



**LEGISLATIVE COUNCIL
OFFICIAL REPORT**

**RECORTYS OIKOIL
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P R O C E E D I N G S

D A A L T Y N

(HANSARD)

Douglas, Tuesday, 23rd June 2009

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

The Lord Bishop of Sodor and Man (The Rt Rev. R M E Paterson), The Attorney General (Mr W J H Corlett QC),
Mr D Butt, Mr D A Callister, Mrs C M Christian, Mr E A Crowe, Mr A F Downie,
Mr E G Lowey, Mr J R Turner and Mr G H Waft,
with Mr J King, Clerk of the Council.

In attendance: Mr M Ball, Director of Service Delivery, DTL

Business transacted

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The Council sat in private at 12.44 p.m.

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Legislative Council

The Council met at 10.30 a.m.

[MR PRESIDENT *in the Chair*]

PRAYERS

The Lord Bishop

Tribute to His Honour Arthur Christian Luft CBE

The President: This morning, Hon. Members, I understand that His Honour Deemster Luft passed away yesterday, last evening. I think it appropriate that we recognise the fact.

Arthur Luft, of course, was one of those first people who was not a former Member of the House of Keys who was returned here to the Legislative Council and became a Member of the Legislative Council and of Tynwald Court. So, Hon. Members, I simply, at this stage, would ask that we stand and recognise his passing for a few moments.

Members stood in silence.

The President: Thank you, Hon. Members.

It may be, Hon. Members, slightly unusual, but I have a wonderful image of Arthur the last time I visited him in hospital. It was one of these occasions when, temporarily, Arthur was out of his bed and was being looked after, shall we say. I had told the nurses that I had called to see Arthur and, of course, in their wisdom or otherwise, they had alerted him to the fact that I was around and would call in later.

A little while later on that same hospital visit, I went back to the ward where Arthur was, and those of you who knew Arthur will recognise this instantly. He was sitting on the end of the bed, looking out through the door and, as he saw me going past he was waving and saying, 'Come in, come in!' in typical Arthur form, (*Laughter*) and I thought it was just... When I was told, it was something which will live with me: exactly Arthur Luft in that form.

Questions for Oral Answer

TOURISM AND LEISURE

TT 2009

Villa Marina concerts

1.1. The Hon. Member of the Council, Mr Lowey, to ask a Member of the Department of Tourism and Leisure:

(1) *How successful the concerts at the Villa during the 2009 TT were;*

(2) *how much was the loss on each of the concerts;*

(3) *why people were given a 'free gig' on the Saturday night and who authorised this;*

(4) *how many paying patrons attended Thursday's 'symphony' concert;*

(5) *how much was invested in this concert by the Isle of Man Arts Council;*

(6) *how much was spent on security and overtime payments in connection with the use of the Villa Marina during the TT period;*

(7) *why the Gaiety Theatre was not used at any time during the TT period;*

(8) *what the total loss was to the Department arising from this new formula for use of the Villa Marina;*

(9) *who was responsible for the total lack of any 'street theatre' in Douglas and for the failure to create any atmosphere during the 2009 TT?*

The President: Hon. Members, we move on with our Order Paper and the first Item on our Order Paper is the Questions.

I call the Hon. Member, Mr Lowey.

Mr Lowey: Thank you, Mr President.

I beg leave to ask the Question standing in my name.

The President: A Member of the Department of Tourism to respond, and on this occasion I call Mr Turner.

A Member of the Department of Tourism and Leisure (Mr Turner): Thank you, Mr President.

In answering these questions posed by the Hon. Member, I would like to point out that any financial information which I provide must be regarded as provisional. It will take a little bit of time to pull together the exact figures, as we have only just finished the TT period and need to pull together the detailed profit and loss account. So, if Members would treat these as provisional figures...

I address the specific questions, as posed by the Hon. Member. Part (1): the anticipated success of the TT entertainment at the Villa Marina was severely affected by four of the six nights being hit directly by bad weather, or indirectly by the effects of weather on racing. In the context of disappointing feedback on the entertainment package in Douglas as a whole, attendances were less than the Department would have hoped for, but overall audience reaction from those who attended was very positive, as were the newspaper reviews of the acts that were on stage through the week.

Turning to part (2), we did not budget for the concerts in the Villa Marina grounds on an individual basis, so much of the cost of the whole venture was in the establishment of the venue, especially the stage, sound and lighting equipment and various other associated bits and pieces. The pre-event budget anticipated a deficit of just under £10,000 and it is likely the actual deficit will be around £115,000.

The key factor in that increased deficit was, obviously, the effect of the lower-than-expected audiences. It is clear that the entertainment did not prove to be as attractive to the visitors and local residents as had been hoped.

However, this fact was exacerbated by the bad weather on Saturday evening and the cancellation of the event on Wednesday, due to the delayed race programme.

On Saturday, 6th June – this is answering part (3) now, with regard to the free gig – there was extremely adverse

weather, which was predicted, and that was forecast to continue into the evening. With no racing being possible and weather effectively ruling out outdoor activities, the Police expressed concerns in respect of the potential behaviour of a limited number of visitors and locals, following arrests made the previous day.

As a result of this, a meeting took place on the morning of 6th June, attended by Ministers from the Platinum Group and senior officers of the Department of Home Affairs, Department of Transport and the Department of Tourism and Leisure, at which, amongst other things, the senior management of the Department of Tourism was tasked to come up with a series of measures to mitigate the potential for unsocial behaviour by providing alternative entertainment and also to try and alleviate some of the difficult conditions being experienced by visitors due to the inclement weather, especially those in the campsites.

One of the measures which was identified was to make the Saturday night concert by the Fabulous Thunderbirds free entry and to provide vouchers for drinks to those who had already paid the £15 admission fee, and this was signed off by the Acting Chief Executive. It was then announced by the Minister on the radio.

Quite separately, the issues arose regarding the viability of staging the concert that evening outdoors. In the light of the forecast from the Met Office, it was decided that we were likely to cater for more customers by moving the event indoors than it would be possible to hold it outside in the rain. It was felt an evening of free entertainment in warm and comfortable surroundings would be positively received, along with the decision to make the National Sports Centre available for free hot showers and a place to dry out on the Saturday afternoon. These actions were reported back to the Gold Command meeting and it was agreed they represented a positive contribution to a difficult situation.

Turning now to part (4) of the Question, in respect of the TTXGP concert, there were 469 tickets publicly sold. That was through the Villa Marina box office system. In addition, the organiser sold tickets as part of a hospitality package, but this concert was a venue hire and the Department was not the promoter, so these additional tickets are not covered by the records in terms of sales through the box office. What I can advise is the total audience was 815.

Part (5): the total support for the TTXGP concert from the Arts Council was £20,000.

Part (6): the estimated cost of security for the Villa Marina for TT 2009 is just under £17,900. The estimated cost of staff overtime is just over £3,000. This is paid overtime only because, for many staff, they will be receiving time off in lieu during quiet periods, rather than actual payments.

Part (7) of the Question: the Gaiety Theatre was used for a concert on the Thursday of practice week. It was not, however, used in parallel with either the outdoor concerts or the TTXGP concert, and the reasons given were that staffing is shared between the two venues – in particular, the technical and stage team was fully committed to the Villa Marina; there would be inevitably noise intrusion into the Gaiety when the outdoor stage was in use; and we would, in effect, be competing with ourselves for audience.

Part (8): as I have already indicated, the overall deficit is likely to be in the region of £115,000.

Turning to part (9) of the Question, as always happens, there was an extensive debrief on all aspects of the TT in 2008 and amongst the feedback, was significant public

criticism of both the street entertainment and the funfair. There were also substantial public safety concerns about the street entertainment, according to the information I have been given.

It was felt the formula needed to change and the concept of using the Villa Marina gardens as the centre of the TT entertainment was born and developed. The new approach was discussed with, and agreed by, the TT Platinum Group, who are the three Ministers for Tourism and Leisure, Home Affairs and Transport. Ultimately, however, the responsibility for the decisions rests, on a statutory basis, with the Minister for the Department of Tourism and Leisure.

The President: Mr Lowey.

Mr Lowey: I thank the Hon. Member for his reply and apologise to him for having such a long Question in many parts. To say that I am satisfied with the response is an understatement; I am very disappointed with it.

Could he confirm to me that the £18,000 security costs are on top of the £115,000, or included in that £115,000?

The President: Mr Lowey, could I just stop you, because if, in fact, we are going to go through with a series of supplementaries, can we take them one at a time to allow us to take them immediately, and for Mr Turner. So perhaps Mr Turner could answer that one.

Mr Turner: Yes, thank you, Mr President.

As I indicated, the figures are provisional, so we are dealing... but I understand that they are part of the overall deficit for the operation.

The President: Mr Lowey.

Mr Lowey: Would the Hon. Member agree that, with the entertainment being focused on the Villa Marina, we excluded people from using the Villa Marina for nearly a fortnight over that period of time – not an encouraging one to come in?

Would he also confirm that, in TT week, two of those nights are prize presentation nights?

The President: Mr Turner.

Mr Turner: Yes. I understand there was a slight change of format with the presentation. There was obviously supposed to be the main presentation where the riders were due to come down, but because the racing ran late that evening, that had to be called off because the riders were unavailable. But quite a lot of the prize presentations were actually taking place at the rear of the Grandstand this year, which appears to be a new format.

Mr Lowey: But planned for two nights of TT week were the traditional prize presentations in the Villa Marina.

Mr Turner: Yes. As I understand, it was only the one night that was planned. Previously, of course, we have had the two presentations, with the senior race trophies being given out at the rear of the Grandstand. This year, it was centred around the stage at the back of the Grandstand, with the main night, which was unfortunately the night when the racing ran on into the evening.

The President: Mr Lowey.

Mr Lowey: Yes. I am interested in the Police being in a position to pre-empt behaviour. It is fascinating. The weather is being blamed.

If I remember rightly, TT, apart from the Saturday and the odd shower, the weather was very good during that period, or perhaps my memory is playing me up. But for the Police to be involved in cancelling payments – although you will, no doubt, say it was the Ministers who decided it, but it was led by the Police – is this not the same Police Force that got us into trouble with overspending last year of £700,000 by the same Department, and here the Police are now invoking public expenditure? Is that their role?

The President: Mr Turner.

Mr Turner: Of course, you are absolutely right, the decision does rest with the Department. Certainly, the Police expressing concerns: their role is to enforce law and order, and I would agree with the Member that it is their job to have sufficient staffing to deal with the numbers who come to the various entertainment that is on.

The Police did express concerns of the potential behaviour of a limited number of visitors and locals. It is something that I have questioned, but ultimately the Department took on board those comments and made the decision, which was ultimately made by the Minister.

The President: Mr Lowey.

Mr Lowey: Would you agree that the Department has used, throughout the lead-up to the TT, since the TT, the lack of resources and the lack of money, and yet here they were prepared to...?

If control of an event is suspect because of disturbances because of the wet weather, was it wise to give £15 in vouchers for drink? Is that not one of the ingredients for potential problems?

The President: Mr Turner.

Mr Turner: Again, Mr President, I think that was the decision that they were faced with, of trying to keep the night on, and if they made it free, what do you do with the people who have already paid?

I think there was pressure put on the Department from the outside bodies, and it is very easy, I think, for someone who is not paying the bill, to make recommendations. There is also a whole review taking place, of course, with the involvement of the TT Festival and Motorsports Arrangements Group. That is being reviewed later this year: it may be that there are too many people involved in the decision-making process, and that is possibly where some of the problems have arisen.

Again, I am provided with the information that I have been given here, on behalf of the Minister, and no doubt that is something he will be looking at very carefully, but ultimately the Department is in control of its budget and is in a position to make its own decisions.

The President: Mr Lowey, I will come back.

Mr Lowey: Yes, please.

The President: Mr Butt.

Mr Butt: Thank you, Mr President.

We learned in this Council some weeks ago that Gold Command was set up in the aftermath of the incident at the 26th milestone to deal with race safety and race issues, and we learn today that Gold Command had an influence on entertainment in the town of Douglas. (**Mr Lowey:** Absolutely.) Can the Member of Council explain why that happened?

Secondly, the reason we are given is, because of the bad weather that day, the Police had concerns about behaviour. Would he not agree that experience has shown that the bad behaviour occurs on warm, sunny nights when the crowds are out *en masse*? (**Mr Lowey:** Absolutely.) On cold and wet evenings, the crowds are not there and nothing happens. (**Mr Lowey:** Absolutely.) Can you explain why they made that decision?

The President: Mr Turner.

Mr Turner: The simple answer, Mr President, is no, I cannot explain why they made that decision – I was not present at the meetings – but Gold Command, as the Hon. Member has said, was set up following the tragic incidents at the 26th milestone.

The Gold Command appears to have morphed into this TT Festival Motorsport Arrangements Group, and appears to be in position until September this year, when there will be a review of its activities. I am aware from the information that their brief is to deal primarily with the TT and the Manx Grand Prix, although they do appear to be involved in other areas and that really is something I think they are going to have to address when they review the whole future of the Group. There seem to be so many layers to this organising structure, I am sure they are conscious that it does need a review and that review, I am told, is coming at the end of the summer.

The President: You did, in your brief earlier, I think, Mr Turner, comment on Gold and Platinum. Perhaps that... I am not sure whether Mr Lowey's original question in relation to Gold, whether it covered both parties or not.

Mr Turner: If I may clarify, then, the Platinum Group is the Ministers of the three Departments – Transport, Tourism and Home Affairs – and Gold includes the key officers, and Gold Command, I am told, is led by the Chief Constable.

The President: But, as I understand it, the Gold Group passed the observations on to the Platinum Group, who were making the final decision.

Mr Turner: That is correct, Mr President.

The President: In that case, Mr Callister.

Mr Callister: In relation to the entertainment provided, Mr President, would the Hon. Member answer this: can he confirm that the Manx Jazz Club, which had a £4,000 surplus from the last Jazz Festival, offered to use that money to organise a jazz night, but were told that that was not required, and would they kindly return the £4,000 that the Department was not even aware that the Club had?

The President: Mr Turner.

Mr Turner: Mr President, I thank the Hon. Member for drawing that to my attention. I am not aware of that information, but if he would provide it to me, I can investigate accordingly.

The President: Mr Downie.

Mr Downie: Yes, thank you, Mr President.

My question relates to the concert that was held on the Thursday – the symphony concert – where the Hon. Member indicated that there were 469 people who had paid to attend and then 815 people actually gained admission. I would like to know who supplied the data that was obviously used by the organisers, of all the e-mail addresses and web addresses of people in the Civil Service and Government, offering discounted tickets? Is this not in contravention of the Data Protection Act?

The President: Mr Turner.

Mr Turner: The Hon. Member has brought up an issue I was unaware of, in terms of advertising the event to various parties. The event was a private hire by the organisers of that event and the Department was facilitating that hire, just as it facilitates many people who hire the Villa Marina.

I was certainly not aware of the distribution and this is the first I have heard about the use of the database. If there is any breach of the Data Protection Act, then I am sure that will be taken very seriously and investigated.

The President: I am sure it will, so let us try to keep to the Question now, Hon. Members, because we have spent some time.

Mr Lowey.

Mr Lowey: I am fascinated with the weather being used as an... a reason. I was going to say 'excuse' – a reason. We have got to deal with weather and have dealt with weather in other years. Do I take it, then, that all the concerts would have been free if we had had wet weather on every night?

The President: Mr Turner.

Mr Turner: Again, these decisions were made by an officer working group recommending to a ministerial working group and of course, I am not part of either of those groups.

A venue like the Villa Marina, of course, is a semi-commercial operation and should be at least operated in a commercial manner. We all appreciate there are extra requirements on the Villa Marina for some of our community-based events that go on, but I would certainly have not supported an attempt to make everything free in there, unless it is accepted that the taxpayer would be footing the bill, which inevitably has happened with regard to the deficit.

The President: I think a final supplementary, Mr Lowey.

Mr Lowey: Yes, indeed. First of all, I wish the new Member, who is in charge of Leisure in the Division, success,

and would he not agree that he said he or his predecessor was not involved in the decision-taking? As the Member for Leisure with responsibilities for the control of these buildings, you should be involved in the loop somewhere along the line, and I hope those who are here listening will take that on board – that you are responsible for it, you should be involved in it.

Would the Member not agree that another glorious opportunity was lost in presenting a TT Festival? The TT Festival is not just about racing on the course; it is about the ancillary things that go with it. Would he not agree that we had a brand new Arcade lying empty in the whole of that period and we did not display an exhibition or a concert or anything in that new purpose-built building: is that not quite a disgrace?

The President: Mr Turner.

Mr Turner: Thank you, Mr President.

I favoured the reasons why there was nothing in the newly refurbished Villa Marina Arcade.

Mr Lowey: Nothing in the Gaiety.

Mr Turner: With regard to myself being involved in the decision-making process, of course the changes to departmental memberships were made literally right before TT, so I think, on this occasion, they were probably... all the plans were in place and I knew very little about the Department as a new Member going in and was not aware of the changes until the letter arrived.

So I think the reason why I was not in that loop was because the plans were already made and things had gathered pace. I know the Member would come back and say, 'But you were put in that Department and you should have been,' and maybe some lessons have been learned there. I have certainly mentioned that.

The President: I know you are anxious, Mr Lowey. Mr Crowe.

Mr Crowe: Thank you, Mr President.

Can I just, first of all, say what a wonderful innovation the green TT was. I think it is a tremendous achievement for the Isle of Man to bring in this new technology in 2009, 102 years after the original racing in 1907, so I think we should credit those who have organised the new TTXGP.

The other question, or comment, I would make is that I hope lessons have been learned. What interests me now is not looking back at how the wheels fell off the chariot, shall we say, but what is going to happen going forward. I think if I was a TT enthusiast living off the Island, I would want to know very soon what the entertainment is going to be for next year. I think a decision needs to be taken very early and I just hope... I would ask the Member to bring back to the Department a request that, as early as possible, the plans for 2010 be instituted and broadcast, as widely as possible.

The President: Mr Turner.

Mr Turner: Yes. I thank the Hon. Member for his comments and I am sure everybody was watching with interest the first TTXGP, to see where the future goes with

that and, no doubt, as technology moves on, this racing will become more advanced, probably very quickly.

With regard to planning for next year, the Department is conscious of the things that have gone on this year and will be looking at how things can be improved for next year. I think the important thing is we need to be focused on what is going to appeal to the people who are coming, and obviously supplement that with the locals, because the locals do have a significant spend around that time as well.

So I think that is the important thing about putting on events that are going to appeal, as opposed to choosing events and entertainment that may be of certain genres or quality. We have got to look at what the appeal is going to be and hopefully make those events appeal to as many people as possible – that is going to be the key – and also look very closely at what other events go on around similar gatherings around the world. With the internet, of course, it is very easy to do that these days.

So I think the message has been received loud and clear.

The President: Definitely your final bite, Mr Lowey.

Mr Lowey: Thank you, Mr President.

No-one objects to, and my Question has not been about the success of the racing. It certainly was not in the context of the TV coverage, which was excellent. So, there were two good plusses.

My main complaint, and that of the people that have come to the Island and who live on the Island, is the festival on *Douglas* promenade. There were successful events in Peel, Laxey, Ramsey and Port Erin. They did not suffer and that was because they were not involved with the Isle of Man Tourist Board. Would the Member not agree that this festival was not the Department's finest hour?

The President: Mr Turner.

Mr Turner: I think it is time for the Department to review its whole approach to the TT. My own view – and, again, I cannot speak on behalf of the Minister – is the Department should be a facilitator to enable these things to happen. If there is a way that we can get involved – we have already heard of the private sector wanting to get involved in putting events on – we should be doing everything possible to assist them and then looking at where, then, the Department can put things in place.

There has been quite a lot of publicity about people wanting to put events on and being refused. It is not entirely true. There are a lot of reasons why some of those events could not happen, to do with various things. I know the Member is shaking his head, but there are a few factors in why a few of the things that were suggested that could have happened in the local press... there were other reasons why they did not.

I would agree with the Member, it is time to have a good look at this. We have been running the TT now for 102 years and I think we need to learn from this year and make sure that next year we have a solid package, as well as the good racing.

Refurbishment of the Bowl Progress

1.2. The Hon. Member of the Council, Mr Lowey, to ask a Member of the Department of Tourism and Leisure:

What progress, if any, has been made with the refurbishment of the Bowl for the Commonwealth Youth Games in September 2011, now just two years off?

The President: Right, we are going to move on, Hon. Members. We will move on to Question 2. Mr Lowey.

Mr Lowey: Thank you, Mr President.
I ask the Question standing in my name.

The President: Again, I call Mr Turner, Member for Tourism and Leisure.

A Member for Tourism and Leisure (Mr Turner):
Thank you, Mr President.

At the request of the Minister of Tourism and Leisure, a steering committee was set up in March 2009 to consider the options available for a viable Bowl refurbishment, both in terms of practicability of construction, given the time constraints and having the venue ready for use during the Commonwealth Youth Games in 2011 and in terms of a funding agreement being reached between the Douglas Corporation and the Department of Tourism and Leisure.

The committee was independently chaired by Mr Geoff Karran, MBE, as both Chairman of the Sports Council and Chairman of the Commonwealth Youth Games 2001 Organising Committee. It consisted of political, councillor and officer representatives from the Douglas Corporation, the Treasury and Mr Quintin Gill, MHK, representing the Department of Tourism and Leisure. Specialist advice regarding cost and specification were sought from Cameron Hall, Quantity Surveyors, and Professional Sportsturf Design.

As time was of the essence, fortnightly meetings were held and these culminated with a recommended heads of agreement being drawn up by the steering committee, outlining the total capital costs and a specification for the recommended Bowl refurbishment scheme. This was presented to Minister Quayle and Councillor Christian on 1st June 2009 for their consideration.

Further discussions are anticipated before an agreement can be reached, which would then be put to the respective bodies. Subject to approval of both the Department and the Douglas Corporation to the recommended scheme, it is anticipated the Minister will need to seek the approval of Council of Ministers and Tynwald to the Department's funding contribution.

The President: Mr Lowey.

Mr Lowey: Would the Hon. Member not agree... Why I have put the Question down is because time marches on. I said that in February, when I put a similar Question down. Here we are in July and we are talking about going... Why

is it not at the July Tynwald? If we have got this agreement, why are we busy talking and going to formalising matters to the *n*th degree? Why have we not got some action? It is less than two years away and a new pitch will need to be settled in before it can be played upon.

The President: Mr Turner: time.

Mr Turner: Thank you, Mr President.

Yes, schemes like this are difficult at the best of times, when you are in control of them, but of course, this is a partnership with another body, namely Douglas Corporation. They do, of course, own the area and this is very much a partnership. The Department is working to get this through, but as I understand, there are negotiations going on as to how much involvement the Department will have, given the fact that Douglas Corporation will still own the facility and the Department are major funding contributors. So obviously, you are not going to contribute a sizeable amount of funding and then have no call on that facility, to a certain level, which has to be determined.

The President: Mr Downie.

Mr Downie: Thank you, Mr President.

Could the Member, please, make enquiries from the Department regarding the offer of financial assistance from the Football Association? I understand that there has been money available to go into the Bowl, which also is used by the Football Association on a very regular basis, and I would not like to think that they would be getting frustrated at the lack of progress being made and this could affect their funding or the package that they are willing to provide.

The President: Mr Turner.

Mr Turner: Yes. Interesting; the Football Association is one of the questions that I had and I understand that they are quite happy with the way things are going. They were consulted at a very early stage of this project and they are based down there, as the Hon. Member may know, and they have certainly been very positive regarding the refurbishment project. There have been discussions as to using some of their facilities down there, as well, as part of the scheme.

I am certainly not aware they are frustrated at the lack of progress. The information I have been given is they are quite happy with the scheme. Everybody would like to see things happen quicker, but I think it is important we get it right.

The President: Mrs Christian.

Mrs Christian: Thank you, Mr President.

Could the Hon. Member indicate what the anticipated build period is for this work?

The President: Mr Turner.

Mr Turner: Well, again, that is going to be depending on what the final scheme is, I suppose. I will just give you a few details of what the scheme involves. Again, I am sure we know how schemes can –

The President: Mr Turner, can I just hold you for a minute. I think Mr Ball might wish to pass you some

information or, in fact, pass a comment on that.

Mr Ball, as the Tourist Executive –

Mr Lowey: Director of Leisure.

The President: – I do know whether it will be helpful to you or not, Mr Turner, but I think there was a feeling of anxiety there.

Mr Ball. If you stand up, sir, it will go through onto *Hansard* and is perfectly in order.

Mr Ball: Mr President, really to go back a step to the supplementary, the key to the time issue is the fact that what we are talking about here now is a third generation synthetic pitch, rather than a grass pitch, so that alleviates the severe time pressure which there would be. The view is that, provided the Minister can come back to Tynwald Court in October, then we have sufficient time to develop and build the scheme and have everything ready, shipshape, for the 2011 Commonwealth Youth Games. If that is a helpful comment, sir.

The President: Mrs Christian?

Mrs Christian: That answers my question. Thank you.

The President: It answers your question. Fine. Do you wish to add to that, Mr Turner?

Mr Turner: Well, it may be helpful to give some details of the rest of the scheme.

As Mr Ball said, it does consist of the synthetic pitch. There will be work to the existing terraces that are there and a fully seated stadium with a capacity of about 3,800. There will be two grandstand structures, ticket office, turnstiles, refurbished toilet facilities, and I am told that floodlighting will be part of the scheme but funded from a separate source. So, it will be part of the overall scheme, but again, it will be up to the Department to negotiate these terms with the Douglas Corporation, so that the Department gets the best possible use of the site, as it is a key partner in the funding.

The President: Mr Lowey.

Mr Lowey: Would the Member in charge of Leisure not agree that to have a part of the sporting complex of the National Sports Centre, this should actually be incorporated into the complex in the long term?

The President: Mr Turner.

Mr Turner: Well, I am sure Douglas Corporation would have an opposite view of that.

It is probably not widely known by the majority of the public that the Bowl is actually not part of the National Sports Centre estate. I think, in the future, there is certainly great benefit in having the whole centre as one. I am sure that there will be mixed views from ratepayers of Douglas. Some may want to see that that burden is no longer on their rates. Others may wish, for historical reasons, to keep it. But I would certainly agree with the Member that there are major benefits in bringing this facility into the overall National Sports Centre.

Mr Lowey: It is £70,000 a year in rates from the National Sports Centre, which is a good return for a piece of scrap land that was used as a tip.

The President: Mr Downie.

Mr Downie: I wonder if the Member or Mr Ball could tell me the last time the soccer pitch at the National Sports Centre was fully utilised and used? That cost an awful lot of money to bring into being.

The President: Mr Turner.

Mr Turner: Well, Mr President, I am not privy to the booking diaries of the NSC. I assume the Member is talking about the central –

Mr Downie: Football field.

Mr Turner: – what was King George V Park area. I am not aware when it was last used. Maybe Mr Ball has that knowledge.

The President: Mr Ball, have you that knowledge at hand, sir?

Mr Ball: I think the point is it is not a football pitch. It is the athletics and field area which is, from time to time, used as a soccer pitch. From memory – and I *am* speaking from memory – it has not been used as a soccer pitch for, certainly, a number of years.

Mr Lowey: Bolton, I think, were the last that played.

The President: Okay, Hon. Members. I think we could probably consider both the Questions for some time: Questions 1 and 2.

Orders of the Day

Constitution Bill 2007

For Second Reading

Motion lost

2. Mr Callister to move:

That the Constitution Bill 2007 be now read a second time.

The President: We will move on, Hon. Members, which means that we are going on to Item 2 on your Order Paper, headed up, of course, the Constitution Bill.

Hon. Members, when dealing with the Constitution Bill, as you know, we discussed this and it did pass its First Reading with Council. I would just reiterate, Hon. Members, what was said when we were dealing with the First Reading: that, if the Bill is defeated in the Council at any stage, or if by 12th November 2010 Council has not completed deliberations on the Bill, then the Keys would

have the option of putting a Bill to Tynwald for signature as a Keys-only Bill. That would be under the Constitution Act 2006. Keys would then have until 12th May 2011 to decide whether to exercise that option or not, and a resolution to do so would need 17 votes in the Keys and the Bill would need to be signed in Tynwald by 17 MHKs.

Hon. Members, as I understand it, the procedure, the consequences of it is, as I understand it, that, if the Bill before us is defeated, Hon. Members, it goes back to the Keys. The Keys cannot amend that Bill and then try to put it through on its own. It has to put the Bill in its current form, which they passed at Third Reading, and try to get it passed by the 17 votes.

They could, of course, start again with a new Bill. If they do start again with a new Bill, that Bill would come to Council for the three Readings in the normal course of events.

I understand and I think that about covers the procedure as best I can, Hon. Members. So, we have now reached the stage of dealing with the Constitution Bill 2007 for its Second Reading.

Mr Callister.

Mr Callister: Thank you, Mr President.

Fascinating things, constitutional matters. Interesting. I think, perhaps, they interest politicians more than anything else. This is probably evident in the number of such Bills that have appeared in past times.

I did spend an hour or so this morning looking at what was said at the First Reading stage in Council. I do not intend now to go over all of that or really the points that were raised. What I will say is that I think most Members made their views on this Bill fairly clear at the First Reading stage, and I will briefly deal now with the Second Reading, but I do think that there are very important factors that need to be considered before, as it were, casting the Bill aside.

It is a Private Member's Bill. It seeks to provide the people of the Isle of Man with the opportunity to elect not just three quarters of their representatives, but all of their representatives. In other words, to provide a totally democratic system of election to Tynwald. The Lord Bishop believes it is, perhaps, totally democratic now. I cannot agree that it is.

It is acknowledged that it emerged from the House of Keys with imperfections and we all know that is unfortunate. It needs to be viewed as a vehicle in need of repairs and I suggest that our task, as a Council, is to make it roadworthy. Perhaps the starting point to consider is that it actually received, flawed or not, a majority of Members of the Keys voting for, in favour, at Third Reading. I am also very pleased that the Bill received support for its First Reading here in Legislative Council four weeks ago. Today's Order Paper makes it quite clear that amendments will be necessary if the Bill is to be made workable.

The Bill, Mr President, has nine clauses. Clause 1 states that the purpose of the Bill is to reform the Legislative Council; provide for changes to be implemented in the year 2013 and includes transitional provisions relating to Council membership.

Clause 2 defines the membership of Tynwald: retaining the three-cameral system. It is not the precursor of a unicameral house, in my view. It retains the divisions of Tynwald, Keys and Council.

Clause 3 details the method of election of Members to the Legislative Council, Members being elected for five years,

but such terms to run two years after the previous House of Keys election.

Clause 4 and schedule 2 covers the establishment of eight constituencies to be defined by a boundary committee and each of the eight constituencies to return one Member to the Legislative Council.

Clause 5 defines the composition of the Legislative Council remaining as now: President of Tynwald, the Bishop, the Attorney General and eight elected Members. Under the Bill, the Lord Bishop would retain his vote, but there is a provision by which the future role of the Bishop may be considered by the Governor in Council – *may* be considered – and any change to the Bishop's role would require the approval of Tynwald.

Clauses 6 and 7, Mr President, provide for the election for the President of Tynwald and the election of the Chief Minister.

Clause 8 maintains the rule that Bills may originate in either branch but must be passed by both branches.

Clause 9 provides the short title; covers transitional arrangements; provides for the Governor in Council to appoint a Day Order for the Act to come into operation.

Mr President, there is no denying that the Bill, as printed, is flawed. I hope that Hon. Members will be able to support the Second Reading because the proposed amendments on the Order Paper will make this Bill workable. Obviously, it also would remain open for further amendment.

Currently, Members of the House of Keys decide the membership of this Council. I believe it is important that the Bill before us, appropriately amended, should be returned to the House of Keys. They are the electoral college. They, rather than this Council, should be the body making the final decision on this particular piece of legislation. It was their Bill. It was sent to the Council with the hope that the Council would repair it and return it.

We have no other legislation before us today, Mr President, so there is time to give it reasonable consideration. I know there are some Members of the Council who feel comfortable with the *status quo*, but I believe the Legislative Council as a whole would be doing itself and the Manx public and the political scene, as it were, a disservice by not taking a responsible approach to the Bill in front of us by subjecting it to scrutiny. To reject it, I believe, would damage, perhaps irreparably, the Council's standing and credibility.

Mr President, I beg to move the Second Reading of the Constitution Bill 2007.

The President: Mr Crowe.

Mr Crowe: Mr President, I beg to second the Bill and reserve my remarks.

The President: Mrs Christian.

Mrs Christian: Mr President, you outlined the process by which, if Council were to reject this Bill, it would go back to the other place and it would be a total failure, because it is not workable; they could not amend it; it is an embarrassment; it could not be approved or supported by legal draftspersons because they know that it is totally wrecked. So, that is one route.

We have passed First Reading and I am very torn about this, but I think I will stay my hand with a final decision until we, perhaps, get to Third Reading. But, if we are to take this

Bill forward, through its Second Reading, there are other issues that I want to comment on, before we decide how we might do that.

The Hon. Member who is moving the Bill has indicated that we talk a lot about constitution. Indeed, we may do. We have talked a lot and have not actually managed to produce much change in recent times; but constitution is very important and perhaps we have not produced change, because a better alternative to what we have perhaps has not yet been produced for consideration. Certainly, this does not offer it.

The issue of whether or not we are totally democratic depends on how you define democracy. Some may argue that the public would be happier if this body were elected directly by members of the public. Others would say that it has functioned quite well and satisfactorily on the basis of being elected by the House of Keys as an electoral college. Clearly, they themselves have taken the view that they are not constrained to vote for their own colleagues in that place and have gone outside to vote in people who have not faced the electorate which, as I said, I think, at the First Reading, rather sits ironically with their view that the Council should be directly elected.

But, I have to say that the people who they have elected from outside... and I pay my regard to Members who are here and, indeed, to our former colleague Arthur Luft, to whom Mr President referred this morning, as people who made huge contributions to the work of Council and who could hardly be criticised from outside for the work that they do, but can, on behalf of some people, be undermined because they have not faced the electorate.

The Hon. Member has given us a car analogy. We have before us a wreck, Mr President: we can decide whether to write it off or try and reconstruct. If I were an insurer, I would certainly be very wary of the reconstruction, because it is almost a total rebuild from scratch, if you ask me.

There will need to be a lot more amendments, in my view, than are on the Order Paper today. I have been through it again. I have talked to the legal draftsman. Unfortunately, the person who is most directly concerned with this was not available, because of ill health and, in fact, is off on leave yesterday and today. So, I have not been able to progress some of the detail on some of the amendments which I feel are necessary; but I do want to, perhaps, highlight some of my further concerns, Mr President.

If this is enacted before the next Legislative Council election, i.e. the one due next year, then there will be no election. If, however, it takes place after that election, it effectively reduces the term of office of Members who will then have been elected for five years by reducing their term of office by two years, and I am not quite sure what the constitutional, legal position is on that and whether or not invoking this Bill after that is legally correct. I imagine it must be, but I think it is something that needs to be explored.

I do accept that it states 'notwithstanding any enactment to the contrary', but I think that anybody who stood for election next year would need to be aware that, whilst they thought they were being elected for five years, it is a possibility that they would not; that they would have a term of office of three years.

On looking at clause 2, which deals with the composition of the Court, Mr President, I have no idea, really, what subclause (3) does; what it is about; why it is there and nor could the legal draftsman really tell me. So, I do think, if we

are going forward, we need to understand whether that is absolutely necessary and whether it serves a purpose.

My concerns about the election process and the way we are going about it here is to set it out by means of omissions and modifications to the Representation of the People Act 1995 and I wonder if the process will be immediately apparent, if this legislation were accepted, to anyone who wished to read it. I do know how it is going to be incorporated into that Bill or whether you have to read the Constitution Bill alongside the Representation of the People Bill. I think that is unsatisfactory. I think it would be far more clear cut if we had a Representation of the People Bill Legislative Council Election provision so that you can get the document and read it.

I am sure Members have found it cumbersome, in reading the schedule, to go through and say, 'Oh, well, I am reading the Representation of the People Bill, I have got to miss that bit out and I have got to put this bit in.' It will not make for a straightforward read and understanding of the processes. I dare say that, when it was established, people would become familiar with it, but I do not think that that necessarily represents the best presentation of the law to people who may be interested in the process.

I also feel that in the Schedule which deals with these modifications to the Representation of the People Act that there are some areas which I certainly feel we would need to clarify. For example, if we are talking about constituencies and polling districts, which is section 7 of the schedule, we have got this new concept coming in of an electoral district. Now, I do not know what an electoral district is for. It is not referred to in the Bill anywhere. It is a new name that comes in. It seems to be to do with polling districts, but it is not. I do not know why that is there and why we need it. Perhaps, the hon. mover can explain to me. I hope he can.

And I would like him, when we get to that stage, if we do, to try and explain what the thinking is about the constituencies. My reading of it is that the intention is that it shall be combinations of existing House of Keys constituencies, plus polling districts added on from other House of Keys constituencies to make up one of the eight Legislative Council constituencies. But that is not entirely clear and, maybe, I have a misunderstanding of how these constituencies are, indeed, to be formed.

The other thing that then takes me back to clause 4, which deals with how the constituencies are created: there have been changes from the 2005 Constitution Bill which the mover circulated, and I really do wonder about the actual practicality of the creation of these constituencies. We shall follow the process as followed for the House of Keys in having a committee to determine the boundaries. The constituencies shall be established by them. That committee shall be appointed under section 11(5) of the Representation of the People Act and that refers to constituencies in the current Bill.

I do not know quite whether the two constituencies in the current Bill sit comfortably together. I would need the legal draftsman's advice on that and they, in their light canter through it, did say they might like to look at that, but unless we bring in different parts of clause 4 at different times, this committee will have to be... There would have to be a motion to Tynwald that a committee be formed, so that would be voted on and then they would have to get their committee established, and then they have, within three months, to submit to Tynwald the proposals for the constituency

boundaries. We all know, on a Tynwald timetable, that a three-month period means about two-and-a-half at maximum and I really do not think that it is practical.

Then you have the situation where Tynwald will consider the boundaries and, if it does not approve them, they get sent away again. I have seen that happen in my experience in Tynwald, Mr President. There are real struggles with boundary issues and I certainly feel that we would need to apply certain parts of this Bill to get our boundaries settled before we disturb all the rest of the structure, because that may, in itself, take some time.

So far as the Bishop is concerned, I think that clause needs throwing out.

There are other issues, which are not directly constitutional issues, but I do think that the President of Tynwald should go out of office at the end of the last session in a particular year, not at the beginning of it. I do not know what Mr President's view is on that, but it seems to me a rather strange thing to do, to have the President go out at the beginning of the July sitting instead of at the end of it.

I think, Mr President, that there are so many concerns about this... I am not commenting on the amendments that are tabled, because they in themselves are putting right things which do need to be put right, and I accept them. But I think it might be useful, Mr President, and I will put it to the Hon. Members, that we should have a committee which sits in private, with the benefit of a legal draftsman, to go through this, line by line, so that... Because there are so many structural defects with it, I think that we need to decide if it truly can be amended to make it workable, or whether we should come up with some other format to embody the principles which have been sent to us from another place.

So I would move that we move to a committee, Mr President, to consider it.

The President: Mr Downie.

Mr Downie: I would like to second that, Mr President.

I think my hon. colleague, Mrs Christian, has covered the ground quite admirably. She obviously takes a great interest in this particular area.

I tend to disagree with the comments made by my other colleague, Mr Callister. There are so many issues that relate to the progression of this Bill, we are not going to resolve them by sitting round in this sort of a forum. We need to have access to the other pieces of legislation which are relevant and we need to have access to someone who has a legal background and is quite capable of the proper interpretation. If we do not do that, I quite frankly think we are just wasting our time.

So if we are going to do it, let us do it for the right reasons and, hopefully, when this Bill eventually does go back to the House of Keys, it will be fit and proper for its purpose and they at least will have something to debate in there and they can either support it or reject it. I would rather do the job properly than have what we have had handed to us, which is just, really, a dog's breakfast.

The President: Mr Lowey.

Mr Lowey: I am reminded by the hon. mover of the Bill... He reminded me of Dr Hill. Those of us who are my age will remember Dr Hill was the radio doctor, (**A Member:** Yes.) and David... I know we are not allowed to use first names, but David was at his very best trying to

make a good job out of a pretty miserable case. He said the Bill had imperfections. What an understatement! He did not mention the length of time this particular piece of legislation has been before the other place

Mr Callister: I did at First Reading.

Mr Lowey: You did at First Reading, not today. I am sure he must be embarrassed with the length of time that it has taken. That did not show what I would call a vigorous call to arms. In fact, as time drove on, it was almost a dribble, as if to say, 'Let's get it off our patch and somewhere else because it is coming to the end of the parliamentary year and it is time to move it on.' It was tortuous, to say the least.

The hon. mover of this particular Bill referred to it as 'almost imperfect'. I have read it a couple of times over the weekend and I have come to the conclusion it is a political corpse. Even with the amendments, it is a corpse that has got cosmetic treatment on it. I have come to the conclusion that the only thing to do with a corpse is to return it to its family for, hopefully, a decent burial. That is the proper route for it.

I think Mr President spelt it out quite clearly today that it should go back. Remember, this Bill, if we amend it, has got to go back to the Keys, so all we are doing, if we vote it out, is sending it back to the Keys and then they can do what they like. As Mr President has already spelt it out to you, you can do this and we can bring it back. I suspect not. There is universal acceptance that this Bill is unworkable. I would suggest it is almost illegal. I do not think it would get Royal Assent, even if it was approved by both branches with a vengeance. I do not think it would for a second.

So then I come to the question of Mrs Christian and her committee. Is there a need for us to rush this? No, there is not, and I do not think we should rush it. But then, of course, I can see the arguments immediately either way. You are damned if you do and you are damned if you don't. If we amend it when it gets back down, it will not be to everybody's liking and therefore we will be getting the finger pointed that we are anti-democratic, we are trying to delay it, we are trying to thwart the wishes of the elected House. But if you read what the Members of this... I was not at the debates, but I read carefully all their contributions to the debates. It was the most confused thinking that I think I have ever seen on any particular issue. Most of them said they mentioned it in their manifestos. When you speak privately to them now, they say, 'Well, really, yes, if I had known that then, I wouldn't have said this.' So I do not think it is as clear cut as the hon. mover says.

I do believe, myself, that when we get a flawed Bill, it is our job to try and make it workable. I regret very much to say that this Bill is in such bad shape it is already a corpse. It is not even in the intensive care; it is dead, it is gone and it should be returned to its family. So I shall be voting against the Second Reading.

I reserve my position on Mrs Christian's thing, but then, after listening to me in the First Reading, I am sure the mover of the Bill is not surprised at my comments.

The President: Mr Butt.

Mr Butt: Thank you, sir.

Firstly, Mr President, I was astonished to read the *Hansard* of the other place to find that the mover and most

Members were aware that the Bill was deeply flawed, and they then continued to vote for it to progress to us, knowing it was flawed, and I was amazed at that, that that was allowed to happen and did happen.

Following on from that, from Mrs Christian's comments... She has obviously gone through in some detail about the flaws that she has discovered. I am sure there are many more, or several more. I tried to read through the Bill and the schedules and the amendments, and I found it very difficult to understand how the schedules fit in with the Representation of the People Act etc. It is very complex. It is not too complex, but it does need a lot more time and a lot more thought. It was not easy.

But the point I was going to make, Mr President, is that we can get bogged down with the detail of the amendments and what should be in the Bill and what should not, and we will not be looking at the wider picture of, if this Bill is passed, what happens in terms of the election. Why would people decide to stand as an MLC, as opposed to an MHK? What effect would that have on Tynwald eventually? You could have the possibility of a single pressure group being elected, or people with a single issue, which would be detrimental perhaps to the Isle of Man as a whole, and you could have, which is mentioned in the *Hansard* of the other place, the 'super MHK' theory. If we get bogged down in the detail of trying to amend and rectify this Bill, we could perhaps lose sight of the wider implications for the constitution and for Tynwald overall. I think we need to take our time and be very careful.

I will be supporting the Second Reading, but I would also be inclined to follow Mrs Christian's view that we need a committee to look at this carefully.

The President: We are on a bit of a horns of a dilemma at the present time, because we are dealing with the Second Reading, but Mrs Christian has proposed, and seconded by Mr Downie, that we put it to a committee.

Hon. Members, I will be putting to Council Mrs Christian's proposal that it goes to a committee before I put to Council the Second Reading. At the present time, we are dealing with the motion that it go to a committee. As long as that is plain, that is the way in which I would propose to handle it at the moment.

Mr Waft.

Mr Waft: Mr President, I just wonder if you might clarify the situation with regard to a committee? Is this a special committee of the Legislative Council, or is it the Legislative Council going into committee?

The President: Mrs Christian has made the proposal that it go to a committee. She has not said whether it would be a committee of the whole Council or whether it would be a three-person committee, or anything; she has just made that comment. I was equally aware of that, Hon. Members, but I want Council Members to talk this through so that they have a better idea of what, collectively, you wish to have. We might be able to, if I may... I will come back to you, Mr Waft.

Mr Callister has been seeking to –

Mr Callister: On the point of a committee, Mr President?

The President: I gathered that was what you wished to talk about.

Mr Callister: Presumably, I will get the chance, at some point maybe, to reply to these comments that have been –

The President: Without any question.

Mr Callister: Yes. I would be in favour of a committee, Mr President, indeed, because I think there are complications within the Bill, and if you sit down and look at the amendments that are facing us now, even dealing with those would be quite difficult in this assembly, and Mrs Christian's point that we would benefit from legal expertise in a committee... I think that would be essential, in fact, if a lot of other amendments are being proposed. So I would certainly be quite happy to support the move to a committee.

The President: Mr Waft, do you want to come in?

Mr Waft: Yes, I was just going to clarify that.

I think Mr Callister mentioned fascinating things. Constitutional issues or Bills are more than fascinating things; they are vital to the political processes of the Isle of Man, Bills like this, and we should not be... any idea of concern... they are fascinating things and they fall by the wayside. They are very serious issues when they arise and there is many a slip between the cup and the lip, so we need to be whiter than white, if we go down any particular route.

I am surprised that we actually received a Bill that is so flawed... to even reach us, with having to introduce these schedules and amendments right through it. It is quite astounding, the thought that maybe if we agreed to it, it would then go for the Royal Assent in that form. I just cannot think how it arrived at this situation. I do not think it would pass. It would not get Royal Assent, anyway, because it is flawed.

The point is it has been through some process, and I am sure the Member who moved the Bill in the first place would have got his information and had consultation with the Attorney General's office. I do not know what happened there, but it has been amended through the processes of arriving at us but, even so, if the amendments have had the approval of the Attorney General's office, then there is the supposition that it is a credible Bill that we can forward for Royal Assent eventually. That leaves a lot of doubt in my mind as to where we are going with this. With regard to it as a vehicle that needs repair, I think it is a write-off vehicle, quite honestly.

The standing and credibility of the Legislative Council is brought into query with the Keys. I think that is quite an amazing statement to make when we are here to try and find a way forward with the Bill that is presented to us. It does not matter what the Bill is about. The credibility of the Legislative Council is to investigate it and make it in a form that can be accepted, that it is correct, that it has legal standing for the courts etc to use and for the future constitution of the Isle of Man. I think it should have more inspection than ever, because how this will end up constitutionally with regard to having elected Members of the Legislative Council by populace vote, having an elected Keys by the populace vote: where do we go, then, for independent review? The situation has arisen in other countries and it has been decided against.

It is a popular thing and people can be whipped up within the press with regard to everybody needs to be elected etc, but when you think about it, at the end of the day, is the populace vote going to be the one that should be carried through every time, or do you need a committee of people to sit there and

look at it objectively, after the heat of the moment has passed, and try and make some sense of the situation? I am not in favour of it at the moment, but I would go along with the committee, if that is the will of the Legislative Council.

Thank you, Mr President.

The President: Mr Turner.

Mr Turner: Thank you, Mr President.

Hon. Members may recall I brought through Council the Private Member's Bill that was in the name of Mr Gawne, the Constitution (Amendment) Act 2008. That was supposed to be the way forward only a year ago, and here we are again with the Bill that is before us. They had made some changes to that, and that Act, although in force, has not really got going yet because it would take into effect the next time there is an election to this Council, and here we are, after all that work through the branches, seeking to repeal it and replace it with this.

I think the Bill is, of course, a structure and there does come a point, when you have a structure that, if it is so damaged, you demolish it and start again, and I think taking bits out, putting bits in, is certainly not the way forward. I think it would be a complete waste of a committee's time to try and deal with this when surely the simple way forward... The Members in the Keys have commented, as the Hon. Member, Mr Butt, has said, that it is flawed. With that, I really do think if they are wanting to bring forward some sort of constitutional change, then this particular Bill should be sent back, demolished and new plans should be drawn up that are workable and then sent to us for technical amendments.

What we are faced with here is a complete rewrite, virtually, of something we are still not altogether sure what the intention is. We have also got to be aware, of course, that this Bill does remove certain powers from the House of Keys that they have got at the moment. They have, at the moment, the ability to elect persons to this Council. That will be removed. They will have no say in who is elected to the Council.

Of course, as the Hon. Member, Mr Waft, has said, we could see a whole new shape for the future of the Island in the way things go, whether there are external pressures on certain subjects, contentious issues in the community, which need a decision making which may not be altogether popular. As quite often happens, decisions are not popular, but they are necessary in order for things to go forward, so there are a lot of factors to consider here.

With regard to the matter before us, I do feel that it is not the best use of people's time to have to go onto a committee to deal with this, when the authors of this Bill have openly admitted on record that it is completely flawed. I think it should be sent back for them, in the words of Mr Lowey, to bury and come forward with a structure that is at least workable and answers all the flaws that are in it. I think it has been dealt with in haste.

The President: Mr Crowe.

Mr Crowe: Thank you, Mr President.

I think the fundamental issue here is: should the Legislative Council be voted in by the public? The second issue is: is our role to amend and review legislation? I would say it is. I think, to my mind, we should progress it further to try and restore the Bill to a workable situation and then send

it back to the House of Keys. That is my premise.

The President: I think, Hon. Members, whether we like it or not, the Council this morning is really on the horns of a dilemma, aren't we, because our Standing Orders say, in dealing with the Second Reading, that the question to be put on the Second Reading is that this Bill now be read a second time. If this motion is agreed to, and no motion is passed to refer the Bill to a special committee, the clauses stage shall follow. That is very simple and straightforward.

We have the position this morning where we have the motion that it be referred to a committee. I think we can decide how we deal with the committee very easily, but the position is, as I see it, Hon. Members, that the Council are being asked to make a decision on a Constitution Bill which everybody knows is totally flawed, and I think even the mover has accepted that it is flawed and is, in effect, unworkable.

What puts it into a particularly difficult position is that this particular Constitution Bill deals with the Council itself, so the Council is, in effect, having to consider its own position in the being of political life in the parliamentary system, our tricameral system which has stood the test of historical time. We are being asked to consider that virtually in advance of the elected House of Keys, who have sent to us a Bill which they, as well as we, know is totally unworkable.

I think that is actually putting the Legislative Council Members in a particularly invidious position. It is because of that, Hon. Members, that I want the Legislative Council to be quite clear over what they wish to do with this Bill. I am perfectly prepared to give you such time as you want to decide whether or not you move and take the Second Reading – and then, of course, Hon. Members, as I have pointed out, we will go on to the clauses stage and amendments can flow – or we accept Mrs Christian's view that possibly, at this stage, it could go to a committee.

I have to hold both hands up and say to Council that, if you send it to a special committee, that committee has no timescale and that committee may come back and report how it wishes. That will be in the hands of a committee, if you go down that road.

But the position of Council Members today, in dealing with this, I think is very difficult, and, as I said before, I think for the individual Members of Council – well, collectively, as Members of Council – it is an absolutely invidious position to be put into, totally wrong in my book. But there we are; I cannot stress it any stronger than that.

Mrs Christian.

Mrs Christian: May I clarify, please, Mr President.

When I suggested it might be moved to committee, perhaps I did it at the wrong point. I really think that we should have the... At least we would know whether the principle was accepted, if we had the Second Reading and then went to the committee, because, as my hon. colleague, Mr Turner, has suggested, there would be a measure of work to be done, and if the principle was not accepted at the Second Reading, and if it failed at the Second Reading, then that work would be wasted.

So there are two issues here. There is the difficult issue of whether or not we should be accepting a Bill which is so flawed as this one is, or voting simply on the principle of whether or not the Council should be popularly elected, as the first point, and go on to the detail after that, which certainly will take some sorting out to provide for that.

But perhaps we have emphasised too much... I have concentrated on what I see as the flaws in the Bill, rather than focusing, as perhaps Mr Butt did, on the changes this will bring about to our constitution, and I do wonder who will stand for election for the Legislative Council.

The President: Once we start to go down those roads, it becomes even more difficult for the Legislative Council to find itself in.

Mr Lowey.

Mr Lowey: Yes, I just want... I am posing this to the mover, because he will have to explain it to me... The changes... What can Council do at the moment? Council can delay a popularly-elected House of Keys Bill. That is the sole power that we have. We can delay it. We cannot defeat it; we can delay it for about a year, maximum. That is what we can do, the maximum we can do.

If you are directly elected by a bigger constituency, is that the role for the Council? If we say no, do we then say, 'Well, never mind, we're just delaying it, therefore back to you, boys, and if you say it...' These are the practical issues that have not... Read the debates. My hon. friend has said he has read the debates. Did you see that raised? No. The practicalities of this...

So then we come to Mrs Christian's thing of do we accept a principle. A principle is very fine. A principle of directly electing, yes, fine, but then you have got to weigh the... and that should be done in a measured way. There is nothing wrong with...

I fought. I produced a Bill. I am sure the Hon. Member will quote me on what I said when I moved a Bill – and it was rejected – to elect the Council, but we did it after thinking the thing through and recognising that this Council would then... The big laugh was we were all going to call ourselves senators. It was another word... By gum, we had tried to look for other words to describe our new position, because it will be a new position. When you put that to the general public and to the Members of the Keys, there are many Members in the Keys who say they do not want that, so again I do not think it is as simple as voting for the... This is why I say it is so fundamentally flawed, this particular piece of legislation, that it is reason...

I used a colourful phrase about it being a corpse, a political corpse, and sending it back for a decent burial, but as I said at the First Reading, we do have constitutional committees that are there to set up these jobs, to do the work and the thinking through of it. It has not. It was a Private Member's Bill. The point I make... This is a Private Member's Bill and something as complex and as urgent as this should, in my view... and I am only one person to have a point of view, and other people are fully entitled to have a different point of view. The constitutional committees that we have in place should look at it seriously and plan the thing through, and that is why I will be voting against the Second Reading and I would urge this Council... Far from being detrimental to our standing, it would enhance the reputation of this Council as practical and foresighted in getting the thing done right. Get back to the basics and make sure that the constitutional committee brings in a report that could be accepted by both branches.

The President: Hon. Members, I think that we have widened out again and I would like to bring it back so that

we have got a clearer direction, from my position, as to where Council is going to go.

Having heard Mrs Christian's last comment before Mr Lowey, I think, Hon. Members, that it would be advisable if Council had their discussion now on the principle which Mr Callister said, that the purpose of this Bill is to provide for the Legislative Council to be directly elected on the principle. To reach a conclusion of that, Mrs Christian, if you are content, I think we ought to take the Second Reading first, and if the Second Reading passes, or if it does not, we can at that stage, and I would at that stage, accept your recommendation that it goes to a committee. If Council are happy with that, that is the way we will deal with it.

Lord Bishop.

We are dealing with the principle now of Second Reading. We will deal with the committee stage if it passes Second Reading.

Lord Bishop.

The Lord Bishop: Thank you, Mr President. That was the question I was going to ask you before anything else.

We have before us an issue as to whether change is going to enable this parliamentary system to become more democratic and it seems to me that there is a mantra that is sometimes chanted about democracy that does not entirely match the various facts and that is the situation in which we find ourselves. The essence of the thing is surely, simply, as has been said numerous times this morning, should the Legislative Council be elected by a mandate of the people or should it continue to be elected as it is at the moment? Democracy is governance of the people but essentially by the people.

I think we have to ask ourselves whether there is any suggestion that our carefully nuanced and very balanced constitution that we have inherited over the centuries is anything other than governance by the people. If it is something other than governance by the people, then we need to fix the problem, but I, as a relative outsider, cannot see where the problem lies, because it seems to me that the system which is operating here is quite extraordinarily governed by the people.

Democracy does not mean the election by the people of everyone who has responsibility in governance. If we believed that, we would insist that the membership of the Council of Ministers was a matter of election by the people. We clearly do not and we do not for all sorts of very good reasons. What we have here is a balanced democracy, whereby different means of appointment mean that the different Chambers can operate in different ways because they do not have the same line of accountability and therefore they are enabled to do the different things which they can do only because they have a different line of accountability.

Democracy is a subtle system which evolves in each place and therefore varies from place to place, which is why, of course, there is no standard model; but if we want to set a benchmark for democracy, it must be whether the people are well governed by their peers in the technical sense, rather than barons, and so on, rather than by some hereditary or self-appointed oligarchy.

That is where we are. I think this system of governance is *thoroughly* democratic. If we believed that it was not, if we believed that this would increase our level of democracy and enable democracy to function better than, of course, we have an obligation to change it. A system such as ours will

always need gradual modification but it seems to me that this totally unsatisfactory Bill is just being promoted for us under this strange mantra – democracy – which is not being thought out carefully enough. It is simply not the way.

The President: Mrs Christian, yes?

Mrs Christian: I think this is the forum when we try and explore all avenues and weigh up different aspects of the situation and I do think that, on the one hand, we have... it has been and I really do not know how it would turn out in the end if the Legislative Council were popularly elected. I do have a feeling that it would gradually evolve towards a single Chamber.

However, I think that the arguments that, because you are popularly elected, you necessarily have to have the same function as Members in another place can be undermined by virtue of the fact that we have popular elections, or did have popular elections, shall we say, for a Board of Education. So long as people know what your powers are, or what your functions are, you can define the purpose for which you are electing people, so I think that that's – and I am not probably arguing against my better feelings here – but I think we have to try and be open about all the aspects of this.

The other one which I think concerns people maybe a little more – and it does not concern a great deal of people, because not many people are really wound up about this at the present time, anyway – is that they argue that in Tynwald, where voting on financial matters and policy matters, we should be popularly elected and I think there is a measure of reason behind that. On the other hand, there is much, I think, benefit in having a group of people in this place who are not tied to constituencies, who can take an all-Island view and, indeed, should be taking an all-Island view and cutting their ties in some senses with their original constituencies, if they have been elected by the electoral college of another place, to do their best for the Island in this Chamber and in Tynwald.

So it is not clear cut, I do not think, in terms of whether this place should be directly elected. It might satisfy some members of the public that they felt they had more involvement with, or that we would be more answerable to them, but if you do that you are simply then creating, to a large extent, something which is equivalent to a Keys Member, with slightly less power when it comes to legislation and if you are doing that, why do you not have a unicameral system?

Mr Lowey: More votes.

Mrs Christian: And committees to deal with legislation, as they do in other jurisdictions. So there are potential consequences of this move which go beyond the simple changes in the constitution that are before us today. I really think that it would gradually evolve.

The other thing – and I do think it would be interesting to see – who would stand for a larger constituency for a lesser role? The move will be towards the House of Keys elections and perhaps those who fail will then move to the Legislative Council elections, or there may be people who genuinely want to be Council Members but I suspect that it would be the former case, that they would stand first for Keys and then move to a Council election if they had not succeeded. I am not sure that is altogether good for Council, either.

The President: Mr Lowey made the comment before that, in fact, the Legislative Council currently can only *delay*, in legislation terms, the wishes of the House of Keys, so if the wishes of the House of Keys are to pass primary law, the role of the Council can only thwart that drive for a period of time.

Mrs Christian has made the comment that Legislative Council Members are not popularly elected in Tynwald Court, dealing with policy and finance. Again, I would have to point out that the majority of the Keys, again, even if Council wanted something, the Council Members could not carry it in the... a policy of financial –

Mr Lowey: That will alter.

The President: Mr Turner.

Mr Turner: Yes, thank you, Mr President.

There have been some very interesting points raised in this debate and no doubt those with their own agendas will criticise the Council for trying to interfere in its own future but I think there is a point that Mrs Christian made and that is with regard to voting on matters of finance and policy. It is inevitable that you will approach motions in Tynwald in a different way, if you are looking after your own constituents because you are effectively looking after your own future.

There are some substantial financial motions that have gone through in the past couple of years and the two years since I have been here that have had a lot of public criticism and maybe you may have felt pressured to vote against them, but in reality, those financial motions – and I will not mention the projects concerned but there have been numerous ones – that are right and have to be done for various reasons for the long-term future of the Island.

Of course, the populist vote would be to stand up and say in the press what an outrage it is for all this money to be wasted and we have heard it time and time again that these lines get trotted out. It is natural that you would approach the motions in a different way if you had that pressure, when we are able to take an unjaundiced view on some of the motions that come forward and decide on the rights or wrongs accordingly.

The whole issue that Mr Lowey raised about us having a constitution committee, I think is a very fair point. This is a Private Member's Bill and I did ask at the First Reading what wide consultation had been carried out on what the public really feel, as opposed to what appears to be a minority of the same few people trotting out these claims all the time. Certainly, people I speak to from the general public, in business and in other sectors, are not really up to speed of what we do: when you ask them, they are not particularly bothered, they see things functioning quite well.

There is this small group who keep banging the drum about it and even when you talk to Members of the other place their views are divided and some say 'well, it is by the way it is' because of some of the things I have already mentioned and so forth.

I think for the Hon. Member to say we will be doing ourselves no favours, I think is just trying to scaremonger into railroading this through when both branches know it is completely flawed. Again, I stick with my original comments of, if the Keys wish to go down a route of a popularly-elected Legislative Council, then they should have drafted a Bill that

is correct and bring that forward. This one before us is not the way forward.

The President: Mr Waft.

Mr Waft: I would just point out, Mr President – it has not been mentioned, but I have just come back from a Commonwealth Parliamentary Association meeting in Guernsey and several people asked about Tynwald. They all seem to know about Tynwald and they all ask how does the constitution work. When you explain that there is Legislative Council and how they are elected, by the Members of Keys, and how the Keys are elected, they turn around and say, 'Well, that should be an ideal position to be in'.

There are all kinds of ways of electing people to different areas of the world and when we do speak at these Commonwealth Parliamentary plenary and other meetings, it is an item that is often raised and I have never heard anybody ever say, 'Oh, that is undemocratic'. It has always been with the greatest respect to the oldest parliament in the world that this is how it works and it is working very well and they accept that as the ideal, really, so why we should be messing with it this time beats me! But I do think, if we are going to talk about this all summer in a select committee, when it is fundamental, the idea that it should be returned to the Keys and let them have another look at it, something that actually works...

The President: Mr Butt.

Mr Butt: Thank you, sir.

I would just like to congratulate the Bishop on his comments, I thought they were very clear, very thought provoking and he put them very ably. I would like to also explore, perhaps later, if we go further, the idea that one day it may become a unicameral Chamber and I can see how that would happen but I think that needs further exploration.

As Mr Waft has just said, I think those who were there when Kate Hoey came over from the Commonwealth dinner, I think she commented very similar to what Mr Waft said that we seem to have the perfect system here and if it is not broken, don't fix it, which I think is what the Bishop was saying, in effect – if it is not broken, don't fix it.

Again, the question of who would stand to be an MLC? You would have to go round a larger constituency, have to represent more people and then come to a Tynwald where they have less power. Would this mean – maybe you can give some guidance on this, Mr President – that when we come to our votes in the future we would have to change the Standing Orders that our votes are equal, that we do not have to vote separately in Tynwald from the Keys?

I can think of several occasions since I have been here in the last three or four years where there has been a vote by the Keys, which has been wrong and they know it has been, and we have, in effect, come to the rescue and allowed the motion to collapse because we voted the other way. Sometimes that is needed to provide the balance. I suspect, if we all have the same powers and we are all the same... represented by the people, that will disappear, that check and balance will not be there.

I was very aware from my first weeks of being in here that, when you sit in this Chamber, you do not have people looking over your shoulder as constituents, saying go this way or go that way. I have a natural affinity towards Laxey but

I would never push it and do not need to. Mr Lowey might have affinity with Malew but he does not need to push those affinities because he does not have to answer those people: he answers to the Isle of Man as a whole through the House of Keys.

I think, Mr President, I know there is a long history of these Bills being attempted and put through. I think, perhaps, the real problem in recent years has been the election of myself and Council Members, Mr Turner and Mr Callister, from the outside. The view I get put to me quite often is, you have never faced an electorate, which is true and, occasionally, you do make decisions. I have made a few planning decisions, having never faced an electorate, and I think if there is a problem with that maybe that is the problem that needs fixing, that maybe outsiders should not be elected into this Council and it comes purely through the Keys. That seems to be the public's perception of what the problem is at the moment. I know the perception has been there for years, that they should be properly elected but that is an issue which may need to be addressed.

The President: Mr Lowey.

Mr Lowey: Election: I think the Bishop's contribution was extremely thought provoking. Election is, I think, the Greek word meaning 'choice'. I am sorry I should have paid more attention to Greek when I was at school – I should have paid attention, full stop.

There is more than one way of elections and that when people say to me you are not elected, I say I have been elected and I have been elected every time, but a form of election that is proof of this is really about whether it has been successful. Maybe the mover of the Bill will say, well, it has got nothing to do with whether it is successful or not, but the reality is the machinery of government is about checks and balances and I really do think that – and I am sure Mr Callister being an observer from outside looking in – has seen the checks and the balances in play.

We are about, or we are being invited, to change all of that. It is a bit like being put behind the wheel of a car: we know how to drive the car – and the car has been used as an analogy this morning – and put blindfolds on. It would be alright because the road is pretty straight: that is what we are really being asked.

The checks and the balances; again, we talked about the checks and the balances and what this Council can do. Even in another place, all we can do if we vote it down, when the balances are out of step, is that the Keys have got a majority, they can come back next month: one month, we cannot even delay it any longer than that, but we can make them think and that is one of the strengths of this. It is not a check on the elected representatives.

The primacy is theirs in their Chamber, whether it is in Tynwald Court or in the legislative process and that is the right way. We all accept that and I do believe that the Island is served better. Mr President put it right, it is an invidious position for us to be put in to be discussing our own affairs, in effect. That is not of our choice. It will be perceived outside by the media that we are, once again, thwarting this and doing that, not from our choice.

What we are saying is if you reject this Bill is to go back and come back with something that, firstly, is at least legal and secondly, at least meeting the requirements that it sets out but in a planned way. There is a route, as I have said. It is the

Constitution Committee of – I do not care whether it is the Council of Ministers or Tynwald Court – but I would prefer Tynwald Court constitution because it has got both branches represented on it and they are the ones that should be dealing with this, not an individual Member of Tynwald.

The President: Mr Crowe.

Mr Crowe: Yes, I think it comes down to two simple choices: one, do we believe in a popularly-elected Council? Question 1, we have to ask ourselves. Question 2, is this the right vehicle? I think those are the two questions that we need to ask ourselves.

So when you are voting, or we are voting, for the Second Reading, it is those two issues, are we voting for a popularly-elected... Do we believe in a popularly-elected Council and is this the right way forward? Those matters are what we really need to consider today. That is all I wanted to add, Mr President.

The President: Well now, Mr Callister, would you wind up, sir?

Mr Callister: Yes, thank you, Mr President.

When I was about 12, 14 maybe, one of the places I used to play was in Quayle's farmyard at the top of the Ballahutchin Hill, which happens to be, or was, the former home of the Member who moved this Bill in the Keys. In that yard there was an old Model T Ford which had sacks of potatoes all over it, rust, the engine worn down, chickens jumping up and down on top of it: we played in it – you would say it was totally wrecked, it was in a mess. What would you do with it, take it and throw it away?

Twenty years later that Model T Ford was in perfect condition and back on the road again and I think our vehicle that we are looking at here might be analogous to that, but the thing that does surprise me is that here we have been debating the principle of the election of the Legislative Council, whereas I have here certainly two Bills and there may be others certainly, but two Bills, which have already been passed by the Legislative Council, sent to the House of Keys on this entire same principle, that the Legislative Council should be publicly elected.

Mr Lowey will be very familiar with the 1999 Bill, where the Legislative Council would be re-named the Senate and it would consist of 11 Members, President of Tynwald, Bishop, Attorney General and so on and on the back of this, in the area of constituencies, something quite similar to what is being proposed by the Keys now and that is, in fact, five constituencies, as set out in that Bill. There would be two Members returned from Douglas, one from east Man, two from north Man, one from west Man and two from south Man. It is not the same but it is not very different from what is proposed for constituencies in the eight constituencies within this present Bill before us.

Mr Lowey: We turned it down.

Mr Callister: We then have the Constitution Bill – much more recent – of 2005, in which I think the Bill was taken by Mrs Crowe and the Legislative Council passed that Bill and sent it to the Keys because, on the basis of the principle of the matter, the Legislative Council should be elected by the general public, by the voting public.

Now here we are, the impression I get now is that we are saying, 'Well, that is not a good idea, we think the system we have got at the present time is the best one we could possibly have'. That is the message that certainly is coming through from the debate.

Just to go through some of the comments, if I may: first of all, Mrs Christian. Yes, a total rebuild of the Bill would be necessary. I am not saying it would not be necessary to make more amendments, although, as amended, it would be a workable Bill to send back to the House of Keys, if we used the amendments we have in front of us. The matter of reducing the term of office by two years would occur and that, in some ways, is similar to extending the term of office for Members if an election does not take place. These are elements that would have to be faced. They are simply part of what is proposed.

Mrs Christian's point on clause 2, I think you referred to. Clause 2 of the 2005 Bill is identical to the one on this Constitution Bill, the wording is exactly the same, so I take it you approved that in that debate in 2005?

Mrs Christian: Maybe I am wiser now!

Mr Callister: Wiser now? (*Laughter*)

The electoral districts, this was a matter raised by Hon. Member, Mrs Christian, and the polling districts and electoral districts as well – that would be a matter for the Boundary Committee. The Boundary Committee would be given the responsibility of creating eight areas, eight constituencies for the election.

I know the President is nodding and saying it is not detail: it would be detailed when the terms of the Boundary Committee were set up by the Council of Ministers because the Council of Ministers will be appointing the Boundary Committee. Having just disbanded one, they will, in fact, then ask for what is required from that Boundary Committee. Whether the Council of Ministers should be setting up a Boundary Committee is another question that is even wider than what we are talking about at the present time.

Mr Downie: Should be independent.

Mr Callister: Yes, we are talking about parliamentary issues being dealt with by Government and that, in itself, is some other issue. Mr Lowey dribbled; it went through a tortuous process in the Keys; it became a political corpse; to be returned for a decent burial. We know that if it is returned it is unlikely to go anywhere –

Mr Lowey: Thank you for that.

Mr Callister: The chances that the Keys would even attempt to find 17 votes are very unlikely, I should think, so it would probably just simply disappear. Mr Lowey says the Bill is unworkable. Well, not necessarily, though if it has gone out of intensive care and ready for the coffin, I can see your point of view, sir and I know where that is coming from.

Mr Butt says he was surprised that it was sent to the Legislative Council by the Keys in the form that it is and I suppose we are probably all surprised. It is not something that happens all the time.

However, Bills are constantly coming to Legislative Council of all kinds which are being amended by the Council, so this does not – you may very well find we have got a

Bill next week, or next year, that has similar flaws and will have to be corrected by the Council, so I do not think that is an argument. Why an MLC, as opposed to an MHK, is... I think that is a matter for further down the line. I think the fact that they will be elected at a different time they would still be Members of the Legislative Council and I do not see the relationship greatly changing from the situation that exists at the present time. I know people say it would.

The matter of single-issue pressure groups can equally well happen in elections in the House of Keys. There would not be any difference. In fact, you would have to have a stronger pressure-group with a larger constituency than you would in the House of Keys to get the support, so I do not think that that is an argument that is sustained because I am pretty sure – I cannot quote – but I would not be surprised that there have been single issues which have had people elected to the Keys in the past. I am quite sure, if we dug round for them, we would find them.

Mr Waft on constitutional Bills and the fact that I said they were fascinating... Well, they are. I found them fascinating, as a reporter, and I think that Members do, and I was in no way suggesting they are not important. They are extremely important. I realise that, and what we are talking about here today clearly emphasises that.

The Bill was carefully looked at by staff in the Attorney General's office to have the amendments that have been put forward, and it is considered, and was considered, that these amendments would correct the Bill and make it a workable Bill. The fact that further amendments can be tabled... We all know that and anyone and everyone here could do that and I would expect that to happen.

I think what Mr Waft has been doing, though, Mr President, is arguing against the principle of the election to Legislative Council and again, being part author of the Bills, I found that rather difficult, though perhaps he also has become wiser now.

Mr Turner... A waste of time to set up a committee. That, I would agree, might be a risk and the fact that we are now dealing with the Second Reading will resolve that, I think.

I am not quite clear what all these notes now say, but one was to remove the powers of the Keys to elect the Legislative Council. That again... The House of Keys must be aware of that, that when they sent this Bill that would be one of the elements that would result from it, that the Keys would no longer be electing Members, though it does not prevent Members from the House of Keys putting their names forward to be elected.

As far as the power of the two is concerned, the Legislative Council, as has been pointed out a couple of times, does not have the power now to change. If the Keys decide they want to do something, they can override anything that has been said here. Nevertheless, there is another element to that which is worth considering in a moment.

I thank Mr Crowe for seconding and also supporting the idea that this Bill can be corrected and made workable.

During the course of comments, Mr President made the comment that he thought the Bill was totally flawed. I think that is going too far, Mr President. I think it is flawed, but not totally flawed. If it were totally flawed, the Attorney General's office would probably not have provided these amendments to correct it.

The President: Mr Callister, I am sorry to pick you up on that one but, in fact, the Bill which has come to us... I

accept, and will always accept, that the Legislative Council is a revising Chamber for legislation which comes from the House of Keys. This is the first time in my political history that a Bill has come from the House of Keys to the Legislative Council that, frankly, is unworkable.

Bills which have come from the House of Keys formerly, in their own right, without any alteration or with some alteration, would have stood on their own and worked. This Bill has come to the Legislative Council and that is what I... I feel sorry for the Members of the Legislative Council. As I said before, I think you are in an invidious position in this particular measure because, in fact, the Bill has come from the House of Keys and Members of the House of Keys, knowing that in fact, in the form they sent it to us, it is not workable.

Mr Callister: Mr President, moving to the comments of the Lord Bishop and what is democracy, the Lord Bishop says that the present system is thoroughly democratic. I would have to ask, then, how democratic is the position of the Lord Bishop on the Legislative Council, and that is a question I am not going to answer at the moment. However, it is an automatic appointment. Is that democratic, that the Bishop should vote and make decisions on behalf of the people of the Isle of Man, which, in some circumstances, could hinge on that very vote of the Bishop himself?

It is interesting, isn't it, that the latest move in the UK is to have a 100-per-cent-elected House of Lords – it may or may not happen – but, nevertheless, it is on the agenda at the present time. We have had, as far as the Lord Bishop is concerned, something like 20 years of attempts to change the status of the Legislative Council to an elected Council, so it is not something that has suddenly arrived.

The fact is that a number of people, however few that may be – and it certainly includes a lot of the present elected Members of the Keys – believe that this body should be publicly elected, and they said so in their manifestos – certainly at least 12 manifestos, possibly 13, from the last General Election to the Keys – so they were... I suppose the reason that was in their manifestos was because of the constituents who contacted them and said, 'This is what we want you to do.'

Mr Lowey: Can I just say –

Mr Callister: Mrs Christian also –

The President: Mr Lowey, let Mr Callister–

Mr Callister: Mrs Christian also referred to defining the purpose of the Legislative Council and that, again, is something that this Bill unfortunately does not deal with. The responsibility of the Council should perhaps be, and may in the future be, different from those Members in the House of Keys, and that, to some extent, if those changes were made, may be the reason why some people would prefer to stand for the Legislative Council – because their term of office would be different, perhaps, or their responsibilities would be different – rather than stand for the Keys.

Mrs Christian also, I think, feels that a unicameral system would result from this, a system with committees. Well, again, that was a proposal that came forward and was rejected because that was the last Victor Kneale proposal

that came to the House of Keys, but it was not thought to be the way forward.

'Don't change anything' is the message that I am gaining from Mr Waft, but Mr Waft again, I must say, supported certainly the Constitution Bill 2005, and I suspect probably of 1999 as well, so that is a change of mind, a change of direction, a u-turn, shall we say.

Mr Lowey, on one of his further comments, referred to checks and balances and the fact that the Legislative Council would be... that the House of Keys has predominance when it comes to final decisions, but he keeps bringing back this Constitutional Committee idea. If the Constitutional Committee is the right approach, why hasn't the Constitutional Committee put the Bill in front of us instead of a private Member?

Every constitutional change that has been made in the Isle of Man, as far as I know, over the past 40, 50, 60 years has come through Private Members' Bills. There may have been a bit of tampering and playing about with constitutional issues by the Constitutional Committee, but the question is if the Constitutional Committee thinks this is a good idea, they should have the Bill in front of us and not the Bill that we have here.

Mr Butt says it is a system... if it is not broken, don't fix it. I wonder –

Mr Butt: No, I said that is what the Bishop is implying.

Mr Callister: The Bishop is implying if it is not broken, don't fix it; not what you were implying. Right, okay, but there is an indication that you believe – or Mr Butt believes, rather, Mr President – that the system we have at the present time is working well and does not need to be changed.

A Member: Isn't it?

Mr Callister: The present situation, as far as Tynwald is concerned, again referring to Mr Butt's comments, is that we have eight unelected Members who can defeat the 24 elected Members at a vote. It could be said that they could then call for a consolidated vote the following month and not necessarily be successful with that, so the situation now... How democratic is that, that eight people can go against the will of the 24 elected Members of the House of Keys?

That is something that I think also needs to have consideration, as well as the fact – and it has been mentioned two or three times today – that we have got financial and policy issues to decide upon, and I have seen, even in recent times, where the vote which was taken in Tynwald saw the Legislative Council defeat the House of Keys. It may have been due to our greater wisdom, of course – I am sure we would all say that – but nevertheless, it seems not entirely democratic, as far as the public outside are concerned. They would be expecting their elected Members –

Mr Lowey: We are elected to deal with it.

Mr Callister: – to deal...

Mr Turner, again, was on voting and financial and policy matters and the fact that the present system has the ability for people who are not Members of the House of Keys – in other words, there are three of us now in this House – to make these decisions, I think is questionable as to whether we should

have that power. I really do. I think I would certainly be much happier making these decisions if I had the electorate behind me. You can say, 'Well, we only have one vote out of 33'; nevertheless it could be a crucial vote, in certain cases.

Again, Mr Turner refers to the Constitutional Committee. I would make the same comment: if they really feel that this is something that should be progressed, then perhaps we should hear from them. Again, as I say, 12 Members of the Keys did, in their manifestos, suggest that this should be a publicly-elected House.

I found the debate very interesting. I found it a bit defensive, and I will be interested to see the outcome of the

vote on this, Mr President. I beg to move.

The President: Hon. Members, the motion that I put to the Council is that the Constitution Bill 2007 be read for a second time. Hon. Members, those in favour, please say aye; against, no. The noes have it. The noes have it. The Bill, Hon. Members, therefore fails its Second Reading.

Hon. Members, that draws to a conclusion our deliberations on our Order Paper this morning. We now sit in private to discuss the proceedings of the Council of Ministers.

The Council sat in private at 12.44 p.m.