



**LEGISLATIVE COUNCIL
OFFICIAL REPORT**

**RECORTYS OIKOIL
Y CHOONCEIL SLATTYSSAGH**

P R O C E E D I N G S

D A A L T Y N

(HANSARD)

Douglas, Tuesday, 14th June 2005

Present:**The President of the Council (The Hon. N Q Cringle)**

The Attorney General (Mr W J H Corlett QC), The Lord Bishop of Sodor and Man (The Rt. Rev. Graeme Knowles),
Mr D M W Butt, Mrs C M Christian, Mrs P M Crowe, Hon. A F Downie, The Chief Minister (Hon. D J Gelling),
Mr E G Lowey and Mr G H Waft,
with Mrs M Cullen, Clerk of the Council.

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The Council sat in private at 12.38 p.m.

Legislative Council

The Council met at 10.30 a.m.

PRAYERS
The Lord Bishop

[MR PRESIDENT *in the Chair*]

Orders of the Day

LEAVE OF ABSENCE GRANTED

The President: Now, Hon. Members, we have apologies this morning from Mr Singer.

Orders of the Day

FURTHER CONSIDERATION OF CLAUSES

Constitution (Legislative Council) Bill (Reprinted as Constitution Bill 2004) Clauses further considered and deferred

The President: Our Order Paper leads us straight to the Constitution (Legislative Council) Bill, in the hands of Mrs Crowe.

Hon. Members, when we last discussed this matter, we had completed clauses 1 and 2 and we were dealing with clause 3 and schedule 1. At that particular stage, we had had an amendment moved by Mr Lowey and then it was queried, or there were some queries regarding the period April to August, and particularly in relation to the 30- or 34-month period, as to whether it could be continuous, or whether it would just work on the first occasion.

Hon. Members, I think you have before you now a further paper, with amendments, which would put that matter in its proper form. Therefore, Hon. Members, with your concurrence, if Mr Lowey is in agreement, I would be happy if the amendment, as moved at our last sitting, was currently withdrawn, and we were, in effect, starting clause 3 again, so that Mr Lowey would be able to move the amendment, which would then lead us forward in the correct order, satisfying, as I understand it, the query raised by Mrs Christian in regard to the period of change from April to August and the 30/34-month period being an ad infinitum thereafter.

Are you happy, Hon. Members, that we should deal with it in that form? Agreed? (**Several Members:** Agreed.)

In that case, Mr Lowey, can I suggest that you move the amendment, again, in relation to clause 3.

Mr Lowey: Thank you, Mr President.

I think we, as you so succinctly put it this morning, were concerned regarding whether the figures which we recognised last week needed to be amended, could be adequately covered.

After speaking with the draftsman, it is his view the amendment before you this morning on the Constitution Bill, dated 14th June 2005... It is quite clear what it does.

It is an amendment to the clause 3 amendment:

- '(a) in subsection (1) –
- (i) in paragraph (a) for "April in 2009" substitute "August in 2009";
- (ii) in paragraph (b) for "30 months" substitute "34 months";
- (b) in subsection (3), for "30 months" substitute "34 months".'

It just, as you rightly said, sir, takes effect because we have moved it from April to the August. So, I do not think I need to go back into the arguments that we had last week on the rest of the clause, but to that I would formally move that the amendment standing in my name is supported:

*Page 2; lines 11 to 39 and page 3; lines 1 to 6: for clause 3 substitute –
'Election and term of office of elected members of Council*

3. (1) Elections of the elected members of Council shall be held in accordance with the Representation of the People Act 1995 as follows –

(a) the elected members of Council shall be elected as soon as practicable after the end of August in 2009; and

(b) thereafter, as soon as practicable after the end of the period of 34 months following each general election of the Keys.

(2) In its application to the Council and elections under subsection (1), the said Act of 1995 shall have effect subject to the modifications specified in Schedule 1.

(3) Every elected member of Council shall, unless that member sooner vacates office, go out of office at the end of the period of 34 months following the first general election of the Keys after the date on which the member was elected.'

*Pages 8 to 11: for Schedule 1 substitute –
'Section 3(2)*

SCHEDULE 1

MODIFICATIONS OF THE REPRESENTATION OF THE PEOPLE ACT 1995

General modifications

1. Subject to any particular modifications made by this Schedule, the following general modifications shall have effect –

(a) for references to the Keys substitute references to the Legislative Council (in this Schedule referred to as "the Council");

(b) for references to members of the Keys substitute references to elected members of the Council;

(c) for references to the Speaker substitute references to the President of Tynwald;

(d) for references to voting in a constituency substitute references to voting in the electoral district comprising that constituency;

(e) for references to the register of electors for a constituency substitute references to that part of the register of electors which relates to the electoral district comprising that constituency.

Qualifications etc.

2. In section 1(1) (qualifications), for “Any person may stand as a candidate for and be elected a member of the Keys for a constituency” substitute “Any person may stand as a candidate for and be elected an elected member of the Council”.

Term of Keys

3. Omit sections 2 and 3.

4. In section 4 –

(a) for subsection (1)(a) substitute –

“(a) extend the term of office of the elected members of the Council by a period of one year from the date when otherwise the members would cease to hold office; and”;

(b) in subsection (2), for “members of the Keys, or to elected members of the Council” substitute “elected members of the Council”.

Vacancies

5. In section 6(6)(b), for “Council” substitute “Keys”.

Further provisions as to Keys

6. Omit sections 8 and 9.

Constituencies and polling districts

7. (1) Omit section 11(1) and (2).

(2) For section 12 substitute –

“12. Electoral districts and polling districts

(1) Each constituency for the purposes of elections of members of the Keys shall constitute an electoral district for the purposes of elections of elected members of the Council.

(2) Subject to subsection (3), each electoral district shall constitute a single polling district.

(3) Where a constituency for the purposes of elections of members of the Keys is divided into 2 or more polling districts, those districts shall, for the purposes of elections of elected members of the Council, constitute the polling districts within the electoral district comprising that constituency.”

(3) Omit Schedule 1.

Returning officer

8. For section 13 substitute –

“13. Returning officers

(1) The Governor shall in writing appoint to be senior returning officer in respect of each constituency one of the returning officers appointed for the Keys constituencies comprised in that constituency.

(2) Subject to the election rules and to regulations under subsection (3), the returning officer appointed for each constituency for the purpose of elections of members of the Keys shall act as returning officer within the electoral district comprising that constituency in relation to elections of elected members of the Council.

(3) Regulations may make provision as to the exercise of functions by returning officers in relation to elections of elected members of the Council; and subject to any such provision, a returning officer shall perform the functions of returning officer in accordance with any directions given by the senior returning officer.

(4) It is the duty of the senior returning officer and returning officers to do everything at an election which is necessary for effectually conducting the election in accordance with the election rules.

(5) Subject to subsection (6), the appointment of a senior returning officer shall be for such term (not exceeding 4 years) as is specified in the instrument by which it is

made.

(6) A senior returning officer shall retire on the Governor declaring the office to be vacant –

(a) if the officer has given to the Governor notice of the officer's desire to do so; or

(b) if it appears to the Governor expedient to do so.”

9. After section 23 insert –

“23A Registers of electors

The register of electors for all the constituencies for the purposes of elections of members of the Keys shall together constitute the register of electors for the Island for the purposes of elections of elected members of the Council.”

Board of Education and local elections

10. Omit sections 78 and 79 and Schedules 4 and 5.

Election rules

11. (1) In Schedule 2, in the Election Rules, in the table in rule 1, for item (1) substitute –

(1) Issue of writ (a) Within one month after the expiry of the term of office of an elected member of the Council.

(b) In the case of a casual vacancy –

(i) if the term of office of the member whose place is to be filled would ordinarily have expired within 6 months of receiving the report of the casual vacancy, within one month after such expiry;

(ii) otherwise, within 2 months of receiving the report of the vacancy.

(c) Where the senior returning officer has made a special return of a writ to the effect that the number of candidates elected is less than there are vacancies to be filled up or that no candidate has been elected, within one month of the receipt of the special return.

(2) For rule 3 substitute –

“3. Issue of writ

(1) Each writ of election shall be directed to the senior returning officer and all returning officers and conveyed to the senior returning officer by hand, and a copy of the writ shall be conveyed by hand to each returning officer.

(2) On receipt of the writ or copy the senior returning officer and each returning officer shall forthwith endorse on it the date on which it was received.”

(3) In rule 4, for “writ” substitute “copy writ”.

(4) In rule 5, in paragraph (3)(b), for “the constituency” substitute “each electoral district”.

(5) In rule 9, for “constituency” (in each place) substitute “electoral district”.

(6) After rule 45 insert –

“45A. Calculation of total number of votes

(1) The returning officers shall draw up statements certified under their hands and specifying the number of votes given for each candidate, and any counting agent may copy the statement.

(2) Each returning officer, other than the senior returning officer, shall forthwith –

(a) deliver to the senior returning officer, or

(b) transmit to the senior returning officer by such electronic means as the senior returning officer may direct,

the statement referred to in paragraph (1).

(3) When the senior returning officer has drawn up such a statement for that officer's own electoral district and received such statements from the returning officers for the other electoral districts, the senior returning

officer shall calculate the total number of votes for each candidate."

(7) In rules 46, 47 and 48, for "returning officer" substitute "senior returning officer".

(8) In rule 50 –

(a) for "declaring the result of the poll" substitute "drawing up the statement of votes under rule 45A(1)"; and

(b) at the end add –

"(2) The senior returning officer shall within 24 hours of declaring the result of the poll forward to the Clerk of the Rolls the statements of votes under rule 45A(1)."

(9) The power under section 22(3) to amend the election rules includes power to amend those rules as modified by this paragraph.'

The President: Mr Waft.

Mr Waft: I beg to second, Mr President, and reserve my remarks.

The President: Does any Member wish to speak to it? Mrs Christian, you did –

Mrs Christian: I just want time, Mr President. *(Laughter)* We have just had this put before us.

The President: I appreciate the point and I am quite happy for you to consider.

I think the easiest way, Hon. Members, if I can help at all, is actually to follow the amendments or to follow the changes which will happen in the White Paper which you have had. It is headed: 'Constitution Bill, Unofficial copy showing Bill as amended by Mr Singer's proposed amendments with consequential amendments'.

So, if you wish to follow it on the White Paper, you will then see, with the underlining, how the legal draftsman has pointed out the effect of the amendments to the Bill. I would just like –

Mrs Christian: Mr President, I thought we had already amended it, to deal with the change from April to August.

The President: We had, and the amendment –

Mrs Christian: However –

The President: Can I just get it straight again. The amendment previously was to change from April to August, and that is what we were working at. Subsequently, it was then the query as to whether the 34-month period would just be for the one occasion or whether it would happen thereafter, and I think that is the bit which... On this occasion, the legal draftsman is confirming that if it is done this way, it will always be that way – unless, in fact, there is a constitutional change to the time that the House of Keys election subsequently is held, in the future, and that would mean, again, another change.

Mr Lowey: That is correct, Mr President, absolutely.

Mrs Christian: I am sorry, Mr President, I need to... Right, so this will... just to clarify the change in paragraph (3), if I may:

'Every elected Member of Council shall, unless that member sooner vacates office, go out of office at the end of the period of 30 months following the first general election of the Keys after the date on which that Member was elected.'

Right, so that takes us always to –

The President: It takes you always to 34 months.

Mrs Christian: Thirty four months, which is always... well, presuming the election is November, yes, what you are saying is that if the November elections change then this Bill will be wrong again.

The President: Constitutionally, if there is a change to the House of Keys' dates for their general election, well, then there will be a requirement sometime to amend this particular measure to make it the correct period again. I think that would be the only alteration, which is likely to take effect. The 34-month period will be static.

Right, I do not think we can anticipate a change to the House of Keys election, at this stage.

Mrs Crowe: No, no.

Mrs Christian: I am sorry, Mr President, I do not understand: why do we need (3)?

The Lord Bishop: Paragraph (3)?

Mrs Christian: Yes. We have, in clause 3(1)(a), said that the first election of Council after the change will be at the end of August 2009 and in (b):

'thereafter, as soon as practicable after the end of the period of 34 months following each general election of the Keys.'

That deals with consequent elections.

I think that subparagraph (3) dealt with the issue of Council Members being elected on a staggered basis and we have changed that to say that we will have them all elected at once, in which case, it seems to me, Mr President, that we delete subclause (3).

I am not sure whether we dealt with that at the last sitting or not, but it seems to me that subparagraph (3) is now superfluous.

The President: Mr Attorney? It might be belt and braces.

The Attorney General: Well, Mr President, I think that the feature which subparagraph (3) adds is that it does deal with the situation when the Member 'sooner vacates office'. In other words, you have to cover the situation of casual vacancies.

You are quite right, if I may say so, Mr President, that there is an element of duplication, but I think it is necessary to cover that point. **(Mrs Christian: Right.)** I mean, it does –

Mrs Christian: I accept that point, if that is necessary to say that 'unless otherwise vacates'.

The President: Mr Attorney, it is covering the position of a Member who has gone out of office for consequential reasons, whatever they may be, but it still makes plain that

it is the 34-month period thereafter.

Mr Lowey: If I take the point that Mrs Christian is making – why? – I would reverse the thing and say, why *not*? It does deal, as I think Mr President and the learned Attorney says, if there is a casual vacancy, then it makes it quite clear. It may be belt and braces.

It does no harm to the Bill for it to be included. It might create an uncertainty, if it is excluded. That is the best answer I can give the Hon. Member.

Mrs Christian: On that basis, Mr President, I am happy to accept.

The President: Right, thank you, Hon. Members.

Mrs Christian: I just think it needed consideration.

The President: Does any other Member wish to speak to either clause 3 or the amendment, before I ask the Hon. Member, Mrs Crowe, to wind up the particular part?

Mrs Christian: Mr President, are we also dealing with the schedule, at this time, (**The President:** Yes.) or will we be considering that separately?

The President: No, no. Clause 3 and the schedule.

Mrs Christian: Then, I am sorry, but there is such a lot of paper here. Are the amendments to the schedule here?

The President: Yes. It is on page 7, I think.

Mrs Crowe: Schedule 2, yes, page 7. Page 12, constituencies.

The President: Schedule 1, we want. Page 7. (*Interjections*)

Mrs Crowe: Schedule 1. Oh, schedules 1 and 2, yes, it is.

Mr Gelling: They are not clear at the bottom.

Mrs Crowe: No, they are not. It is page 1 of ours.

Mr Gelling: Is it that one?

Mrs Crowe: Yes, here it is.

The President: Once again, Hon. Members, so that we are all ‘singing from the same sheet’, take the one which is dated 14th June. (**Mr Lowey:** Yes.) We are working from the one dated 14th June.

Mrs Crowe: Your numbering, I think, must be different from ours, Mr President, because our number –

Mr Gelling: That is a 7.

Mrs Crowe: Oh, is this a 7? It looks like a 1. Oh, right.

Mr Gelling: Well, no, you are different again.

Mrs Crowe: We have got so many –

The President: We are dealing from the page dated 14th June on the front.

Mrs Christian: Yes.

Mr Gelling: That is the one.

The President: That is the one.

Mr Gelling: Showing the Bill as amended by Mr Singer’s proposed amendments to clauses 1 and 2.

Mrs Christian: Well, that is not the same –

The Clerk: It is. You have got the schedule and then you follow the amendment. (*Interjection by Mrs Crowe*)

Mrs Christian: Right, now this one, which is dated 27th May... I am sorry, Mr President, I am being very slow here, but I really want...

The President: No, no, it is fine.

Mrs Christian: Right, so we had already amended to August 2009, had we? In the schedule?

The President: No.

Mrs Christian: Well, why I am asking is –

The President: Mrs Christian, let us get this right. We have the updated version, 27th May. We have subsequently got 14th June. (**Mrs Christian:** Yes.) Now, we had, at the previous sitting, agreed clauses 1 and 2. (**Mrs Christian:** Yes.) Clause 3 and the schedule we were moving when it was deferred. (**Mrs Christian:** Yes.)

So, we are starting again on clause 3 and the schedules this morning. (**Mrs Christian:** Yes.) Mr Lowey has withdrawn the amendments moved last time, and superseded them with the amendments which you have on 14th June paper.

Mrs Christian: Right. Mr President, thank you. We have already had presented to us, the amendment in relation to clause 3 dealing with substitutions of April 2009 and 30 months to 34. You had just invited the mover of the Bill to comment. Now, is that in respect of the winding up in relation to this clause and the schedule?

The President: If nobody wishes to make any further comment on the clause or the schedule, I will invite Mrs Crowe to wind up.

Mrs Christian: That is why I wanted clarification, because I am concerned to confirm, whether or not we have amended the schedule, because there are amendments required in the schedule.

Mrs Crowe: It is on the fourth page.

Mrs Christian: Yes, but have they been moved?

The President: My understanding is that Mr Lowey

was moving the amendments in relation to clause 3 and the schedule.

Mrs Christian: Right. Well, I was not aware of that, because it is set out in one sheet, and it refers only to clause 3.

Mr Gelling: Has the amendment to clause 3, Mr President, affected the schedule?

Mrs Christian: No, it is not as it has affected the schedule. It is simply amendments to clause 3. Well, what is this then, Marilyn?

The Clerk: That just shows the amendments to the original, but this actually sets it out in full. It just shows you what the difference is –

Mrs Christian: What is Mr Lowey moving, please? (**The Clerk:** This.) Then why is it not presented in the form of an amendment?

The Clerk: It is, if you keep going through the pack. First of all, it sets out the Bill, and then the actual amendments to achieve it, on the next page.

Mrs Christian: I am sorry to be so slow, but I would like to find the amendment.

Mrs Crowe: I know it is difficult, because we have not got numbers on our pages.

The Clerk: Yes, that's it.

The President: Well, we haven't, either. You have got to follow it.

Mrs Crowe: Yes, exactly, but –

The President: It is just that it has not photocopied very well, at the bottom of the page.

Mrs Crowe: No, no, quite.

Mrs Christian: So, Marilyn, please, where are the amendments?

The Clerk: These are the amendments.

Mrs Christian: No, that is the amended Bill.

The Clerk: No, this is the amended Bill, beforehand. This is the amendments, it says it is substituting what was original. This is the amendment.

Mrs Christian: But it should say: 'to line so and so, substitute –' (**The Clerk:** Yes.) 'For clause 3 substitute...' Right, now what about the schedule then?

The President: Pages 8 to 11: for Schedule 1 substitute 'Section 3(2) Schedule 1.'

Mrs Christian: Right. Well, thank you, Mr President. I have only just found this in the plethora of paper –

Mrs Crowe: I am not sure we are on the right page either!

Mrs Christian: – but it is page... well, the pages are not numbered properly, so we cannot find it.

Mr Gelling: Keep going on that same one.

Mrs Crowe: Well, that is the one I had originally, but it is number 11 to us.

The Clerk: Yes, that is it, yes.

Mr Gelling: So, I see. Go past schedule 3.

The Clerk: The first page shows the effects, okay?

Mr Gelling: Right, I have got it now, yes, yes.

Mrs Crowe: It is page 11 for us. That is the one I had before, yes and we went back.

The President: Hon. Members, I want you all to be absolutely happy that we are working from the same one. So, everybody needs to have in their hand the 'Constitution Bill – Draft Amendments 14/6/05'. That is what is on the front.

The front part of that particular paper shows you the Bill being underlined, which will make the alterations. When you get to the back, after those alterations made to the Bill, you then come across the papers which actually show you the amendments – 'Amendments (revised) to be moved by Mr Singer'.

Mr Gelling: That is it. It is obviously a separate piece, Mr President, because it is actually page 1, (**Mrs Crowe:** Yes.) and it comes after schedule 3.

The President: And the amendment which Mr Lowey is moving, he is moving in the name of Mr Singer – clause 3, schedules 1 and 2 – and they are consequential to the amendments which you have made in clause 3.

Mr Gelling: Yes, it is amended.

The President: I am quite happy to go through it, and read it all, if Members should so wish. I am perfectly happy to do that.

Mr Lowey: It is the machinery to put in effect what you have agreed in principle.

Mr Gelling: In the clause.

Mrs Crowe: Right.

Mr Waft: I think it is the small page 1, isn't it?

Mr Gelling: It is, yes, a separate batch at the back.

Mrs Christian: Mr President, if I may, at the last sitting... Again, I am trying to find... I think it is in the schedule. We dealt with the question of constituencies.

Mrs Crowe: Schedule 2, it is in. It is referred to in this

schedule 1... In clause 4:

'For the purposes of an election [...] elected members [...] shall be divided into the 8 [...] specified in column 1 of Schedule 2'.

Mrs Christian: So, that has been removed from the... I am just trying to find it.

Mrs Crowe: In clause 3.

Mrs Christian: It was in clause 3, in the original Green Bill. (**Mrs Crowe:** Yes.)

So, for clause 3 in the original Green Bill, we are substituting the clause 3 that we have before us today, are we?

The President: Yes.

Mrs Christian: The whole thing. I am not...

Mr Butt: It does not appear, sir, that schedule 1 has changed at all, consequential to that clause 3 being changed.

Mrs Christian: It may not have needed to.

Mr Butt: It seems to be exactly the same.

Mr Lowey: It cannot be exactly the same, because it is August in 2009.

The Lord Bishop: Yes, it has changed.

The President: If you follow the underlining, those are the changes.

The Lord Bishop: The heavy print is the change.

Mr Lowey: Is the change, yes.

The Lord Bishop: If you start on page 1 of the amendments at the back, the changes are in heavy, dark printed type.

Mr Butt: The heavy print, rather than the underlining, you mean?

The Lord Bishop: That is right.

Mrs Crowe: We need to separate these papers.

Mrs Christian: As Mr Butt has indicated, there is no change to the schedule.

The President: There is a change to the schedule. (**Mrs Crowe:** Yes.) (**Mrs Christian:** Where?)

In 7, 'Electoral districts and polling districts.' If you go back to the Constitution Bill, the underlining indicates the changes to the Green Bill, and there are a number of changes.

Mr Butt: Sorry, I meant to the 27th May version we have.

The President: Well, ignore that one.

Mr Gelling: If you look, you see clause 3, schedules 1 and 2, what we are looking at August 2009 and 34 months is actually the clause. If you go over the page to schedule 1, there is no heavy print whatsoever, except 'Electoral districts and polling districts'. There is nothing in the schedule.

Mrs Christian: Clause 4 is introduced in a different format than it was before. Clause 4 is included under the heading clause 3 and schedules 1 and 2, but clause 4 is in there.

This is where it differs from the original Green Bill, in that the constituencies were dealt with in clause 3 originally, and are now coming up under a new clause 4, which is embodied in the middle of this clause 3 amendment.

Mr President –

The President: I am struggling now to find, Mrs Christian, where you are making those comments from, because if you look at page 8 of the Green Bill, which is schedule 1.

Mrs Christian: I am looking at page 2 of the Green Bill, Mr President.

The President: Right, you are looking at page 2 of the Green Bill. Where?

Mrs Christian: Clause 3(2), line 15, 'Constituencies'. That does not appear in... That has been substituted completely by the new clause 3, (**The President:** Yes.) and in the new clause 3, the page in our amendment schedule, headed clause 3 and schedules 1 and 2, shows a new clause 4, headed 'Constituencies'. It is a new clause, as I understand it, and the subsequent clauses will have to be renumbered.

The Lord Bishop: It says that.

Mrs Christian: Yes. So there are no changes in the schedule.

The President: There are *major* changes in the schedule.

The Lord Bishop: There are.

Mrs Christian: Where?

The Lord Bishop: Because if you look at... May I Mr President? (**The President:** Yes.) If you look at beforehand, everything that is underlined in the bits that lie before that are the new schedules.

The President: The schedule changes completely.

Mrs Christian: There are no underlinings in the new schedule.

Mrs Crowe: No bold type.

The Lord Bishop: There is no bold type.

Mrs Christian: There is no bold type? Right, okay. So –

The Lord Bishop: It is on page 7. That is wholly new,

so when you find it again on page 2 at the back, all that is new.

Mr Gelling: That is correct.

Mrs Christian: Right.

The Lord Bishop: As reprinted from earlier, where it is wholly new.

Mrs Christian: Wholly new from the Green Bill?

The Lord Bishop: From the Green Bill.

Mrs Christian: But not wholly new from the version we had last week. The same as the version we had last week.

Mrs Crowe: Yes.

Mr Lowey: I thought, when I spoke to the parliamentary draftsman, yesterday morning, the idea of putting the paper before you, the sixth, was to be clarity, so that we would not have these cross references for the other bits and pieces of paper.

So, I take responsibility for us having what I would call an update. It was only yesterday morning that we could actually see the parliamentary draftsman, who gave me a very, very good hearing, and I have got to pay tribute to Mr Boyde for the work that he did with me, yesterday, and the idea of... It did seem to me, where we were altering it, it should be before you in as up-to-date position as we could get.

I can appreciate Members... We started on this Bill, I said it was complex and complicated, and we could have done with a clean sheet of paper, and we have attempted to do just that.

I can understand, because it is such an important issue, that we should be quite clear in our minds and I have no difficulty in accepting Mrs Christian's complaints. Let us get it clear and clarified, as we do it, one step at a time.

I would suggest, Mr President, if we may, for the Third Reading stage of this Bill, that we have a completely reprinted Bill, so we know exactly what it is that is before us, in green form if needs be, so that we know exactly where we are, because it is complex, no doubt about it.

Mrs Christian: Mr President, I appreciate what the Hon. Member has said, and I apologise if I am being a bit slow in finding where things are.

The President: Not at all.

Mrs Christian: I do find it necessary to compare with what we read last week, and notwithstanding that that amends what we have got in the Green Bill, because I simply wanted to clarify, in my mind, what the amendments were going to be last week, in that particular provision, and I just want to see how that has altered in this new version.

I accept, and I am quite content with clause 3, Mr President, and I do not think that, as of the changes from last week, I have any concerns about the schedule, except... Now, let me just... I am sorry, I have got to make sure I am in the right schedule.

No, I think I am content with the schedule, now that the constituencies matter is dealt with in a separate clause.

The President: Does any other Member wish to speak?

Mr Butt: Just for clarification, sir, the new schedule we have here, schedule 1, is totally different to the Green Bill schedule, so we need to amend that.

The President: No, no. That is part of the amendment.

Mr Butt: Yes, that is the amendment. It goes with clause 3. Yes.

Mrs Christian: So, the amendment to schedule 1 is set out, just for clarification, at page 2. 'Pages 8 to 11: for Schedule 1 substitute –', and then it is all set out here.

Mrs Crowe: Could I just have one query – I am sorry about this – to the amendment?

This is on the schedule and it is:

'13(6) A senior returning officer shall retire on the Governor declaring the office to be vacant – (a) if the officer has given to the Governor notice of the officer's desire to do so; or (b) if it appears to the Governor expedient to do so.'

I thought, but I do not think I am correct, that there was another amendment to change that to 'First Deemster'. But that is in clause 5 and not in the schedule. (*Interjections*) But this is in schedule 1.

Mr Lowey: But then it will have to be altered, because it is consequential. If we alter things, there can be a consequential, and –

The President: I do not know if it has been accepted or not.

Mr Lowey: No.

Mrs Crowe: Thank you, Mr Lowey.

Mr Lowey: It does seem a little –

The President: Right. Mr Waft.

Mr Waft: Is that 3 and the schedule finished, sir?

The President: No. I am waiting to see if everybody is content and then I will invite Mrs Crowe to wind up on 3 and the schedule, if she so wishes. She is the Member in charge.

So, Mrs Crowe, wind up, please.

Mrs Crowe: Well, thank you, Mr President.

I think, like the rest of my colleagues... and I understand the difficulties of having these amendments brought before us, just at this present time, and not having so much opportunity... but I am grateful to the mover of the amendments to supply us with this information.

So, I beg to move clause 3 stand part of the Bill –

The President: And the schedules –

Mrs Crowe: – and schedule 1.

The President: – but I think I will put them to you separately, anyway, Hon. Members, and then it will be very plain, indeed.

So, Hon. Members, the motion that I put to Council is that clause 3 do stand part of the Bill. Those in favour, please say aye; against, no –

Mrs Christian: As amended, Mr President.

The President: As amended.

The Clerk: You have not passed the amendment yet.

Mrs Christian: No. Mrs Crowe's amendment –

The President: Oh, right! You are quite right.

Mrs Christian: We seek to move the amendments.

The President: Hon. Members, yes, my mistake, because I am working ahead of where we are going, but, yes, you are quite right, Mrs Christian, I need first to put to you the amendment moved by Mr Lowey. Those in favour of the amendment, please say aye; against, no. The ayes have it. The ayes have it.

Clause 3, as amended, Hon. Members: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

And the schedule, as amended, Hon. Members, those in favour, please say aye; against, no. The ayes have it. The ayes have it.

And the schedule, Hon. Members, in its entirety this time, clause 3 and the schedule, those in favour, please say aye; and against, no. The ayes have it. The ayes have it.

Hon. Members, that has brought us through to the situation where what we have now reached is that clauses 1, 2, 3 and schedule 1 have been amended, altered, but approved by Council.

So, we have reached clause 4, Hon. Members. Again, can I say that it is easier to work, I think –

The Lord Bishop: I am sorry, Mr President, but what happened to schedule 2?

The President: Schedule 2 we will move when we come to clause 5.

The Lord Bishop: Oh, fine. Thank you, Mr President.

The President: Clause 4. Hon. Member, Mrs Crowe.

Mrs Christian: Mr President, can I ask when the new clause 4 will be introduced?

The President: It will come up, effectively –

Mrs Christian: Should it come up now?

The President: – as an amendment to your clause 4, does it not?

Mrs Christian: Mr President, it simply does not, no. It is a new clause and the other clauses will be renumbered.

Mr Gelling: The original 4 will become 5 and so on. (*Interjections*)

The President: Hon. Members, if you again turn to your amendment sheet, at the back of your amendment sheet, clause 4 'as originally numbered', right, which I am now inviting Mrs Crowe to move.

Mrs Christian: No. I am sorry, Mr President, clause 4, as I understand it in the amendment sheet, is a new clause.

The President: And if you look at clause 4, it says 'as originally numbered', the amendment is –

Mrs Crowe: Right. Okay. Yes.

Mrs Christian: It is, 'for clause 4 substitute 5', I agree, but we have still not got a clause 4, unless it was moved and I did not appreciate that it was so being moved as part of the amendments to clause 3.

On page 1 of the amendments we have a clause 4, which deals with the constituencies, which were formerly a part of clause 3. It is a new clause dealing solely with constituencies and the amendment, in my schedule – I do not know whether Marilyn's schedule has got it – it simply says 'to renumber the subsequent clauses'. I am not sure, Marilyn, where that –

Mr Gelling: Ought we, Mr President, to put that clause in now?

The President: That is part of your schedule 1.

Mrs Christian: I am sorry, Mr President, but I did not appreciate that it was part of schedule 1. It is not part, is it? (**The President:** Yes.) It is not set out as part of schedule 1, it is a separate clause.

The point I made before was that the heading 'clause 3 and schedules 1 and 2' omitted to mention clause 4, which is sitting in the middle there. Clause 4 in the amendments is...

The President: Mr Attorney?

The Attorney General: Well –

Mrs Christian: If we were considering clause 4 before, as part of the amendment to clause 3, I would like to have spoken on it.

Mrs Crowe: It is an important clause.

The President: Effectively we did, because it is part of the amendment and introduced as clause 3 and schedule 1 amendments moved by Mr Lowey.

Mrs Christian is making the point that on that particular page – and I assume that is the page we are at – you are saying that the constituency matter, you are not accepting as part of –

The Lord Bishop: Clause 3.

Mrs Christian: Clause 3. Maybe it was my misunderstanding of what exactly was being moved.

The President: Mr Attorney.

The Attorney General: Mr President, I think the position that was held over from the last time was that the

consideration of clause 3 of our Green Bill was deferred, and what the draftsman has done is: he has brought forward, for consideration, a set of amendments which were originally to be moved by Mr Singer, but now by the Hon. Member, Mr Lowey.

If we look at the revised amendments to be moved by Mr Singer under the heading 'clause 3 and schedules 1 and 2' we have got – and I think this is the important bit – that line there, 'Page 2, lines 11 to 39', which, of course, covers the old clause 3, 'Constituencies'. For that, he is inviting Council to consider a whole new regime, not only dealing with election and term of office, but also constituencies.

It looks as if, Mr President, the Hon. Member, Mrs Christian did not appreciate that that was rolled up into the consideration of election and term of office of elected Members of Council and, of course, one can understand that, but that, I am sure, was the intention that the new clause 4 was being substituted for the old clause 3.

Mrs Christian: Right. Thank you.

The President: Now, Hon. Members, with that enlightenment, I am perfectly happy and I appreciate the position that Council have reached, in voting on that matter, but let us be absolutely open on this. The position which we have to be is absolutely square down the line, that Council need to know what we are... effectively, *every* Member, in my book, has to be content with this measure.

If they consciously wish to vote against it, I have no objection to that, but I think that there is a need for clarity at each stage.

So, what I would propose to do is to reopen clause 3, schedule 1 *and* I will introduce schedule 2, because it is just the alteration.

So, can I make sure that everybody is absolutely happy. We will reopen clause 3, schedules 1 and 2. Now, Mrs Christian, you were indicating that, in fact, in relation to the constituency matter, you would wish to make some comments.

Mrs Christian: Thank you very much, Mr President.

I apologise for this. I appreciate what we should have been focusing on is not the heading but the line underneath it, which says, 'pages 2, lines 11 to 39', but we were talking about amendments to clause 3, as presented last week, and clause 4 was presented differently last week, as well.

So, I do apologise. I have not debated or expressed any view on clause 4, as it is now set out in the amendment, as part of an amendment to clause 3, but this matter does deal with the constituencies.

The new clause 4 –

Mrs Crowe: Could I just have... I am awfully sorry to interrupt Mrs Christian, but is that a new clause or is it subsection (4) of clause 3?

Mrs Christian and the Lord Bishop: It is a new clause.

Mrs Crowe: Right. Okay.

The Lord Bishop: Mr President, might I suggest that our debate is actually on clause 4 and schedule 2, because they relate to one another, but we could say that we have actually finished clause 3 and schedule 1 and we are now debating clause 4 and schedule 2.

The President: Does that work?

The Attorney General: I certainly think, if I may, Mr President, that it is very important to focus, now, on constituencies. This is a new debate, (**The President:** It is.) a new topic, and so it would be convenient to look at it as a new clause, I agree.

The President: Okay. Well, let us continue with constituencies on clause 4, Mrs Christian, and also deal, as the Lord Bishop says, with schedule 2. We will clarify the whole matter, so we are dealing with... If any Member wishes to go back, I am not going to object to that, but, at the present time, we are dealing with clause 4, on amendments moved by Mr Singer.

Right, now then, let us just be, for *Hansard's* point of view, again, for our clarity and so that we can get our position correct in the Votes and Proceedings of the Legislative Council, I think, at this stage, instead of accepting that Mr Lowey had moved the amendments to clause 3 and schedules 1 and 2 – as on your white paper there – if Mr Lowey now moves the amendment to clause 4 and schedule 2 separately, we can then crack on and cover that particular matter, too.

I know it is possibly doing belt and braces, but, by the same token, it will make it easier for our votes and proceedings.

Mrs Christian: I am sorry, Mr President. Are you talking about the amendment to clause 3 of clause 4?

The President: I am talking about the constituency matter now.

Mrs Christian: Which is an amendment to clause 3.

The Attorney General: By way of a substituted new clause 4.

Mrs Christian: Yes.

The Lord Bishop: So, Mr Lowey is moving substituted clause 4 and schedule 2.

The Attorney General: A substituted clause 4. That is it.

Mr Lowey: And it is to deal with constituencies, and it is –

Mrs Christian: It is an amendment to clause 3.

The Attorney General: That is it.

Mr Lowey: Indeed, it is the subject matter last week of what *was* clause 3. It seems... Again, we are back –

Mrs Christian: It is part of the amendment to clause 4, excepting that it renumbers the original clause 4 number –

Mr Lowey: That is right, 4, and then the others become 5 and renumbered.

And the constituencies, I did raise this matter – because Mrs Christian raised it last week – with the draftsman and it is quite clear that the way in which it has been left blank is to allow the Boundaries Commission to set the constituencies,

which, obviously, will be set by: the Council of Ministers will set a committee up to look at it and they will report. It will also then have to have the approval of Tynwald.

It does seem to me to be right that both branches meeting together should be able to have a say in whether those constituencies meet with their approval or not, as opposed to the branches individually meeting. So, leaving it blank was not seen to be such a disaster, instead of having them already filled in, because I know Mrs Christian and there are other Members of the Council who feel that it should have been an all-Island constituency, as opposed to single-seat constituencies, et cetera, but...

Anyway, as printed, it is the machinery to put that into place, nothing more and nothing less.

So, I am trying to simplify it, and I will leave it at that, in introducing the new clause 4 and schedule 2 stand part of the Bill:

'Constituencies

4. (1) For the purposes of an election of elected members of the Council, the Island shall be divided into the 8 constituencies specified in column 1 of Schedule 2, and each constituency shall return and be represented by one member.

(2) Each constituency shall comprise the constituencies for the purposes of elections of members of the Keys to be specified in relation thereto in column 2 of Schedule 2 in accordance with subsections (3) and (4).

(3) Within 3 months of this Act being passed, a committee shall be appointed under section 11(5) of the Representation of the People Act 1995 and that committee shall proceed to determine the Keys constituencies that should comprise each constituency for the election of elected members of the Council and report on the same to Tynwald.

(4) If Tynwald approves (with or without amendments) the determination of such a committee, the Council of Ministers shall by order amend Schedule 2 so as to give effect to the determination of the committee as approved and amended by Tynwald.

(5) The constituencies shall be subject to review under section 11(5) of the Representation of the People Act 1995 in the same manner as constituencies of the House of Keys.'

and re-number the subsequent clauses.

'Section 4(2)

SCHEDULE 2

CONSTITUENCIES

	<i>Name of constituency</i>	<i>Keys constituencies comprised in area</i>
1	<i>Constituency 1</i>	
2	<i>Constituency 2</i>	
3	<i>Constituency 3</i>	
4	<i>Constituency 4</i>	
5	<i>Constituency 5</i>	
6	<i>Constituency 6</i>	
7	<i>Constituency 7</i>	
8	<i>Constituency 8</i>	

The President: Right. So, I need –

Mr Gelling: I second that.

The President: Mr Gelling seconds. So, what is before Council, at the present time, is a new clause 4 and schedule 2. Mrs Christian.

Mrs Christian: Thank you, Mr President.

I simply wanted to focus on this, because it was an issue I raised last week, being concerned that we were approving a schedule, which had blanks in it. I see that in the amendment moved by Mr Lowey, there is now provision for a committee to be established to determine those constituencies –

Mr Lowey: It was in direct response to your concerns of last week.

Mrs Christian: – yes, and that they shall comprise constituencies for the elected Members of the Keys.

There might be arguments for other ways of composing the new constituencies, but I think it, probably, is as well if we stick to this proposal at this time, for fear of creating yet more difficulties.

The changes from the presentation we had last week, which do set out how these will be determined, do satisfy my concerns, Mr President. Therefore, I will support the amendment that the Hon. Member is moving.

The schedule is now simply numbering constituencies, without names and without definition. It does, in fact, delete the whole of the existing schedule 2 and simply puts in, in schedule 2, a new schedule, a box. I am satisfied with that, Mr President, and will support it.

The President: Does any other Member wish to speak to either your new clause or the schedule 2?

Mrs Crowe, you can wind up now.

Mrs Crowe: Could I just have one query to the mover of the amendment?

So, it says quite clearly, now, in 'Constituencies', that, in 4(3):

'Within 3 months of this Act being passed, a committee shall be appointed under [...] the Representation of the People [...] to determine the Keys constituencies'

and that they –

'should comprise each constituency for the election of the elected members of the Council'.

So, we have got eight constituencies for Keys and for Council.

Mrs Christian, the President and Mr Gelling: No.

Mrs Christian: The Hon. Member has put in an 'and' which is not there.

The President: You did not read the paragraph.

Mrs Crowe: Right.

The President: You part read the paragraph.

Mrs Crowe: Oh, right.

Mr Gelling: You take eight constituencies out of... by amalgamation.

Mrs Christian: You subdivide the Keys by constituencies.

The Lord Bishop: You subdivide the Keys.

The President: 'That committee shall proceed to determine the Keys constituencies *that should comprise*'.

Mrs Crowe: 'That should comprise'. Right. Okay.

The President: So, you use the Keys constituencies as the base to find the eight –

Mrs Crowe: Yes. Well, I thought... It was just reading it quickly. I thought that had been what we had determined in the first place, but when I read it, as you say, I misread it, or did not read it.

Mr Lowey: If my hon. friend was with me yesterday morning, she would have seen that I had already gone through that and we had come up with some very interesting alternatives, and rather than put...

I always remember the late Jack Nivison saying: if you want to have rabbit pie, just put a dog in a field with one rabbit. Put him in with two rabbits and he does not know which one to go after! So, we concentrated on one rabbit yesterday morning.

The President: Mrs Crowe.

Mrs Crowe: Thank you. Once again, blinded by animal welfare and the like, (*Laughter*) I am pleased to move... Well, no, I am not moving it, am I? I am pleased to accept the new clause 4 stand part of the Bill, with schedule 2.

The President: And that, Hon. Members, is what I will now put, for total clarity, to Council.

Hon. Members, accepting that we have moved on to clause 3 and schedule 1, we have accepted those amendments. We have looked at the amendments to be moved by Mr Lowey, and considered that we would deal with the constituency matter, which is a new clause 4 and the schedule 2, as a separate issue.

May I now put to you formally that the constituency matter, at clause 4, and schedule 2 do stand part of the Bill. Those are relative to the amendments to the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

So, the Bill as amended, Hon. Members, those in favour, please say aye; and against, no. The ayes have it. The ayes have it.

The President: Now we turn to... Having come to a new clause 4 introduced, if you look at your Green Bill, we have reached the position of clause 4 as originally numbered. Now then, Mrs Crowe, put clause 4 as originally numbered before the Council, please.

Mrs Crowe: Clause 4 as originally numbered, which we

have now amended to be clause 5, deals –

The President: Well, we have not yet, but –

Mrs Crowe: Well... Sorry. Clause 4, as numbered in the Green Bill that we are dealing with now, Mr President, is regarding the constitution of the Keys and Legislation Committee, and rather than read the whole of the clause, as I know that there are amendments to be tabled, I beg to move clause 4, as numbered in the Green Bill, stand part of the Bill.

The Lord Bishop: I beg to second and reserve my remarks.

The President: Mr Lowey.

Mr Lowey: Thank you, Mr President.

Well, as we have already agreed the constitution of the Council in the earlier clauses, my amendment is:

*Page 3; lines 7 to 24: for clause 4 substitute –
'Constitution of Council*

5. (1) The Legislative Council shall consist of 11 members, as follows –

(a) the President of Tynwald;

(b) the Bishop;

(c) the Attorney General;

(d) 8 members elected in accordance with this Act.

(2) The Legislative Council will meet separately from the House of Keys.

(3) The Attorney General shall not have the right to vote in Tynwald or in the Council, and the presence of the Attorney General shall not reckon towards the constitution of a quorum of Tynwald or the Council.'

It is quite clear what we are about, where we sit, what we do. I beg to move the amendment standing in my name.

Mr Waft: I beg to second, sir.

The President: Seconded by Mr Waft.

The President: Mrs Christian.

Mrs Christian: Mr President, I would just like to find it... Can I just ask one question, which may be dealt with in other legislation, Mr President. Whilst this deals with the constitution of the Council, there is no reference to 'presiding officer'. Is that determined in some other legislation?

The President: Separately.

The Attorney General: It is, indeed. Yes.

Mrs Christian: Right. I am content with clause 4, as amended, Mr President.

The President: In effect, what it does is delete (1) out of the old clause 4 in the Green Bill. It deletes the reference to the Keys, because we are going down the road of having a Legislative Council and not a Legislative Committee. Mrs Crowe, do you wish to reply? Mr Downie.

Mr Downie: There are two minor details really. There is

still reference in this clause to 'the Legislative Committee of Tynwald', (**Several Members:** No.) They are gone now, are they? (**Several Members:** Yes.) Yes.

The President: The point I was making is that the reference to 'Keys' in the Green Bill, in (1), has gone and the reference to the 'Legislation Committee' in both cases has been deleted and changed to 'Legislative Council'. So we are maintaining the Legislative Council, instead of 'Legislative Committee'.

Mrs Crowe.

Mrs Crowe: Thank you, Mr President. I have no further comment to make upon the Bill and am waiting for the amendment to be...

The President: Hon. Members, I put to you the amendment to clause 4, as originally numbered, in the name of Mr Lowey. Those in favour of the amendment, please say aye; against, no. The ayes have it. The ayes have it.

The clause, as amended, Hon. Members. Those in favour, please say aye; and against, no. The ayes have it. The ayes have it.

Now, we will move on to clause 5.

Mrs Crowe: Clause 5, Mr President, deals with the election of Chief Minister and the Members of the Legislative Committee, now amended to 'Council', and the consequences thereof.

So, as I know that there is an amendment now before us for clause 5, Mr President, I beg to move clause 5, as numbered in the Green Bill, stand part of the Bill.

The Lord Bishop: I beg to second and reserve my remarks.

The President: Mr Lowey.

Mr Lowey: Thank you, Mr President.

All of these amendments, as originally numbered, are to substitute for... It is to make practical the principle that we have already accepted, which is that we are not to be a committee, we are to be still retained as the Legislative Council. They are:

Page 3; line 27: for 'Tynwald' substitute 'Keys'
Page 3; line 35: at the end of paragraph (a) add 'and'.
Page 4; line 3: omit 'and'.
lines 4 and 5: omit paragraph (c).
lines 6 to 17: omit subsection (3).

Mr President, as I said, the aims are quite clear: they are to make it a practical and workable solution.

I beg to move the amendment standing in my name.

The President: I accept that, Mr Lowey, because you are moving that which is effectively Mr Singer's amendment sheet, but my understanding is that you had possibly wished to move an amendment yourself, sir.

Mr Lowey: I do. (**The President:** Right.) If I can introduce my view that I am a great believer that the President of Tynwald, if he should not have the... Is this the one with the Governor in?

Several Members: Yes.

The President: Line 26, if you want the reference.

Mr Lowey: Indeed, page 3. Can I say, Mr President, it is not a crusade I have against His Excellency, the present Governor or any other Governor, but there is a principle that we have adopted of removing the Governor from the political scene and that has been a wish, I think, of Tynwald, as expressed over the years, and we have done it in tranches.

Here is a classic example of something coming up that needs to be addressed, to remove the Governor, in my view, from the political scene. This will be a rare occasion, when the President of Tynwald is either unable, through illness or a variety of reasons why he is not available, the Governor should be...

It is my belief that the Governor should not be involved in politics, in any way, and I think we have the First Deemster, who swears us in, anyway, who is, in my view, the appropriate person to deputise for the President.

Therefore, I would like to move this amendment, for the 'Governor' to be the 'First Deemster':

Page 3; line 26: for 'Governor' substitute 'the First Deemster'.

I think he is... whoever 'he' is, at the present, it is not the individual, at present, it is the office that should actually be doing it. Therefore, I think it is in with the Tynwald agreed policy, which we have practised over the years, and I think it is sensible to put this into place now. I think it is right to be doing it, when we are doing the primary legislation.

So, I would like to, where the 'Governor' is, it should be replaced by His Honour the First Deemster, Clerk of the Rolls.

The President: Now, Hon. Members, I invited Mr Lowey to do that, because I am aware that I have had circulated an amendment, on a piece of white paper, in Mr Lowey's own name, and we are also dealing with amendments which are consequential upon amendments which he has moved in the name of Mr Singer.

I think, Hon. Members, whilst Mr Lowey has put both amendments to us, it is sensible for us to treat them as two entirely separate measures and so, first, I seek someone to second the consequential amendments. Mr Waft.

Mr Waft: I second that, Mr President.

The President: Now, I need, in order to have it before Council, someone to second Mr Lowey's personal amendment, that the Governor be replaced by the First Deemster.

Mr Downie: I am pleased to second that, Mr President, and, in doing so, I think there is an exercise underway, at the present time, where we are looking at the functions of His Excellency, the Lieutenant-Governor, and his involvement in other pieces of legislation. I think it would be proper that the elections in the Isle of Man are seen to be independent from Her Majesty's representative.

In this case, the Deemster, the person presiding over the courts, the First Deemster, who also is, at the present time, the Deputy Governor, would be the most appropriate person, I would have thought.

The President: Lord Bishop.

The Lord Bishop: I think the Hon. Member has just shot himself in the foot quite satisfactorily, because if the Deputy Governor is the sensible person to fill the role, then why should the Governor himself not be the person to fill the role?

I think there is a really important constitutional question here, and that is that there is a real muddle with who is the head of state and, therefore, who should be calling this group of people together to act, and whether the judicial body has any role to play in that, whatsoever.

Yes, the First Deemster swears us in, but he swears us in as being somebody separate from us, somebody quite distinct from us. The Governor stands as being our link to the head of state, who is the Lord of Man, and I think, at this stage, it is really very important, if the President is not here, then it reverts upwards, not downwards. That is to say, it reverts to the head of state to call that body together.

So, I, therefore, would put to you that it is really very important, indeed, that the Governor, as outside the system, completely separate from the political system, is the person who acts, at this point, to call the Tynwald together, to actually make this political decision and it ought not to be the Deemster, whose role is a judicial role.

Yes, he swears us in, because that is a traditional role, but do not muddle the Deemster into politics, in this way. Keep it in the hands of the Governor, who represents the head of state, who, at this stage, should be acting as head of state or *in loco* head of state.

I want to speak quite vehemently about this, because I think it is a matter of principle.

The President: Chief Minister.

Mr Gelling: I think, perhaps, this could be dealt with in a similar way to the previous one, and that was that we know there is a committee addressing that very situation.

The last time, Mr President, we spoke, it was about the 34 months, and it could very well be that the election time is changed, and this would then be amended. I just wonder whether, in fact, to save getting into that particular problem, whereby we change this legislation at this time, that we await the outcome of the complete review of the Governor's role, and it be amended at that time.

Mr Lowey: Could I answer that?

The President: Hold on, we are not answering yet. Mrs Christian.

Mrs Christian: Yes, I think this is a slightly difficult one, in that it is not clear whether the hon. mover is proposing the First Deemster as the Deputy Governor, (**Mr Lowey and Mr Gelling:** No.) or as a member of the judiciary. In the second capacity, I guess, they are as independent of Tynwald as the Governor would be.

But I do think there is some argument here, on the part of the Lord Bishop, that we do still have a head of state, whether everybody likes it or not. I feel that the hon. mover may be proposing this amendment to get what he would regard as somebody 'local', as opposed to the Queen's representative.

Mrs Crowe: It will have to be the Bishop. (*Laughter*)

Mrs Christian: But I do think that there are constitutional changes afoot. Maybe the Constitutional Committee should be the people to look at it.

The President: Mr Attorney.

The Attorney General: Mr President, could I just say how much I support the speech made by the Lord Bishop. I think he has addressed all the relevant points, and I would strongly urge Hon. Members to accept the principles which have been stated by the Lord Bishop.

Could I also say, Mr President, that, although it may be the desire to make the point that the Deemster will be acting as a judge and not as the Deputy Governor, that, in fact, makes the position even worse, if I may say so, because it is one of the great strengths of our Constitution that we actually do, so carefully, preserve separation of powers, as contrasted, perhaps, with our colleagues in the Channel Islands, where they have all sorts of problems with the position of the Bailiff, and so on and so forth, and there have been Human Rights challenges, on that basis alone.

There will, undoubtedly, be cases where the Deemster has to interpret laws which are passed by Tynwald. He may very well have to declare that Ministers have acted unreasonably, outside their powers and so forth. I would be very surprised if His Honour, the First Deemster, or indeed any Deemster would be content and comfortable with being invited to perform this function which, as the Lord Bishop says, is essentially a reserve power for the head of state, in much the same way as Her Majesty directs that Parliament be convened, in a certain situation.

So, although, of course, it is quite right that the Attorney General should not have the right to vote and so on, in this clause, I would respectfully associate myself with the Lord Bishop.

The President: Mr Lowey.

Mr Lowey: Thank you, Mr President.

Well, well, well – *déjà vu!* Can I remind you what this is about? This is not about the man taking charge; this is to deputise for the President, if he is not available, in that rare event. That is what it is about.

Now, it is quite clear to me that we have a policy of Government. Can I take, first of all, the Chief Minister? I could go along with his line of thinking, if what we are doing was a definitive list of removing the powers.

That is what it is about: slowly, we have had a great tranche – I have been involved all the way along, on this one – a big tranche.

Now they are getting less, and they are fewer and fewer, and we are just cherry-picking the latest lists that will be presented to Tynwald for their approval or disapproval. It is another tranche. It is not the total list.

We have already reserved certain powers for His Excellency, rightly in my view, as a step-by-step. So, to take his point that we should leave it and let that be dealt with there and then is for a *rare* occasion.

The President, which we have approved, by the way, should be the convening officer but if he is not then it should be. So, for the Lord Bishop to then say that should be reverted back up seems to me to be the opposite.

Now, I am not getting involved in 'because the First Deemster is the Deputy'. It just seems to me that His

Honour, the Deemster is a man used to administering fairly and even-handedly.

It could, if you wanted to bypass the judiciary, go to the Speaker. That is going, if you will pardon the expression, further down.

So, I do not see it as a great constitutional issue that we are demeaning the Crown, or trying to inflict bruising on the Crown. We are not.

The President: We would not have a Speaker, Mr Lowey.

Mr Lowey: No, we would not, but we would have a Deputy President of Tynwald, so Tynwald itself could have elected somebody to deputise for you, in your absence, sir. So, there is a formula.

My formula in putting the Deemster is he seems to me to be an acceptable person. In a small jurisdiction – with the greatest respect to my learned friend, the Attorney General – I do not think we can get the division as clear cut as that, as it is at the moment, sir. I do not believe it is as clear cut as that, where we would like to keep them separate.

I agree, the practice... the theory is that the legislation, the judiciary and the Crown should be separate entities. My view is that involving the Crown in a political matter, where we have already collectively, as a people, as a Government, as a Court, as a Council, decided that we wish to remove...

Now, I know the objections that were raised, at the very start, were *exactly* the same as has been enunciated this morning, by the Lord Bishop and the Attorney General, why we should not do it. We have done it, and I think we have grown in strength from doing that, as a legislature and as a parliament.

I think it is a simple one, a simple choice, and I do believe that it should be supported.

But let us just say, it is not the end of the day, because we have in our present President, the fittest presiding officer, I would suggest, in the Commonwealth, and he will not be absent very often, that is for sure! *(Laughter)*

Anyway, I just stand with my head unbowed on the principle. I do believe the person that I have suggested would make an admirable choice, I really do.

The President: The health of one is not in one's own hands at all times, Mr Lowey.

Mr Lowey: I know!

The President: Mrs Christian.

Mrs Christian: Mr President, we have debated the part (1) element of the amendment to the printed clause 5, but I would just ask for the advice of the learned Attorney.

Clause 5 was dealing with various elections after the proposed election of the newly constituted 32-Member Tynwald. In view of the fact that we are moving away from that principle altogether, one assumes that, in existing legislation, there is already a provision for the summoning of Tynwald after a Keys election, and I wonder why we need this.

Is it simply because that existing provision is going to be amended or deleted further on in the Bill?

Mr Lowey: Yes, the 1919 Bill will be deleted.

Mrs Christian: Deleted altogether, yes, right. In that case, we will need a mechanism.

The President: We do need a mechanism.

Mr Downie: Could I just say, as we are in committee, Mr President, that if we were enacting this legislation, as it has been drafted, presently, particularly the amendments from Council, we would not have a Governor this year. The Governor would have gone, we would be in the position where we would be arranging the arrival of a new Lieutenant-Governor, and, in fact, we would be sitting in limbo.

Mrs Christian: The Deputy, presumably –

Mr Downie: The Deputy would have to do the job, anyway! *(Laughter)*

The Lord Bishop: That's it!

Mr Downie: So, just to get one back and shoot the Bishop in the foot! *(Laughter)*

The President: Mrs Christian, had you completed?

The Lord Bishop: No, it is November, not December.

Mrs Christian: Yes, I think so, Mr President.

The President: Does any other Member, then, wish to speak to clause 5 or the amendments? Mr Butt.

Mr Butt: Just for clarification, I do not quite understand why on, say, 6(2)... I think it says somewhere that the Chief Minister shall be nominated and the President shall be elected. I wonder what the difference is between nomination and election – why they are not both elected fairly. *(Interjections)* Yes, 6(2)(a), sir. It says 'nominate' and then 6(2)(b) –

The President: Perhaps, Marilyn, you could explain it quicker than me, because you came straight out with it there. There is a difference in the two procedures.

The Clerk: Yes, the Chief Minister's post needs to be confirmed by the Governor, but the President is just a straight election of Members.

Mr Butt: So, it is a power the Governor has.

The Attorney General: At the moment.

Mr Gelling: It is a recommendation to the Governor, rather than the President, who is elected.

The President: Mrs Crowe, is there anything further that you wish to add to clause 5 or the amendment?

Mrs Crowe: No, I am waiting for the amendment to be moved. I have nothing further to add to clause 5. I think it has been well aired.

The President: In that case, Hon. Members, what I propose to do is to put to you, first, Mr Lowey's personal

amendment, to replace the ‘Governor’ with the ‘First Deemster’. Those in favour of that amendment, please say aye; against, no. The noes have it.

A division was called for and voting resulted as follows:

FOR	AGAINST
Mr Lowey	The Lord Bishop
Mr Waft	Mr Butt
Mr Downie	Mrs Christian
	Mr Gelling
	Mrs Crowe

Mr Lowey: Bang goes my MBE! (*Laughter*)

The President: With 5 against, 3 for, Hon. Members, that particular amendment, therefore, fails to carry.

Now, Hon. Members, what I will put to you is the amendment on the White Paper:

‘Clause 5 (as originally numbered)
Page 3; line 27: for “Tynwald” substitute “Keys”
Page 3; line 35: at the end, paragraph (a) add’, et cetera.

Hon. Members, those in favour of the amendment on the White Paper, moved by Mr Lowey, please say aye; against, no. The ayes have it. The ayes have it.

I put to you, therefore, Hon. Members, that clause 5, originally numbered, as amended. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

The President: We turn, then, to clause 6. Mrs Crowe.

Mrs Crowe: Thank you, Mr President.

Once again, rather than read the whole of clause 6, if you will permit, I will just say that this clause deals with the election and the office of the President of Tynwald and, as I know from the paper before us, we have some amendments, I will just move clause 6, as it is presently numbered on the Bill.

The Lord Bishop: I beg to second and reserve my remarks.

The President: Mr Lowey.

Mr Lowey: Thank you, Mr President.

Again, this is the result of what we have already taken. It is the practical putting into effect:

Page 4; lines 18 and 19: for ‘an elected member of Tynwald’ substitute ‘one of the members of Tynwald specified in section 2(1)(d) and (e) (in this Act referred to as “the elected members of Tynwald”)’.

Page 5; lines 1 to 9: omit subsection (4), and re-number the subsequent subsections.

When I started reading that, last night, ‘subsequent subsections’, I had to practise my pronunciation!

The President: Mr Waft.

Mr Waft: I beg to second, Mr President, and reserve my remarks.

The President: Mrs Christian.

Mrs Christian: Mr President, can I just ask about clause 6(3)(d), as printed?

This is to do with the office of the President and when he goes out of office. ‘The office of President... shall be vacated’, and at (d) it says:

‘on the day of the first ordinary sitting of Tynwald held in the month during which falls the 5th anniversary of the sitting at which he was elected’.

Now, does it need to say ‘on the first day’, or is it any day during that sitting?

The President: It is the first thing, I think, which Tynwald does.

Mrs Christian: Is it the first thing or the last thing which it does?

The President: I think it is the first business on the Order Paper for that particular sitting. I think that is the format.

Mrs Crowe: On the day of the first ordinary sitting.

Mrs Christian: But it could be: ‘On the day of the first ordinary sitting of Tynwald during which falls the 5th anniversary’. Okay.

The President: Tynwald does not have a President, because the President goes out of office. My understanding is that Tynwald, therefore... The first business of that Tynwald is to elect its President. (*Interjection by Mr Lowey*)

Mrs Christian: Yes, so does it need to say, ‘the first day’, then?

The President: It needs to say, otherwise, if it was left to the last business, you would have nobody sitting in the Chair. There would be nobody taking the session.

The Lord Bishop: You mean, ‘the first day’.

Mrs Christian: Should it say, ‘on the first day of the ordinary sitting of Tynwald held in the month’?

The Lord Bishop: It does not actually make sense, does it?

The President: The first ordinary sitting. (*Interjections*)

Mrs Christian: Well, the first ordinary sitting of the anniversary is the July one, so the first extraordinary sitting is 5th July.

The Lord Bishop: Yes, right.

The President: It has been pointed out to me, again, Hon. Members, that we are making life very difficult for *Hansard*, because there are sometimes two or three conversations taking place. If we can try to avoid that.

I appreciate that Members wish to work their way through

this, with as much knowledge as they have at their hands and fingertips as possible, but let us try not to override each other in conversation. I will give you each plenty of time.

Mrs Christian.

Mrs Christian: Mr President, I presume, again, this is lifted from existing legislation. It must already be provided for. I would just like it confirmed that this is not a typographical error, that this is the wording of the Act as it currently is.

The President: I have to say, I am not sure whether it is actually 'on the day of the first ordinary sitting' or 'the first day of the ordinary sitting', whichever way round you want to use those words, but we will certainly check the Act. It is just simply my understanding that it was the first business that Tynwald conducts, at that time, and we will just clarify that matter. (*Interjections*) Mr Attorney.

The Attorney General: Mr President, I am sorry about the delay. The Constitution Act 1990, section 3, under the heading 'Tenure of office of President of Tynwald':

'The President of Tynwald shall hold office until – (a) he resigns'

– and so on –

'(b) the day of the first ordinary sitting of Tynwald held in the month during which falls the 5th anniversary of the sitting at which he was elected'.

Mr Lowey: So, it is existing legislation.

Mrs Christian: Right, it just seems a curious form of words.

The President: Okay, well, with that clarity, that it is existing, that is what is happening at the present time, and it is a matter of conjecture, really, whether you put the 'first' before the 'day' or the 'day' before the 'first'. I think the emphasis is actually on the day, isn't it? So, in fact it is making sure that it is the day of the first ordinary sitting.

The Attorney General: Yes. Mr President, if I may, I think that will be dealt with by Standing Orders, won't it? It will be for Members of Tynwald to regulate their procedure on that day.

Mrs Christian: Right, okay.

The President: Does any other Hon. Member wish to speak, then, to clause 6?

Mr Butt: Again, could I ask for clarification, sir? (**The President:** Yes.)

I take it from this, then, the President is never actually elected by the public. (**The President:** No.) He is outside the eight and outside the 24.

The President: The President is elected by Tynwald Court.

Mr Butt: So, in 2009, he is elected from within the re-elected Members.

Mrs Christian: Not in 2009.

Mr Butt: Well, on the 5th anniversary of the previous election.

The President: Yes, July, next year.

Mr Lowey: July, next year, and then five years after that.

The President: And it was the first business on the Order Paper in July 2001.

Mr Butt: So, if he leaves office before his time is due, how is that then filled?

The President: It is a consequential leaving of office and Tynwald then elects.

Mr Butt: So, it then creates a by-election, either in the Council or the Keys, to fill that gap?

Mr Lowey: Yes.

The President: If that is the case, as happened in 2000, when Sir Charles resigned as President, I was then Speaker, and when I became elected as President, it caused a constituency by-election in Rushen constituency. Then, subsequent to that, on the fifth year of the presidential office, 2001, I was then elected again.

Mr Lowey: Yes, and can I say it is actually in clause 6(3)(e):

'where he was elected to fill a casual vacancy, on the day when the person in whose place he was elected would ordinarily have gone out of office.'

So, it is not five years from the by-election, it is to fill the term of the previous incumbent, and then it goes on.

Mr Waft: We have got here it must be a Member of Tynwald.

Mr Lowey: Yes, that is covered –

The President: Mr Gelling.

Mr Gelling: On a point of clarification, Mr President, could Mr Attorney perhaps explain why the whole of section (4) of that particular clause is omitted altogether? The top of the Constitution Bill, page 5, of the Green Bill. Has it been superseded by, or...?

The Attorney General: I think, Mr President, that clause is concerned with the election... The question is in relation to the clause 5 of the Green Bill, where subclause (4) says:

'The President of Tynwald and the Attorney General shall not have the right to vote'?

Mrs Christian: No, clause 6.

Mr Gelling: At the top of page 5 of the Constitution Bill, it says:

'Where the seat of an elected member of Tynwald is vacated, his seat as a member of the Keys or the Legislation Committee' –

so I assume it is because it mentions the Legislation Committee –

Mrs Crowe: No, because that has all been changed.

Mr Gelling: –

– as the case may be, shall also be vacated; and the seat of an elected member of Tynwald may not be vacated otherwise than –.

The Lord Bishop: The only thing that would remain would be 'on his election as President of Tynwald', wouldn't it? Because the other is about electing a 32-Member thing, and, therefore, I presume that the business of resigning because you have become President of Tynwald is dealt with under other legislation. So the whole of that subsection (4) can disappear.

Several Members: Yes.

The President: Yes, I think that is right. Mrs Christian.

Mrs Christian: Mr President, are there not two options here?

We have just amended clause 6, earlier on, to define the elected Members of Tynwald as being elected under section 2(1)(d) or (e). So, we do have a new definition of 'elected Member of Tynwald'.

If this were to be left in, you would simply need to substitute 'Legislative Council' for 'Legislation Committee', where that appears. It would, simply, then say what happens when someone is elected as a Member...

Mr Lowey: Could I just try and help the Hon. Member, just to show that the draftsman was alive and very much kicking after his few days' well-deserved holiday, because he actually mentioned this to me.

The two words he used were... Why omitting: 'superfluous' and it is dealt with in existing legislation. (*Interjection by Mrs Christian*) 'Superfluous' and 'dealt with in existing legislation'.

The President: Okay. Mrs Crowe, do you wish to add anything further to clause 6?

Mrs Crowe: No, Mr President. I wait to hear the outcome of the amendments.

The President: In that case, Hon. Members, what I put to Council is that clause 6 do stand part of the Bill, and to that we have the amendment in the name of the Hon. Member, Mr Lowey. Those in favour of the amendment, please say aye; against, no. The ayes have it. The ayes have it.

Clause as amended, Hon. Members: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

So, we will turn to clause 7. Mrs Crowe.

Mrs Crowe: Thank you, Mr President.

It seems almost superfluous – if we are talking about the previous clause – that I should read what this clause is about,

as I note there is an amendment to omit it completely.

However, it is about the office of the Speaker of the newly assembled Legislation Committees. So I beg to move clause 7, as numbered in the Bill, but, knowing that there is an amendment, I believe that I could progress.

The President: In that case, Hon. Members, would it be sensible to take clause 8 at the same time? (*It was agreed.*) Mrs Crowe.

Mrs Crowe: Thank you very much, Mr President. It is most helpful, and I am sure we will be winging our way very quickly, now, through this Bill, because also for clause 8, I think there is an amendment for that to be omitted. So, I will not read –

The President: Clause 7 and 8.

Mrs Crowe: – the clause. I beg to move that clauses 7 and 8, as numbered in the Green Bill. Thank you, Mr –

The Lord Bishop: I beg to second and reserve my remarks.

The President: Right, Mr Lowey.

Mr Lowey: Mr President, again, I hope I have spelt 'superfluous' right! I have got it down here, anyway – George, check it – and it is the reasons why both clauses 7 and 8 now are... because of the decisions we have taken, not to have a Legislation Committee.

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

That clauses 7 and 8 be omitted from the Bill.

The President: Mr Waft.

Mr Waft: I beg to second, sir, and reserve my remarks.

The President: Mrs Christian.

Mrs Christian: Mr President, I am not sure why we need an amendment to omit something –

The President: To delete.

Mrs Christian: Simply, we can just vote against it.

The President: I am quite happy, but if we do it formally, I know that Votes and Proceedings will be a lot more content, and I will not get told off! So, those in favour of the amendment, please say aye; against, no. The ayes have it. The ayes have it.

Clauses 7 and 8, as deleted, Hon. Members: those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 9 as originally numbered. Mrs Crowe.

Mrs Crowe: Thank you, Mr President.

We are now on to dealing, in clauses 9, 10 and 11, with the functions of the elected House. Clause 9 deals with a Bill, including a Private Member's Bill, that may be introduced in

either the Keys or the Legislation Committee, and, if passed, shall subsequently be taken in the Legislation Committee or the Keys, as the case may be.

Mr President, I beg to move that clause 9 stand part of the Bill.

The Lord Bishop: I beg to second and reserve my remarks.

The President: Mr Lowey.

Mr Lowey: Thank you, Mr President.

It is quite clear, the Legislation Committee is defunct, and, wherever occurring, you should substitute the 'Legislative Council'.

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

Page 6; lines 7 and 8: for 'Legislation Committee', wherever occurring, substitute 'Legislative Council'.

Mr Waft: I beg to second, Mr President, and reserve my remarks.

The President: No further comment, Hon. Members? The motion I put to Council is the amendment in the name of Mr Lowey. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 9 as amended, Hon. Members. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clauses 10 and 11 together, Mrs Crowe, if you would, please.

Mrs Crowe: Thank you, Mr President.

Clauses 10 and 11, once again, appear to be superfluous now, in our amended deliberations of this Bill, so I will not seek to read out what their original functions were.

I will just beg to move that the original clauses 10 and 11, as in the Green Bill before us, be officially moved.

Mr President, I beg to move.

The Lord Bishop: I beg to second and reserve my remarks.

The President: Mr Lowey.

Mr Lowey: In moving the amendment in my name, it is to delete and it is for the obvious reasons. We are not getting specific jobs. We will continue the work that we do in the normal way.

I beg to move, sir:

That clauses 10 and 11 be omitted from the Bill.

The President: Mr Waft.

Mr Waft: I beg to second, sir, and reserve my remarks.

The President: Now, Hon. Members, the motion I put to Council is that clauses 10 and 11, moved as an amendment by Mr Lowey, be deleted. Those in favour, please say aye; and against, no. The ayes have it. The ayes have it. Hon.

Members, both clauses 10 and 11 are deleted.

We then turn to clause 12 and schedule 3.

Mrs Crowe: In moving clause 12 and schedule 3, as originally numbered, these are... I do believe, once again, Mr President, as I have before me, that there are a number of amendments to be moved to the clause and the schedule.

So, Mr President, I beg to move that clause 12 and schedule 3 stand part of the Bill.

The Lord Bishop: I beg to second and reserve my remarks.

The President: Mr Lowey.

Mr Lowey: Thank you, Mr President.

I am assured by the... Obviously, the Members should have the ability to call an extraordinary meeting, and the amendment being proposed is to make the machinery for that to happen.

It also has one great advantage, in the fact that, if we pass the amendments, which allow –

'The President of Tynwald, upon receipt of a request signed by a majority of the members of either branch [...] shall, in the usual manner, and with all reasonable speed, convene a meeting of Tynwald.'

– dealing with that, it means that we can repeal the whole of the 1919 Representation Act. It seems to me to be a sensible way of getting rid of – if we use that word, again – superfluous legislation, and deal with the problem that that Act dealt with.

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

Page 13: in paragraph 1 –

(a) at the beginning insert –

'(1) At the end of section 4 add –

“(3) The President of Tynwald, upon receipt of a request signed by a majority of the members of either branch of Tynwald, shall, in the usual manner, and with all reasonable speed, convene a meeting of Tynwald.

(4) The President of Tynwald, upon receipt of a request signed by a majority of the members of the Council, shall, in the usual manner, and with all reasonable speed, convene a meeting of the Council.

(5) The President of Tynwald, upon receipt of a request signed by a majority of the members of the House, shall, in the usual manner, and with all reasonable speed, convene a meeting of the House.”’;

(b) at the beginning of the existing paragraph insert ‘(2)’;

(c) at the end add –

‘(3) In section 9, in the definition of “elected member”, for “Isle of Man Constitution Act 1919 substitute “Constitution Act 2005”.

Page 13 : at the beginning of paragraph 2 add –

“(1) For section 9(1)(a) substitute –

“(a) on their first assembling after the completion of the sitting of Tynwald referred to in section 6(2) of the Constitution Act 2005; and’.

Pages 13 and 14: omit sub-paragraphs (2) to (7), (9) and (10) of paragraph 2.

The President: Mr Waft.

Mr Waft: I beg to second, sir, and reserve my remarks.

The President: Mrs Crowe.

Mrs Crowe: Mr President, for the sake of clarity and for *Hansard*, I should also have, perhaps, mentioned that I would wish to move schedule 4, as it has been alluded to now, as well.

So, it is clause 12, as numbered in the Bill, with schedules 3 and 4, as in the Bill. I am sorry, Mr President. I hope that that...

The Lord Bishop: And I am prepared to second that, also, and still reserve my remarks.

The President: Now. Yes, Mr Downie.

Mr Downie: I am content yet, Mr President. I just want to...

The President: Do you have a separate amendment, which you were going to move on this, Mr Downie?

Mr Downie: Yes, I do, Mr President. I have it here, clause 12 and schedule 3:

*Page 13: in paragraph 2, at the beginning insert –
(1) In section 6, after subsection 6 insert –
“(6A) A sitting member of the Keys may stand for election as an elected member of the Council and neither subsection (6) nor any other enactment shall be construed as vacating the member’s seat by reason of standing for such election.”,
and re-number the subsequent sub-paragraphs.*

Mrs Christian: Have we done this?

Mr Downie: It is just to make it absolutely clear that, if a vacancy does appear, a Keys Member can contest that seat in Council, without having to give up his Keys seat to do so. I move the amendment standing in my name.

Mr Gelling: I will second it to give it an airing, Mr President, and reserve my remarks.

The President: I do not think you can, on an amendment, Mr Gelling.

Mr Gelling: I will just second it, then.

Mr Downie: Have you lost it, have you?

Mrs Christian: No, I have got it. I am just thinking. I am sorry. (*Interjections and laughter*)

The President: Yes. There is absolutely nothing ever wrong in taking thinking time. (*Interjection*)

Mr Waft: Did we not, Mr President, discuss this –

The President and Mr Lowey: We did.

Mr Waft: – some time ago, with regard to the situation, being elected from the Keys, when the whole principle of this is to –

Mr Lowey: Get an election.

Mr Waft: – be publicly elected. That was argued then, at the time, I think.

Mr Lowey: That is right.

Mrs Christian: I think –

The President: Mrs Christian.

Mrs Christian: – this particular amendment is slightly different from the other proposals which the Hon. Member was thinking of moving, in the sense that, before, it was the filling of casual vacancies that we talked about primarily, and I think we rejected... Well, I am not sure whether we voted on it, whether it was moved. (*Interjection by Mrs Crowe*)

But this is different. This is about a Keys Member standing for election to Council, which would be a mid-term election, with a consequential need, then, if that person is successful, for a by-election to the Keys.

One thing that we are doing, by changing this structure, is we are removing, to a degree, the potential for experienced Members to participate –

Mrs Crowe: That is right.

Mrs Christian: – in Council, and we are moving to a new structure, where Keys and Council will operate in parallel, unless someone determines to have a gap of 34 months or longer, before contesting a Council election.

My only concern about this amendment – and, again, I am thinking aloud, as it were, and trying to decide how to vote on it – would be that I think that someone should have the courage of their convictions and not automatically retain their Keys seat, if they want to become a Council Member.

On the other hand, largely anybody else who seeks to stand for election would very likely go back to their original job, if they were not successful!

But, against that, I think... whether or not Keys Members were to have any recompense, if they then failed, I do not know. One would say that they were giving up part of their remit from their constituency, at that point.

Mr Lowey: I have –

The President: Hold on, Mr Lowey.

Mrs Christian: No, I am happy to hear other Members’ views, Mr President, because I have not decided on this yet.

The President: Right. Mr Lowey.

Mr Lowey: My view... You see, I have a lot of sympathy with what the hon. mover of the amendment, I still think, is trying to do and that is keep some continuity and experience. I have a lot of empathy, I understand what the reasoning for that is. and I would go along with that.

Having said that, I have to go back to the start of

this campaign to reform the Legislative Council and the democratic bit.

Now, if we cast our minds back a few years, Tynwald Court decided that you could not be a member of the local authority and be a Member of this Court at the same time, that the two were not compatible, and you had to get out, for one or the other. The same, I think, applies to the Legislative Council and the Keys.

I tried to put myself in the position of why would I, with a small constituency, want to compete for a larger constituency for a shorter period... the same period of time, really, another two and a half years? I cannot see the advantage, really, in that, to the particular person, unless you only wanted to do... coming up to retiring age and thinking, 'Well, if I had another two and a half years, I could add to that...'

Would it do any harm? I think it would go against... by retaining a seat in the Keys as well the Council, and I do not think that is on, I really do not.

Therefore, I am afraid I will not be able to support my hon. friend on this occasion, but I know exactly where he is coming from.

The President: Lord Bishop.

The Lord Bishop: I think this one is a bit more interesting than the other one, which I was wholeheartedly against, because it is actually a permissive clause. (**Mrs Crowe:** Yes.) It allows somebody to stand and they are, in fact, not a member of a second House until they have actually been elected to that second House and then they vacate the seat in the first House.

So, in that sense the parallel does not quite work with the local authority, does it, in the sense that you would be seeking to fill two seats, one on the local authority and one in the Tynwald?

Here, if you are elected to the Legislative Council you must resign your seat in the other one.

So, there is a little bit of me that, actually, is minded to vote for this –

Mrs Crowe: Me too.

The Lord Bishop: – in the sense that it allows Members, if they wish to – for whatever reason, let us not try and judge what their reasons are for moving – they can move, if they want to.

The President: Mrs Crowe.

Mrs Crowe: Thank you.

Speaking to the amendment, Mr President, I, too, like the Bishop... this is a different scenario than we had discussed, or maybe we misunderstood our hon. colleague's intentions, when he first mentioned it, and I do believe that this... I think that I will, after listening to others, be voting for this clause, because I do believe it gives people the opportunity to become a Member of the Legislative Council.

Otherwise we are saying that Members of the House of Keys... Is there a mechanism in place? Do they have to resign? Is there a by-election prior to them being...? There needs to be some mechanism for people, if they wish to be elected to Legislative Council, and I think Mr Lowey mentioned, why should someone want to do it?

On the First Reading of this Bill, I can remember the Hon.

Member of the Council saying – and the more I have thought about it, the more I think it is true – that the democratic power base will change, and I do believe that there are many people who would wish to be with a larger constituency base than a smaller one and, for that reason alone, I think that I would be voting for this.

I think it permits a Member of the House of Keys, if they so wish, to stand for election. Now, whether they should resign prior to them standing, I do not know, but it does permit them to stand.

The President: Mr Gelling.

Mr Gelling: I see this just exactly as we have at the present time, Mr President, whereby a Member of Keys... the very Member himself, stood for election, sobeit by his colleagues in Keys. The only difference is: you are going out to the public to be elected.

But I would see it that you retain your seat in the Keys, until such times as you are elected or otherwise. If you are not elected, you stay in the Keys, and if you are elected, you cause a by-election for a smaller constituency, where someone would come in, perhaps, in that smaller constituency, because the original holder has now gone into a representation of a larger constituency.

The reverse, of, perhaps, how it is looked upon at the moment, that we go up to the upper House to be taking a little work off our hands. (**Mrs Crowe:** Oh, yes.) In this case, it would be the enthusiasm of someone wanting to represent a bigger...

But I see it just exactly the same, (**Mrs Crowe:** Yes.) when you go to the public for being elected, rather than the Keys.

The President: Mr Lowey.

Mr Lowey: Can I then just pose the question – and perhaps the learned Attorney can help me – what is to stop that happening now?

We have had that. I remember a good friend of ours, I think, Mr Victor Kneale, who was elevated. He stood for election mid-term, in reverse – not going up, but going down. He actually stood for the Keys, and he resigned, I think, on the day of the election, or the day after he was elected.

So, if that is the case why do we need an amendment to do what is capable of being done now, anyway?

Mrs Christian: Mr President, I do not think that the legislation will be in place the other way around, (**Several Members:** No.) (*Interjections*) because the circumstance has never arisen before, for a Member of the Keys to go to the public, to be elected to the Council. It just does not exist.

So, we would need to have such an amendment. (*Interjections*)

Mrs Crowe: Yes, it is permissive.

Mrs Christian: The principle the other way around, it would appear, exists already, if Mr Kneale, a former Member, has done it, but I do not think, under the existing legislation, that can happen for the Keys, (**The Lord Bishop:** No.) because there simply is not an election to the Council in that way.

Mrs Crowe: And it should be able to happen in the reverse, as well.

The President: Mr Waft.

Mr Waft: I have just found the amendment. I think there is a fundamental difference between election by their compatriots in the Keys, as opposed to the public at large. I think the principle is good, because we are not limiting anyone to election, which you would be, if the case was allowed to lie as it is.

The President: Mr Attorney.

The Attorney General: Mr President, really just for clarification.

Under the existing law, under the Isle of Man Constitution Act 1919, under section 7, the constitution of Council, it says that:

‘Notwithstanding any law or custom to the contrary, the Council shall [...] be constituted in the manner herein provided.’

– and it goes on to say –

‘It shall consist, and consist only, of the following members, that is to say:- (1) Two ex-officio members, [...] (2) Eight members to be elected by the House from their own members or otherwise [...] (3) The President of Tynwald.’

So, it is made perfectly clear, there, that it is only Members of the Keys who can be elected to Council. (*Interjection by Mr Downie*)

The Lord Bishop: No, ‘or otherwise’.

Mrs Christian: Elected by Keys.

Mr Downie: Elected by the Keys, not from the Keys.

The President: It was changed subsequently.

Mrs Crowe: Is this the 1919 Act?

The Attorney General: The 1919 Act, which is still extant.

Mrs Crowe: But sections 6 to 23 have just been repealed.

The Lord Bishop: Are about to be.

The Attorney General: Not as yet. We have not got that far.

The Lord Bishop: It will be, soon.

Mrs Crowe: Soon.

The President: Mrs Christian.

Mrs Christian: Mr President, the Hon. Member has raised an interesting point, and there seems to be a view developing that this is a reasonable step, but let us consider, if this is accepted, should not what applies to the goose apply also to the gander?

Do we need to make a further amendment to allow, in future, elected Members of the Council to stand for election

to the Keys, without losing their seat in the Council?

In that case, I would seek to move... but, again, I do not know how... I imagine, with the learned Attorney’s advice, he would say that that needs an amendment, if we would wish to do that. There can be no provision, at the moment, which will cover that, because of the new election procedures which we are setting in place.

So, Mr President, at risk of delaying things even further, I would like to move an amendment, which embodies that principle, as well –

Mrs Crowe: Is it just the addition of an elected Member –

The President: Can I, Hon. Members... If we deal with Mr Downie’s amendment as we are working along. Now, if you are minded to accept Mr Downie’s amendment, perhaps we could say to Mrs Christian that, subsequent to that being accepted, we would accept the principle and, therefore, accept an amendment at Third Reading stage, to be the alternative. (**The Lord Bishop:** Yes.) That would clarify the matter, because...

Well, if you do not accept Mr Downie’s amendment, presumably, you are not accepting the principle, and I do not know yet.

Mrs Crowe: Right.

Mrs Christian: I am happy with that, Mr President.

The Lord Bishop: I think that is very sensible.

The President: If Council are happy with that line, I would be happy – if you have accepted the principle – to allow, at Third Reading stage, the amendment to be put. As Mrs Christian succinctly put it, what is sauce for the goose is sauce for the gander. Alright, Hon. Members? (*It was agreed.*)

We continue, then, with your deliberations of Mr Downie’s amendment, or the amendments to clause 12 and schedule. No further comment? Mrs Crowe, do you wish to add anything?

The Attorney General: Mr President –

The President: Mr Attorney.

The Attorney General: I am sorry and forgive me, I have been looking at the legislation, so I might have just missed the drift of the debate, but are we looking at schedule 4, at this stage? (**The President and other Members:** Yes.)

The thing that concerns me slightly, and I have not had the opportunity to talk to the draftsman about this, but in schedule 4, item 1, the Isle of Man Constitution Act, if the whole Act is to be repealed –

The President: It is.

The Attorney General: – by virtue of this, there is one important provision, which I do not think has been covered by this Bill, although I could very well be wrong.

Section 25 of the 1919 Act says that:

‘All elected members shall have and enjoy all the privileges, powers,

authorities, and advantages, and be subject to all the jurisdiction, control, obligations, liabilities and responsibilities pertaining generally to members of the Council, by reason of such membership.'

In other words, it is confirming its parliamentary privileges and making it clear that elected Members are subject to certain obligations.

Now, it seems to me that is a very important provision, and if we are going to repeal the whole of the 1919 Act and not keep section 25 alive, that is something which would be a retrograde step and... Maybe I am missing something, but –

Mrs Christian: Mr President, the repeal is of everything except clause 24.

The Attorney General: Yes, so therefore it reads... If we delete 25, which is the one I have just referred to, you are going to be missing the benefit of a very important provision.

Mr Lowey: Is that not covered in the Constitution Act 2005?

Mrs Crowe: Why are we retaining clause 24?

The Attorney General: Clause 24 was repealed in 1995.

The Clerk: I think it is a misprint, and you are meant to retain 25.

The Lord Bishop: A misnumbering.

The Attorney General: I think that 25 and 26 have got to remain, but...

I think, Mr President, this is something I would like to check, if I may, with the draftsman. (**The President:** Right.) It is an important point. We do not want to repeal something which is of general benefit for Members.

The President: We do know that the earlier sections and section 24 have previously been repealed, and the indication, possibly, is that 6 to 23 will be subject to repeal as a result of this Bill –

The Attorney General: Yes, I can understand that.

The President: – but possibly sections 25 and 26, instead of being put down separately for repeal, the suggestion is they may –

The Attorney General: Well, on the face of it, Mr President, they still have a useful function and ought not to be repealed. (**The President:** Right.)

I should have checked that earlier, but I am afraid I have overlooked that.

The President: In that case, Hon. Members, accepting the Attorney's comment on that and the need for clarification, which would be consequential, to some extent, when we are dealing with a repeal, if, in fact, those are still sections relevant. Perhaps we could deal with that at Third Reading, as well. I would be happy for that.

Mrs Crowe, you are unhappy. Yes?

Mrs Crowe: No, no, even though it has now been voted upon.

The Lord Bishop and the President: No, it hasn't been yet.

Mrs Crowe: Schedule 4.

Mrs Christian and other Members: No, we have not voted yet. (*Interjections*)

Mrs Christian: We have moved it, but we have not voted it.

Mrs Crowe: Oh, right.

The President: Mrs Christian.

Mrs Christian: Mr President, if those are to be the only sections left in that Act, would it not be easier to reintroduce them in this measure and repeal the whole of the 1919 Act? Otherwise we are going to have more bits and pieces than –

Mr Lowey: The 1919 Act – well, it should be repealed and kept up to date.

Mrs Christian: We should bring the clauses into this Bill.

The President: I would agree, entirely, with Mrs Christian. It is much easier, when following legislation, to repeal old legislation and bring the sections you wish to continue into your new legislation – much simpler to follow.

The Attorney General: Mr President, again, I hope to be of assistance to Hon. Members. Not only is there that provision, in section 25, about the privileges, there is also, under section 26, the power to resign on giving notice.

So:

'Any elected member of the Council may resign on giving to the President of Tynwald one month's previous notice, in writing, of his intention so to do.'

I am not sure that that is being preserved in this new Bill. So –

The President: Right. We are unsure, Hon. Members, and we need to have it plain that possibly sections 25 and 26, referred to in schedule 4, relative to the Constitution Amendment Act 1919, may need to remain.

I think there is a wish of Council that, if they are to remain in substance, they should be carried forward into the new Bill, rather than the old Bill, in which case it may require further amendment, at the next stage.

As long as you are happy with that, Hon. Members, I am prepared to try to move this Bill on, in that form, and that will mean that we will be looking possibly, if you accept Mr Downie's amendment today, Mrs Christian bringing forward another amendment to match, on the other side of the same coin, and, possibly, an amendment will need to be drafted for some Member to put forward in relation to Mr Attorney's comments on sections 25 and 26 of the 1919 Act.

Now, okay. Mr Waft.

Mr Waft: Just before we vote on that, Mr President.

On the understanding, if Mr Downie's amendment does go through, we have not got anything in there about vacating the seat, should they be so elected in the Keys. I know they cannot sit in both Chambers, but, at the same time, is that covered in previous legislation?

The President: It is in the amendment. I think you already have that covered, Mr Downie. Is it?

Mr Downie: 'Shall vacate a Member's seat by reason of standing for such election'.

Mr Waft: No, what I am saying is that should he be so elected, there must be a time by which he vacates that seat in the Keys, because he is... Is it covered by the previous legislation somewhere, or is that being repealed somewhere?

Mr Downie: I think it is in existing legislation, because there is a writ issued as soon as you are elected to the Legislative Council, and you must sign a paper for the Clerk of Tynwald, saying that you are prepared to take the office and go, and once you do that, you are finished in the House of Keys.

Mr Waft: I do appreciate that is the situation as is, but we are changing the situation somewhat, and that legislation might not cover that. (*Interjections*)

The President: Now you are making my life more difficult, Hon. Members, because you are now wanting clarification of another point which is subsequent to clause...

The Lord Bishop: Might we not ask Mrs Christian to put that in with her amendment, if it is necessary?

The President: No, Hon. Members, what I am proposing to do... I think the most sensible course of action, at this stage, is to... We are left with clause 12, schedule 4 and then clause 13, as originally numbered. That will bring us to the conclusion of your Constitution Bill.

Hon. Members, I think it might be sensible, if we were to defer further consideration of clause 12 and schedule 4, at this particular stage, on the understanding that we will complete the clause stage and the Third Reading at our next sitting.

I do not want to put the Third Reading off. (**Several Members:** No.) I think the object should be to try to keep the Bill moving, but I would be prepared to defer further consideration of clauses 12, 13 and schedule 4, at this particular stage, so that we can come back to the clauses section, on the understanding that we will also be taking the Third Reading that day.

Mrs Crowe.

Mrs Crowe: Mr President, I am sure we are all wishing, in the same way as yourself, to expedite this Bill through our Council, and I did take exception to the previous mover of this Bill alluding to the fact that we were not doing that.

However, I wondered if it would be helpful, seeing as discussing just clause 12, which we all seem to have been quite comfortable with and now has brought up a number of issues, would it be sensible... or would you

think, Mr President, that we could look at clause 13 now, either in committee or not, rather than delay it, in case any amendments need to be consequential or the like, we can deal with them at this time?

The President: I do not really see, other than dealing with the short title, that there should be any matters of principle there.

Mrs Crowe: There is one.

Mrs Christian: There is a consequential amendment.

The President: There is a consequential amendment, but I am not sure that it will throw up any... However –

Mrs Crowe: I just thought, to have 10 minutes and then we can get it all sorted.

The President: Yes, right, Hon. Members, are you happy at this stage that we defer this stage further? I am quite happy that you should talk about clause 13 and anything else, but that we will not go to voting position on clauses 12, 13 or the remaining schedules until the next sitting. (**Members:** Agreed.)

Right, now then, Mrs Crowe, if there is anything additional you wish to draw to my attention on clause 13, I am happy for you so to do.

Mrs Crowe: Well, no. As I say, it was just... There is one consequential amendment, as we know, but I just wanted to make quite sure that we had all read it quite carefully, and that nothing else could crop up that we cannot deal with, and then we can say that we are doing our best to be...

The President: Hon. Member, I understand exactly where you are coming from. Can I suggest to Hon. Members that you have a fortnight, now, in which to deliberate on that.

Mrs Christian: It may be, Mr President, that there needs to be reference to the Constitution Act 1990 taken out, if we decide to introduce clauses.

Mrs Crowe: And also, Mr President, of course:

'This Act shall come into operation on the day or days appointed by the Governor in Council but, such an order shall not be made [...] is supported by the majority of persons voting in a referendum held under the Referendum Act 1979',

and I did believe that there was an amendment to that.

Mrs Christian: There is.

The President: Well, there is. It is coming out.

Mrs Crowe: Oh, right, yes. I had not turned over... That is right. Well, that is...

But I thought there was a further amendment to that. I thought Mr Singer was proposing that the referendum was held *before* the Act comes into –

The Lord Bishop: This is Mr Singer's...

Mrs Crowe: I know, but I had some thoughts that he had

spoken to me about... Right, fine.

Mr Downie: If he is not here, he cannot move it.

The President: He, equally, will be back.

Mrs Crowe: At the First Reading, there were comments that the referendum should be held prior to the commencement of the Appointed Day Order. Right, fine.

Mrs Christian: Mr President, may I just ask the learned Attorney, under clause 13(3), is this a normal mechanism?

'An Order under subsection (2) may contain such transitional provisions as the Governor in Council may consider appropriate for the purpose of bringing this Act into operation'.

Would anything determined by the Governor in Council have to be approved by Tynwald or...?

The Attorney General: Not on the face of the Green Bill, Mr President, no.

Mrs Christian: Is this a normal mechanism?

The Attorney General: No, it is not. It is presumably, Mr President, because of the nature of the Bill – a Constitution Bill.

The Lord Bishop: Has it got anything to do with the constituencies?

Mrs Christian: It may have.

The Lord Bishop: Do you see what I mean? (**Mrs Christian:** Yes.) If the Commission meets.

Mrs Christian: Perhaps it is a save-all, catch-all, have-we-missed-anything-out-all! (*Laughter*)

The Attorney General: It is very useful that, Mr President! (*Laughter*)

The President: Right, Hon. Members, we have, with your consent, deferred consideration of clause 12, clause 13 and the remaining schedule.

Hon. Members, with that deferment, then, we will complete this Bill at our next sitting and also take, Hon. Members, the Third Reading of the Constitution Bill, at the same time, next sitting, which, in effect, will be on 28th June.

Now, Hon. Members, having drawn to conclusion our business on our Order Paper this morning, Council will now sit in private.

**IN COMMITTEE OF THE WHOLE COUNCIL
(IN PRIVATE)**

**Summaries of Proceedings in the Council of Ministers
(March 2005) considered**

The Council sat in private at 12.38 p.m.