

**Electoral Reform Bill 2011**  
**Debate continued from October 2011**  
**Second Reading approved**

1. Mr Callister to move:

*That the Electoral Reform Bill 2011 be now read a second time.*

**The President:** We come to the first Item on our business, the Electoral Reform Bill for continuation of the Second Reading.

Members may or may not recall that this was moved on 25th October 2011 and seconded by Mr Crowe, who reserved his remarks. The motion was moved by Mr Lowey to send it to a Joint Committee. That Committee has now reported and received here at the last sitting.

If it is the wish of the mover, I would allow him to speak again because it is quite some time since you moved the Second Reading, sir. Do you wish to do that? If not, we will just continue with the debate.

**Mr Callister:** I did not respond to the Members' comments from last time, but all of those –

**The President:** But I think they were –

**Mr Callister:** – were all directed towards the amendment.

**The President:** Yes, indeed.

**Mr Callister:** So I think if anyone wishes now to speak, I think they should speak and then I should sum up from that.

**The President:** Right – you do not wish to speak again to introduce it.

Okay, Hon. Members, the motion before you is that we continue the debate of the Second Reading. Does any Hon. Member wish to speak?

**Mr Braidwood:** Thank you, Madam President.

**The President:** The Hon. Member, Mr Braidwood.

**Mr Braidwood:** Madam President, the Electoral Reform Bill 2011 I believe has now been superseded by the Boundary Review Committee. As we all know, it was a Tynwald decision to have 12 constituencies returning two Members each and I now feel that, if we follow and allow the Electoral Reform Bill to go through, which is for eight constituencies for three Members each, and those constituencies electing one Member of the Legislative Council, I feel it is in complete opposition to what is now happening with the Boundary Review Committee.

So, looking at it logically, I feel that there is no point in continuing with this Electoral Reform Bill 2011.

**The President:** Hon. Member, Mr Downie.

**Mr Downie:** Thank you, Madam President.

At our last meeting, I gave a Report to the Hon. Members of the Council regarding the recommendations of the Joint Committee that was set up to actually look at this Bill. I think it is a timely opportunity just to reiterate some of the points I raised on that occasion.

Apart from being this huge issue that has been abounding in the Isle of Man since 1982, it is very disappointing that we received so few expressions of interest from the general public and from other people who were likely to take an interest in this particular issue. In fact, of the local authorities who contacted us as part of the consultation process, eight contacted us to say that they were content with the way that the Legislative Council was elected by the House of Keys, that that was appropriate and they wished that to continue. Six members of the public wished to see the Legislative Council elected by the public and that is out of a population of nearly 82,000 to 83,000 people.

I personally do not see this as an issue. We even had a poll in the local newspaper, which did not engender any more people to write to us on a formal basis regarding the requirement for change. There has been much confusion about the boundaries and, to me, this seems to be the biggest stumbling block.

But listening to what my hon. colleague, Mr Braidwood, said, the Keys are now going down another route. They are looking at a 12 two-seat constituency option and that is how they have instructed the Boundary Commission to go off and look at that accordingly.

But the Bill that is before us today suggests three Keys and one Council Member. If we are going to take this Bill on board, it does require some major, major thought to how it is all going to be amended, and it is alright spending parliamentary time and taxpayers' money in here looking at the matter, but what is going to be the outcome when it gets to the other place?

I am afraid, Hon. Members, that the arguments for reform have been going on since 1982. We have a whole history of Private Members' and other Bills that have come forward to have the boundaries reviewed and have the Legislative Council elected in another form by the public and all have failed to date. Apart from wasting a considerable amount and particular time of taxpayers' money, all of these Committees and Bills and so on since 1982 have gone nowhere.

I think in the present climate the time has come to finally put this matter to rest and I will be voting against the Second Reading of the Bill and I feel that the general public have no appetite to see this going any further at the present time.

**The President:** The Hon. Member, Mr Turner.

**Mr Turner:** Thank you, Madam President.

I see the role of the Legislative Council as that of a revising chamber. I feel it is wholly inappropriate for this place to be driving reform, in particular of the other place. I feel that reform of this body or the House of Keys should come from publicly elected Members, namely the MHKs. I think, in principle, it is wrong for us to be dealing with what is quite a major change to the constitution and make-up of our parliamentary system.

If the will of the other place was to see reform – and that process has already been started when we had the debate in Tynwald, of course, looking at what the Boundary Review Committee was doing and as Mr Braidwood said, this is completely at odds. It has been overtaken by that process, so I think we could vote this through and pass it on – put it through the process and pass it on to the other place – but I think we are just wasting everybody's time and I still think the driver for that change should come from the Members of the Keys and then we would look at that legislation and revise it, but we are setting down a policy here for another place, which I think is not our role and it could be actually seen as rather undemocratic that we are driving that from here.

**The President:** The Hon. Member, Mr Butt.

**Mr Butt:** Thank you, Madam President.

I am not sure if we are going to repeat what we said in November 2011 here –

**The President:** We did not say anything, except to move it to a committee.

**Mr Butt:** Thank you. Well, in that case I will make a few comments. Firstly, it is a shame the press are not here, because –

**Mr Lowey:** Yes, hear, hear.

**A Member:** There is one here! *(Laughter and interjections)*

**The President:** Welcome – an unusual occasion!

**Mr Lowey:** A rare sighting!

**Mr Butt:** I do apologise! It gives a chance then to dispel a few myths about what Council does and does not do.

The first one is that we have the power to override the other place, the House of Keys, but in fact, we never have the power to stop anything that they want to do. In the end, they will always have the power to bring legislation through, to bring motions through, etc. We do not have that power.

The second thing is that we are not elected by the public, but we are elected by the representatives of the public, the actual Members of the House of Keys. It has come to a state, I think, where one of the reasons, perhaps, for looking at this legislation again is because the majority of us here now have never had a public mandate. I think that is why things have changed to a certain extent. Four Members and the Lord Bishop, who have never had a public mandate. I think that is where there may be some reason to say 'Well, what are these

people doing?' The myth is that we can stop things, we can change things, we can make a difference. In the end, the other place always has the power over us.

Having said all that, I do believe that, if we are part of a body that makes decisions which affect people's lives, in principle, we should be elected by the public. That is how it should be. We make decisions occasionally in Tynwald which do affect people's lives and their finances and their wellbeing, so in theory we should be elected by the public. So I will be voting to support this Second Reading.

Having said that, I really question why we need to go down that way in that, what would be the point of standing to be a Member of Legislative Council? Why not just stand for the House of Keys? Because in the end, if the voting system goes through with eight constituencies with three people in each one, more or less and one Member of LegCo, you would have the same rights and the same powers and the same mandate, in effect, as the other place. So why would you stand to be a Member of the Legislative Council? There is no point in that.

In the end, what will happen, almost certainly is, we will end up in a few years' time with one House only. There will be no House of Keys, there will be no Legislative Council, there will just be one Tynwald. Everybody with an equal vote having the same power. It is the way it would have to go if this follows its logical course, because what is the point of having an upper chamber – a separate chamber? There would be no point at all in having that and that is what this Bill will lead to. If you are prepared to accept the ending of the history of those institutions, that is fine, because that is what will happen, if the other place bring this through.

I also agree with Mr Turner's point about the fact that this Bill actually reforms the Keys more than it reforms us, in a way, because the Keys will have a major reform through this Bill and that is something perhaps that should be left with them to deal with, rather than us.

We have also, as I mentioned from Mr Braidwood about the boundaries issues. Of course, that really does put a spanner in the works of this Bill at the moment.

I wish Mr Callister well with his Bill. I will be supporting its Second Reading on the principle that, if we make decisions affecting people's lives, we should be elected by the public and I know that some of us have never had that mandate.

Thank you.

**The President:** The Hon. Member, Mr Wild.

**Mr Wild:** Thank you, Madam President.

I have stood for election for the Legislative Council twice, in 2010 and 2011. On both occasions, I engaged a meeting of the Members of the House of Keys, who talked and expressed views and asked me for my opinions. It came across very clearly to me from Members of the House of Keys that there is a wish for this body to be publicly elected.

People will recall that, on interview prior to election, I made that commitment and support for the fact that I believe that their views are correct and that, whilst I am still struggling to understand the mechanism, in principle, I support the popularly, publicly elected Legislative Council. I think there are some complexities here, in terms of what is happening with the Boundary Review, but the point is, there is a groundswell of opinion in my view within the House of Keys for publicly elected Members of Legislative Council and therefore, I think, not to support this Bill, will go against the views of many Members and in that sense, I support my hon. colleague on the left in terms of the Second Reading of this particular Bill.

The other thing is I agree entirely with my hon. colleague, Mr Butt that, if we are making decisions that affect people's lives, I would prefer to do it from the basis of being elected by the public and not elected by 24 people.

So those are my comments and observations and I will be supporting this Second Reading.

**The President:** Lord Bishop.

**The Lord Bishop:** Thank you, Madam President.

I think there is a misunderstanding of what we mean by democracy that underlies this Bill. You simply cannot say that voting every representative by a public mandate proves that you are democratic, or vice versa. It simply is not the case because we, in normal life, always act in a way that we might describe as 'reserving powers', so that you and I may have power, authority, responsibility in a particular area and we allow some of those powers to be given to somebody else. Although they belong to you, you allow them to be given to somebody else but within limits.

That is exactly what you have got here. You have got a system of democracy operating by reserved powers. The democracy lies with the people. It does not lie with the Keys or Legislative Council or anybody else. The power is in the hands of the people and those who vote – and sadly, fewer and fewer are bothering to do that, which may say something else – but at least that is where the power lies.

The people reserve some of their powers to the Members of the Keys, who they directly elect. The Members of the Keys reserve certain powers to the Legislative Council – that is particularly in terms of revising legislation and asking questions of legislation and stalling legislation sometimes or... well, we know what we can do as a Legislative Council.

If you just simply bang on about the democracy mantra, all that you are actually doing is misunderstanding how democracy works, because it does not work when everybody gets to decide everything. If that is what we are saying, then we do not need a House of Keys or a Tynwald or a Legislative Council because all you have got to do is ask the people for every decision, just ask them to revise every Bill that comes before us. Ask them to propose it.

We reserve powers. What we have here is a magnificent system, I think. Certainly a better system than they have got in the UK of a reserve powers democracy, and I think if you threaten that system, what you will actually do, as Mr Butt has just said, is turn Tynwald into a single chamber, a unicameral system. That will happen inevitably in due course if you go down this line.

So I am sorry, but I will have to vote against it.

**The President:** The Hon. Mr Lowey.

**Mr Lowey:** I think Mr Callister knows where I come from. *(Laughter)*

**Mr Callister:** Yes. I do.

**Mr Lowey:** Surprise, surprise!

First of all, I think the debate has been a good one, in the sense that it is focused. I would like to commend the Lord Bishop's view on democracy because it is one that I think is of absolute relevance.

Can I say I speak as someone who was elected by the general public and I – it is not bragging rights – received more votes than any other candidate has received that has stood for public election for the last 60 years. I increased my vote every time I stood. In the finish I was, as someone once said to me, light years ahead of the others. I do not know. It shows that I had a big family who worked hard on my behalf really; but in effect, that is where I come from.

But I was not elected because of my views for the Legislative Council. I was not elected for my views for a particular piece of legislation. I was elected on my views and on my judgement. So to that extent I think you have to learn as you go along. I think you have to learn that what is good, you keep, and what is bad, you amend and move on – so the principle.

Let me just say to my good friend Mr Wild, when he says there was a wish when he stood for the Keys and went before his electoral college, there was a wish for the Keys to have this place popularly elected. There is nothing stopping the Keys from changing the position. They have had many opportunities to do so and have failed to do so, not because of this place, but because of their indecision and their inability to come up with the right and final answer.

I am a great believer in the Americanism, 'If it ain't broke, why fix it?' The system we have has produced for the Isle of Man a reasonable framework to carry on our business. This job is about setting the climate for business to get on with. We raise the taxes and then spend it on behalf of the people. So I think there is nothing wrong with the system. Does it ever need changing? Yes, it should be looked at. We have a formula for that and that is Tynwald Court.

Tynwald Court deals with two things, and I wish the press would get this right. Tynwald Court is there once a month to deal with policy and finance – that is its main purpose. This is a legislative body, as is the Keys. The Keys has just now become in the public mind engendered by the media as a 'Question Time' bonanza. They do not – and this is to my friend – report what goes on in legislative terms at all. So we then complain about the general public not being up to speed or knowing what we are about. The reality is that they get what is given to them and I am afraid it is not very good.

Why I am opposed to it, as a Democrat I believe that, you know... Tynwald has decided they want a boundaries commission and they have set the train in motion. I do think this is superfluous now, but I would say that, wouldn't I? I am not. I am trying to be logical. I am trying to be fair. I do not blame Mr Callister because he made a pledge and has honoured that pledge and that is right and proper as a politician, even sitting here, that he should do what he said he was going to do and he is attempting to do it; but I do think events have turned round.

But I think, stripping all that apart, coming back to what the Bishop said about democracy, at the end of the day, it is the people that decide these things, and if you believe for one second there is a big clamour out there for change, there is not. There is not, and that is my view of it.

I live in the real world. People say, 'Oh, you live in a rarified atmosphere. You don't mix with them.' Oh, yes, I do, more than most. More than most. Cheek by jowl I live with the people that I have always lived with. They know me and I know them. I can tell you that my view is that there is not a clamour for this and therefore I will not be voting for the Bill. Any other words that I have got to say I have said many times in other forms and they are on public record.

**The President:** Mr Crowe.

**Mr Crowe:** Thank you, Madam President.

Yes, I seconded the Bill because I believe we do need to change the system. I think we do need a properly elected Legislative Council and I have seen it... Well, having come from the Keys, when I was elected in 1995, then 1996 and Legislative Council 1998, 2007 and 2010. So I have seen elections of both sides. I have seen the makeup of the Legislative Council change from Keys Members being elevated to outsiders, as Mr Butt said, four/four. So the whole dimension in respect of the Legislative Council has changed.

But I think there is a groundswell and, as Mr Wild said, there is this feeling in the House of Keys that change is needed in a popularly elected Council and in fact in 2007 and 2010, when I was elected, I was asked the same question as Mr Wild: would you support that? In principle, I do support that.

I think again, Mr Lowey in 1999 moved a Bill himself (*Interjection*) to have a popularly elected Legislative Council. I was there at the time and there was a later one with Mr Cannan and Mr Quayle. So we have attempts, and what I do not want to see is that we fall at the second hurdle. I would like to see it go through Second Reading, clauses and Third Reading and then let the decision be taken by the popularly elected House of Keys.

So I think I will be supporting it and I think to give Mr Callister a fair hearing and fair chance of getting this through is, I believe, the right thing for the right time. I think the whole world is changing. There is talk of

changing local authorities into a four or five system. So I think democracy changes as the years go by and so we are not set in aspic. We are not set in stone. I think change comes along maybe every three or five years and I think we ought to seize that opportunity to talk about it, to discuss it, to debate it and give a fair hearing.

I take the Lord Bishop's point of view on democracy, but I think we have nine or ten different points on democracy. So I think he speaks for one sector. We all speak for different sectors. But, as I said, having seconded the motion, not just to get the Bill into the debating chamber, I believe it is the right thing at the right time.

Thank you, Madam President.

**Mr Braidwood:** Madam President, is there any possibility of adding to my comments, if I may?

**The President:** Yes, on Second Reading.

**Mr Braidwood:** The Hon. Member of Council, Mr Crowe, mentioned Mr Lowey's Bill, which was the Constitution Bill 1999. I have stood for four elections before being elected to the Legislative Council. In my manifesto of 2006, I agreed with a popularly elected Legislative Council and my view has not changed. I have mentioned that during the First Reading, I supported Bills through the House of Keys for changing for revised boundary structures for the Keys. I said right at the beginning this morning, I think this Bill has been superseded by the Boundary Review Committee. However, I do believe that, eventually – and I agree with comments that have been expressed already by Members of the Council – we will go to a unicameral situation. I believe that fully.

I sat on the Joint Committee with the Keys with Mr Downie and with Mr Callister, where we took evidence from Mr Lowey and general public and as Mr Downie has already said, we did not get a lot of response from members of the public. There was not this clamour for the Legislative Council to be popularly elected and I think also Mr Downie mentioned in this financial climate at the present time, the general public would prefer to see our finances in a more stable situation. We have growth at the present time, but we have enormous pressures as well on our finances and as Mr Downie said, to go through this whole procedure of sending it down to the Keys once again, I just feel that there is no stomach for it at the present time.

**The President:** Mover to reply – oh, Mr Wild, did you want – ?

**Mr Wild:** Am I allowed to speak again?

**The President:** We will allow it today. It is an important measure.

**Mr Wild:** Sorry, thank you.

I just want to make the point that I think the Lord Bishop has articulated democracy and a view in a very well spoken way and I recognise and acknowledge that. I also believe, what is here before us is a very fine, time-tested institution. My own belief is that, if you go to a popularly elected Legislative Council, I do not believe it will change the structure of Tynwald. So to have a diverse view to the rest, I believe it can continue in its present format.

As I said in an interview on radio last year, I think it is about the way you set the qualifications and parameters, in terms of elected Council, so that you have differing skill sets perhaps, within each of the branches. I do worry about the timing of this type of change, but you could also argue, are the Boundary Commission changes rightly timed at a time of economic stress and perhaps we should be getting on with the economy, rather than spending a lot of money revising the constitution of the Island?

But it has been a topical subject and therefore my concern is that, if we do not continue with this Bill, this important debate and consideration will fail.

So thank you for the opportunity, Madam President.

**The President:** Hon. Mr Lowey.

**Mr Lowey:** Yes, again, along Mr Wild's path, I just want to answer... just a query on membership. Members have said here today that the membership has changed because we are now split 50-50 political membership that came from the Keys and outsiders – and I am not being disrespectful – but non-political Members who are now in this Chamber (*Interjection by Mr Wild*) and the answer is quite clear. The electoral college, the MHKs, decided who came here and once you give them the choice, the electoral choice, the ability to do that which we have always given them and they choose to elect non-elected Members to this Council. That is their choice.

Therefore, I do not see any differentiation between Members having political... you are here for a choice and by the way, I think the mix that we have had given to us by another place, has been very successful. I think it has brought fresh ideas, has brought age, has brought experience in various fields, which has enhanced and enriched our deliberations. 'Election' I think is Greek for 'choice': I cannot see why we should complain when our electoral college, the House of Keys, elect... they exercise their duty, it is not a right... it is a right, but it is also a duty to elect. They have chosen, therefore I think we live in their thing – I do not think that is a detriment at all. It may be in the eyes of the public, but then we should address their concerns to the people they have elected to do their job on their behalf, so I do not see that being a bar at all in any way, shape or form.

**Mr Wild:** Madam President, could I just acknowledge how much I respect the views of Mr Lowey and his experience? I meant to mention that when I spoke the second time.

**The President:** The Hon. Mr Butt.

**Mr Butt:** Apologies, Madam President, just to raise a couple of other things.

First of all, the Lord Bishop's comments, I thought, were very apposite, they really struck what democracy should be about. Having said that, I still believe that we should put this Bill back to the Keys for them to make the decision. I just point out that we should be careful what we wish for, or what the Keys may wish for. In Mr Callister's notes he does say – his explanatory notes – he will create elector equality for all 32 elected Members of Tynwald and that is almost bound to diminish the powers of the people of the Keys, but at the same time increasing the powers of this Council and it will eventually lead to inequality, in terms of there will be one chamber will result from this. If that is what people want, that is what this Bill may well lead to.

Could I also ask the mover of the Second Reading, would he give us his personal opinion, having been in the Council for nearly five years...? He originally said he would bring this Bill in as a... he gave it himself to do and he has done so. What is his view of how it has worked in the five years he has been here? Does he think the system is broken and does it need that much amendment?

**The President:** The mover to reply.

**Mr Callister:** Thank you, Madam President.

First of all, Mr Braidwood's comments and the fact that his manifestoes have for a number of years, I think, now stated that he would like to see this Council reformed to public election –

**Mr Braidwood:** Not with this Bill, though!

**Mr Callister:** – it is quite a reversal that. It is a big turn around that Mr Braidwood is prepared to make for this situation on the basis that there is another matter in front of the Keys and that is the 12 two-seats, which is recommended by the Boundary Committee. There is no certainty whatever that when that gets back to the Keys they will accept it. In fact, the chances are, the odds are, generally, when they change constituencies around, that Members are not happy with those changes. I know they are asking the Keys to indicate what sort of areas they think they could change. Nevertheless, it is not guaranteed that the boundary review and the 12 two-seats would work.

Apart from that, of course, this Bill is in no way connected to that boundary review; it works entirely separately and it is a Bill that, quite clearly the Keys could look at quite separately as well. Furthermore, at no point did the boundary review propose eight three-seats, as the Bill here does. I cannot really accept Mr Braidwood's arguments on that and I do not think they are valid. However, if Mr Braidwood has made his mind up, it is clear which way he is going to vote in the end on this.

I would thank those Members who are clearly supporting this Bill now. I think that is very helpful and to move on to Mr Downie. He refers to lack of interest by the public in the Electoral Reform Bill or the process and I have to acknowledge that the amount of reaction from the public was quite small. However, we did not go with a public notice to the public on this matter, as I remember, we sent a press release – I think the Clerk could confirm that – which does not have the same impact, I believe, as a public notice. Nevertheless, Mr Downie is correct in that there has been little interest by members of the public and the local authorities again wanting to, more or less, leave the situation as it is, in the main. He also referred to the fact the attempts for change have proceeded from 1982 onwards and all of them failed up to this stage, Madam President, and he says, let us put it to rest. Well, we can put the Bill to rest, but I am sure that the issue will never go to rest, because, I think if this Bill fails, we will see this come forward again in another way from someone else, possibly in the Keys.

Mr Turner believes that the reforms should be from the Keys and not the Council, well, he has the opportunity to pass it to the Keys and see if they want to make that reform.

Moving to the Hon. Member, Mr Butt, he says the Keys have more power: they will still have *exactly* the same power under this Bill. It makes no change apart from the constituency changes and a public election, rather than a Keys election. Everything thereafter is the same.

The other point that no-one has mentioned, is that in recent years, certainly with this present Chief Minister and the previous Chief Minister, no-one from Legislative Council has been thought fit to serve as a Minister in the Government. Under this Bill and publicly elected Members, the opportunity would be there of course for Chief Ministers to have Ministers in the Council. I feel that, if we stay with the same situation as we have now, the *status quo*, I do not think we will again see Ministers elected from the Council and I think that would be a great shame, because there are great talents within the Council – I do not count myself in that – but there have been in the past and there will be in future, however it is elected.

**Mr Braidwood:** What about present?

**Mr Callister:** Mr Butt and other Members have had this belief that the Bill would lead to a unicameral system. It is a view held by others outside of this Court as well. The only way that that could happen is if the Keys decided that that should happen, because the Keys will, as everybody recognises, still have the voting power under this Bill to make the final decision. Therefore, if a unicameral system is going to be brought in, I think it would become a Tynwald decision.

Moving on to the support, thank you to Mr Wild for his views on the Keys, believing, as he does, that the Keys now have an appetite for a public election for LegCo Members and I cannot say that I have evidenced that, but I will take that from Mr Wild who has spoken to them about it.

Coming to the Lord Bishop and the reserved powers: I cannot agree with him on his view of democracy, I think that is quite different. He refers to reserved powers and that I do recognise and those reserved powers are held by the House of Keys, so what I would suggest the Bishop would best do, is let the House of Keys decide whether they want to retain those reserved powers or not. Again, I think the Lord Bishop is down as saying that we have ‘a magnificent system’ well, is it perfect or magnificent? I do not think it is a perfect system, Madam President, nothing is perfect in this life. (*Interjections and laughter*) I would also have to say that the Lord Bishop is a person in this Council who does not have a public mandate to sit on their behalf.

**Mr Downie:** He is here by right.

**Mr Callister:** He is here by right, but I suspect that to, as it were, delay the progress of democracy by voting against, he will not be... well, he might be looked on less favourably – or the Bishop, not this particular Bishop, but the Bishop’s vote in the future could very well come under a dark cloud. (**Mr Lowey:** No.)

Coming to Mr Lowey, I have fully recognised from the very start, Mr Lowey has been completely against the Bill, even though he put a Bill, which was very similar before the Council just a few years ago and it went to the Keys and they did not – well some years ago –

**Mr Lowey:** Over a decade.

**Mr Callister:** – it went to the Keys and they did not like it, but it was very similar to the Bill that is in front of us now. Mr Lowey said the Keys have a duty to elect –

**Mr Lowey:** They do.

**Mr Callister:** – the Council, but unless you ask them, we do not know if they still want to keep that duty.

**Mr Lowey:** They have been asked time and time again.

**Mr Callister:** They have been asked time again, but there is another time and another opportunity. There is always a new opportunity coming along. There is a problem, of course, because a number of Members have referred to the lack of interest by the public. It is really due to a lack of knowledge by the public of what the Legislative Council is and what it does. They think in terms of the House of Keys, the House of Keys and they rarely think in terms of the Council. So maybe that is our own fault for not publicising ourselves.

I would thank Mr Crowe for seconding throughout the process. He said, let the Keys decide. I certainly would say that has to be the case, Madam President, and also he believes that change happens and I think change is inevitable and whether it happens with this Bill, or whether it happens with a similar Bill in the future, it will happen, when people recognise what is happening here, that 25% of the Members of Tynwald have no public mandate to be there. The Bill changes nothing. All it does in effect, is change... It does not change the present system, apart from allowing the Members of this Council to be publicly elected and changing it by means of changing the constituencies for the Keys. That is all it does. All the other duties remain the same and membership of Departments will continue for Members, but I suspect that ministerial office will be out of their reach.

What is my personal view, asks Mr Butt, on the system having been here for three years? I have seen the system work very well here, but I think, as there is another LegCo election coming up in a couple of months from now and if, shall we say, we had two Members from... call them outsiders, members of the public who have not been Members, we would have the vast majority of this Council as an unelected body by anybody and I think that is wrong. I think the Keys should decide whether that is right or wrong.

**Mr Lowey:** That is the future. This is about the present and the past.

**Mr Callister:** Madam President, I beg to move.

**The President:** Can I make a comment before we move to the vote? My comment is this, that the Lord Bishop is here by right, and he is here with the concurrence of the elected body, who *have not* sought to change that and his vote is equal with anyone else's.

**Mr Lowey:** Quite right.

**The Lord Bishop:** May I make a brief statement and that is... Madam President, thank you – that I had already decided, before the summing-up speech that it was inappropriate for somebody who does not... whose position is not part of the democratic basis, even though the position is the oldest in the whole of Tynwald. I think it would be appropriate that I absent myself from the vote.

**Mr Lowey and Mr Wild:** I do not agree.

**The Lord Bishop:** That is my decision.

**The President:** That is a breach of Standing Orders, sir.

**Mr Lowey:** It is. You must be here and stay!

**Mr Downie:** No way out!

**The Lord Bishop:** Okay.

**The President:** The motion before Council is that the Bill be read a second time. Those in favour, please say aye; against, no.

**Mr Callister:** Divide. *(Laughter)*

**The President:** I have not called yet! The noes have it.

**Mr Callister:** Making sure, Madam President.

**The President:** Division called.

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

**FOR**

Mr Butt  
Mr Turner  
Mr Crowe  
Mr Callister  
Mr Wild

**AGAINST**

The Lord Bishop  
Mr Lowey  
Mr Braidwood  
Mr Downie

**The President:** There are 5 votes in favour; 4 votes against. The motion therefore carries.

**Electoral Reform Bill 2011**  
**Clauses considered and adjourned to next sitting**

**The President:** We will continue with clauses, Hon. Members.  
I think we will take clauses 1 and 2 together.

**Mr Callister:** Well, we could take clauses 1 and 2 together. Yes, I think that is not a problem, Madam President.

**The President:** Clause 1 is very short.

**Mr Callister:** If I can just get my paperwork in order here.

Clause 1, Madam President, is the clause which gives the Bill its short title.

Clause 2, which is the essential detail of the Bill, makes amendments to the Representation of the People Act 1995. Working through that, clause 2(2) is dealing with the qualifications for the membership of the House of Keys.

Sorry, Madam President... This one, and in fact most of the changes within this clause 2 are actually straightforward changes that include the Legislative Council into the legislation, as well as the House of Keys.

But working through those, clause 2(2) is an important one because it is a qualification for the membership of the House of Keys. In the Representation of the People Act, it tells us that a person may stand as a candidate to be elected as a Member for the Keys for a constituency if at that time he is nominated as a candidate who is of full age, is either a British citizen or has the right to remain in the Island and he is not the holder of an office of profit under the government of any country or territory outside the Island, and added to that, under this, will be that he is not a Member of the Council.

In other words, a Member of the Council, if he wished, after this Bill were to become an Act, to stand for the Keys, would need to resign his position on the Council. Conversely, later in the Bill it tells us the opposite for the Keys. This is an anomaly that has existed in legislation for a long number of years, where any Member of this Council could decide to step down, go to an election in the House of Keys, fail to be elected and simply return to their seat on the Council, which to me is decidedly undemocratic, as they have been turned down by the general public, to walk back into their seat.

We know from the past that Members, the late Victor Kneale, Dr Mann, still with us sadly... gladly, I must say – (*Laughter*) still with us. Then we come to the most recent case, which was Mr Singer. Mr Singer stepped down from the Council and decided to stand for the Keys in Ramsey, which he did. He had not resigned his seat from the Council and so, had he failed to be elected in Ramsey, he could have returned to the Council. (*Interjections*) That is the position at the present time, Madam President, and I stand to be corrected, but I understand that is exactly the position because certainly over 20 years ago, maybe pushing to 30 years ago, the former Speaker of the House of Keys asked a Question in Tynwald about this, because at that time the late Victor Kneale was going to leave the Council and stand for West Douglas. It was believed under legislation that he could return to the seat if he was not elected to the Keys.

If that still remains, which I believe it does, it is an anomaly that needs to be corrected and this would certainly correct it. But that is not the reason we are doing this, particularly for this anomaly; it is so that we are equal with the Keys. Once this Bill became law, it would no longer matter then because there was no particular reason to stand for the Keys or Council or to move from one to the other. So it is not a hugely important point, but it clears up the point that you would have to resign your seat if you wanted to stand for the Keys.

I have spent a lot of time on that, Madam President, so let me move on to the next element.

This is under clause 2(3), dealing with the extension of the House of Keys: in an emergency and during a period of national emergency, the Governor can make an order to extend the term of the Keys' office by 12 months. All this does is to include the Council in that, but not elected by the Keys. So we remove the words 'elected by the Keys' and it will then be 'elected by...' Sorry, it will then read, and let me read it as it will be then:

'The Governor may by order extend the term of office of the Keys or the term of any Member of the Council by a period of one year.'

So that just brings equalisation of that in.

Clause 2(4) deals with vacancies arising in the House of Keys. It removes the words 'the Council or of' a local authority. It just takes out that. It is a consequential amendment, Madam President.

We then move on to... I beg your pardon, it is section (5). So it is clause 2(5) and that one introduces a new section to be incorporated into the Representation of the People Act 1995. This makes provision for Members of the Legislative Council to be elected by public franchise and for the revision of the Island's electoral constituencies.

Looking at some of the detail of that, Madam President, at section 10A, this provides for elections to the Legislative Council to continue to take place separately from those of the House of Keys, with the date of such elections to be in line with the Keys – that is to say, on the third Thursday in September on the existing rotation of four Members every five years. This is so that all elections would take place on the third Thursday of September, whether they are Keys elections or Legislative Council elections.

Moving to section 10C, Madam President, this is where the new section is inserted and the list simply covers that... Sorry, that area is now covered.

Clause 10B is where there are casual vacancies and that stays. It makes the situation of the Council the same as it would be for the Keys when the casual vacancy crops up, either through death or resignation or disqualification and so on under the Constitution Amendment Act 1919.

Then we move to the constituencies and under section 11, the Island would be divided into eight constituencies. They would be drawn up by a Boundary Committee. Three Members would return to the Keys and one to the Council, and the Boundary Committee then would have to have regard to population distribution, as they currently have for the House of Keys at the present time. It deals with the work of the Chief Registrar and the way that maps are produced and so on, in the same way as elections for the Keys.

If we move to page 3 of the Electoral Reform Bill and look at line 15, subsection (7), you will then find there are a number of sections there which have straightforward changes and those are, in fact... if I make an example of one or two of them, they deal with adding the names or adding the Council into the legislation. So, for instance, in the portion of the Representation of the People Act about returning officers, it tells us:

'A returning officer may be elected and may vote...'

and nothing in this Act prevents any returning officer from being an elected Member of the Keys or any constituency. After the words 'Keys', we introduce, 'or the Council' and that goes into eight or nine sections of the Representation of the People Act. All those changes are to introduce all those in Council in addition to Keys.

I think I have covered section 11 there. Let me just make sure. Well, yes, good. We would be replacing the 15 constituencies with eight, retaining three Members of the Keys, one of the Council.

Under page 3, if we are looking at page 3 of the Electoral Reform Bill, subsection (8) deals with the issue of a writ. This is simply the issue of writs by the Governor and the period of notice required to be given for a Council election – that is within two months of the date of an election to Council.

Therefore, Madam President, I think we can move to subsection (9) on page 4, which essentially deals with petitions. I am not sure that any petitions of this kind taken to the High Court have ever been involved with House of Keys elections, but a petition has to be proceeded into the High Court, dealt with in open court without a jury. These are petitions where there has been some misdoing, shall we say, within an election and someone... one of the candidates brought forward a petition. So the section in schedule 3 of the Representation of the People Act, that is also included the Council in the same way as Keys.

Then we come to the number 8 under this new section, and this happens only once, Madam President, and that there would – should this Bill go through and become an Act and in law – be a requirement to decide which of the four Legislative Council constituencies would be first to a public election... which of the eight that have been created by the Boundary Committee. There would be a decision required as to which four go first and I have put that the President of Tynwald would choose the first four constituencies, and they would have to have a reasonable representative, a representation of the Island. So you would have, hopefully covering north, south, east and west of the Island and they will happen, as I say, only once because the remaining four constituencies would fall into place two years later when the following election occurs.

Then we move to the Members who would go out of office and when they would go out of office and in order for the February 2015 election, the Members who are currently Members of the Council at that stage would remain in office until the third Thursday in September for their election. So they would remain in office for about half a year, just over half a year until September, rather than have their election in February as the present situation.

And finally, there is one more important element here. On page 5 of the Electoral Reform Bill, the 17th line, this is subsection (6):

‘If the constituencies have not been approved under section 11(1) by the date of the general election of the Keys to be held in 2016, the Electoral Reform Act 2011 shall be deemed never to have been enacted.’

I beg to move clause 1 and 2, Madam President, form part of the Bill.

**The President:** The motion is that clauses 1 and 2 do stand part of the Bill. Those in favour, please say aye – (*Interjections*) I am sorry! (*Laughter and interjections*)

Do we have a seconder then?

**Mr Crowe:** I beg to second and reserve my remarks.

**The President:** Mr Lowey.

**Mr Lowey:** Rarely have I heard a more rambling... there was a comedian who was called a rambling, bumbling whatever... Rarely have I heard the Hon. Member – you will be able to tell me on Sunday who I am referring to –

**Mr Callister:** It was Rambling Sid Rumpo! (*Laughter*)

**Mr Lowey:** I have rarely heard my good friend – and he is my good friend, David Callister – come up with a less convincing argument for anything in my life, I really have not. I am being polite. Constitutions are a bit like reading your DNA: I cannot even begin to know what it is, but I do know they have got twists and they affect every part of us.

The only thing I can support on that is the first thing, the name of the title. The second part is full of so many flaws and it does not answer any questions at all, but leaves huge gaps.

In my good friend’s presentation, he mentions extending... the Governor has the power to extend the life of the Council, as well as the Keys, but he uses... and I am only using his words because I have highlighted them – and it will give the Governor the power to extend a Member’s thing, not the body corporate, not Council, but the body corporate. I presume what he meant was the body corporate i.e. the Legislative Council could be extended for a year, but he used the word ‘individual’ Members – just as in the Keys I would imagine it is the House of Keys, not each Member’s, but I have to take the words of what the Hon. Member has said in this debate.

Then I wonder what happened to the word ‘democratic’? We were lectured on democracy. What is democratic about putting the President in the guiding seat to pick and choose? By the way, the President will pick, no doubt, representation from the north, south, east and west. What if the north, south, east and west are not represented round this table? What will happen with that? You could have two from the east, or two from the north.

I mean, really, Mr Callister, you have got to do better than that! When you are writing the constitution or amending the constitution, you take one brick out, or you take one area out and it has repercussions and quite candidly, here we are dabbling with the constitution that could have ramifications – I use the phrase and it will come back to haunt me within a week – of consequences that we do not realise what we are doing. Quite candidly, in moving this second clause, I think Mr Callister has... And this is not what I would call filibustering or trying to prevent a stamping of feet, because I lost the vote on that Second Reading – it is nothing to do with that; it is the realities of, practicalities of putting it in place, legislation that is right and proper and fit for purpose and I do not think Mr Callister has shown that in any way, shape or form in clause 2.

I will be voting against clause 2.

**Mr Braidwood:** Yes, Madam President.

**The President:** Mr Braidwood.

**Mr Braidwood:** Thank you.

Following on from what Mr Lowey has already said, I just feel that it was not a convincing argument whatsoever for eight three-seat constituencies. As Mr Lowey said, for you to pick and choose four

constituencies which will be the first for election... because if this goes through, Douglas will probably have three constituencies anyway with the population.

If you look at the Members, we have already got in the House of Keys, eight Members for Douglas and probably with the boundary review which would have to take place and the population which has increased in Douglas and where you have a proportion of the same numbers in each seat, Douglas will probably, without doubt, have three constituencies.

Also, there is nothing in this Bill at all which shows you the cost because we are having additional elections as well. If you look at the sequence of public elections, which was in the memorandum which has been circulated, which probably will have to be put back, there would be elections in September 2013 for four seats of Legislative Council, those constituencies, which were chosen by the President; September 2015, another election to Legislative Council; and then, of course, in September 2016 we have the House of Keys; then September 2018 more Legislative Council; September 2020 more elections for Legislative Council; September 2021 House of Keys general election. So it is the additional cost: we know the cost for elections. There is nothing in this Bill at all to say how much all this is going to cost. It will be in hundreds of thousands without question: £170,000 in each five-year term. It is anticipated that the costs arising from the Bill in respect of elections to the Council will be £170,000 in each five-year term of the Keys.

So the additional money – and particularly in this climate – as Mr Lowey said, it was rambling, it was not, as far as I am concerned, a good argument to go along with this Bill and I will be voting for clause 1, naming the Bill and I will be voting against clause 2.

**The President:** The Hon. Mr Downie.

**Mr Downie:** Thank you, Madam President.

I think we have got a very good indication here of how dangerous it is to start to meddle with legislation. As Mr Lowey says, if you remove a brick from the wrong part of the wall, the whole structure will, no doubt, collapse.

The way this Bill is drafted, it is very difficult to follow and even in here, people who have experience of legislation can see quite easily it is difficult to get your head around it and the man in the street, I am sure, will be absolutely flummoxed with it and if this was printed, I dare say this was printed in the newspaper and somebody was to ask what it was all about, the public would be very hard pressed to come up with some satisfactory answers.

The issue that was raised quite early on by Mr Callister about whether a person from Council could retain their seat on the Council and go and seek a seat in the House of Keys, I think we want proper clarification of that, because my understanding is that, when you become a Member of the Council, you are a publicly paid official. Likewise, I was elected to the House of Keys from Douglas Borough Council and on the same day that I was elected, the law required me to resign from Douglas Borough Council. If there is an issue here, we need to be looking at it.

I am not aware in my time in here and my knowledge of Tynwald that we have actually had somebody who stood for the House of Keys whilst being a Member of the Legislative Council. Most people, if they want to do that, do the honourable thing and resign and say, ‘I have an issue here and I want to rather represent people who are in a constituency’, or ‘there is a constituency issue I feel the need to resign from the Council for, to go back and stand in the Keys.’ There are examples of that.

I think we would be the first to criticise, if somebody did stand and then was not elected and then expect to come back in here, I would think they would be absolutely pilloried by the press and everybody else and quite rightly so, because you cannot have your cake and eat it. You either do one or the other.

I think the way that the clause, the second clause is drafted, it is so unclear, and I just think that one of the issues we looked at in the Committee and tried to take in evidence was the spirit of the legislation itself and it is very hard to follow.

So I will not be voting for any of this, because I think that we are just meddling and as we get further into this legislation, we will be criticised here for fiddling while Rome burns. There are much more important issues to deal with and I think, if we spend hours and hours on this, which we could quite easily, because there are elements of it that just simply do not work, we will be hauled over the coals. We should have the courage of our convictions to stand up for what we believe in, and if it is not right, let us deal with it accordingly and vote it out and move on to the other pieces of legislation which are in the queue and ready for discussion.

**The President:** The Hon. Member, Mr Wild.

**Mr Wild:** Thank you, Madam President.

I think I am looking for clarification in my comments and wondered... to pick up my hon. colleague, Mr Downie’s remarks about standing for election for the House of Keys whilst being a Member of the Legislative

Council. If the Clerk is able to confirm the actual position there, I do not know whether we are able to confirm that –

**The President:** The position in the law is that you can do that at the moment, which is why Mr Callister is seeking to amend it.

**Mr Wild:** That is correct.

**The President:** That is the law, but the moral position is different. The moral position has usually required that the person resigns, which they have usually done. This is just to modify the law, to make it impossible to take that route.

**Mr Wild:** That is appreciated.

My second point of clarification is there is an agreement in principle that we need to have electoral reform or to progress a Bill for electoral reform, but it has been superseded in one sense by the Boundary Commission work and that is what is confusing me in terms of the clauses, because, in a sense they are not dovetailing in together –

**Mr Lowey:** They won't.

**Mr Braidwood:** Well, they cannot.

**Mr Wild:** I just wondered how you get round that, because from my understanding there is a general agreement, in terms of the fact that the Bill has – or the principle has been supported in the voting. Is it possible to revisit the clause to tie it into what is actually happening?

**Mr Braidwood:** Just vote against it.

**The President:** It is possible for any Member to amend any of these clauses.

**Mr Lowey:** Or defer it.

**The President:** It is possible for them to amend them in line with those boundary changes if they see fit. This is what we are here for. If you speak –

**Mr Wild:** I do apologise, but I am trying –

**The President:** It may be, Hon. Members, that we have rather rushed into clauses when you were not prepared for it, I don't know? (**Several Members:** No.) No, you are happy? Alright.

**Mr Callister:** Carry on, Madam President.

**The President:** Mr Wild.

**Mr Wild:** I just wonder then, whether we should be looking at the clauses, so that they reflect the actual reality, rather than –

**The President:** Can I just make it clear about the Boundary Commission position? They are acting on a declaratory motion in Tynwald where an opinion was expressed that they draw up boundaries of two-seat constituencies. They have to come back to Tynwald and be accepted, they are not a *fait accompli*.

So there are two options. If this goes through here in this form, it will go to the other place and they will express a view. If it seeks to be amended here to line it up with the Tynwald view, then it is in Members' hands.

**Mr Lowey:** This is primary legislation. This takes precedence over a declaratory resolution. A declaratory resolution is 'Tynwald is of the opinion...' but already my point – through you, Madam President, my view is quite clear. We have already received correspondence from the Boundary Commission, not just the House of Keys. This place here, so that was another issue I had with Mr Callister's opening remarks, that somehow they were dealing with them and not us. We are part of the constitution and it is affecting us, but we have already had letters from them saying, 'Tynwald has decided therefore...' on two-seat constituencies, we want your views on it. They have accepted that they are under instructions from Tynwald Court. In effect, they have got a declaratory resolution, which does not mean anything at all.

My only view on this particular one is that you are flying blind. You do not know what you are doing. You are hoping something is going to come out of it and you are hoping that the House of Keys will sort it out. That is usually what the House of Keys does in its legislation and sends it up here. How many times in your short time here, have you heard the Keys say, 'Oh, the Council will sort it out.' What we are doing today is returning a piece of legislation to the Keys and saying, 'We hope you will sort it out.' That is good for us and it is another nail in our coffin.

**The President:** Mr Wild, did you want to continue?

**Mr Braidwood:** Madam President, I was really –

**The President:** Mr Wild, please.

**Mr Wild:** Sorry, I am just concerned that if we have agreed something in principle, which is fine, but I think that we should be... if we are sending it into the Keys, it should be sent in a format that more reflects... I would appreciate some guidance –

**Mr Braidwood:** Madam President –

**The President:** Sorry, Mr Butt is next to speak.

**Mr Butt:** Thank you, Madam President.

Can I say that I read this last year at the time, went through it very carefully and I thought I understood it. I have now had the explanation from Mr Callister and I now have some concerns about some elements in here, which I had not had before.

I would like, if it is possible, an adjournment to go back with this, with the Representation of the People Act 1995, for my own sake, to go back with this, look at that Act again, to actually align what Mr Callister said with the original Act and what this new clause inserts, because if we can have an adjournment, Madam President, I think that would give me a lot more clarity in what I was voting for; I was going to support it, and that would delay us until early January.

I would ask, Madam President, for an adjournment.

**The President:** We have a proposal for an adjournment. Is that seconded?

**Mr Turner:** Madam President, I would like to second that proposal.

I think it is clear from the debate this morning that there are so many issues here that, none of us are really sure what the consequences of some of these amendments are going to be. I take the point, Mr Wild has made about sending the legislation in good shape, but the fact is I think I have heard the comment from my hon.

colleague, Mr Lowey, that we seem to be flying blind here and there is a lot of confusion as to what some of these amendments mean and what the effect of some of them is going to be.

I think if we are going to send this Bill to the Keys, then we have a duty to make sure it is technically correct. After all, that is our role. It could be seen, politically, as delaying tactics and all the usual nonsense that we hear, but the fact is, as a revising chamber, we would be doing ourselves no justice to send deliberately a piece of flawed legislation to the House of Keys for them to sort out, when this is our primary role.

The difficulty is, of course, that the legislation deals with the reform of this Chamber, which is why I feel Members are possibly uncomfortable with being the Chamber that is dealing with the revision of the legislation. Whilst it is our primary role, I am uncomfortable with reforming ourselves, hence why earlier on in the debate, I said it should go to them, but again we are dealing with technical issues now; that is our actual role and it is clear that none of us is really sure where we are going with this, which is why I will support Mr Butt's motion to adjourn this so we can have proper consideration.

I do get the impression that maybe Mr Callister was not expecting the Second Reading to pass this morning, but anyway, it has and again, I will support the adjournment.

**The President:** Does any Member wish to speak to the adjournment?

**Mr Downie:** Yes, Madam President.

I did say in my opening remarks that we were opening Pandora's box here and there are so many uncertainties with this Bill and there is no doubt in my mind that there are parts of it that really need to be very carefully considered. Events have overtaken us. What is happening with the Boundaries Commission is completely out of kilter with this Bill. If Members are seeking an adjournment, I would support that, but I would just say to you, you are only putting off the fatal day, because in the present form that it is in, it is very difficult to comprehend, there are too many imponderables and all we are doing now is virtually fiddling while Rome burns.

**The President:** The Hon. Member, Mr Callister.

**Mr Callister:** Yes, Madam President, if Members are that uncomfortable with this, I am happy to have it adjourned until the next sitting. However, it is clear from this document that these are all amendments to the Representation of the People Act 1995. Members have had an opportunity and time enough to look at it. I have had to go through it obviously and all of these things make perfect common sense to me, these changes, and they are basically in order to make the eight threes and so on and make the changes fit. That is all they are for.

However, if Members want to examine that and go through it, I would be happy to let them do so, but I would like to see that we return to this at our next sitting. Just to deal with one or two of the comments that have been made.

In connection with the President of Tynwald deciding where the first –

**The President:** We are not winding up yet.

**Mr Callister:** We are not winding up? We are just dealing with the adjournment. Well, in that case, Madam President, I will not object to it.

**Mr Butt:** Having raised the adjournment, my main reason was because I have read the 1995 Act over a year ago, I am afraid, and to try to align these two up today is not working for me from the explanation of the mover, so I would like the time, personally, to actually compare the 1995 Act with these amendments and see how they fit.

I am sure the mover has researched it properly and it does all fit in and he has the reasons for all the amendments as they are, but I felt slightly uncomfortable about going ahead with the vote today without refreshing my particular memory and I think other Members may be feeling the same.

**The President:** Right. The motion is that the consideration of – may I propose that we consider – take clause 1 to dispose of that – but clause 2 and the remaining clauses be adjourned until our sitting on 22nd January. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Can I propose that the mover might produce a schedule which shows the actual changes to the legislation, which might assist Members?

**Mr Callister:** That can be done, Madam President. If it is only a matter of – yes, it is possible to do that, although they are all pointed out within the Bill. It is quite clear which sections they are. They are all fairly

minor amendments; the addition of a line here and a line there, a word taken out, three words put in. It is not a complex matter.

**The President:** Okay. Can we take clause 1 then? Do you wish to formally move?

**Mr Callister:** Just to formally move it, Madam President.

**The President:** The motion is that clause 1 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

The matter is adjourned until 22nd January.