



TYNWALD COURT OFFICIAL REPORT

RECORTYS OIKOIL
QUAIYL TINVAAL

PROCEEDINGS

DAALTYN

HANSARD

Douglas, Tuesday, 20th June 2017

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Volume 134, No. 10

ISSN 1742-2256

Present:

The President of Tynwald (Hon. S C Rodan)

In the Council:

The Attorney General (Mr J L M Quinn QC),
Mr D M Anderson, Mr M R Coleman, Mr C G Corkish MBE, Mr D C Cretney,
Mr T M Crookall, Mr R W Henderson, Mr J R Turner and Mrs J P Poole-Wilson
with Mr J D C King, Deputy Clerk of Tynwald.

In the Keys:

The Speaker (Hon. J P Watterson) (Rushen);
The Chief Minister (Hon. R H Quayle) (Middle);
Mr J R Moorhouse and Hon. G D Cregeen (Arbory, Castletown and Malew);
Hon. A L Cannan and Mr T S Baker (Ayre and Michael);
Hon. C C Thomas and Mrs C A Corlett (Douglas Central);
Miss C L Bettison and Mr C R Robertshaw (Douglas East);
Mr D J Ashford and Mr G R Peake (Douglas North);
Hon. K J Beecroft and Hon. W M Malarkey (Douglas South);
Mr M J Perkins and Mrs D H P Caine (Garff);
Hon. R K Harmer and Hon. G G Boot (Glenfaba and Peel);
Mr W C Shimmins (Middle);
Mr R E Callister and Ms J M Edge (Onchan);
Dr A J Allinson and Mr L L Hooper (Ramsey);
Hon. L D Skelly (Rushen);
with Mr R I S Phillips, Clerk of Tynwald.

Business transacted

Leave of absence granted.....	1011
Order of the Day	1011
1. Mr Ian Cannell CBE – Tribute by the President	1011
2. Papers laid before the Court	1012
3. Questions for Oral Answer.....	1015
1. Karran Inquiry report – Date to be laid before Tynwald	1015
2. Disposal of Manx Gas plant sites – DEFA involvement re contaminated land; policy and legislation.....	1015
3. Climate Challenge Mitigation Strategy – Progress	1016
4. Biomass for communal heating systems – Review of Government policy	1018
5. New Royal Liverpool Hospital – Family accommodation during relocation	1021
6. Orthodontic cover for young children – Adequacy; improvement.....	1022
7. Production of ID without notice at ports – UK <i>vires</i> over passengers to Isle of Man	1024
8. Smoking in vehicles in presence of under-16s – Number of people stopped and cautioned.....	1025
9. Douglas promenade resurfacing – Total cost.....	1027
10. Taxi inspector – Hours worked per week.....	1029
11. Vehicle test centre – Reason for backlog.....	1030
12. Pre-legislative scrutiny – Progress towards improving	1033
13. Escort agencies – Plans to regulate.....	1035
14. Water meters for domestic customers – Assessment of implications.....	1036
15. Bus timetable changes – Consultation and feedback	1037
Questions for Written Answer	1040
16. Private pension schemes without full funding – Support for pensioners, including Ronaldsway Shoe Company	1040
17. Company Income Tax – Total taxable income 2012 to 2016	1040
18. FSA licensed companies– Analysis of companies which surrender licences.....	1042
19. Roadworthiness of HGVs – Evidence behind statistics	1043
Order of the Day	1044
Welcome to Mrs Poole-Wilson, MLC	1044
4. Tynwald Commissioner for Administration Act 2011 (Appointed Day) Order 2017 – Statement by the Minister for Policy and Reform	1044
Endoscopy service and Ramsey and District Cottage Hospital – Statement by the Minister for Health and Social Care.....	1048

5. Review of the Functioning of Tynwald – Lord Lisvane’s recommendations – Debate commenced.....	1054
<i>The Court adjourned at 1.05 p.m. and resumed its sitting at 2.30 p.m.</i>	1067
Review of the Functioning of Tynwald – Lord Lisvane’s recommendations – Debate continued	1067
<i>The Court adjourned at 5 p.m. and resumed its sitting at 5.35 p.m.</i>	1100
Review of the Functioning of Tynwald – Lord Lisvane’s recommendations – Debate concluded – Amended motion carried	1100
6. Tynwald Standards and Members’ Interests Committee – Members’ conduct – First Report 2016-17 and recommendations – Amended motion carried	1138
7. Tynwald Honours Committee – Inclusion of William Kennish in Manx Patriots' Roll of Honour – First Report 2016-17 received and recommendations approved	1149
8. Select Committee on the Organization and Operation of the General Election – Report and recommendations – Debate commenced	1150
Standing Order 1.2(2) suspended to continue Item 8 to completion and review at 9 p.m.	1157
Select Committee on the Organization and Operation of the General Election – Debate continued – Amended motion carried.....	1158
Suspension of Standing Order 1.2(2) to continue to 9 p.m. – Motion lost.....	1168
<i>The Court adjourned at 8.45 p.m.</i>	1169

Tynwald

The Court met at 10.30 a.m.

[MR PRESIDENT *in the Chair*]

The Deputy Clerk: Hon. Members, please rise for the President of Tynwald.

The President: Moghrey mie, good morning, Hon. Members.

5 **Members:** Moghrey mie, Mr President.

The President: The Chaplain of the House of Keys will lead us in prayer.

PRAYERS

The Chaplain of the House of Keys

Leave of absence granted

The President: Please be seated.

10 Hon. Members, I have granted leave of absence to the Chief Minister for Wednesday evening and Thursday, to the Hon. Member Mr Moorhouse for Wednesday afternoon and Thursday, likewise to Mr Ashford for Wednesday afternoon and Thursday, to Mr Speaker for Thursday and to Mrs Poole-Wilson also for Thursday.

Order of the Day

1. Mr Ian Cannell CBE – Tribute by the President

15 **The President:** Hon. Members, the annual Tynwald Day ceremony will soon be upon us. When, less than two weeks ago, I spoke to Ian Cannell to tell him it was my intention to mark his official retirement as Tynwald Day commentator by thanking him publicly at the June sitting of Tynwald Court, he was very touched that his long service to us would be recognised in this way. Confined to his home in Peel by deteriorating health, he promised to listen to the tribute to him this morning on Manx Radio. This was not to be. It was with sorrow that we learned of Ian's passing at the weekend.

20 As broadcaster and commentator, Ian Cannell's was the fine speaking voice which was heard at the ceremony in St John's and beyond every year for 52 years; 52 years, Hon. Members, of

dignified, fluent and informed commentary. Truly, Ian Cannell was the voice of Tynwald. He had, in fact, hoped to complete 55 years and then retire, before sadly he succumbed to illness. Ian's long service to Tynwald as a proud Manxman who was proud of the Island's long parliamentary tradition is deeply appreciated and will be long remembered. To mark his 50 years of Tynwald Day commentary, Madam President Clare Christian presented Ian with an illuminated address, which had pride of place in the hallway of his home.

Ian's voice featured on the very first broadcast of Manx Radio on the round-the-course commentary of the 1964 TT. Shortly after, he was invited to commentate on the Tynwald ceremony via the public address system before live radio coverage actually began. Ian became a freelance presenter with Manx Radio and was, for a time, station manager, a change of career from his work as a chartered surveyor with the old Highways Board. Latterly, he served as Town Clerk of Peel from 1985 to 1999.

But it is for his long and remarkable service to the Royal British Legion that Ian will also be chiefly remembered. Joining Peel branch in 1959 after National Service with the RAF, he went on to become County Chairman, then for some 20 years County Vice-President and finally County President from 2006 to 2012. He instigated the creation of a Legion retirement home in Douglas – as we know, named Ian Cannell Court in tribute to its energetic founder – work which saw him awarded the MBE. His work on the National Council of the Royal British Legion in the UK, especially with the Poppy Appeal, as National Vice-Chairman from 1991 to 2001, then National UK Chairman from 2001 to 2004 when he was honoured with the award of CBE for his work, is a record of service possibly unparalleled in the history of the Royal British Legion.

Ian Percy Cannell CBE was a true Manx gentleman, a true friend of Tynwald, a man with a distinctive voice. He will be much missed.

To his family and many friends, and especially to his companion of 48 years, Mollie, who is with us this morning in the Distinguished Visitors' Gallery with his old friend Alwyn, this Court extends deepest sympathy.

To Ian, in case you are listening, thank you for everything.

Hon. Members, we stand in silent tribute to Ian Cannell.

Members stood in silence.

The President: Thank you, Hon. Members.

2. Papers laid before the Court

The President: Hon. Members, you have my permission to remove jackets if you wish, in view of the heat, which might get –

A Member: It will get hotter!

The President: – even more intense as we proceed! *(Laughter)*

Hon. Members, I call upon the Clerk to lay papers.

The Clerk: Ta mee cur roish y Whaiyl ny pabyryn enmyssit ayns aynr jees jeh'n Chlaare Obbyr. I lay before the Court the papers listed at Item 2 of the Order Paper.

European Communities (Isle of Man) Act 1973

European Union (North Korea Sanctions) (Amendment) (No.2) Order 2017
[[SD No 2017/0186](#)] [[MEMO](#)]

European Union (Information Accompanying Transfers of Funds) (Amendment) Order
2017 [[SD No 2017/0182](#)] [[MEMO](#)]

Freedom of Information Act 2015

Freedom of Information Act 2015 (Amendment of Schedule 1) Order 2017
[[SD No 2017/0189](#)] [[MEMO](#)]

Education Act 2001

Education (Information and Reports to Parents) (Amendment) Regulations 2017
[[SD No 2017/0155](#)] [[MEMO](#)]

The Pedlars and Street Traders Act 1906

Local Government Act 1985

Parish of Patrick Pedlars and Street Traders (Licence Fee) Byelaws 2017
[[SD No 2017/0069](#)] [[MEMO](#)]

Licensing and Registration of Vehicles Act 1985

Vehicle Duty (No.3) Order 2017 [[SD No 2017/0195](#)] [[MEMO](#)]

Customs and Excise Management Act 1986

Alcoholic Liquor Duties Act 1986

Excise Duties (Amendment) Order 2017 [[SD No 2017/0171](#)] [[MEMO](#)]

Beneficial Ownership Act 2017

Beneficial Ownership (Exemption) (Collective Investment Schemes) Order 2017
[[SD No 2017/0181](#)] [[MEMO](#)]

Beneficial Ownership (Nominated Officer Exemption) (Class 4 Regulated Activity) Order
2017 [[SD No 2017/0179](#)] [[MEMO](#)]

Tribunals Act 2006

Financial Services Tribunal (Amendment) Rules [[SD No 2017/0178](#)] [[MEMO](#)]

Social Security Act 2000

Social Security Legislation (Benefits) (Application) (No.2) Order 2017 [[SD No 2017/0166](#)]
[[MEMO](#)]

Pension (Top-up) (Amendment) Order 2017 [[SD No 2017/0169](#)]

Social Security Legislation (Benefits) (Application) (No.3) Order 2017 [[SD No 2017/0167](#)]
[[MEMO](#)]

Pension Schemes Act 1995

Pension Schemes Legislation (Application) (No.2) Order 2017 [[SD No 2017/0168](#)] [[MEMO](#)]

Reports

Tynwald Honours Committee First Report for the Session 2016-2017 [[PP No 2017/0097](#)]

Report of the Tynwald Standards and Members' Interests Committee First Report for the Session
2016-2017 Members' Code of Conduct [[PP No 2017/0104](#)]

The remaining items are not the subject of motions on the Order Paper

Documents subject to no procedure

Education Act 2001

School Catchment Areas Order 2017 [[SD No 2017/0156](#)]

Merchant Shipping Act 1985

Merchant Shipping (SOLAS Chapter III) (Life Saving Appliances and Arrangements) Regulations 2017 [[SD No 2017/0185](#)] [[MEMO](#)]

Dog Control 1990

Marown Dog Control Byelaws 2017 [[SD No 2017/0107](#)]

Currency Act 1992

Currency (Tourist Trophy) (£5 Coin) Order 2017 [[SD 2017/0165](#)]

Documents subject to negative resolution

European Communities (Isle of Man) Act 1973

European Union (North Korea Sanctions) (Amendment) (No.2) Regulations 2017 [[SD No 2017/0187](#)] [[MEMO](#)]

Immigration Act 1971

Statement of Changes in Immigration Rules [[SD No 2017/0183](#)] [[MEMO](#)]

Appointed Day Orders

Beneficial Ownership Act 2017

Beneficial Ownership Act 2017 (Appointed Day) Order 2017 [[SD No 2017/0177](#)]

Beneficial Ownership Act 2017 (Appointed Day) (No.2) Order 2017 [[SD No 2017/0194](#)]

Tynwald Commissioner for Administration Act 2011

Tynwald Commissioner for Administration Act 2011 (Appointed Day) (No.1) Order 2017 [[SD No 2017/0198](#)]

Reports

Beneficial Ownership Act 2017 Guidance June 2017 [[GC No 2017/0003](#)]

Council of Ministers Response to the Report of the Select Committee on the Organization and Operation of the General Election [[GD No 2017/0222](#)]

Immigration Sponsor Licensing Policy [[GC No 2017/0004](#)]

3. Questions for Oral Answer

CHIEF MINISTER

1. Karran Inquiry report – Date to be laid before Tynwald

The Hon. Member for Rushen (Mr Speaker) to ask the Chief Minister:

When the Karran Inquiry report will be laid before Tynwald?

The President: We turn to Item 3, Questions for Oral Answer.
Question 1, Hon. Member for Rushen, Mr Speaker.

65 **The Speaker:** Thank you, Mr President.

I beg to ask the Chief Minister: when will the Karran Inquiry report be laid before Tynwald?

The President: I call on the Chief Minister, Hon. Member for Middle, Mr Quayle.

70 **The Chief Minister (Mr Quayle):** Thank you, Mr President.

I hope to bring this report to the July sitting of this Hon. Court.

ENVIRONMENT, FOOD AND AGRICULTURE

2. Disposal of Manx Gas plant sites – DEFA involvement re contaminated land; policy and legislation

The Hon. Member for Onchan (Ms Edge) to ask the Minister for Environment, Food and Agriculture:

Whether his Department has had any involvement with the disposal of the Manx Gas plant sites with regard to contaminated land; and what policy and legislation relate to this?

The President: Question 2. Hon. Member for Onchan, Ms Edge.

Ms Edge: Thank you, Mr President.

75 I would like to ask the Minister for Environment, Food and Agriculture: has his Department had any involvement with the disposal of the Manx Gas plant sites with regard to contaminated land; and what policy and legislation is in place relating to this?

The President: I call on the Minister for Environment, Food and Agriculture, Mr Boot.

80

The Minister for Environment, Food and Agriculture (Mr Boot): Thank you, Mr President.

I can confirm that the Department has not had any involvement in the disposal, by which I mean sale, of such sites.

85 Moving to the question of policy and legislation with regard to contaminated land, there are three teams in the Department that have responsibilities. These are the Health and Safety at Work Inspectorate, the Environmental Protection Unit, and Planning and Building Control.

From the Planning Control perspective, environment policy 26 of the Isle of Man's Strategic Plan precludes development on or close to contaminated land, unless it can be demonstrated there is no unacceptable risk to health, property or adjacent watercourses.

90 Health and Safety have identified some of the sites where the long-redundant coal gas was produced as containing some harmful contaminants. Developers of these sites and any contractors who work on such projects are required under the Health and Safety at Work Act 1974 to ensure that such contaminants are handled and transported and disposed of to a standard which is as safe as is reasonably practical to ensure safety of the members of the public, as well as the workers involved.

95 Finally, from the Environmental Protection Unit perspective, there are two primary elements to their involvement in such situations. The first is to protect controlled waters, rivers, lakes and coastal waters from contamination from sources such as, but not restricted to, old gas sites. This can be achieved through the application of the Water Pollution Act 1990, if the contaminants directly enter the controlled waters through a discharge point. The second is working with developers on known contamination sites to ensure a suitable approach. For example, in an early development project of one such site, officers ensured that the contaminated soil removed from the location was stored in waterproof, sealed containers at a secure location, pending transportation to the UK for treatment.

105 **The President:** Supplementary, Ms Edge.

Ms Edge: Thank you, Mr President.

110 Can the Minister confirm, with regard to Planning and Building Control, whether there was any specialist construction recommended to ensure that the site was suitable for the development of properties that people will be inhabiting?

The President: Minister to reply.

115 **The Minister:** Mr President, Planning and Building Control work in conjunction with the other units. Where a site is identified as having problems, obviously these are addressed and the developers are made aware of what is required to either decontaminate or make the site suitable for development.

120 If we are referring to a particular site in Ramsey which has been referred to, a contaminated land report was sought and provided with the application. The report concluded that building work was technically possible on the site. The agent for the application also stated that the Environmental Protection Unit within DEFA conducted a site visit following consultation on the contamination report and indicated their agreement with the recommendations of that report.

3. Climate Challenge Mitigation Strategy – Progress

The Hon. Member for Douglas North (Mr Peake) to ask the Minister for Environment, Food and Agriculture:

What progress has been made with the Climate Challenge Mitigation Strategy approved by Tynwald 12 months ago?

The President: Question 3. Hon. Member for Douglas North, Mr Peake.

125 **Mr Peake:** Thank you, Mr President.

I would like to ask the Minister for Environment, Food and Agriculture, what progress has been made with the Climate Challenge Mitigation Strategy, which was approved by Tynwald 12 months ago?

130

The President: I call on the Minister to reply, Mr Boot.

The Minister for Environment, Food and Agriculture (Mr Boot): Thank you, Mr President.

Delivering the Climate Challenge Mitigation Strategy is seen as a priority issue within the Department. In the past few weeks, the Department has restructured to develop an Ecosystem Policy Group, which has a delivery of our Climate Challenge Mitigation Strategy as one of its core objectives, recognising that other priority issues have caused delays in delivering some of the key measures contained in the first in a series of five-year action plans linked to the strategy, which was indeed agreed in July 2016.

That team are now working with other areas of Government to identify key elements of the Energy Efficiency Scheme which has been included in the Programme for Government and which my Department intends to implement by the end of this calendar year. We have set up a working group to discuss changes which will be necessary to building standards, to ensure both new building standards and retrofitting of existing properties deliver near-zero emissions.

This group will review building standards prescribed in neighbouring jurisdictions, but it is conscious that some of the standards and initiatives adopted elsewhere have not been entirely effective. One of the core principles of the group will be to agree standards which are effective here on Island.

We have provided a financial contribution to the MUA's current initiative to upgrade and expand the electric vehicle charging network on the Island and we continue to fund the electricity used at some of the existing charging points.

My Department continues to promote the use of locally sourced biomass as an environmentally sustainable fuel for developers, or for developments, which suit the benefits associated with heating networks. We are working with the Department of Infrastructure to assist in their development of an Active Transport Strategy which will encourage people to walk and cycle as an alternative to using their cars.

The Department is aware that complementary schemes are being considered by other Government Departments, such as an updated version of the former Energy Initiative Fund, and we are liaising closely to co-ordinate the delivery of benefits and ensure all the target reductions in emissions are achieved in a beneficial way for our community and economy.

160

The President: Supplementary, Mr Peake.

Mr Peake: Thank you, Mr President, and thank you very much to the Minister for that reply.

The Climate Challenge Mitigation Strategy did highlight a number of things that can be done within 12 months and you have just covered there the charges for electric vehicles, but really, can we have some dates round this? There were two or three things of the 16 points in the first year that could have been achieved in that first year, and one was the air-tightness test for homes. The charging points, as you said: I really want to get some dates around that. Does the Minister have dates that these fast-charging points for electric vehicles will be fitted?

170

The President: Minister to reply.

The Minister: Thank you, Mr President.

I think I should point out that this was agreed in July 2016, and something called a general election has happened in the meantime. After the general election, quite a lot of time was spent in preparing a Programme for Government that identifies the priority areas.

175

I did allude to the Energy Efficiency Initiative that we hope to deliver by December 2017; and just this week, we have had a number of meetings – bearing in mind the new post and new initiatives within the Department – to look at such things as air testing, biomass, continuation of insulation standards, change of building regulations. That work is in progress, but I would be remiss if I gave you specific dates at this particular juncture which would set targets which we may not be able to keep, because there are other considerations and the Department has other priorities as well.

The President: Supplementary question, Mr Peake.

Mr Peake: Thank you, Mr President.

I thank the Minister for the answer. He did mention there the Programme for Government. In the Programme for Government, he does have responsibility to implement an energy efficient scheme by the end of 2017, so how does that fit with the Tynwald approval of the Climate Challenge Mitigation Strategy? How does that fit together?

The President: Mr Boot to reply.

The Minister: Thank you.

The Mitigation Strategy is taken in five-year blocks. Bearing in mind the situation with the general election and a new Programme for Government, we have had to muster our resources and look at what the priorities are within the Programme for Government. But I can assure you that we are committed to delivering those goals, even if some of the timescales do slip slightly.

4. Biomass for communal heating systems – Review of Government policy

The Hon. Member for Ramsey (Mr Hooper) to ask the Minister for Environment, Food and Agriculture:

What plans he has to review the Government's policy on biomass as the preferred fuel for communal heating systems?

The President: Question 4, Hon. Member for Ramsey, Mr Hooper.

Mr Hooper: Thank you, Mr President.

I would like to ask the Minister for Environment, Food and Agriculture, what plans he has to review the Government's policy on biomass as the preferred fuel for communal heating systems?

The President: I call on the Minister to reply, Mr Boot.

The Minister for Environment Food and Agriculture (Mr Boot): Thank you, Mr President.

The current policy was established in 2010, having been proposed by the Energy and Climate Change Committee. The policy states:

Biomass is the preferred fuel for heating all new and refurbished public buildings, and where boiler replacement is being implemented, as long as the lifetime costs are better than or equal to alternative forms of fuel.

In January 2015, this policy was reviewed and again the Council of Ministers supported the concept, following a report which acknowledged there had been and still were some teething problems.

There are several key reasons for the policy, which include: whilst the initial capital investment requirements are higher the operating costs are significantly lower, meaning these systems are cheaper to run over the lifetime of the project. The system substitutes imported fossil fuel with locally produced woodchip, keeping almost all of the operating costs on Island, which helps to fund our landscape management, rather than funding oil production for the benefit of another country's economy. This is a classic example of the benefit of circular flow of funds within the Island.

As a locally sourced product, it substantially insulates the site operators from oil price shocks which we have seen and expect to see again during the life of these buildings. The fuel does contribute to our emissions reduction strategy, though I need to be clear that it pre-dates the current reduction target. It was adopted because of the benefit to the economy and our landscape. Since then, of course, we have had phytophthora and it is obvious that a lot of our plantations contain mature trees, so the imperative to use that timber is even higher than it was then.

I am sure that many of you are aware that, like many new technologies, there have been teething problems, stemming in some cases from issues with the chip and in other cases due to the design of the installation. We now have six sites operating with an annual consumption expected to be almost 900 tonnes, which means we are finally reaching the critical mass that will reduce costs and increase efficiency. My team has worked closely with operators over the last few years and intensely over this last winter to address issues.

In summary, this is a really good initiative; it helps the local economy, the landscape management, and saves operators money. We have been through a period of low fossil fuel prices, which makes the business case more marginal; however, I do not think it is too bold to suggest we are likely to see higher fuel prices again in the future and the existing policy only recommends their implementation where the business case stacks up.

Assuming the technical issues are now for the most part behind us, we continue to support the policy.

The President: Supplementary, Mr Hooper.

Mr Hooper: Thank you, Mr President.

I would like to thank the Minister for that quite comprehensive Answer.

One question I would ask him, when talking about communal heating systems I was primarily focused on shared accommodation and one thing I did not hear him mention there is the cost of these kinds of services to tenants. And so when you are talking about the overall whole life cost, I would appreciate it if the Minister could confirm that the cost to tenants of providing this and actually heating their homes is factored into those calculations.

The President: Minister to reply.

The Minister: Thank you, Mr President.

Yes, we are talking about communal property here. We have six sites operating at the moment and it is fair to say that there have been some problems. However, the cost benefit of using locally sourced fuel is plain to see. Unfortunately, of late we have had cheaper fossil fuel prices which have distorted that cost benefit; but this is circular money.

I do not believe that tenants are paying any more for biomass fuel to their property individually than they would be if they were using fossil fuel, gas or oil at the moment. But I would not be 100% sure of that because I have not got the individual costings to tenants as compared to fossil fuel.

265 **The President:** Hon. Member, Mr Ashford.

Mr Ashford: Thank you, Mr President.

Just following directly on from the Hon. Member for Ramsey, would the Minister agree that when he says there have been teething problems, there are actually only cost benefits and only
270 a cheaper system when the system is actually working?

In a lot of cases the systems, I believe, have gas boiler backups and in some cases those have been used, let's say, quite consistently. So would the Minister, when looking again at this policy as to whether it is the way forward, actually speak to the local authorities who have had these boilers – I was going to say 'installed' in their premises, but in some cases *imposed* on their
275 premises – to actually get the feedback as to how they have been operating in practice?

The President: The Minister to reply.

The Minister: Thank you, Mr President.

280 We are only too aware of some of the problem areas and we have now decided that we will make weekly inspections of each site to find out what is happening and why it is happening.

There have been problems with the chipping process which we tried to address, and there have been problems in bunkering the fuel in terms of storage – it being damp – and chip size being incorrect. Like any new technology there are going to be teething problems, but I believe
285 in the long term these problems are being sorted out. As far as I am aware, talking to officers recently, the new bunkering techniques are working well and the new chipping process is far better, and I believe that the long-term benefits are still there.

The President: Supplementary, Mr Hooper.

290

Mr Hooper: Thank you, Mr President.

I thank the Minister for confirming that in his view people are not paying any more on biomass than they would be on alternative fuel sources, but I would ask if he would commit to talking with the Chairman of the OFT and actually providing this Hon. Court with some figures to
295 demonstrate that.

The President: Minister.

The Minister: I did not say that they were necessarily paying more, I said I do not have the
300 figures available. I am very happy to undertake to carry out some investigation into this and will report back to Members as necessary.

The President: Supplementary, Mr Ashford.

305 **Mr Ashford:** A final one from me, Mr President.

In light of the teething problems that the Minister referred to, can the Minister give an undertaking that none of these biomass boilers and chippers will actually be forced on any local authority for any new-build until those teething problems are resolved, in particular any potential build up in Willaston?
310

The President: The Minister.

The Minister: The policy at present looks at the overall cost benefit analysis for installing these boilers and that policy still exists to try and install biomass boilers wherever possible.

315 I am very happy to undertake to look at that, bearing in mind some of the comments in this Court today, and if it is felt that it is too onerous a policy – bearing in mind there are circular benefits to the economy in terms of the fuel and wood that we have available – then we can re-examine the policy.

HEALTH AND SOCIAL CARE

**5. New Royal Liverpool Hospital –
Family accommodation during relocation**

The Hon. Member for Rushen (Mr Speaker) to ask the Minister for Health and Social Care:

What arrangements will be in place for family accommodation during the relocation to the new Royal Liverpool Hospital?

The President: Question 5, Hon. Member for Rushen, Mr Speaker.

The Speaker: Thank you, Mr President.

I beg leave to ask the Minister for Health and Social Care: what arrangements will be in place for family accommodation during the relocation to the new Royal Liverpool Hospital?

The President: The Minister for Health and Social Care, Mrs Beecroft, to reply.

The Minister for Health and Social Care (Mrs Beecroft): Mr President, the accommodation currently used by many Manx patients and their families attending the Royal Liverpool Hospital is a stand-alone facility in a budget-priced hotel called Royal Chambers. This stand-alone facility is called the Hillsborough Suite, is run by the hospital and is leased by the hospital from a private landlord.

The Hillsborough Suite has six rooms available for patients or their families and these are booked on a first-come, first-served basis. Patients and their families have benefited from this service and it is, quite rightly, highly valued. (**A Member:** Hear, hear.) Unfortunately we have been told that at some point in the future the suite will close. I had been advised that the lease held by the Trust was due to expire imminently; however, it has been extended until such a time that the new hospital is ready, and so will be available to Manx patients and their relatives until then.

Following the move the hospital will give up its lease on the Hillsborough Suite. I understand that the Royal Chambers will still be available to book after that date, but as it is privately owned patients wishing to book this facility following the move will need to do so directly with the operator, and rooms will no longer be kept for the sole use of patients and their families. There will be alternative accommodation available for Manx patients and relatives, should they wish to book it, at the Trust's Broadgreen site, although obviously that is less convenient than staying in the City Centre. Patients and their families will be able to book other accommodation, as now, and claim back up to £28 towards the cost.

We have expressed our concerns to the Trust and have been advised that all rooms in the new hospital are single rooms, but that recliners are available to relatives for them to stay overnight with their relatives. The Trust has been asked for more detail on this in terms of numbers and their availability, and I am waiting for a response.

Whilst overall the new hospital should be seen as a welcome development that should provide improved patient experience for our population that uses it, I am concerned about the difficulties that patients and their families may face in the future and will be keeping the situation under review.

The President: Supplementary, Mr Speaker.

The Speaker: Thank you.

Would the Minister concur that with rising costs of accommodation in Liverpool, this sort of facility is absolutely essential; and, certainly in welcoming the fact that she is pushing back for

more information from Liverpool University, will she agree to try and keep those people who use it from the Isle of Man as best informed as possible during this transition time, please?

The President: Minister to reply.

The Minister: Thank you, Mr President.

We will certainly be keeping people affected by this up to date on it.

**6. Orthodontic cover for young children –
Adequacy; improvement**

The Hon. Member for Douglas North (Mr Ashford) to ask the Minister for Health and Social Care:

Whether orthodontic cover for young children is adequate; and what steps her Department is taking to improve it?

The President: Question 6, Hon. Member for Douglas North, Mr Ashford.

Mr Ashford: Thank you, Mr President.

I wish to ask the Minister for Health and Social Care whether orthodontic cover for young children is adequate and what steps her Department is taking to improve it?

The President: Mrs Beecroft to reply.

The Minister for Health and Social Care (Mrs Beecroft): Mr President, I am confident that orthodontic provision at present is largely meeting the needs of children and young people. However, the service has gone through multiple personnel changes over the past few years, and I have asked my officers to develop a plan that will provide a sustainable service going forward.

Primary care orthodontic provision is normally provided by a specialist practitioner under contract to the Department of Health and Social Care. The last contract ran to 31st March 2016 and a procurement exercise took place before the expiry of the contract, in accordance with financial regulations. Unfortunately it was decided that none of the bidders could meet the specification, and therefore the Department extended the contract that was in place at the time for a further six months, while the contract specification was rewritten and the terms amended.

The contractor then decided to advise the Department, at short notice, that she did not wish to bid for the new contract and would therefore hand responsibility back for all patients part-way through treatment or waiting for assessment. This meant the Department had to put a temporary orthodontic service in place to ensure there was no gap in treatment for these children and young people. New cases were put on hold so that patients could have continuity of care with one provider; essentially, they would start and finish their treatment with the same clinician once the new provision had been procured. However, any patients with a high need or cases that require urgent hospital treatment have been referred to the hospital-based orthodontist.

The Department has produced a new specification for the service and has been working closely with legal advisers at the Attorney General's Chambers.

An invitation to tender has been sent out and the closing date for applications is the 29th of this month. Treasury Committee approval was granted to proceed on an any qualified provider basis. This means the new provision will allow for more than one orthodontic provider to hold a contract with the Department and there is no end date for the contract, although it is reviewable. This should provide much better continuity of care than we have been able to

provide recently. If more than one provider is successful, patients will have a choice of who carries out their treatment.

405 Patients and practitioners have been advised, if they feel a patient's needs have changed and have become more urgent, to contact their dentist and request a new referral to be submitted to the Department with as much information as possible.

The Department has worked hard to ensure that no one has been left without treatment, and as soon as the new provider or providers are in place the new cases will be transferred accordingly.

410

The President: Supplementary, Mr Speaker.

The Speaker: Thank you, Mr President.

415 Would the Minister contend that there are a lot of people out there who think that there was a perfectly good service operating before and that they have been somewhat abandoned at this point, notwithstanding some of the positive remarks she has made about the future of this service as and when it gets up and running?

The President: Minister.

420

The Minister: Thank you, Mr President.

I would ask any patients who have any concerns about this service to contact the Department and then we will give them a clear answer regarding their specific circumstances.

425 **The President:** Mr Ashford, supplementary.

Mr Ashford: Thank you, Mr President, and can I thank the Minister for the Answer.

430 In relation to the comments the Minister has made, obviously she will be aware of a particular issue with one of my constituents she has been in correspondence with. Since tabling the Question I have been contacted by other parents concerned about their children, so can I ask the Minister ... she mentioned there about emergency care and urgent care, but in relation to those that are not classified as emergency and urgent, does she know how long some of these children are actually waiting? They seem to be waiting an exceptionally long time, as far as I can see, so does she have an average waiting time for the children currently?

435

The President: Minister.

The Minister: Thank you.

440 The plan would be for the provider or providers to be appointed in July and it would be dependent on how quickly they can set up their practice. However, it may take up to three months to do this, dependent on the recruitment of the providers.

The President: Supplementary, Mr Ashford.

445 **Mr Ashford:** Thank you, Mr President.

Maybe I was not quite clear there. What I was actually asking was in relation to what is the current average wait for children to be seen who are not either classed as an emergency or urgent care.

450 **The President:** Minister to reply.

The Minister: Thank you, Mr President.

I think maybe I was not clear before. If they are current cases then they will already be partway through the service, but if they are new cases they have been put on hold until the providers are in place so that they have one provider carrying out all their treatment. I do not have the answer to an actual average wait time for those.

The President: Further supplementary, Mr Ashford.

Mr Ashford: Thank you, Mr President.

The Oral Health Strategy in relation to this, which is now quite an aged document, actually stated that more than half of all the Island's children have experience of decay by the time they are five years old. At that time it said the average was they have approximately 2.5 decayed, filled or missing teeth and just over half of all five-year-olds had active decay resulting in toothache.

Can I ask the Minister, since my understanding was that the Oral Strategy was supposed to be implemented by either this year or the end of this year certainly, where the Department is up to with that and have the figures I have just quoted improved?

The President: Minister to reply.

The Minister: Thank you, Mr President.

Unfortunately, I only have the information relating to the Orthodontic Service, which is what the Question was relating to. However, I am happy to request officers to find the information the Member would like and circulate it.

HOME AFFAIRS

7. Production of ID without notice at ports – UK *vires* over passengers to Isle of Man

The Hon. Member for Rushen (Mr Speaker) to ask the Minister for Home Affairs:

What vires the UK authorities have to require production of identity documents without notice at ports by passengers travelling to the Isle of Man?

The President: Question 7. Hon. Member for Rushen, Mr Speaker.

The Speaker: Thank you, Mr President.

I beg to ask the Minister for Home Affairs: what *vires* do the UK authorities have to require production of identity documents without notice at ports by passengers travelling to the Isle of Man?

The President: I call on the Minister for Home Affairs, Mr Malarkey, to reply.

The Minister for Home Affairs (Mr Malarkey): Thank you, Mr President – an interesting Question from the former Home Affairs Minister.

It is understood the powers were exercised under Schedule 7 to the Terrorism Act 2000. Paragraph 5 of that Schedule empowers an examining officer – that is a constable, an immigration officer or a customs officer – to require the production of a valid passport or any other document that establishes the person's identity.

The President: Supplementary, Mr Speaker.

495 **The Speaker:** Well, clearly, Mr President, there are no customs or immigration officers at the ports when it comes to coming to the Isle of Man ... the Steam Packet terminal, so I presume that this was exercised by constables, this power at Heysham.

I would ask whether this has significant ramifications for the Common Travel Area. I would also ask whether the Minister, the Department or the Constabulary had any prior notice that this was going to happen. Perhaps ... to start with.

500

The President: Right, Mr Malarkey.

The Minister: Thank you, Mr President.

I am not aware of any contradiction within the Common Travel Area. This was a terrorism act. It was Heysham Police, I believe, acted. Whether it was on information received I have got no idea; this would be an operational issue. Whether they were in communication with local Police, again that is an operational issue. At the time, the terrorism stood at critical, so if Heysham had information that there was somebody maybe leaving the UK after the attack in Manchester I would have thought they were quite right to do what they did.

510 All I can turn round and say is I am rather glad that it did not carry on long enough to interfere with the TT period, (**The Speaker:** Hear, hear.) and hopefully anybody inconvenienced will realise that in these days of terrorism these things do happen from time to time and we are going to have to support it, sir.

515 **The President:** Supplementary, Mr Speaker.

The Speaker: Could I ask if the Minister has contemplated what would happen if anyone travelling did not have ID with them, whether they would be refused travel or not, because that clearly would have an implication for the Common Travel Area, and whether he would have discussion on this with his UK counterparts?

520

The President: Minister.

The Minister: I am not aware, Mr President, of anybody being refused transport to the Isle of Man as a result of this. Again, this was an operational issue, it was certainly a UK Police Force operation, and it is nothing to do with the Isle of Man Constabulary, although I do understand that they were in communication with the Heysham Police expressing slight concerns that we might have over here, with the TT period coming, of what the holdups could be. But again, Mr President, this is operational and for security reasons that is between the Police and any information being transferred between the UK government and our own Police Force.

530

8. Smoking in vehicles in presence of under-16s – Number of people stopped and cautioned

The Hon. Member for Garff (Mrs Caine) to ask the Minister for Home Affairs :

How many people have been (a) stopped and (b) cautioned for smoking in a car when under-16s were present since 30th March 2016?

The President: Question 8. Hon. Member for Garff, Mrs Caine.

Mrs Caine: Thank you, Mr President.

535 I would like to ask the Minister for Home Affairs: how many people have been (a) stopped and (b) cautioned for smoking in a car when under-16s were present since 30th March 2016?

The President: Minister to reply. Mr Malarkey.

540 **The Minister for Home Affairs (Mr Malarkey):** Thank you, Mr President.

With regard to part (a) of the Answer, regrettably the Police cannot say how many people have been stopped as it is entirely impractical for the Constabulary to record what everybody is stopped for, so we cannot actually give a definition of that.

545 With regard to part (b), the simple answer is none by the Constabulary. However, there is a small chance that the Police have issued a notice as a standard Fixed Penalty Notice, because there is a tick box on the Fixed Penalty Notice for 'other', so that particular offence would not be itemised on the Fixed Penalty Notice. Three Fixed Penalty Notices have been issued this year with 'other' ticked in the box but, as I said, we cannot confirm whether that was for smoking in cars or some other offence. Unfortunately, this is not something that is actually recorded by the
550 Police.

The President: Supplementary, Mrs Caine.

Mrs Caine: Thank you, Mr President.

555 Would the Minister confirm whether there has been any enforcement or proactive policing at all for this offence?

We know that there has been a reduction in neighbourhood policing. Does he feel, or is the feeling from the Constabulary, that the low figure of 'other' offences ... does that reflect a lack of policing or do you feel it has been a huge success and the making of this law has been a
560 successful deterrent?

The President: Minister to reply.

The Minister: Thank you, Mr President.

565 I hate to harp on that operational issues with regard to the Police are entirely down to the Chief Constable. My personal thoughts, if that is what the Hon. Member is looking for: the very fact that we have this legislation in place I think is a deterrent. I believe that, by and large, the population on the Isle of Man are law-abiding citizens, so the very fact that we know it is bad for the health of children in the car means that most people will adhere to it.

570 There is always an opportunity that if citizens do see this then they can in some way record it or prove it or have witnesses to it. The Police would always act upon any information brought to their attention. As to whether police resources at the moment should be looking for specifically this particular crime – if you want to call it a crime – that is entirely up to the Chief Constable.

575 **The President:** Supplementary, Ms Edge.

Ms Edge: Thank you, Mr President.

580 Can the Minister confirm that ... Clearly he has said there are no statistics on when people have been stopped – surely there is a policy in place for when a police officer stops a member of the public. Can he confirm that there is; or if not, he will look into that?

The President: Minister.

The Minister: Thank you, Mr President.

585 I am quite sure there is a policy, but my information is that not everything that they are stopped for is actually recorded; if it is a simple telling off or whatever it may not be actually recorded. I am happy to look into it for the Hon. Member, but again, with police resources being pushed to the limits there is a limitation on how much information the Police can record.

590 We are, Mr President, now going down the road of having cameras on board etc. with the digital world that we are living in, so hopefully that will help in the future for recording lots of things that are happening.

The President: Further supplementary, Ms Edge.

595 **Ms Edge:** Thank you, Mr President and thank you to the Minister for confirming that.

I understand that his officers are struggling for resources, but surely if they have stopped somebody it would help him to have these statistics to prove that he perhaps has not got enough resources, so perhaps it is well worth looking into!

600 **The President:** Minister.

The Minister: Mr President, I do not really need that type of information for the Chief Constable to tell me he does not have enough resources to cover that, because he tells me that on a monthly basis!

605 I will take the Hon. Member's comments back and talk to the Chief Constable, but we must remember that, although to me this is quite a serious crime – if you want to call it a crime – there are other more important ones that the police officers do have to deal with.

The President: Mr Speaker.

610 **The Speaker:** Would the Minister agree that whilst the Police do not record the total number of stops, the reason therefore they do record is when that leads to a search and that that is reported in the Chief Constable's Annual Report and is open to scrutiny by Members?

615 **The President:** Minister.

The Minister: I can totally agree with the former Minister for Home Affairs. *(Laughter)*

INFRASTRUCTURE

9. Douglas promenade resurfacing – Total cost

The Hon. Member for Rushen (Mr Speaker) to ask the Minister for Infrastructure:

Further to his Answer in April Tynwald, how much resurfacing Douglas promenade cost in total, including fixed costs and overheads within the Department's budget as well as the additional costs to Government, broken down by (a) materials and (b) labour?

The President: Question 9, the Hon. Member for Rushen, Mr Speaker.

The Speaker: Thank you, Mr President.

620 I beg to ask the Minister for Infrastructure further to his Answer in April Tynwald, how much resurfacing Douglas promenade cost in total, including fixed costs and overheads within the Department's budget as well as the additional costs to Government, broken down by (a) materials and (b) labour?

The President: I call on the Minister for Infrastructure, Mr Harmer.

The Minister for Infrastructure (Mr Harmer): Thank you, Mr President.

The Department does not have the management accounting information to directly apportion cost for revenue funded schemes. Mr Speaker, I hope, will accept that Treasury does not specify accounting standards for apportioning overhead costs across Government. However, my officers have been able to provide an estimate of the total cost for the promenade resurfacing, including the fixed costs and overheads, which are itemised as follows.

For item (a), materials, the estimated total, including provision for fixed costs and overheads, is £92,247.

For item (b), labour, the estimated total, including provision for fixed costs and overheads, is £26,460, based on actual hours worked.

The above figures give a final total for the resurfacing of the promenade of £118,707. The labour costs have been derived from the actual hours worked. Both of these costs include provisions for overheads such as pensions, capital loan charges, building electricity and the like.

The President: Supplementary, Mr Speaker.

The Speaker: Thank you, Mr President.

Would the Minister accept that the public might have misunderstood, from the press release that was put out, that the prom was actually resurfaced for £50,000 and will he take that back to the Department and consider that when future press releases go out there should be a better effort made to try and give a total cost of the project?

Mr Boot and Mr Cretney: Hear, hear.

The President: Minister.

The Minister: Thank you.

I think there were two press releases: one said £75,000 and one said £40,000, (*Laughter*) for the two separate schemes and, of course, what we need to be clear of is these are additional costs, but hopefully I have given some better guidance of how those costs are apportioned.

The President: Supplementary, Mr Baker.

Mr Baker: Thank you, Mr President.

Would the Minister agree with me that at that level of cost, the output that was achieved and the outcome for the public of the Isle of Man, that represents incredible value for money, whether it was £75,000 plus £40,000 or the figures you have just quoted, (**A Member:** Hear, hear.) and that the Minister should be congratulated on bringing forward that scheme, which has achieved so much positive public commendation.

Several Members: Hear, hear. (*Interjection*)

The Minister: Thank you, Mr President.

Also, I would like to congratulate the staff, actually, who pulled out all the stops to construct and shorten the work period time, (**A Member:** Hear, hear.) and it does show what can be achieved.

A Member: Absolutely.

**10. Taxi inspector –
Hours worked per week**

The Hon. Member for Douglas North (Mr Ashford) to ask the Minister for Infrastructure:

How many hours the taxi inspector works per week; and whether this is sufficient for the smooth running of the industry?

The President: Question 10, Hon. Member, Mr Ashford.

675

Mr Ashford: Thank you, Mr President.

I beg to ask the Minister for Infrastructure how many hours the taxi inspector works per week and whether this is sufficient for the smooth running of the industry?

680

The President: the Minister to reply, Mr Harmer.

The Minister for Infrastructure (Mr Harmer): Mr President, I am advised that from April 2015 to March 2017 the Public Passenger Vehicle (PPV) Inspector has averaged 23 hours and 45 minutes per month, which works out at approximately five hours 55 minutes a week.

685

The view of the RTLC Chairman is that the current hours are not sufficient for the smooth running of the industry and I am aware that the RTLC would like to employ an additional experienced part-time investigator.

The President: Mr Ashford.

690

Mr Ashford: Thank you, Mr President, and thank you to the Minister for the Answer.

This seems, from the Answer there, to have dragged on for quite a long while from 2015 to now. So can I ask the Minister what action will now be taken to address the issue, particularly since the RTLC in its annual report made reference to unannounced spot checks, which clearly, if it is five hours a week that the Inspector is working, cannot be happening very regularly – they must really be quite random spot checks. Also, the fact that they make huge play on the issue of variable standard of customer care. So can I ask the Minister, if the RTLC is serious about its annual report, why it has not raised this issue earlier?

695

The President: Minister to reply.

700

The Minister: Thank you.

What I can say is that we have a new Chairman of the RTLC, I think we have been very proactive moving forward and we are working with all the agencies and the OFT and elsewhere to really move this forward, because I think it is important.

705

The resources in the RTLC are short and, as we know, the money that is raised from licence fees is less than what they need so we do need to fund it, resource it and work together, but we are working with them to look at all of those issues.

The President: Mr Ashford.

710

Mr Ashford: Thank you, Mr President.

I think the costs of the RTLC is a different debate that I will move on to on another day! But in relation to what the Minister has just said, the one thing that has been missing from both his replies is is the Department actually supportive of the RTLC's request to have more time allocated for either the current taxi inspector or the appointment of a new one. That has been missing from the answers – is the Department actually supportive of that move?

715

The President: Mr Harmer.

720 **Mr Harmer:** I can say the Department is supportive.

What I need to just clarify is this Department is responsible for the legislation for the RTLC, it is not responsible for the RTLC – to make that absolutely clear.

725 We also need to consider that just this last April the RTLC increased the maximum of their tariffs, which meant that every vehicle that uses a taxi meter had to have its meter adjusted and tested by the PPV inspector. This created a great amount of work for the inspector, who recorded a total of 75 hours, 30 minutes in April 2017 – approximately three times the normal average monthly workload. This, however, is an unusual occurrence as, for example, fares have not increased since 2013. So, just as I say, there is a permanent amount of work going ahead.

11. Vehicle test centre – Reason for backlog

The Hon. Member for Douglas North (Mr Ashford) to ask the Minister for Infrastructure:

Why there has been a backlog at the Vehicle Test Centre?

730 **The President:** Question 11, the Hon. Member for Douglas North, Mr Ashford.

Mr Ashford: Thank you, Mr President.

I beg to ask the Minister for Infrastructure why there has been a backlog at the Vehicle Test Centre?

735 **The President:** Again, I call Mr Harmer.

The Minister for Infrastructure (Mr Harmer): Thank you, Mr President.

The Department's standard for waiting times for vehicle inspections is two weeks. This can fluctuate on demand for testing and the time of year.

740 Prior to the TT, the demand increased to a waiting time of just over two and a half weeks. We provide a limited testing facility in race week because of restricted access and the use of examiners for accident-related inspections, and this has had the effect on waiting times. The current waiting time is now back to the standard two weeks.

745 As part of our role, we undertake annual inspections on commercial goods vehicles over 3,500 kg and public passenger vehicles and work very closely with these customers in order to encourage them to make their appointments in good time. On the whole this works well, but we cannot anticipate the demand for imported vehicle inspections.

750 We have made several changes to how vehicle examinations are booked and work closely with customers to provide the best service possible and will always endeavour to meet their needs if a cancellation becomes available.

We are also currently undertaking a programme of change as part of the Digital Strategy which will see online booking becoming a preferred option for our customers. This will enable them to book, cancel or change their appointment slot rather than visit in person.

755 **The President:** Supplementary, Mr Ashford.

Mr Ashford: Thank you, Mr President.

Can I welcome the Minister's response, particularly in relation to moving into the digital world. I think that will actually have a huge effect.

760 Can I ask the Minister, though: this seems to date back a lot longer than he seems to be suggesting there, prior to TT, or certainly that is my information, so would he be willing to go back and look at that?

765 In relation to taxi inspection which the Vehicle Test Centre does and the backlog that has been there, some taxi drivers, I believe, when trying to get their vehicle through a test, have been waiting in excess of a month. (**A Member:** Yes!) Does the Minister believe that it is right that the taxi drivers, who at the end of the day are small businesses, can be off the road for up to a month, not necessarily through any fault of their own, simply because of a backlog in the Vehicle Test Centre? Will the Vehicle Test Centre take that into account in future with any prioritisation?

770

The President: Reply, sir.

The Minister: Thank you, Mr President.

775 At the moment, as I say, all vehicles get equal access, so that is something we can look at. Although, I would say, just in reference, these annual inspections come as no surprise and what I would recommend is to book in advance, and I am hoping coming back with a digital age we will be able to do that.

780 I am also appreciative that there have been changes over the last year. I know that in the past we have had in excess of four weeks, but what the two weeks demonstrates, in actual fact, is over the year it is meeting demand. What you cannot deal with are peaks, so if you get a sudden peak, such as before TT or whatever, to employ another person to meet that peak is not actually appropriate because you are just wasting resource.

I think an online, digital strategy will help to be the way forward in this and that should give the better service that everybody deserves.

785

The President: Hon. Member for the Council, Mr Turner.

Mr Turner: Thank you, Mr President.

790 Would the Minister not agree that this facility is under-performing, and he has just been made aware that for some of the tests people are waiting in excess of four weeks, not just in taxis but in commercial vehicles?

795 Would he not consider that this is an area of his Department that is right for privatisation and these tests, as in the UK, should be carried out by private firms, as they are with ... obviously the UK do MOTs? Should he not consider that really this facility now, it is time it should leave Government's hands and go out to the private sector and allow the market to provide the tests, which should result in a better service for the people trying to get their vehicles, their taxis, commercial vehicles and all the others that need to go through the tests? Would he not consider this is the time to privatise it?

800 **A Member:** Hear, hear.

The President: Mr Harmer.

The Minister: Thank you.

805 I am open to that and we are looking at various options, but what we need to consider, however, is the fact that the Vehicle Test Centre is independent. If we were to then use private, we would then have to regulate. We do not have an MOT. We need to ensure that our standards are high and that is the most important thing.

810 But like I said, we are looking at a digital strategy; we are trying to manage that. But what I would say – and of course we can go back historically to look at what the average lead time is – is that, whatever system is used, the expectation that you can turn up and be tested on the day

is a false expectation. We need to remember that most people know when their annual inspection is coming up. They know the previous year when it is coming up. Therefore, they can plan appropriately. I think it is an expectation and, if it is used well, it can go forward.

815

The President: Mr Ashford.

Mr Ashford: Thank you, Mr President.

And it would be even more independent if privatised! (**A Member:** Hear, hear.)

820

The Minister keeps referring there to 'the annual test', but would the Minister accept that there are other reasons for vehicles such as commercial vehicles and taxis going through a test, that the vehicles can experience mechanical failures where a driver has to switch vehicles, so with very short notice, without any planning, has to put a vehicle through a test, and those are the ones that have been waiting potentially a month to six weeks to get a vehicle through a test, so taking a small business off the road.

825

I think everyone accepts that people should be doing their annual tests in a decent timeframe and getting the appointment in, but would the Minister again go away and look at the prioritisation of those that are actually outside of anyone's foresight or control unless they have got a crystal ball?

830

The President: Mr Harmer.

The Minister: High-priority items, yes, absolutely, in the sense that one of the areas that has been considered is whether you do have a high-priority issue, or for an additional fee, but, as I said, there are the other reasons that people ... when we import cars as well.

835

A lot of this can be planned and, of course, we all do cancellations as necessary to actually help people where they need a test.

Hopefully that will help the Member.

840

The President: Hon. Member for Ramsey, Dr Allinson.

Dr Allinson: Thank you, Mr President.

Would the Minister agree that one of the key aspects of vehicle testing provided by his Department is on safety issues, particularly for commercial vehicles, particularly for commercial vehicles transporting customers, and that this differs quite substantially from the MOT system in the UK? I would argue that the system over here is far better.

845

Would he also agree that the Vehicle Test Centre has a small number of extremely experienced staff and that therefore a waiting list is inevitable and should be factored in for people applying for their tests?

850

The President: Mr Harmer.

The Minister: I would completely agree, and that is what we need to remember: safety here is absolutely paramount and we need to understand that when we use the Vehicle Test Centre.

855

The President: Final supplementary, the Hon. Member for Middle, Mr Shimmins.

Mr Shimmins: Thank you, Mr President.

Would the Minister agree that this is causing great frustration, particularly for many small businesses in my constituency in Middle who have commercial vehicles which deliver items across the Island, and when these vehicles encounter issues at the Test Centre, which perhaps means they have to go back for a subsequent test, that means that everything is delayed for weeks and weeks and it causes frustration throughout the Island?

860

865 Many people on the Island do not understand why in this day and age we have not
outsourced this function of Government. Will he please reconsider this?
Thank you.

A Member: Hear, hear.

870 **The President:** The Minister to reply.

The Minister: Thank you.

I will come back to my point of safety. It is absolutely paramount that we do that. They are highly specialised and skilled. In any other alternative route, we need to make sure that same
875 standard is maintained.

I do come back to my point that, in actual fact, most of these, the vast majority, are planned events and it is important that they book well in advance. But obviously it is an area that we will keep considering and improve as necessary.

POLICY AND REFORM

12. Pre-legislative scrutiny – Progress towards improving

The Hon. Member for Rushen (Mr Speaker) to ask the Minister for Policy and Reform:

What progress he is making towards improved pre-legislative scrutiny?

880 **The President:** Question 12, the Hon. Member for Rushen, Mr Speaker.

The Speaker: Thank you, Mr President.

To ask the Minister for Policy and Reform what progress he is making towards improved pre-legislative scrutiny?

885 **The President:** I call on the Minister for Policy and Reform, Mr Thomas, to reply.

The Minister for Policy and Reform (Mr Thomas): Thank you, Mr President.

Some of the work for improved pre-legislative scrutiny might well be parliamentary: for Keys, Legislative Council, Tynwald, and perhaps Mr Speaker already has plans.

890 From Government's side, initiatives include the use of white papers and potential changes to the Consultation Code and process, which is work in progress alongside existing longer established processes.

895 **The President:** Mr Speaker, supplementary.

The Speaker: Is that a long way of saying, 'Nothing, Mr President, so far'?

The President: Mr Thomas.

900 **The Minister:** No. *(Laughter)*

The President: Mr Speaker.

The Speaker: Thank you, Mr President.

905 The Minister has been talking about this for well over a year, since well before Lisvane started. It seems that there has been no tangible process. What we have seen, however, is emergency legislation coming through the Keys rather than the proper pre-legislative scrutiny that the Minister has been a champion for. How can he explain the apparent disparity to the public?

910

Mr Cretney: He's now a Minister! *(Laughter)*

The Minister: Thank you Mr President and to Mr Speaker.

915 As I identified in the initial Answer, despite its brevity, there have been substantial initiatives. For a start, we have a white paper on our population challenges and that is an approach to a pre-legislative process.

Inside Mr Speaker's former Department, where he was Minister, we have done things like had principles consultation to prepare better legislation at an earlier stage, for instance, on sentencing, and now just announced recently on sexual offences.

920 Alongside that, under pressure from, I believe, Mr Hooper, the Hon. Member for Ramsey, originally, we have launched a non-consultation on the code on consultation and the process of consultation and we have been doing substantial work to develop a platform for that, to develop processes for that. We have, indeed, used the software platform developed inside that process for the SAVE initiative and I think the consensus is that that has been successful.

925 We have also considered in the Legislation Committee exactly when legislation is likely to have the character and the appearance of something that needs to be consulted on and reviewed at an early stage inside a public process, or perhaps the consultation can be limited to a stakeholder process where we just consult the people directly affected.

930 So, in answer to the first part of Mr Speaker's assertion: we have been very active for eight or nine months because this is a very important issue.

To answer the second point: from time to time there is emergency legislation and this Court, in both Branches, prides itself on the way that we can deal with those emergency situations, because we regard ourselves, quite rightly, as an efficient and an effective legislator, which is what we need to be in our Island context with a dynamic society and a dynamic economy.

935 Beyond that, there could also be occasions when legislation is predominantly housekeeping, that was the character of the Statute Law Revision Bill, and that is why we did not actually have a public consultation process. And there are other pieces of legislation, for instance, the Freedom of Information (Amendment) Bill, which is coming next week to the other place.

940 So, in summary, we have been active in this Government considering the process of consultation and the process of legislation inside that consultation and I do believe we have made great progress and we will continue to make progress, and I hope Mr Speaker and other Members of this Hon. Court will join with us in contributing from the parliamentary side.

The President: Mr Speaker, supplementary.

945

The Speaker: Firstly, taking up the challenge from the Minister: absolutely, I would be happy to engage and work with him in this.

950 But with the exception of one white paper, all the other mechanisms appear to be things that have been well in use in Government for a long time. When will we see the results of what has been lovingly called the 'consultation on consultation'?

The President: Minister.

The Minister: Thank you very much, Mr President, and Mr Speaker.

955 The due date inside the Programme for Government for consultation is December 2017 and I expect in the – I will say months – in the next couple of months we will be launching a consultation on the new code.

960 **The President:** Hon. Members, the Minister has referred to the term ‘white paper’ and this is certainly a term in common usage in the UK. I am not aware that it has been in common usage in the Isle of Man as a description of a proposal document.

I just make the point. It is perhaps something the Council of Ministers would wish to consider: if it is being adopted as a formal term, a ‘white paper’, it might be helpful to the Court at some point just to clarify what a white paper is.

965

A Member: Hear, hear. *(Interjections)*

13. Escort agencies – Plans to regulate

The Hon. Member for Rushen (Mr Speaker) to ask the Minister for Policy and Reform:

What plans he has to regulate escort agencies?

The President: We move now to Question 13, Hon. Member for Rushen, Mr Speaker.

The Speaker: Thank you, Mr President.

970 Again, to ask the Minister for Policy and Reform, this time what plans he has to regulate escort agencies?

The Minister for Policy and Reform (Mr Thomas): Thank you, Mr President.

975 I assume the Speaker’s Question has arisen after the publicity received in the local news in respect of an escort agency.

When considering the impact of a new piece of regulation, we must consider whether there is enough evidence to support its implementation. At this time, I am not sure there is enough evidence to support the development and implementation of a new regulatory regime.

980 **The President:** Mr Speaker.

985 **The Speaker:** Whilst I, again, have no evidence of ... *(Laughter)* **(A Member:** Really?) other than to say that a former friend – still a friend, just about, but a former colleague – Mr Gill, actually sent me a business card from the said agency, *(Laughter)* which was not what I was expecting in my post earlier this week, but that is the only evidence that I have.

Would the Hon. Minister accept that this is something that would need to be regulated if it did exist because there are issues here around vulnerable people and people trafficking potentially on the Isle of Man, should this industry become more widespread on the Island?

990 **The President:** Minister to reply.

The Minister: The decision to establish a licensing regime, never mind a full-blooded regulatory regime, is a substantial decision and every time you do that it needs to be considered carefully.

995 A moment ago this Hon. Court was talking about the RTLC regime and I would hope that everybody in this Hon. Court would agree that we need to be very careful with the expenditure of public money on regulating things or even licensing things that do not need to be.

The position in the UK is very light touch (*Laughter*) and I think that the Sexual Offences Act 1992 identifies, quite properly, a great number of offences. That whole piece of legislation is going to be reviewed in a public consultation, I believe being launched in the next few months. An important principle behind the regulation is sometimes it is best to leave things to the courts and processes around the courts, rather than developing a regulatory or even a licensing regime and that is the case I would make, my lord.

MANX UTILITIES AUTHORITY

14. Water meters for domestic customers – Assessment of implications

The Hon. Member for Arbory, Castletown and Malew (Mr Moorhouse) to ask the Chairman of the Manx Utilities Authority:

What recent assessment the Authority has made of the implications of introducing water meters for domestic customers?

The President: Question 14, Hon. Member for Arbory, Castletown and Malew, Mr Moorhouse.

Mr Moorhouse: Thank you, Mr President.

I would like to ask the Chairman of the Manx Utilities Authority what recent assessment the Authority has made of the implications of introducing water meters for domestic customers?

The President: I call on the Chairman of the Manx Utilities Authority, Dr Allinson.

The Chairman of the Manx Utilities Authority (Dr Allinson): Thank you, Mr President.

The potential costs and benefits of water metering were assessed as part of a report prepared by Cornwall Energy that examines the sewerage charging regime. The Report was prepared for Manx Utilities and laid before Tynwald in November 2015. This Report concluded that the economic case for introducing meters in the Isle of Man was very weak, primarily as water supplies are not generally constrained and therefore have low marginal cost. The Report found strong evidence that the costs of rolling out water meters and the ongoing costs associated with metered charges would outweigh the benefits on the Isle of Man.

Mr President, Manx Utilities' costs of supplying water to a home or a business are mostly fixed, therefore the one-off costs of installing metres and the operational costs of maintaining, reading and replacing metres would not be recovered through any of the savings. The introduction of widespread water metering will increase the costs of supplying water and this cost would need to be borne by customers benefiting from water connections. As such, overall costs for customers would be likely to increase albeit some customers may consider that they have greater control over their bills as a result.

Manx Utilities periodically considers whether any circumstances have changed which may result in a different conclusion being reached. Members will be aware that an independent review of Manx Utilities' financial position, commissioned by the Treasury, is currently underway and Manx Utilities will review the conclusions and recommendations of this review in case these are relevant to this matter.

The President: Supplementary question, Mr Moorhouse.

1035 **Mr Moorhouse:** Thank you, Mr President.

Would the Authority consider giving customers the option to pay for the installation of water meters in their own homes?

The President: Chairman to reply.

1040

The Chairman: One of the popular misconceptions made is that the cost of water is relative to the amount used, whereas in fact the majority of the cost is invested in infrastructure and getting the water to the specific property.

1045 The introduction of water meters can also adversely impact low income groups. Rateable value charging systems score high on the socially fair scale because in general terms families and others on low incomes tend to live in older, lower rateable value properties and payment towards the cost of rates are often included in the number of income related state benefits.

1050 Manx Utilities have no plans to introduce voluntary placement of water meters. Partly because the water meters that we currently have in industrial terms are for high volume users and they pay the higher of either the rateable value or the metered value of the water. So although some people believe that bringing in water meters would reduce their bills, the reality is that often it is the contrary.

The President: Supplementary, Mr Baker.

1055

Mr Baker: Does the Chairman of the Manx Utilities Authority believe that the point he has just made about high volume users – particularly in the farming sector, where a big volume of water usage is key to the operation of the business, where users are paying the higher of rateable value and the amount used – is actually equitable?

1060

The President: Chairman to reply.

The Chairman: In answer, yes. The total amount in terms of the Manx Utilities income that comes from metered water charges is relatively low at £1.8 million.

1065 Now, high volume users of water are often provided with meters for two reasons: one is to accurately calculate how much water they are using and then charge them accordingly but also to give them information on the water usage to reduce leaks, which is particularly important in the agricultural sector.

1070 But I would reassure the Hon. Member that Manx Utilities have already met with the Manx Farmers' Union and are looking at ways of meter charges in agriculture being more equitable.

INFRASTRUCTURE

15. Bus timetable changes – Consultation and feedback

The Hon. Member for Douglas North (Mr Ashford) to ask the Minister for Infrastructure:

What consultation was undertaken prior to the recent bus timetable changes, and what public feedback has been received since the changes?

The President: Question 15, Hon. Member for Douglas North, Mr Ashford.

Mr Ashford: Thank you, Mr President.

I beg to ask the Minister for Infrastructure what consultation was undertaken prior to the recent bus timetable changes, and what public feedback has been received since the changes?

1075

The President: I call on the Minister for Infrastructure, Mr Harmer.

The Minister for Infrastructure (Mr Harmer): Thank you, Mr President.

1080

An extensive public consultation was conducted in 2012 as part of a full review of the Island's bus network. This generated 240 responses from MHKs, local authorities and members of the public.

Formal consultation also takes place through the RTLC each year.

1085

The timetable is updated each spring to include the seasonal services. This usually involves minor operational changes and as such it would not be appropriate, practical or cost effective to carry out a public consultation each time.

Very few changes were made this year, with the exception of increasing the frequency of the bus service to the Business Park to every 30 minutes as a result of changing services to and from Foxdale.

1090

A file is maintained, on an ongoing basis, to capture passenger comments and any suggestions for improvements to the network. Some of these requests and ideas have been implemented this year. The data from the ticketing system is also analysed to help access patterns of use and demand.

There has been very little public reaction to the latest timetable changes, with only a handful of comments submitted.

1095

The Department strives to provide a high-quality service to its bus passengers and is always prepared to listen to feedback and act upon it where appropriate.

The President: Supplementary, Mr Ashford.

1100

Mr Ashford: Thank you, Mr President.

Basically, the long way of saying none since 2012 then, so none of the recent changes were consulted on prior to them being implemented.

1105

When the changes were announced that they were coming in on 1st May, it was stated that it was working off public feedback and it was in response to passenger feedback and operational requirements. Can I ask the Minister how much weight was put on public feedback and how much on the operational requirements?

The President: Minister.

1110

The Minister: We also, as I said, accessed the ticketing information, we also listened to feedback continually from MHKs, members of the public and local authorities and as such we had a record number of passenger trips of 3,485,164 journeys taken on bus services, and that is what we are striving to do.

1115

There are two parts of this, obviously: there is one part which is striving to maximise what we do and the other part is the demand response of transport, which is in the Programme for Government, which identifies the social need, and that is also very important.

So, again, it is working very importantly with feedback. I have some comments on here that have been very positive, some less positive and some changes have been made as a result, so we do listen to feedback.

1120

The President: Hon. Member for Council, Mr Cretney.

Mr Cretney: Thank you, Mr President.

1125 Could I ask the Minister, does he think it would be helpful, if a service is proposed to be actually withdrawn, that it might be useful to have consultation in those circumstances?

The President: Minister.

1130 **The Minister:** I think, going forward, if there is a service that is withdrawn, it would be useful, obviously, to consult with the local community.

The President: Hon. Member, Mr Speaker.

1135 **The Speaker:** Thank you.
I think the Minister has recognised that bus travel affects thousands of people and I declare an interest in being a regular bus user.

1140 Would the Minister accept though that there is already a process of engagement whereby the Transport Division has to put its application to the Road Transport Licensing Committee who then give it consideration and then approve that? Would the Minister not agree though that there could be great benefit in giving additional publicity when that proposal is put to the RTLC so that at least members of the public who are interested could then send their comments to the Road Transport Licensing Committee ahead of their decision and they can then make a more informed decision? That is not happening at the moment; is that something that the Minister can undertake to do?

1145

The President: Minister.

1150 **The Minister:** I am very grateful both those comments. Yes, as I said in my first Answer, the RTLC is part of that consultation. Is that something where we can promote or communicate more? Absolutely. Some of the conversations that I have had with operators across, in terms of customer feedback, is that a space that we can do more in? Yes, I do think so and obviously we do want to feed back but what also is a very good tale is actually passenger use on routes, and that is a massive factor in how we plan the route.

1155 **The President:** Hon. Members, that concludes Questions for Oral Answer this morning, the full Written Answers will be circulated.

Questions for Written Answer

TREASURY

16. Private pension schemes without full funding – Support for pensioners, including Ronaldsway Shoe Company

The Hon. Member for Rushen (Mr Speaker) to ask the Minister for the Treasury:

What support there is outside the benefits system for pensioners whose private pension scheme is not fully funded; and what if any support has been offered to the pensioners of the Ronaldsway Shoe Company?

The Minister for the Treasury (Mr Cannan): There is no pension benefit guarantee scheme in the Isle of Man to meet shortfalls in the event that employers who sponsor private-sector defined benefit pension schemes become insolvent and leave underfunded pension schemes.

1160 The Pension Protection Fund in the UK provides certain protections to the members of defined benefit occupational pension schemes where there is a qualifying insolvency event in relation to the employer. It is primarily funded by a levy from all participating schemes, and therefore the members of UK defined benefit schemes ultimately bear the cost of providing the protections afforded under the Pension Protection Fund.

1165 There are only 30 defined benefit schemes registered in the Island which may have Isle of Man resident members, and most of those schemes are closed to new contributions and/or new members. In addition, the vast majority of new schemes being created today are defined contribution schemes.

1170 Treasury will always provide guidance to pension schemes to ensure that they comply with the relevant legislation but I am unable to comment on specific cases at this point.

17. Company Income Tax – Total taxable income 2012 to 2016

The Hon. Member for Ramsey (Mr Hooper) to ask the Minister for the Treasury:

For each of the tax years ending 5th April 2012 to 5th April 2016, what the total taxable income was of companies residing in the Isle of Man for income tax purposes that were (a) wholly owned and (b) partly owned by individuals residing in the Isle of Man for the purposes of income tax, broken down into: (1) taxable income of companies charged to the 0% rate of income tax; (2) taxable income of companies charged to the 10% rate of income tax; and (3) taxable income of companies charged to the 20% rate of income tax?

The Minister for the Treasury (Mr Cannan): Tables 17A-17E set out the numbers of resident companies that are wholly or partly owned by individuals residing in the Isle of Man and their respective total income for the 2011-12 to 2015-16 tax years inclusive.

Table 17A – 2015-16

	No. of companies	Total income (£)
Wholly resident owned	7,321	542,131,658
Partly resident owned	727	329,300,536
Total	8,048	871,432,194

Table 17B – 2014-15

	No. of companies	Total income (£)
Wholly resident owned	7,280	632,683,756
Partly resident owned	749	593,905,732
Total	8,029	1,226,589,488

Table 17C – 2013-14

	No. of companies	Total income (£)
Wholly resident owned	7,325	545,968,614
Partly resident owned	703	361,060,015
Total	8,028	907,028,629

Table 17D – 2012-13

	No. of companies	Total income (£)
Wholly resident owned	6,946	421,680,035
Partly resident owned	692	222,566,980
Total	7,638	644,247,015

Table 17E – 2011-12

	No. of companies	Total income (£)
Wholly resident owned	6,835	606,539,232
Partly resident owned	650	207,913,221
Total	7,485	814,452,453

The following additional points should be noted in respect of the above data:

- The 'total income' figure already takes into account any accounts adjustments or Capital Allowances claims but does not take into account any double taxation relief in respect of taxation suffered in other jurisdiction which may be deducted from the tax liability of a company.
- It does not include any information in respect of companies where there is no Isle of Man resident ownership.

Unfortunately, the Assessor of Income Tax is not in a position whereby the taxable income of companies charged at 0% and at either 10% and/or 20% can be readily identified. For example, companies frequently have various income streams which all form part of a company's tax liability that are taxed either at 0% or a positive rate of tax which cannot be easily separated, whilst the deduction of double taxation relief can distort any correlation between the total income figure and tax liability.

To analyse the data and prepare the information requested would require the allocation of scarce resources and considerable time and effort by officers of the Income Tax Division.

However, the Assessor has been able to provide details of the total amounts of tax assessed in respect of the respective categories that attract a positive rate of tax, which I hope that the Hon. Member will find useful.

The details in respect of the accounting periods ending in the 2011-12 to 2015-16 tax years inclusive are set out in Table 17F. Corporate taxpayers are required to file their annual tax returns and discharge their liability no later than twelve months and one day after the end of their accounting period.

Given the small number of companies that fall into some of these categories the Assessor cannot publish further details in respect of the resident/non-resident share of their ownership.

Table 17F

	2011-12	2012-13	2013-14	2014-15	2015-16
Banking business income	£14.85m	£16.42m	£16.83m	£15.34m	£17.31m
Land and property income ¹	£4.48m	£4.58m	£4.46m	£4.43m	£6.82m ³
Retail business - profits ² over £500,000	n/a	n/a	£1.99m	£2.10m	£1.94m
10% tax rate electors ⁴	£0.73m	£0.68m	£0.40m	£0.29m	£0.45m

¹ Includes income derived from the following:

- Mining and Quarrying
- Landfill
- Property Development
- Commercial Property Letting
- Rental income

1200 Companies with banking business income or retail business profits over £500,000 with incidental land and property income are only included in the category in which their primary source of income arises.

² A 10% rate of tax was introduced for corporate taxpayers in respect of business on retail business in the Isle of Man where the taxable profit from such business is £500,000 or more with effect from 6th April 2013.

³ The rate of tax on companies receiving income from land and property situated in the Isle of Man (development and rental income) was increased from 10% to 20% with effect from 6th April 2015.

⁴ Companies who have elected to pay tax at the 10% rate but their income arises from land and property which is statutorily subject to the appropriate rate are included in the land and property category only.

ECONOMIC DEVELOPMENT

18. FSA licensed companies– Analysis of companies which surrender licences

The Hon. Member for Rushen (Mr Speaker) to ask the Minister for Economic Development:

What exit analysis is done by his Department of firms who surrender their Financial Services Authority licence?

1205 **The Minister for Economic Development (Mr Skelly):** If any firm is seeking to surrender its licence, the Isle of Man Financial Services Authority (IOMFSA) will normally receive early notification of this through its ongoing relationship and the firm's regulatory responsibilities.

The decision and planning to surrender a licence is often confidential within the business until the regulator has been advised and, sometimes, even until the staff have been briefed. Where appropriate, the Department offers support and assistance to businesses and their staff
1210 to establish to whether economic activity can be preserved on the Island and alternative employment secured. The Department actively encourages businesses to seek its support in advance of any major businesses changes.

1215 On becoming aware of any local firm surrendering their licence an officer of the Department will offer to meet with the business concerned to discuss the circumstances surrounding the licence surrender.

The nature of these discussions can depend on the type of licence in question and how these discussions evolve thereafter will depend on the rationale that led to that decision. Discussions would ordinarily include:

- 1220
- the reasons for the decision and whether they can be reversed at head office or locally;
 - the extent to which there are any local problems and if so whether they can they be mitigated; and
 - if there is the potential for job losses, how the Department, through its Employment and Skills Division, might be able to assist and the possible placement of staff elsewhere.
- 1225

There are eight main classes of licence and many sub-classes available which means that the Department's officers need to take account of the licence type and business and be flexible in their approach.

1230

The Department understands that the reasons firms surrender their licences often relate to the changing nature of the offshore industry through increased regulatory costs based on international standards, changes in the global banking industry which negate the need for some activities and changes to taxation or transparency in the UK and further afield.

INFRASTRUCTURE

19. Roadworthiness of HGVs – Evidence behind statistics

The Hon. Member for Douglas East (Miss Bettison) to ask the Minister for Infrastructure:

What independent evidence exists to support the assertion made by the Chairman of the Road Transport Licensing Committee in its Annual Report for year ended 31st March 2016 (laid before Tynwald in April 2017) that up to 50% of HGVs are not roadworthy at any one time despite having an annual MOT style test?

1235 **The Minister for Infrastructure (Mr Harmer):** The Department is unable to supply the pass/fail rates of HGVs for this sitting of Tynwald, due to current IT issues.

As the information will have to be collated and calculated manually, which will take some days, the information will be forwarded to Members within the next week.

Order of the Day

Welcome to Mrs Poole-Wilson, MLC

1240 **The President:** Hon. Members, it was remiss of me at the beginning of the session not to formally welcome the newest Member of Tynwald, the Member of Legislative Council, Mrs Poole-Wilson.

I do so now and extend the best wishes of your Tynwald colleagues for your time with us in Tynwald.

1245

Members: Hear, hear.

4. Tynwald Commissioner for Administration Act 2011 (Appointed Day) Order 2017 – Statement by the Minister for Policy and Reform

The President: Hon. Members, Item 4, Tynwald Commissioner for Administration Act 2011 (Appointed Day) Order and I call on the Minister for Policy and Reform to make a statement.

1250

The Minister for Policy and Reform (Mr Thomas): Thank you, Mr President.

Hon. Members, in October 2011 the Tynwald Commissioner for Administration Act 2011 received Royal Assent. The Act provides for the appointment of a Tynwald Commissioner for Administration, an independent ombudsman with power to investigate alleged maladministration by Government Departments and other public authorities. Appointment of this Commissioner is one of the commitments in the Programme for Government.

1255

This Act has been lying dormant since 2011: we need to understand why. I think in part, perhaps in large part, this is due to questions around how this role would be funded. Indeed, the impact assessment for the original Bill in 2009 included the following statement:

Tynwald will need to consider the economic challenges facing the Island at the time the Bill receives Royal Assent. It may be that the Bill sits on the Statutes and only brought in when the Island can afford to support the Tynwald Commissioner for Administration.

1260

Hon. Members, the thorny questions of finance have continued to act as a block to the implementation of this important function. It is not just a question of *how* will we pay, moreover; it is also a question of *who* will pay.

At first glance, the name seems an obvious clue: it is the Tynwald Commissioner for Administration, so as a parliamentary function, the costs should rest with the Clerk of Tynwald's Office. Sadly, Hon. Members, things are never that straightforward. While in name it is a parliamentary function, the work of the ombudsman is in the scrutiny of the Government's administration.

1265

Perhaps the Government should pay. If the Government should pay, then which part of the Government? The Cabinet Office seems a reasonable place to start, but is it fair that one Department pays for a service over which it has little control in terms of demand?

1270

There is also the question of the different components of the Commissioner. There is the cost of the Commissioner him or herself, but also the administration which will be necessary to support the Commissioner. While the *vires* and process for this is covered within the Act, the funding mechanism is not covered.

1275

In terms of actual cost, while we have little idea of the demand which may be placed on this role, we have started by basing the cost on other similar commissioner-based roles already in

existence, and in particular the Police Complaints Commissioner. In practical terms, this will mean paying an annual retainer fee and an additional hourly rate for any work which occurs on top of the annual retainer. At this point, we intend that all work incurred in relation to a complaint against a listed authority will be charged back to that authority.

Mr President, Hon. Members, I am pleased to say that officers in the Cabinet Office have been working with colleagues in the Clerk of Tynwald's Office to consider how best to implement this long overdue Act, and in particular how to address the question of sustainable funding. These have been challenging discussions, and I do not believe the question of who funds and how the funds are raised is completely settled. What I can say, though, is that the Chief Secretary has agreed for the first year to fund the Tynwald Commissioner's standing and administrative costs, and I am grateful for his pragmatism in this matter.

Of course I would welcome input and thoughts from Hon. Members today on how we can ensure a sustainable approach to funding this role for the future – obviously in the form of questions. I have no doubt that there will be demand. This is something which has been called for on several occasions by Hon. Members, but as I have hinted at previously, we do not actually know what the demand will be. Consequently, for that reason, it has been decided that we will follow the same approach to implementation as was used for the Freedom of Information process. That is, a gradual and intuitive approach, bringing in the various bodies covered under the Act step by step.

The Appointed Day Order, which is laid before this Hon. Court, will bring in the Act on 31st December 2017 only in respect of the eight Government Departments. I should also add that the Tynwald Commissioner for Administration will only consider complaints which have risen after this date, according to that order. I propose that we carefully monitor and review the demand for the Ombudsman after that, while planning for the implementation of the Act in relation to the other listed authorities mentioned in schedule 2 to the Act. I should also mention that the Council of Ministers – and I believe Tynwald – is keen to see local authorities brought under the auspices of the Commissioner as soon as possible.

Finally, Hon. Members, a brief note on the process of appointment, and also on hats.

The process of selection and appointment of the Commissioner is covered in Schedule 1 to the Act. There must be a selection committee consisting of the Chair of the Tynwald Management Committee, the Chair of the Public Accounts Committee and the Chief Minister.

Mr President, Mr Speaker wears several hats.

The Speaker: Two out of three isn't bad!

The Minister: In this case, he is both the Chair of the Tynwald Management Committee and also the Public Accounts Committee. I would hope, Mr President, that the Hon. Member for Rushen will consider using the powers thoughtfully provided in paragraph 1(2) of Schedule 1 to the Act to delegate one of his hats to another Member of Tynwald to make sure we have a robust, manageable process.

To conclude, this Government has taken the necessary actions to bring the Tynwald Commissioner for Administration Act into force. It will bring a further degree of scrutiny and challenge to the work of Government, which I hope and I believe is welcomed. It will help us improve our processes and the way we deliver our services, and it will make Government more accountable to the people it serves.

Thank you, Mr President, Hon. Members.

The President: Hon. Members, there is an opportunity to put questions to the Minister, but these must be questions and not statements.

Mr Speaker.

The Speaker: Thank you, Mr President.

1330 Perhaps firstly, I could just rise to the challenge and say that absolutely it would my intention to not take up two votes on a three-person committee and to make sure that that was delegated.

1335 Then to move on and ask: surely this money that is for a new post that does not exist at the moment must come from the general revenue of the Isle of Man and, unlike other areas, would the Minister accept that this is not something that perhaps, as can be done in other areas, could be funded by just an increase in fees and charges into the Department, which would potentially be the Clerk of Tynwald's Office, because there just is not the method there for achieving that? Nor does the Clerk of Tynwald's Office have the ability to raise taxes in order to fund it, so would the Minister agree that this will have to reflect Government's budget priorities as to whether the money is available from the general fund of the Isle of Man?

1340

The President: Minister.

The Speaker: Have your fun!

1345 **The Minister:** Thank you very much, Mr President.

I am sure the Court values the suggestions from Mr Speaker. The SAVE Programme is ongoing. All sorts of items today have relevance with respect to the amount of money available to Government in all sorts of places in Government and in parliament.

1350 **The President:** Hon. Member for Douglas East, Mr Robertshaw.

Mr Robertshaw: Thank you, Mr President.

1355 Just a point on further clarification, if he would be kind enough, on the implementation date and where a complaint going forward to the Ombudsman becomes valid. I did not quite catch it as clearly as I would have liked – if he could articulate that point or expand on it, I would be most grateful.

The President: Minister.

1360 **The Minister:** Thank you, Mr President.

Although I have not got a prepared answer, as I was not expecting it that, I was half expecting that question from the Hon. Member for Douglas East.

1365 The Tynwald Commissioner for Administration will only consider complaints which have arisen after this date, and I do remember discussion when I made a previous statement about this, involving the Hon. Member for Douglas East, Mr Robertshaw.

The President: Hon. Member for Onchan, Ms Edge.

Ms Edge: Thank you, Mr Speaker.

1370 Can I just ask the Minister – it is a follow-on really from the Speaker's, with regard to sustainable funding – it is the people who would be paying for this anyway: how would he audit ... ? I do not perhaps agree with the fact that people might be charged for this service. How is he going to go about that?

1375 **The President:** Reply, sir.

The Minister: Thank you, Mr President.

1380 I did not respond to the idea of charging for an ombudsman service, because to me it did not seem to be an idea that had legs and would fly, but I take the point made very well by the Hon. Member for Onchan.

The second point that the Hon. Member makes is a valid one, which is that ultimately all this is public money. All public money is spent for the public purpose. This is a valuable public service: that is why we have got it in the Programme for Government, and the Isle of Man Government's Chief Secretary is taking responsibility for the use of funds in this first 12 months.

1385

The President: Hon. Member for Ramsey, Mr Hooper.

Mr Hooper: Thank you, Mr President.

1390

The question I had was actually very similar to my hon. colleague from Onchan's: at the end of the day, this is a very good instance of silo-government thinking. Does the Minister not agree that it is, as he has already said, the taxpayer is the one who is going to be funding this? Like with our other ombudsman services, such as the OFT, these all have their own independent budgets. Perhaps would it not be better to treat the Tynwald Commissioner for Administration in a similar way to that, a similar way to the Internal Audit service is treated, where there is simply a budget allocated from Treasury that is funded out of general revenue, as Mr Speaker has already alluded?

1395

The President: Mr Speaker.

1400

The Minister: Thank you very much, Mr President. I appreciate that excellent line of thinking from the Young Turk and Young Eagle. As part of the SAVE process, perhaps it will come back in that form.

Government is obviously working very closely to think through how we allocate public funds and use public funds. Tynwald Court is as well, and I am looking forward to ideas in this respect in a couple of months.

1405

The President: Mr Speaker.

1410

The Speaker: Does the Minister accept that there is a growing impatience about this particular issue, that the public are expecting it to happen and Hon. Members are expecting it to happen, and that we really need to pull out the stops to *make* this happen?

The President: Minister.

1415

The Minister: I completely agree, Mr President.

Lord Lisvane recommended implementation. The Committee on Committees recommended implementation. The Planning Select Committee recommended implementation. The Local Authority Committee looking at issues arising in Onchan recommended implementation. The Social Services Policy Review Committee recommended implementation.

1420

If that is not a strong enough steer to put this in place, I do not know what is!

The Speaker: Hear, hear!

The President: Ms Edge.

1425

Ms Edge: Thank you, Mr President.

Does the Minister not agree with me that good, proper financial management is the proper and effective use of public resources, so therefore is he of the opinion that this is good and effective use of public resources and funds?

1430

The President: Minister.

The Minister: Thank you, Mr President.

1435 There has been a lot of support for this for a long time. In 2011, many people who stood at that election had this as a manifesto pledge at that time. In good faith, I hope the legislation was brought into force for more speedy implementation than it has, but it has not been possible. I really do hope that ultimately, the Tynwald Commissioner for Administration costs absolutely nothing because Government gets its act in gear and every public authority gets its house in order, such that there are no valid complaints and nobody bothers to complain.

1440 But in the process of transition to that Nirvana, I think this role can play an important part in supporting committees ultimately, and that was the way that we looked at it in the Committee on Committees in Tynwald, that Mr Speaker chaired, and also helping Government through other processes that Government already had set up to help public funds secure value for money to obtain public provision that we all want.

**Endoscopy service and Ramsey and District Cottage Hospital –
Statement by the Minister for Health and Social Care**

1445 **The President:** Hon. Members, at this point it would be appropriate to take a further Statement. The Hon. Member, the Minister for Health and Social Security, Mrs Beecroft has asked for a Statement to be made, and this would be the appropriate time.

Mrs Beecroft.

1450 **The Minister for Health and Social Care (Mrs Beecroft):** Mr President, thank you for granting me permission to make this Statement today.

1455 Hon. Members will be aware from my letter to them of 15th June, that the Department of Health and Social Care last week wrote to 157 patients who had been waiting longer than the recommended time for a follow-up gastrointestinal endoscopy. I would like to set out to Hon. Members the measures put in place by the Department to address this situation.

1460 Immediate action was taken when the extent of the delays to the follow-up endoscopies was identified, with doctors reviewing the medical records of every patient listed as requiring a follow-up before the end of June 2017. In total, the notes of 321 patients were reviewed, with 157 of those found to be outside the optimal period for follow-up.

Of the remainder, 59 were in fact not yet due their follow-up so will receive an appointment at a future date; 39 will be invited to attend an outpatient appointment for a full clinical review, rather than an endoscopy; and 66 have now been discharged and require no further investigations due to the recent changes in clinical guidelines for surveillance and follow-up.

1465 The 157 patients whose follow-up endoscopies were found to be overdue have been offered prioritised appointments, with all scheduled before the end of August. A dedicated helpline has been established, operated by specialist nurses to offer guidance and support to those affected. All 321 patients initially identified as potentially being affected by the delays have been written to and advised in order to clarify their own situation.

1470 I wish to make it clear that anyone who is scheduled or expecting a follow-up endoscopy after June 2017 is not affected by the delays.

1475 Mr President, it will now be apparent that the issue with follow-up endoscopies has been a catalyst for the changes to the endoscopy service announced in May. I am certain that Hon. Members will understand that it was only right and proper that the number of patients affected by the delays was established and contact made with them, before making any public announcement. To have done otherwise would have been wholly wrong. Had we written to all 321 patients originally thought to be affected, we would have undoubtedly caused unnecessary distress to the 164 individuals who, following clinical validation, have not had their surveillance time breached.

1480 Moreover, to have haphazardly announced the situation whilst the Department had yet to establish the full facts would potentially have caused undue worry to every individual on our Island currently awaiting a first-time or follow-up endoscopy – over 1,650 people.

1485 Mr President, I wish to offer my sincere apologies on behalf of the Department to those affected by this oversight. I am sure Hon. Members are as concerned and disappointed as I am that this situation has arisen. Although the underlying reasons for this situation are not yet fully understood, the high number of people waiting for an endoscopy and the limits in clinical capacity to see these individuals are contributing factors. Part of the immediate action taken by the Department was therefore the introduction of measures to increase capacity for endoscopies by consolidating the service at Noble's Hospital. This could only be achieved with
1490 the transfer of staff and equipment from Ramsey and District Cottage Hospital.

 To be clear, Mr President, this is the only theatre activity that has been transferred from Ramsey, and the nursing staff are visiting Noble's Hospital to deliver this service. Their base remains at Ramsey and District Cottage Hospital and their oral surgery and dermatology surgery duties in Ramsey have not changed.

1495 The consolidation means that Noble's Hospital's new £1.9 million endoscopy suite can be more fully utilised and clinicians' time can be redistributed to provide an additional six clinics a week. This amounts to a further 21 hours for endoscopies, or 30 additional procedures a week on average. I can confirm that the consolidated service is now running. The members of staff who have been asked to carry out their endoscopy work at Noble's Hospital, rather than at
1500 Ramsey and District Cottage Hospital are now working in Noble's Hospital endoscopy unit, and all of the equipment is operational.

 We are conducting some training so that the unit runs as smoothly as possible and delivers the high productivity which is so important for delivering the objective which has been set.

1505 I have been clear in recent weeks that both the number of people waiting for an endoscopy and the average waiting time for a routine appointment – currently 33 weeks – are wholly unacceptable and, in view of the clinicians, represent a risk to the safety of patients. The additional capacity I describe will enable the bulk of the waiting list to be cleared within 12 months and will see a dramatic reduction in endoscopy waiting times, bringing them into line with England at around six weeks.

1510 I am sure Hon. Members will welcome this move to reduce waiting times and improve care for patients, which is in line with the delivering the Programme for Government unanimously approved by this Hon. Court in April. It is a matter of regret for me as Minister and for the Department that the sequence of actions swiftly put in place to robustly address these delays, in tandem with our duty to establish the facts and inform affected patients first, has caused upset,
1515 particularly with those individuals and organisations who are so supportive of Ramsey and District Cottage Hospital. The Department's responsibility first and foremost has been and must remain the safety of patients.

1520 Whilst I appreciate there will likely remain a sense of frustration at the way events unfolded, I hope, Mr President, that Hon. Members can appreciate that the decision to relocate staff and equipment from Ramsey was done in the interests of patients, with the best of intentions, and to address an urgent situation.

1525 The Department will reflect on recent events and examine its actions. Equally, we must and will work to rebuild valued and important relationships, not least with the Ramsey and District Cottage Hospital Welfare Fund and the League of Friends of Ramsey and District Hospital. As I have said, rectifying the endoscopy delays has been the primary concern and focus. However, I wish to reassure Hon. Members that work has begun to establish how this situation was able to arrive in the first place so that we can ensure similar incident are prevented.

 Thank you, Mr President.

1530 **The President:** Questions are permitted. Mr Speaker.

The Speaker: Firstly, Mr President, could I ask the Minister ... Obviously, it is normal for Statements to be circulated, and this question might have been obviated if the Minister had been able to do that – and obviously I am welcoming the proposals.

1535 My question is about a paragraph that was in the middle of her Statement, Mr President. I think – and I am sure she will correct me if I am wrong – that she said that the staff base remains in Ramsey, but they will be working in the centralised endoscopy suite. Does that mean that we are paying staff to travel over the Mountain in worktime and only then starting work when they get to Douglas? Or have I misunderstood that, because that does seem like a waste of their time and our money if that is the case?

1540

The President: Before I call on the Minister, the circulation in advance of copies of the Statement is not a matter for Standing Orders, but it has been a matter of custom and practice. It is one that those making Statements really should consider when they are of a complex or technical nature and it might be helpful to the Court.

1545

Mrs Beecroft.

The Minister: Thank you, Mr President.

I shall certainly bear that in mind in future and I apologise to Members that that has not happened on this occasion.

1550

With regard to the staff going to Ramsey, yes, it is only their endoscopy duties that are being transferred to Douglas along with the equipment. All their other duties will remain in Ramsey, so as Ramsey is their base, yes, they will be paid for travel time and petrol, or whatever it is that fits in with their duties; but prior to this, we were paying consultants for travel time to go up to Ramsey and I think that the consultants' time is more valuable than the staff who are assisting the consultants. So it actually does make sense.

1555

The President: Hon. Member, Mr Baker.

1560 **Mr Baker:** Thank you, Mr President.

I would just like to ask the Minister her views on the whole communication process around this. We have just had another example of, quite frankly, awful communication from the Department to the Members of this Hon. Court, which adds to an inept level of communication with the Trustees in Ramsey Hospital, with the staff affected and even the patients, it has taken a significant amount of time for them to be communicated to.

1565

Now, I appreciate what the Minister said about –

The President: I am waiting for a question, Mr Baker.

1570 **Mr Baker:** Okay. Apologies, Mr President.

What is the Minister doing to ensure that communication improves across the Department? What is the Minister doing to ensure that the lessons from this are learned and shared? When will the waiting lists get down to the six weeks that she has promised within 12 months? How is she going to ensure that we are on the right trajectory as we move through the next 12 months, because we need to be making progress on a month-by-month basis?

1575

The President: Minister.

The Minister: Thank you, Mr President.

1580 Firstly, starting at the end and working backwards, if I may. The waiting list: as I say, we estimate that it should be down to the six weeks within the 12-month period. They will obviously be monitored very strictly and they are something that will be reported on a quarterly basis as the different tranches of information get uploaded onto the website. So they will be

reported there at some point as a regular occurrence anyway. Obviously within the Department we shall be monitoring the situation very carefully.

With regard to the communication, I have already apologised for that. We will be having a look at it in the Department to see what we can do to ensure that any decisions are communicated more effectively in the future. However, that does not mean that we will be apologising for the decision that has been made. It has been the communicating of that decision that has to be taken.

I think you asked me about the time to notify patients. Urgent and immediate action was taken, as I said, to address it as soon as it became apparent, but clinicians needed to be absolutely certain which patients were affected so as not to cause any unnecessary alarm or distress.

This task needed to be performed urgently but it was equally important that it was done thoroughly and carefully. In total, as I said, 321 patients were identified as potentially being affected, meaning each person's medical record had to be reviewed by a doctor, and this is alongside their already scheduled work. There was a whole team and I would like to put on record my thanks to the team at Noble's who rallied round in such an amazing way to get through all this whilst juggling their own scheduled work at the same time.

But I am sure Hon. Members can appreciate that going through all these records was quite a significant task and it was done as quickly as they could. They were meeting at eight o'clock in the morning and working out their plans and going through the lists, etc. I think the importance of those reviews is evidenced by the fact that only 157 of the 321 are actually affected. As I said before, to have notified all 321 immediately would have caused unnecessary worry for the 164 individuals that were not affected.

The team at Noble's Hospital has honestly worked swiftly and tirelessly to get the job of reviewing the medical records done, performing the clinical validation as quickly as possible, and again I say thank you to that team who did it.

The President: Hon. Member for Ramsey, Dr Allinson.

Dr Allinson: Thank you, Mr President.

I would like to thank the Minister for her Statement. Would the Minister agree that one of the unintended consequences of some of the sterling work the Department has been doing on waiting lists and validating them sometimes shows up these deficiencies and oversights which then have to be acted on very quickly?

Whilst I welcome her Statement and the letter circulated last week, what slightly concerns me was that in the new rota only two out of the three endoscopy rooms at Noble's Hospital will be used at any one time. Would she agree that reviewing the situation of endoscopy provision in three months' time, to make sure it is sufficient to reduce the waiting lists as she has pledged, would be useful, to make sure that extra capacity does not need to be generated to actually meet the waiting list initiative and make sure that people get endoscopies correctly, promptly and on time?

The President: The Minister to reply.

The Minister: Thank you, Mr President.

I cannot comment on the rota because I am not clinically qualified to either draw up a rota or comment on it.

Ability to achieve the targets that we have said: as I said before, we will not be reviewing it just every three months; this is going to be reviewed on a weekly basis going forward to make sure that we are on track. Obviously, then, once everything is running slightly more smoothly, it will be reported on every month at the departmental meeting until we are assured that we are down to the six weeks and will stay at that six-week level.

The President: Hon. Member for Douglas North, Mr Ashford.

Mr Ashford: Thank you, Mr President.

1640 It is a bit of a pedantic question, but one that I think, before we set any hares running ... Can I ask the Minister just to clarify something she said before? Can I ask the Minister, did she mean to say that consultants' time is 'more expensive' than staff time rather than saying it is 'more valuable'?

A Member: Hear, hear.

1645

The President: Minister.

The Minister: Thank you, Mr President.

1650 Valuable in monetary terms, yes. I think it was the monetary angle that I was being questioned on, so yes that is what I meant.

The President: Hon. Member for Council, Mr Cretney.

1655 **Mr Cretney:** In retrospect, does the Minister believe that she might have knowingly or otherwise misled Tynwald in response to a Question from this Hon. Member about her not having all the information to hand and now there is a different reason?

The President: Minister.

1660 **The Minister:** Thank you, Mr President.

I would hope that I have not knowingly misled Tynwald Court or anybody else. I have repeatedly stated that it has been problems with the waiting time for the initial endoscopy and for follow-ups that has been the problem.

1665 What I did not do was to go into and highlight where the crux of what had been the catalyst for it was, as that would have been inappropriate because it would, as I have said, have worried everybody, rather than being in a position where we could address the concerns of everybody involved straight away and a letter sent to everybody involved.

The President: Hon. Member for Ramsey, Mr Hooper.

1670

Mr Hooper: Thank you, Mr President.

As part of the regular reviews that will be going on with this service, does the Minister agree that sometimes it is the people at the coalface who know really what the best outcomes sometimes are?

1675 Will she commit to making sure that there is full engagement with the staff as to any proposed efficiencies or changes to rotas, process, that kind of thing, because they actually are the people delivering this services on a daily basis?

Mr Cretney: Hear, hear.

1680

The President: Minister to reply.

The Minister: Thank you, Mr President.

1685 I am sure any changes to rotas or efficiencies will be communicated in the normal manner going forward, but this was an urgent situation. I would have hoped that it was communicated correctly in the first place but if this was not, then obviously the Department will be apologising to the staff, if it was not communicated to them in the right way.

The President: Hon. Member, Mr Baker.

1690 **Mr Baker:** Thank you, Mr President.

Does the Minister accept there is a fundamental difference in communication between speaking to and listening to the members of staff? So the Department may have actually told the staff what was happening, but it needs to give the staff an opportunity in these and other situations to actually have an input to be able to shape the best decisions to actually deliver the service that is required.

The President: Minister.

The Minister: Thank you, Mr President.

1700 I absolutely do agree that the method in which a message is communicated to people is very important indeed.

As I have said, I think the Department will be learning lessons from this, but I do hope that Hon. Members will understand that the primary focus was on the patients. Yes, communication in other areas, we may have taken our eye off the ball because of the urgency of the situation and the focus on those patients who were affected.

The President: Further question, Mr Baker.

Mr Baker: Thank you, Mr President.

1710 I am not quite clear from the Minister's answer whether she sees any value in listening to the expertise that is there on the ground, that the staff actually have. You have just really talked again there about communicating to them, but we have got to be listening to these people. There is so much expertise and, quite frankly, passion out there that, if we do not actually listen to these people, we have got no chance of achieving the right outcomes for the patients whose welfare is absolutely the fundamental goal here.

The President: Minister to reply.

The Minister: Thank you, Mr President.

1720 I apologise if I gave any other impression. Part of good communication is you say what you think and you listen coming back. That is good communication; it is a two-way street. It is not just saying, 'This is what we are doing.' It is saying, 'This is what we propose to do ...' and listening to any feedback.

1725 **The President:** Mr Baker.

Mr Baker: Does the Minister therefore commit to actually engaging to listen to the members of staff who have been directly affected by this, who have some real concerns that the changes that have been proposed will not deliver the outcomes that the Minister has committed to here, and actually they want to see the waiting list reduced and the outcomes for patients delivered, but are concerned that from their point of view this is actually not going to work?

The President: Mrs Beecroft.

1735 **The Minister:** Thank you, Mr President.

My understanding is that all of the staff have had those conversations and had all those concerns allayed. If this is not the case, then obviously there will be further meetings.

The President: No further questions.

**5. Review of the Functioning of Tynwald –
Lord Lisvane's recommendations –
Debate commenced**

The Chief Minister to move:

That Tynwald further notes the Review of the Functioning of Tynwald [[GD No 2016/0047](#)] and the recommendations contained therein:

Recommendation 1 – Election of the Members of the Legislative Council (MLCs):

- a. That the House of Keys remain the electoral college but that all candidates for election be nominated by an independent Nominations Commission;*
- b. That the Nominations Commission be charged with increasing the diversity of the Legislative Council;*
- c. That no sitting MHK be eligible for nomination;*
- d. That no proposer or seconder be required;*
- e. That the vote be open; and*
- f. That the candidates fill the available places in the order of the votes they secure in a single round of voting; a tie for last place would require a run-off.*

Recommendation 2 – Role of the Legislative Council:

- a. That MLCs should not vote on measures which are exclusively on taxation or appropriation, and that the Clerk of Tynwald formulate a definition for Standing Orders;*
- b. That MLCs should not be members of Departments and only exceptionally should they be Ministers; and*
- c. That MLCs should not vote on the appointment of the Chief Minister, nor on a vote of confidence in the Chief Minister or the Council of Ministers.*

Recommendation 3 – The Bishop:

- a. That the Bishop should remain an MLC and retain his vote; and*
- b. That Tynwald consider whether the Bishop should be included in the quorum of the Legislative Council and whether he should be allowed to abstain.*

Recommendation 4 – A Programme for Government:

- a. That the first task of an Administration be to prepare and publish a Programme for Government, on which the views of the public should be explicitly sought; and*
- b. That thereafter Tynwald approval be required for such Programme on formulation, by means of a major debate, at which amendments to the Programme could be moved, and thereafter annually.*

Recommendation 5 – Departmental Members:

- a. That there be no more than one Departmental Member per Department; and*
- b. That appointment as a Departmental Member be made only where it is clear that substantial responsibilities will be assumed in recognition of the salary enhancement.*

Recommendation 6 – Scrutiny:

- a. That the scrutiny role continue to be delivered principally by four Standing Committees of Tynwald ("the four principal committees"), namely the Public Accounts Committee and, following reform, the Economic Policy Review Committee, the Economic and Infrastructure Review Committee and the Social Affairs Committee, as renamed;*
- b. That the Chairmen of the four principal committees be elected immediately after the Chief Minister;*

- c. That the Chairmen of the four principal committees be paid at the same level as Ministers;*
- d. That the members of the four principal committees be paid at the same level as Departmental members;*
- e. That the Programme for Government be the focus of the reformed Policy Review Committees;*
- f. That the Terms of Reference of the reformed Policy Review Committees set down their key tasks and, if such Committees are able to examine Estimates, that the Terms of Reference of the Public Accounts Committee be amended so that the first limb refer to “accounts” rather than to “papers on public expenditure and estimates”;*
- g. That the Chairmen and Members of the four principal committees have appropriate familiarisation and training concerning the work of the Executive and best practice in scrutiny and questioning;*
- h. That consideration be given to supporting the work of Select Committees of Tynwald through external advice and expertise.*
- i. That the Tynwald Auditor General Act 2011 and the Tynwald Commissioner for Administration Act 2011 be brought into force.*

Recommendation 7 – Legislation:

- a. That a new draft Bill procedure be adopted under which draft legislation is automatically referred to the relevant principal committee instead of being subject to the existing formal consultation procedure; but that the relevant principal committee seek the views of the public;*
- b. That the committee be required to report its conclusions on the draft Bill and any suggested amendments within a fixed time period, which could be reduced by resolution of Tynwald in cases where urgency was demonstrated;*
- c. That, in considering the draft Bill, the committee take evidence from experts in the field and from persons who may be affected by the proposed legislation;*
- d. That amendments to the Long Title of a Bill be authorised by an instruction moved immediately after second reading (which instruction would be open to amendment);*
- e. That amendments to the Long Title of a Bill be taken at the end of the clauses stage; and*
- f. That, when leave is given to introduce a Bill, the House of Keys approve the proposed topic of the Bill as opposed to approving the Long Title; and that the Speaker certify the Long Title of the Bill as introduced as corresponding to the terms in which leave was given.*

Recommendation 8 – Code of Conduct:

- a. That Tynwald introduce a single formal Code of Conduct for its members;*
- b. That such a Code be a free standing document rather than various Standing Order provisions;*
- c. That each Member sign a declaration to abide by the Code of Conduct immediately after the introduction of the Code and thereafter at the time of taking the Oath after election or appointment;*
- d. That there be a minority of lay Members of the Members’ Standards and Interests Committee; and*
- e. That anyone within the Isle of Man should be able to make a conduct complaint; and*
- f. That the procedure for breaches of the Code be revisited, and that there be provision for a specified period of suspension notwithstanding an apology.*

Recommendation 9 – Diversity:

- a. That Tynwald address with energy the need to make its membership more diverse.*

Recommendation 10 – Members’ Pay and Allowances:

- a. That an independent review of pay and allowances be undertaken urgently.*

Recommendation 11 – Training:

That there should be continuous professional development training for Members of Tynwald.

1740 **The President:** We move on to Item 5: Review of the Functioning of Tynwald. The Chief Minister to move.

The Chief Minister (Mr Quayle): Thank you, Mr President.

1745 At the June 2015 sitting of this Hon. Court, it was resolved that the Isle of Man Government should establish an independent review using its powers under the Inquiries (Evidence) Act 2003 to examine the functions of the Branches of Tynwald and to consider options for reform. After consideration, the Cabinet Office approached Lord Lisvane who agreed to undertake the Review.

1750 Lord Lisvane has had a long career in the UK Parliament and is a former Clerk of the House of Commons. He has extensive experience of the workings of parliaments and, in addition to being the joint author of a standard text book on the subject, has visited some 50 parliaments worldwide during the course of his career. In 2014, he became a cross-bench life peer.

1755 Lord Lisvane was formally engaged in early 2016 to undertake the Review under the following terms of reference: examine the functions of the Branches of Tynwald; assess their efficacy – or efficiency; consider the scrutiny structure required by parliament; and recommend options for reform.

The proceedings of the Review were held in public in the Legislative Council Chamber during May and June 2016 and all evidence was taken from 33 witnesses. Written evidence was welcomed and 51 submissions were received and considered, of which 12 were from witnesses who also gave evidence to the public hearings.

1760 Lord Lisvane has attended the Island on a number of separate occasions to provide presentations to Members, most recently on 30th May. I would like to place on record my appreciation to Lord Lisvane for the Review and the useful engagement prior to this debate.

1765 The Review was presented to Tynwald on 20th July 2016 at which time an amending motion by Mr Karran MHK was carried so that Tynwald received the report, noted the recommendations contained therein and resolved that the recommendations be submitted to Tynwald for debate and decision in April 2017.

1770 The Court noted that the amending motion provided a sensible timeframe to enable newly elected colleagues to begin to understand the current parliamentary processes and procedures and the relationship with the executive and that the current Tynwald could choose to debate the Review as a parliamentary matter at a time convenient to them.

1775 During the debate at that sitting, the then Chief Minister, Mr Allan Bell MHK, asked that the current Court note, whilst the focus of the Review of parliament and the executive is on process, that we do not forget that we are here to deliver outcomes – outcomes which result in the delivery of public services which are inclusive, tolerant and sustainable, outcomes that are priorities within our Programme for Government, the publication of which notably fulfils Recommendation 4 of the Review.

1780 Earlier this year at this March 2017 sitting of this Hon. Court, the Minister for Policy and Reform made a ministerial Statement enabling the deferral of the debate on this Review. It should be noted that, whilst the Council of Ministers has facilitated the Review through the Cabinet Office, which welcomed support from Her Majesty's Attorney General's Chamber, this is a parliamentary matter as the Review was called for by this Hon. Court. It is important to note that collective responsibility does not apply to the Council of Ministers in respect of this matter.

1785 Hon. Members, our parliament has a long and distinguished history. It is in our hands as to how we respond to the recommendations before us as we continue to build on that history. I would urge Hon. Members to take a full and active role, with clear reasoning, in today's debate.

Mr President, I beg to move.

The President: Hon. Member, Mr Malarkey.

Mr Malarkey: Thank you, Mr President.

1790 I beg to second and reserve my remarks.

The President: Hon. Member for Douglas East, Mr Robertshaw.

Mr Robertshaw: Thank you, Mr President.

1795 I beg to move a procedural motion under Standing Order 3.12(1)(a) specifically that each of the recommendations before us in Item 5 be both debated and voted separately.

Being purely procedural, this motion is completely silent on any opinion regarding any of the recommendations, but I do wish to lay out why I believe we should approach each recommendation separately.

1800 First: granted, the Lisvane Report is a single document, but the recommendations within it cover a wide range of distinct and unique subjects. Restricting these diverse matters to the constraints of a single motion would permit each Member but one main opportunity to speak, resulting in the debate potentially jumping all over the place as it progresses from Member to Member. It will become, I put it to the Hon. Court, Mr President, more difficult to follow.

1805 Second: add to that the distinct possibility that Hon. Members may wish to introduce a number of amendments, both specific and composite in nature, then the complexity begins to become compounded.

The third complicating factor must be that of Hon. Members wishing to further disseminate some of the sometimes numerous subsections to a recommendation in order, for example, to show that they support a particular recommendation with the exception of or after an amendment to one or more of its subsections. In such a potentially complex outcome, it appears to me wholly rational and sensible to deal with the Report in manageable bite-size portions.

1815 Voting for this procedural motion would result in our consideration of each recommendation in turn, debating it, addressing any amendments associated with it, deciding whether we wish to vote on each subsection, if there are any in turn or not, and then finally voting on the substantive recommendation. We could then move on to the next recommendation free to offer it, in its turn, our full focus and concentration.

Should this Hon. Court approve this procedural motion, it is reasonable to expect that some debates will be short and succinct, others detailed and quite perhaps protracted.

1820 In the case of recommendation 1, the election of Members of the Legislative Council, recommendation 4, a programme for government, and recommendation 8, a code of conduct, in each and all of these Hon. Members will be absolutely clear already that a great deal of work has been done. Indeed, the next Item on today's Order Paper, Item 6, will see the Tynwald Standards and Members' Interests Committee bring forward a comprehensive report for your consideration, which very fully deals with recommendation 8 in the Lisvane Report.

1825 What I believe then is clear from this is that Lisvane has now been before us for some considerable time, and we are actively engaged in its consideration. Clearly, we are all now well past the initial stages, and today's debate should reflect that level of engagement. Ultimately, whatever this Hon. Court decides, and however much we may choose to agree or otherwise in our debates, or debate, it must be important to approach it in a rational, clear and logical way to ensure outcomes of a similar nature.

1830 Mr President, I commend this procedural motion to the Hon. Court and beg to move:

That, under Standing Order 3.12(1)(a), each recommendation be both debated and voted on separately.

The President: Dr Allinson.

1835 **Dr Allinson:** Thank you, Mr President.

I wish to second this motion and reserve my remarks.

The President: Now, you are not able to reserve your remarks in a procedural motion, but it is seconded. It is open therefore for debate, Hon. Members.

Mr Cannan.

The Minister for the Treasury (Mr Cannan): Thank you very much, Mr President.

I have to say, I do have a lot of sympathy for what the Hon. Member has just said and the way that he has said it. However, I do beg to offer a slightly different alternative.

Whilst I acknowledge that sections of this Report do require some in-depth discussion and analysis, I think that Lord Lisvane in his Report has painted a picture, and that these recommendations are in fact interlinking, and that it may well be, during the debate, that Members need to refer to different parts of the Report, to different recommendations within the Report, whilst they are addressing one specific recommendation. I think that what we are going to find is that Members will in fact find themselves somewhat curtailed, or that we end up in a debate of extensive duplication, as we find ourselves re-going back over old ground, because I think that the recommendations, frankly – a number of them anyway, if not all of them – are substantially interlinked. As I will outline during the debate, irrespective of which way it goes, I think that at the heart of this is the functioning of Tynwald. That is the picture that Lisvane talks about. He talks about how particularly the Legislative Council needs to be structured, but that is not just included in one clause; that is included throughout all the recommendations.

Therefore, I think, Mr President, to address this, for Members to be able to express themselves succinctly, to be able to incorporate their visions of what they think Tynwald should look like, if we are to take these matters forward, I would suggest to Members that, whilst the Hon. Member's suggestion could be a way forward, in fact probably the way for people to be able to express themselves is to take the Report as a whole, to look at these recommendations as a whole and to find the appropriate way forward – as has been outlined already by a number of emails that we have seen and suggestions that have come forward from Hon. Members.

The President: Mr Thomas.

The Minister for Policy and Reform (Mr Thomas): Thank you, Mr President.

Hon. Members, I would like to associate myself with the remarks of the Treasury Minister, speaking in a parliamentary capacity, for the purpose of brevity, although there are actually no time limits on the speeches any more. *(Laughter)*

Also, I would like to remind Hon. Members of the Court that there is no impact on speaking on this procedural motion on any speeches subsequently. I am sure everybody knows that, except I just wanted to get absolute clarity for myself, and I have received that from the Standing Orders. We have already had circulated two amendments: firstly, we have had circulated an amendment which I hope is in order and I hope will come fair –

The President: I caution against speaking on the merits or otherwise of an amendment that has not been moved.

Mr Thomas: Thank you, Mr President, and exactly – it would be completely inappropriate. But what I wanted to say is we have had a very clear and a very short amendment circulated already, which provides the basis for that whole picture that the Treasury Minister circulated. We have also had another longer amendment, so we have to clear alternatives on the Order Paper, and with that I give my strong support to ... I will be voting against this procedural motion to vote separately.

The President: Mr Robertshaw to reply.

Mr Robertshaw: Thank you, Mr President.

1890 I bought forward this procedural motion simply in order to try and assist this Hon. Court in debating a very important report and it is for Members entirely as to which way we choose to go.

1895 I do caution the Court against the concept that these are all intimately interlinked. There are certainly associations, but I think it is important to say that each recommendation is valuable and deserves being addressed specifically in detail by Members. I am troubled – and this is why I bought it forward – by the idea that each Member stands up once and has to encapsulate this whole Report in their views. I am uncomfortable with that. I feel that we will progress better in a much more clear way if we take it in, as I said, bite-sized stages.

1900 It is a matter for the Court, Mr President.

Several Members: Hear, hear.

1905 **The President:** Hon. Members, the motion before the Court is that under Standing Order 3.12(1)(a), each recommendation under Item 5 be debated separately and be put as a separate substantive motion. Those in favour, please say aye; against no. The noes have it.

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

In the Keys – Ayes 11, Noes 13

FOR

Dr Allinson
Mr Ashford
Miss Bettison
Mrs Caine
Mr Callister
Mrs Corlett
Mr Moorhouse
Mr Peake
Mr Perkins
Mr Robertshaw
Mr Shimmins

AGAINST

Mr Baker
Mrs Beecroft
Mr Boot
Mr Cannan
Mr Cregeen
Ms Edge
Mr Harmer
Mr Hooper
Mr Malarkey
Mr Quayle
Mr Skelly
Mr Speaker
Mr Thomas

The Speaker: Mr President, 11 votes for, 13 against in the Keys.

In the Council – Ayes 2, Noes 6

FOR

Mr Anderson
Mr Cretney

AGAINST

Mr Coleman
Mr Corkish
Mr Crookall
Mr Henderson
Mrs Poole-Wilson
Mr Turner

The President: In the Council, 2 votes for, 6 votes against. The procedural motion therefore fails to carry.

1910 I understand there is a further procedural motion – Hon. Member for Ramsey, Mr Hooper? No.

In that case I call the Hon. Member for Rushen, Mr Speaker.

The Speaker: Thank you, Mr President.

In moving this amendment which was circulated earlier this morning, I would first like to request that it be voted on in separate parts, right down to the level of a, b and c – right down to that micro-level – for reasons that I will expand on a little later.

Mr President over the last few weeks the attention of Members has been particularly drawn to this motion and the future of our Island's parliament and constitution. I think it is important to thank Mr Thomas for setting the ball rolling on this debate; as well as to Mr Hooper for organising opportunities for Members to coalesce and find consensus; and to you, Mr President, for chairing one of these.

Also, to those new Members who saw these reforms as central parts of their manifesto: I thank them first of all for their patience – for rightly, in my opinion, putting the Programme for Government ahead of the constitutional reform, but also for spending the last nine months taking an active part in Government and Tynwald, which has led to bringing this motion. Preserving what is good and giving a clear steer to those areas in need of reform is a vital part of what is required today.

Also thanks to Legislative Council themselves. People inside and outside this Court will have said that turkeys don't vote for Christmas, but I am pleased to report a very positive conversation with many Legislative Council Members this morning, who are supportive of the generality of the amendment and the approach that it delivers.

Hon. Members, I commend this motion to you for a number of reasons. Firstly, I think that Tynwald can hold its head up and say that we have made a decision on the direction of travel on a number of issues. By voting on this amendment in its several parts, we will be grappling with some of the thorny issues that have evaded this Court in previous years.

This motion also establishes the body to deliver that change, with representation from around the Court – with representation from the Legislative Council, from the Council of Ministers and the Keys, with the Keys providing four of the five members of the Committee.

Mr President, Lisvane himself said that his Report was a *smorgasbord* and I suppose by extension it is for Members to decide which bits they can swallow. The motion takes the detail of that Report and will allow every Member to vote on each aspect of reform, giving the Committee a clear steer for implementation.

Members will also note the tight timescale: bringing back the changes required regarding Legislative Council by October this year, and the other recommendations by December this year. That is just two sittings away. That is real momentum.

With the Legislative Council elections due next year, it is only fair that candidates know the job description, terms and conditions for the role. If we want the Island's brightest and best in our Upper House, we must give plenty of notice of what we expect of them. I know that over the last nine months some Members have seen real value in the work that the Legislative Council does, something born out of the experience working within this dynamic of Tynwald.

Mr President, as I have stated, this amendment sets out Lisvane's Report in detail. However, it does not entirely adopt his wording – something born out of Members' discussions over the last few days – and I feel it is only fair to highlight where they are, so that there is a very clear understanding as to what Members are voting for and where I have deviated from Lisvane's motion. However, to make it easier, they are in bold on the amendment.

Firstly, Lisvane conflated the concept of Legislative Council Members being neither Ministers nor Members. There was less consensus on Legislative Council Members being members of Government Departments, whilst there was absolute clarity that they should not be Ministers, save in exceptional circumstances.

The issue of the Bishop has also been altered so that the strength of feeling of the Court can be tested as to whether the Bishop should remain as a Member of the Legislative-Council. The wording is set in this amendment that the Bishop should not remain as MLC, and I draw members' attention to this so they can vote on each individual item and have their say on this issue.

1965

Mr President, I hope that Members will seize this opportunity to take active steps towards constitutional reform and will be able to pick the bits that suit them; but even if they do not get 100% of what they want, I hope that there is still enough in there that we can all move forward together and provide the change that was called for at the ballot box last September.

I beg to move:

After the word 'That' to leave out all the words and add the words:

'a Select Committee of five members be appointed, comprising the Speaker as Chairman, one Member of the Council of Ministers, one Member of the Legislative Council and two other Members of the House of Keys:

A) And that Tynwald approves the following and refers them to the above select committee to report with recommendations to Tynwald on the changes required for their implementation:

1. Recommendation 2 – Role of the Legislative Council:

- a. That MLCs should not vote on measures which are exclusively on taxation or appropriation, and that the Clerk of Tynwald formulate a definition for Standing Orders;*
- b. That MLCs should not be Ministers, except in exceptional circumstances***
- c. That MLCs should not vote on the appointment of the Chief Minister, nor on a vote of confidence in the Chief Minister or the Council of Ministers.*

2. Recommendation 3 – The Bishop:

- a. That the Bishop should remain an MLC;***
- b. That the Bishop should not retain his vote; and***
- c. That Tynwald consider whether the Bishop should be included in the quorum of the Legislative Council and whether he should be allowed to abstain.*

3. Recommendation 4 – A Programme for Government:

- a. That the first task of an Administration be to prepare and publish a Programme for Government,*
- b. The views of the public should be explicitly sought on this Programme; and***
- c. That thereafter Tynwald approval be required for such Programme on formulation, by means of a major debate, at which amendments to the Programme could be moved, and thereafter annually.*

4. Recommendation 9 – Diversity:

- a. That Tynwald address with energy the need to make its membership more diverse.*

5. Recommendation 11 – Training:

- a. That there should be continuous professional development training for Members of Tynwald.*

B) And that Tynwald refers the following items to the select committee for further consideration to examine and report with recommendations on:

1. Recommendation 1 – Election of the Members of the Legislative Council (MLCs):

- a. That the House of Keys remain the electoral college but that all candidates for election be nominated by an independent Nominations Commission;*
- b. That the Nominations Commission be charged with increasing the diversity of the Legislative Council;*

- c. That no sitting MHK be eligible for nomination;*
- d. That no proposer or seconder be required;*
- e. That the vote be open; and*
- f. That the candidates fill the available places in the order of the votes they secure in a single round of voting; a tie for last place would require a run-off.*

2. Recommendation 2 - Role of the Legislative Council:

- a. The circumstances (if any) where it would be appropriate to appoint Members of Legislative Council to membership of a Department.***

3. Recommendation 5 – Departmental Members:

- a. That there be no more than one Departmental Member per Department; and*
- b. That appointment as a Departmental Member be made only where it is clear that substantial responsibilities will be assumed in recognition of the salary enhancement.*
- c. That the pay and enhancements for Members of Legislative Council be reviewed in light of their amended responsibilities.***

4. Recommendation 6 – Scrutiny:

- a. That the scrutiny role continue to be delivered principally by four Standing Committees of Tynwald (“the four principal committees”), namely the Public Accounts Committee and, following reform, the Economic Policy Review Committee, the Economic and Infrastructure Review Committee and the Social Affairs Committee, as renamed;*
- b. That the Chairmen of the four principal committees be elected immediately after the Chief Minister;*
- c. That the Chairmen of the four principal committees be paid at the same level as Ministers;*
- d. That the members of the four principal committees be paid at the same level as Departmental members;*
- e. That the Programme for Government be the focus of the reformed Policy Review Committees;*
- f. That the Terms of Reference of the reformed Policy Review Committees set down their key tasks and, if such Committees are able to examine Estimates, that the Terms of Reference of the Public Accounts Committee be amended so that the first limb refer to “accounts” rather than to “papers on public expenditure and estimates”;*
- g. That the Chairmen and Members of the four principal committees have appropriate familiarisation and training concerning the work of the Executive and best practice in scrutiny and questioning;*
- h. That consideration be given to supporting the work of Select Committees of Tynwald through external advice and expertise.*
- i. That the Tynwald Auditor General Act 2011 and the Tynwald Commissioner for Administration Act 2011 be brought into force.*

5. Recommendation 7 – Legislation:

- a. That a new draft Bill procedure be adopted under which draft legislation is automatically referred to the relevant principal committee instead of being subject to the existing formal consultation procedure; but that the relevant principal committee seek the views of the public;*
- b. That the committee be required to report its conclusions on the draft Bill and any suggested amendments within a fixed time period, which could be reduced by resolution of Tynwald in cases where urgency was demonstrated;*
- c. That, in considering the draft Bill, the committee take evidence from experts in the field and from persons who may be affected by the proposed legislation;*

d. That amendments to the Long Title of a Bill be authorised by an instruction moved immediately after second reading (which instruction would be open to amendment);
e. That amendments to the Long Title of a Bill be taken at the end of the clauses stage; and
f. That, when leave is given to introduce a Bill, the House of Keys approve the proposed topic of the Bill as opposed to approving the Long Title; and that the Speaker certify the Long Title of the Bill as introduced as corresponding to the terms in which leave was given.

C) and that the Committee prioritise the work on Recommendations 1 & 2 (and other issues relating to Legislative Council) and to report back with recommendations on the election and role of the Legislative Council in October 2017, and by the December 2017 sitting on the remainder of the recommendations.'

1970 **The President:** Hon. Member, Mr Cregeen.

The Minister for Education and Children (Mr Cregeen): Thank you, Mr President.
I rise to second the amendment by Mr Speaker.

1975 One of the memories I have from when I first stood for election back in 2006 was all this discussion about Legislative Council. Some of it was all about personalities. It was not about the process; it was about the personalities and how people got there.

There is a lot of myth about what this Hon. Court does – the hours that Hon. Members put in. It is like saying to a vicar that he only works Sunday morning! Many people think that, because they may hear us on the radio on a Tuesday, all we ever do is work on Tuesday.

1980 I think from reading through Lord Lisvane's Report, he has not got a feel for the actual Isle of Man and the way that we are. It is all very well in a jurisdiction like the United Kingdom to come up with some of these recommendations, but politicians in the Isle of Man are very close to the public – more than probably other larger jurisdictions.

1985 I have one concern regarding the nominations committee for Legislative Council. We have been celebrating 150 years of a democratically elected House of Keys. Now we are going to go and have a committee to put names forward to a democratically elected House of Keys, and it would be only the names that that committee feels right to be put forward. At the moment, what you can actually have is members of the public coming up to Hon. Members, who have a mandate to be in this Hon. Court, to have their names put forward. It would be a retrograde step to have a committee that could be called 'the great and the good', who would have such an influence and not actually be publicly accountable. Then Hon. Members in the House of Keys, when voting for those people in Legislative Council, will be stuck with the names that they have been given by a committee of unelected and unaccountable people. Surely, that is a retrograde step to democracy in the Isle of Man.

1995 One of the things that we have been proud of over many years is the stability of the parliament of the Isle of Man. Some of the recommendations that been put there, I feel would actually destabilise what has been a mostly positive parliament throughout many, many centuries.

2000 I think what we have to do is put this to a committee to see what the consequences of these recommendations will be, because it will be too late once we have adopted it without giving due thought.

So, Mr President, I am pleased to second this, and I hope Hon. Members will support this amendment so that we can give it the due process it is required to do, for the benefit of not just us, but future generations to ensure that we have got a good democracy in the Isle of Man.

2005 Thank you, Mr President.

The President: Hon. Member for Ayre and Michael, Mr Cannan.

The Minister for the Treasury (Mr Cannan): Thank you, Mr President.

2010 I think actually before I start with my specific amendment, I want to start by giving out a couple of quotes. HG Wells said, 'The path of least resistance is the path of the loser'. I also want to quote from Lord Lisvane himself, two quotes. On page 21, paragraph 23:

But for all its present strengths, I believe that the institution is capable of considerable improvement.

And on the page prior:

the quality of parliamentary governance and operation makes a crucial contribution to how policies are developed, tested and implemented; and that is very much in the interest of every citizen.

2015 Now, if I can cast, for those that were here, minds back to May 2015, perhaps the Court was a very different make-up. Since then, we have had an election, many Members have changed, the dynamics of the Court have changed. Nevertheless, there was at that time – and I believe still is – an overriding need for change to happen within our parliamentary system. That overriding need, I do not think has gone away, with the changes that have happened at the general election, because even if the Members of this Hon. Court here today feel comfortable that things are working well, believe me, some things change and change very quickly, and if you do not grasp this opportunity to move forward today, then I would suggest you that you will regret it for the rest of this parliamentary term and will have no opportunity to redress it until such time as the next election comes along.

2025 I think that in 2015 we did make some progress, in that the parliament at that time was astute enough to vote for someone to be brought in to look at the parliamentary system, and to come in that with an open book. I want to pick up one or two points that were made in various speeches at the time – points that I also made in 2015, two years ago.

2030 I think the first point is about whether the electorate care or not about this Report and the recommendations. I suggest to you that the electorate *do* care about what is happening in Tynwald, in our parliament, and that it is incumbent on us to show leadership, particularly at times of change.

2035 Two years ago, we were in a slightly different position. We had a different Government, charges being drip-fed through onto the population in a consistent manner, a Government whose programme I would suggest was not clear, and a Government perhaps operating with a significant deficit without a plan to change that. I think the point is this: when Tynwald is telling people to tighten their belts; when Tynwald is telling people that they are going to have to pay more; when Tynwald is telling other people to change; when Tynwald is telling Government's structures itself outside of Tynwald to change; when we come in a matter of months – nay, even weeks – to talk about significant change within the Government, the finger will be pointed in here, first and foremost, and will say, 'What have you done to change? What steps have you taken to make improvements? What evidence have you got that you have grasped this necessity to reform to make yourself streamlined to help progress and to develop?' And if we have not grasped that nettle and if we have not actually indicated and taken this parliamentary system forward, then we will regret it.

2045 I think the other point is this: in my experience whenever the House of Keys discusses the Legislative Council with members of the public, they normally adopt a fairly negative view. They talk about a Legislative Council that needs to be reformed: they talk about a Legislative Council that should not be sat up on full-time Members' salaries; that should be paid differently; that should operate differently; that should operate particularly around scrutiny and should be there really to discuss legislation and to make sure that what the House of Keys is doing in terms of its policy is right; that it is tested properly and that the end product has gone through a vital stage to make sure that what is the end product for our citizens and for our society is right.

2055 In actual fact that is the sort of scenario that Lord Lisvane painted – in fact it is the *actual* scenario that Lord Lisvane painted. He painted a picture here of reform around the Legislative Council: a Legislative Council that was integrated within the parliamentary system that had a

role to play, but whose primary role was scrutiny; and that in delivering that scrutiny there had to be separation of power, there had to be a move away from the concept and perception that the Legislative Council was there as the Council of Ministers' pups, to do what the Government bid for.

2060 Because of the way the structure works, that perception is perhaps arguably and potentially a reality, and that goes from the very heart of the electoral system that Lord Lisvane talks about to the membership of Departments, and the issue that he skirts around of Members of the Legislative Council being involved in a ministerial capacity. In fact I would suggest that the way he has delivered this Report and the way he has painted his picture, at the heart of it is how the
2065 Legislative Council operates. This idea that the Legislative Council is separate from the House of Keys and is separate from the Government and fulfils its functions of scrutiny clearly and concisely, really revolves around this Report and revolves around the recommendations. It is clear if you look at recommendations like 5 and 6, where he talks about departmental memberships and he talks about the scrutiny and the need for legislation, that having a clearly
2070 defined role for the Legislative Council is absolutely paramount for those recommendations to succeed.

 So that is why, Mr President, I have brought forward today a motion that takes us even further forward now. One that accepts the principles of what Lisvane has written, accepts the need for us to reform, accepts the need for us to take on board this picture that Lord Lisvane has
2075 developed from his discussions, and proves and encapsulates the need for Tynwald to demonstrate clearly over the next four years that it has itself moved forward in the interests of delivering better policy and better scrutiny for the public.

 So just to look very quickly at the recommendations I am asking the Court today to approve – and it is a very simple and clear motion that we have brought forward. I have asked the Court to
2080 approve recommendation 1, that the election of the Legislative Council *is* done as Lisvane says; and it is that nominations are brought forward from outside Tynwald itself, from outside the House of Keys, by a nominations commission. It is absolutely clear what he wants to achieve, he wants to lose this 'old boys' tag, he wants to lose the perceptions of a 'club' which he talks about in his Report and he wants to increase diversity. He suggests the best way to do that is through a
2085 proper nominations commission.

 I am asking you to approve recommendation 2, the role of the Legislative Council: they do not vote on taxation or appropriation; they are not Members of Departments and only exceptionally should they be Ministers; and they should not vote on the Chief Minister, nor should they have a vote of confidence in the Chief Minister nor on the Council of Ministers. It is
2090 very clear he is putting the Legislative Council clearly into the scrutiny position that they should be in.

 Recommendation 3: I have asked that to go to the select committee as the Speaker is asking in his amendment, a select committee of five Members chaired by the Speaker. I think the previous amendment that we have seen fudges the issue around the Bishop, because the
2095 previous amendment says that the Bishop should remain as an MLC but he should not retain his vote. I think that needs careful consideration. If that is the consensus that the Speaker has just been talking about – and I know not about the meeting that has taken place – but if there is a consensus in the House of Keys and Tynwald today that the Bishop's position needs to come under intense scrutiny in difference to what Lord Lisvane says, then I think we should put that
2100 clearly to the scrutiny committee.

 Recommendation 4: clearly of course we must approve that, there is nothing in that recommendation that is not either already happening or should not happen the next time a Programme for Government is formulated. 'A Programme for Government, on which the views of the public should be explicitly sought' – well, that has not happened necessarily or arguably
2105 this time, but there is nothing to prevent that happening again into the future, or for this current Programme to somehow be open to further public scrutiny. And that is what we want; this Court

in the House of Keys has talked about the openness and transparency and I think Lord Lisvane encapsulates that very neatly and that recommendation can easily be carried forward.

2110 What else can be carried forward? Well, Recommendation 8 – Code of Conduct: we know that is already something that has been evolved, and indeed some of it is in the Order Paper for later. It is an easy one; it can be supported. We can make progress and sign ourselves up to greater transparency when it comes to Members' behaviour and codes of conduct.

2115 Recommendation 9 – diversity: 'that Tynwald address with energy the need to make its membership more diverse'. Again Lisvane is very clear, it is a simple statement and one that we should sign up to.

2120 Recommendation 10 – Members' pay and allowances: 'that an independent review of pay and allowances be undertaken urgently'. I argued for this, supported by my hon. friend the Minister for Economic Development, the Member for Rushen, five years ago and it was taken away from us. The arguments against it were that it would not solve anything, it would not prove anything. Lisvane, of course, comes in and says just because in the past such a review has not produced the desired result does not mean to say it should not happen again. Of course it should happen again!

2125 We are at a delicate stage in the progress of Manx society. You look at all the external influences that are happening, the challenges that this Government is facing and that this society is facing. The fact is that we – our pay, our conditions, our terms – have evolved over a huge number of years. They are currently linked into Civil Service pay scales and you have to question is that correct? Should we be tied and interlinked into Government in such a way, or should Tynwald Members' pay, conditions and allowances be looked at independently and properly reviewed? Of course it should, and particularly in light of what we are talking about
2130 here – the changes, the scrutiny role that Lord Lisvane talks about with regard to the Legislative Council. Then let's make some more progress and let's say yes, we do need to have an independent review of our pay and allowances.

2135 And of course recommendation 11 – training: that there should be continuous professional development for Tynwald Members. I think that is something that we could all agree, no matter which side of the fence we sit on.

2140 So in the end there are only four recommendations we are saying of the 11 that do need further work. We do need to have a look at the arguments around the Bishop. We do now need, if you accept what I am saying, to look in more detail about how departmental membership would work in light of the recommendation that only one Member is assigned to a Department.

2145 We do need to have a look more at the scrutiny roles. As the Chief Minister pointed out, it would be impractical for him to follow this recommendation as it is laid out, in terms of it defines the appointment of the chairmen of the scrutiny bodies before he or she would have a chance to pick their Ministers. I think that is probably the wrong balance and it needs to be properly looked at and discussed by a scrutiny committee.

2150 And of course the recommendation around legislation is something that Lord Lisvane has talked about and has identified, and I can see no reason for that not to have further assessment as to whether the detail – the way that he has described legislation progressing – fits into the Manx system and fits with the way that Tynwald wants and needs our actions and our Programme for Government to progress.

2155 So there we have it, Hon. Members. I think the amendment that we have brought forward is very clear. It approves recommendations 1, 2, 4, 8, 9, 10 and 11 and refers recommendations 3, 5, 6 and 7 to a select committee. It is crystal clear, there is no dilution. There is not going to be a fudge if you vote for this amendment in the form that it is laid out or, if it comes to it, separately.

2155 One thing I will say, doubtless somebody will be up on their feet to say it does not go into enough detail about who will deliver on the approved recommendations. What I would say to you is this: on advice, if we get through this and if this amendment gets through today, we will

be back with a further motion next month with a clear identification of which committees will deliver on Tynwald's approvals.

2160 Mr President, I am sure there is a lot more to come today; doubtless there may be some further amendments. But I am clear, and I am sure a number of people in this Hon. Court today will be clear, that progress is needed; and Lisvane has painted a clear picture that if we are going to get progress today further committees are not what we need now, we need approvals for action and we need to make those decisions today, rather than wait further down the line for
2165 greater analysis, fudges on the issue and different interpretations. I think we have to take the Lisvane Report in its entirety; we have to look at the fact that the recommendations are interlinked.

If we approve those which we can approve today and take those three or four that we need through to committee, we will have made progress and we will be in a better shape for making
2170 that progress.

I move:

To leave out all the words after 'contained therein' and to insert the words ' ; a) approves recommendations 1, 2, 4, 8, 9, 10 and 11; and b) refers recommendations 3, 5, 6 and 7 to a Select Committee of five members, chaired by the Speaker, made up of one member of the Council of Ministers, one member of the Legislative Council and two members of the House of Keys, to report to the October 2017 sitting of Tynwald'.

The President: Hon. Members, at this point we shall adjourn until 2.30 p.m.
May I remind Members of the CPA Whole Branch meeting at 1.15 p.m.

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

**Review of the Functioning of Tynwald –
Lord Lisvane's recommendations –
Debate continued**

The President: Please be seated, Hon. Members.

2175 Just before the lunch break, Mr Cannan had moved his amendment which has not as yet been seconded. The floor is open, Hon. Members.
Mr Hooper.

Mr Hooper: Thank you, Mr President.
2180 This is starting to get quite confusing, Hon. Members.

A Member: Hear, hear.

The Speaker: Only if you make it.
2185

Mr Hooper: I think the motion that has been put down by Mr Cannan is only subtly different to the motion the Speaker has put down, although it is laid out in a slightly different manner. But those differences are quite key. That is not to say that the amendment from Mr Speaker does not have some merit, but I think these differences do deserve to be debated here and really
2190 explored.

With regard to the first recommendation, I am still quite strongly of the view that Members of the Legislative Council should be publicly elected. (**A Member:** Hear, hear.) I appreciate that

there might be some need to add some eligibility criteria in light of their specialised scrutiny function, but having said that – and I do accept the difficulty with that approach and that it has been tried a number of times in the past and has not really gone anywhere. To my mind, a key outcome from this debate today has to be that the nomination process ends up being open to a broader range of people, and that we need to find a better way of encouraging greater diversity in Tynwald. And so to my mind, some form of an independent nominations commission is a clear step towards this and to removing some of the barriers that already exist. Whether that should be the only route by which Members of LegCo can be elected is another question entirely.

Leaving nominations solely in the hands of Members of this Court leaves this Hon. Court wide open to the perception of Legislative Council being a revolving door, a retirement club, ‘jobs for the boys’ – and of course ladies – especially here, as we are talking about changing the role of Members of Council to take them away from executive action and put more into a scrutiny function.

The Hon. Member for Ayre and Michael touched on this: do the public care about this reform? I believe the answer to that is yes, the public do care about this perception of an old boys’ club, of an inactive Legislative Council, and they are expecting us here to take action and to do something about this damaging and negative perception by changing the way that we nominate and elect Members of Legislative Council.

The second recommendation touches on the role of Legislative Council. My view is that MLCs have an important role to play in Tynwald – they can bring experience and unique skills to the table, and can and should play a central part in our scrutiny function. They have a job to do bringing some balance to the elected half of this Court and ensuring that legislation and policy is given the full and proper consideration it deserves.

So do they add value? I would say, yes. But Members of Legislative Council should not be Ministers or Members, because they have not been elected by the public. They have no public mandate to develop policy or to direct Departments. And that is where this amendment by Mr Speaker falls down.

Do MLCs have a role in assisting Departments by taking legislation through Tynwald? Yes, and there are models for this – currently two Departments have no MLCs and, legislatively, I do not see the Cabinet Office having many issues bringing motions and legislation forward.

Could Members of Council have a role in providing non-executive advice and support for Departments and Members? I think so. How this could be defined is a question best answered as part of the review of the scrutiny function and departmental membership under recommendations 5 and 6.

As Mr Cregeen said, this is not about individuals, it is not about personalities. The question we have to answer is, should Members of Legislative Council be allowed an executive role in Government whilst they have absolutely no public mandate to do that? Are we a democracy, or not? I have heard a lot of positive talk about the good work that our current MLCs have been doing in Departments – and that is something I am quite happy to concur with. And then, off that, people argue that they should be retained in Departments. But this argument misses the point entirely.

Should Members of Tynwald, then, only be appointed to Departments when their peers’ assessment of their ability merits it, irrespective of whether or not they have a public mandate to govern? Surely it is the electorate that determines where the democratic mandate lies, and whilst Ministers have to have the ability to appoint Members that they believe will add value, surely they must have regard to the democratic right of the people to choose their Government?

Aside from this, having MLCs sit entirely outside Government would provide some much-needed independence in this Hon. Court. There could be absolutely no perception that they were not independent in their scrutiny role, whereas currently there is a very strong public perception that every Member being part of Government means there is no true independent scrutiny or challenge – except of course the Hon Member for Douglas East, and I feel that is quite a lot of responsibility to put on his shoulders. We need a clear separation between the

2245 executive and scrutiny functions to show that we are not afraid to open ourselves up to independent, open and transparent scrutiny.

The second key difference between these two amendments is the recommendation for a pay review. I believe at a time when we are asking every other part of Government to play their part to review pay in every other area – in fact there is a motion down later on in this session to do exactly that – it is only right that we ask the same of ourselves. And we have to be willing to accept the outcome, whatever it is. I do not believe Tynwald Members should have any say at all in setting our own pay; ideally it should be set by a truly independent non-political body over which Tynwald has no influence.

2255 This independent pay review is the first step towards something like that so why not approve that? We can set the scope of that review further down the line, but at this stage we should most certainly approve that we definitely want this review to happen and it should include Members of both Chambers.

Talking about departmental Members, which is the other slight difference here –

2260 **The President:** Hon. Member, you have once or twice made reference to there being two amendments. There is only one amendment that has been proposed and seconded.

Are you seconding Mr Cannan's amendment –

2265 **Mr Hooper:** I will be seconding this, Mr President, yes. I will be.

The President: Well, before you talk about it –

Mr Hooper: Hon. Members, I would be happy to second Mr Cannan's motion.

2270 **The President:** Right, thank you. Carry on.

Mr Hooper: So in respect of departmental Members, I actually still remain of the view that less is more here, and I agree with Lord Lisvane's recommendation that Members should only have a departmental role if they have significant responsibilities. To my mind the accepted norm should be one or two Members in a Department and only more if it could truly be justified – and there are Departments where that is the case.

2275 Talking then, specifically, about the issues that I have with Mr Speaker's amendment – and it is safe to say that a great deal of work has gone into this. This amendment directly removes the vote from the Bishop and whilst I think on balance I am supportive of that, I think we need to be very careful of any possible unintended consequences and we need to have a very good idea of what those consequences might be. The Bishop has a very important role for a lot of people on the Island, and I would be hesitant to be making a decision like this without a full picture. I think Mr Cannan's suggestion to refer that to a committee for a fuller investigation makes a lot of sense.

2285 The second aspect, which I have already touched on, is the review of pay. Mr Speaker's amendment talks about reviewing MLCs' pay but completely ignores Members of the House of Keys. This appears to be another instance of Members of the House of Keys asking other people to place themselves in the line of fire, and yet we are not willing to do the same thing ourselves.

2290 Recommendations 5 and 6 will both have an impact on the role of Members of the House of Keys and so we should be having a fully independent look at MHK pay. How can you justify making changes to both roles in this Hon. Court but only looking at the way one half is paid? Surely this, to me, is more about reallocation of existing funds. It is not about saying we need more, or less, it is about saying we have a budget which really we need to try and save some money from, how can we better allocate that to reflect the varied responsibilities of Members of this Court? And I think when the review is scoped out that is what I would like to see happen – a commitment that actually our budgets for this should not go up at all. At the very least, Hon.

Members, we need to accept that we *need* this independent review to then set the right scope and not simply be ignoring MHKs' pay, as Mr Speaker is proposing to do because it is an uncomfortable subject.

2300 The crucial point for me, however, is the inconsistencies regarding the role of Members of Legislative Council that I find in this amendment. Mr Speaker proposes to remove them from a ministerial role, but to allow them to continue to play a role as Department Members, whilst at the same time proposing that Members of Legislative Council cannot vote on the Budget, cannot vote on financial or appropriation matters and cannot vote on the Chief Minister. But they are
2305 allowed to vote on the Programme for Government, they are allowed to drive and develop policies within Departments that will have financial impacts, but then they are not allowed to have a say on what those financial impacts might be.

So this amendment that is proposed, completely contradicts itself. How can a Member have a vote on a policy in a Department, can have direct executive oversight of a departmental
2310 function, but then not have any say at all in that matter when it comes before this Hon. Court for a vote on finance? How can a Member work in a Government where they have had absolutely no opportunity to vote for the Chief Minister of that Government?

I think, Hon. Members, we need to be consistent here: either we believe Members of Legislative Council have an executive role to play, or we believe that they have a scrutiny and non-executive function. We need to make that decision and go down one route or the other.
2315 You cannot have this half-way house where we are saying in some instances it is acceptable for unelected Members to play an executive policy-making role, but in some instances it is not. It makes absolutely no sense and I really do not understand the logic behind that part of the motion at all.

2320 Hon. Members, I think I can sum up by saying that if you believe we need to be addressing the issues of perception of the old boys' club, the issue of democratically exercised executive power, of a fair and independent review of all Members' pay – not just some – and of dealing with the Bishop's vote in a sensitive manner, then I would urge you to support Mr Cannan's motion.

2325 Thank you.

The President: Hon. Member for Ayre and Michael, Mr Baker.

Mr Baker: Thank you, Mr President.

2330 I rise today to build on the motion put forward by the Hon. Member for Ayre, Mr Cannan. My amendment, which will be circulated shortly, is broadly similar to the principles that have been articulated earlier and seconded by the Hon. Member for Ramsey, Mr Hooper; however, with some differences on the detailed way forward, which I will talk to in a moment.

2335 My amendment also takes the same approach to implementing the motion as Mr Cannan's did and as he talked to prior to the lunch break. My perspective is that this is an internal parliamentary matter and I stand by my statement that far more important issues face us. However, this *is* an important issue and we need to get it right. It was abundantly clear at election time that there was a strong degree of public dissatisfaction with Government and politicians. It is fair to say, in my opinion, that some good progress has been made to date and I
2340 would expect that a public survey now would make better reading. However, we need to ensure that this is sustained and it is not just something that is in the gift of the new administration, but that it is embedded for the long term.

2345 There is an expectation of change and progress, but it is fundamentally about delivering the outcomes for people's lives that are at the centre of the Programme for Government and I think are what really speak to the public of the Isle of Man. If we let this debate on this issue of parliamentary reform undermine progress or deflect attention from other issues or lead to disunity within this Hon. Court, then we are letting the people of the Isle of Man down. Equally if

we fail to take action, we are letting the people of the Isle of Man down. We need to determine our course of action and start to implement it.

2350 Lord Lisvane clearly states in his Report that his is a menu of recommendations, not a package deal. These are largely stand-alone, albeit there are links between some of them. Some of the actions already implemented by this new administration have effectively already responded to the principles underlying several of his recommendations, so arguably some of them have been overtaken by the passage of time. I do not believe that simply noting the
2355 recommendations and leaving it to a future date moves us any further forward. (**A Member:** Hear, hear.)

I am concerned that referring everything to a separate committee – or a large proportion of it – would simply delay the inevitable debate for a few months and lead to further debate, discussion and division, which I think we can ill afford with the issues that face us. So I am
2360 looking to take the same approach as the Hon. Member for Ayre and Michael, Mr Cannan, has done in terms of bringing a package here. However, it is slightly different. My amendment is based on the principle that MLCs do add value but their role is different from MHKs. Clear separation is required in what they can and cannot do.

I am comfortable with them being nominated and elected by the House of Keys but I do
2365 believe we need a more reflective mix and one which the public can relate to. I do not believe there is a need for a nominations commission controlling the recruitment process of MLCs, albeit they could be a feed into nominations being put forward into a process not dissimilar to the one which worked so well for our recent successful vacancy for the Council.

I believe that MLC experience can be very valuable in Departments; however, they need to
2370 have a different role, which I will come to in a moment. Equally I believe that experience as an MHK can be valuable in doing an MLC role. However, there is a clear conflict in the perceived revolving door and the process of moving from one to the other.

The two fundamental areas that I differ from Mr Cannan on are recommendation 1. I do not believe at this point in time we should be approving that recommendation (**A Member:**
2375 Absolutely.) and I believe that a committee can add real value to that issue and come up with a coherent package of recommendations which can be implemented in good time. And in recommendation 2, specifically 2b, I believe we would be doing a disservice to lose the expertise, experience, contacts and the wider perspective that MLCs can bring to the Departments. My motion gives them a clear role which retains that within Departments, but
2380 makes a distinction between the executive role of MHKs and a non-executive role for MLCs.

The remainder of my amendment is in line with Mr Cannan's. I believe that the committee can deal with the sensitive issue of the Bishop's role. A Programme for Government I believe is absolutely essential to a well-functioning administration and has already effectively been adopted by the approach of this administration.

2385 In terms of recommendation 5, I do not believe that restricting departmental Members to just one per Department is the right solution. I think we should have the flexibility to structure the right solution for each Department dependent on the challenges faced by that Department and how the Minister sees it. I also believe, as someone who sits in multiple Departments, that actually operating across Departments adds value and promotes joined-up government. That
2390 would be something that we would lose if we were restricted to one Member per Department. My belief is we should be doing whatever delivers the best outcomes for the Isle of Man and not restricted by dogmatic rules of one Member per Department. We need to be mindful that if we under-resource in this area, we simply shift more burden and more influence and more reliance on to the role of our officers.

2395 In terms of recommendation 6, we clearly need an effective scrutiny regime that helps ensure the best outcomes. But we need to ensure that it is not constantly negative, that it does not further slow down the working of Government or create an enemy within. This needs careful thought to craft a good proposal and the committee is the right way forward in terms of that issue. As indeed in terms of the legislative process if there are better ways, as Lord Lisvane

2400 alludes to, let's embrace them, but it needs that careful consideration to come forward with a coherent package.

In terms of recommendation 8, the Code of Conduct: absolutely, in principle, we should in my view be signing up to an effective code of conduct. That is going to come in front of this Hon. Court later today, so there is little for me to add to that at this point.

2405 And in terms of the final three recommendations: diversity. In my view we must ensure that Tynwald has the right mix in order that it can do what it does to the full and has public support. We need a parliament of the people, for the people of the Isle of Man for the 21st century – one where all sorts of people feel it is their Tynwald and therefore they are comfortable in being part of it.

2410 Recommendation 10, Pay and Allowances – this is always an emotive subject. As with any organisation we should be paying the right price for the right job to ensure we get the right people to do the roles. But to start with we need to be clear on what the job roles are. It needs a period of assessment with definition and review. This needs to follow from these other changes rather than leading them and it is very much a secondary issue. We must not over-emphasise
2415 this – this is about making things right as we conclude the package of measures. But clearly we do need to address both the role and the remuneration aspects of the MLC role before we next recruit in 2018.

And finally, training. This in my opinion is a professional role and any good employer invests in its people to ensure they do the best job. Learning is lifelong. This is a unique role and needs
2420 proper training and development. However, it is not just about induction, training courses or CPA conferences, it is about a proper, professional development programme which focuses on making every Tynwald Member the best they can be at the role, so that the Isle of Man public gets the best that they can from their elected Members and from those indirectly elected in the Legislative Council.

2425 So to conclude, the key difference between my amendment and Mr Cannan's is in terms of recommendation 1, where I propose that we refer the matter to a committee rather than rushing to approve it right now. In particular we do not move to the situation of approving a nominations commission, where I agree with the Hon. Member for Arbory, Castletown and Malew, Mr Cregeen, we are in danger of replacing one perceived old boys' club with a new one.

2430 I believe that MHKs should be in touch with their constituencies and the people therein, and should be the first point of contact to identify who can come forward and potentially step into the valuable role of being a Member of the Legislative Council. I do not rule out a form of a nominations commission to add to that pool of people, but I certainly do not feel comfortable in endorsing it today and committing that that is the only way to get future Members of Legislative
2435 Council.

My amendment to 2b, which is fundamental, I believe offers common ground between the two extreme positions. There is one school of thought that says MLCs should not be in Departments. That is the view that is reflected in Mr Cannan's amendment. There are others who believe that running a Department is essential to make the full use of the expertise,
2440 knowledge and contacts of the whole of the Members of this Hon. Court.

My amendment here I believe offers an opportunity to reconcile those two extreme positions. It enables us to retain the experience and the added value that MLCs can bring, particularly in the legislative process and getting legislation through Legislative Council and ultimately through Tynwald; and they bring experience.

2445 The concept of the non-executive role is one which is well proven in business. It allows external expertise and external perspective slightly removed from the day-to-day operation of the executive, but passing on real value; and I believe that Members of Legislative Council can play that role within Departments and add real value, but in a way that is different from what the directly elected Members of the House of Keys are doing.

2450 So in conclusion, I believe my amendment is a pragmatic response to the challenges we face that builds on what Mr Cannan has brought forward slightly earlier. And I hope that Hon. Members can support it.

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

To leave out all the words after 'contained therein' and to insert the words ' ; a) approves in principle recommendation 2 (except that Tynwald is of the opinion that Members of Legislative Council should not be Ministers but may be members of Departments in a non-executive capacity), and approves in principle recommendations 4, 9, 10 and 11, and b) refers recommendations 1, 3, 5, 6 and 7 to a Select Committee of five members, chaired by the Speaker, made up of one member of the Council of Ministers, one member of the Legislative Council and two members of the House of Keys, to report to the October 2017 sitting of Tynwald'.

The President: Hon. Member for Garff, Mr Perkins.

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Mr Perkins: Thank you, Mr President.

It gives me great pleasure to second this amendment because I believe it breaks down the logjam that we have got. Lisvane is a very important thing, we are being watched very carefully from outside, and I am sure we are all aware that we have made progress regarding the elections of the MLCs and we have been working towards it.

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I believe that the Hon. Member, Mr Baker, has put forward a good proposal because it completely encapsulates the things I feel that we agree on; and the stuff that we do not quite agree on it puts out to committee with a timescale that I believe will actually come to fruition. It gives us a better chance to look at the smaller parts of it that make up the whole. The other Hon. Member for Ayre, Mr Cannan, is quite right in that some of this stuff is very much inter-related, but I believe Mr Baker has separated out the items that we can go forward with, and the other items I believe should go to committee.

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So it gives me great pleasure to second the amendment.

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The President: Hon. Member for Douglas North, Mr Ashford.

Mr Ashford: Thank you, Mr President.

I will start by going through each of the recommendations and my views on them, and then refer to the amendments. Firstly, in relation to recommendation 1, Mr President, I think I have been very much on record over quite a number of the years now in relation to my views of elections of Members of Legislative Council. I have always personally believed in some form of public election for Legislative Council and I can safely say that view has not changed. But one thing I would say in relation to what Lord Lisvane has recommended is: if you can get one thing worse than the current system, it is this. (**Two Members:** Hear, hear.)

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A nominations commission, Mr President, sounds like what is being proposed is something similar to what the UK has around the appointments to the House of Lords – to the Lords' appointments. To my mind it does not work. To my mind, as the previous speaker has mentioned, you would have a nominations commission dictating to elected Members who they should be actually voting for in the end. I do not agree with a nominations commission in any way, shape or form; as far as I am concerned it is just another quango we would be setting up. And to use the old phrase that is sometimes used about committees in the UK, who would nominate the nominations commission? Where would that nomination come from? So I think if one thing could actually make the system worse than it is now, it would be that. So I most certainly do not support that.

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I do, however, support the fact that no sitting MHK should be eligible for nomination. Whatever people's personal views, I think in the past there has been a public perception out

there that it is a retirement club for former MHKs – we have all heard those jokes bandied around. I think one of the ways of stopping that is to have sitting MHKs actually being able to stand. If an MHK does have a real passion and wants to become an MLC, then they should take the risk and resign their seat prior to being nominated. I am actually fully supportive of that.

The fact that there is no proposer or seconder required, well as I say, I personally believe in a public election, but if that cannot happen and we have to keep the current system I think there should still be a proposer and a seconder because I certainly would not want a nominations commission.

The vote to be open? Well, we have already done that with our change in rules, Mr President. And I certainly do not agree with Lord Lisvane's suggestion that candidates fill the available places in order of the votes they secure in a single round of voting. If that were to happen you could have people voted into Legislative Council with very few votes indeed, depending on how the vote is split. So I certainly do not recommend that.

In relation to recommendation 2, the Role of Legislative Council, I fully agree with part a. that MLCs should not vote on measures which are exclusively on taxation or appropriation. I also do not believe that MLCs should be Members of Departments and it says that, only exceptionally, should they be Ministers. I do not believe there should even be an 'exceptionally' there. That is not to try and disparage the MLCs, I think we have very good MLCs and I think they work very hard in the roles that they do. I know, certainly from when I was outside of this Hon. Court, I saw some of the work that MLCs did in Departments and I have certainly seen it since I have been inside this Hon. Court, and I think it has been valuable work.

But I think what we actually need to do is set up a proper scrutiny body. I believe the Legislative Council is there for scrutiny. It is their role in a 21st century, modern parliament. What we should be doing is ensuring that we beef up the scrutiny role and give MLCs a valuable contribution in that way, not in being part of Government as Members of Departments.

I think, if anything, that is one of the failings of Lord Lisvane – which I will move onto in another recommendation when I speak in a few moments about that – in that he kept mentioning about the change in scrutiny, but he never seemed to propose how he was going to beef up the MLCs' role in that regard. When we move on I will point out something where I think he missed quite a big trick.

In relation to recommendation 3, the Bishop, personally I believe the Bishop should remain as an MLC. I believe he should remain in Legislative Council. We do have an established Church, whether people like it or not, and I think the Bishop does have a role in speaking and representing all faith groups. I do not believe, however, that the Bishop should retain his vote. I do not believe there is a role for that. The learned Attorney sits with us in this Hon. Court. He can speak, but he does not vote. I believe that has worked well with the learned Attorney; I believe it would work well with the Bishop as well.

In terms of the quorum, I do not mind either way, but as to whether or not he should be allowed to abstain, obviously, personally, I do not believe he should have a vote in the first place, so that would remove the abstention issue.

In relation to recommendation 4, Mr President, I do not think I can add anything to the previous speakers. It is a recommendation that this Government, effectively, has already implemented; it has brought forward a Programme for Government. The only bit that has been missing, really, which the Hon. Member for Ayre and Michael, Mr Cannan, referred to, was the public consultation, and that is something I think would be important if we are going to institute Programmes for Government in future, particularly because now we know the timeframes we can work to we can have that established ahead of time.

In relation to recommendation 5 and there being no more than one Department Member per Department, I do not actually agree with that, Mr President, because I think some of the bigger Departments could struggle, such as Treasury, DoI, DED and DHSC. However, I do believe that there should be a maximum limit of two departmental Members within any Department. So, I would not leave it at one, because I think that leaves the bigger Departments exposed, but I

2545 would actually have a limit of two and, in fact, ironically, of course, Mr President, I am speaking, as far as I am aware, as the only person in this Hon. Court who is actually a Member of a Department that does have only one departmental Member, the Cabinet Office, which has me as the departmental Member, the other two being Ministers. I do think there has to be a slightly upper limit than that, but I would put a maximum on two.

2550 There have been occasions in the past where, with the number of Department Members, when you add it up and it actually gives them, along with the Council of Ministers' vote, a block vote in Keys, where in theory a Department vote cannot fail unless a Member of the Department is willing to resign over it. I think that is something that we do need to look at, and I do not believe that any Department should have a block vote within the House. Obviously it is slightly different in this Hon. Court where LegCo would be able to outvote them.

2555 In relation to recommendation 6 on scrutiny, Mr President, this is where I think that Lord Lisvane missed a trick. In relation to part b. of this, where it says:

That the Chairmen of the four principal committees be elected immediately after the Chief Minister;

2560 Well, I have heard what the Chief Minister has said in public about this and I quite agree with him. His worry would be that, if it is done immediately after the Chief Minister's election, then those chairmen could effectively be people he might want to be considering appointing as Ministers, and it is important that we get the best ministerial team possible.

2565 I think where Lord Lisvane missed a trick is that he says that he wants to beef up scrutiny; that he believes Legislative Council has an important part to play in scrutiny, so why is it missing from the Report, something which I would favour, that the chairmen of the committees should be appointed from the MLCs? (**A Member:** Hear, hear.) And that then the remaining MLCs should each be appointed to one of the Scrutiny Committees. That way, it guarantees a full scrutiny role for MLCs which, in a 21st century parliament which we are trying to create, I think is very important.

In relation to recommendation 6c. as well:

That the Chairmen of the four principal committees be paid at the same level as Ministers;

2570 I do not quite agree with that either, Mr President, in the fact that I think there is a distinction, even with a beefed up scrutiny role, in terms of what the chairmen of the committees would be doing and what Ministers have to do and the decisions they have to make in their roles.

2575 I personally would, on that recommendation, favour the chairmen being paid at the same rate as Statutory Board Chairmen, so they get more than a Department Member, but they actually receive the 10% uplift that is given to Statutory Board Chairmen, so they are paid at that level.

Other than that, I have not got much of a disagreement with Lord Lisvane in terms of scrutiny and certainly in the case of recommendation 7, legislation, I actually agree with him about the new draft Bill procedure.

2580 In relation to recommendation 8, code of conduct, again I do not think there is much I can say about this, Mr President, because we have got an Item on the agenda after this in relation to this, which I fully support and was a member of that Committee that is bringing it forward.

Recommendation 9, diversity, having re-read Lord Lisvane's Report over and over again and the recommendation:

That Tynwald address with energy the need to make its membership more diverse.

2585 But he does not seem to suggest what Tynwald should do... It is one of those recommendations he just throws up in the air and leaves there, leaves it to hang and people to decide. I do not think any of us can argue with the statement. We all want as diverse a parliament as possible, but how do you achieve that? Do you go down the route of all-women shortlists, which I

personally would not support? Do you go down the list of all-men shortlists in certain things, which I equally would not support?

2590 I think, in this regard, while I have no objection to the recommendation, I am not quite sure what Lord Lisvane, in the Report, is getting at. I think where he is coming from is, of course, this Report was commissioned and first came out in the previous Tynwald, before the election. You look round now at this current setup of this Hon. Court, Mr President, it is very much more diverse than it was prior to the election. In fact, actually, it is probably the most diverse Tynwald
2595 has ever been, so I think it was a moment for its time there but I would worry about trying to come up with systems where you are maybe trying to dictate to the electorate who they should select.

I have always been a firm believer in the sacrosanctity of the electorate, that at the end of the day the electorate is God and they should be able to vote in who they believe best
2600 represents them. If they decide that be all women, fine. If they believe that all be men, that is fine, but I do not think you should be trying to come up with systems to dictate to the electorate who they actually should have representing them.

If that is what Lord Lisvane is suggesting, I would be very much opposed to it and, in fact, I always tend to find ... I notice he steered away from actually mentioning the words, 'positive
2605 discrimination' because, from my experience, Mr President, it is just discrimination with the word 'positive' added to the front to make it sound a bit better. I am very glad that he has steered away from actually using that term.

In relation to recommendation 10, Members' pay and allowances, I am fully supportive of an independent review, but I would actually go one stage further and say that it should be a
2610 permanent independent pay review body that meets once a year to decide, so that, like in other jurisdictions, the pay body actually considers it. I think it was the Hon. Member for Ayre and Michael, Mr Cannan, again, who referred to the fact that should we really be linked to a civil service grade, particularly when obviously Members are involved on the Government side with pay negotiations and so on as well?

2615 I personally would like a fully independent pay review body. Of course, there is the old UK principle which could end up applying, where if they recommend a decrease then it is felt that we should automatically accept a decrease; if it recommends an increase then you just ignore it and hope it will go away. I think there is that risk but I certainly think that an independent review should take place.

2620 In relation to training, recommendation 11, I think it goes without saying, Mr President, that we would all welcome and support that.

In relation to the amendments now, taking first the Hon. Member for Ayre and Michael, Mr Cannan's, unfortunately I will not be able to support that because in part a. ... And this is one of the problems, because it is a package and the problem with packages are they are all neatly
2625 wrapped up and you normally either take it or leave it. In relation to part a. as I have already said, in recommendation 1, I have always believed in a publicly elected LegCo and I certainly do not agree with a nominations commission, yet part a. says to approve that, so I could not accept that. Also in recommendation 2, where it says, 'only exceptionally be Ministers' for MLCs, I do not agree with that. So, as a package, unfortunately, I cannot support Mr Cannan's amendment.

2630 In relation to Mr Baker's, I can see exactly where Mr Baker is coming from. He has tried to clear up some of the items in Mr Cannan's amendment but, again, I cannot support it because it has got approval in principle of recommendation 2, but what does the 'in principle' bit of it mean, Mr President? Is that not kicking those recommendations, where it refers to 'in principle', into the long grass because we are not actually making a decision on them. We are not making
2635 any positive way forward. We are not saying that it is going to go to the committee. We are just saying we approve it in principle. So, I think that is a good way for those recommendations to actually disappear. So, unfortunately, I will not be supporting Mr Baker's either.

In relation to Mr Speaker's amendment, although obviously there are parts of it that I personally do not agree with, such as MLCs being Ministers still in exceptional circumstances, I

2640 will actually be supporting Mr Speaker's amendment because, for me, there is one crucial thing
and that is, whether Tynwald approves particular recommendations or if they ask to consider
and examine, all of it is going before the committee, so there will be a chance for firm
recommendations to come back to this Hon. Court to be debated and either voted for or against
2645 in relation to all of the recommendations. So, it is not coming as a package like the previous
amendments. There will be further opportunities.

So, I will certainly be supporting Mr Speaker's amendment and I would urge other Hon.
Members to do so as well.

The President: Hon. Member for Onchan, Mr Callister.

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Mr Callister: Thank you, Mr President.

I did not realise I was going to talk so soon after the Douglas North Member but, to be
honest, I actually echo everything that he says. So I will not repeat much of what he said,
because I sat there and listened to my hon. colleague from Douglas North and I actually agree a
2655 lot of his sentiment.

Just running through the same again, a similar sort of path, recommendation 1: I cannot,
under any circumstances, at this moment in time, agree an independent monitoring
commission. I feel we do have this new voting system. We have to give it time to actually see if it
works and, if need be, make those changes. I really just feel, if we go down the nomination
2660 commission, it has a ring of the old boys' club to it and I do not think we are going to get the
calibre of candidates we really, genuinely need from a cross-section of our community.

If we go through recommendation 1, I personally do not agree that sitting MHKs cannot be
eligible to be nominated up to a MLC, to the Upper House, because I genuinely think, now that I
have been in here six months and I have actually looked at the work undertaken by my
2665 colleagues from MLCs, I think they have done a fantastic job. I have seen it first-hand in Scrutiny
Committees and I have seen it in Departments, so I have actually witnessed that and, from an
outside point of view, when I was first elected in September, I did not really have a grasp of that.
So I do understand the hard work they do, but I have also realised that I think some of the
contributions can be made from MHKs being elevated up to the Upper House. So, I cannot
2670 support that; most of recommendation 1, I just cannot support. We already have the electorate
system and voting system there where it requires a proposer, a seconder, two nominators, so to
me it is worth just exploring a little longer before we start changing that system.

Recommendation 2, I have to support because it is something I put in my manifesto. I
actually, genuinely believe that, despite the hard work that MLCs do in Departments, I think
2675 going forward as future MLCs there needs to be a clear clarity and divide between the role of an
MLC in the future and the role of the elected House here in the House of Keys, and I feel that the
roles do need to be separated and, at the moment, I totally agree that I think there is very little
separation between the role of an MLC and an MHK and I would like to see that changed over
time. As I say, maybe the scrutiny is the way. So, recommendation 2, for me, I have to support
2680 that one.

Recommendation 3, yes, I totally support that the Bishop should play his role as an MLC in
the future, but I do remain on the fence with regard to the Bishop having a vote going forward,
but again that is something I may just pick up on in a minute when I look at the amendments.

Programme for Government, yes, I think hats off to the CoMin. I think they have done a
2685 fantastic job to actually get the Programme for Government done so quickly. I do have some
concerns if we suddenly ask the public for their insight on that. So, I do have some concerns if
we go out to the public and we cannot start the work of the Programme for Government sooner
rather than later, so I do have some concerns over that.

Department Members: again, I think it comes down to, yes, I can handle just one Department
2690 Member if required, but I think a lot of that comes down to the Minister and how much support
that Minister may or may not require. But I can certainly see two or three Departments that

would require more than one Member, so I am not totally convinced that restricting it down to one Member is absolutely right either.

2695 With regard to scrutiny, again, like my colleague from Douglas North, I certainly do not believe that the chairmen of the four principal committees should receive the same remuneration as a Minister and, as a Chairman of one of those Committees, I do not look for any additional costs or any remuneration. I just feel it is part of my role as being elected and I consider it to be a great honour to actually be a Chairman of one of those Committees. So, to me, if anything, yes, I agree with my colleague from Douglas North that maybe it should be an uplift of 10%. So, again, on that one I am struggling.

2700 Legislation, we have already looked at.

Code of Conduct: yes, I think we all should sign up to a code of conduct in order to ensure that we are actually doing the best job we can and we are applying a general set of rules to the work that we do.

2705 In regard to pay and allowances, yes, again, as my colleague from Douglas North said, I totally agree that we should have that review and whatever the review is we stand by it. As I say, if it is an increase then we will have to justify that, but if it is a decrease then we accept that at the same time.

2710 I fully agree with regard to recommendation 11, training. As someone who has come from a regulatory background, I am so used to doing CPD anyway, so, to me, the more training that we can get as political Members, then I certainly do not have a problem with that.

Just looking now at the amendments: if we take Mr Cannan's, from Ayre and Michael, again I cannot support recommendation 1 as it currently stands. I do not believe there should be a nomination committee. For that reason, I am not going to support that recommendation.

2715 Yes, again, Mr Baker from Ayre and Michael, I can see where he is coming from, exactly the same as my hon. colleague from Douglas North, but again it just does not quite tick the boxes where I feel I am sitting at this moment in time.

2720 With regard to the Speaker's, the Hon. Member from Rushen, again it is not perfect but I feel it is a step in the right direction. Although there are a couple of things on this that I do not agree with and I am hoping that maybe when we get a chance later on we will be able to break down the vote a little bit, because at this present moment in time I do not agree that MLCs should be Ministers. And with regard to MLCs being in Departments, I am not 100% convinced that they should be there either.

2725 With regard to the Bishop, as I have said previously, yes, I think the Bishop should stay as part of the Legislative Council. Should he retain his vote? To be honest, I do not actually have a strong opinion either way, and that is probably one thing I would like a committee to look at and to bring back some evidence for and against that particular argument.

2730 With regard to the Programme for Government, as I say, I think the Government has done a sterling job to actually get their Programme for Government out as quickly as it did. It gives clear clarity, it gives guidance, and it gives a future direction. But I do not agree that we should take the public's view. As I say, we have listened with regard to this one. We came in in September. We had already listened to what our electorate had said three or four months before. We knew a steer and when we came in we all had an input into the direction of where we wanted this Government to go over the next five years. So, I think to go back to the public straight after election, I do not 100% agree with that.

2735 As I say, the rest I actually fully support, so based on that, Mr President, I will be supporting the Speaker's amendment.

Thank you.

2740 **The President:** Hon. Member for Middle, Mr Shimmin.

Mr Shimmins: Thank you, Mr President.

Lord Lisvane talked about a *smorgasbord*. I really like *smorgasbord*! Tasty things! This is actually less enjoyable. (*Laughter*) It feels a wee bit like Milk Tray and you do not have the sheet telling you where the Turkish Delight is. (*Laughter*) So, it is definitely taxing me.

I would just like to share my views on a number of the key points. I will not go over every single recommendation but some of the ones which I would just like to share my views with you.

Point number 1: broadly I, kind of, agree with that, but I do have an issue with the nominations commission. The comment that Mr Ashford made really resonated with me in terms of who nominates the nominations commission? It feels a bit kind of 'cronyistic', so I have got some challenges there. The rest of point one, I am, kind of, supportive.

Two, the scrutiny: I think that is absolutely essential that we look at that and I would just like to talk about the importance of scrutiny for me. Over the last nine months, since I have been here, I have come across a number of conflicts of interest and sometimes people shrug their shoulders about that and they say, 'Well, it is the Isle of Man. We live on the Isle Man,' and the suggestion is that because we live on a small Island we should not have normal separations in terms of conflict of interest.

I disagree with that, and I absolutely agree with Lord Lisvane when he talks about patronage. So, that is why I think it is very important that the roles are separated and that is why I am in favour of the Members of the Legislative Council not being in Departments but being in a very important scrutiny role.

In terms of the third recommendation, I would just like to touch on the Bishop a bit, because a number of people have said this is a sensitive issue, and it is – clearly it is a sensitive issue, but that does not mean we should not talk about it. It is important.

Members might recall that, when Lord Lisvane visited us at the end of last month, I took the opportunity to ask him about his recommendation regarding the Bishop and he freely admitted that this is an area that he was relatively undecided, but he felt it should be considered by Tynwald and it was important that it be considered.

In many ways the Bishop is part of the historical tradition of Tynwald, of which we are very proud: the Lord of Mann, the Governor, the Tynwald Barons. I had a look at the Tynwald website last night and there is a fascinating account of the Tynwald ceremony in 1691. I would commend it to you all as a great read before we go next month to Tynwald Hill as it describes how, at that time, the 9th Earl of Derby, the Lord of Mann, went from Castle Rushen with the Governor, the Lord's Council, the Deemster, the Bishop, the Secretary, the Clerk of the Rolls and 24 Keys to the Tynwald Ceremony, which is remarkably similar to the one which still takes place each July. Now, Hon. Members, in the intervening 326 years, the Isle of Man has seen a number of changes, including the introduction of parliamentary democracy. One by one the Tynwald Barons have lost their influence.

Retaining the vote for the unelected Bishop is a throwback to those less enlightened times. It sits uncomfortably with many people on the Island, not because of religious or any other views, but for many it flies in the face of modern democratic values. It is an anachronism from previous years. That is why I believe that the Bishop should remain a Member of the Legislative Council but no longer have a vote. The Bishop would have a similar position to the Attorney General, who provides legal advice and wise counsel. The Bishop would also provide wise counsel and pastoral advice.

I must stress that I have great respect for the church and all the clergy on the Island who provide highly valued support to our community, but, simply put, in 2017 it is wrong that the unelected Bishop votes on the laws of our land.

I will now move on to section number 5 about departmental Members. Now, I have listened to some of the debates on this and my views are, I guess, again, akin to Mr Ashford's in terms of more than one potentially in some of the larger Departments but not many more than one. It feels perhaps two would be a sensible amount.

One of the reasons for that is I hear some of the pros and cons. There are pros and cons in every system, and some of the pros that are put forward for having multiple people in multiple

2795 Departments is that it breaks down silos. I guess I can understand that from a relationship-
building perspective, but I am not sure I really see that or have seen that to a great deal actually
in practice. One of the concerns I have, Hon. Members, about the multiple Department
Members that we have is the multiple hats that people wear, so there are people who are
constituency MHKs, they are in two Departments, they might be on a board as well, they are on
2800 a number of committees. I think, potentially, they may be too thinly spread. I would rather
people focus on one or two very important jobs but do them really well because it is *really*
important that we do stuff well and we are not running around perhaps too thinly spread. So
those are my views on point five.

In terms of point number 9 and the diversity view, again, of course we want more diversity
2805 but that is really a statement. There is nothing to back it up. I certainly would like to see more
action behind that. Action, I think, is something that we should all be considering at this time,
because the clock is ticking.

The next election for the Legislative Council is early next year and it is important that we
clarify what the role of the Members of the Legislative Council is before, I believe, the end of the
2810 year, when people will be considering whether to stand. (**A Member:** Hear, hear.) It is simply
unfair to ask someone to commit to a long-term role without being able to explain what that
role really entails. (**A Member:** Hear, hear.) So, defining it is very important and I believe that
should be a key priority and we need to do that quickly.

Overall, Members, I would just like to perhaps take you back to earlier this year when many
2815 Members visited schools to engage with pupils on the story of the struggle for Manx democracy.
The Speaker arranged for special stamps and coins and we held a special sitting in the Old House
of Keys in Castletown. It is good that we commemorate the past, but we must also look forward
and keep pace with the time in which we live. In the year that we have celebrated the
150th anniversary of the first popular elections to the House of Keys, it feels entirely appropriate
2820 that, as part of the ongoing evolution of our democracy, for me, that the Bishop should no
longer vote in Tynwald and that the Members of the Legislative Council should no longer sit
directly in Government Departments.

So, Members, if I turn to the amendments, I will not be voting for Mr Baker's amendment.
For me, it is a, kind of, half-way house. It neither does one thing nor the other. I am undecided at
2825 this point – but clearly I will be making decisions – between Mr Cannan's and the Speaker's
amendments, but I am looking forward to hearing other people's views.

Thank you.

The President: Hon. Member for Douglas South, Mrs Beecroft.

2830 **The Minister for Health and Social Care (Mrs Beecroft):** Thank you, Mr President.

I do not intend to go through each and every recommendation. I think it is going to get boring
and repetitive because there are some that we can quite clearly all agree on. But if I can just
explain where I am coming from when I make my decision about which way I vote.

2835 Looking about, we are coming towards the end of the first parliamentary year of this
administration. It is less than a year ago since we were all out knocking on doors fighting in the
general election and I think at that time the people spoke, they wanted reform – they wanted
change. They did not say they wanted reform; 'We want change', they voted for change at the
last general election. I think we have a duty to make sure that they get the change that they
2840 have asked for.

We are a very different House to what we were before – very different – and we have shown
that we are actually up to the challenge of changing things, of taking reform that step further.
We have a Programme for Government now which is absolutely right. The Council of Ministers is
an enforced coalition, how else can you hold it together? How else can you be answerable to the
2845 people without the Programme for Government?

I got ridiculed in the last House for suggesting such a thing! I remember it well, I have still got the scars, and I am delighted to see that we have changed so much, we have come a long way since the last administration and we are prepared to embrace new ideas, new ways of doing things.

2850 The Chief Minister himself has watered down collective responsibility, it is less rigid then it was before. That is another very important change.

During the last administration, as well, I was thinking back, and there were various moves for reform, structural reform, such as changes to Legislative Council etc. One of them was a unicameral system and I remember voting against that and being severely criticised because it was seen that I was voting against reform. That is far from it, but when I vote for reform I want it to be the right reform.

I do value Legislative Council but I think their role needs to change; I think their role actually should be strengthened by giving them a defined role. Scrutiny, I think, is very much undervalued in our system but I think constructive scrutiny has to be valued as much as anything else, I genuinely do. And I think that should be the role of Legislative Council – to scrutinise both the legislation and how Government and backbenchers, as departmental Members, are implementing the policies that we set out and get agreement for in this place. That to me should be valued as much as being in Government, because it is so fundamentally important.

Without proper scrutiny we are going to make mistakes. We want scrutiny to stop us going forward with mistakes; that is what it is about. It is not about being horrid to people when you scrutinise, you are not being nasty; you are doing your job and that job is fundamentally important.

So, I do not think that Members of Legislative Council should be in Departments. I do think they should form a very strong scrutiny body.

2870 Like other Members, I would have supported a publicly elected Legislative Council, and that has failed on several occasions as well. But I do think if they are not going to be publicly elected, their role needs redefining and I think we have the opportunity to do that now and I think we should grasp that opportunity. As I say, we do not want a unicameral ... unless this new parliament decides it wants a unicameral system, and I have not heard anybody talking about it, so we need to redefine the roles.

I think we can go over each and every one of the recommendations today; we can send it off to committee; we can go through each and every one of the recommendations the next time it comes back and we are never going to end up with a package of stuff that every single one of us likes the whole package, that is absolutely impossible.

2880 So for me, the way I have done it today is I have focused on the two things that are of primary importance to me. One is the role of Legislative Council, and I have already alluded to that, and that is in the right place in Mr Cannan's amendment, as is the role of scrutiny, because I do think that Lord Lisvane's definitions are not what sit comfortably with me. I do not think that the chairs of the Scrutiny Committees should be appointed before the Chief Minister has had his chance to form a Government. I think the formation of the Government comes first and then the scrutiny. You have to have a Chief Minister who can choose who he wants to lead the Government going forward.

2890 So, for me, the two big ones: scrutiny and the role of Legislative Council are in the right place in Mr Cannan's amendment and that is why I am going to support it today. Because I know that we could bring this back every month until the next general election, we are never going to find a package that suits everybody.

So, as I say, for me the two big ones are in the right places in the package that is on offer in Mr Cannan's amendment, and I will be supporting that.

2895 **The President:** Hon. Member of Council, Mr Corkish.

Mr Corkish: Thank you, Mr President.

2900 Firstly, can I say that I support the principle of a review of any part of our business on the proviso that it will be beneficial to our business and indeed the Isle of Man, but I speak and will confine my remarks to just one item which has been raised by a number of Members of this Hon. Court so far, and that is in relation to the position of the Lord Bishop on the Legislative Council.

2905 The position of the Bishop having a seat in Tynwald is one of the longest of historical standing in this place. The fact that it has lasted so long, indeed centuries, is some illustration of the value of the many incumbents of the bishopric of this Island that has been brought to this Hon. Court.

2910 I believe that we have been well served by the Bishops who often bring to this place a very different and independent view and whose independent views sometimes have, I know, benefited the tone and indeed the direction of our business. Moreover, Hon. Members, the Bishop is an Isle of Man representative in other spheres and places bringing out a profile to our Island and, for some considerable time, has served Tynwald at no cost by virtue of not receiving a salary.

2915 Mr President, I make these points as a reminder to Members, but also to point out that should the right of the Lord Bishop to vote in this place be lost, there would be the very real likelihood that this Island would lose its Bishop and we would lose the Diocese of the Isle of Man in the Anglican Church. For me, such a loss would, I believe, have a diminished impact on the standing of nationhood and the status of our Island.

So for all these reasons, and there will be more, I would ask Hon. Members to consider this point of the recommendations very carefully.

Thank you, Mr President.

The President: The Hon. Member for Douglas East, Mr Robertshaw.

Mr Robertshaw: Thank you Mr President.

2925 I have found the debate so far fascinating. I will not go through all the recommendations. In the same way as other Members have, I will pick out those of particular interest and focus for me, and then I will comment at the end on the various amendments before us.

2930 Turning to recommendation 1, I too am uncomfortable with the concept of a nomination committee but I will sort of live with it on the basis that, in time, I hope that we could interpret that in a particular way. I think we have made terrific progress recently in refining and redesigning the way MLCs are elected, but I think there is still something of a gap there that could assist us further in recruiting other potential Members to LegCo who otherwise have not made themselves available and in a sense I would like to see the concept, that idea developed and perhaps run away a little bit from the concept of a nomination commission of which it has already been said, who guards the guards? I do not think we need to go there.

2935 I too do not believe that sitting MHKs should be eligible for nomination; that is a view I will not elaborate on much.

Recommendation 2, the one I want to pick out there is:

MLCs should not be members of Departments

2940 I am pretty passionate about this and I echo the view of a number of other Members who have said that we must now really define the future role of LegCo and the House of Keys. We no longer need or want 'me-too MHKs' sitting upstairs. LegCo Members, I believe, have a really important future role, but it is *not* a look-alike MHK role. I share the view, very recently expressed, about the huge importance of scrutiny and how that must be further enhanced and I will perhaps come back to that in a second or two.

2945 As far as the Bishop is concerned, I passionately believe the Bishop should stay with us. I think it is terribly important to have an ethical and moral voice expressed within this Court when we are dealing with some of the more difficult issues that we will continue to face. I think that

ethical and moral commentary is actually more important than the vote element and so I am moving towards ambivalence towards the issue of the Bishop's vote, (*Interjection*) but that he or she should be there is *very* important.

2950 Moving on the recommendation 5:

That there should be no more than one Departmental Member per Department;

I think I have said this before in another meeting, I think we have to listen carefully to what Lord Lisvane says, but he has approached it from a Westminster-centric approach and what we need to do is interpret it in terms of *our* circumstances. Having said that, I am on record as being very uncomfortable with the number of Members in some Departments and, forgive me for saying something quite strong here, but I think some Members have a tendency to get mixed up between management roles within Departments (**Mr Cretney:** Hear, hear.) and being politicians devising policy.

2955 Our role is to devise policy in here and it is for our officers to deliver the policy which we decide upon and if there is a failure in that delivery of policy that we collectively decide or there is a problem with the reporting system, and I think it is a bit of both, then it is not for us to start becoming management Members of Departments: it will never work.

But I want to touch on something else here; about not what we shouldn't be but what we *should* be, and I want to look forward a little bit, if I dare, into the future. I think there is a *terribly* exciting role for Members in here which we do not even fulfil, and that is the concept of not a Minister but a Member who is cross-departmental (**A Member:** Hear, hear.) in their responsibilities, I think that is terribly important and terribly exciting. That is where the future lies and we have not even mentioned it yet. (**A Member:** Hear, hear.)

2960 I can think of half a dozen, off the top of my head, areas where it would be very important to have a Member sitting in here who has actual responsibilities and a budget behind them to deliver on certain collective and collaborative areas of policy delivery and we, as the politicians, should decide how that budget is allocated and we have to stand behind that. And we have not touched upon it yet; we are not going there. We are still thinking in silos. Not only are we thinking in silos in Departments but we are thinking in further subdivisions where we allocate delegated responsibilities. That is so old-fashioned, it should be way out of the window.

2975 The world out there is moving on so quickly now. This issue of personalisation of service delivery is everywhere, every day. I was driving in the other day – I always talk about my driving! – and I was listening about the personalisation of thermostats in houses. The argument was thermostats have not changed for 20 or 30 years, but now the new thermostats coming in recognise the pattern of activity of the person living in the house and start adjusting the thermostat accordingly. One council that are installing this actually interviewed some people and one tenant said, 'I am saving between 25% and 50% cost of energy.' That is because it is a personalisation of a thermostat!

2985 You then go home and listen to BBC saying, 'We're about to personalise delivery of channels to individuals'. You listen to another radio programme and advertisers are on the verge of being able to address their advertising to you: 'Bill Shimmin, good morning Bill Shimmin – this is what we have got for you today.' It is all personalisation. It is understanding the individual.

At the heart of that is means testing and – forgive me for using the wrong words in the past and I wash my mouth out with soap – needs testing; it is needs *assessment* that we should be dealing with, (**A Member:** Hear, hear.) and I apologise because needs testing looks like something that bears down on somebody; needs assessment is all about building an understanding of policy delivery around an individual, personalisation of service delivery.

2990 You will *not* get personalisation of service delivery with silo delivery and delegated responsibilities. That is all vertical. What you will do is when you start to ask Members in this Hon. Court to start embracing collective responsibilities across a whole range of areas, then it

2995 really gets exciting. So let's start thinking differently. Let's start being just a little bit bolder. Let's look way beyond the idea of one departmental Member per Department.

On recommendation 6 he is talking about the scrutiny role of four standing committees. I think there is some work to do there because I was on the original Committee that set the Scrutiny Committees up and it has been progressing and it is developing well but just of late I have become concerned again about this horizontal recognition of issues where, for example, as a Member of the Environment and Infrastructure Scrutiny Review Committee, there are areas now on the periphery of that, outside of it, that I want to reach out and grab and I cannot. Therefore there is something slightly incomplete about it, so I think the challenge there is for the Scrutiny Committees to come together and decide how they are going to find their way through to looking at it in a more horizontal basis.

On the issue of sequence of appointments – I hope he is not listening! – I thought Lord Lisvane's proposal here was a bit potty! (*Laughter*) (**A Member:** Hear, hear.) I am fearful of using the word 'potty' because every time I use the word 'potty' I think of the Hon. Member for Ayre and Michael who told us, very clearly, that when we use the word 'potty', we are using double T, and that maybe DED will be after us for ... (*Laughter*)

But it was potty. *Clearly* the Chief Minister must choose the Council of Ministers first, of course, but my view is that we should then choose the chairs of the select committees straight after the Council of Ministers, not right at the end – the washed up dregs like me sort of being, 'Oh, put them in there'. Scrutiny is *far* too important for that. Let's give it the respect that is absolutely needs. I think legislation and scrutiny must go to a select committee.

I have no comment on the code of conduct because I was part of the Committee that is bringing a report to you now.

No real strong comment about diversity, but I do about Members' pay and allowances, and this scares me a bit. We have got all sorts of structures and restrictions out there and controls, and we will look so foolish if we mishandle this one today. My view is that I am comfortable at looking at pay and allowances only in the context of the restrictions that we should place on that process, which should be that we should be – and I think one or two Members have already said this so forgive the repetition – moving the allocations around somewhat within the controls and limits that we have already got. If we send the wrong signal out today, the media will pick it up – there is James smiling at me! (*Laughter*) – and the wrong message will be sent. Let's apply a continued discipline here, but let's think about how we can reallocate funds. And certainly the chairs of the review bodies should be paid something for that role, but certainly not ministerial level and I think Mr Ashford was talking about Statutory Board level and that is possibly about right.

Again, a lot of sensible comments have been made about diversity and training, I will not repeat them.

So then we get to the difficult bit. You feel like the television advert: 'I like this product, but I like this one, but I like this one better.' This is the weakness of not dealing with each element separately, (*Interjection*) and I wish we had gone there in the first place, because it would have been so straightforward. (*Laughter*) Where I am concerned is the sequence of how we deal with the amendments now at the end, Mr President.

I would like to arrive at a situation where the House of Keys was bold and said we want significant change now. We want to identify what the important future of LegCo is, in its own right, and we want to find that way forward and really none of the amendments gets us there but there is something in principle about the Hon. Member, the Treasury Minister's amendment which I find has the right spirit today, even though there are elements of it which concern me about the pay and allowances and the nomination commission, it has the right spirit. It is being bold and I think the House of Keys today should be bold.

Thank you, Mr President.

3045

The President: Hon. Members, it might be helpful if I indicate, as there are three amendments on the floor, how I intend to deal with these.

3050 The amendment in the name of Mr Speaker which was taken first seeks to in effect replace the motion on the Order Paper with a way of addressing each recommendation in a quite specific manner. Now, it is my sense – although nobody has formally moved yet as such – that each part be moved separately. (**A Member:** Hear, hear.) I think Mr Speaker referred to it.

The Speaker: I did move that right at the start.

3055 **The President:** To take each recommendation and each part of each recommendation, in other words the bits in letters as well separately. (**The Speaker:** Yes.) When that has been done, you will either have approved in total Mr Speaker's amendment, in which case that becomes the substantive motion overriding the two other amendments, because there is a clear direction, preference expressed in respect of each amendment so the amended motion will then be put to the vote ...

3060 In the event that any recommendation is defeated in whole or in part, I will then look to the two other amendments to give the Court the opportunity of how that particular amendment be treated, but I will take advice at the time from the Clerk to be absolutely sure when Mr Speaker's amendment has been dealt with.

3065 Is that clear, Hon. Members?

The Speaker: Yes.

Mr Hooper: Could I have just a point of clarity on that, Mr President?

3070

The President: Mr Hooper.

Mr Hooper: My concern with that is if we take, for example, the first part of Mr Speaker's motion that says:

MLCs should not be Ministers, except in exceptional circumstances,

3075 that is substantially different to what is being proposed by both the other amendments, so it is not simply a case of if you accept that, you reject theirs. That is part 1, because both of those amendments also say they should not be Ministers, but they have the extended element to say they should also not be Members.

3080 **The President:** You can be given one alternative proposition to the motion at a time.

I will take Mr Speaker's proposed amendments first and how that is dealt with will then determine whether what is left on the Order Paper is capable of amendment or not.

Mr Robertshaw.

3085 **Mr Robertshaw:** Mr President, what haunts me in all of this is a situation where House of Keys is speaking strongly to a particular element of this, LegCo goes the other way and we seek a combined vote at a later stage. Does that close everything down from that point onwards? Does it close everything else down?

3090 **The President:** I am sorry; could you repeat the point about a combined vote?

Mr Robertshaw: Supposing we are halfway through, for the sake of argument, and we have arrived at a point where there is a split vote where the House of Keys have gone strongly one way and LegCo have gone the other way, so technically it is lost but the Keys feel strongly about

3095 it, so the Keys at that stage would seek a combined vote. Does that then shut the whole of the rest of the debate or the voting down? Can you explain the circumstances?

The Speaker: Could I point out, Mr President, that that would be in the hands of the mover of the amendment, and so you can actually ... I think it would be useful to have the views, which is
3100 where it all ends up in a committee. However, the difference would be that there would not necessarily be a need to come back with a combined vote because everyone has registered what they think, and that is the important thing, and then that mandate goes off to the committee.

So I do not necessarily see that that is fatal, that I would need to come back with a combined vote.

3105

A Member: Hear, hear.

The President: The effect would be, in effect, that the whole matter would need to be put to the next sitting because we do not know what the effect on the whole vote would otherwise be.

3110 Can I just ask the Clerk, please, to clarify Standing Orders on this?

The Clerk: Can I draw the Court's attention to the words of the amendment which actually ... Notwithstanding what the Court wants to achieve and what individual Members want to achieve, can I just mention that treating Mr Baker's and Mr Cannan's amendments as one idea,
3115 if I can, because they are very close, the amendments in their name leave out all the words after, 'contained therein' some way into the main motion, whereas Mr Speaker's amendments leaves out everything after the word, 'That', immediately. So the two amendments that leave some of the main motion in become inoperative *if* the Court agrees with the first amendment to take out everything and replace all the words. That is where you are, because that is what the
3120 amendments actually say; those are the choices before you.

The President: We will resume the debate, Mr Moorhouse.

Mr Moorhouse: Thank you, Mr President.

3125 Evolution, not revolution, has enabled Tynwald to become the longest continuous parliament in the world. I am concerned that the decisions placed before us have the potential to go too far.

The Chief Minister currently has the ability to decide on many of the issues before us. I worry we risk taking many of the powers away from the officeholder of Chief Minister.

One aspect which really does concern me is the change to the Legislative Council. This is an
3130 area of parliament where we appear eager to have a collection of local experts from all sectors of the economy and Island. As we are moving in this direction, should we be considering closing the door to departmental and ministerial opportunities? Worse than that, are we discouraging possible applicants from applying for the post but also tying the hands of future Chief Ministers by preventing the holders of the office from making maximum use of the expertise before them?

3135 Another area where I have got concerns is placing limits on departmental membership. Again, why are we taking the opportunity we have of using valuable people and restricting the options open the Chief Minister. I believe good and relevant change happens when it is required. I worry we are now bringing about wholesale change at a time when small changes would be more beneficial.

3140 There are concerns over the role of MLCs, their pay, origins and other issues. This should be clarifying operations and not risking throwing out the baby with the bath water. At the moment Mr Baker's amendments are closest to my position.

The President: The Hon. Member for Douglas South, Mr Malarkey.

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The Minister for Home Affairs (Mr Malarkey): Thank you, Mr President.

I think it would be wrong of me not to clear up Mr Robertshaw's very wonderful thermostat that he was talking about. I do not think he is aware how easy it is to hack them, following on from what we had at lunchtime, so ...

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Mr Robertshaw: I've got to keep my cool!

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Mr Malarkey: Moving on to the debate, Mr President, as somebody who, in this place and another place for the last I do not know how many years, has tried to get the Legislative Council voted in by the public ... I have sat with legislators and I have sat with other Members, we have tried to bring several different Bills through, but it is not something that came up on the agenda of Lord Lisvane. It is not one of the recommendations that he came forward with, which is really what the public wanted in the first place. (**Mr Cretney:** Hear, hear.)

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We are sitting here today, and the more I listen to this debate ... and it is a good debate because we are hearing everybody's opinion, but it is getting messier and messier by the minute, in my opinion. We have three amendments to the original motion. Personally, I do not find any of them 100% satisfactory. I certainly have to rule two of them out straight away because I cannot agree with recommendation 1, saying that we go off and have a nominations commission. If we vote on that, we are voting on something when we do not even know what powers MLCs are going to be left with after the committee has finished with it, so you are asking us to go to a nominations committee and there might be no powers left whatsoever for MLCs at the end of this. So why have we got a nominations committee? Who are the parliamentarians round here? The 24 elected Members of the House of Keys. So if we cannot have them voted by the public, let's have the next best thing. We have a public mandate; we should be voting for those people who sit as MLCs. What comes after that is going to be decided by a committee because the other three recommendations are sending the main powers off to a committee to have a look at.

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Personally, if I had not seconded this motion today by the Chief Minister I would bring an amendment forward. All three amendments are saying we should have a committee. I have not heard anybody arguing about that yet so obviously, no matter what happens, if we take one of the three amendments there is going to be a committee involved to look at the rest of them. At this stage I would recommend somebody – as I cannot do it – send all of this, all of it, to a committee to report back in October, because otherwise we are going to end up with a mismatch, half working and half not-working, at the end of the day. It is certainly not going in the right direction as far as I am concerned.

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The Hon. Member of Council, my friend Mr Corkish, is perfectly right and probably a lot of the new Members do not actually realise if we take the vote off the Bishop we will not have a Bishop. I have known that for several years. That is quite a major decision to be making. Are we going to make that decision here this afternoon? Do we not want a Bishop in the future? Do you know what the consequences are? Do we know what the total consequences are of each recommendation? I would suggest no, we do not, because we have heard so many different people and different opinions here this afternoon saying, 'Well, if we go this way I can go with that because I don't want MLCs sitting in Departments,' and we have got other good arguments why MLCs should be sitting in the Departments. We have debates and arguments going in different directions and we now have *Hansard*, that now has the view and the opinion of this debate this afternoon – and what a great starting place for a select committee to start from.

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Where we are, Mr President, is when the original motion was brought through by ... I think it was our Minister for the Cabinet Office who brought the original one back two years ago in May, and when Lord Lisvane was actually appointed to do the review ... There are only 12 Members of this new House – sorry, well, yes, of the Keys – who had a chance to actually give evidence to Lord Lisvane. There are 12 new Members who did not have that opportunity at the time to make the debate, and we have got a new Member of MLC who did not actually give evidence to MLC and give our views. This Report is built on the views of what was the last House and you are now

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being asked this afternoon to make major decisions on the future of the way our parliament runs for the future.

I would strongly recommend that somebody put forward another amendment that all of this goes. You have got the summer months to go through and come back in October with some firm recommendations from the debate that has been made today. I cannot truthfully back all the amendments and I cannot back the motion from that point of view, Mr President.

If I could at least go through to ... the one I could probably support would be the one coming from the Speaker, because we are now finding out we are going to be able to go through little bits of recommendations on this, but some of this is going to have to be quite knee-jerk, when I do not think a lot of the new Members know exactly what some of the consequences can be. I do not think they have really had a chance to debate it, other than today, to understand what things could come out of this.

If we had a select committee, each and every one of us could give evidence to that select committee. Each and every one of us could actually give our opinions on what we think the way forward is. We have fundamentally got the backbone from the Lord Lisvane Report and we are trying to pull it apart this afternoon in here. We are trying to come up with a solution virtually in three, four, five, six hours, of one Report, and we are not going to do that because every amendment coming before us is saying we are going to send half of it off to committee anyway. So if we are sending half of it off to committee, why not send the whole lot off to committee and have something a bit more concrete, something that is workable, brought back to us in plenty of time for next October?

That is my view. I am at the moment ... well, I would not say I am confused, because I have done a lot of research into this over the years and I do have my own set ways and I do go back to what the public wanted, which was to actually have LegCo ... who I have learnt over the years do play a very important role within this parliament and I have found them very useful because they are in my Department as well.

So I have got very mixed views on where we are going with this this afternoon. I suggest you think long and hard when it comes to what you are supporting.

The President: Hon. Member for Ayre and Michael, Mr Cannan, to speak on the amendment.

The Minister for the Treasury (Mr Cannan): Thank you, yes, Mr President, I would like to speak to the amendment put forward by my hon. colleague for Ayre and Michael, Mr Baker.

I think what has happened here is he has dipped into the Hon. Member for Middle's Milk Tray and instead of finding the Turkish Delight he has found the Fudge Duet. (*Laughter*) That is a vanilla-flavoured fudge covered with milk chocolate. And he is not the only person to have found the fudge today, by the way – there are a few others I can think of.

Just on a serious ... the amendment is a sort of halfway house. I think what he has thought is 'Hmm, the Hon. Member for Ayre and Michael senior has come up with a fairly harshish-looking motion and I just want to water that down a little bit and not be quite so hard on the Hon. Members of the Legislative Council' – who, by the way, Mr President, when I was speaking earlier I did not caveat my remarks by saying many of them do a very valuable job (*Interjection and laughter*) in terms of their input.

What I do want to say, though, just in speaking to this amendment as well and perhaps to reassure some Hon. Members of this Court, is if they go with the clear path that I have set out in my amendment, of course it is not the end of the story. (**Mr Cretney:** Hear, hear.) Each recommendation still has to be brought back next month, which is the proposal, and we will tell you which committee will have to deal with that to put it in action and of course that will give people an opportunity, if they so wish, to alter direction slightly and to give my hon. friend for Douglas – and again I cannot remember which Douglas, but Mr Ashford (**Mr Ashford:** North.) – North, some satisfaction ... when he too was speaking to the amendment ... was that by having that opportunity you could *in theory* get rid of the nominations commission, but of course

people have talked about, and my hon. friend, Mr Baker indeed indicates, that some of that in my amendment was not perfect. I am not pretending it is perfect but what it does set is an absolute, clear direction, a sense of purpose and a sense that we are going to get some matters resolved, and in doing so we are going to take it forward with some intent. That is not to say we do not have a number of issues still to resolve, but they can be resolved because some of that detail is going to have to come back both for further clarification and of course for some final approval.

The President: Hon. Member for Garff, Mrs Caine.

Mrs Caine: Thank you, Mr President.

I had hoped, as we celebrate 150 years of democracy, that we would be mature enough as a parliament to accept criticism, to scrutinise our systems and procedures and to accept that improvements are possible in both Tynwald and Government, Members obviously having roles to play in both.

Lord Lisvane's Report was an excellent starting point for me to consider long and hard what is good about our systems and what could be improved and I feel the debate today has been of a very high standard. I feel there is consensus and that there is a will to change and I can reassure Mr Malarkey that although we are new Members we have been reading this Report (**Several Members:** Hear, hear.) since before the election and we have had many months of discussions with both constituents, the public and colleagues, and in fact in the last couple of weeks there has been very intensive debate over several occasions. So I think that, for me, there is a sense, like Mr Robertshaw, of wanting to get something agreed and accepting that the mechanisms for that might have to go to committee for implementation.

Turning to some of the recommendations, in terms of electing Members of the Legislative Council, Lord Lisvane sets out the case against popular elections of the Upper Chamber and concludes firmly in favour of the Keys remaining its electoral college. I feel that in the future it is possible and right that the Upper Chamber will be democratically elected. (**A Member:** Hear, hear.) I do not fear the public deciding its membership. The people did such a good job at last September's general election, (*Laughter*) why should we doubt that they would elect the right candidates to the Legislative Council? (**Mr Thomas:** Hear, hear.) The only issue is I have yet to be convinced of a democratic system of electing MLCs that would work and balance the primacy of the Keys with the role of MLCs in terms of becoming a scrutiny and reviewing Chamber; but I would not rule it out in the longer term. At present, that is not on the table for discussion but it could be and should be considered in the future.

I believe our first priority is reviewing where we are. The fundamental thing that should be determined is the role of MLCs. Before recruiting candidates for any job, before even advertising the vacancy, people need to be clear what the job is and what skills are required.

In terms of the process of electing candidates, I feel the changes brought in last month worked well. I would like a committee to consider the merit in establishing an electoral commission. Perhaps that could increase diversity, but I accept the points made initially by the Hon. Member for Arbory, Castletown and Malew, Mr Cregeen, and also by Mr Ashford, the Hon. Member for Douglas North: who would wield the power in a nominations commission? And perhaps that would make the MLCs even more removed from the people they should represent, when we, as the elected representatives, can put the names forward. I look forward to a committee, if appointed, working through the options and concluding the best way forward. (**A Member:** Hear, hear.) I would also make the point that if Members of the Upper Chamber were elected in future, the objections to them taking positions in Government would possibly melt away, so that might lead to further reforms of the Branches.

For now, in terms of the matters under recommendation, I would like to support Mr Speaker's amendment currently on the table, as I feel this provides the opportunity to vote on each individual aspect of Lord Lisvane's recommendations. I do want to cherry pick and give

my vote on each item before us. I also accept that along with indicating what we support and what we do not, we still need to ensure the mechanisms are in place for the changes to be implemented in a timely way, enabling the matters approved to go to committee for scrutiny gives us some confidence that something positive will happen, that there will be change.

I would support the process, as I have said, of election going to committee for further discussions, providing those recommendations come back before us in October.

Turning to recommendation 2, the role of the Legislative Council, in the interests of brevity I will not detail all my thoughts on the subject but I do feel that while MLCs remain elected by Members of the House of Keys they should not serve on Government Departments. I also agree that the number of Department Members could be reviewed and reduced. There is a lot of what Mr Robertshaw said – I feel that however good experience it is for new Members to be on Departments, there is a lot of worrying about operational matters, perhaps for some Members, rather than dealing with setting of policy. I agree with Lord Lisvane that the scrutiny function in parliament needs to be given a higher priority by Members of both Chambers who perhaps are freed up from Government work to undertake thorough and timely scrutiny without becoming an opposition to Government or a block on progress. Good scrutiny results in good government.

Recommendation 3, regarding the Bishop: as a person of no faith, I do not see the need for a UK-appointed Bishop to be involved in our parliament. I struggle to see the relevance of morning prayers before Keys and Tynwald sittings and I would be happy to see that modernised to a moment of quiet contemplation or perhaps a thought or appropriate poem for the day brought by a Member. There are places of worship for people who feel the need to pray before going to work. However, I am a believer in tradition and accept that we have a longstanding tradition that the Lord Bishop of Man is a Member of Legislative Council. Also I accept that some Christian Members derive comfort and guidance from his presence. In the future, if the Bishop was not an MLC, surely he could and would provide his views to Members via email, as many other church leaders do on matters that concern them. In the long term, perhaps we could see a situation where the Bishop could stand for election to the Upper Chamber. If he or she is to retain a seat in the Upper Chamber, I fully support that the right for the Bishop to vote is withdrawn, as it was for the learned Attorney General on legal matters. That would seem a sensible compromise to me at this time. I confess I would have like the Bishop to have been appointed before today and present to contribute to this debate.

If I might add my observations on the issue of diversity, I am happy to support the amendment to approve this recommendation and refer the matter to a select committee. Diversity is a hard thing to bring about but I would be against positive discrimination. Whether there is a will to select more female, disability or LGBGT candidates, I would be against positive discrimination because, like previously mentioned, it is still discrimination. Every Member in this Court should be here on merit, because they are the best candidate for the job, for what they bring to the role and not to meet some diversity objective. The Hon. Minister, Mrs Beecroft, commented to me that in recent general elections the proportion of women elected has been directly comparable with the number standing, so we might expect that increasing numbers of diverse candidates will be encouraged to stand for both Keys and Council in the future and a number will be successful on merit.

I would like to add that an MLC is unquestionably a more family-friendly job than an MHK. If I worked out my rate per hour I would not be surprised if it was minimum wage or lower. I do not resent that – I do not actually have time to work it out; it is an honour to represent the people of Garff and the Island and that is what I put myself forward to do. The hours go with the job and I am fortunate to have support with family responsibilities to enable me to carry out my responsibilities, but I predict that given the numbers of women represented on local authorities and given the increase in female MHKs we have seen in this parliament, more women will consider putting themselves forward in future years and we could see a greater representation in the future.

There are additional disincentives for women considering entering the political fray. Many of my female friends – intelligent, professional, well-educated and talented people – balk at the prospect of confrontation in the Keys and the trial by social media. Mrs Beecroft spoke of being ridiculed and still having the scars. The behaviour of some Members in the House of Keys is a significant aspect that many people, men and women, have commented to me that they would struggle with. The audible disapprobation of my hon. colleagues in another place last week left many people querying how I managed it, expressing admiration for my political questioning in the face of such hostility. I do not think it reflects well on Hon. Members. Some called it bullying. Many expressed support for my use of a constituency matter to challenge a policy and a Minister's decision-making process; others feel it is simply the normal cut and thrust of political debate. Such rowdiness echoes Westminster, but I think it was an unedifying display that harks back to the previous administration and shows a lack of respect. There are better ways to make a political point and such behaviour will undoubtedly deter people from putting themselves forward for either Chamber.

I believe there are other, simpler matters that could be addressed. If there is a will to encourage more diversity, perhaps the select committee could consider reviewing the legislative calendar. It is baffling to me why the extensive summer recess has remained for so long. Not many current Members are active farmers, as far as I am aware. I would suggest bringing it into line with the school calendar would be of merit, increasing the amount of legislative time available to consider Bills, reducing the four-month hiatus and save us having to concertina legislation into the rest of the year. If Tynwald returned in September instead of October, except in election years, how much more work could be done and how much more attractive might that be for some female candidates?

I cannot imagine anyone speaking out against increased diversity but I would challenge Members to consider how they might actively support it in their behaviour as well as their comments and I look forward to the committee addressing those points.

My only issue with Mr Speaker's amendment is that it does not address reviewing Members' pay and allowances. However controversial, once roles have been reviewed or changed, a review of pay and allowances would seem essential. Perhaps there will be another mechanism to trigger such a review in the future.

Thank you, Mr President.

The President: Hon. Member for Ramsey, Dr Allinson.

Dr Allinson: Thank you, Mr President.

I believe that the fundamentals of any democratic system are that it is accountable to the electorate, representative of the people, acts in the best interests of the nation, and protects and reflects the views of those most vulnerable.

Voters in the wider community should be able to understand the democratic process but unfortunately for too long the intricate relationship between the two Houses of Tynwald has been a mystery to many. I am really surprised today because normally radical reform is quite incremental, but what we are looking at today is actually ripping up the rule books and starting all over again.

When I read the Lisvane Report back in June last year I was just starting campaigning for the general election and the one thing that came out of the Report to me was the issue of diversity – it was the poor representation of women in both Houses and the urgent need to address that.

I think Lord Lisvane got it wrong with his Report, it is not about the functioning of Tynwald; what he looked at was very much the structure of Tynwald, the skeleton, and perhaps he missed the beating heart in this Chamber that keeps the thing working. So I am quite amazed that we are actually adopting almost all of the Report. I think if he was here as well, he would be amazed at this, that we are leaping into this taking all as gospel and going forward.

3405 I think what we are wrestling with is this conflict between independent scrutiny and inclusive decision-making and participation in delivering Government policies: how you get the two together or how you keep them apart, and I am not quite sure whether we are there yet in deciding that.

3410 I must admit like some of the other Members, I went into this debate with a fairly clear set of guidelines and some of the excellent speakers have swayed me one way or another, and then unfortunately, Mr President, you have then confused me (*Laughter*) as to actually what we are voting for. But that will all come through I am sure at the end.

3415 What I would like to say, though, what I am really impressed and amazed by is I think there is far more here that we agree on than actually separates and divides us. I think there is a common will here to achieve radical change not for the sake of it but to make the process better, to make it clearer so that anyone knows what Tynwald does, anyone knows what the Keys does and their role, but also what the Legislative Council does and what their role is. And if we can achieve that, I think we have done a very good job today.

Thank you.

3420 **The President:** Hon. Member for Douglas North, Mr Peake.

Mr Peake: Thank you, Mr President.

3425 I am proud to be Manx and I am proud of some of the things that Manx people do. I am proud of Manx events – the TT. We have just had the TT and Manxman Dan Kneen finished third in the Superstocks and I am very proud of that. The future of the TT is electric bikes.

I am proud of the Parish Walk: we had Liam Parker win the event and we had a lady finish in second, Karen Chiarello, she only finished 14 minutes behind a man – all through improvement. Well done to them all.

3430 One thing that does not perhaps stand out is that years ago our upland farmers had lovely cottages which now we take photographs of being empty, called tholtans. They did not change with the times, they hung on to their tenacity, their Manx ways, they did not embrace modern farming techniques, and so it perished and we now have empty buildings.

3435 I am very proud of being in Tynwald and very proud of a lot of the things we do here, but I do think there are a lot of things that we can change, and embrace the change. We need to see the opportunities, we need to listen. We do need to listen and we need to put these things into context. Today, we need to listen to the voters that put 12 new Members in the House of Keys last year and we do need to embrace the change and make a positive, definitive decision today.

3440 It is about policy in here, it is not about the detail it is about trying to set the policy. We can then work on things in the weeks and months to come. It is so important to get a clear direction ahead of the elections for the MLCs for next year.

3445 I am not going to go through all the recommendations, many people have done that; but one thing that did strike me, when Lord Lisvane was here as it does still sit with me now, is this opportunity we have for scrutiny, for constructive scrutiny; and that is using the experience and the knowledge that MLCs offer in that scrutiny role. It is not to be seen as a backward-looking, negative scrutiny role; it is about a positive, constructive criticism which will leave a much better solution for the Isle of Man, and that is what I would like to see.

So I will be supporting the amendment by Mr Cannan.

Thank you very much.

3450 **The President:** Hon. Member for Douglas East, Miss Bettison.

Miss Bettison: Thank you, Mr President.

3455 I cannot overstate the level of responsibility I feel in my role as an MHK, not only on policy and legislation but also on matters of constitutional reform. I do not take any of these matters lightly and I recognise that there is a need for change. However, change is not something to be

rushed into without full appreciation of the ramifications of any such decisions as well as a clear implementation plan.

3460 The Lisvane Report has received much speculation and I have heard many differing views from constituents and colleagues. For me, the fundamental changes in opinions of some of my political colleagues between yesterday and today show clearly why these decisions must not be taken lightly. There are many points I believe we can approve, some which we have already implemented and actioned, but we must ensure these are all laid down in the most appropriate manner to ensure that consensus leads to action and a true change.

3465 For this reason I support Mr Speaker's amendment, which will identify clearly the areas with support as well as areas for further examination. A select committee would be able to explore these issues fully and provide clear plans for implementation. This must be done in a timely manner in order to ensure we get the best applicants for this important job. After all, would you apply for a job without seeing any terms and conditions or a job description?

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The President: Hon. Member for Rushen, Mr Skelly.

The Minister for Economic Development (Mr Skelly): Gura mie eu, Eaghtyrane.

3475 Long awaited, much anticipated, the Lisvane debate. It has not disappointed, very clearly. I have heard the *smorgasbord*, I have heard the box of chocolates and I think in the Manx term it is about as straight as the herring bone.

3480 But what are we actually debating here? My hon. colleague from Ramsey, Dr Allinson, just said it: this debate is about reviewing the functioning of Tynwald. We have got 11 recommendations here. Mr Malarkey, I think highlighted all the numerous efforts there have been with regard to *reforming* Tynwald and in particular a lot of focus with regard to LegCo and I look forward to their contributions in due course. And I thank Mr Corkish for his point there with regard particularly about the historical point. Several of you have highlighted that, the 150 years of democracy that we celebrated at the special sitting we had in the Old House of Keys.

3485 Tradition is there to be respected and that is why we have Tynwald here; that is why we have over 1,000 years of continuous parliament, because not only do we respect it, we are prepared to evolve it. And that is vital. We have been ground-breaking with a whole host of different laws over the hundreds of years and a thousand years going back, that we have actually introduced before other jurisdictions because we have been forward thinking. And we really do represent our people more than ever before I have to say, particularly around the word 'diversity'. It is great to hear that in this debate and great to see the representation in this Court, right here.

3490 But when you have the oldest continuous parliament, you need to think about the functioning and that is what we come back to on this particular debate. There have been numerous efforts, as stated there, with regard to trying to reform, and for one of them I have heard only one Member mention 'publicly elected Members of LegCo'. It is great actually, because it tells me two things, something I have always felt, and that is the public believe there is enough of us publicly elected; therefore, it is all coming down to the role and the function of LegCo and the Members that are there. I would also echo what many Members have already stated: I value the work that LegCo Members provide.

3500 I am very much supportive of Minister Cannan's amendment right here, but I also respect actually what Mr Baker has put before us. It is a hybrid amendment. Why do I respect that? Because he highlights something I have said for an awfully long time, and that is I view LegCo Members very much as non-executives of national importance. Some of us are members of the Institute of Directors, some of us are company directors, and will understand what a non-executive director is meant to be there for. It is meant to be there for wise counsel, an independent view, scrutiny, to evaluate risk, performance, but they do not perform any executive duties.

3505 I do think there is value in what Mr Baker has actually put forward and it is *very* clear – somebody just said it a couple of minutes ago – that we agree more than we disagree right here.

I can tell you my personal view and the contacts I have had from constituents, business and so forth – yes, they are listening here; they may not have actually been knocking your door down about reform in this particular area, but they are looking at us. Just as much as we really put the effort into the Programme for Government we need to look here at the reform about our parliamentary system. And that is why I believe we need action, and that is what you have got before us, right here. You have got the ability and you have got amendments here to actually make a statement and actually have action, because, particularly us here, we were elected ... All of us were actually elected to make decisions and that is what we need to do.

The Chief Minister highlighted the credentials of Lord Lisvane and I think we should respect those. He is very clearly very eminent in his field and his experience should be respected, but are we going to take what he says? No, of course we are not! We are Manx here. We will do it exactly the way we see it and we will change it and we will Manxify it and we will test it and there are going to be a number of these recommendations going to committee, if not all. But, it is very important that we do rest on what we want to agree on and make sure that people do know that, because it will be those decisions and those actions that are going to make the real difference.

Going through some of these points here, there have been a number of comments made about this nominations committee and the role that would actually play. We already have an Appointments Commission that actually appoints a number of people in very vital and important roles serving Government and Parliament, so that is already in place. Creating a nominations commission for, shall we say, proposing Members of LegCo will be exceedingly valuable in my eyes. Why? Because I can think of four or five potential Members of LegCo who have feared putting their name forward, putting their head above the parapet, for fear of actually not getting proposed or seconded or actually getting voted in. If we want to continue the diversity and we want representation across the pan of Government, the pan of the Isle of Man representation. There is a lot of talk regarding the Bishop and that is one I do believe does need to *definitely* go to committee because we do need to flesh that out more and we need to understand that more before we actually make a radical decision of that particular nature. But, if we want representation across the Island, third sector, and diversity, as already stated, I do believe a nominations committee could be very valuable to us.

Recommendation 2 is one which has obviously caused quite a lot of concern for a number of Members. It is about MLCs, should they be Ministers? I do not agree they should be Ministers. Should they be Members of Departments? That is one of the reasons I have sympathy for Mr Baker's amendment, because I value them as I see it right now. But it gets back to that fundamental issue about the functioning of Tynwald, and the Members of LegCo, as to what that role should be, and a lot of focus on scrutiny.

It is interesting, really, when you read the Report from Lord Lisvane because he actually makes a statement here that we have very good legislative scrutiny already. In fact, he gives 17 points here that he believes our parliamentary standards are ... 'generally in good shape', is what he said. We have:

the existence of generally accepted parliamentary privilege, protecting free speech and the interests of witnesses;

– and

very strong attachment to the rule of law ...

We have a representation there from the Attorney General.

So, it is already stated in the Report here that we have very high standards, both in scrutiny and in legislation and that is something we do need to pick up on, because in his recommendations ... and I think 5, 6 and 7, where we all agree should go to a committee, are vital that do then go in there. Because understanding scrutiny and how legislation is managed, I think, is something that does need more work.

3555 Many Members have mentioned the Programme for Government. That is work that we have done of our own free will as a Government, supported by you as Tynwald, and clearly I think we have set the roadmap there so we would obviously all agree on that particular point.

Code of conduct: why wouldn't we have that? Absolutely!

Diversity, as I have touched on there already ...

3560 And training: Mr Baker, once more, highlighted the importance of training and the span of training that is necessary, and I welcome a lot of you who have already engaged on that, and I believe we could do an awful lot more.

Pay: that is obviously a contentious issue and will always be an issue. My good friend, Mr Cannan, and I brought forward a motion five years ago, and I think it was seven out of the 32 supported an independent review. We should be independently reviewed with regard to it: the role and responsibility for everything we do.

3570 There is one thing I cannot support with regard to Mr Speaker's amendment: to actually only look at Legislative Council with regard to their pay and enhancements. We are all in this together as Tynwald Members and I believe we should all be reviewed. I think we are asking the executive ... Mr Hooper had highlighted that point, and absolutely we should be evaluated with regard to our compensation.

3575 With that, at this moment in time, as I do expect possibly one or two more amendments that may emerge, I am very happy to support Mr Cannan's. I am happy, if that fails, to support Mr Baker's and, failing that, we have got a cherry-picking opportunity by Mr Speaker. So, I leave you with the point that we must make some decisions. We must tell the public of the Isle of Man that we are going to make decisions here and that is why we are here.

The President: Hon. Member for Douglas, Mrs Corlett.

3580 **Mrs Corlett:** Thank you, Mr President.

3585 I am not about to comment on all the recommendations, but I do feel I must comment on recommendation 1. I am not convinced about the recommendation of a nominations commission. It adds further layers to the election process. Who selects the selectors? A commission selected to select candidates for the House to select from. How is that any more democratic than the current process? I am of the opinion that this actually creates barriers not removes them. (**Two Members:** Hear, hear.) Public election would, of course, be the most democratic, but I do recognise the difficulties in doing this, so for me the recent election process may actually be the best we have.

3590 Recommendation 3: the Bishop is a respected and valued Member of the Legislative Council. He should retain his seat, but I cannot agree that the Bishop should vote. The role should be a steadying view and that of a moral compass.

3595 Recommendation 5: I do feel that some Departments have too many political Members at present. Some Departments obviously require more than others. I totally agree with Mr Robertshaw: it is not for Members to manage Departments. Politicians develop policy. It is the job of civil servants to implement policy within the constraints of the budgets allocated.

3600 Our parliament, for the most part, I believe, works well. Yes, some changes are needed, but let's be careful. My concerns today are the unintended consequences of amendment upon amendment: the knock-on effect of deciding on the hoof one thing whilst being unable at this point to fully consider or appreciate the impact that decision may have on another recommendation. The amendments before us so far actually all try to prevent this from happening to some extent, and with these thoughts in mind I am in support of Mr Speaker's amendment.

Thank you.

3605 **The President:** Hon. Member for Onchan, Ms Edge.

Ms Edge: Thank you, Mr President.

I am going to stand and speak very briefly and I am not going to go through every recommendation. However, I do have to state that I have reservations of Lisvane's Review. We are not Westminster; we are Tynwald. (**Several Members:** Hear, hear.)

The majority of his evidence has been provided by an old, tired House and changes are trying to be implemented by a new, ambitious House, without full understanding of its implications. As a proud Manxwoman, we are the oldest continuous parliament in the world and the most important for me is that we ensure the people are receiving a good representation by the whole parliament that makes the best decisions for the Island.

I was democratically elected to do the best for the people and that is what I will do with my decision today.

LegCo has a role. It does just need clarifying and defining. As a long-serving public servant and one who has listened to invaluable advice from colleagues with greater political experience, from the Upper House, or as the previous Bishop described them, 'colleagues on the shelf', I feel that we are in danger of losing political oversight of Departments and ensuring that policy is implemented.

I have a much better understanding of committees in operation and value what this brings to the parliament and particularly those chaired by experienced MLCs.

I hope when Lisvane is debated in the future the people of the Island will not hear the message that we have heard too many times: that lessons will be learned.

Thank you, Mr President.

The President: Hon. Member of the Council, Mr Cretney.

Mr Cretney: Yes, thank you, Mr President.

I have been here a long time, perhaps too long some people might say. (**A Member:** You said it!) (*Laughter*) But one of the things that I have always wanted to see is a more democratic Tynwald, and I believe what has happened in the past ... I have been on several Select Committees in the past which have looked at the situation regarding Legislative Council and House of Keys and Tynwald, and one of the reasons that it has not progressed, in my opinion, is there was always the argument about, okay, you all go out to election, then you form into two separate Houses – who has primacy and all those kinds of arguments. People argued in the past that the House of Keys, the historic House of Keys, would be lost in that kind of set up.

I think what Lord Lisvane has done, though, is more correctly define what the role of the Legislative could be in the future. People have said to me, 'Well, why have you gone to Legislative Council? You have always been against it; you have always wanted things to be more democratic.' Well, I have gone here because I want to support the directly elected House in making some progress, and I think this is the nearest I have been in the 32 years that I have been a Member to making some real progress. I welcome the fresh approach of the new Members of the House of Keys who have been to the electorate and those who have been returned, because I do believe there is a willingness to see some change here.

I do not agree with everything that Lord Lisvane has said, but I do believe that by following the route suggested by Mr Speaker we can indicate by separate votes the way Members are thinking about things and hopefully therefore help inform the committee in its work, which will then report back sooner rather than later. I think that is very important too. The last thing I want to see happen, having got as far as we have, is for this to go to long grass or for it to be lost yet again for another generation.

I think it is all about the function which is being proposed for Members of the Legislative Council and I think that is good.

I think one of the things that has improved immensely since I was first elected, as well – and it has been spoken about a little bit in here today – is training and the induction courses and stuff that are now available to Hon. Members, once elected. I stood in a public meeting in St George's

3660 Hall just over there when I was first elected in 1985 and one of the experienced old civics who stood against me was the late John J. Bell, and John J. Bell said to me, 'It will take you five years to find the toilet, son!' (*Laughter*) And I think we have come so far in terms of Members recognising their role. I think, if we can define a proper role for Legislative Council, that has got to be a good thing for the future.

3665 I think also one of the more recent developments – and I was a little bit concerned about it – in relation to the election of the new Member to Legislative Council in terms of its openness is a good development. I think in the past there has been quite a bit of gamesmanship going on behind the scenes, partly because people were not happy with the system that prevailed but partly for other reasons. I think this is a much better system that has been developed by the House of Keys recently.

3670 If we are able to make progress today, I will be happy. I will be even happier when the committee, if we do vote for it, comes back after scrutinising the various matters which are being put before us today. I do really, honestly hope we can make some progress, because I think it is long overdue. I am very proud of being a Manxman, like others in here. I am very proud, from my background, to have been able to walk up to Tynwald Hill on 5th July every year.

3675 It is a great honour for somebody from my background and I think it is important that we have a diverse membership of Tynwald, from the House of Keys and from Legislative Council, a mix of people representing all those on the Island, and I do think that this formula is certainly a significant step in the right direction, and I shall be supporting it.

3680 **The President:** Hon. Member, Mr Boot.

The Minister for Environment, Food and Agriculture (Mr Boot): Thank you, Mr President.

First of all, the Clerk has an amendment in my name and I am sure that will be circulated shortly and I will speak to that when it has been circulated.

3685 I find it frustrating that we are here today debating quite radical change in the way Tynwald operates, based on a report prepared over a relatively short period of time, during an administration that no longer exists, with what was a completely different cultural approach. It is ironic that the author of the Report is a member of one of the largest unelected political bodies in the world, a retired Westminster civil servant with no direct knowledge of being an

3690 elected member or, I have to say, in-depth knowledge of our system. (**A Member:** Hear, hear.) Undoubtedly, Lord Lisvane is a highly articulate and intelligent person, but I am sure even he would see the irony of his Report in that context and the recommendations, especially as we have moved on considerably since the Report was prepared.

3695 I have put Tynwald in context, and several others have already said this: we are the longest continual parliament in the world. It is fair to say there has been evolution over a long period of time and that the present system has presided over constant economic growth for over 34 years. In many jurisdictions we are regarded as a beacon parliament. Yes, I agree with tweaks to the system, as evidenced by recent changes to the Standing Orders to the election of MLCs but wholesale change, no.

3700 Not only has there been a substantial cultural change as a result of 12 new Members, but only recently we modified the nomination process for MLCs and, as far as I am concerned, the modified system works well and would work well when we next come to elect MLCs. At the end of the day, we, the MHKs, are given an electoral mandate to elect MLCs – and that was pointed out to me in Peel when I was talking to constituents on Saturday.

3705 The way in which the Report was formulated and the evidence Lord Lisvane took, by its nature, did in the main come from those that were not happy in the previous administration or the way in which the system worked within that cultural era.

To give some context to my journey regarding the system, before I was elected as an MHK I attended, and in fact still do from time to time, the excellent meetings put on by the Positive Action Group. This group is active in trying to engage the public in debate and I applaud them for

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that. At that time, Peter Karran and my hon. friend, Chris Robertshaw, were active in the organisation and I tended to go along with the feeling that MLCs might/should be elected like we are, and collective responsibility within the Council of Ministers was perhaps contrary to good democracy.

3715 When I was first elected in the last administration, I towed those ideas with me. As a backbencher I then had two departmental positions and sat on three Select Committees, and I have to say my views changed quite rapidly. By the time Lord Lisvane was taking evidence, I had certainly changed my attitude to the Legislative Council, their function within Tynwald, and, as an aside, the way the Council of Ministers and collective responsibility worked.

3720 Since then, having been re-elected and made the transition from backbencher to Minister, my perspective has changed completely. I have also seen a huge cultural change that has come about with 12 new Members and also the wholesale retirement, or non-election, of what might be termed, 'the old guard'.

3725 We have also unanimous agreement to a well-thought-out Programme for Government, one of Lord Lisvane's recommendations, but that is where the devil comes with the detail because within those recommendations he recommends that we have extensive public debate. Well, I am not quite sure where that comes from, because I have just fought an election – surely that is the public debate that is required.

3730 Just recently, I attended a Commonwealth Parliamentary Association conference in Gibraltar and it was interesting to learn that not only were we perceived as a beacon parliament, but in Jersey they are looking at our model of Legislative Council and they may be making changes to their own system in that respect.

3735 Gibraltar was also an interesting case study. They have a party system which results in an adversarial parliament that flops from one party to the other in a similar way to the UK, so a large minority are always in opposition, something that does not happen here. They expressed the view that some of them were fairly envious of the way our system works, with independents coming together in the various forums to, once again, produce a Programme for Government and also work together in parliament. Consequently, I think, if we were starting again with this review, the findings and recommendations may be completely different – an important consideration when we are thinking about where we are going at the moment.

3740 Whilst I am aware that the motion is to note Lord Lisvane's Report, having heard the amendments that have come forward and listened to my hon. friend, Mr Malarkey's observations, I think none of the amendments actually give us the opportunity of taking a deep breath and referring this to a comprehensive committee that will allow them to consider it over a short period of time and, if necessary, take evidence from the new Members, bearing in mind all the new Members did not contribute constructively to the Lisvane Report. This would be their opportunity to contribute to that, and then that committee come back in October. This is not a long-grass exercise and I do not think the public will perceive it as this. It is refining what we want to do rather than this piecemeal approach that I have seen today.

3750 All the amendments so far ... Mr Cannan's amendment selects bits and then we have to work around that. The Speaker's amendment does a similar thing and we end up voting for bits and pieces. I think a committee, looking at the whole Report and taking evidence from all of us, is definitely the way forward.

With that, I would like to move the amendment and to seek a seconder.

To add at the end the words:

'and that Tynwald without reservation refers the recommendations to a Select Committee of five members, comprising the Speaker as Chairman, one Member of the Council of Ministers, one Member of the Legislative Council and two other Members of the House of Keys to report in October 2017.'

3755 **The President:** Hon. Member of Council –

Mrs Beecroft: Mr President, point of clarification, please if I may? (**The President:** Sorry?) A point of clarification, if I may? (**The President:** Clarification.)

Yes, I believe the previous speaker referred to Mr Karran as, 'being active in the Positive Action Group'. If I did hear it correctly, then I would like to clarify that was not the case.

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The President: Thank you.

Mr Boot: Mr President, can I just respond to that, if I may? (**Several Members:** Yes.)

I attended a number of meetings where Mr Karran spoke. (**Mrs Beecroft:** Yes.) That is active.

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Mrs Beecroft: No, I do not think so. (*Laughter*)

The President: I have an amendment from Mr Boot. It has not yet been seconded.

Mrs Poole-Wilson, Hon. Member of the Council. I am not asking you to second, but you had indicated. (*Laughter*)

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Mrs Poole-Wilson: Thank you, Mr President.

I would like to echo the sentiments expressed by Dr Allinson in noting the amount of consensus there is this afternoon in the Chamber and also the will for there to be some change. But I would also like to echo the comments made by Miss Bettison that the change that is made should be properly-thought-through change and therefore whatever change is implemented is suitable and will be effective in practice.

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I am also mindful of the points made by the Hon. Member, Mr Robertshaw, in connection with Departments of Government and not operating as silos, and think the same principle could reasonably apply to how we bring in change off the back of the Report by Lord Lisvane, that we do not have a series of individual changes that are not thought through and joined up in order to be effective across the piece.

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I do not propose to speak to all of the recommendations but would like to speak to one of them, just to illustrate the point, really, of why I think it is so important that any change that we do bring forth now is properly thought through.

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In terms of recommendation 2 and the role of Members of the Legislative Council, I have felt for a while that the role of Legislative Council should be that of a non-executive: having a proper and close oversight of parliamentary and Government business without, as far as possible, being involved in the day-to-day operational aspects of Government, thus allowing MLCs to provide and to be seen to provide dispassionate, objective and constructive scrutiny.

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However, a key role for MLCs will still be moving legislation through the Legislative Council. The question then arises, if MLCs are not to have any departmental role, it will be important to establish how best MLCs should understand and master not only the content of a Bill but the underlying policy and rationale behind it in order to be able to properly explain it and answer questions within Legislative Council.

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Now, it may be that if recommendation 7 is taken forward in some form regarding the legislative process that this will go some way to addressing this issue. It may also be that the Hon. Member for Ayre and Michael, Mr Baker's suggestion that Members of the Legislative Council do not have Departmental roles, but have some sort of non-executive attachment to Departments would go some way to dealing with this issue. However, either way, we will need a mechanism that is thought through and will work in practice in order to achieve this end.

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This is one area – and I suspect there are many more once we start to dig into the ramifications of change – that to my mind should be properly thought through before being adopted, and for that reason at this point I am minded probably to support Mr Speaker's amendment in order to allow that process of actually working through how changes will be implemented and all the knock-on effects, so that we have something properly workable that does move us forward in the right way.

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The President: Now, Hon. Members, I propose that we take a tea break and resume at 5.30 p.m.

*The Court adjourned at 5 p.m.
and resumed its sitting at 5.35 p.m.*

**Review of the Functioning of Tynwald –
Lord Lisvane’s recommendations –
Debate concluded –
Amended motion carried**

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The President: The next Hon. Member on my list is Mr Thomas.

Several Members: Oh! *(Laughter and interjections)*

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The Minister for Policy and Reform (Mr Thomas): Thank you very much, Mr President.

One thing that Lord Lisvane told us *(Interjections)* was that a committee can be a cul-de-sac down which good ideas are lured and quietly strangled. That is a worry that I hope everybody in this Hon. Court has today, because he raised it as a concern. I want to amplify that concern because of our history. History is very important, tradition is very important, and there is a long tradition in this Hon. Court, and in the other place, of luring down good ideas in this area and strangling them.

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So if I just look at the committees that have been set up and closed down – sometimes without any result, sometimes with some result – since the early 1980s and 2013, solely looking at the aspect of direct elections of MLCs. We have: a committee set up by Mr Quine in 1983, 1988 and 1990, Mr Cannell in 2000, Mr Rodan in 2004 and Mr Cannan Sr in 2007. That was looking at an election for 32 or 33 Members. If we are looking at an eight or nine constituency model for direct elections to the Legislative Council we have proposals from Mr Kneale in 1982, from the Legislative Council itself in 2005 and Mr Quayle, another one in 2007. A five-model constituency was considered by Mr Lowey in 1999 and Mr Quine in 2003 and a single all-Island constituency model for direct elections to the Legislative Council was put forward by Mr Karran in 2007. *(Interjection)* So we have to have that in mind as we make up our minds today.

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The other myth I want to bust is that ‘Lord Lisvane just came here, didn’t really get engaged and just went back and did something he would have done in any case’. Let’s remember, he came here armed with a massive research report, put together for him by lots and lots of people in Cabinet Office, Tynwald Library and others. He then took evidence in public for two weeks, interviewing 33 witnesses and taking 51 submissions from people around the Island. So we have already had a detailed committee investigation. **(The Speaker: Absolutely.)**

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The other issue that I wanted to suggest with any committee that we need to take into account, as we make up our minds how to vote later on this evening, is that all the issues that have been raised very powerfully about the nominations committee also apply to any other committee. There are very few people in this Court, or in the House of Keys part of this Court, that have expressed an opinion in their manifestos about what we should be doing next. What is it we are really going to achieve inside that committee?

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I do offer some criticism of Lord Lisvane, because he did not quite have enough time to do what I hoped would be done – as Dr Allinson hinted at in his important contribution to this debate earlier on – because Lord Lisvane made one huge assumption and did not actually look at the evidence, but I do not think the committee will be able to look at this evidence. The huge assumption he came with as his definite starting point was that two committees or two separate branches, two chambers, were better than one. That was a definite prejudice he started with

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3850 because of his background and tradition. He could not give me specifically any evidence he had. It just was a feeling that the Legislative Council had been better in Manx history than the House of Keys in scrutinising legislation because he been told by a few people that that was the case; but he admitted when I asked him that he had been told by a few people that that was not the case and he had had evidence submitted to that effect.

3855 So just to be precise, if we do go to electing a committee, as far as I can tell, it was only the Hon. Member for Peel, Mr Harmer, and the Hon. Member for Ayre and Michael who did not really major on this topic in their manifestos. (*Interjections*) Most of the rest of us have a view.

The next point I wanted to say, in general terms, is that I wanted to thank every Member of the Legislative Council who previously has talked about the great economic success that the
3860 Island has enjoyed for 35 years, which has filtered down into Manx society in many positive ways, and used that as an argument that we should not even be asking these questions – because nobody has said that today, and fair play to them.

Also, nobody has really said what the evidence is that we need to be looking at this question. I wanted to put on record some of the evidence that I believe suggests that we should be looking
3865 at this question at this minute. The evidence I offer to you is that only 53% of people voted for the Members in this House Keys, out of the 100% of people who were able to vote in the election. That was 4% lower than in 2011. So we have to take that as evidence that people are telling us something, and 6,000 or 7,000 other people did not get on the electoral register – we are coming to that sort of discussion later and to me, that is evidence.

3870 The Hon. Member Douglas South, Mr Malarkey commissioned a survey for his written submission and his oral submission to Lord Lisvane. He heard the information that 84.5% of people thought that the three-chamber Tynwald parliament needed to be changed. He heard that 72% of people thought that the Legislative Council role should be that of legislation revision only, without a vote in Tynwald.

3875 In 2011, Prof. Davidson commissioned independent surveys, and he found that 93% of people wanted profound change to the way that general elections took place in the Isle of Man, so we do have an issue and we do need to be perceived to be addressing that issue. We cannot be perceived to be putting something into a committee, just to strangle it and put it out for the long grass.

3880 Where we are at the minute is that we have had a nudge from outside our Island, and I believe that somebody from outside the Island talks about the possible perception, despite the great strengths in our tradition and also in our current Tynwald, that there could be reputational liability in a certain area. We need to take that view seriously. If that was said about our tax system or about our regulatory system, we would be taking it seriously and we need to take it
3885 seriously in terms of our great historic Tynwald.

I also want to align myself very much with the perspective taken by Mr Cannan, Dr Allinson, Mrs Poole-Wilson, Mr Robertshaw, Mr Hooper and Mr Baker to say that the new Members are absolutely crucial in this. I was very impressed with Mrs Poole-Wilson's contribution and I wanted to congratulate her on her maiden speech. (**Several Members:** Hear, hear.) I think it will
3890 turn out to be an important contribution to this debate, and I think the whole role and the whole way that Mrs Poole-Wilson takes part in the next coming months will be important in redefining this Hon. Court and, by implication, the two Branches of this Hon. Court. So new Members can make a nudge to make the evolution and the change that I think everybody perceives that the public out there is looking for.

3895 We are somewhere now that I do not think we should really be in, and that is a shame. Personally, I think that is a shame. The last House in July set us up very nicely: they basically passed a resolution, whereby they received a report and we resolved in this Hon. Court that we would have the recommendations of Tynwald on the Order Paper in April 2017 for debate and decision. That is quite a powerful thing to have resolved and wouldn't we be in a better place if
3900 we had managed to achieve that? But because there were opportunities for some of the newer Members to add some education and experience by travelling outside this Island to get a bit of

comparative perspective, the Council of Ministers agreed to delay the debate until June. That is the first point.

3905 The second point where we could be in a better place now is that Lord Lisvane himself used some words like 'urgently' – wouldn't we be in a better place if we had done something urgently? Lord Lisvane argued that we should review our pay, terms and conditions urgently and wouldn't it have been great if by September, we could have had some something on the table about that sort of thing?

3910 Lord Lisvane talked about the Clerk providing some sort of guidance on what exactly was meant by 'appropriation and taxation measures', which, as far as I am aware, we have not as yet seen. I am sure he has been working on it. So therefore, we could have been in a better place if we had taken the recommendations more literally and actually made further progress.

3915 Finally, I just want to say, in terms of 'we could be in a better place now', we have had this debate. It started with a 'take note' debate and it is becoming more ... in the same way that Mr President challenged me and the Council of Ministers to offer a definition of 'white paper', 'take note' is not something that has been in the Tynwald tradition as much as things like 'received' and 'approved'. Therefore, what is it we are doing exactly by the Council of Ministers putting onto this Order Paper merely a take note motion?

3920 I note that it has been decided, it seems, that Mr Speaker has now put down an amendment which would take hours to vote on, possibly, because I for one intend to call for division on every one of the line-by-line items and amendments (*Interjections*) that we have. If there is one way to resist this Hon. Court and this House becoming more diverse, I guess it is staying here all through the evening casting votes and everything like that. It is much more family friendly to actually do things, and that is why I always have been a big supporter of the idea of making a bold decision today, and actually saying what is important for us.

3925 We are now in a situation whereby if Mr Speaker's amendment is passed, my understanding is that we will not actually have a chance to vote on any of the other amendments – the two amendments that are seconded, (**A Member:** That's correct.) or the other one, and that will be perceived potentially outside, unless we are very careful as being an issue in itself. I wanted every Member to understand that that was the reality of where we are. Wouldn't it have been better if we could have had some substantive motions on the Order Paper from Members with reports if possible, to actually back up the amendments? That is where I think we should try to get to in July 2017. For me, I know what is really important. It is about specifying the role, then sorting out the terms and then filling the positions for the Legislative Council. Other people have expressed other beliefs about what is primarily important to them, and I really do hope that other people will put down substantive motions on the Paper, but if the amendment in the name of the Hon. Mr Speaker, Mr Watterson goes through, there could be a few that you will not be able to do that, where you would want to do that.

3940 Therefore, I want to put down two procedural or voting requests. The first one is that unless it is already clear, I wanted to make sure that Mr Cannan's and Mr Baker's motions could be voted on separately, if they do get to that stage. Secondly, I wanted to explain my position, which I think I will be taking if we do end up with a *smorgasbord* approach of going through the items. I do not think we will be in a very good position to make our mind on some of the issues without the substantive motion, the Report. So I will be voting yes or no according to what I want. (**The Speaker:** Right.) People can interpret that later but then at the end, I will be voting *against* Mr Watterson's amendment, (**A Member:** Oh!) to allow for the possibility now we have heard the substantive debate that was called for by the international observer, that was called for by this Court as recently as July 2016, to actually hear the views on Mr Cannan's, Mr Baker's amendments, and even Mr Boot's if it gets seconded, and we will be in a better place.

3950 Mr Cretney has summarised it all: we cannot afford to get this wrong. This is all about rebuilding trust and confidence in Government, and everybody knows that Government comes from this Hon. Court. This is about capturing the issues that matter, sorting out the governance in this Hon. Court so that we can move on very quickly to tackle the real issues of the economy,

of public finances, of public pensions, of health, of education and whatever priority you want, and whatever other issues that are important.

So beginning to summarise, I just think it will leave a slightly bad taste if at the end of this debate, we do not get a chance to vote on the amendments which were put down in good faith by ... I understand it and I will explain it as clearly as I can, that that is the way of it. Mr Cannan's motion was ... There were slightly more words ahead of it, before Mr Cannan's motion ... Mr Watterson's motion had slightly more words ahead of it compared to Mr Cannan's and if I was to rectify that with another amendment, mine would be behind Mr Watterson's. So in my old business of banking, it is called something like time preference and then price preference. And that is how we have chosen between which amendment we are actually going to vote for. There is nothing we can do about it. It is perfectly correct, but we have to think through how that might be perceived outside. Wouldn't we be in a better place having had this rich debate and having had the chance to think about it, to actually be able to come back in July, or thereafter, with some positive, substantive motions, the areas that we think are important? What will we actually get from the committee working? I am not sure we will get a great deal.

The pay issue is very important for me, and that is quite clear from how I moved for this international review in the first place. The simple facts are: it costs quite a few millions to run this Hon. Court of ours and its administration. We do a good job, but 60% of that or so is in terms of what it costs to have us working in this hon. place. So we have to be looking at the efficiency and the efficacy of our work, otherwise we will be perceived negatively in the time when we are making SAVE proposals, just as explained by a number of people early on. So not only do we need to be looking at the MHK and the MLC terms and conditions, we also need to be looking at the Ministers' terms and conditions. We also need to be looking at the presiding officers and the arrangements for presiding officers, because the cost of something is both the price for each unit and the number of units you have involved. We need to be perceived to be looking at ourselves in terms of how much we cost.

In that context, I am just going to conclude with the oft-used phrase at this point: turkeys don't vote for Christmas. I want to make sure that we are all absolutely certain that we are voting in the right way, according to what is right for this nation of ours. 'Turkeys don't vote for Christmas' wasn't invented in the Isle of Man. It was invented at the time of the Ulster Unionist/Liberal/Labour/SNP pacts in the confidence and supply motions in the 1970s – Callaghan, all those sorts of people; Penhaligon. That did not turn out very well, and I am really hoping that we can actually get the evolution that we all want – the change that we all want – not changes for changes' sake, but change that is right for this wonderful place and to maintain the greatness of this nation and our Island.

Finally in closing, there are some traditions in this Hon. Court – the sword – but as has been hinted at in the context of the Bishop by Mr Shimmins, Hon. Member for Middle and various other people, things have to change to stay the same and to preserve the tradition. That top shelf up there was not like that 15 years ago: that was a substantial change. We used to have a wall with an aldermanic bench just in front of it. Downstairs 60 or 70 years ago, we did not have these Westminster-style green seats and all of that, or red seats. What we had was a table with a snuffbox going round, as far as I can determine, and we definitely had that when the House of Keys was down in Castletown. There are no pictures as such, and I have not as yet managed to ... So things have changed in the last 60 or 70 years.

Perhaps it is the case that we should be sitting around a big table, if we do really want this Tynwald of ours to be different from most other Commonwealth and most other world parliaments that have a separation of the powers. Perhaps we ought to go into the tradition of celebrating that consensus by passing around the snuffbox, because we are all in it together all the time, permanently in coalition. That could be a major outcome of this process.

But with that, I reaffirm the main points that I have tried to make which are that at the moment the focus has to be on specifying the job, in my mind. It has to be on working out the terms and conditions for that job and then it has to be filling the jobs. By next year, 2018, for the

MLCs and thereafter, for MHKs, I strongly urge Members to give the public and this Court a chance to consider the ideas behind Mr Cannan's and Mr Baker's amendments, and to do that the best way would be to play the choice game inside Mr Speaker's amendment, but then actually to reject that amendment, perhaps even reject both the other amendments, and then we will be in a good place to start off with the substantive motions. *(Laughter)* Perhaps Mr Cannan might even withdraw his amendment in that case, so we can have a clean situation, whereby we started with positive substantial motions on the Order Paper, just as would be a model situation in any parliament.

The President: Hon. Member for Peel and Glenfaba, Mr Harmer.

The Minister for Infrastructure (Mr Harmer): Thank you, Mr President.

I want to be brief and I want to congratulate the Member for Douglas Central in starting this debate. I want to congratulate him in the sense of having Lord Lisvane, and to look at the review. I do believe in evolution as opposed to revolution in this sort of thing. He talked about how things have changed over the years and having that gradual approach, but we have seen massive and positive change.

In many ways, I had a very open mind. It is a shame in some respects that the amendment from Mr Cannan is very prescriptive and there are things in it that I cannot support. For example, the whole nomination process, the whole fact that all nominations will be dealt with by the nominations committee. I think that is not correct. I also think that where it says there should be no proposer and seconder, that is not correct.

There are elements, and we have got to be very careful in here ... Lord Lisvane did do a lot of work, but he spoke to a section of people. He did not speak to everybody and he did not do a number of things, such as one of my beefs – and he admitted to it when he was here – he did not go round to Departments to see how they work. One of my key things that I was looking at was scrutiny. We keep talking about scrutiny and what it is, but one definition is 'critical observation and examination'. Some of that actually happens in the Department.

That is one of the *key* areas. If we do the thing where we say we cannot have any legislative Members, even in a non-executive role or whatever, in Departments then, what we are doing is we are not allowing that critical observation and what we are allowing is for things to wait till they are all scrutinised at the end when it is too late, when the problems have happened, when there has been spilt milk, where there are issues.

So I think there is a value. There is a value of a Legislative Council Member being in a Department, and I have seen another subtle change which has allowed them to be more independent. They used to be on two Departments; they are only on one now, and it is something that Mrs Poole-Wilson said about how we need to be very mindful of the unintended consequences. Who is going to take the legislation through? Who is going to make it happen?

So, with that, there is much that we agree on. There is much that we agree on across this Hon. Court. That is why in actual fact, the Speaker's amendment takes us there and actually moves us forward. It actually, I think, achieves what Mr Thomas is trying to do and allows us to take us forward and to look at those other issues, where there are issues.

What we must not do – and with all respect to Lord Lisvane – is treat him as an oracle. **(Several Members:** Hear, hear.) Understanding all the implications of what he did, he said some very odd things, in terms of recommendations: that we should pick the chairmen before we pick Ministers – I found that astounding, that that got through onto the recommendations. He is very affable and very intelligent; but he has only had the information that he had at that time, with the people that he spoke to.

This is a new Court, this is a new House. We need to start with what we think, not what we were told in the last one. We are a fresh House. Things are moving forward. One thing I do really think will be picked out is the cross-departmental Members. I could not agree with the Hon. Member for Douglas East more. The whole concept where we could look at mental health, at

the environment, we can challenge Departments across Departments. We can be a different type of Tynwald. I think that that is something that we can take through into this Committee and really have a positive impact.

In essence, as I say, I will not go into detail. When you actually look at what the Speaker has done it is the right approach. It moves us forward. I am a reformer. I want to see this move forward. I could not support it just going to committee, everything. This actually says certain things should go there; the other things ... but how it is going to be implemented and that was the other concern that I had with Mr Cannan's motion. It did not say how.

It is all very easy on the floor of this Court – and I know this to my cost – whatever goes on that paper is what happened, right? People can say promises, but it is what the motion reads. The motion would say 'approves 1, 2, 3, 4 – bang'. But how? Mr Speaker's amendment actually takes us forward, so I would urge Members to go forward with that.

Thank you, Mr President.

A Member: Hear, hear.

The President: Mr Speaker to speak on the amendment.

The Speaker: Thank you, Mr President.

For all the talk of consensus that we have had today, we are in danger of achieving nothing. It was very useful timing of the tea break, actually, because it has allowed me to talk to some Members and clarify a few of the issues that I think have been bugging some people about whether they will or will not support the amendment that I have put down, or indeed support the amendments that others have put.

The first one of those was that we will be voting on all 37 of those recommendations and if one is rejected, it is not fatal. We carry on. It just means that it would lose its approval status, and everything would still move on and the committee could still have its life.

Secondly, and one of the issues that I think is driving Members towards the other amendments, was the issue of the independent pay review. A lot of Members have picked that up. What I would say is that if this is of such importance, put a substantive motion down next month and add it to the remit of the committee, where we can have a clean vote on that particular issue, if that is something that Members feel very passionately about.

By that point, the committee has got on with another month of sitting and making progress, because this is a tight deadline. It is only two sittings away. I think it is important that the work starts, and that is why it is absolutely critical that we get moving and if you want to add pay to it, add it next month.

Mr Thomas has criticised the lack of a substantive motion, but let's be clear: it was not anyone else in this Court other than Council of Ministers that decided what went on the Order Paper today. I think a number of us all around the Chamber have tried to do our best with a motion that has basically said nothing and I think that is because there is no Council of Ministers' line on it. So we have all had to try and do our best and pick the bones out of Lisvane.

Let me reiterate: the amendment that I have proposed gives life to the proposals and gets us moving. No other motion does that.

Mr Cannan has already said that he would need to come back next month and determine which committees things would go to and that is a recipe for an absolute shambles: bits of it going off to Standing Orders Committee, bits of it going off to Emoluments and other bits heading all over the place. That is why a single committee is a real benefit.

Hon. Members, I would say that there is a desire for action now. There is a consensus on many of the issues. There is a clear path forward for progress. Let's move on, let's vote for action, and I would ask Members to vote for my amendment.

The President: Chief Minister to speak to the amendment.

4110 **The Chief Minister (Mr Quayle):** Thank you, Mr President.

I am clear, as I moved the original motion, I cannot second anything, but I am allowed to speak to the amendment.

I would just like to say that it has been a long day, but I think there is some ‘middle ground’ – if you will pardon the pun – where we are all in agreement. I am more than happy with
4115 recommendations 8, 10, and 11 and with a slight amendment to 4, I could sign that off now and I think most people, having listened to all the talk today, could go along with that.

If we look at recommendation 4, the only change I have got is that I was uneasy of ‘on which the views of the public should be explicitly sought’. We have just had a general election, and therefore every Member has just door-knocked round their entire constituency. They will have
4120 the feedback from the public, and you want to get on with it. That is what we have done. We have come up with a Programme for Government, we have got on with it, we have worked together as a team and we have made some major changes, which we are starting to see already. Therefore to have to go back out to the public and delay two or three months I just think is not a smart move. That is the only difference ... obviously, the rest of recommendation 4
4125 is absolutely bang on the money.

If we look at the various proposals: we have got Mr Cannan and his Milk Tray analogy, and I cannot support my hon. colleague, the Member for Ayre and Michael, because he is putting recommendations 1 and 2 forward as an automatic support. On principle I cannot support having an unelected person tell MHKs who should be fit for them to vote for. And no offence to
4130 our latest Member, but do we want eight solicitors? Do we want eight lawyers? We want people from all parts of society, (**Mr Cretney:** Hear, hear.) and I do not want to be told that they have got to have an intellect of Oxford 1:1 degree before they can become an MLC. I want genuine members of the public from all walks of life, and if you set up a committee you are abrogating your elected rights to do that. To me, it is absolutely fundamental that I could not support it.

Also an unpopular one, and I am sure I will not get any support on this, but no sitting MHK for nomination: I am not wanting to go up to be an MLC but on principle, having sat in the last House and seen the experience of MHKs who have done a couple a terms, they have got mandates from the public, they are able to tell you where the skeletons are buried and why certain things have happened in the past. I have found them exceedingly useful. Therefore
4140 having a mixture of members of the public and retired MHKs I think is a plus that I personally would be sad to see disappear. It may not get universal support but I believe in speaking my mind and this is too important to tell you what you want to hear. I think it is only fair I say what I think is right.

Then recommendation 2: I genuinely believe and I have stuck to my guns that I feel we have worked well as a new House – 12 new Members, seven through retirements, five lost their seat, a lot of new Ministers – and having the MLCs in Departments has helped a smooth transition on the whole where the experience ... the MLCs were able to tell new Members what had been going on in those Departments so that they were up to date. I found that really useful. If I lose that one, so be it, but I am stating the case.

4150 So that is why I am unable to support my good friend who I thought was the ... I was quite tickled with his Milk Tray analogy, so I looked it up and the Milk Tray Man was Gary Myers the *James Bond* of Milk Tray, so I thought maybe my good colleague is the *James Bond* –

4155 **The Speaker:** Other chocolates are available! (*Laughter*)

The Chief Minister: Yes!

We next come on to the amendments by Mr Baker and I thought they were very good actually. I did not like them at first, then I went through them with a fine tooth comb, and maybe with the benefit of having a break I thought they are not too bad. I can live with most of
4160 his – but considered ‘a fudge’ in the Hon. Mr Cannan’s analogy. I did not think it was too bad; I thought it had some good points. But there were a couple of areas I was a little bit uneasy with.

Mr Speaker's amendment seems to be the one that has the most support. I was just a little bit disappointed that there had been a change from yesterday about the Bishop. That is something I feel very strongly about – is the Bishop representing a multitude of faiths and the view of the people, maybe giving a different tangent, a view on our debates. I always think of a debate we had on e-gaming and he gave a quote, the *Auguries of Innocence* by William Blake:

The Whore & Gambler, by the State
Licenc'd, build that Nation's Fate.

It just struck me, it really made me think, and I tried for the next two years to come up with a phrase to ping back at him and I could not find anything. He well and truly put me in my place! It is that sort of view, it gives us a different angle, a different slant on life which personally I value immensely. I would not want if – and it is an if, we will have to look at it. If the Bishop does not have a vote and we do not have a Bishop then that would be a major no for me, Mr President. I think it is really important that we have that viewpoint just to counter some of our ... If we all live politics all the time we have got to have some people who just tell it to us as it is from another angle sometimes, just to get a view.

I used to go on about this before in the previous House because I genuinely believe there are more important things. Some of you, when you speak about your constituents, they are totally different from mine. Who had more than two constituents raise the Lord Lisvane Report with them? That was all I had! (*Interjection by the Speaker*)

What do people want? They want a good health and social care policy, they want good policing, they want the budget balancing, they want sustainable pensions, they want traffic-calming measures and safety crossing the road in their areas. Yes, we should always look at reinventing ourselves and improving things as we go along.

I was tickled pink with the Hon. Member for Douglas ... West, Mr Thomas?

Mr Thomas: Central.

The Chief Minister: Central, sorry ... where he was implying there were less people who voted in 2016 compared with 2011 because we had not reformed the Legislative Council, and I found that hard to believe. (*Interjection*) I just thought if we connect better with the public and deliver some good policies for them, that will get them out voting (**A Member:** Hear, hear.) rather than that.

So I do not think we are that far away; there are some things that I feel very passionately about. As I say, I have declared the areas where I feel that we can work together and I hope we do get this sorted.

One of the areas where I will just give a little word of caution is 'review of pay and allowances to be undertaken'. Previously I was on the Emoluments Committee as a backbencher and there had been a recommendation where an independent person came along and reviewed MHKs' salaries, and guess what? He recommended a major increase – and no-one was going to do that, were they? So be careful of what you wish for because you may end up with a similar recommendation; and I would be interested to see how you all react to that one actually. But obviously with things like training, that is a no-brainer; that has got to be a good decision.

I am a little bit uneasy about: 'Tynwald address with energy the need to make its membership more diverse' in recommendation 9. Of course we want variety and it is fantastic to see more ladies in Tynwald and we have a lady in the Upper House now, and long may that continue. But that has been done by the public and I think it is important that the public decide what the diversity should be, not us trying to force something on them, and that is just a personal viewpoint. But I look forward to listening to the rest of the debate.

Thank you, Mr President.

4210 **The President:** Hon. Member, Mr Cregeen, to speak to the amendment.

The Minister for Education and Children (Mr Cregeen): Thank you, Mr President.

Just looking at the amendments and hearing some of the criticism of the Speaker's amendment, saying it is going off to committee. Well, all of them are recommending it goes off to a committee, it is only the amount of recommendations that go off to the committee which is the difference.

I would congratulate my colleague, the Hon. Member for Douglas Central, Mr Thomas, in weaving his web of ... 'Well, it is going to go off to committee and we do not want to do this'. In fact the one that he was supporting is actually putting off to a committee. And I would like to clear up the point that I have just gone through my manifesto and I cannot even see any reference to Lord Lisvane, so I think his research was a bit inaccurate on that one.

When we continually go on about 'international observers' – and I do not want to be disrespectful to Lord Lisvane – but many years in Westminster, I have not seen any reforms that he put forward there to the same extent ... We have just seen the election in the UK and you would have thought that they could have had some reforms in the UK. I do not put that much store in everything that an external adviser comes here and tells us when they have not lived amongst us, when they have not flavoured our way of life. I think it is a snap judgement on how we actually are in the Isle of Man, and to make judgements on people of the Isle of Man and politicians on the Isle of Man as if they are similar to other jurisdictions, I think it is disingenuous to us all and to the public of the Isle of Man.

We have not had the expenses scandal that they had in the UK, but guess what? We all got tarred with the same thing that everybody thought that we were all on expenses. And the hours that Members put in: I would say that the majority of Members in this Hon. Court must put the best part of 50 to 70 hours in a week. And this thing about ... I'm sorry, but working term time for schools. This summer will be the new Members' first summer of actually being in parliament and I would challenge you to think that you are going to be leaving this place in July and coming back in October having done nothing!

The Speaker: Especially if you are on this Committee! *(Laughter)*

Mr Cregeen: Mr President, I think Hon. Members who have been in this place for that many years will say you will be lucky to get a couple of weeks where you do not get a phone call, you do not get a committee meeting, you do not get something in the Department to do. So this thing that we are going to be sat doing nothing from July to October is something that we should make clear to the members of the public – it does not happen. We just give the myth strength by saying, 'Oh well, let's go and change it to the school holidays'. For some people the school holidays would not suit. It might fit people ... when my children were young it might have helped them, but the job is the job and you can work round it.

I would say to Members that you are going to be voting on each individual one. We have got to move on with this. Saying that we are going to come back in another month ... Let's get on with it; let's get the committee looking at it. At the end of the day they are all putting them to a committee.

So I would say, Mr President, the sooner we get on with this, the better.

4255 **The President:** Chief Minister to reply. You have the right of reply to the debate, if you wish.

The Chief Minister: Thank you, Mr President.

I would just like to thank everyone for taking an interest, we have had some very good speeches. I made a note of Mrs Beecroft's comment which I thought was probably the best phrase of the day: 'We are never going to find a package that suits everyone'. And she is absolutely right.

I think it is key that we keep this as good-natured as possible, emotions can be high on this topic. I think the debate has been on the whole well-behaved. I look forward to the outcome and I will do my utmost to help whatever this Hon. Court decides.

4265

The President: Thank you, Hon. Members.

The motion before us is that set out at Item 5 and to it there are three amendments – the amendment in the name of Mr Boot not having been seconded.

4270

There are three amendments and the first is in the name of Mr Watterson, Mr Speaker; the second is in the name of Mr Cannan; and the third is in the name of Mr Baker. I intend to take Mr Speaker's amendment first and in accordance with the moving of it and Mr Cregeen seconding, to take each of the component recommendations in its various parts – a, b, c, etc. So we shall systematically vote first on Mr Speaker's amendment working through the text of the amendment.

4275

At the end of that I shall put the amendment for the approval of the Court or not, i.e. the amendment in its totality, or as you have voted down any of the parts. If that succeeds I shall apply the amendment and it will become the substantive motion. If you reject Mr Speaker's amendment at the end of this process, I will move to Mr Cannan's amendment and give you the opportunity to vote on that and make that the substantive motion.

4280

Is that clear, Hon. Members?

The Speaker: Agreed. Clear.

The President: Thank you very much.

4285

In that case, we turn to Mr Speaker's amendment, which reads:

'That a Select Committee of five members be appointed, comprising the Speaker as Chairman, one Member of the Council of Ministers, one Member of the Legislative Council and two other Members of the House of Keys:

A) And that Tynwald approves the following and refers them to the above select committee to report with recommendations to Tynwald on the changes required for their implementation'.

Firstly, recommendation 2 – Role of the Legislative Council, part a. I put to the Court, part a, that MLCs should not vote on measures which are exclusively on taxation or appropriation, etc. Those in favour of part 1a, please say aye; against, no. The ayes have it.

A division was called for.

4290

The Speaker: Mr President, I think Mr Moorhouse might want to move a point of order before I announce the result.

The President: Mr Moorhouse.

4295

Mr Moorhouse: I pressed the wrong button, sir.

The President: Please remember if you have voted wrongly you can override it immediately. We shall vote again.

Electronic voting resulted as follows:

In the Keys – Ayes 24, Noes 0

FOR

Dr Allinson
Mr Ashford
Mr Baker

AGAINST

None

Mrs Beecroft
Miss Bettison
Mr Boot
Mrs Caine
Mr Callister
Mr Cannan
Mrs Corlett
Mr Cregeen
Ms Edge
Mr Harmer
Mr Hooper
Mr Malarkey
Mr Moorhouse
Mr Peake
Mr Perkins
Mr Quayle
Mr Robertshaw
Mr Shimmins
Mr Skelly
Mr Speaker
Mr Thomas

The Speaker: Mr President, in the Keys, 24 votes for, and none against.

In the Council – Ayes 5, Noes 2

FOR

Mr Corkish
Mr Cretney
Mr Crookall
Mr Henderson
Mrs Poole-Wilson

AGAINST

Mr Anderson
Mr Coleman

The President: In the Council, 5 for and 2 against. The motion therefore carries.

4300 Can I make clear, Hon. Members, that Mr Turner is not with us. I have given him leave of absence, he had an urgent family issue to attend to, which is why he is not in the Court.

Part 1b:

That MLCs should not be Ministers, except in exceptional circumstances.

Those in favour, please say aye; against, no. The ayes have it.

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

In the Keys – Ayes 18, Noes 6

FOR

Dr Allinson
Mr Baker
Miss Bettison
Mr Boot
Mrs Caine
Mr Callister
Mrs Corlett
Mr Cregeen
Ms Edge
Mr Harmer
Mr Hooper
Mr Malarkey
Mr Moorhouse

AGAINST

Mr Ashford
Mrs Beecroft
Mr Cannan
Mr Robertshaw
Mr Skelly
Mr Thomas

Mr Peake
Mr Perkins
Mr Quayle
Mr Shimmins
Mr Speaker

The Speaker: Mr President, in the Keys, 18 votes for, 6 against.

In the Council – Ayes 6, Noes 1

FOR

Mr Anderson
Mr Corkish
Mr Cretney
Mr Crookall
Mr Henderson
Mrs Poole-Wilson

AGAINST

Mr Coleman

4305

The President: In the Council, 6 for and 1 against. That amendment therefore carries.
Part 1c:

That MLCs should not vote on the appointment of the Chief Minister, nor on a vote of confidence in the Chief Minister or the Council of Ministers.

Those in favour, say aye; against, no.

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

In the Keys – Ayes 22, Noes 2

FOR

Dr Allinson
Mr Ashford
Mr Baker
Mrs Beecroft
Miss Bettison
Mr Boot
Mrs Caine
Mr Callister
Mr Cannan
Mrs Corlett
Mr Cregeen
Ms Edge
Mr Harmer
Mr Hooper
Mr Malarkey
Mr Moorhouse
Mr Peake
Mr Perkins
Mr Robertshaw
Mr Shimmins
Mr Skelly
Mr Thomas

AGAINST

Mr Quayle
Mr Speaker

The Speaker: Mr President, 22 votes for, 2 against.

In the Council – Ayes 3, Noes 4

FOR

Mr Cretney
Mr Henderson
Mrs Poole-Wilson

AGAINST

Mr Anderson
Mr Coleman
Mr Corkish
Mr Crookall

4310 **The President:** In the Council, 3 votes for and 4 against. The Branches are in disagreement, that amendment therefore fails to carry.

Part 2a:

That the Bishop should remain an MLC.

Those in favour, say aye; against, no.

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

In the Keys – Ayes 20, Noes 4

FOR

Dr Allinson
Mr Ashford
Mr Baker
Mrs Beecroft
Miss Bettison
Mr Boot
Mr Callister
Mrs Corlett
Mr Cregeen
Ms Edge
Mr Harmer
Mr Malarkey
Mr Moorhouse
Mr Perkins
Mr Quayle
Mr Robertshaw
Mr Shimmins
Mr Skelly
Mr Speaker
Mr Thomas

AGAINST

Mrs Caine
Mr Cannan
Mr Hooper
Mr Peake

The Speaker: Mr President, 20 votes for in the Keys, 4 votes against.

In the Council – Ayes 7, Noes 0

FOR

Mr Anderson
Mr Coleman
Mr Corkish
Mr Cretney
Mr Crookall
Mr Henderson
Mrs Poole-Wilson

AGAINST

None

4315 **The President:** In the Council, 7 votes for, none against. The motion therefore carries. Amendment 2b:

That the Bishop should not retain his vote ...

Those in favour, please say aye; against, no. The noes have it.

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

In the Keys – Ayes 15, Noes 9

FOR

Dr Allinson
Mr Ashford
Mrs Beecroft
Miss Bettison
Mrs Caine
Mr Cannan
Mrs Corlett
Ms Edge
Mr Harmer
Mr Hooper
Mr Peake
Mr Perkins
Mr Robertshaw
Mr Shimmins
Mr Thomas

AGAINST

Mr Baker
Mr Boot
Mr Callister
Mr Cregeen
Mr Malarkey
Mr Moorhouse
Mr Quayle
Mr Skelly
Mr Speaker

The Speaker: In the Keys, 15 votes for, 9 against.

In the Council – Ayes 2, Noes 5

FOR

Mr Cretney
Mrs Poole-Wilson

AGAINST

Mr Anderson
Mr Coleman
Mr Corkish
Mr Crookall
Mr Henderson

The President: In the Council, 2 votes for and 5 against. That amendment therefore fails to carry .

Part 2c:

That Tynwald consider whether the Bishop should be included in the quorum of the Legislative Council and whether he should be allowed to abstain.

Those in favour, please say aye; against, no. The ayes have it.

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

In the Keys – Ayes 18, Noes 6

FOR

Dr Allinson
Mr Ashford
Mr Baker
Miss Bettison
Mr Boot
Mrs Caine
Mr Callister
Mrs Corlett
Mr Cregeen
Ms Edge
Mr Harmer

AGAINST

Mrs Beecroft
Mr Cannan
Mr Peake
Mr Robertshaw
Mr Shimmins
Mr Thomas

Mr Hooper
Mr Malarkey
Mr Moorhouse
Mr Perkins
Mr Quayle
Mr Skelly
Mr Speaker

The Speaker: Mr President, 18 for, 6 against in the House of Keys.

In the Council – Ayes 7, Noes 0

FOR

Mr Anderson
Mr Coleman
Mr Corkish
Mr Cretney
Mr Crookall
Mr Henderson
Mrs Poole-Wilson

AGAINST

None

The President: In the Council, 7 for and none against. That motion carries.
Part 3a, recommendation 4:

4325

That the first task of an Administration be to prepare and publish a Programme for Government.

Those in favour, say aye; against, no. The ayes have it.

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

In the Keys – Ayes 24, Noes 0

FOR

Dr Allinson
Mr Ashford
Mr Baker
Mrs Beecroft
Miss Bettison
Mr Boot
Mrs Caine
Mr Callister
Mr Cannan
Mrs Corlett
Mr Cregeen
Ms Edge
Mr Harmer
Mr Hooper
Mr Malarkey
Mr Moorhouse
Mr Peake
Mr Perkins
Mr Quayle
Mr Robertshaw
Mr Shimmins
Mr Skelly
Mr Speaker
Mr Thomas

AGAINST

None

The Speaker: Mr President, 24 votes for and none against in the Keys.

In the Council – Ayes 7, Noes 0

FOR

Mr Anderson
Mr Coleman
Mr Corkish
Mr Cretney
Mr Crookall
Mr Henderson
Mrs Poole-Wilson

AGAINST

None

The President: In the Council, 7 for and none against. That carries unanimously.
Part 3b:

The views of the public should be explicitly sought on this Programme ...

4330 Those in favour, say aye; against, no. The ayes have it.

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

In the Keys – Ayes 18, Noes 6

FOR

Dr Allinson
Mr Ashford
Mr Baker
Mrs Beecroft
Miss Bettison
Mrs Caine
Mr Cannan
Mrs Corlett
Mr Cregeen
Ms Edge
Mr Harmer
Mr Hooper
Mr Moorhouse
Mr Peake
Mr Robertshaw
Mr Skelly
Mr Speaker
Mr Thomas

AGAINST

Mr Boot
Mr Callister
Mr Malarkey
Mr Perkins
Mr Quayle
Mr Shimmins

The Speaker: Mr President, 18 for, 6 against in the House of Keys,

In the Council – Ayes 5, Noes 2

FOR

Mr Corkish
Mr Cretney
Mr Crookall
Mr Henderson
Mrs Poole-Wilson

AGAINST

Mr Anderson
Mr Coleman

The President: In the Council, 5 for and 2 against. The amendment carries.
And 3c:

That thereafter Tynwald approval be required for such a Programme on formulation ...

– etc. Those in favour, say aye; against, no. The ayes have it. The ayes have it. (**Mr Cannan:** Divide.) Too late.

4335

Part 4a, recommendation 9 – Diversity. Those in favour of that recommendation, please say aye; against, no. The ayes have it.

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

In the Keys – Ayes 21, Noes 3

FOR

Dr Allinson
Mr Ashford
Mr Baker
Mrs Beecroft
Miss Bettison
Mrs Caine
Mr Callister
Mr Cannan
Mrs Corlett
Mr Cregeen
Ms Edge
Mr Harmer
Mr Hooper
Mr Malarkey
Mr Peake
Mr Perkins
Mr Robertshaw
Mr Shimmins
Mr Skelly
Mr Speaker
Mr Thomas

AGAINST

Mr Boot
Mr Moorhouse
Mr Quayle

The Speaker: Mr President, 21 votes for, 3 against.

In the Council – Ayes 7, Noes 0

FOR

Mr Anderson
Mr Coleman
Mr Corkish
Mr Cretney
Mr Crookall
Mr Henderson
Mrs Poole-Wilson

AGAINST

None

The President: In the Council, 7 for and none against. The recommendation carries.

4340

Amendment 5, recommendation 11 – Training. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Part B) of the amendments:

And that Tynwald refers the following items to the select committee for further consideration to examine and report with recommendations on:

1. Recommendation 1 – Election of the Members of the Legislative Council...

Hon. Members, I put it to you I could take a. to f. *en bloc*, but if – (**Several Members:** No.)

4345

Part B)1a, the House of Keys remains the electoral college: those in favour, say aye; against, no. The ayes have it.

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

In the Keys – Ayes 12, Noes 12

FOR

Dr Allinson
Mr Baker
Mrs Beecroft
Miss Bettison
Mr Cannan
Mrs Corlett
Mr Malarkey
Mr Peake
Mr Perkins
Mr Robertshaw
Mr Skelly
Mr Thomas

AGAINST

Mr Ashford
Mr Boot
Mrs Caine
Mr Callister
Mr Cregeen
Ms Edge
Mr Harmer
Mr Hooper
Mr Moorhouse
Mr Quayle
Mr Shimmins
Mr Speaker

The Speaker: Mr President, in the Keys, 12 votes for, 12 against, the motion therefore fails to carry.

In the Council – Ayes 1, Noes 6

FOR

Mr Cretney

AGAINST

Mr Anderson
Mr Coleman
Mr Corkish
Mr Crookall
Mr Henderson
Mrs Poole-Wilson

The President: Thank you, Mr Speaker.

Part B)1b:

That the Nominations Commission be charged with increasing diversity of the Legislative Council.

4350 Those in favour, please say aye; against, no. The noes have it.

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

In the Keys – Ayes 9, Noes 15

FOR

Dr Allinson
Mr Baker
Miss Bettison
Mr Cannan
Mr Harmer
Mr Peake
Mr Robertshaw
Mr Skelly
Mr Thomas

AGAINST

Mr Ashford
Mrs Beecroft
Mr Boot
Mrs Caine
Mr Callister
Mrs Corlett
Mr Cregeen
Ms Edge
Mr Hooper
Mr Malarkey
Mr Moorhouse
Mr Perkins
Mr Quayle
Mr Shimmins
Mr Speaker

The Speaker: Mr President, 9 for, 15 against, in the Keys.

In the Council – Ayes 1, Noes 6

FOR

Mr Cretney

AGAINST

Mr Anderson

Mr Coleman

Mr Corkish

Mr Crookall

Mr Henderson

Mrs Poole-Wilson

The President: In the Council, 1 for and 6 against. That fails to carry.

Part 1c, no sitting MHK be eligible for nomination. Those in favour, say aye; against, no. The noes have it.

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

In the Keys – Ayes 16, Noes 8

FOR

Dr Allinson

Mr Ashford

Mr Baker

Mrs Beecroft

Miss Bettison

Mrs Caine

Mr Cannan

Mrs Corlett

Ms Edge

Mr Harmer

Mr Hooper

Mr Moorhouse

Mr Peake

Mr Robertshaw

Mr Shimmins

Mr Thomas

AGAINST

Mr Boot

Mr Callister

Mr Cregeen

Mr Malarkey

Mr Perkins

Mr Quayle

Mr Skelly

Mr Speaker

4355 **The Speaker:** Mr President, 16 for, 8 against.

In the Council – Ayes 1, Noes 6

FOR

Mrs Poole-Wilson

AGAINST

Mr Anderson

Mr Coleman

Mr Corkish

Mr Cretney

Mr Crookall

Mr Henderson

The President: In the Council, 1 for and 6 against. That fails to carry.

Part 1d:

That no proposer or seconder be required ...

Those in favour, say aye; against, no. The noes have it. The noes have it.

Part 1e:

That the vote be open ...

4360 Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Part 1f:

That the candidates fill the available places in the order of the votes they secure ...

– etc. Those in favour, say aye; against, no. The ayes have it.

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

In the Keys – Ayes 9, Noes 15

FOR

Dr Allinson
Mr Baker
Mrs Beecroft
Mrs Caine
Mr Cannan
Mrs Corlett
Mr Perkins
Mr Quayle
Mr Skelly

AGAINST

Mr Ashford
Miss Bettison
Mr Boot
Mr Callister
Mr Cregeen
Ms Edge
Mr Harmer
Mr Hooper
Mr Malarkey
Mr Moorhouse
Mr Peake
Mr Robertshaw
Mr Shimmins
Mr Speaker
Mr Thomas

The Speaker: In the Keys, 9 votes for, 15 against.

In the Council – Ayes 6, Noes 1

FOR

Mr Anderson
Mr Coleman
Mr Corkish
Mr Cretney
Mr Crookall
Mr Henderson

AGAINST

Mrs Poole-Wilson

4365 **The President:** In the Council, 6 votes for and 1 against. The Branches are in disagreement, the motion fails to carry.

Recommendation 2 – Role of the Legislative Council:

a. The circumstances (if any) where it would be appropriate to appoint Members of Legislative Council to membership of a Department.

Those in favour, say aye; against, no. The ayes have it.

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

In the Keys – Ayes 15, Noes 9

FOR

Dr Allinson
Mr Baker

AGAINST

Mr Ashford
Mrs Beecroft

Miss Bettison
Mr Boot
Mrs Corlett
Mr Cregeen
Ms Edge
Mr Harmer
Mr Hooper
Mr Malarkey
Mr Moorhouse
Mr Perkins
Mr Quayle
Mr Skelly
Mr Speaker

Mrs Caine
Mr Callister
Mr Cannan
Mr Peake
Mr Robertshaw
Mr Shimmins
Mr Thomas

The Speaker: In the Keys, 15 for, 9 against.

In the Council – Ayes 6, Noes 1

FOR

Mr Anderson
Mr Coleman
Mr Corkish
Mr Cretney
Mr Crookall
Mr Henderson
Mr Turner

AGAINST

Mr Cretney

The President: In the Council, 6 for, 1 against. The amendment therefore carries.
Part 3a, recommendation 5:

4370

That there be no more than one Departmental Member per Department ...

Those in favour, say aye; against, no. The noes have it.

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

In the Keys – Ayes 3, Noes 21

FOR

Mr Hooper
Mr Peake
Mr Robertshaw

AGAINST

Dr Allinson
Mr Ashford
Mr Baker
Mrs Beecroft
Miss Bettison
Mr Boot
Mrs Caine
Mr Callister
Mr Cannan
Mrs Corlett
Mr Cregeen
Ms Edge
Mr Harmer
Mr Malarkey
Mr Moorhouse
Mr Perkins
Mr Quayle
Mr Shimmins
Mr Skelly
Mr Speaker
Mr Thomas

The Speaker: Mr President, 3 for, 21 against, in the Keys.

In the Council – Ayes 0, Noes 7

FOR
None

AGAINST
Mr Anderson
Mr Coleman
Mr Corkish
Mr Cretney
Mr Crookall
Mr Henderson
Mrs Poole-Wilson

The President: In the Council, none for, 7 against. That amendment therefore fails to carry.
Part 3b:

That appointment as a Departmental Member be made only where it is clear that substantial responsibilities will be assumed in recognition of the salary enhancement.

4375 Those in favour, please say aye; against, no. The ayes have it.

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

In the Keys – Ayes 24, Noes 0

FOR

Dr Allinson
Mr Ashford
Mr Baker
Mrs Beecroft
Miss Bettison
Mr Boot
Mrs Caine
Mr Callister
Mr Cannan
Mrs Corlett
Mr Cregeen
Ms Edge
Mr Harmer
Mr Hooper
Mr Malarkey
Mr Moorhouse
Mr Peake
Mr Perkins
Mr Quayle
Mr Robertshaw
Mr Shimmins
Mr Skelly
Mr Speaker
Mr Thomas

AGAINST

None

The Speaker: In the Keys, Mr President, 24 votes for, and none against.

In the Council – Ayes 7, Noes 0

FOR

Mr Anderson
Mr Coleman
Mr Corkish

AGAINST

None

Mr Cretney
Mr Crookall
Mr Henderson
Mrs Poole-Wilson

The President: In the Council, 7 for, none against. That therefore carries.
And part 3c:

That the pay and enhancements for Members of Legislative Council be reviewed in light of their amended responsibilities.

Those in favour, say aye; against, no. The ayes have it.

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

In the Keys – Ayes 24, Noes 0

FOR	AGAINST
Dr Allinson	None
Mr Ashford	
Mr Baker	
Mrs Beecroft	
Miss Bettison	
Mr Boot	
Mrs Caine	
Mr Callister	
Mr Cannan	
Mrs Corlett	
Mr Cregeen	
Ms Edge	
Mr Harmer	
Mr Hooper	
Mr Malarkey	
Mr Moorhouse	
Mr Peake	
Mr Perkins	
Mr Quayle	
Mr Robertshaw	
Mr Shimmins	
Mr Skelly	
Mr Speaker	
Mr Thomas	

4380 **The Speaker:** In the Keys, 24 votes for, none against.

In the Council – Ayes 7, Noes 0

FOR	AGAINST
Mr Anderson	None
Mr Coleman	
Mr Corkish	
Mr Cretney	
Mr Crookall	
Mr Henderson	
Mrs Poole-Wilson	

The President: In the Council 7 for and none against. It carries unanimously.
Recommendation 6, part 4a:

That the scrutiny role continue to be delivered principally by four Standing Committees of Tynwald ...

– as set out in the amendment. Those in favour say aye; against, no. The ayes have it. The ayes have it.

4385 **Part 4b:**

that the Chairmen of the core principal committees –

The Chief Minister: Mr President, just on a –

The President: Chief Minister.

4390 **The Chief Minister:** Sorry, just on a point of order.

I noticed and I should have mentioned before, it calls it the Economic and Infrastructure; it is the Environment and Infrastructure Committee.

The President: These are renamed Committees –

4395

The Chief Minister: Oh, they are renamed, right.

The President: – as I read it.

4400 **A Member:** No, I think it is a mistake. *(Interjections)*

The President: The Economic Affairs Committee and the Infrastructure Committee have been combined.

4405 **The Speaker:** Mr President, the Committee will just report on this.

The President: That is what is meant by that, but as Mr Speaker has indicated, that is to be reported on. That is the recommendation.

4410 **The Speaker:** It is not agreed, it is reported on.

The President: So what you have agreed is that that be investigated and reported. (**A Member:** Hear, hear.) You have not approved it, necessarily.

Part 4b:

That the Chairmen of the four principal committees be elected immediately after the Chief Minister;

4415 Those in favour, say aye; against, no. The noes have it.

A division was called for.

The Speaker: Mr President, 2 for, 22 against, in the Keys.

The President: In the Council, none for, 7 against. That amendment therefore fails.

4420 **The Speaker:** Point of order.

Mr Skelly: I voted incorrectly, Mr President.

Mr Robertshaw: So did I! *(Laughter)*

4425

The President: Re-vote.

Mr Skelly: Apologies.

Mr Robertshaw: I dozed off there!

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

In the Keys – Ayes 0, Noes 24

FOR

None

AGAINST

Dr Allinson
Mr Ashford
Mr Baker
Mrs Beecroft
Miss Bettison
Mr Boot
Mrs Caine
Mr Callister
Mr Cannan
Mrs Corlett
Mr Cregeen
Ms Edge
Mr Harmer
Mr Hooper
Mr Malarkey
Mr Moorhouse
Mr Peake
Mr Perkins
Mr Quayle
Mr Robertshaw
Mr Shimmins
Mr Skelly
Mr Speaker
Mr Thomas

4430

The Speaker: On this occasion, Mr President, two votes have changed, 24 against and none for.

In the Council – Ayes 0, Noes 7

FOR

None

AGAINST

Mr Anderson
Mr Coleman
Mr Corkish
Mr Cretny
Mr Crookall
Mr Henderson
Mrs Poole-Wilson

The President: In the Council, none for and 7 against. That therefore fails to carry.
Part 4c:

That the Chairmen of the four principal committees be paid at the same level as Ministers;

Those in favour, say aye; against, no. The noes have it.

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

In the Keys – Ayes 4, Noes 20

FOR

Dr Allinson
Mr Harmer
Mr Hooper
Mr Peake

AGAINST

Mr Ashford
Mr Baker
Mrs Beecroft
Miss Bettison
Mr Boot
Mrs Caine
Mr Callister
Mr Cannan
Mrs Corlett
Mr Cregeen
Ms Edge
Mr Malarkey
Mr Moorhouse
Mr Perkins
Mr Quayle
Mr Robertshaw
Mr Shimmins
Mr Skelly
Mr Speaker
Mr Thomas

4435 **The Speaker:** In the Keys, Mr President, 4 for and 20 against.

In the Council – Ayes 0, Noes 7

FOR

None

AGAINST

Mr Anderson
Mr Coleman
Mr Corkish
Mr Cretney
Mr Crookall
Mr Henderson
Mrs Poole-Wilson

The President: In the Council, none for, 7 against. That fails to carry.
Part 4d:

That the members of the four principal committees be paid at the same level as Departmental members;

Those in favour say aye; against, no. The ayes have it.

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

In the Keys – Ayes 22, Noes 2

FOR

Dr Allinson
Mr Ashford
Mrs Beecroft
Miss Bettison
Mr Boot
Mrs Caine
Mr Callister
Mrs Corlett
Mr Cregeen
Ms Edge
Mr Harmer

AGAINST

Mr Baker
Mr Cannan

Mr Hooper
Mr Malarkey
Mr Moorhouse
Mr Peake
Mr Perkins
Mr Quayle
Mr Robertshaw
Mr Shimmins
Mr Skelly
Mr Speaker
Mr Thomas

The Speaker: Mr President, 22 votes for, 2 votes against.

In the Council – Ayes 7, Noes 0

FOR

Mr Anderson
Mr Coleman
Mr Corkish
Mr Cretney
Mr Crookall
Mr Henderson
Mrs Poole-Wilson

AGAINST

None

4440

The President: In the Council, 7 for, none against. That therefore carries.
Part 4e:

That the Programme for Government be the focus of the reformed Policy Review Committees;

Those in favour, say aye; against, no. The noes have it.

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

In the Keys – Ayes 16, Noes 8

FOR

Dr Allinson
Mr Ashford
Mr Baker
Mrs Beecroft
Miss Bettison
Mrs Corlett
Mr Cregeen
Ms Edge
Mr Harmer
Mr Hooper
Mr Malarkey
Mr Peake
Mr Perkins
Mr Shimmins
Mr Skelly
Mr Thomas

AGAINST

Mr Boot
Mrs Caine
Mr Callister
Mr Cannan
Mr Moorhouse
Mr Quayle
Mr Robertshaw
Mr Speaker

The Speaker: There are 16 for, 8 against, in the Keys.

In the Council – Ayes 4, Noes 3

FOR

Mr Corkish
Mr Crookall
Mr Henderson
Mrs Poole-Wilson

AGAINST

Mr Anderson
Mr Coleman
Mr Cretney

The President: In the Council, 4 for, 3 against. The motion carries.
Part 4f:

4445

That the Terms of Reference of the reformed Policy Review Committees set down their key tasks and ...

– as set out in the rest of that amendment. Those in favour say aye; against, no. The ayes have it.
(**Mr Cannan:** Divide.) The ayes have it.

Part 4g –

The Speaker: Sorry, Mr President, Mr Cannan did call for a divide in time.

4450

The President: Well, I did not hear it. Okay, I will take a division.

Electronic voting resulted as follows:

In the Keys – Ayes 24, Noes 0

FOR

Dr Allinson
Mr Ashford
Mr Baker
Mrs Beecroft
Miss Bettison
Mr Boot
Mrs Caine
Mr Callister
Mr Cannan
Mrs Corlett
Mr Cregeen
Ms Edge
Mr Harmer
Mr Hooper
Mr Malarkey
Mr Moorhouse
Mr Peake
Mr Perkins
Mr Quayle
Mr Robertshaw
Mr Shimmins
Mr Skelly
Mr Speaker
Mr Thomas

AGAINST

None

The Speaker: In the Keys, Mr President, 24 votes for, none against.

In the Council – Ayes 7, Noes 0

FOR

Mr Anderson
Mr Coleman
Mr Corkish
Mr Cretney
Mr Crookall
Mr Henderson
Mrs Poole-Wilson

AGAINST

None

The President: In the Council, 7 for, none against. That carries.

4455

Part 4g:

That the Chairmen and Members of the four principal committees have appropriate familiarisation and training concerning the work of the Executive and best practice in scrutiny and questioning;

Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Part 4h:

That consideration be given to supporting the work of Select Committees of Tynwald through external advice and expertise.

Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Part 4i:

That the Tynwald Auditor General Act 2011 and the Tynwald Commissioner for Administration Act 2011 be brought into force.

4460

Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Recommendation 7 – Legislation. Can I put it that on this occasion you may choose to take a. to f. together? Still no? (**Several Members:** No.) (*Laughter*)

Part 5a:

That a new draft Bill procedure be adopted ...

– as set out in the recommendation. Those in favour, say aye; against, no. The ayes –

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

In the Keys – Ayes 16, Noes 8

FOR

Dr Allinson
Mr Ashford
Mr Baker
Mrs Beecroft
Miss Bettison
Mrs Caine
Mrs Corlett
Mr Cregeen
Ms Edge
Mr Harmer
Mr Hooper
Mr Moorhouse
Mr Peake
Mr Perkins
Mr Shimmins
Mr Speaker

AGAINST

Mr Boot
Mr Callister
Mr Cannan
Mr Malarkey
Mr Quayle
Mr Robertshaw
Mr Skelly
Mr Thomas

4465

The Speaker: Mr President, 16 votes for, 8 against, in the Keys.

In the Council – Ayes 3, Noes 4

FOR

Mr Anderson
Mr Cretney
Mrs Poole-Wilson

AGAINST

Mr Coleman
Mr Corkish
Mr Crookall
Mr Henderson

The President: In the Council, 3 for and 4 against. The Branches are in disagreement. The motion fails to carry.

Part 5b:

That the committee be required to report its conclusions on the draft Bill and any suggested amendments within a fixed time period ...

– etc. Those in favour, say aye; against, no. The noes have it.

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

In the Keys – Ayes 12, Noes 12

FOR

Dr Allinson
Mr Ashford
Mrs Beecroft
Miss Bettison
Mrs Caine
Ms Edge
Mr Harmer
Mr Hooper
Mr Moorhouse
Mr Peake
Mr Perkins
Mr Speaker

AGAINST

Mr Baker
Mr Boot
Mr Callister
Mr Cannan
Mrs Corlett
Mr Cregeen
Mr Malarkey
Mr Quayle
Mr Robertshaw
Mr Shimmins
Mr Skelly
Mr Thomas

4470

The Speaker: Mr President, 12 votes for, 12 against in the Keys. It therefore fails in the Keys.

In the Council – Ayes 2, Noes 5

FOR

Mr Cretney
Mrs Poole-Wilson

AGAINST

Mr Anderson
Mr Coleman
Mr Corkish
Mr Crookall
Mr Henderson

The President: It fails in Council, 2 votes for, 5 against. That fails to carry.

Part 5c:

That, in considering the draft Bill, the committee take evidence from experts in the field and from persons who may be affected by the proposed legislation;

Those in favour, say aye; against, no. The ayes have it.

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

In the Keys – Ayes 11, Noes 13

FOR

Dr Allinson
Mr Ashford
Mrs Beecroft
Miss Bettison
Mrs Caine
Mr Harmer
Mr Hooper
Mr Peake
Mr Perkins
Mr Skelly
Mr Speaker

AGAINST

Mr Baker
Mr Boot
Mr Callister
Mr Cannan
Mrs Corlett
Mr Cregeen
Ms Edge
Mr Malarkey
Mr Moorhouse
Mr Quayle
Mr Robertshaw
Mr Shimmins
Mr Thomas

The Speaker: Eleven for, 13 against, in the Keys.

In the Council – Ayes 6, Noes 1

FOR

Mr Anderson
Mr Coleman
Mr Corkish
Mr Cretney
Mr Henderson
Mrs Poole-Wilson

AGAINST

Mr Crookall

4475

The President: In the Council, 6 votes for, 1 against. The Branches are in disagreement. It fails to carry.

Part 5d:

That amendments to the Long Title of a Bill be authorised by an instruction moved immediately after Second Reading (which instruction would be open to amendment);

Those in favour, say aye; against, no. The ayes have it.

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

In the Keys – Ayes 16, Noes 8

FOR

Dr Allinson
Mr Ashford
Mr Baker
Mrs Beecroft
Miss Bettison
Mrs Caine
Mr Cannan
Mrs Corlett
Mr Cregeen
Mr Harmer
Mr Hooper
Mr Moorhouse
Mr Peake
Mr Perkins
Mr Skelly
Mr Thomas

AGAINST

Mr Boot
Mr Callister
Ms Edge
Mr Malarkey
Mr Quayle
Mr Robertshaw
Mr Shimmins
Mr Speaker

The Speaker: There are 16 votes for, 8 against in the Keys.

In the Council – Ayes 3, Noes 4

FOR

Mr Corkish
Mr Crookall
Mr Henderson

AGAINST

Mr Anderson
Mr Coleman
Mr Cretney
Mrs Poole-Wilson

4480 **The President:** In the Council, 3 for, 4 against. The Branches are in disagreement. It fails to carry.

Part 5e:

That amendments to the Long Title of a Bill be taken at the end of the clauses stage;

Those in favour, say aye; against, no. The noes have it.

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

In the Keys – Ayes 16, Noes 8

FOR

Dr Allinson
Mr Ashford
Mr Baker
Mrs Beecroft
Miss Bettison
Mrs Caine
Mr Cannan
Mrs Corlett
Mr Cregeen
Mr Harmer
Mr Hooper
Mr Moorhouse
Mr Peake
Mr Perkins
Mr Skelly
Mr Thomas

AGAINST

Mr Boot
Mr Callister
Ms Edge
Mr Malarkey
Mr Quayle
Mr Robertshaw
Mr Shimmins
Mr Speaker

The Speaker: In the Keys, Mr President, 16 for, 8 against.

In the Council – Ayes 2, Noes 5

FOR

Mr Corkish
Mr Henderson

AGAINST

Mr Anderson
Mr Coleman
Mr Cretney
Mr Crookall
Mrs Poole-Wilson

4485 **The President:** In the Council, 2 for, 5 against. The Branches are in disagreement. It fails to carry.

Recommendation 7, part 5f:

That, when leave is given to introduce a Bill, the House of Keys approve the proposed topic of the Bill as opposed to approving the Long Title; and that the Speaker certify the Long Title of the Bill as introduced as corresponding to the terms in which leave was given.

Those in favour, say aye; against, no. The ayes have it.

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

In the Keys – Ayes 14, Noes 10

FOR

Mr Ashford
Mr Baker
Mrs Beecroft
Miss Bettison
Mr Boot
Mrs Caine
Mrs Corlett
Mr Cregeen
Ms Edge
Mr Hooper
Mr Peake
Mr Quayle
Mr Speaker
Mr Thomas

AGAINST

Dr Allinson
Mr Callister
Mr Cannan
Mr Harmer
Mr Malarkey
Mr Moorhouse
Mr Perkins
Mr Robertshaw
Mr Shimmins
Mr Skelly

The Speaker: In the Keys, 14 votes for, 10 against.

In the Council – Ayes 7, Noes 0

FOR

Mr Anderson
Mr Coleman
Mr Corkish
Mr Cretney
Mr Crookall
Mr Henderson
Mrs Poole-Wilson

AGAINST

None

4490

The President: In the Council, 7 for, none against. That therefore carries.
The final part of the amendment, part C:

and that the Committee prioritise the work on Recommendations 1 & 2 (and other issues relating to Legislative Council) and to report back with recommendations on the election and role of the Legislative Council in October 2017, and by the December 2017 sitting on the remainder of the recommendations.

Those in favour, say aye; against, no. The ayes have it.

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

In the Keys – Ayes 24, Noes 0

FOR

Dr Allinson
Mr Ashford
Mr Baker
Mrs Beecroft
Miss Bettison
Mr Boot
Mrs Caine
Mr Callister
Mr Cannan
Mrs Corlett

AGAINST

None

Mr Cregeen
Ms Edge
Mr Harmer
Mr Hooper
Mr Malarkey
Mr Moorhouse
Mr Peake
Mr Perkins
Mr Quayle
Mr Robertshaw
Mr Shimmins
Mr Skelly
Mr Speaker
Mr Thomas

The Speaker: Mr President, 24 votes for, none against.

We are not quite finished yet. Mrs Caine, we have got one more to go.

In the Council – Ayes 7, Noes 0

FOR

Mr Anderson
Mr Coleman
Mr Corkish
Mr Cretny
Mr Crookall
Mr Henderson
Mrs Poole-Wilson

AGAINST

None

4495

The President: We have not finished.

I now put the amendments as a package. Those in favour of the amendments, please say aye; against, no. The ayes have it.

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

In the Keys – Ayes 17, Noes 7

FOR

Dr Allinson
Mr Ashford
Mr Baker
Miss Bettison
Mr Boot
Mrs Caine
Mr Callister
Mrs Corlett
Mr Cregeen
Ms Edge
Mr Harmer
Mr Malarkey
Mr Moorhouse
Mr Perkins
Mr Quayle
Mr Skelly
Mr Speaker

AGAINST

Mrs Beecroft
Mr Cannan
Mr Hooper
Mr Peake
Mr Robertshaw
Mr Shimmins
Mr Thomas

The Speaker: Mr President, in the Keys, 17 votes for, 7 against.

In the Council – Ayes 7, Noes 0

FOR

Mr Anderson
Mr Coleman
Mr Corkish
Mr Cretney
Mr Crookall
Mr Henderson
Mrs Poole-Wilson

AGAINST

None

4500

The President: In the Council, 7 for and none against.

I then put Item 5, as amended by Mr Speaker's amendment, as the substantive motion. Those in favour, please say aye; against, no. (**Two Members:** Divide!) I haven't said anything yet! (*Laughter*) Division called.

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

In the Keys – Ayes 18, Noes 6

FOR

Dr Allinson
Mr Ashford
Mr Baker
Miss Bettison
Mr Boot
Mrs Caine
Mr Callister
Mrs Corlett
Mr Cregeen
Ms Edge
Mr Harmer
Mr Hooper
Mr Malarkey
Mr Moorhouse
Mr Perkins
Mr Quayle
Mr Skelly
Mr Speaker

AGAINST

Mrs Beecroft
Mr Cannan
Mr Peake
Mr Robertshaw
Mr Shimmins
Mr Thomas

The Speaker: Mr President, in the Keys, 18 votes for, 6 against.

In the Council – Ayes 7, Noes 0

FOR

Mr Anderson
Mr Coleman
Mr Corkish
Mr Cretney
Mr Crookall
Mr Henderson
Mrs Poole-Wilson

AGAINST

None

4505

The President: In the Council, 7 for, none against. The motion, as amended, therefore carries.

Hon. Members, the end of a long debate. Now we have to elect a Committee. Your decision is that a Committee of five Members be appointed. Mr Speaker is on automatically as Chairman. So we are now electing one Member of the Council of Ministers. May I hear nominations?

4510 **Mr Cregeen:** I would like to propose Member for Peel and Glenfaba, Mr Boot.

Mr Malarkey: I would like to second, Mr President.

The President: Mr Skelly.

4515

Mr Skelly: I would like to propose Mr Cannan.

Mr Ashford: I beg to second, Mr President.

4520

Mr Cretney: I would like to propose Mr Thomas.

Miss Bettison: I beg to second.

Mr Cannan: I propose Mr Hooper.

4525

A Member: Council of Ministers! *(Interjections and laughter)*

Mr Malarkey: Congratulations!

4530

Mr Corkish: What do you know that we don't?

The President: Three nominations. Are you happy to run with that, Hon. Members? (**Several Members:** Yes.) (**Mr Crookall:** Yes, agreed.) I will ask the Clerk to read out the names of the Members nominated.

4535

The Clerk: The three nominated Members are Mr Boot, Mr Cannan and Mr Thomas, as representative members of the Council of Ministers.

The President: Proceed to vote.

A first ballot took place and electronic voting resulted as follows:

Vote Results

Mr Boot	13
Mr Cannan	10
Mr Thomas	7

Number of spoilt papers 2

4540

The President: The result of the election is that none of the candidates received a majority so we will drop off Mr Thomas. Mr Boot received 13 votes; Mr Cannan, 10; Mr Thomas 7. Two spoiled papers. We vote again.

The President: Proceed to vote.

A second ballot took place and electronic voting resulted as follows:

Vote Results

Mr Cannan	15
Mr Boot	14

Number of spoilt papers 2

4545 **The President:** The result is that Mr Cannan received 15 votes; Mr Boot received 14 votes. Two spoiled papers.

Mr Malarkey: Who is spoiling their papers?

4550 **The Speaker:** Mr President, is it worth clarifying that Members need to vote green for one and red for another one? *(Laughter)* The only way it gets spoiled ...

The President: Well, I would hope that would not be necessary, Mr Speaker.

4555 **Mr Cretney:** You only get one vote.

The President: We shall vote again.

A third ballot took place and electronic voting resulted as follows:

Vote Results	
Mr Boot	17
Mr Cannan	11

Number of spoilt papers	3
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The President: We have a result. Mr Boot received 17 votes; Mr Cannan, 11 votes. Mr Boot is therefore elected as the Council of Ministers' member of this Committee.

4560 We now have to vote for a Member of Legislative Council. May I hear nominations?
 Mr Ashford.

Mr Ashford: I propose Mr Cretney, Mr President.

4565 **Mr Coleman:** I would like to propose Mr Henderson, Mr President.

The President: Mr Harmer.

Mr Harmer: I would like to second Mr Cretney.

4570 **Mr Cregeen:** I vote Mr Crookall.

Mr Corkish: I second Mr Henderson.

4575 **The President:** Second Mr Henderson.

Mr Cannan: I propose Mrs Poole-Wilson.

The President: Sorry, I could not hear you.

4580 **Mr Cannan:** I propose Mrs Poole-Wilson.

Miss Bettison: I second Mrs Poole-Wilson.

4585 **Mr Malarkey:** I second Mr Crookall.

The President: Thank you. I think we have four nominations now. I think that is enough.

The Speaker: Vote for the Lord Bishop! *(Laughter)*

4590

The President: I ask the Clerk to read out the names.

The Clerk: Representative Member of Legislative Council: Mr Cretney, Mr Henderson, Mr Crookall or Mrs Poole-Wilson.

A first ballot took place and electronic voting resulted as follows:

Vote Results	
Mr Cretney	12
Mr Henderson	6
Mr Crookall	5
Mrs Poole-Wilson	5

Number of spoilt papers	3
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4595 **The President:** The result of the ballot is that Mr Cretney received 12 votes, Mr Henderson, 6, Mr Crookall, 5 and Mrs Poole-Wilson, 5. Three spoiled papers.

According to Standing Orders, we would ballot between Mr Crookall and Mrs Poole-Wilson as to who was dropped off. With your permission, should we drop them both off?

4600 **Members:** Yes!

The President: Is that agreed?

Members: Agreed.

4605

The President: A ballot between Mr Cretney and Mr Henderson, in that case.

A second ballot took place and electronic voting resulted as follows:

Vote Results	
Mr Cretney	21
Mr Henderson	10

The President: The result of the ballot is Mr Cretney received 21 votes; Mr Henderson, 10 votes. Mr Cretney is elected.

4610 We now vote for two Members of the House of Keys to serve on the Committee. May I hear nominations, please?

Mr Boot.

Mr Boot: Mr Baker.

4615 **Mr Thomas:** I beg to second Mr Baker.

Ms Edge: I propose Mr Hooper.

The President: Mr Hooper.

4620

Mr Shimmins: I second Mr Hooper.

Mr Cregeen: Dr Allinson.

4625 **The President:** Dr Allinson.

Mrs Caine: I second Dr Allinson.

The President: Thank you.

4630

Miss Bettison: I propose Mr Robertshaw.

The President: Mr Robertshaw, thank you.

4635

Mr Cannan: I second that.

The President: We have four Members nominated for the two positions. (**Mr Corkish:** Close nominations.) Are you content to close nominations? (**A Member:** Agreed.)

I call on the Clerk to read out the names.

4640

The Clerk: The four Members of the House of Keys who have been nominated for two places on the Committee are Dr Allinson, Mr Baker, Mr Hooper and Mr Robertshaw.

The President: Voting for two of the four this time. Two votes, you have.

A ballot took place and electronic voting resulted as follows:

Vote Results

Mr Baker	18
Dr Allinson	16
Mr Hooper	11
Mr Robertshaw	11

Number of spoilt papers 3

4645

The President: The result of the ballot is Mr Baker received 18 votes; Dr Allinson, 16; Mr Hooper, 11 votes; and Mr Robertshaw, 11. Mr Baker and Dr Allinson are therefore elected.

The Select Committee comprises Mr Speaker, Mr Boot, Mr Cretney, Mr Baker and Dr Allinson. Thank you, Hon. Members.

**6. Tynwald Standards and Members' Interests Committee –
Members' conduct –
First Report 2016-17 and recommendations –
Amended motion carried**

Mr Speaker to move:

That the Tynwald Standards and Members' Interests Committee's First Report for the Session 2016-2017 [[PP No 2017/0104](#)] be received and the following recommendations be approved –

Recommendation 1

That the principles in Annex 5 of the Standing Orders of Tynwald be amended to emphasize that the principles protecting staff apply to all public sector staff, whether in Government, Tynwald, local authorities or elsewhere, as follows:

In the paragraph in Annex 5 of the Standing Orders of Tynwald headed "Working relationships" to leave out the words "The Required Standards of Conduct in the Clerk of Tynwald's Office: Staff Management Procedures are generally adopted as applying to Members" and to insert the same words as a new paragraph under the same heading after the words "In Members' communication with others they should remember that people are different and that what may be acceptable to some people may not be acceptable to others."

In the paragraphs in Annex 5 of the Standing Orders of Tynwald headed "Relations between Members of Tynwald and staff", after the word "except through the appropriate channels, namely" to insert the words "(in the case of Tynwald staff)" and at the end of that paragraph after the word "Speaker" to add the words "and (in the case of other public servants) the relevant Chief Officer and, if the response is unsatisfactory, the Chief Secretary".

In the paragraphs in Annex 5 of the Standing Orders of Tynwald headed "Policy against bullying and harassment", after the words "Members of Tynwald accept the principles set out in the Office of the Clerk of Tynwald Management Procedures in relation to bullying and harassment as they affect Tynwald staff and" to insert the words "will apply them equally to all".

Recommendation 2

That a new Code of Conduct for Members of Tynwald be adopted, as set out in Annex I to this Report, which includes the Nolan Principles.

Recommendation 3

That the current Rules relating to Members' Interests should be amended to form a more principles-based set of Guidelines;

The following specific amendments should be made:

the words more than a total of £1,151 in value in any calendar year, or in any individual case of more than £58 in value," in paragraph 6(1)(iv) be removed and replaced with the words "any amount which might be taken to affect the way in which a Member may vote or otherwise carry out their public duties";

paragraph 6.2 be deleted;

paragraph 7(a) leave out the words "or when in the case of Rule 6(1)(iv) the threshold is reached";

remove all references to Forms A and B.

Recommendation 4

Members should sign the Code of Conduct on appointment, just after they take the Oath.

Recommendation 5

Guidance for new Members on the Code of Conduct is vital; this should be a continuing process.

Recommendation 6

We do not recommend co-opting lay members to the Standards and Members' Interests Committee.

Recommendation 7

We do not recommend removal of the current requirement for complaints to go through the Member filter.

Recommendation 8

The Ombudsman, if required, could be used as an investigator and reporter to the Committee of facts. However, the Committee should be in charge of the process at all times. Use of the Ombudsman as an investigator, if the Committee deems this useful, would defuse some of the criticism that bias may affect the collection of evidence on which a decision may be made about a Member's conduct.

Recommendation 9

That there need be no other substantial change to the procedure adopted by the Committee; there should be no delegation of the choice of recommendation as to penalty. The Committee should remain the recommending body and Tynwald should remain the decision making body, in order to protect Tynwald's right to control its affairs. There should be no right of appeal.

Recommendation 10

That there should be no schedule of penalties, but Tynwald should retain the right to choose the appropriate sanction. All cases of suspension should involve loss of payment of expenses, including the extra payment as a Minister or member of a department.

Recommendation 11

That suspension from one Chamber should always result in suspension from the other Chamber to which the Member belongs.

Recommendation 12

We do not recommend a power of recall for Members of the House of Keys or Legislative Council.

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The President: We now move to Item 6 on our Order Paper, Tynwald Standards and Members' Interests Committee.

Mr Speaker to move, please.

4655

The Speaker: Don't leave! It is just about to get good.

Just before the election, Tynwald resolved:

That the Tynwald Standards and Members' Interests Committee should reconsider the application of the principles governing Members' conduct to Members' working relationships with public servants in Government, local authorities and other public bodies, and evaluate the introduction of (a) a code of conduct (b) a schedule of penalties and (c) a recall election procedure; and report by January 2017 with recommendations.

As I explained in January, this timescale was not possible, following on from the general election and the change of membership; but this Report is now before the Court.

4660

The Committee canvassed Members' opinions about the issues raised by the Tynwald resolution and we have published the responses received. In addition, we have noted the excellent work in this field by the Commonwealth Parliamentary Association, which has done a lot to improve internationally accepted norms of behaviour.

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We took careful note of the work of the CPA, because one important constituency in relation to public demonstration of Tynwald's probity is the international community. It is a vital part of preserving the Island's commercial interests that we have a parliament which is run on lines that bear scrutiny from any quarter. We need to be aware of generally accepted standards elsewhere and be ready to adopt them here, where appropriate.

4670

The current system governing Members' conduct is based largely on Standing Orders and the rules relating to Members' interests. In April 2016, Tynwald agreed that Members of Tynwald should accept and be bound by the Nolan Principles, and the principles of working relations with colleagues, presiding officers and the public, set out in the annex to its Report, should be

included in the Standing Orders of Tynwald. However, up to now there has been no formal code of conduct. Lord Lisvane commented on the absence of a code of conduct in his report.

4675 There are 12 recommendations in this Report, covering a wide range of matters. These cover four main areas: protection of staff in recommendation 1; standards of conduct, especially a code of conduct in recommendations 2 to 5; the way the Standards Committee operates in recommendations 6 to 9; and penalties for infractions in recommendations 10 to 12.

4680 The first recommendation is that the principles in annex 5 of the Standing Orders of Tynwald be amended to emphasise that the principles protecting staff apply to all public sector staff, whether in Government, Tynwald, local authorities or elsewhere. The specific amendments to Standing Orders which achieve this are set out in recommendation 1 and I would hope that would not be controversial.

4685 In terms of standards of conduct, especially a code of conduct, the second recommendation is that the code of conduct set out in the report be adopted. This code of conduct is very much the same as the code in force in the House of Commons. We believe that it is suitable to use a tried and tested model for the code, which would bear international scrutiny.

The fourth recommendation is that Members should sign the code of conduct on appointment, just after they take the oath, as recommended by Lord Lisvane.

4690 The third recommendation is that the current rules relating to Members' interests should be amended to form a more principled set of guidance. Certain amendments to the rules are set out to broaden the scope of financial receipts by Hon. Members so that any money received is potentially within the rules, but that the circumstances of the receipt should determine whether a Member needs to declare it. In other words, it is not important how much is received but who provides it. The test will be more demanding on us all. Members will have to consider, perhaps
4695 on the advice of the Registrar of Members' Interests, whether some gifts be taken to affect the way in which a Member may vote or otherwise carry out their public duties. I would add that nothing in this recommendation overrides or changes Financial Directive 1 on gifts and hospitality.

4700 Recommendation 5 is that guidance to Members on the code of conduct should be a continuing process. This fits in with the generally accepted view that guidance and training for Members is a constant process.

Turning to the working method of the Standards Committee, this was controversial in a case which occurred last year, and we discussed this issue carefully. We disagreed with Lord Lisvane on the matter of non-Members on the Standards Committee. We believe that it was wrong to
4705 include non-Members on the Standards Committee as it tends to undermine the mandate which Members have. We should have the confidence to trust our own judgement and be ready to answer for it at the next election.

The Committee also disagreed with Lord Lisvane about allowing direct complaints from the public. To do so would raise unjustified expectations among members of the public that the
4710 Committee would act as a court of appeal against, for example, unwelcome handling of constituency issues or the extent to which unpopular political decisions could be changed. To allow direct complaints would open up a procedure that is supposed to be restricted to conduct involving a misuse of the rights of membership of Tynwald to a much wider range of discontentment which may be more to do with disliking the incumbent, and such matters are
4715 more properly dealt with at the ballot box. To change this rule would be to reshape entirely the objectives and work of the Standards and Members' Interests Committee.

With regard to the system of investigation by the Committee being fair and reasonable, we recommend no change to it other than welcoming the possibility of using the ombudsman, when that officer is appointed, as an investigator in any case where the Committee deems that
4720 it would be useful. The Committee must, however, remain in charge of any investigation.

We note the strong advice from the Attorney General about appeals from the Committee's report or from Tynwald Court's decision. There should be no appeal against a decision, as to allow this would undermine our parliamentary sovereignty.

Turning to penalties for infractions, we considered whether there should be a standard range of penalties. One comment of Lord Lisvane is that the current power to insist that a Member apologise is a blunt instrument and of limited effectiveness. He recommended a wider range of penalties, including demand for an apology and suspension for a specified term. We have concluded that the range of penalties should be expanded and, while we do not wish to extend the reasons for expelling a Member as this would undermine the mandate given by the electorate in the case of Members of the House of Keys, we do however firmly believe that allowances should all be withheld in the case of suspension of a Member during the period of suspension.

While they are suspended they cannot function properly as a Member and therefore they ought not to receive the allowances, as opposed to the basic pay which goes with the office. This should include any payment as a Minister or a Member of a Department since the inability to attend Tynwald or the Branches means that they cannot carry out their Government functions to the full. We think that a failure to obey the rules of one Chamber should be punished by automatic suspension from the Member's Branch as well.

One of the specific matters which the Committee was asked to examine was a recall election procedure and such power has recently been introduced to the House of Commons by the Recall of MPs Act 2015 – it has not yet been used in the United Kingdom. The Act provides for a recall petition to be triggered if a Member is sentenced to a prison term or suspended from the House for at least 21 sitting days. If either occurred, the Speaker would give notice to a petition officer who in turn would give notice to the parliamentary electors in the constituency.

We conclude that there is no justification for adding this power to the other penalties which may be imposed; partly, this is because the offence for which a Member may have been suspended may involve facts which cannot be fully revealed, especially if they involve staff matters, for example, and potentially the process could backfire if a Member who was subject to the recall procedure, having been found guilty of misconduct, appealed to the voters and won – they would in some form be able to present themselves as having been exonerated. The circumstances of an election do not lend themselves to proper forensic examination of disciplinary matters and we believe the process would not be a fair one, since not every side of the story would be represented.

We also feel that such a process, like expulsion, undermines the mandate given at election. We considered whether a power of recall should be set up in relation to Members of the Legislative Council, and we concluded that such a power would remove the guarantee of independence that proper legislative scrutiny requires and that it would fundamentally weaken the effectiveness of Legislative Council.

Finally, I should say that maintaining public confidence in Members' probity is a continuing task – standards change and develop constantly and it may be that the Committee will return with further improvements to demonstrate that Members of Tynwald behave in a proper manner.

With that, I beg to move.

The President: Mr Robertshaw.

Mr Robertshaw: Thank you, Mr President.
I beg to second and reserve my remarks.

The President: Hon. Member for Ramsey, Mr Hooper.

Mr Hooper: Thank you, Mr President.

Overall, I am quite satisfied with the Report. I think it does strike quite a sensible balance between oversight and accountability on the one hand and flexibility on the other. However, there are three points that I think need to be further addressed.

Firstly, in respect of referrals from the public, I agree with the Committee that they should not act as a court of appeal and that direct complaints to the Committee could result in a great deal of confusion and that some sort of filter is appropriate. However, there may be instances where no Member is willing to take a genuine complaint to the Committee, or where a member of the public has no confidence in the process and so is put off from reporting their concerns as a result. So, the public needs an independent avenue to report complaints in these instances, in addition to the current Members' route, not in place of it.

I would therefore like to see the public able to report complaints to the Tynwald Commissioner for Administration who would act as the filter in this instance. If the complaint is within the remit of what the Committee can and should address, the Commissioner should then refer the complaint to the Committee in the normal course. I feel this would provide the right balance between preserving the integrity of the Committee and also ensuring the public have adequate access to the complaints process.

Second is the issue of pay suspension. I fully agree with the proposals, except that I do feel that the Committee itself has erred in missing off the increased pay for roles that are not ministerial or departmental. In this instance, I am referring specifically to Statutory Boards, the Planning Committee, and even the Speaker's role itself. I do not believe a suspended Member can undertake these roles to the fullness required if they cannot attend the precincts. So, I propose to amend the recommendation that is in front of us to include all additional sums, not just ministerial and departmental ones.

The final issue is that of the system of recall. I do appreciate that in the instance of misconduct, there might be information that cannot be shared and I appreciate the Committee's decision on that, but in the wider context I believe that the electorate should have the power to force a recall election if their Member acts so grievously against their wishes and their interests that they feel strongly enough to put them back before the ballot.

The same is true of Members of the Legislative Council, but it might be the case that a Member is either unwilling or unable to perform their duties fully and the Keys should have the ability to push for an early recall – a sort of vote of no confidence, if you would. I do believe this is much less important than ensuring the electorate have the power to call elected Members of Keys to account.

I do appreciate that these circumstances, in the wider context, were perhaps outside the scope of the Committee and it may be the case that on further and fuller investigation that no appropriate system of recall can be found, but I do think we need to look at this more fully, in a much broader context, and I think we need to take some evidence on this from the public and to look at how these kinds of systems may work elsewhere. So, I am going to propose that we set up a select committee to look into this particular issue of a recall in detail.

Members should have had an amendment circulated in my name, and I am proposing to amend three of the recommendations, recommendations 7, 10 and 12, so that recommendation 7 will read, 'We recommend that complaints should continue to go through the Member Filter, but that complaints could also be referred to the Tynwald Standards and Members' Interests Committee from the public through the Tynwald Commissioner for Administration.'

In recommendation 10, I propose replacing all of the words after 'including' with the phrase, 'any additional sums payable to certain office holders.'

And recommendation 12, I would like to propose that we recommend a select committee of three people be established to investigate how recall mechanisms for Members of the House of Keys and Members of the Legislative Council could function and to report back with proposal no later than June 2018.

Thank you, Mr President. I beg to move:

To leave out all the words in recommendation 7 and to insert the words: 'We recommend that complaints should continue to go through the Member Filter, but that complaints could also be referred to the Tynwald Standards and Members' Interests Committee from the public

through the Tynwald Commissioner for Administration'; to leave out all the words after the word 'including' in recommendation 10 and to insert the words: 'any additional sums payable to certain office holders'; and to leave out all the words in recommendation 12 and to insert the words: 'That a select committee of three Members be established to investigate how a recall mechanism for Members of the House of Keys and Members of the Legislative Council could function and to report back with proposals no later than June 2018'.

The President: Ms Edge.

4825

Ms Edge: Thank you, Mr President.
I wish to second and reserve my remarks.

The Speaker: You are on the Committee, right?

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The President: You cannot reserve your remarks but you are seconding.
Mr Thomas, Hon. Member.

The Minister for Policy and Reform (Mr Thomas): Thank you very much, Mr President.

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I think that was a very helpful intervention from the Hon. Member for Ramsey, Mr Hooper, because it made specific proposals that we are going to be asked to vote on in a moment, and his specific proposal was to do with the Tynwald Commissioner for Administration as a filter for the general public.

4840

Well, Government has not been asked about that and already I have indicated this morning that the Tynwald Commissioner for Administration is an evolving role and already we are having challenges with establishing it, and this is a new task that is being allocated, potentially, by this amendment.

4845

Before I get into raising some issues, I just wanted to congratulate the Committee for having picked up the motion that I moved originally in June 2016 and looking at it thoroughly, but I just now wanted to speak to encourage the Committee to think about withdrawing the Report for a month or so, perhaps until October, as would be normal in certain situations with parliamentary reports and I think is appropriate in this case.

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I accept that this is not one of the types of reports that normally Government has a chance to comment on, but I think it would be very helpful in this case for the Tynwald Commissioner for Administration. And to put it on the table, if the Committee is not minded to withdraw until October for two sittings as would be normal, I would like to propose an adjournment for this debate until October; but obviously if we do have an adjournment, we will not be able to get the benefit of some of the things that I am about to suggest now, because we will have to be debating in October the original Report.

4855

The first point I wanted to raise is in recommendation 1. Quite clearly, when I was moving for this Committee work, I talked about local authority staff and Department staff in Departments other than where the Member was political. I accept that recommendation 1, as presented, addresses the issue of harassment, bullying and all the other things that were alleged around the time of this motion in the context of all Departments, but I do not see any evidence in the Committee's Report that any attempt was made to consult with other Departments of Government; I am not aware that there was any contact with the Office of Human Resources or the Public Services Commission; I am not aware of any attempt to consult local authorities, and that is the context in which I put that motion.

4860

I think it would be very helpful for us if the Committee was to go away and actually ask some of these external bodies and also internal bodies what they think of this recommendation and how this would work in practice, because there were real issues, not only the John Houghton episode, that were behind my motion. I think it would be good for the Committee to take the time to open up the dialogue beyond there.

4865

4870 In terms of recommendation 2, we have perhaps got a conflict. I could not get to the bottom
of this because the documents are so badly written. In recommendation 2 it refers to the Nolan
Principles, but later on we have a code of conduct with some specific principles, and as far as I
can tell the Nolan Principles have been updated since the code of conduct was specified. There
4875 has been substantial work by the Committee on Public Life and that has been interpreted by the
Westminster Committee into Parliamentary Standards and it seems to me and officer staff in
Government that both of us, Government and Tynwald, need to actually revisit exactly where
we are in terms of standards of public life. I think a period of catching up on where we are in
terms of recommendation 2 and potential conflict and whether or not we need to, both
Government and Tynwald, update our standards and make sure we take into account things that
4880 have changed and the episodes that have taken place in Westminster, throughout the
Commonwealth, that Mr Speaker, when moving, kindly referred us to and actually
complimented those changes. Wouldn't it be a shame if we did not get the benefit of the latest
version of the Nolan Principles?

Another point is that ... I think this is an important point behind the Hon. Member for
Ramsey's amendment. When we come to looking at recall elections, at the minute we have a
4885 problem. Now, elections are about representation of the people; they are about giving the
people the chance to interact with their politicians. A case has been made that this Committee
does not think we need to trouble ourselves with recall elections, but have we asked the
people? Many Committees of Tynwald would open a public consultation on this response, and
when it is to do with elections I would think that it would make a lot of sense to actually have
4890 had a public consultation. If we allow ourselves a new report, perhaps, in October, we will have
the chance to ask the people what they think about this recommendation, because this is about
representation of the people.

Also, along those lines, there is an excellent report from the Committee on the electoral
system, the Select Committee, who did ask the people and took evidence from outside. We are
4895 going to actually now commence a root-and-branch review of elections, and shouldn't we be
looking at it from Government's point of view? And we will be doing a consultation about that.
Shouldn't we have engaged with this Committee from Tynwald to actually decide whether we
can have synergies in terms of this investigation?

There are other points I could make, but I will not. I am speaking on behalf of the Council of
4900 Ministers in terms of Government more generally. I want to congratulate the Committee on an
excellent Report, but I do think we can step back from it very slightly. Our preference would be
for the Committee to withdraw the Report at least for a month, if not until October; otherwise, I
put it on the table and move to adjourn until October.

4905 **The President:** I do not know what that means. You have not moved an amendment. I
suppose it is up to a Member of the Committee who wants to speak and give a view from the
Committee. (*Interjections*)

Mr Thomas: Thank you very much, Mr President.
4910 I apologise for not making it clear. If Mr Speaker and the Committee more generally are not
going to withdraw the Report, I would like to move for an adjournment until October.

Mr Malarkey: I will second the adjournment.

4915 **The President:** Right, we are into an adjournment debate – five minutes.
Mr Speaker.

The Speaker: I am not entirely sure whether the Hon. Member has thought it through in
terms of the Hon. Member has not brought an amendment to the Committee's
4920 recommendations, and if it is adjourned, it is exactly the same Report that will come back to the

next sitting or the subsequent one to when it is adjourned. So it is not going to take anybody any further forward.

What I would suggest the Hon. Member do is, if he writes to the Committee we can pick up any other ideas he might have and we can continue that work. This is a Standing Committee of Tynwald, not a select committee; it is not that we report and then we dissolve, as select committees would. The Tynwald Standards and Members' Interests Committee is a Standing Committee of Tynwald. We continue to sit and we continue to consider this debate and the work on this, which I said was evolving. If the Hon. Member wishes to write to us, we may well be able to incorporate his ideas and those of the Council of Ministers in our next report.

I am afraid I do not see how the Hon. Member adjourning it gets anybody any further forward.

The President: Does anyone else wish to speak on the adjournment? No.

In that case, Mr Thomas, you moved the adjournment, you have the right of reply.

Mr Thomas: Thank you, Mr President, and to Mr Speaker for amplifying the remarks I made, but I hope in a clearer way then.

I completely agree with Mr Speaker that an adjournment is disappointing in the sense that it would be much better if the Committee withdrew the Report so it could be changed in the next four months, taking into account the issues that I have identified.

If the Committee is adamant that they are going to put this paper on, I take it in good faith that we should now look to engage the Crown Elections Team, Office of Human Resources, local authorities and all the other people I have mentioned, but that seems to me a suboptimal way of doing it.

The President: Hon. Members, the motion is that the debate be adjourned until October. Those in favour, say aye; against, no. The noes have it.

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

In the Keys – Ayes 4, Noes 20

FOR

Mrs Beecroft
Mr Harmer
Mr Skelly
Mr Thomas

AGAINST

Dr Allinson
Mr Ashford
Mr Baker
Miss Bettison
Mr Boot
Mrs Caine
Mr Callister
Mr Cannan
Mrs Corlett
Mr Cregeen
Ms Edge
Mr Hooper
Mr Malarkey
Mr Moorhouse
Mr Peake
Mr Perkins
Mr Quayle
Mr Robertshaw
Mr Shimmins
Mr Speaker

The Speaker: Mr President, 4 votes for, in the House of Keys, and 20 against.

4950 *In the Council – Ayes 0, Noes 7*

FOR
None

AGAINST
Mr Anderson
Mr Coleman
Mr Corkish
Mr Cretney
Mr Crookall
Mr Henderson
Mrs Poole-Wilson

The President: And in the Council, none for and 7 against. The adjournment motion therefore fails to carry.

The debate resumes. Does anyone else wish to speak?

Yes, Mrs Poole-Wilson.

4955

Mrs Poole-Wilson: Thank you, Mr President.

It is a matter I have raised prior to today with Mr Speaker, having read the Report. I fully support recommendation 2 of adopting a new code of conduct. My point today is really a request to the Committee to consider perhaps developing some guidance around the procedure that will be adopted when matters are referred to the Committee.

4960

So, recommendations 8 and 9 relate to the procedure to be adopted and obviously recommend that there be no right of appeal, and I understand and accept why this is not possible in these cases. However, given the importance of fairness and also achieving the appearance of fairness in the way that any matters are received and dealt with, I wonder whether the Committee would consider developing and publishing guidance on, firstly, the general approach it will adopt when considering matters referred to it; and, secondly, the range of potential sanctions and the sorts of factors that would be weighed up when considering these possible sanctions.

4965

I must stress my intention in asking the Committee to consider this is not to ask for prescriptive guidance to be formulated that then absolutely ties anybody to that in the way matters are considered. Similarly, any guidance on sanctions need not prescribe which sanction would apply in which circumstance, really to allow the Committee flexibility to recommend a sanction taking account of all the relevant circumstances of a particular case.

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However, by an analogy with disciplinary procedures in most workplaces, I think guidance would be helpful in the general sense in supporting transparency and natural justice and fairness and the perception of those things.

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The President: I call on the mover to reply, Mr Speaker.

4980

The Speaker: Thank you, Mr President.

Just to pick up a few other points that Mr Thomas made that I thought I would save until the end with regard to consulting with other parts of Government, I think because we were not seeking to bind officers, we were looking to protect officers, that was why there did not need to be a significant amount of engagement, but we did look at documents produced by Government such as the anti-bullying policy and we did use those sorts of documents to inform our considerations.

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Again, I am not aware of what the Hon. Member is referring to in terms of updated Nolan Principles. The website – and I checked today – on the Commissioner for Standards and Public Life has the Nolan Principles there and they are still the same as in 1995. So, again, I would welcome the Hon. Member if he would write to me on that subject.

4990

In terms of consulting the public, as the Cabinet Office are looking at election legislation, I am sure that his officers there will look into this and report back when they are looking at the

legislative changes, but certainly it is not something that the Committee felt was necessary at this point because this is about Members determining the disciplinary process for themselves. This is, again, a sovereign matter for this Court and it is something that we move forward with very carefully. We did consult all Members and we think that was appropriate in the circumstances.

Turning also then to Mrs Poole-Wilson's comments, I have to say that perhaps guidance could be a helpful tool in a general sense to reinforce that sense of fairness because there is no onward appeal mechanism. I think the Committee would find benefit in taking that away and considering that and coming back, because of course, as quite rightly pointed out, there is the need for a certain amount of flexibility.

In the extremely brief time that the Members of the Committee have had to consider Mr Hooper's amendment – and using various smoke signals and other methods of communication around the Chamber – there is a general feeling that in terms of the amendment to recommendation 7, this is something that could be quite useful, although there is a certain amount of reticence on behalf of one Member.

In terms of the changes to recommendation 10, that is again something that we feel would be helpful and we would have no problem with that.

I think where the Committee is concerned would be about referring the last item with regard to recommendation 12 about a recall procedure for Legislative Council and to refer that to a separate Committee. Having perhaps just set up a Committee to look largely at the issues surrounding the Legislative Council, it may be that would be the appropriate body to look at this matter. However, I think to establish a separate Select Committee to do parallel work in confidence at this time would not be of benefit, shall we say, and would only seek to either duplicate or worsen the work that Committee is tasked with.

If the Hon. Member is able to take it in parts – and I have to defer to the President on that – I think the Committee on the whole would be willing to accept recommendations 7 and 10, but I think would resist the changes to recommendation 12 at this time.

Thank you. I beg to move.

The President: Yes, thank you, Hon. Member.

Under Standing Order 3.12, any Member may move that propositions be debated as one but voted upon separately. So, I take that as a move so to do. Is that formally seconded? Is that agreed? (Interjections)

Mr Cretney: I would like to second.

Mr Ashford: Second, Mr President.

Several Members: Agreed.

The President: Thank you, agreed, Hon. Members.

So, the motion before us is that set out at Item 6, and there is an amendment in three parts in the name of Mr Hooper.

Dealing with Mr Hooper's recommendation 7 amendment, those in favour, say aye; against, no. The ayes have it. The ayes have it.

Recommendation 10, Mr Hooper's amendment: those in favour, say aye; against, no. The ayes have it. The ayes have it.

Recommendation 12, Mr Hooper's amendment: those in favour, say aye; against, no. The noes have it.

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

In the Keys – Ayes 4, Noes 20

FOR

Mrs Beecroft
Mr Cannan
Mr Hooper
Mr Thomas

AGAINST

Dr Allinson
Mr Ashford
Mr Baker
Miss Bettison
Mr Boot
Mrs Caine
Mr Callister
Mrs Corlett
Mr Cregeen
Ms Edge
Mr Harmer
Mr Malarkey
Mr Moorhouse
Mr Peake
Mr Perkins
Mr Quayle
Mr Robertshaw
Mr Shimmins
Mr Skelly
Mr Speaker

The Speaker: In the House of Keys, there are 4 votes for and 20 votes against.

In the Council – Ayes 0, Noes 7

FOR

None

AGAINST

Mr Anderson
Mr Coleman
Mr Corkish
Mr Cretney
Mr Crookall
Mr Henderson
Mrs Poole-Wilson

5045 **The President:** And in the Council, no votes for and seven against, so Recommendation 12 amendment, therefore, fails to carry.

I put the motion as amended. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

**7. Tynwald Honours Committee –
Inclusion of William Kennish in Manx Patriots' Roll of Honour –
First Report 2016-17 received and recommendations approved**

Mr Speaker to move:

That the Tynwald Honours Committee First Report for the Session 2016-2017 [PP No 2017/0097] be received and the following recommendation be approved –

That Tynwald approves William Kennish for inclusion in the Manx Patriots' Roll of Honour.

The President: I turn to Item 7: Tynwald Honours Committee.

Mr Speaker to move.

5050 **The Speaker:** Mr President, I have been scrambling around to find the comments ... Here they are! Thank you, Mr President.

Hon. Members will be aware that the Manx Patriots' Role of Honour is for deceased Manx persons who made, during their lifetime, a significant contribution to some area of Manx life. In the report before you, we propose William Kennish as an addition to the Role of Honour.

5055 You will remember that in March this year you attended the memorial of Mr Kennish in Brooklyn, New York, giving the eulogy on the 155th anniversary of his death, where a memorial stone was laid on his unmarked grave.

A full biography of William Kennish and his contribution to the Island can be found at annex B of the Report, and the Committee would like to thank Mr Robert W Stimpson for giving us permission to also use his research paper as part of the Report.

5060 Hon. Members, I am sure you will agree that William Kennish would be a most worthy addition to our Manx Patriots' Roll of Honour.

I beg to move the motion standing in my name.

5065 **The President:** Mrs Caine.

Mrs Caine: I beg to second, Mr President.

5070 **The President:** Hon. Members, I put the motion set out at Item 7, that Tynwald approves William Kennish for inclusion in the Manx Patriots' Roll of Honour. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Can I pay tribute and take this opportunity to Mr Robert Stimpson, who is chairman of the William Kennish Memorial Trust, for all the work he has done, (**Two Members:** Hear, hear.) more than anyone else living or previous, I think, to highlight the memory of our new Manx Patriot. Mr Stimpson is in the Public Gallery this evening.

5075

Several Members: Hear, hear.

**8. Select Committee on the Organization and Operation of the General Election –
Report and recommendations –
Debate commenced**

The Chair of the Select Committee on the Organization and Operation of the General Election (Mr Cretney) to move:

That the Report of the Select Committee on the Organization and Operation of the General Election [PP No 2017/0066(1)(2)(3)] (Vols 1-3) be received and the following recommendations be approved:

Recommendation 1

That all the written and oral evidence appended to this Report should be taken into account as part of the Cabinet Office's "root-and-branch" review of electoral legislation.

Recommendation 2

That the recommendations relating to the electoral register should be taken forward in conjunction with work already underway on the feasibility of developing a central resident record.

Recommendation 3

That the Cabinet Office should introduce online registration which would make it simple for individuals to check if they are on the register, and also to register if they are not.

Recommendation 4

That the Cabinet Office should allow people to register up until a week before polling day, rather than until the first day of September.

Recommendation 5

That the electoral register should be made available to all Returning Officers and candidates electronically in real time.

Recommendation 6

That the Cabinet Office should bring forward legislation to enable any declared candidate or sitting Member of the House of Keys to be provided at any time, free of charge, with a copy of the marked registers for their constituency from the most recent election and from the election before.

Recommendation 7

That the Cabinet Office should review the definition of household for the purposes of section 31 of the Representation of the People Act 1995 and should provide clarity on registered voters in multiple occupancy households.

Recommendation 8

That the electoral register should be made available to candidates in household format, to facilitate the distribution of manifestos under section 31 of the Representation of the People Act 1995.

Recommendation 9

That the Cabinet Office, in consultation with returning officers, should review the number and location of polling stations. While staffing costs must be taken into consideration, the ultimate aim of the review must be to maximise accessibility to all voters.

Recommendation 10

That the Cabinet Office, in consultation with returning officers, should review the available means to minimise any risk that a voter might be intimidated by crowds surrounding the entrance of a polling station.

Recommendation 11

The Cabinet Office should issue guidance to candidates on the meaning of treating and should not merely advise candidates to seek their own legal advice. The factsheet on electoral offences issued in the UK in 2012 could serve as a model for such guidance.

Recommendation 12

That the Cabinet Office should revise its Guidance for Candidates and the associated webpages. In doing so it should take account of the concerns identified in this Report and in the appended evidence, and of any points raised during the debate on this Report.

Recommendation 13

That a new system of pre-election meetings should be established so that meetings can be arranged and publicised well in advance as a matter of routine. Arrangements on the ground could be made by local authorities, Captains of the Parish or others but the overall responsibility for ensuring the meetings take place should lie with the Cabinet Office.

Recommendation 14

That guidance for returning officers should be developed by the Law Society in consultation with experienced returning officers. The guidance should cover a standardised approach to counting, the use of mobile phones within the count, and staff refreshments throughout polling day. To reduce the risk of misunderstanding, the guidance should be available to candidates and the wider public; but returning officers should also continue to brief candidates in person about what to expect.

Recommendation 15

That the Cabinet Office should continue to investigate the use of electronic voting systems at polling stations but should report to Tynwald with recommendations before any trial takes place.

[[GD No 2017/0222](#)] is relevant to this Item.

The President: Item 8: Select Committee on the Organization and Operation of the General Election. I call on the Chair of the Committee, Mr Cretney to move.

5080 **The Chairman of the Select Committee on the Organization and Operation of the General Election (Mr Cretney):** Thank you very much, Mr President.

The importance of elections and their organisation and operation cannot be overstated as part of the democratic process which we have had in place for the last 150 years. Also, we must use experience to inform best practice for the future. For that reason, I proposed this Select Committee last October at the first sitting of this Hon. Court after the 2016 General Election. I was grateful to Tynwald for establishing the Committee and for putting me on it. I was also grateful to the other Hon. Members of the Committee for electing me as their Chair.

5085 During the debate in October, the Minister for Policy and Reform, the Hon. Member for Douglas Central, Mr Thomas, told this Hon. Court that a comprehensive root-and-branch review of the electoral legislation was already underway. It was being conducted by Mr John Turner of the Association of Electoral Administrators in the United Kingdom. The Minister tabled an amendment that we should report by April 2017 so that our work could feed into the root-and-branch review. We did publish our Report in April and in our first recommendation we confirmed that we expected Mr Turner to consider all of the evidence we have gathered. We also expect him to take into account our other 14 recommendations if they are approved by Tynwald.

5090 Before I talk about the Report in more detail, I would like to say a general word of appreciation to the Crown and Elections Unit of the Cabinet Office. They had to deal with new constituency boundaries, new legislation on political parties and other matters and had difficulty in recruiting returning officers. By and large the election ran smoothly. It certainly delivered results in which people can have confidence. Since the election, the Cabinet Office has been fully supportive of the Select Committee process. They provided us with extensive written and oral evidence, for which we are grateful.

5100 While I am on the thank yous, I would also say thank you to the Law Society and to the returning officers for their work in operating the election and for their written and oral evidence to the Select Committee. Their contribution is very important.

5105 Mr President, one of the major events of the 2016 election which prompted me to call for a Select Committee was the handling of the count in the constituency of Ayre and Michael. By the time of our sitting in October, the then Acting Attorney General had investigated and had published his report, but I still felt it was important for Tynwald to look at this as well.

5110 Just to remind Hon. Members of what had happened, the votes were counted and the result was announced on the evening of polling day. The next day one of the candidates realised that the number of votes per candidate which had been announced could not be reconciled with the

number of ballot papers cast. The returning officer looked into this and discovered 103 uncounted ballot papers. This did not alter the result but it did have the potential to damage public confidence in the electoral system.

To make matters worse, the Acting Attorney General found that the returning officer, in investigating the initial problem, had opened sealed packets of ballot papers. This was against the law, but the Attorney decided that it was not in the public interest to prosecute.

Mr President, the Attorney General reminded the Select Committee that, in law, he is responsible for prosecutions; he has to be free of political interference. As a Committee, therefore, we have not made any recommendations about this.

What we have recommended, at Recommendation 14, that guidance for returning officers should be developed by the Law Society. One of the main reasons such guidance is needed is to standardise counting procedures. We looked at a number of counting procedures during our investigation and some were clearly better than others. We did not think it appropriate for Tynwald to dictate which should be used; it is better for the Law Society to take the lead on this, but we did identify some key principles which we set out at paragraph 82 of our Report.

I will just take a moment to read these out, Mr President, because they are very important. They are:

It is essential that any system must allow for a reconciliation to be carried out between on the one hand the number of ballot papers cast, and on the other the numbers of votes attributed to each candidate;
In order for these figures to be reconciled, it will also be necessary to establish the number of ballot papers showing one vote only (i.e. the 'plump votes'), the number with two votes, and the number spoilt;
A system which works well for an election with up to six candidates may need to be modified for use in an election with larger numbers of candidates.

We have commended for the consideration of the Law Society the system used by Douglas Borough Council which was described to us by Mr Paul Cowin.

Mr President, another of the functions of a returning officer is to determine the number and location of polling stations. This was the topic we got the most comments on. Some people thought there were too many polling stations in their constituency, other people thought there were not enough. There were some situations which made no sense at all. In my former constituency, for example, people from Cooil Drive up on the Cooil Estate would have to go past Anagh Coar polling station to go to Scoill Vallajeelt. Now, it is all right if you have a vehicle, but if you are elderly and need to go on foot, then that is not convenient.

The Speaker: Same in Rushen!

Mr Cretney: Looking across the Island as a whole, we concluded that turnout was likely to have been adversely effected by the location and other characteristics of polling stations. We have recommended, at recommendation 10, that the Cabinet Office review this in consultation with returning officers. Really, I think they should take advice from elected politicians as well.

Mr President, another of the notable events of the 2016 election was so-called 'biscuit-gate'. This was a discussion which arose about the offence of treating. A number of candidates wanted to arrange meetings with electors and asked the Cabinet Office if it would be okay to provide tea and biscuits. The Cabinet Office said that the candidates should get their own legal advice – and biscuits, presumably!

We have recommended, at recommendation 11, that Cabinet Office should issue guidance based on the UK model. This guidance says that 'treating requires a corrupt intent. It does not apply to ordinary hospitality.' In the Government response they say they have already been referring people to this advice and they quote an example at their Appendix 2. The example does refer to the UK guidance: treating does not apply to ordinary hospitality. Unfortunately, it also muddies the waters by going on to say, and I quote:

If considering whether to provide hospitality to potential voters, a candidate should seek his or her own legal advice.

Mr President, this guidance may be correct according to the letter of the law, but it undermines the clarity of the UK model. It is no wonder candidates were concerned.

5160 Mr President, I recognise that it is not a function of the Cabinet Office to provide legal advice to candidates; however, I do not think candidates are asking for legal advice. I think it would be sufficient for the guidance to say, 'Treating requires a corrupt intent. It does not apply to ordinary hospitality' and leave it at that. If the Cabinet Office had adopted that approach, a lot of this kerfuffle could have been avoided.

5165 Now I would like to turn to another type of election meeting, which is the kind traditionally organised by the Captains of the Parishes, in rural areas at least. We call them 'requisition meetings' because under the current system they have been requested by someone before the Captain of the Parish will set them up. This system is not universally understood.

5170 We concluded that a public meeting should be arranged for every contested election without waiting for a petition or a request from a set number of people. We have recommended at recommendation 13 that a new system should be established and that the overall lead should lie with the Cabinet Office.

5175 Mr President, I would like to emphasise that we have no complaint about what the Captains of the Parishes have been doing all these years. There is no reason why they should not continue to play a big part under our proposed new system, especially in rural areas, but time moves on. These meetings are an essential part of the election process. Waiting for them to be requisitioned by the electors causes unnecessary delay. We think they should be planned and publicised in advance and the Cabinet Office should take responsibility for making sure this happens in every constituency.

5180 Finally, Mr President, I should say something about the one recommendation the Government has said it cannot accept. This is recommendation 6 about the marked registers. We have said that we think they should be available to candidates at the next two elections, so that candidates will know who voted last time and the time before. The Government response says that the marked registers are made available for the purposes of detecting potential
5185 electoral fraud or other irregularity. They say data should not be held for longer than is necessary and they say we have not given any detailed justification as to why they should be open for longer than 12 months.

Well, Mr President, other members of the Committee may wish to say more about this, but I would have thought it was obvious. What we have said is that the marked registers should be
5190 kept so that candidates in an election could refer to the marked register for the last election and the one before. Why would a candidate want to do this? To find out who voted the last time and the one before. This information is of use to candidates and to the democratic process because it helps candidates with their campaign. They could choose to talk to people who have not previously voted; they could choose to talk to people who always vote; or they could choose to
5195 talk to people who promised they would vote last time but who in fact did not. It is not for this Court or for the Cabinet Office to tell candidates how to run their campaigns, but we should not be putting up barriers which would stop candidates communicating with their potential constituents.

Mr President, I am glad to see that the Government is accepting all of our other
5200 recommendations. Rather than go through any more of them now, I will leave it at that and let others have their say.

I beg to move.

The President: Mr Ashford.

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

The President: Hon. Member for Douglas South, Mr Malarkey.

Mr Malarkey: Thank you, Mr President.

5210 Mr President, there is an amendment to recommendation 4 circulating. Unfortunately, a typing error has put it in the name of Mr Hooper. It is certainly not Mr Hooper, unless he has moved to Douglas South – I am not quite sure! But I certainly have not moved to Ramsey.

5215 Mine is a very simple amendment to recommendation 4. Mr President, many Members in here did by-elections back in 2015 at a time when the electoral roll had been completely scrubbed and then restarted again. Now, under the present election rules, if you are not on the electoral roll, you have to wait three months to get on the next electoral roll and so on, keep going forward, unless there is a general election. Then, if there is a general election, as is put into Recommendation 4, you can get onto the electoral roll right up to a close period before an election.

5220 Unfortunately, by-elections do not fall into this category and have not done in the past, so during the 2015 by-elections – and, as I say, there were several of us in here who stood in those by-elections – we were as much as 30% down on our polling lists, and these people could not be added because of the present legislation that we have.

5225 This simple little amendment would say that in future, if there was a by-election, the same rules would apply to the by-election as it does for the main election, allowing people to go on the voting list up to one week before any by-election in the future. So, I hope it can be supported, Mr President.

I beg to move:

After the words 'polling day' in recommendation 4 to insert the words: 'including for bye-elections'.

Ray, are you seconding it?

5230

The President: Hon. Member for Peel and Glenfaba, Mr Harmer.

Mr Harmer: Yes, I am very happy to second the amendment.

5235 I will take this opportunity to talk about the Report. I think it is an excellent Report. It covers many areas, and I am sure people will be talking about that.

I did want to just raise the issue ... It is not in the Government response, but I think it is an important point that perhaps needed to be discussed, and that is the issue that in 2015 12,000 people were taken off the electoral roll through a cleansing exercise or whatever and they had no opportunity to get back on that electoral roll, and I think that is not acceptable.

5240 I think at least going forward, and I think we all accept that in future, if there is an election, at least somebody can get back onto the electoral roll, but for those by-elections that happened in that year it was not correct. It was the fact that for some reason somebody had decided that a cleansing exercise or whatever ... but in actual fact that should not have taken place.

5245 At least now there are better procedures and people will be able to write a letter. They will get a second letter to say whether you are on the electoral roll or not. But the fact of the matter was that did happen and any electoral system that we have in future needs to be responsive. It needs to be able to allow people to get back on the electoral roll and that is why the whole online register and all of those issues in the Report, I fully support.

Thank you, Mr President.

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The President: Hon. Member for Ramsey, Mr Hooper.

Mr Hooper: Thank you, Mr President.

I would like to thank the Committee for the work that has clearly gone into this Report. It seems quite impressive, to be honest, but I would like to address one or two small issues that are in here.

Firstly, in respect of polling stations: we are all aware of the issues that happened in Ramsey where polling cards were issued with the wrong polling stations on, which caused quite considerable disruption to our local election up there. This error cost nearly £3,000 to correct and almost certainly impacted on people turning out to vote. I myself encountered a small number of people on polling day who had been directed to the wrong polling station and who were clearly frustrated at having had their time wasted, and as a result were either unable due to time constraints or simply unwilling to try their luck at the other polling station.

I am disappointed, then, that this issue is not so much as referenced in the Committee's Report, let alone addressed and I would just like a brief explanation from the Chairman as to why they decided not to follow this issue up and why it is not really addressed in the Report?

I am also slightly concerned regarding the drafting of guidance for returning officers. This guidance, I am assuming, would not be legally binding and so we could end up with regional variations and the issues which we saw regarding lost votes and counting errors could still crop up in the future. So, I would appreciate if the Chairman could expand a little on why the Committee decided not to recommend legislation or regulations in this area to force unanimous compliance across the Island by way of that kind of change. I would be grateful if the Cabinet Office could bear these comments in mind as part of their ongoing review into the election process.

Finally, electronic and online voting: here I do have a fundamental issue with the Committee's recommendation. The Committee's position is that we should not investigate the potential use of online voting and it seems the key evidence quoted in support of this position states:

... casting a vote into an electronic system is not the same as casting it into a sealed box: computer systems can be hacked.

And, of course, Hon. Members, we had no issues with ballot boxes in the last election!

This position, to me, seems to show a fundamental lack of understanding of the world in which we now live. People conduct the vast majority of their business online and I would like to suggest that people are more concerned with somebody accessing their hard-earned money through their online bank than they are of having their vote stolen. Both are equally serious, but I think people would be more upset by the one than the other, and yet people still use online banking because they feel it is secure enough for this purpose.

I would suggest, if computer systems are so fallible, why does the Government allow us to transact business online at all? How can we be assured that an individual casting a paper or postal vote has not been subject to undue pressure before they cast the vote? All the returning officer can see is what goes on in the room, not what happens before or afterwards. In this respect, I do not see the difference between physical voting in person and voting online. Neither system is entirely free from potential abuse.

The way we address this is we put in place adequate systems of control and safeguards to minimise this risk as much as possible. This is equally as true of online voting as it is for voting in person at the ballot box. It is the systems and controls in place surrounding the vote that provide for its security and anonymity, not the method of voting itself.

Simply because the Committee at this point in time was unable to envision a way in which online voting which retains anonymity and addresses the requisite security concerns might possibly work does not mean such a system cannot exist. I wonder if the Committee has read the report issued by the Digital Democracy Commission of the House of Commons, which recommends that in the 2020 general election, secure online voting should be an option for all

voters? So, this is something the UK feels that such a thing is possible and desirable, although I do accept we will no longer have a UK general election in 2020. *(Laughter)*

I am just wondering if our Committee has additional evidence or information that perhaps was not available to the UK's Commission or is it simply that we are not quite as willing as the UK
5305 seems to be to move into the 21st century in the areas of electronic voting?

The UK Commission did acknowledge the security and anonymity concerns and yet they still felt able to recommend that these could possibly be overcome and it should be investigated. Now, that is exactly my view. Perhaps it is still years away and perhaps it is something that we will never be able to achieve, but we should not simply discount it at this stage. As such, I
5310 propose to amend Recommendation 15 so that it reads, 'That the Cabinet Office should continue to investigate the use of electronic voting systems at polling stations and the use of online voting but should report to Tynwald with recommendations before any trial takes place.'

Thank you, Mr President. I beg to move:

After the words 'polling stations' in recommendation 15 to insert the words: 'and the use of online voting'.

Mr Cretney: Mr President, could I please indulge the Court ... Could you just state the first
5315 item that you were referring to in relation to Ramsey. I was writing and I just missed it. I am sorry.

Mr Hooper: It was the issue of polling cards being issued with incorrect polling station addresses.
5320

The President: Is there a seconder to this amendment before we do any more?
Ms Edge.

Ms Edge: I beg to second and reserve my remarks.

**Standing Order 1.2(2) suspended to continue Item 8 to completion
and review at 9 p.m.**

The President: Now, I have a couple of people who wish to speak at least. On Standing Order
5325 1.2(3):

The business of the day shall terminate not later than 8 p.m.

Mr Speaker.

The Speaker: Mr President, could I move that this Item be completed.
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The President: This Item be completed.
Mr Cregeen.

Mr Cregeen: Could I move that we work until 9 p.m.
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The President: Until 9 p.m.

Mr Crookall: I am happy to second Mr Speaker.

5340 **The President:** Which are you seconding?

Mr Crookall: Mr Speaker's.

The President: To complete the Item.

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Dr Allinson: I will second until 9 p.m.

The President: Right.

Which is it to be? Shall we review the position at 9 p.m. if we are not finished?

5350

Several Members: Agreed.

The President: I need 22 votes. I am happy to go for a full vote. Those in favour, say aye; against, no. It carries. We will go on to 9 p.m. and review the position if Item 8 is not complete at that point.

5355

**Select Committee on the Organization and Operation of the General Election –
Debate continued –
Amended motion carried**

The President: Mr Callister, Hon. Member for Onchan.

Mr Callister: Thank you, Mr President.

5360

I just want to put on record my sincere thanks to the Chairman and to the Committee Members for an excellent Select Committee Report into the organisation and operation of the September 2016 General Election. I enjoyed listening to the oral evidence along with reading many of the written submissions by various people involved throughout the election process.

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I believe the recommendations for consideration are certainly a step in the right direction and, if approved, they will certainly give greater clarity of information to candidates, returning officers and the general public. Therefore, I will be supporting the recommendations but, the Hon. Member for Legislative Council, I have to disagree with him on item 6. Therefore, I will be voting against recommendation 6, because I still share the same concerns with the Information Commissioner in respect of personal data and sensitive data and, more importantly, the individual political opinion of constituents.

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Therefore, I thank the Chairman and the board for everything they have actually done on this Committee. It has been a fantastic Committee to follow. I will be supporting the recommendations, other than recommendation 6.

Thank you, Mr President.

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The President: Hon. Member, Dr Allinson.

Dr Allinson: Thank you, Mr President.

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Again, I would also like to thank the Committee not only for doing such a comprehensive report so quickly, but for their inclusive nature.

It was a great honour to be elected to represent the people of Ramsey and I would personally like to thank the returning officer and his staff at Ramsey who did a terrific job. As it was my first election, I assumed the process I witnessed was standard and I now realise that this was due to the calibre of the staff involved rather than the system created for organising the elections, and obviously we need to concentrate more on the process rather than rely on the personalities

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involved. I think there is a definite need to standardise the procedure for counting the votes in all constituencies to try to avoid some of the errors made in last year's election.

On 22nd September, over 31,000 people came out to vote, representing 53% of the registered population, but there was huge disparity between certain wards: 61.1% voted in Ramsey, but only 40% in Douglas East. Now, I do not believe that the sole reason for that was due to a lack of constitutional reform, although certainly disillusionment in the democratic process may have played a part.

This administration has really looked into barriers to vote enrolment such as twinning it with jury commitment, and I hope that we can encourage more people to take part in voting. We do need to look further to engage and encourage more people to enrol to vote and certainly electronic registration is *very* important. Also, I feel that as well as we look at electronic voting, we do need to seriously look at online voting and try to increase the enfranchisement of the population. In an information age, on a digital Island, we must embrace new technology to ensure that the democratic process which has been achieved over hundreds of years by political struggle is not only protected but enhanced.

Thank you.

The President: Hon. Member, Mr Thomas.

Mr Thomas: Thank you, Mr President.

Can I open today by thanking the Committee on behalf of the Council of Ministers for completing their Report on time and for the detailed consideration they gave to all the matters before them, just as Government requested.

As Hon. Members will note from the Council of Ministers' response to the Select Committee's Report, the General Election held last year proved a turning point in Isle of Man elections. For the first time every voter headed to the poll being able to cast the same number of votes – the result of the first significant reorganisation of boundaries for nearly 30 years.

There were significant changes to the law, which has improved the transparency of House of Keys' elections, which came into practice at the General Election. Specifically, there were new requirements for political parties, limits on candidates' expenditure and new requirements for candidates to file, for public inspection, details of any donations received.

The General Election was not without incident. Her Majesty's learned Attorney General swiftly investigated and reported publicly on the unaccounted votes at Ayre and Michael. In the social media age, other more minor incidents – biscuit-gate, pizza-gate, all referenced already – were discussed widely. Whilst these matters have been widely focused on, in the interests of balance, I would like to touch briefly on some of the positive changes that were brought in the 2016 General Election.

The 2106 General Election was the most accessible national election to date. The Elections Team in the Cabinet Office put huge effort into ensuring all but one of the polling stations chosen by the returning officers were accessible to wheelchair users. The team also worked with the Manx Blind Welfare Society (**A Member:** Hear, hear.) to source and provide tactile voting devices at *every* polling station.

Advanced voting was introduced and was open to everyone, with no eligibility criteria other than being a registered voter. By using this method, people could vote in advance of polling day, at a time agreed with the returning officer. This proved very popular, with nearly 2,000 electors using this option.

More information than ever before was provided to the voter in the run up to the polling day; one well-received example being the election supplement which featured in two of the local newspapers and online. This gave information on polling stations, how to apply for advance and proxy votes and for the first time a combined notice of poll for all constituencies. The Council of Ministers was pleased to read in the Committee's Report that it commended the Cabinet Office on this publication and the guidance to voters' material.

Mr President, Hon. Members, Council of Ministers is in the agreeable position that it can concur with all but one of the Committee's recommendations. These will either be implemented straight away or, as advised in the Council of Ministers' response, picked up during the root-and-branch review.

That gives me a chance to comment on both the amendments that have been put forward. In terms of recommendation 4, the proposal that is being amended, the Council of Ministers is of the view that the opportunity to register up until a week before the poll should also apply in instances of House of Keys' by-elections. Again, this will require amendment to primary legislation which will be picked up in the root-and-branch review.

So, there is nothing wrong with the amendment from Mr Malarkey. It seems to me we can support it, but it needs primary legislation and it needs Government to consult on that, because this is not just housekeeping; this has to be an organised process inside the root-and-branch review. Council of Ministers would highlight to Members that there will be consequences of allowing registration until seven days before the poll, probably including electors registering after a certain date and very close to the poll will not be registered in time to receive a poll card. Whilst not necessary to vote, the Cabinet Office received a high volume of calls from the public in September 2016 regarding when and how they would receive poll cards.

Pushing the election deadline nearer to the poll is likely to affect other deadlines for advance and proxy voting, which might have an impact. There would only be a very short time period or potentially no time at all for the issues and objections in relation to the new electors to be considered prior to the poll, as per the current Registration of Electors Act.

We are trying to do something very bold with this root-and-branch review. In its scope, it seems at the moment to be the Representation of the People Act, the Registration of Electors Act and, conceivably, it might even be extended to other types of public elections in the Isle of Man.

We accept this recommendation. We acknowledge the amendment and I see no reason why we should be voting against the amendment from Mr Harmer and the Hon. Member for Douglas South, *but* we need to do this in –

Mr Malarkey: I have changed name again!

Several Members: Mr Malarkey!

Mr Thomas: Mr Malarkey – and seconded by Mr Harmer.

We need to do this in an organised way in the root-and-branch review, and that is what Government intended inside the Government response, as indicated very clearly.

In terms of the amendment from Mr Hooper, I start by picking up on the point that Dr Allinson just made. Yes, there are, and will be, lots of reasons why voting was different in different constituencies. The Chief Minister, earlier today, talked about better communication of Government policies and better communications of successes when we have them, and acknowledgement when we do not have success and failures. That was his hypothesis.

I offered another hypothesis to do with frustration to do with Tynwald reform in some parts of the Isle of Man. I will give you another one, Dr Allinson: the demography of Douglas East is the youngest, pretty much, in the Isle of Man and (*Interjection*) as you get further out of Douglas, (*Laughter*) you get older and older until you fall off the sea with very older people. (*Laughter*) Then that could be another reason for the different voter turnout and so on. It might be completely the opposite in the next election.

So, in summary, it is a very interesting hypothesis to have online voting. We believe, in this Government response, that we have considered, we have expressed that in this root-and-branch review we will be considering electronic voting inside polling stations, and we will be having at least one consultation, probably two – one on the principles, a second one on the election to do with all of these matters – and that is where all of these issues can be raised up; because there

5490 will be technical issues, there will be legal issues, there will be practical issues with what is proposed.

So, as I understand it, Council of Ministers has got no problem with supporting the amendment by Mr Hooper, but on the understanding that we now have a three-year process to put in place the best possible election system to make the 2021 election even better than the 2016 was.

Recommendation 6 is the only recommendation that, regrettably, Council finds it cannot support due to data protection, privacy and, potentially, human rights issues; and I appreciate that the Hon. Member for Onchan, Mr Callister, hinted at some of those issues for us.

5500 As Hon. Members will be aware, this recommendation seeks the provision of legislation to enable any declared candidate or MHK to obtain a copy, or to be able to obtain a copy, as a marked register for the most recent election and the one before. In practice, this would mean the marked polling station registers showing whether or not a person voted at a House of Keys election would be available for up to 10 years.

5505 Access to the marked polling station register is a thorny issue. The Committee recognises that previous attempts at widening access to the registers by making them available for purchase have not met with public support, and in the Data Protection Act 2002 the fifth data protection principle requires that data should not be kept longer than necessary for that purpose. Marks are made on the polling station register by poll clerks to indicate that the ballot paper has been issued to that elector. Public inspection of the marked register is primarily for the purpose of detecting election fraud or any other alleged irregularity.

5510 For some, the value of access to the marked register is to provide an indication as to whether or not a particular person is or is not likely to vote. This is not its primary purpose and Government cannot accept that recommendation. The Committee's Report does not expand or provide any detailed justification as to why the marked register should be open to examination for such a prolonged period of time, which could have addressed concern regarding the fifth data protection principle.

The Council of Ministers has considered the view of the Information Commissioner regarding this recommendation. The Commissioner believes there to be a potential data protection issue should the recommendation be approved. The information concerned is personal data. The marked registers are data held by a public authority, which indicates whether a person did or did not vote at a particular election. It could also be argued that it is sensitive personal data, to some extent, as an individual's political choice as to whether or not to exercise their entitlement to vote. Electors may be concerned if a candidate calls at their door during a subsequent election, querying why they did not vote previously. It is important to consider the feelings and views of the electorate, including their right not to vote. That is the Commissioner's opinion.

5525 The Information Commissioner has advised that to be lawful, as required by the Data Protection Act first data protection principle, to enable a marked register to be retained longer, and as required by the second principle, to be disclosed to prospective candidates at a later election, will require amendment to primary legislation. So this issue could come up again during the root and branch review. Any amendment would also need to consider compliance with other instruments – for example, necessary, justified and proportionate under the European Convention on Human Rights. The Committee has also recognised previous proposals to reform access to receive a copy of the marked register.

5535 I would now like to look to the future, to the root-and-branch review of the Island's electoral legislation, that the Chair of the Committee mentioned, that we mentioned last time. The Chief Executive of the Association of Electoral Administrators has been engaged to assist the Cabinet Office with a review of the Island's election legislation, which will also encompass the related matter of electoral registration.

5540 This review will need to be completed by March 2018, in order for new primary and secondary legislation, guidance and forms to be in place by the end of 2020, to be applicable to the General Election in 2021. The current legislation is very much based on historic practices, has

been updated in a piecemeal fashion and does not afford the opportunity to use modern technology.

5545 This is an opportunity, with a willingness to accept major change, for the Isle of Man to have an electoral process and accompanying legislation which is modern, robust, provides electoral integrity, clear, efficient and cost-effective. The root-and-branch review, I suggest, is the opportunity to establish the vision for such an electoral system. In order to achieve this there will need to be a political and public acceptance of the changes necessary. House of Keys elections are conducted on a constituency basis and what had been traditional links to parishes
5550 and local authority areas are no longer relevant in this context.

It should also be recognised that adopting the changes proposed by the Committee and any other improvements arising from the root-and-branch review may require additional financial and temporary staff commitments. (**A Member:** Hear, hear.) The establishment of a modern and robust democratic system can only be attained through appropriate investment.

5555 In conclusion, I am sure it is known that a lot of work goes on behind the scenes during elections, and I am pleased the Committee has recognised the efforts of all of those involved. However, the work to review and modernise electoral legislation in the form of the root-and-branch review must now be allowed to continue in earnest, but everybody in Government, I understand, thanks the Committee for its incredibly quick and thorough investigation.

5560

The President: Hon. Member for Rushen, Mr Speaker.

The Speaker: Thank you, Mr President.

5565 Can I congratulate the Committee on really getting into the detail of this subject and leaving no stone unturned in examining the process of last year's General Election. I will be happy to support all of the recommendations in the report.

It seems churlish to focus on the few points of disagreement in what is an excellent Report, and I can assure the Chairman and the members of the Committee that it should not detract from the praise.

5570 I am very much supportive of an online register that can be updated in real time, as envisioned by recommendation 5. However, I just want to speak on the practicality of that. Real-time does not imply any sense of version control. At the moment, we get the electoral roll and then we get the so-called seven-day register – a list of those people who have been added or deleted since the main list was done. We get the information once.

5575 There is a danger here that each day the register will change and there will not be a way of ascertaining what the change was from yesterday or whenever it was that you last looked. So, in reviewing the way that the register is made available, I would ask that we be wary so that we can tell what changes have been made since the last quarterly update or the previous list, so that people registering late can still be visited by candidates.

5580 Turning to recommendation 6 – and I have to say I have just listened intently to Mr Thomas's expedition and I have read the bit in the Report about the Information Commissioner's rationale here.

5585 Firstly, whether someone votes or not is a matter of public record and I am not aware that something can be both personal data and publicly available in this remarkable mix. Then is the question, 'Am I holding this data illegally? Having gone down and inspected the marked register and made notes, have I then broken the data protection principles?'

5590 Like all Members, I am registered for data protection purposes, and as Mr Callister said, it says that I can even store how constituents are likely to vote, as part of my data protection registration. So I am holding sensitive personal data and I obviously have responsibilities that go with that, as does every Member of the House.

So I am still struggling with this principle of how holding a record like that, it can be improper for me to have a record of whether someone voted and yet how I can hold information on their political preferences and other personal data relating to their political views, whether they have

got a dog, other constituency work. I think that this point makes a bit of a mockery of that, in that the information is available and I now have to question whether I am holding that legally.

The campaign team and I are outside all day, know a lot of the people who live in the area and I can still tick them off as to whether they have been into the building or not or, as is the case primarily in the years gone past, asked them their polling number when they leave the polling station.

So I would still support recommendation 6 if, for no other reason, it saves the electorate of each constituency the hassle of having it collected by other means. I do accept the point that the Minister made with regard to it not being the primary purpose of the legislation. I would agree that as it is worded it is not the primary purpose, but actually I do not see that there is a major problem here about making it a legitimate purpose of that legislation, which overcomes a lot of the freedom of information issues and human rights issues that have been expressed by the Minister. Provided that its purpose is decided in statute and provided that it is legitimate and proportionate and reasonable, then there is no problem.

I would suggest, Hon. Members, that when this does come back around and when the legislation does come before us, when there is a consultation on a draft Bill, that if this is something that Members feel would be legitimate to hold, for both candidates and sitting Members, then I would say stick up for that right.

At present there is the somewhat unfortunate position whereby Members are far more likely to have it, incumbents are far more likely to have it than contenders, and I am not entirely sure that democracy is entirely best served by that either.

To quickly mention the two amendments, you will find no bigger technophile than me, Mr President, in terms of looking at use of online materials and trying to save costs and really engaging with the digital revolution. I think the Isle of Man is still a little bit short in terms of public confidence in voting online in an electronic method rather than putting good old pencil or pen to paper. I do not think we are there yet but I would not want to discourage consideration of it further and I am happy to support Mr Hooper's amendment, inasmuch as it is about continuing the investigation and potentially going as far as a trial. So I am happy to support that.

I am also happy to support Mr Malarkey's amendment in making sure that by-elections are treated equally to general elections. That does make a lot of sense.

Finally, I turn to two points that I raised in the evidence that were not concluded on in the Report.

The first one is the farce of how declaration of campaign donations was handled. Like most Members, I did not take any campaign donations. However, quite rightly, I was asked to fill in a declaration a week before polling day of any donations received; however, there was nothing to stop me accepting donations after the date of the declaration.

This is no criticism of the officers, but it completely undermines the reason for these rules. I would therefore suggest, when rewriting the legislation, that campaign donations are not permitted within seven days of polling or after the completion of the declaration, and even up to six months after the general election, to prevent donations being given that escape a declaration and therefore the scrutiny of the public. Likewise, anything received outside of the window of 12 months prior to an election or, as I propose, six months afterwards, should be contained in the declaration of Members' interests.

The final point was again one which I raised in evidence and got so far with, but I am not entirely sure the Committee really followed it through. It concerns the issue of uncounted ballots in Ayre and Michael and, to a lesser extent, Garff. The Committee, quite rightly, accepted the Attorney General's stance that prosecutions of Returning Officers are a matter for him. I have absolutely no question about that.

However, where I do have concerns is that the Attorney General has been permitted to alter the result. That is my reading of what actually happened. As far as I can tell, he has no power in law to do so and I definitely appreciate that it would neither have changed the final result, nor have I got any concerns, criticism or query about the good intentions of the Attorney General in

doing so. My problem is that I am just not content that he had the power to do that and I am concerned that the precedent is set, because one day such a situation might arise again and it could place the Attorney General in a very difficult position where he is actually deciding the result of the election.

5650 There is a process in the Representation of the People Act for disputing the result and that process was not followed because, as it happens, it was not needed. However, when reviewing the legislation I need to ask the Cabinet Office team and politicians who will be scrutinising that Bill, that a conscious decision needs to be made by this Court as to whether you give the Attorney General power to vary the result after the Returning Officer has declared it, or whether
5655 an election petition is required, as under the existing legislation. There is a clear choice to make there and I am not content that we followed best practice in that regard.

It would be unfair to have required the Committee to respond to every detail of every submission given to them, because there was so much, but I believe that the points that I have made are sufficiently significant to at least warrant raising in the debate.

5660 Thank you for the opportunity.

The President: Hon. Member for Ayre and Michael, Mr Cannan.

Mr Cannan: Thank you, Mr President.

5665 I, too, will start just by congratulating the Committee on getting their work done so efficiently and effectively and, on the whole, getting out a fairly balanced report which clearly I will be supporting in line with the Government's response, which is to support the majority of items except recommendation 6.

Just to pick up on that very quickly, because I think, from listening to the Speaker, he may
5670 have got slightly muddled in terms of access to the register and perhaps to clarify that real-time access is to the published register only; it is not live access to the register as the Cabinet Office are working on it. But, in any case, I think I should make clear to Hon. Members that the Government was concerned that recommendation 6 needed more investigation, that having sought the views of the Information Commissioner, the Commissioner believed there to be
5675 potential data protection issues, and of course there may have been some primary legislation needed and would have needed to have been brought in as a result of this recommendation. It basically needs much more work and should not be passed as it stands, as is written at the moment, but will still be part of this root and branch review as it continues.

Primarily, I want to talk about recommendation 14. Clearly, being on the receiving end of the
5680 incident that the Speaker was talking about in his last few remarks there. It is an incident that is covered in the Report. We do get a recommendation coming from that and, whilst I can understand where we have got to with this recommendation, I think I should perhaps highlight to the Law Society, who are effectively now being asked to look at the guidance for Returning Officers, that clearly this is a very serious matter with very serious potential implications. I do
5685 not want to think about what would have happened had that count been incredibly close and those votes had gone astray, with the result standing in a different way. It would have undoubtedly, probably resulted in a null and void election – at least another six weeks of recanvassing and a re-election, but all sorts of implications coming up as a result of that.

I do think actually – just to rebut a little – in the circumstances, although the Attorney
5690 General was working in difficult circumstances, on the basis of the evidence that he had before him he probably made the right decisions, given that there was so much gap between the count. But nevertheless, it is not a good feeling to be a part of that process afterwards.

So I would say to the Law Society now it is incumbent on you to think very hard about the sort of guidance that is coming forward, (*Interjection*) and I would suggest to the Law Society, if
5695 they choose to read *Hansard*, that they need to make sure that the count is what I would call a sterile environment and they need to control that environment in a fairly strong and tough manner.

My experience, as I have recounted to the Committee – and I do not want to drag over old ground – certainly in my last two elections, is that the count has not been a very sterile environment and there is lots of potential for lots of events to be happening.

So I do hope that they take note, both of the Committee's Report, the investigation that has been undertaken by the Committee, and that they read into this recommendation properly, which I think possibly I would have liked to have seen a little bit tougher in its expression, but I think, if I read this properly, the Committee are being very clear about the need now for more perhaps than just guidance, for some proper regulation around the operation of the count for returning officers. I very much hope that we will not – never, in fact! – see a repeat of an incident whereby actual votes go effectively missing, only to be discovered by an alert candidate some 24 or 48 hours later.

The Speaker: Employ some chartered accountants, maybe.

Mr Cannan: So, on that though, on a general note, again I would just go back to say to the Committee well done on getting a fairly comprehensive report out. There is always room for improvement. I would say, of course, that in all these elections, including the last ones in the UK – I note there are some disputes and aspects of that election where counts have been potentially brought under scrutiny and probably will be under scrutiny for some considerable time – it is a matter of learning, but I do hope – and I support the comments from my hon. friend, the Minister for Policy and Reform – that we get an improved process the next time we go to the polls on the Island.

The President: The learned Attorney General.

The Attorney General: Mr Speaker, Hon. Members, I rise because I feel I must make a brief comment with reference to what the Speaker has said concerning the report which I carried out, concerning an aspect of the last election.

I need to put on record that my report did not seek to, nor did it, alter the result with reference to that constituency. That was not the purpose of my report. My report was to look into problems which had been brought to my attention, which had been caused by the returning officer, and I did find fault. The fault, put in simple terms, is that he opened sealed ballot papers and that could have given him, or indeed anybody else who was there, an opportunity to alter the outcome of that vote.

I certainly, in my conclusions, did not reach any conclusion other than to support the result, albeit that a breach of the rules, in my view, had taken place. It does not lie within my power to alter an election result. That is a matter for the Court.

The President: I call on the mover to reply, Mr Cretney.

Mr Cretney: Thank you very much, Mr President.

If I can start by thanking the learned Attorney General for the clarification on the point he has just responded to.

If I could thank everybody who has contributed. As I received the amendments I thought to myself that these were acceptable amendments and I am pleased that the Minister for Policy and Reform, on behalf of the Government, has taken that view as well.

In relation to the cards where there was a mix up with the polling districts in Ramsey, which was raised by Mr Hooper, where people would have been sent to the wrong polling stations, can I say new cards were reissued within days, and the returning officer, Mr Jelski, reported that there were no significant issues on polling day about this matter. It is something that was unfortunate, but we are advised – and we did enquire into this – that it did not cause any additional problems on the day.

5750 He also raised about the advice not being legally binding on returning officers. We met several returning officers – quite a number of returning officers – and also the Law Society itself, and I have to say it was extremely interesting and quite illuminating, in my opinion, to listen to two in particular, Mr Jelski and Mr Callin, both of whom are exceptionally experienced returning officers. (A Member: Hear, hear.) I trust that in their debrief, when they are talking with their
5755 colleagues in the Law Society with whom these matters lie, that they will assist others who might not have the same experience in terms of the correct way to do things. They were very good; an excellent example of how things should be done.

I believe that it is not necessary, at this stage anyway, to make advice to the returning officers, whose duty this is, legally binding. I think within their organisation they will learn from the experience, as have others.
5760

I agree with Dr Allinson, where he referred briefly, and bleakly really, to jury service and people still being concerned that if they go on the voters' list they will be required to undertake jury service. I do believe that is an outstanding issue. I would welcome something being done about that. People say, 'Well, it is your civic duty to do jury service,' but it can sometimes affect
5765 people's employment and that is the argument that they put forward.

Mr Thomas – I would like to thank him in terms of all but number 6 agreed. He referred to the population in parts of East Douglas; I would say there are a number of reasons – obviously, one of which may be that there are younger people there. I think the principal reason – and I have never had the honour to represent East Douglas – (Mr Anderson: So far.) So far! (Laughter)
5770 Thank you. But there is a transient population. There are a number of properties there, flats, where people come and go, and I think, as much as anything ... It was the same in South Douglas – always that there were a number of properties in that manner as well.

The more serious point in relation to number 6, that Mr Thomas went into some detail about the Information Commissioner, is the present polling stations register access is, quite frankly, a
5775 farce. People can go along, they can take a piece of paper, they can write it down, so it is public information for a limited time. They can go along and they can write it down. Can you imagine anybody having the patience or the appetite to do that? But that is what they are allowed to do at the moment, so what we are suggesting, I believe to be a more positive way for the future.

I would like to thank, in particular, Mr Speaker and his comments about this matter about
5780 that these are public registers, albeit for a time. I think – if I can be so bold – the Cabinet Office cries too much. I think it is something which should not be discounted. I think we should leave recommendation 6 as it is, but obviously it is in the hands of Tynwald Court.

He also referred to the costs in relation to elections. Again, I do not want to go on about what happened in the past, but what did used to happen in the past was, I am not sure if it was
5785 assessment officers, but they used to have prior to an election, individual officers who would go to call round people's houses to make sure they were on the list. Yes, that costs money; elections cost money.

There is a cost with all these things, but I believe that elections are so important that cost should not be the primary concern here. They come about once every five years. I think, as
5790 others have said, we want to encourage as many people as possible to participate in the elections, to be involved and to play their part in taking the Island forward. The cost should not necessarily be the primary concern.

Yes, I would like to thank Mr Speaker for his supportive comments in relation to recommendation 6.

Also, in relation to the declaration of campaign donations, again, it is no fault of anybody but
5795 I do believe that is presently a bit of a farce and certainly needs sorting out. We do not want those kinds of implications – real, perceived or otherwise – to colour our elections. We want to make sure that everything ... and I hope that, and I know, the Cabinet Office will –

I am sorry if I am boring you, Mr Thomas! (Interjection by Mr Thomas)

5800
A Member: The feeling is mutual! (Laughter)

Mr Cretney: But I do hope that in any re-write they will try to find a better way of working about campaign donations. (**Mr Thomas:** Hear, hear!) It does need doing.

5805 In terms of the uncounted ballots, we noted Mr Speaker's comments and also ... in relation to the Acting Attorney General's *vires*. We have had his comments now. I hope Hon. Members will accept those comments. (**A Member:** Hear, hear.)

5810 Mr Cannan, in relation to recommendation 4, talked about the Law Society needing to control the sterile environment of the count. Mr Callin, in particular, was very strong on this point. He specifically addressed the point and I hope his colleagues will get together and talk with him about how he conducts counts. Once people are in, they are in. Once they have their mobile phones, the mobile phones are off. I believe that is how it should be. The count should be a closed, sterile environment for the time that the count etc. is taking place. He has got donkey's years of experience and I am sure he will work with his colleagues to try to make sure that they all act in a similar way, whilst clearly having individual responsibility for the different

5815 constituencies, ultimately.

I would like to thank every Hon. Member who has spoken and, in particular, for their positive comments. I do hope the Cabinet Office may consider allowing recommendation 6 to remain – and the Government.

5820 Other than that, I thank Hon. Members and I beg to move.

The President: Hon. Members, the motion before us is that set out at Item 8, to which there are two amendments. I put the amendment to recommendation 4, in the name of Mr Malarkey, first. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

5825 Now the recommendation 15 amendment in the name of Mr Hooper. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

I put the motion as amended. Those in favour, please say aye; against, no.

Several Members: Individually?

5830 **Mr Malarkey:** Mr President, are these not going to be voted on in each recommendation?

The President: Sorry. I beg your pardon. Yes, quite right.

5835 **The Speaker:** One to five, six, then seven –

The President: Yes, my apologies, Hon. Members.

Can we take recommendations (**Mr Anderson:** One to five.) 1 to 5 together, 4 having been duly amended: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Recommendation 6: those in favour, please say aye; against, no. The noes have it.

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

In the Keys – Ayes 8, Noes 16

FOR

Mr Ashford
Miss Bettison
Mrs Caine
Ms Edge
Mr Hooper
Mr Moorhouse
Mr Perkins
Mr Speaker

AGAINST

Dr Allinson
Mr Baker
Mrs Beecroft
Mr Boot
Mr Callister
Mr Cannan
Mrs Corlett
Mr Cregeen
Mr Harmer
Mr Malarkey

Mr Peake
Mr Quayle
Mr Robertshaw
Mr Shimmins
Mr Skelly
Mr Thomas

5840 **The Speaker:** In the Keys, 8 votes for, 16 against.

In the Council – Ayes 3, Noes 4

FOR

Mr Coleman
Mr Corkish
Mr Cretney

AGAINST

Mr Anderson
Mr Crookall
Mr Henderson
Mrs Poole-Wilson

The President: In the Council, 3 for and 4 against. Recommendation 6 therefore fails to carry.
I put, for completeness, recommendations, 7 to 15 as amended. Those in favour, say aye;
against, no. The ayes have it. The ayes have it.

5845 I now put the motion as amended. Those in favour, please say aye; against, no. The ayes have
it. The ayes have it.
Thank you, Hon. Members.

**Suspension of Standing Order 1.2(2) to continue to 9 p.m. –
Motion lost**

The President: We have reached the end of Item 8, and we have done that before
nine o'clock when we were going to review the position in the event Item 8 was still running.
Item 8 is finished. (**A Member:** Hear, hear.) Is there a wish that we carry on until nine o'clock?

5850 **Mr Cregeen:** Mr President, I thought I had moved that we work until nine o'clock.

The President: Right, I will put it to the vote – an electronic vote, 22 votes required.

5855 **Mr Malarkey:** What is the vote for?

The Speaker: That we sit until nine o'clock.

5860 **The President:** The motion is that we sit for another 16 minutes! (*Laughter*)

Two Members: We agreed that.

Mr Anderson: No, we did not.

5865 **The President:** No, what we agreed, Hon. Members, was to complete the Item and at
nine o'clock review the position in the event the Item was still running. (**A Member:** Correct.)
That is what we agreed.

5870 **A Member:** That is not what I thought, but –

A Member: That is exactly what we agreed.

Mr Malarkey: We are not going to get another Item in now.

The President: Please vote, Hon. Members.

Electronic voting resulted as follows:

In Tynwald – Ayes 12, Noes 19

FOR

Dr Allinson
Mrs Caine
Mr Cregeen
Ms Edge
Mr Harmer
Mr Hooper
Mr Moorhouse
Mr Perkins
Mr Quayle
Mr Shimmins
Mr Skelly
Mr Speaker

AGAINST

Mr Anderson
Mr Ashford
Mr Baker
Mrs Beecroft
Miss Bettison
Mr Boot
Mr Callister
Mr Cannan
Mr Coleman
Mr Corkish
Mrs Corlett
Mr Cretney
Mr Crookall
Mr Henderson
Mr Malarkey
Mr Peake
Mrs Poole-Wilson
Mr Robertshaw
Mr Thomas

5875

The President: With 12 votes for, 19 against, the motion therefore fails to carry.
The Court will now stand adjourned until 10.30 a.m. tomorrow morning.

The Court adjourned at 8.45 p.m.