representation and the boundaries have evolved because of the centres of population? To make Mr Gawne’s point, you need three Members in Rushen because you have a huge area down there which takes in Port Erin, Port St Mary, Colby, and so on. You have a conurbation in Peel, a conurbation in the north and, in the east, you have a huge area.

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When I first came into Keys and we had the first boundary review, part of the Middle constituency went up to Snaefell and out as far as Santon, and that was a ridiculous situation to ask a person to cover all that area, so that is why I am just trying to explain to you how the Boundary Commission has worked over the years and they have always come up with a solution. You cannot divide the Isle of Man up into constituencies of 2,500 or 3000 people. It just doesn’t work.

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Mr Tomlinson: I do not think I am suggesting that.

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Mr Downie: No, but you did make comment about the work of the Boundary Commission when you were discussing it with Mr Gawne.

Mr Tomlinson: Yes, but all the Boundary Review Committee has come up with is principles, which Tynwald have agreed. You have agreed them.

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Q152. Mr Downie: But the point I am making, Chair, is you cannot have one-person-one-vote, because the Isle of Man does not lend itself to that.

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Mr Tomlinson: You can have one-person-three-votes in Rushen, one-person-three-votes in Onchan.

Mr Downie: Because the areas that they represent are quite densely populated, but if you take the rural areas, like Mr Anderson’s area, Glenfaba, you know there are just over 1,500 people there.

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Mr Tomlinson: Two thousand voters in Glenfaba.

Q153. Mr Downie: If you take it, what was STV and so on, there is a good argument that was mentioned about that, because people get elected now with 400 or 500 votes. Is that fair? So all this has got to come into this equation somewhere.

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Mr Tomlinson: I do not think it does. I think you have got to talk about principles, and why we are here this afternoon is to talk about constitutional principles which I do not think exist. What the Committee should be considering is the *democratic* principles and that is what I feel is the essential element in here.

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Q154. Mr Downie: All I was trying to do was explain to you the problems that the Boundary Committee have had to deal with over the years, because the Isle of Man does not lend itself to be broken up into squares with so many people in –

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The Chairman: Thank you, Mr Downie.

I think, really, we cannot talk about the boundaries. I mean, there is a Boundary Commission sitting, they are working on the principles that have been approved by Tynwald and we shall have

to wait and see what they come back with, but I can say that if they have said that they are... The thing that has always been very sensitive are the boundary issues and the parishes etc.

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Mr Downie: And the sheadings.

The Chairman: And the sheadings. So they are concentrating on trying to keep those as intact as possible.

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Mr Singer: One small question, please.

The Chairman: Mr Singer has asked for one very small question –

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Mr Downie: One small step for mankind!

The Chairman: – I shall ask him to be concise, please –

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Q155. Mr Singer: I hope it is a question that you and the Members and Mr Tomlinson will approve of. (*Laughter*)

Under your paper that you have put forward, under item 4, it says:

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‘PAG therefore strongly supports the underlying principle of the Electoral Reform Bill 2011, that of popular election of *most* Members of the Legislative Council.’

When you say ‘most’, do you mean because you are thinking about the Bishop? What are you trying to say there?

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Mr Tomlinson: That is what the Bill is calling for – most Members. The Bishop is just ‘walked’ in.

Q156. Mr Singer: So when you say ‘most’, that is because the Bishop is there. It is election of all the other Members, and then the Bishop.

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Mr Tomlinson: The important thing is there are nine voting Members of the Legislative Council. This Bill sidesteps the Bishop, so that is why we are talking about ‘most Members’.

Mr Singer: That was the clarification.

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The Chairman: Okay, that is fine, thank you.

Mr Singer: Thank you very much.

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The Chairman: Now the Clerks: do they have anything that they would like to put to Mr Tomlinson?

The Clerk (Mr Phillips): No, thank you.

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The Chairman: No?

The Clerk (Mr King): May I ask a couple of questions of Mr Tomlinson?

The Chairman: Yes, please do, Mr King.

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Q157. The Clerk (Mr King): It is very good to have you here, and can I say thank you for the interest you have shown throughout my time in Tynwald. It is very good to know that there are people out there... When we put information out, we often have Mr Tomlinson on the phone, asking us about things, and that is great from our point of view.

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You say the Positive Action Group is a political lobby group, not a political party, the objectives being to promote an awareness and understanding of politics and citizenship. I would love to know, now that you are here, how many people are in the Positive Action Group?

Mr Tomlinson: How many paid-up members, are you asking?

1310 **The Clerk (Mr King):** Yes.

Mr Tomlinson: Or how many people support us?

The Clerk (Mr King): Both – either.

1315 *Mr Tomlinson:* Okay. We have got about 80 paid-up members, and I think we have got in excess of about 250, what I would call, supporters.

1320 **Q158. The Clerk (Mr King):** And is it your belief that 250 out of 250 support the statement in your charter: ‘The people have the right to elect Members of the Legislative Council’?

Mr Tomlinson: I cannot say that with certainty, no, but generally people agree with most points in our charter, and that is why they come and support our meetings.

1325 **The Clerk (Mr King):** Do you think that the 80 people who have paid money to you support that statement?

Mr Tomlinson: Every item on that statement?

1330 **The Clerk (Mr King):** The statement I have just quoted: ‘The people have the right to elect Members of the Legislative Council.’

Mr Tomlinson: Yes, without question.

1335 **Q159. The Clerk (Mr King):** In the course of this Committee, Mr Cringle, Mr Robert Quayle and Mr Lowey have all made the point that the public at large do not understand the difference between the Keys and the Council and the constraints on the power of the Council. Do you agree with them?

1340 *Mr Tomlinson:* No, I do not. I do not. I think by being involved in politics people learn about how Tynwald works and how the various branches work. It happened this week with the education debate. I have been in contact with some of the people who are involved in that and gradually they are learning about how Tynwald works. It is wonderful.

1345 **Q160. The Clerk (Mr King):** Can I just ask one last question, then: what bit, because you, if I might say it, are a kind of a train spotter in this – you are an expert if ever there was one on what it is like looking at Tynwald from the outside – which particular bit of the function of an MLC is the bit that really ought to be done by someone elected by the public?

1350 *Mr Tomlinson:* I am not sure I understand what you are saying.

The Clerk (Mr King): Well, you say the people have the right to elect Members of the Legislative Council. Why?

1355 *Mr Tomlinson:* Because it is a democratic principle.

The Clerk (Mr King): But they do not have the right to elect the Chief Executive of the Department of Health.

1360 *Mr Tomlinson:* No, because that is a political appointment.

Q161. The Clerk (Mr King): They do not have the right to elect the Bishop; they do not have the right to elect the Attorney General; they do not have the right to elect the Chief Legislative Draftsman. Which particular bit of the MLCs’ function merits direct election?

1365 *Mr Tomlinson:* Because they are politicians. Because there is a confusion, or a fusion, of the roles of Members of the Legislative Council. As Mr Callister said earlier, they have a political job to do within Government, and I feel that, possibly, if this Bill does get through, it will open up Government to more talent. That is something that has not been discussed at all in the Committee that I have heard so far, inasmuch as there has been a convention with the previous Government –

1370 and it has been extended in this Government – that Members of the Legislative Council cannot become Ministers. I think that is a great pity.

I think Members of the Legislative Council should be eligible to become Ministers, and if they were elected by the public, that would give it a legitimacy. If a Member of the Legislative Council is appointed now as a Minister, I think there would be somewhat of a mild public outcry at the fact that they were not democratically elected by the public.

The Chairman: Thank you, Mr Tomlinson.

I would add further to that, I think, that the public keenness and the Members of the House of Keys' keenness to try and push change through in terms of the election of the Legislative Council, I think, was reunited, or re-*ignited* I should say, when Members of the Legislative Council, in fact, were appointed Ministers, going back to my early days as a Member of the House of Keys, Members often felt –

Mr Downie: And I was the last Minister.

The Chairman: If I could finish, Mr Downie – (*Further interjections by Mr Downie*) Members of the Keys felt disenfranchised, particularly when the Health Minister was a Member of the Legislative Council, that they could only raise questions to the Health Minister once a month and that they could not test her on a weekly basis in the House of Keys.

Mr Downie: So was the Chief Minister.

The Chairman: Yes, that is right, and the Chief Minister. I think it was during that time –

Mr Braidwood: We are digressing, Chair.

Mr Downie: We are digressing, Madam Chairman.

Mr Braidwood: We are digressing.

The Chairman: And, of course, we also had Mrs Crowe, as well, but anyway, enough said about that matter.

Mr Tomlinson, thank you very much for giving of your time today, and also for your forever keen interest in what we do, as Members of the House of Keys and Members of the Legislative Council. It is much appreciated.

Mr Tomlinson: Thank you.

The Chairman: Thank you.

Right, so we are now at an end, and we are now finishing, so thank you very much, members of the press and the public, for attending. Thank you to *Hansard*.

The Committee adjourned at 4.08 p.m.