

**5. Tynwald Standing Orders Committee –
First Report 2020-21 – Management of Business –
Report received and recommendations approved**

The Chairman of the Tynwald Standing Orders Committee (Mr Speaker) to move:

That the Tynwald Standing Orders Committee First Report for the Session 2020-2021 – Management of Business [[PP No 2020/0211](#)] be received and that its recommendations be approved.

3145 **The President:** We move on to Item 5, Tynwald Standing Orders Committee. Chairman of the Committee, Mr Speaker, to move.

The Chairman of the Tynwald Standing Orders Committee (The Speaker): Thank you, Mr President.

3150 The Standing Orders Committee of Tynwald has reported on proposed significant changes to the management of business of Tynwald Court. This Report has been long in preparation and the Committee has consulted chief officers in relation to the practicalities of the new system.

3155 We recommend a series of changes to Standing Orders in two principal areas: the notice to Members and the public relating to forthcoming business; and the treatment of statutory documents that come up for debate. In addition, there are some smaller modifications of the rules which we put forward covering Written Questions and reordering of business so that substantial business is taken earlier in the sitting.

3160 We recognise that these changes will require considerable reorganisation of procedures and that the introduction of the changes will be delayed until after the General Election. In that connection, I refer Hon. Members to the Memorandum of Dissent at Annex 3 of the Report, which Mr Thomas has included; he comments on this aspect of the Report. He also registers doubt about the Committee's views in relation to subordinate legislation. I am sure that he will make his views known during the debate.

I turn first to the idea of a register of business, which was indeed proposed by Mr Thomas, as he says in his Memorandum of Dissent.

3165 Recommendation 1 sets out the plan for a rolling register of business for the Chamber. The Committee recommends that a rolling register on the Tynwald website be instituted on which papers to be laid and motions with related documents could be placed for future sittings. The Register would be in two parts: part one would be for papers, motions and related documents for future sittings of Tynwald; and part two would be for Written Questions to Departments and others.

3175 The purpose of this register is to allow Members more time to examine the matters placed before them and the supporting documents. I think that all Members will understand that the time within which we must consider complex policy issues and subordinate legislation is too short. This proposal is a recognition of that fact. As policy becomes more far reaching, and the attendant legislation more complex and voluminous, we all need to have more time than before to read and discuss matters put before us for decision. The two weeks' notice period is now completely out of date and does not allow the quality of scrutiny that the public expects.

Recommendation 2 defines the status of papers lodged for privilege purposes and is a technical provision.

3180 Recommendation 3 makes it clear that the early publication of Papers is desirable, in order to allow Members the maximum possible time for consideration. It should be the exception that papers or motions be included on the Order Paper without first having been lodged in the register. Items for debate should ideally have been published on the register at least six weeks before they are due to be considered in Tynwald; this is especially important for Statutory Documents which form part of the law.

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It is hoped that this will revolutionise the way in which Members are able to scrutinise Papers and, where appropriate, seek research assistance or ask questions informally of the Department.

3190 Turning to Recommendation 4, the register will not be exclusively for Government business, although most matters will be in that category. One significant change is that Members would be able to put amendments to motions on the register of business and therefore have their proposals open for public discussion well in advance of debate in Tynwald. We have proposed that Members may indicate support for amendments by putting their names on the register, although this would be a voluntary indication of support, of course. It imitates the provision in other parliaments.

3195 We therefore recommend that business shall not be placed on the Order Paper unless it has first been placed on the register of business, without the permission of the President and they may not be taken without the consent of Tynwald Court. We also recommend that any amendment that relates to a motion on the register of business shall be placed immediately after that motion on the register of business if the Member submitting the amendment wishes.

3200 We accept Members want their register updates more or less frequently and we look to deliver this flexibility as the system is developed.

Turning to Recommendation 4A, Members' names on amendments. Where a Member has put an amendment to a motion on the register of business, Members would be permitted to add their names to the mover's in support of that amendment.

3205 Turning now to Questions, the Committee discussions in relation to management of business also covered the treatment of Questions. As a result, we propose a change in the treatment of questions and Recommendation 5 deals with this.

3210 We recommend that the arrangements for dealing with Questions from Members to Departments and Offices should be amended by treating Oral and Written Questions as separate exercises: (a) All Oral Questions would be published in the Question Paper relating to a sitting, and all Written Questions would be published on the register of business until they are answered; (b) Written Questions could be submitted at any time during the year, but only in Tynwald – there would no longer be Written Questions in the Branches as they would be unnecessary; (c) The Answers to Written Questions would be published within two weeks after the Clerk of Tynwald has formally sent them to the answering Department, Board or Office, unless the President allows a delay to the reply. The current arrangements for Written Questions in August and September will be replaced by this rolling programme of Written Questions. The time limit for reply in August and September would be longer in order to cope with absences of staff in Departments.

3215 Answers to Written Questions, along with the relevant Question, would be published separately in *Hansard* in a rolling list that would no longer notionally be connected to a sitting in the Chamber. We therefore recommend changes to Standing Orders as set out in Recommendation 5.

3225 Recommendation 5A recommends a review of the Questions system. After 12 months, the Standing Orders Committee would be instructed to carry out a review of the system for Questions in the light of these changes and to report with recommendations.

Recommendation 5B changes the rules relating to grouping Questions to make answering Questions on a particular topic easier.

Recommendation 6 changes the deadline for submitting Questions from five o'clock on the Monday of the week before a sitting to noon on the same day, which would hopefully expedite the Order Paper.

3230 I now turn to the treatment of subordinate legislation, which builds on the introduction of the register. The past year has shown Members that subordinate legislation needs careful examination and that a better system of debate and amendment needs to be provided for. This was clear to the Committee before the COVID pandemic, but experience during that time has underlined the need for reform.

3235 Recommendation 7 defines the proper use of subordinate legislation. It expressly states that the normal procedure using primary legislation for important areas of law making should not be set aside in favour of the use of subordinate legislation for such matters without very good reason.

3240 The system of examining legislation in the traditional way using primary legislation provides both Branches with the ability to examine matters in principle. It allows detailed amendments and gives legislation the time and effort that it deserves. It permits evidence on legislative proposals where necessary – whether by way of a Select Committee or the Committee of the Whole House – to inform discussion of the Bills and amendments. The Committee of the Whole House is an innovation that has proved its worth.

3245 Recommendation 8 notes that for matters of great importance or significant complexity, the current system of examination of subordinate legislation is completely insufficient. The institution of a register of business should result in the normal practice being that all subordinate legislation would be lodged in preliminary form of a proposed text at the earliest opportunity and would not formally be laid and debated until Members have had sufficient time to read and digest the legislative proposals and amend the preliminary text.

3250 Recommendation 8A establishes a procedure whereby if no fewer than eight Members indicate either by way of a motion on the register or by standing in the Chamber that they wish to refer the text of a piece of subordinate legislation to the Branches, then the matter should stand referred to the Branches for debate and vote. This would not apply to items that have already been through the Branches.

3255 Recommendation 8B allows urgent matters to proceed to Tynwald notwithstanding the request for a reference to the Branches. In those circumstances, we recommend that it is possible to allow the matter to proceed, if necessary on a Supplementary Order Paper; this would require the consent of the President and the agreement of Tynwald. This agreement should be voted on as a combined vote otherwise the matter could be delayed inappropriately.

3260 Recommendation 9 places non-contentious subordinate legislation at the end of the Order Paper so that matters which are likely to attract substantial debate will take precedence. The precedence of business on the Order Paper should reflect whether it is likely to attract considerable debate or not. Non-contentious legislation would be legislation that has not been referred to the Branches or otherwise noted as requiring debate, by way of a notice on the Register, for example – referred to in the Report as a ‘flag’.

3265 Recommendation 11 mandates the President to bring into force changes to Standing Orders proposed in this Report, if agreed to, by announcing in Tynwald that they have effect. When we wrote the Report, our aim was for the new system to be in place after the next General Election. This was a reflection of the revolutionary changes proposed in this Report, which will require careful thought about implementation. COVID has meant that the introduction before then would be impossible.

3270 If agreed to, these proposals will be an important step forward in modernising the procedures in Tynwald to allow greater discussion and thought about significant policy areas and legislative issues. The proposals will require a great deal of co-operation and willingness to make them work well; the working practices of Members and Tynwald itself will evolve in a new direction.

3275 There is one significant gap in what the Report has covered – financial procedure. The treatment of the Budget was a step too far for the Committee to deal with in this Report. The Committee does not propose any changes to the Budget procedure in this Report, not because there is general contentment with that procedure, I would say, but because it was a bridge too far! Discussion of that complex topic is for another day.

3280 Mr President, I commend the Report to the Court.

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

3285 **Mr Hooper:** Thank you very much, Mr President.
I beg to second and reserve my remarks.

The President: Thank you.
Hon. Member for Middle, Mr Shimmins.

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Mr Shimmins: Thank you, Mr President.

First of all, can I ask that we will be voting on each of these Recommendations individually? I was a bit surprised by the way it was presented on the Order Paper.

Is that agreed, Mr President?

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The President: Is that agreed, Hon. Members?

Members: Agreed.

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Mr Shimmins: Thank you, Mr President.

I am supportive of a number of the Committee's recommendations. Specifically, I think the electronic rolling register is a good thing. I think using technology to provide greater transparency and accessibility is the right way to go. So I very much welcome that as a positive step forward.

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However, there are a number of aspects of the Report which cause me significant concern, Mr President. I recall it was Harold Wilson who said a week is a long time in politics, Hon. Members. How long is six weeks in politics, Hon. Members? I would suggest it is far too long for submission of important motions. We live in a 24/7 world. Things are rapidly changing around us and we are actually *increasing* the length of time before things can be brought to this Court to have an important debate? That is a retrograde step, Hon. Members, and I would urge you absolutely do not support that. We need to inject *more* pace into these proceedings, not lengthen them, in my view.

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Also I am not comfortable with reducing the length of time that people have to submit Questions from 5 p.m. to noon. I think already there is a danger, because we are living in such a fast-moving world, that Questions having to be submitted significantly advanced can quickly be out of date by the time that they are answered. So lengthening the period that they have to be submitted in advance feels to me, again, the wrong direction of travel, Mr President.

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Other aspects: I am not sure about the referring subordinate legislation to the Branches. It feels to me that that potentially is overly complicated and I think also it could cause additional delay. It feels a bit like a sledgehammer-and-nut situation and I would be interested to understand the examples where this has caused significant problems. Because, yes, there have been some instances of flawed legislation which has been corrected. What has been the real impact of that, would be my question; and actually, how does that compare to the disadvantage of everything taking so much longer? And some of the subordinate legislation needs to happen quickly. So if that is delayed unnecessarily there clearly is a negative outcome there.

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We live in a world which is not perfect and there are pros and cons in every system. So for me I am looking for a real explanation about why the pros of this system will outweigh the cons, which I can see; and also why is this a sledgehammer to crack a nut, to be honest, because that is immediately what I think about when I look at that proposal.

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I note that one Member of the Committee, Mr Thomas, stated in his addendum to the report that: (a) he felt it was potentially cumbersome and bureaucratic; and (b) of doubtful incremental value. Those things resonated with me when I read those comments, so well done, Mr Thomas, for putting those down in writing, in my view.

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Some Members may consider this as an interesting academic exercise and looking to seek perfection, and I get that. This is an interesting thing but actually we are dealing in the real world and speed matters, Hon. Members. I would suggest we do not need more bureaucracy and, personally, I find the slow pace of a number of things in this Hon. Court very frustrating and out of step with what happens in the real external world outside of this Hon. Court.

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I would submit, Hon. Members, we do need to see change but that change needs to enable this Court to be more nimble and more responsive, not slower. It is a step backwards to slow things down and make them more complicated, so I would urge Members to reject these retrograde Recommendations, in my view.

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I also take this opportunity to ask the Chairman of the Committee whether the Committee considered amending our operating hours during its deliberations. (**The Speaker:** It didn't.)

3345 As many hon. colleagues will be aware, I have previously raised the fact that we have the longest parliamentary summer recess in the British Isles and have recommended that we return in September in each normal year. I would be interested if that has been debated at all by the Committee, because again that would enable this Hon. Court to be more responsive, more nimble.

3350 Clearly we have all taken part in regular additional sittings during this emergency period, but that is, I would suggest, an emergency situation and as we look to return to normal is this not the right time – whatever normal might be – to look at whether it is right that this Hon. Court continues to have the longest parliamentary summer recess of any Assembly or Parliament in the British Isles. Is that something, Hon. Members, that you are proud of? It is certainly something that I am not proud of. I do not think that reflects well on this Hon. Court or any of its Members.

3355 I understand that this dates from the time when the majority of Members were farmers or wealthy landowners, or both, and they went back to their land to help bring in the crops over the summer period. Now, with the exception of a couple of Hon. Members, I do not believe this is still the case in this Hon. Court. I believe it is time for a real review of those hours.

3360 I think we should also look at our starting and finishing hours. We maintain very old fashioned hours, starting at half past 10 in the morning. I do not know any other business meetings that start regularly at half past 10 and sit till eight or nine in the evening –

The President: Hon. Member, would you stick to actually what is in the Report, (**A Member:** Hear, hear.) what we are supposed to be debating, and not other aspects of parliamentary practice procedure?

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Mr Shimmins: I am happy to do that, Mr President, but this is the only report I have seen for some time from this Committee – (**The President:** Well –) (**The Speaker:** The motion –) so I think it is right to ask about the omissions. (**A Member:** Hear, hear.) I am about to finish, Mr President.

3370 I would just perhaps ask Hon. Members to consider that the make-up of this Court is changing. There are fewer grey-haired men – like me. (**A Member:** Hooray!) (**A Member:** Agreed.) (*Laughter*) But that is good and if we want more diversity it would be sensible to have more family-friendly hours. So I would like the Committee Chairman to respond and tell me why the Committee has not considered more modern, real-world hours for this Hon. Court, because we are operating in a changing world and the pace of change is accelerating, Hon. Members. This Report is simply out of step with those trends. We should not be slowing things down. However well-intentioned these proposals are, that is what they do. I would submit that we are heading in the wrong direction and rather than accept this Report, we should be looking for more pace, more pragmatism, less procrastination. That is what is needed if this Hon. Court is to support the Island at this time.

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Thank you, Mr President.

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A Member: Hear, hear.

The President: Hon. Member, Mr Cannan.

Mr Cannan: Thank you, Mr President.

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I rise actually in support of many of the comments, or some of the comments, that have just been made by my good friend from the Treasury and, indeed, perhaps also to support the view expressed by my good friend next to me, the Hon. Member for Douglas Central, Mr Thomas. Indeed, if the master of bureaucracy himself is concerned about having a bureaucracy (*Laughter*) then I, too, am seriously concerned about the ramifications that might be implied from this Report. But I will try and be concise, Mr President.

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I do share some of the views, as I said, of my hon. friend who has just spoken, because I feel that what is happening here is we are trying to modernise the process without modernising the

3395 infrastructure that surrounds it. Having looked at this, this feels to me like trying to follow either the Westminster site type of model – but I point out to Hon. Members in doing so the Westminster model is a parliament that meets daily, regularly, has a variety of transactions and processes throughout that day; there is quite a good structure attached to it in terms of the way that things are managed. For me, this feels that we are potentially stepping backwards.

3400 I just want to try to deal with the points that have been raised. I am actually happy to support the creation of the register, and I am happy to take a view that parliamentary business should go on it. Although I do find the recommendation about six weeks to be highly confusing because the Report does not really make it clear to me. It kind of implies that somebody can submit a piece of legislation within hours of the deadline as long as it goes onto the register before it appears on the Order Paper. But it seems to me to be: what is the point?

3405 It does not really provide a guidance, it appears to get itself very frustrated or appears that Tynwald should be extremely frustrated if the Government has not put a piece of statutory legislation or order within six weeks but then kind of says, ‘But actually, well, it won’t really matter as long as it is a few minutes before the deadline. We can’t really do anything about it.’ I find that a very strange way, because I think for me that is just going to create frustration amongst Members, who of course will then stand up and say, ‘Oh, we hadn’t had enough time to look at this piece of legislation,’ but actually people had acted perfectly legitimately in submitting it without a formal process or procedure attached to that.

3410 So I am confused. I find that issue about this six weeks being maximum possible times and minimum possible times is actually not really helping the process. Great news if you get it in on time but, as my hon. friend Mr Shimmins points out, it is a fast-moving world we are living in. Things are being brought forward under often quite a lot of pressure. People are working to deadlines. Things happen around us that mean that legislation or orders etc. have to be brought forward at quite short notice and ideally within the Order Paper most of the time the Government works quite well within that basis and, yes, occasionally on supplementaries.

3420 The other issue where I am getting very concerned is this business of complex legislation, but I have not heard the core examples of what the Speaker is actually talking about. It is not really expressed in the Report. It just seems to me to be a very subjective view about something that is complex and something that is not complex. But of course again, Hon. Members, our job is not here to obstruct the process of Government.

3425 Also I have not actually heard a Member really come into this Hon. Court after the Order Paper has been published for basically two weeks before the sitting to complain voraciously that they have not had a chance to study what are generally speaking fairly straightforward pieces of legislation. Okay, yes, occasionally something a bit more complex, something might need a little bit more explanation, but I am not actually aware or have not really heard a convincing argument put forward that this should be brought forward in this way.

3430 Frankly, Hon. Members, it is quite clear to me that Tynwald has the ability to throw these things out and *vis-à-vis* obtain exactly the same process, but Government can act more quickly and more efficiently to sort out the problem, I would suggest, by direct liaison, rather than having to go through this process of going through the Keys, then through Legislative Council, then backwards and forwards, amendments. Of course, that is then itself going to lead to questions about primary legislation and in the end, are we actually just going to slow down and create more bureaucracy, as my good friend Mr Thomas has pointed out?

3435 So I remain unconvinced because I do not believe the case has been properly made for that, but more importantly, it might work in Westminster where you can meet the following day and get on with it, but it is very difficult whilst we retain our current infrastructure.

3440 Moving then to these issues of these Questions, so basically Written Questions – and I raised this point when I spoke to the Speaker at lunchtime – but Written Questions and the Order Paper have traditionally been a clear reference point for our constituents who follow politics closely and want to know what is going on. Many of my constituents will get that Order Paper, will see and go through all the Questions and will have a clear and transparent understanding of what has been

3445 presented to parliament. On the basis that Questions just get submitted at any point, my assertion
at the moment again is that actually you are going to have a loss of transparency in terms of a
focus for the public. It may suit you as a parliamentarian when you get an update through on your
email every time an amendment comes in or out or a new Question gets submitted, but really
members of the public, do they want their inboxes filled with Questions every time a
3450 parliamentary Question pops up?

Whilst we meet on a regular basis, once a month, it is a nice consolidated process but if we
were meeting daily or even three times a week or once a week ... Maybe Tynwald should meet
once a week. My hon. friend, Mr Shimmins, really does raise some relevant points about the way
you are going about your business if you are going to be in a modern, a fast-moving, fast-paced
3455 environment, rather than this laborious six weeks before something has got to be submitted and
then Written Questions, you do not see those any more on a consolidated basis but they come
through at any point in time.

I am not convinced. I have not seen anything yet that is convincing me that this is going to lead
to greater transparency, except I am willing to concede at the moment that creation of some sort
3460 of register could work.

The other point that I wanted to raise, Mr President, is again I am happy about the Standing
Orders Committee carrying out reviews. Fair enough, some amendments to the Oral Questions,
but again, the subordinate legislation for me, I have not heard anything that has convinced me
that there is an absolute need. In fact, I would say subordinate legislation is a minority need and,
3465 indeed, Tynwald has the power to be able to control that in any case by rejecting the order and
having it debated at a later date.

So I am all for pushing forward, Mr President, but I would suggest to Hon. Members – in fact,
we have seen this argument when we had the debate about Questions last week – that there is
actually a need to seriously consider the whole infrastructure around this, not just Tynwald
3470 working on a monthly basis. I think that actually, if we met more regularly, for example, and I do
not necessarily have a strong view on that, maybe some of these problems could be solved in a
much quicker and much more agile way. If we met when we do meet and we had, for example,
policy debates and legislation associated with particular Departments we could bring real focus
perhaps to the weight of both. So the Minister is answering Questions and to the specifics of that
3475 debate, whether that be on an update basis or whether that be on a formal annual report type
basis.

So there is quite a lot to do, Mr President. I will give some support to this Report through the
register, but I have some serious concerns about the way we are going and I am struggling to
support the change in the Questions and I am still struggling to see how the subordinate legislation
3480 route is actually going to improve things for our constituents.

That is the bottom line, Mr President: this is not just about us, this is about our constituents,
doing the best for them, allowing Government to function and of course holding it properly to
account. But I believe that it needs to be conducted in such a way that our constituents can
properly understand and follow what is happening at the moment with proceedings and have a
3485 proper reference point for both Written and Oral Questions.

My final point is, again, perhaps I might be being a bit subjective here but actually I think the
Hon. Member's point about press at lunchtime and Members not working to deadlines for press
benefit is actually potentially also a negative. I think, again, from a public reporting perspective,
the production of an Order Paper with all the Questions consolidated actually allows the press to
3490 properly report and decide and determine from those Questions what is indeed a priority for them
when it comes to reporting.

Thank you.

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

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Dr Allinson: Thank you, Mr President.

I would like to thank the Committee for producing this Report, but I must admit I found it overly complicated and I had to keep on referring to, 'What was the original problem this was trying to correct?' and that is where I found a disconnect between the two.

3500 I would like to reiterate my support for the previous two speakers in terms of we need an agile parliament, but also one that is quite visible about how the mechanisms work, and whilst I can see the benefit of having a register, the way that Written Questions are dealt with seems to be pushing it to one side, that they would not even appear on the Order Paper any more, and we would have to keep on referring our constituents, 'Oh, go and have a look on the website because
3505 that is the only place you can find out when Questions are going to be.'

I can see the advantages of that during the summer when we are not sitting, absolutely, but not when we are sitting. Often you will read the Answer to a Written Question and that will stimulate more debate the following week for Oral Questions, and if you disconnect those you lose that ability to go into more detail.

3510 In terms of the subordinate legislation, again, I found this whole matter really quite confusing. As somebody who has been sitting here for only a couple of years, this confused me even more. Sometimes we do have very complicated bits of legislation and obviously the drafters and members of the Department are often in the Gallery, we see them coming in to answer any particular questions. I do not know how you would classify non-contentious subordinate
3515 legislation, because sometimes while we are going through a sitting, during a debate we suddenly realise, 'Hang on a minute, somebody has come up with a really good point and actually, no, I am not happy with that. I thought I was but ...' That is the power of debate and the fact that we have got 24 different sets of eyes here *and* the Legislative Council to scrutinise this, sometimes one Member will see something that everyone else passes over.

3520 So I am concerned about this idea that, 'Oh well, nobody is bothered about it so we will put it at the end while everyone is dozing off and thinking about getting home.' I find that a little bit patronising really to the importance of some of this legislation that is coming through. We are dealing with complexities of how we organise parliament, the complexities of how we do things. Is this making it simpler? To me, the answer is no, I think it is making it more complex and more
3525 opaque in some ways.

So whilst I am quite happy to vote in favour of some of the recommendations – a rolling register, those sorts of things, absolutely – I completely agree with the Hon. Member for Middle, Mr Shimmins, I would like to vote on this separately, the different recommendations, because there are some that I really do not think I can support because I cannot see how they have been
3530 thought out to actually improve the system we have.

Thank you, Mr President.

The President: Hon. Member for Middle, the Chief Minister.

3535 **The Chief Minister:** Thank you, Mr President.

I just want to major on Recommendation 3. I think it is my biggest cause for concern, although I do have some questions and I concur with my colleague, the Member for Middle, and also the Member for Ayre and Garff, Mr Cannan, as well as Mr Shimmins. (*Laughter*) Michael! Michael, and Ayre, sorry! It is a big constituency! (*Laughter*)

3540 Obviously, we had a presentation advising us that officers have responded and met, and I looked into this and supported. The officers wrote back on 18th October 2019! I got asked by the Member for Onchan why we were taking so long to take a document into Tynwald, and I said, 'Well, actually, we are two months behind where we said we would be because of COVID.' *This* was going on 18 months ago and well before, so it has probably taken three years to get where
3545 we are. So Members can take that on board for what they want.

But Recommendation 3, I was led to believe that the chief officers had agreed that, but what they actually said, and I have the letter in front of me, is that, 'The principle of putting documents as soon as possible was a good thing.' I do not think anyone would disagree with the principle of

3550 getting a document ... We are living in a fast world when things have to move really quickly sometimes.

They then go on to say in their response to the Committee, or to Mr Speaker, 'From a practical perspective, the six-week minimum time required prior to publication may mean that a piece of Government business may need to start its approval some three months prior to the date.' It is not often I agree with my good friend from Douglas Central, Mr Thomas, but I am afraid he nailed that one to be fair to him. I am really surprised that we have got Recommendation 3 in.

3555 Moving on to Recommendation 8A – I am saying this a little bit tongue-in-cheek – if we are going from having two-thirds majority of people extending to simple majority we have now got eight people deciding: a minority dictating to the House what is going to happen and potentially delay a piece of legislation going forward. So I am just wondering, why eight? Where did the Committee come up with eight people to move something on 8A?

3560 I agree with Recommendation 1, I am more than happy to support that, but I am glad that we are voting on this on a Recommendation at a time because there are elements that I do not agree with. I am very concerned, as you all know, about the Question Times over the summer holidays. I think the right to have Questions is important, but equally it is trying to ensure that some people can get a break and if we are bombarded constantly ... I have to sign-off on these Questions to make sure that they are right; if all that we are going to be doing is checking Question after Question throughout the entire summer holiday it just worries me, that is all.

3565 It is the practicalities of it. In principle some of this Report is good, but you then look down and you burrow down, 'Well, how is it going to work?' and I have to say I am disappointed with the Report, but that will do.

3570 Thank you.

The President: Hon. Member of Council, Mrs Poole-Wilson.

3575 **Mrs Poole-Wilson:** Thank you, Mr President.

I was a fairly recent joiner of this particular Committee, but I do not propose to talk about all the Recommendations, but this issue that has been flagged so far about secondary legislation is something that has deeply concerned me from joining this Hon. Court, and to say we do not have problems I think really does miss a trick. I think we all recognise that the GDPR example was not edifying. We have subsequently seen huge Brexit-related legislation published last minute and expected to be churned, with mistakes which were acknowledged and had to be brought back. We have moved amendments in this Hon. Court to address defects in the emergency powers legislation. I am not criticising our drafters or officers. I know how hard they work and I know how difficult it is to get this right, but let us not pretend we do not have something that we could improve on here.

3585 I am interested in the Chief Minister's comment about the length of time it takes to process Government business. Frankly, we could start there, would be my view. I have never known a more cumbersome process to actually get something to the point where it can come forward to debate.

3590 So Hon. Members, there is huge scope to be efficient and effective and so on. What also matters is getting it right, because we are talking about law. We are not just talking about a bit of paper or a bit of policy that, 'Whoops, if it is a bit wrong it does not matter because we do not mean anything by it, we are not going to enforce it, we do not care.' We are talking about legislation.

3595 I do not know about anyone else but certainly I was struck through the debates on the Climate Change Bill in Legislative Council how much care and concern there is about the secondary detail that will flow under that Bill. We have power in that legislation to apply UK Acts of Parliament as suit us to the Isle of Man. Publishing that two weeks out and expecting us all to have a quick go and come in here and either accept it or reject it, that to my mind is not a professional, competent way to ensure that we have decent legislation here. (**The Speaker:** Hear, hear.) The devil is in the

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detail, Hon. Members, particularly secondary legislation. I was not present in the House of Keys for the Landlord Registration Bill debates, but I am thinking there were one or two questions about the detail of the regulations that will come forward under that legislation in due course.

3605 So Hon. Members, I think we do have an issue to address. Let us not pretend this is not a thing we need to look at and get better at. This Report and its Recommendation is putting forward a constructive suggestion that once secondary legislation – particularly complex, detailed regulation that affects the lives of our citizens – is ready to roll, it absolutely should be published, because that gives us time to look at it properly. More importantly, it gives the public, interested parties, businesses, all the people whose lives we affect by this detail, (**The Speaker:** Hear, hear.) it gives
3610 them time to look at it properly.

Surely it is better to front-load our effort and do it right to begin with, even if that means amending it before it lands on the Order Paper than to have the situation we do see where we come along and go, ‘Well, that is not right,’ and then it has to be withdrawn and then there is a delay, Hon. Members, there is a delay of a month before it comes back to another sitting of this
3615 Hon. Court.

So I think we do have an issue to be fixed. I support the proposal to try and fix it. I am sure it will not be the last word in how we can evolve and improve our business, but we do have to make some changes, Hon. Members. I would suggest it is better to front-load this effort, look at how we can be more efficient in the Government’s side of the procedure, get things out in the open and allow some constructive feedback and comment, recognising that things will not always be right. But it is better to get them out in a public way and allow that constructive engagement and feedback, and then lay something on the Order Paper that has had decent input from all those concerned. This is particularly an issue for secondary legislation and I would commend that we do take action to try and improve the present position.

3625 Thank you, Mr President.

The Speaker: Hear, hear.

3630 **The President:** The Hon. Member for Ramsey, Mr Hooper.

Mr Hooper: Thank you very much, Mr President.

I just thought I would try to correct some misunderstandings that have been put out already.

The Hon. Member for Middle, Mr Shimmins, talked about six weeks for important motions, and then he talks about reducing the timetabling of tabled Questions by a significant amount. It is five hours by my reckoning. It is just a deadline; a deadline is a deadline whenever it is. I myself
3635 tend to work on Questions over the weekend, irrespective of the fact that the deadline is 5 p.m. on the Monday.

Mr Shimmins: It is still slower.

3640 **Mr Hooper:** There is no actual impact on your working timetable, there is no impact on the Question being tabled. I am not aware that we are proposing changing the one week for Oral Questions in this Recommendation either. So actually, all of those comments are just totally wrong.

This has come out a few times actually. I think Mr Cannan, the Hon. Member for Ayre and Michael, mentioned this as well: the press response. I was not aware that Tynwald was acting to the whims of our 24-hour news cycle. I was under the impression we were here to represent the best interests of our constituents, not to make it easy for the press to pick up on salient points that may be important. There were 56 Questions in this sitting today; which of those will get press time? That is up to the press to decide actually. There may be 30 or 40 that are of vital national
3650 importance, there are only so many column inches they are going to fill. How many of those are going to get missed out? Will it be Questions around the price of hoggets, perhaps? Not important

to many but definitely important to some. Who decides? So this idea that somehow we are here to serve the interests of the news media is quite entertaining, I think.

3655 I also want to challenge this idea that everything will take longer. I am not sure that it will actually. I think the Hon. Member of Council, Mrs Poole-Wilson, hit the nail right on the head. If the Chief Officer's view is indeed that it would take more than three months for them to get something ready for a six-week deadline then actually more than half of that time, or *at least* half of that time rather, is Government holding things up, not the Tynwald process. I think that maybe Government needs to really consider how *it* plays its role in bringing things to this Hon. Court.

3660 The idea of the recess and why this was not considered: I think the reason this was not considered, at least from my perspective, is because Tynwald overwhelmingly rejected reviewing the recess dates when a motion was brought. However much you may agree or disagree with the proposition, I do not really think it is the job of a Committee of Tynwald to do things Tynwald has specifically said, 'No, thanks. We do not want to do this.'

3665 But the one thing that I think is worth talking about a little bit is this idea of secondary legislation and the subordinate scrutiny. Members were asking for a concrete example of where this has caused problems. I will give you one, Hon. Members.

3670 Back in 2019, this Hon. Court debated and approved housing allocation policy – this was a general needs housing allocation policy. It was, in fact, debated twice because the first time it was brought to this Hon. Court the Department of Infrastructure had, quite innocently, I believe, identified a child as being somebody over the age of 18 years, which was quite frankly ridiculous.

3675 The Department acknowledged that this was an error, along with a few others, and withdrew the motion and brought it back again at the next sitting. So there was a four-week delay already as part of that process. But the reason that I think that piece of legislation needed far more scrutiny was because of the impact that it has had in the last two years since it was approved. The legislation removed all elements of flexibility around general needs housing allocation, so it introduced very strict criteria on who was and who was not eligible to be on a waiting list in the two years since this policy has been introduced. I have had countless instances of constituents who previously may have been eligible to be considered at least for some sort of dispensation, whereas now that does not exist. The Department of Infrastructure has told constituents they have no powers to exercise this discretion because they have removed it themselves by implementing this policy.

3680 An area that has had real impact is on this idea of having to be resident in an area for a set period of time. So the law is very clear, you must be resident in an area for three years. Now, a family, divorce happens, a single mother left at home with a young family, suddenly being told, 'Actually you are not eligible. You were only eligible to be in this property because of your partner. You have now broken up. Well, you cannot stay here. Sorry, no discretion.' That is a problem.

3690 I raised all these issues during that debate and I did not convince enough Members of Tynwald to vote down that disastrous piece of secondary legislation, and yet here we are. No matter how many times I raise these issues with Government, trying to force the Department to look again at this policy, I find it very unlikely that they will. I know that because it has been two years and they still have not.

3695 So this idea that Tynwald rejecting something is the ultimate arbiter – maybe it is, but it is definitely not the only effective one. Something like 99% of secondary legislation that gets laid in front of this Hon. Court gets approved. So are we saying that actually only 1% of things that are laid contain errors like this that will significantly impact people on this Island? No, we are not. I think the numbers are significantly higher than that, not through any particular fault, it is just the way it is. We are all human, everyone makes mistakes, everyone does not necessarily consider all the angles.

3700 To be honest, Dr Allinson referenced that there is always that one Member that identifies concerns with a piece of law. I am that Member! (*Laughter*) That is pretty much what I have been doing for the last five years and I can tell you that, from my experience of this, we do need a better process for dealing with subordinate legislation. I do not think anyone can argue with that

3705 question. Whether this is the right solution or not, that is a different question and I do not know if it is, but I am willing to give it a go. I am willing to say, let's try it and see how it pans out, and if it does not work then the Report recommends that in 12 months we look at it again and say, 'Did this work? Was it good? Was it bad? Did it have a negative impact? Did it slow things down? Did it speed things up?' Actually, let's try something. Let's not be afraid to give it a go and see what happens.

3710 In respect of applying other laws, this is another area where I think it is incumbent on us to actually pay some closer attention to. There is an Item on today's Order Paper which I have no particular issue with, but it is a really good example of this. It is applying EU Regulations around food standards to the Island. Now, the Order itself is just a mass of references to paragraphs and subparagraphs, and it does not mean anything, in and of itself, but in order to understand it you have to dig out the relevant EU legislation – Articles 1(36) and FIC Articles 2 and 3 of the Commission Implementing Regulation No. 2018/775. Great. Where is it? How big is it? Do I understand it? Do my constituents understand it?

3720 Who knows? And actually this is the kind of thing that possibly does need a bit more scrutiny. It might be absolutely fine. It might be that lifting this piece of EU law and applying it directly to the Isle of Man is the right thing to do. It might be that it is not, but I can assure you, Hon. Members, none of us really know the answer to that question based on what is in this document. You need to do a lot more work to dig under this, which will often take a lot more time than the two weeks that we have.

3725 That is the fundamental point and issue here. If Hon. Members genuinely think that two weeks is enough for you and members of the public to understand all the stuff that comes through this Hon. Court and to provide constructive criticism – because that is the key thing here. I do not want Members of this Hon. Court, backbenchers, just standing up and lobbing grenades for the sake of it. Criticism has to be constructive, it has to be positive, it has to be helpful. If it is not then there is no point in doing it.

3730 I think the timescales that we are left with almost inevitably lead to an element of negativity, an element of, 'Well, it is hard to be constructive because I do not have enough information, I do not have enough time to consult with people.' And as I have already highlighted, sometimes you cannot change it anyway, all you can do is raise the concerns, jump up and down a little bit and hope that somebody listens, hope that Government takes those views on board.

3735 So whilst I appreciate the comments that have been made around some of these provisions, I think that my underlying position on this is we need to try something different because the current system is not working well. So I would encourage Hon. Members to give this a go, give it a try, see if it works, and if it does not work, come back and fix it.

3740 I do agree actually that this has taken far too long to come to fruition. There are a number of reasons for that, but I think that is the thing that would be incumbent on the next Standing Orders Committee to say, 'Actually, if we are going to commit to a review after 12 months, it has to be a review after 12 months and it has to report quickly,' because we cannot implement a system that maybe does not work and then we end up stumbling through the entirety of the next administration with a system that is broken. So if we are going to approve this today, which I would absolutely encourage Hon. Members to do, we need to be very clear that it is going to be incumbent on us to absolutely keep on top of whoever the next Standing Orders Committee is to make sure that they absolutely deliver on this commitment.

Thank you very much, Mr President.

3750 **The President:** The Hon. Member of Council, Mrs Sharpe.

Mrs Sharpe: Thank you, Mr President.

3755 I stand before you as a member of the Tynwald Standing Orders Committee and I am proud to be associated with this Report and its Recommendations, because I believe they will enhance the scrutiny already carried out by both Branches.

I am not going to go through all the Recommendations which, if supported, will all work together in order to enhance scrutiny, but in general what I think the Recommendations would give us, if supported, is thinking time.

3760 If it becomes the norm that papers, motions and related information to be laid before Tynwald go onto a rolling register of business, Members would have maximum opportunity – that is, six weeks, to consider, discuss, and propose amendments in advance, if desired. In particular, I believe the Recommendations around subordinate legislation will have far-reaching and positive effects. Currently, Members do not always have enough time to get to grips with longer, more complex pieces of secondary legislation, and cannot make any amendments to subordinate
3765 legislation, even though, both in Tynwald and in Westminster, subordinate legislation is increasingly being used for more complex matters which will have long-lasting effects on people's lives.

In many cases, the current system around short and simple subordinate legislation works perfectly well; however, in cases where subordinate legislation is lengthy and complex,
3770 Recommendation 8A would allow the legislation to be lodged on the rolling register, read and digested by Members and, if necessary, examined by Policy Review Committees.

I know that some Hon. Members regard this as potentially slowing down ... things – (*Laughter*)

The Speaker: Oh, the irony!

3775

Mrs Sharpe: However in this case, I have to say, I think we need to be mindful of the old adage: more haste, less speed. And this point was so eloquently made by my colleague in Council, Mrs Poole-Wilson. Because if Members feel they have not had sufficient time to examine an important piece of subordinate legislation, if we feel we are being backed into a corner, if
3780 legislation has holes in it, if it has errors – and as she points out, this is the *law*! There is no room for errors – the legislation will be voted down anyway.

So why not try to get the legislation – I am sorry, I am trying to scroll on this clunky laptop; it keeps going backwards and forwards.

Why not try to get the legislation shaped into something everyone feels comfortable with in the first place before it comes to Tynwald? Because rarely is anything useful gained by making changes on the fly on the floor of Tynwald or by having to reject subordinate legislation and wait another month for it to be amended and to return for yet another sitting.

This recommendation would actually allow us to address issues in advance and this enhanced scrutiny – constructive criticism, as Mr Hooper says – will allow us to advance more smoothly. And
3790 this, Mr President, is the overall concept behind all the Recommendations contained in the Report: to give enough time for Members to think; make their opinions known in advance, if they wish; for relevant public bodies to comment in advance; and for Government to make amendments in advance, if necessary.

Mr President, I do not think that the positive effects of these Recommendations can be underestimated. I know that we on the Committee have been living and breathing these proposals for the past two years. We have had time to think about these concepts (*Interjection*) and to realise their benefits.

Mr President, I think it is important to point out that the Recommendations do not in any way prevent Members from exercising their normal rights to bring amendments on the floor of
3800 Tynwald; for Government to bring emergency legislation before Tynwald at late notice, if necessary; for the Hon. Member for Ramsey, Mr Hooper, to still spot errors on the floor of Tynwald – although I suspect he would not, he would see them in advance anyway, he would have plenty of time – and for normal Order Papers to be published in advance of a sitting.

What they do is to carve out time for Members to consider legislation and motions in advance;
3805 for Written Questions to be submitted on a rolling basis, instead of coming to Government all at once; and for any potential amendments to be flagged and dealt with in advance.

I would urge Members to support the Recommendations because at the end of the day they will make all our lives easier.

Thank you, Mr President.

3810

The Speaker: Hear, hear.

The President: The Hon. Member for Douglas Central, Mr Thomas.

3815 **Mr Thomas:** Thank you, Mr President.

As Mr Speaker and other Hon. Members have kindly noticed and mentioned, I have a memorandum of dissent to some analysis on a couple of the Recommendations on the subordinate legislation part of the Tynwald Standing Orders Committee, my memorandum being an Annex 3, dated 30th November 2020.

3820 As Hon. Members can imagine, the discussion in the Committee was full, argument was dogged, paragraphs and arguments were reworked over and over. The experience was both potentially significant – I agree with my colleagues speaking – and also certainly lively. I thank the Clerk for his patience and all Committee members for their participation, Ministers, MHK backbenchers and MLCs.

3825 I also thank personally the Chief Secretary and the chief officers for engaging with the Clerks since 2018 in respect of the practical operation of what is proposed to us. I actually want to agree with what the Chief Minister just said, because the senior officers were neither supporting it nor were they even commenting on the merits, just like we should expect from our public servants. 'Agreeing the principle' is senior civil servant speak for just that point. No, they were just
3830 commenting on the practical operations of the project, which is what we would expect from our senior civil servants about our Standing Orders in this independent parliament.

Also, I sent most of the analysis in the report and the recommendations derived from that analysis. For instance, a proposed approach to Written Questions which will change their perception, I agree, and use even by some Members and the timetable change for Oral Questions
3835 is sensible.

Moreover, I fully support the proposed two-part rolling register and the early publication of Papers for all of the reasons identified. In fact, I think it has been mentioned it was me who first proposed to the Standing Orders Committee, with Mr Hooper's support, the concept of the rolling register and its particular use for early publication of secondary legislation, which is what this is
3840 all about. That was in the summer of 2018, taking the opportunity when an issue came up with the Tynwald Commissioner for Administration Report's publication, covered in paragraph 17 of the Report.

I also welcome the ability of Members to put amendments to motions on the register and the relegation of secondary legislation in some cases down the Order Paper. Thus I will vote myself:
3845 for Recommendations 1 to 6, inclusively; for Recommendation 8B which allows for subordinate legislation exceptions to deal with the issues raised by Treasury colleagues, particularly but other people around this Hon. Court; for Recommendation 9, the Order Paper order; and for Recommendations 10 and 11, as far as they cover the implementation of everything, despite my recorded reservations for some of the Recommendations that I have just laid out. That is
3850 specifically again, 7, 8 and 8A; I will vote against those.

That is because of the treatment of subordinate or secondary legislation in them and, more generally, which has been picked up today, my disappointment, which actually triggered me to write the memorandum of dissent, which was the two-year delay back in November last year, an implementation of the rolling register, which could already, if it had been implemented earlier,
3855 have been bringing the benefit to things like the housing allocation policy that Mr Hooper quite correctly identified. We could have had this rolling register to help us in that sort of thing. Also the proposed continuing delay, given the proposal that the register and Standing Order amendments will only be in place after the General Election. That is less relevant now because we are six months

3860 on. But I do think the 12-month review is absolutely vital, and I do agree in principle that we need to experiment with this, because we have clearly got a problem with secondary legislation that we need to deal with.

3865 The delay arose, in my humble opinion, because of the extended discussion of the proposed approach for both Branches to have the possibility to consider and scrutinise separately draft subordinate legislation. The Committee got into that issue. Regrettably, from my point of view, I called it an issue. It is a rabbit hole. It is a much bigger issue and what we are really after is the best way to consider secondary legislation, throwing light on it and actually giving us time and stakeholders and experts out there.

3870 So, as has been stated by Mr Shimmins, I regard, as reported in my memo, potential consideration of subordinate legislation in the Branches to be potentially cumbersome and bureaucratic, which is the basis of my rejection of Recommendation 8A and of doubtful incremental value, given the enhanced quality, which will actually come and be brought about by the extra scrutiny arising from the introduction of the proposed register itself and the early publication regime, wherever possible. The sun shone on the drafts is what I believe will be instrumental in enhancing the secondary legislation, whether it be of Brexit, emerging powers defects, DoI legislation and all sorts of legislation that is complicated.

3875 I had a small issue, but I am less concerned about that now because the text, because of when it was written back in 2018, only really ever mentions GDPR, but I welcome the acknowledgement today that this is a wider issue and we never actually reviewed the GDPR evidence. It could turn out to be in two years' time when we get equivalent status that we took exactly the right approach to GDPR. That is something that I report in the memorandum. I would encourage review, if it is only in 12 months' time, starting now, of the whole process of subordinate legislation, taking into account that example and all the others enumerated by Mrs Poole-Wilson and Mr Hooper, particularly. I draw reference to all Hon. Members, as Mr Speaker did, to the section in the Report about the Budget sitting Order Paper in paragraph 9 actually, where it says that this actual treatment of subordinate legislation is a complex issue and deserves special inquiry; we really do need to have that special inquiry.

3880 This could take the form of revisiting the Select and Standing Committee report findings and recommendations of the last two decades, in my humble view, and that is what I have said in my memo of dissent, particularly those considered in 2006 and 2011. So this is not a new issue, it has been there for two decades. My first contact with the House of Keys and Tynwald was in about 2003-04 when I was invited as an external expert in secondary legislation to join an investigation into how we handled Select Committees. It was accepted – probably the only time Peter Karran ever got anything through the Tynwald Administration, but I actually joined as an external expert in to review back in 2003-04.

3895 So I remark particularly on section 15, about pages 33 and 34, of the Select Committee on Scrutiny and the Functions of the Standing Committee on Expenditure and Public Accounts Report of June 2006, about the option of our indirectly-elected Legislative Council, providing scrutiny of subordinate legislation, which started at 15.1:

15.1 We considered the suggestion that an indirectly-elected Legislative Council would have responsibility for the scrutiny of Secondary and EU legislation, and Council Members would not be eligible for government posts. ... It is envisaged that the Legislative Council could undertake this commitment, on a selective basis, on scheduled sitting days, and report to Tynwald as it saw fit." ...

15.2 One of the potential benefits would be that [Legislative] Council Members would specialise in and build up expertise in scrutiny, and if they did not have Government responsibilities, they would have more time to devote to scrutiny.

15.3 Members who put their names forward for election to Council would know what their parliamentary responsibilities would entail, and Keys Members would have the opportunity to vote for the nominees who they considered to be best suited to a scrutiny role. However it may be that very few people would wish to solely undertake scrutiny and give up any chance of serving in the Government. If that were the case, there may be problems in filling vacancies in the Council.

15.4 However, this revised role for Legislative Council may attract well-qualified or experienced persons from outside Tynwald to stand for election. Persons who formerly held high or senior office or had professional qualifications which would make them ideal candidates to undertake a scrutiny role may not wish to put themselves up for popular election, or undertake government responsibilities, but may consider putting themselves forward for election by the House of Keys.

3900 We have got excellent Members of the Legislative Council – excellent in scrutiny, as we have downstairs as well, but it is a very specialist function, especially when you come to EU and some secondary legislation, as Mr Hooper has very eloquently portrayed.

3905 So I close with two major points. The first is that, as I see it, if this two-Branch approach goes through, I believe it will be another step along the road to a reformed Tynwald with Legislative Council continuing its evolution to a Committee of Members advised by specialists who have ever more focus on detailed scrutiny of legislation, whether it contributes to the delivery of the policy intentions behind that secondary legislation.

3910 Number two, subordinate legislation is made under the authority of primary enabling legislation by Ministers and other bodies. That is the point of it really. Secondary legislation is made under primary legislation. If we do not want to give bodies the power to make secondary legislation do not create the primary legislation carefully in the Keys and the Legislative Council in the way that gives them that responsibility. The implication of what I have just said then is that great care is needed when primary legislation is put in place, which creates enabling powers for subordinate legislation to be made by a particular entity for a particular purpose under that particular law.

3915 So with that, Hon. Members, I thank the Committee for its work. I look forward to the review, whatever happens. I do agree that we have got a major challenge to address and this is good progress for it. We have got lots of templates in our two decades of recent history, and I do think we can now make good progress to actually give proper attention to secondary legislation, especially that made in the area of Treasury, in the area of the EU, in the area of things like data protection and technical aspects.

3920 Thank you, Mr President.

The President: Hon. Member, Mr Harmer.

3925 **Mr Harmer:** Thank you, Mr President, and thank you everyone who has been taking part in this debate.

3930 I think it is a very important debate and it needs unwrapping and unpacking, and I do not apologise at all for the length of time it has taken because it is right to take a long time on something that is so fundamental. It is also right that this is done for the next Election; that was always very clear in the Committees. So we need to consider these things carefully.

3935 But I want to make a fundamental point here. There is a fundamental part of this process that the Government or whoever is bringing the motion can use the two weeks and all they need is a majority. Quite frankly, if you cannot get a majority for your motion the motion is going to fail, and that is the fundamental point that has been missing in all of this: that you can get your legislation in the existing way.

3940 But, Hon. Members and the Members of Legislative Council, to say, like the Member of Council said, there is not a problem; there absolutely is a problem. Sometimes legislation has got through, secondary legislation that has had to be unwound later on. Sometimes it has been on the books for many years and had to be redone. So to say there is not an issue ... I would completely concur with the comment less haste, more speed. Sometimes rushing at things, doing everything in two weeks, having acres and acres of paperwork to get through, and to have any meaningful proper scrutiny, is absolutely fundamentally ridiculous.

3945 I always get intrigued when people say they want agility. Absolutely. This gives us a more agile response, because basically it allows us to flex to what we need. So, for example, if you want to carry on with the existing two weeks, absolutely you can; if you want to take the lower route –

and I know Members will know sometimes motions have got through that absolutely maybe should not have got through in their current form, but it is a yes or a no; fundamentally, that is it. You need the ability to actually drill down and get to it.

3950 When people are worried about the eight Members and the two Chambers, one of the issues is that that would only ever happen where the Government would support, because remember if it did not you would go back to the two-week procedure. But what it is saying is actually on something as complex, isn't it a good thing that we actually debate and discuss things and deliver? It is about a balance and it is about that flexibility. So rather than being less flexible or less modern, this is very modern, this is very flexible. I think it will produce things quicker but, more importantly, 3955 better and absolutely right.

So the point that was made in terms of this is law, this is absolutely the key thing. So I think this will give us more tools in the box and as a parliamentarian for my constituents, I think this is really important that we change this, rather than keep going with the old way. All we have had is the argument of sticking with the old way. I totally disagree with this. I want to deliver better for my constituents as a parliamentarian. I believe these changes absolutely will do. 3960

Just on the mention of the rolling register for Written Questions, an issue may come at any time, it may come up on a Friday, it may come on a Thursday. Why are we limiting it to this sort of old ratchet where all the Questions come in like a sausage machine? That may not be completely irrelevant. I think the point was made by the Hon. Member for Middle, 'Well, we should not have a deadline.' Well, that is the whole point with the Written Question. If you need to get that information, you can get that information and then the media pick it up on the relevance and importance of that issue. 3965

The issue around the deadline, which is a minor point really, was again the concept of more haste, less speed. Why rush everything before five o'clock through the Tynwald Clerks' Office to get a poor Question out when you can just have a few hours to get things better? 3970

So the whole process of this is to give us, to give you, more tools to scrutinise, more tools to deliver on what you want to do. So actually it is a pretty radical piece of recommendations. I recommend that we take this bold step after the Election and it will improve things, and you have still got exactly what you can do now. You can still say, 'If I want this and I have got the Government and my Members on board we do it in two weeks.' So nothing changes in that respect, so I think that point has been lost. 3975

Thank you, Mr President.

The President: Hon. Member, Mr Ashford.

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Mr Ashford: Thank you, Mr President.

I am going to start with one very basic phrase, which is secondary legislation is exceptionally important. Hopefully, that is not a controversial statement to make. In fact, it is becoming now just as important, if not more important in some cases, than primary legislation. The purpose of secondary legislation has been evolving not just here in the Island but across the world in whichever legislative you look at. It has gone from being a very old-fashioned, sort of mundane tool for once a year on raising charges here or there that you cannot prescribe into primary legislation, to more and more primary legislation trying to be flexible and allowing you to bring other measures forward to update measures in a fast-paced world. 3985

Of course, the way to do that, because primary legislation itself is quite clunky, is through secondary legislation. So you only have to look at the volume of secondary legislation now to, I would say, even for some Hon. Members who have been in this Court a lot longer than me, five or 10 years ago, the volume has increased and the complexity of that secondary legislation has increased as well. So I do not think that was a controversial thing to say. 3990

At the start of this debate, Mr President, I have got to be honest, I thought I had slipped into a parallel Tynwald for a while, because in my short time here, four-and-a-bit years, I have sat through numerous debates where people have said, 'Scrutiny, scrutiny, we need more scrutiny'; 3995

and then we are getting, ‘Well, we actually need to do things rapidly.’ We need to ensure that it is right, not rushed, Mr President, from my point of view, and that goes for secondary legislation.

4000 In terms of Written Questions, I think the rolling register is very sensible and actually it will alleviate the pressure that we have seen at the moment, particularly in summer periods – and I have seen that within DHSC where people have come under pressure to meet the deadlines and do it. It is much more of a rolling register, and I actually think that goes some way to resolving the issue we have with summer Questions, particularly in some Departments at the moment.

4005 A couple of Hon. Members, Mr President, asked about an example of where there has been issues with secondary legislation. I am going to take us back to the good old days, Mr President, of my very first sitting in this Hon. Court and also it was the first sitting of 11 other Hon. Members who are here. Back in the days when I had a bit more hair on the back and I did not look like I had been hit by a 10-tonne truck! (*Laughter*) (**A Member: No!**)

4010 But if we go back to that very first sitting a piece of secondary legislation that came forward that new Hon. Members had only really seen about a week before was the Psychoactive Substances Act 2016 (Application) Order. I know that is exciting-sounding as it is, but it was very important because it was the Order that dealt with legal highs and making it illegal for them to be dealt. It was then the Hon. Member of Council, Mr Anderson, who moved it, and I raised a point
4015 around the fact that part of the Order – again new Members had not long seen this Order – referred to dealing outside a school for enhanced penalties. I said, ‘But what about University College Isle of Man?’ because it does not meet the Education Act’s definition of a school. So you could have someone, for instance, in my constituency, which the College is in, in Douglas North, dealing outside Willaston School who gets an enhanced penalty, but someone who is dealing
4020 outside University College who would not get an enhanced penalty. So it was said it would be taken away and looked at, but we all duly voted through the Order so it went on to the statute books.

There was then a letter that came forward to Hon. Members, a message which is also on the *Hansard*, a few days later to say that actually it turned out I had been correct and that Treasury
4025 would work with Chambers to amend the legislation accordingly and thanked me for highlighting the issue. The amendment duly did come forward, but when did it come forward, Mr President? It came forward in the January 2017 Tynwald – 13 weeks after we had voted through that original Order! So for 13 weeks we had an Order on the books where, if someone had been dealing outside Willaston School they would have got an enhanced penalty, if they had gone up the road to Isle
4030 of Man University College they would not have. The six weeks does not seem so bad now, does it, Mr President? I think that is one of the key points.

So there are all things in here we can pick up on. As a member of the Committee, one of the reasons it took a while to come forward and Mr Shimmins shouted ‘slow’, I say ‘detailed
4035 consideration’. One man’s detailed consideration is another man’s slow. But one of the reasons it took so long is we all had different views on the Committee as well. We had to come to a broad consensus as to which way we were going to go forward, and this is it.

There are still mechanisms in there to allow people to use the current timescales, to be able to bring things forward if they are urgent. We are not shutting it down and saying there is no reason
4040 for urgency. There will always be reasons for urgency because we are moving forward in a fast-paced world and we have got to have that flexibility. But what we have also got to do is have due process and due scrutiny.

In the past, if we go back 10-15 years, maybe that was not quite as important with secondary legislation because of the nature of secondary legislation. The Hon. Member of Council, Mrs Poole-Wilson, has laid out very well in great detail some of the huge pieces of secondary
4045 legislation that actually have a fundamental impact on our society, so I think it is that we should be recognising secondary legislation is just as important as the primary. And in some cases, it is actually more important than the primary Act because of what more flows from it.

So I think that what the Committee has actually come up with is reasonable, Mr President. I quite agree with those who spoke and said that if it does come in it needs to be reviewed. To be

4050 quite frank, I think we should be constantly reviewing the processes and procedures that we
operate to in this hon. place. That includes working hours, which the Hon. Member for Middle,
Mr Shimmins, has raised because different parliaments operate differently. I know Jersey and
Guernsey, for instance, start their sittings at 9.30, but Malta and Gibraltar work in the afternoons,
they do afternoon sittings. If I get it the right way round, I think Malta starts at 5 p.m. when they
4055 have their sittings and Gibraltar starts at three in the afternoon. So different parliaments do
different things. We have to do what is right for us.

Time has moved on and all of our policies and procedures should be brought forward, but I
think the rolling register is an innovation. It is the right way forward and I would urge
Hon. Members to give it a go. If it does not work then the power will be in the Members of the
4060 the next Hon. Court's hands to unwind that if they do not like it. But if we are not going to try these
new innovative things then we are going to be stuck with the system we have now.

The President: Hon. Member of Council, Mrs Lord-Brennan.

4065 **Mrs Lord-Brennan:** Thank you, Mr President.

I agree with a great deal of what Mrs Poole-Wilson has said about secondary legislation. When
I joined the Court it was something that struck me as being of great concern, particularly to do
with Brexit and particularly because it was an all-or-nothing deal. Effectively, we had to put these
significant pieces of legislation through very quickly, and that was it really, wasn't it. So in a way it
4070 really was pretty much a rubber-stamp process to a degree, because actually the need to get
something through and the lack of ability to amend it meant that we *had* to put things through;
and I think that in itself struck me as an issue, because many of the things that we were bringing
in because of Brexit were the very things that the UK were wanting to get rid of, but here we were
bringing them in. And did we all feel entirely comfortable, perhaps, with all the different
4075 regulations and requirements we were, for example, putting on business in that regard? So I have
shared that concern since I came into Tynwald and I think definitely we need some better process
around it.

But I am not convinced that referring it to the Branches for secondary legislation is the right
way to go, and I am just going to explain my thinking in terms of how I think that would actually
4080 work in practice. Before I do that I will say that to me it seems like what the three, possibly four,
things that are needed in terms of secondary legislation, which have caused ... and when you say
subordinate legislation or secondary legislation it almost does a disservice to the weight of that,
because it is all law, it is all important and it is all something that relates to policy. So I would just
ask you to hold that thought in your minds as well.

4085 So for me the things that need to happen with secondary legislation that would be beneficial
are that, ideally, yes, I do think we need to see it sooner because the devil is in the detail, as has
been said. I think that it would be helpful, if it is going to be amended, that it would be amended
in Tynwald because I feel like where we are voting on a piece of legislation and where it is under
true consideration you should deal with that all in the same Branch, not separated out and then
4090 bring it back to Tynwald.

The reason for that is that if something gets referred to the Branches – this is how I will get to
how I think it will work in practice – it might get referred for being looked at by the Branches, it
will then go to the House of Keys and maybe some bits will possibly get picked up. Who knows
whether or not that will be in the context of a fuller policy understanding? Because if we are totally
4095 honest, and I know that certainly from my point of view, at the end of the process in Legislative
Council, I do not personally feel like we are totally settled with full clarity on what the full policy
is when it comes to our side of things, if I can put it like that. And that will continue to be an issue
for some potentially contentious pieces of secondary legislation, should they get referred to the
Branches. It will then get voted on in Keys. Maybe or maybe not, amendments might be successful,
4100 depending on the departmental set-up at the time and Members etc., and then it will go to
Legislative Council.

4105 What are Legislative Council going to do with it then? Because if we are going to have to have that regard to the possible policy and you are assuming that the Government and the Department wants to get that through, you have still got the influence of the departmental Members in there. So just set that aside because that in itself is a contentious issue and it is probably not coming forward with a policy paper or whatever, because we are not good at that either, it comes then to Tynwald and it has been amended – or not. But by that point, anybody in this Court can turn round and say, ‘This has been looked at. It has been scrutinised for weeks and weeks. It has been with the Branches for weeks.’ Then it will become a rubber-stamping exercise again because it would have been through that process and it would be like, ‘Okay, it is an all-or-nothing deal’.

4110 So that gets me on to the third point. So see it sooner, amend it; if it should be amended, it should happen in Tynwald, we have started doing that already; thirdly, there will be some things that we think, yes, Government needs this for now, but it should be temporary and that is where the sunset clause comes in. But I think that should sit with Tynwald, and I think that is where that should stay, not having been potentially won or lost or bargained over in the Branches.

4115 So I do think we need a better process. I would add a fourth thing to it though, because I think that if in Tynwald or before, maybe on the register, the possibility should exist perhaps, in my view... because let’s face it, legislation is not to everybody’s taste. I did EU studies in Law at university and let me tell you, I was not totally enamoured with looking at all the EU legislation when it came through. Maybe a little bit, Mr Speaker. *(Interjection by the Speaker)* It is not everybody’s cup of tea, right? So perhaps then there should be this nurturing of a specialism where actually at some point in that process, you say, ‘Okay, well, this is going to be an issue. It needs a deep look. It has got broader context,’ then refer it to some kind of pre-legislative scrutiny committee and have that committee report then to inform all of Tynwald if there are any issues, any things that need to be picked up. So I think it does need to be a better process but I just do not think we have hit on the right one, but I think it comes from the right recognition of thinking that it is not ideal how we deal with it at all. And of course a report could pick up on any key policy bits which ... talk about housing regs, that was an important bit.

4120 Finally, there is a role that Departments, the Ministers and officers can play in this, if they realised that actually there was the potential for something to have a sunset clause in, be amended in Tynwald or whatever, maybe then Ministers and Departments would make sure that the political Members, particularly, it does not matter if they are Keys or LegCo, but the Members in that Department certainly definitely on every occasion had advance sight of those regulations so that they can sense check them before Tynwald, and have a proper good look at them. Not just the case of Members seeing them on the Order Paper – because that was happening, certainly in my short time and experience in a Department. Because then at the very least, if they do not spot something they can bat for the team and bring it home, which is kind of what happens anyway.

4135 So I agree with the sentiment. I do not think we have hit on the right process, because just honestly in my heart of hearts I cannot see it working out in practice. I cannot. I am sorry, I am just unsure about that one.

4140 Thank you, Mr President, and I thank the Committee for everything that they have done. Thank you.

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

4145

Mr Peake: Thank you, Mr President.

I see benefits here. I do. I see benefits in transparency and benefits for the public. I see the public being able to look at this rolling register with time and, as Mrs Barber said at lunchtime actually, it might work with technology, so people will be able to sort things out a lot easier. So I can see lots of benefits there.

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I also think that Recommendation 3, the early publication of papers, that six weeks is a great benefit. I think that really will then give people the opportunity to, as Mrs Poole-Wilson said,

scrutinise it a lot better, give you the opportunity to make considered responses. I think that extra time will be well worth it, not just for us, but also for the public.

4155 I agree with Mr Hooper, actually. He said about 'You're trying it', and I do believe test and review. That is what *kaizen* is all about. It is all about trying something, testing it and putting the better quality forward. So I am very supportive of that.

So I do find it very easy to accept *all* these recommendations and, as Mr Hooper says, give it a go.

4160 Thank you very much, Mr President.

The President: Hon. Member, Mr Baker.

Mr Baker: Thank you, Mr President.

4165 I think my sentiments on this are quite clear now, having listened to this very helpful debate. I think the Standing Orders Committee has come forward with a detailed package of proposals with some innovation, and I certainly welcome that. I have a little bit of sympathy for the Committee. I think their timing is probably a little unfortunate, given the lengthy debate only last week around Questions, and again, potentially, if Mrs Corlett is back in time, in this particular
4170 Hon. Court, in this sitting. Criticism that they have not dealt with some other issues, that this is not a complete process, that it has taken too long. I do not hear any defensiveness against that. I think that those comments have been made and the Committee would perhaps share those.

But I am also not sure some of the examples were the most helpful. So Brexit, for example, was a particular set of circumstances, and GDPR was a particular set of circumstances. I am
4175 actually more taken by the examples given by my hon. friend from Douglas North, Mr Ashford, and my hon. friend from Ramsey, Mr Hooper, even though he is referring to my own Department in that, because they are both right. Secondary legislation, for me, it was seen as somehow less important, it goes through less of a process. But yet, actually, it is fundamentally important and arguably a healthy balance has *more* secondary legislation, because it is more flexible and easier
4180 to amend.

Some of the primary legislation changes, the number of years that they take to come forward, it does not pass the sense test, whereas secondary gives you that flexibility, gives you that adaptability and that ability to react. I do agree with the comments of Mr Shimmins and my fellow
4185 Member from Ayre and Michael about that. We need that ability to adapt. But I stand back from all this debate, consider what we already have, and ask myself three questions. Is our existing process perfect? The answer is very clearly no, in my mind. I ask myself, could it be better? The answer, to me, is very clearly, yes, it potentially could. And more fundamentally, if we were designing a process now for a new parliament starting next month, would we design the process that we currently have? The answer is absolutely not.

4190 So having asked myself those questions, I then say: will this package of measures take us forward? The honest answer is, I do not know. None of us know. We will only know if we *try* it. We have to be prepared to try things, we have to be prepared to fail and not to point the finger at each other and say, 'You got that wrong.' The only way you create a high-performing culture, in any organisation, with continuous improvement, is to be prepared to try things, to learn lessons
4195 and to build from those. So I think we want a continuous improvement culture. We need to continue to build and improve the parliament of the Isle of Man.

Some of the things that are in front of us today are very detailed. We have had some fine minds working together as a team and they have come up with an agreed set of recommendations here. So for me, I am going to back that recommendation. I do not know if it is going to work as envisaged, but we will find out and we will know in maybe 12 months or so whether it works. I would look for the Chairman of the Committee to commit the Committee – I know it may be a
4200 different constitution Committee, but as best he can – to say we will come back –

The Speaker: It is in the motion.

4205

Mr Baker: – in 12 months. It is only in Recommendation 5A as I could see in terms of the Questions element. (**The Speaker:** Okay.) I could not see it in the other elements, and that was my slight problem with it. But fundamentally, we have to try things, we have to move forward. If there is that commitment to review the whole thing, which I think, looking at the body language from

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Members of the Committee, there probably is, I will be happy to support it.

Thank you, Mr President.

The President: Hon. Member of Council, Mrs Maska.

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Mrs Maska: Thank you, Mr President, and I thank the Committee for obviously the long hours that they put into bringing forward this Report, which is very innovative in its approach.

It has made me think back to when I joined the Isle of Man Government as an officer. I will not say what date that was, but I was much younger, (*Laughter*) and I actually was *astonished* when I learnt, or my educated in-house learning revealed to me, that secondary legislation you either got there or you did not. I thought, well, where is the sense in that? So the opportunity to craft secondary legislation together, rather than it get to us and it is almost like the Grand National: you have got this giant Becher's Brook, or whatever you call it, and you either get over it or you do not.

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I think, to make *really* good legislation, we all need time to consider, in a measured way, and understand and be confident that what is before us and what we come to debate is something that we have had time to understand. I go back to the role of officers again. When putting together *particularly* secondary legislation and knowing it is either going to get there or it is not, I am afraid, I think what happens sometimes is that everything is put in the one pot because they might not get another chance at it. You end up with secondary legislation that looks like a Christmas tree, covered in all sorts of decorative baubles that really do not belong there.

4225

Just looking at my notes ... I also think that the product of proper scrutiny gives us a *much better* piece of legislation in the end, and it is a responsible way, as outlined in the Report – I am not going to go into detail; it is the principle I am looking at – I think we have a responsibility to leave to the next administration, to say we have not sat on this and done nothing. This is something, as has been referred to, we do need to try; to give it a go.

4230

Just in terms of, hopefully, if this gets through, and we have the rolling register, which I think is a really good idea, it needs to be clear and navigable, not just for us as Members, but as we discussed at the briefing – and I thank the Committee for bringing that briefing in the brief lunch hour we had – that our Island community needs to know where they go to find out where we are at, a little bit like our Outlook diaries. There is a blue line that goes across your diary to say, 'This is where I am at' and I would like to be able to go in and see what has been put in there, what has been registered and see the timeline that is coming forward.

4240

So I do welcome the Report and I thank the Committee for their Recommendations. I will be supporting it.

4245

Thank you, Mr President.

The President: Hon. Member for Douglas East, Mrs Barber.

Mrs Barber: Thank you, Mr President. I will keep it relatively short, you will all be glad to know.

4250

For me, I welcome the Report, actually. I read it through. I think that there absolutely, as has already been *very* clearly stated by other Members, are things that *do not* work as well as we would all like them to. And actually, the ability to change and to develop as an organisation is the ability to look at that and say, when things do not work, how can we improve them? I recognise that is *hard* when you have got an establishment that is as old as this one. There are lots of things that have been like this for a long time, and it is a little bit *scary*, I think is probably the word. It is a little bit like phone boxes: do we keep them; do we change? But we will get on to that later.

4255

(*Laughter*) ‘Spoiler alert!’ But for me, I think this has to be an iterative process, and that point of having a review is *absolutely* fundamental.

4260 So we make a decision today. We have the ability to try something, and equally, I think Mrs Lord-Brennan makes some *really* valid points. But for me, they would become, potentially, part of that iterative process about how we develop and evolve our system, to enable us to provide *better* scrutiny to the secondary legislation that we evaluate on a frequent nature in this House and is of *such* importance. We have seen how important it is in terms of the operation and function of our statute books. It is *absolutely* imperative we have enabling legislation where the

4265 predominant part of functional legislation sits within those secondary pieces of legislation that can be huge. It is absolutely imperative that we try and get those, once they are ready, published; not just for the people who sit in here in this Hon. Court, but also for the public. To allow people to have a look to understand how those pieces of legislation will affect their day-to-day lives.

4270 So I see this as part of an iterative process. This is something we should *always* be engaged in; reviewing, looking, learning and acknowledging sometimes we might try things and they *might* not work, but being unafraid to try things where we can see that there is something that *is not* working now. For me, that is absolutely clear.

4275 So one of my key questions is around the operational functionality of it. I think we can all see the core principles here. What we are going to need to see now is the meat on the bones. How will that actually work? So I can see some *huge* potential benefits within this, around the search functions, the ability to look in Questions, perhaps to actually categorise them by theme, so when you are trying to find details of what has happened, you have not got the search function we have now, which – and I apologise to whoever created it – leads me down a garden path that I can *never* find my way out of to find the detail I am looking for! But perhaps starts to theme those Questions

4280 so that when the public are looking to see, actually, what Questions have been asked on this and where has that led to in terms of policy and the legislation, how has that evolved? I think there is a huge benefit for Members in that regard as well, about having Questions actually embedded into one place, rather than sitting in all of the separate sittings, where you start to fish back and find the piece you are looking for and then scrolling through the *Hansard*. So I think there is a benefit from that. (**A Member:** Hear, hear.)

4285

I think the other thing to say is that that extra time for scrutiny, in my opinion, is *absolutely* not the thing that stops us from being nimble in this place. I think, actually, there are a *huge* number of things around the processes we go through that prevent us being nimble. I think what we need to look at is how we enable those amendments where we can do them at shorter notice; how we

4290 can make sure we get the detail right. We do have the ability to amend motions on the floor of this Court, but it would be great if we *could* have the opportunity for some of that information to be laid in advance, so we can start to have those really collaborative discussions to get something that we can *all* settle around and to start thinking, ‘Well, there might be a little bit of nuancing needed, but actually, that’s pretty much where I am at, too.’ And actually, we can talk to our

4295 constituents about that. It is very hard to gauge your constituents’ thoughts when you are sitting here, in amongst it, getting amendments flying at your desk and trying to get them in some semblance of order to understand what on earth it is you are voting for! That for me is *not* the way to make good policy and to make good decisions. If we can do this in advance, it would be for the betterment of everyone.

4300 So I would urge everyone to *support* this in the spirit of adopting change, of being a *progressive* parliament, and with that, I will be supporting.

Thank you, Mr President.

The President: I call on Mr Speaker to reply.

4305

The Speaker: Thank you, Mr President.

I would like to thank all those who have spoken and to my colleagues on the Committee for clarifying issues as we go, which has meant that I hopefully will be able to shorten my concluding remarks.

4310 In terms of speed, we have had a great tank of ideas go into this Report and I suppose, yes, it has taken longer than we would hope to get this Report out. Do not underestimate the difficulties, and the issue that has not been raised is the difficulties of getting nine Hon. Members' diaries together in order to meet to discuss this. But it has not been through lack of enthusiasm, willingness or engagement.

4315 In terms of the speed of the Tynwald process, I think we have made it easier to bring forward matters of urgency when they are needed and lowered the threshold for urgent issues to be put before this Court, no longer requiring a two-thirds majority of this Court to get on the Order Paper, but making it a simple majority of Members of this Court. I think that is a nod towards being able to move more nimbly, more flexibly.

4320 What we have also created is a slower track for complex or lengthy legislation that has the time to need further consideration. This is not a one size fits all, and this is a matter for judgement. There is of course, as Dr Allinson said earlier, how do we know which is which? The ability on the register, as is mentioned in the Report, to flag matters and to say, 'This is something that we want to slow down on, but this is also fine, we don't need to worry about that, that can go at the back end of the Order Paper and we can deal with those together.'

4325 So there is that slower process for eight Members to trigger it, and this is all, as Mr Harmer said, about balancing the interests of Government on the one side to promote its legislative programme, but also to add the value that we *all* have said at various times that scrutiny brings.

4330 As my friend and colleague Mr Ashford also said, secondary legislation is becoming more complicated more often now than it was when I certainly first came into this Court, and do not forget that we cannot fix problems once the secondary legislation hits the Order Paper. We saw some examples of that, good and bad, in the Emergency Powers provisions. That is the only provision that I know of where we are allowed to make amendments – and now the Public Health Act of course, on the back of that – but that is a very rare example of being able to amend secondary legislation. It was immensely *useful*, actually, because it was able to fix defections in the legislation. But it also comes with dangers as well.

4335 It is only in relatively recent times, I think it was 2006, that the House of Keys has *prevented* manuscript amendments without leave of the House, where you could just put in an amendment on the day. Because it is dangerous as well to make law on the fly, and it does need careful scrutiny from all sides

4340 We do not anticipate, it certainly has not been considered that this slow track, shall we call it, would be used frequently, but it does give a mechanism that is not available at the moment for further consideration.

4345 Mrs Lord-Brennan made an interesting point about the reference to the Branches and we have been through a lot of this within the Committee. The advantage with taking it to the Branches, rather than amending it in Tynwald, is of course the Branches meet weekly and so you get far more iterations at it than you would do by dealing it within Tynwald. But what we have not taken away is the fundamental principle that secondary legislation does still belong to Government. So whilst we can suggest amendments and they may get agreed on, what they are is indicative votes, they tell you how it should go, but ultimately it will be up to the Government Department to lay a final version before Tynwald and say, 'That's for approval: yes or no', not amending it in Tynwald on the day. That is something that some Members felt very strongly about within the Committee: that this ability to own secondary legislation by Government is sacrosanct, but that there needs to be a way of being able to scrutinise it and suggest changes. I think we find that happy balance and, as so many have said, this is something that we can try in order to deliver that happy balance.

4355 One thing that the changes as a package deliver is that it does not undermine the foundation of what we have already. This builds on it, this adds transparency, this adds so many other tools, but it does not remove the effectiveness of what we have now. So the downside risk of trying this

4360 is really very low, because we are still going to have an Order Paper, it is still going to have Items on it, we are still going to vote on them, in many ways, the way that we do right now.

4365 Of course, there are changes that will need changes to process, and I am grateful to Mrs Barber for identifying the opportunities that are required in this. The ability to be able to have better searches, the ability to make the register the new go-to place for the Written Questions, as opposed to an Order Paper which brings it all together in the one point. I think people will be far more keen at looking at the register going forward than they will at the Order Paper because it will be the new stuff, as opposed to things that have been on there ... It is not the way you will go to find the new things, it is the way you will go and find what we are going to vote on in a couple of weeks' time. As Mr Peake says, this will enhance transparency in the process, and I think that is something that many of us have been seeking.

4370 I come back to the point made by my friend and colleague, Mrs Poole-Wilson, that this is the law. Speed is helpful and provided for, and we have made it easier to move matters of urgency. But it is the law of the land and we do need to take it on with a certain amount of due consideration and a certain amount of due process.

4375 I think that covers all the points that have not been covered by my colleagues on the Committee, Mr President, and I want to thank *all* of the Members of the Standing Orders Committee for their work on this Report. It has been *wonderful* to sit with some fellow geeks on parliamentary procedure – and you know who you are! I do not need to name you. It has been a really good intellectual exercise and I think it has brought together a package that really is a case for change, is a case for flexibility, is a case for transparency and is a case for modernisation.

4380 With that, Mr President, I beg to move.

The President: Now, Hon. Members, we move to a vote on the Recommendations, which we will take in turn, and I trust that everybody has a list of the Recommendations. They extend over five pages of the Report, but they are numbered, so we will go through them carefully.

4385 Recommendation 1, 'Rolling register'. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Recommendation 2, 'Status of papers lodged'. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Recommendation 3, 'Early publication of Papers'. Those in favour, say aye; against, no.

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

In the Keys – Ayes 17, Noes 5

FOR

Dr Allinson
Mr Ashford
Mr Baker
Mrs Barber
Mrs Caine
Mr Callister
Mrs Christian
Ms Edge
Mr Harmer
Mr Hooper
Mr Moorhouse
Mr Peake
Mr Perkins
Mr Quine
Mr Skelly
The Speaker
Mr Thomas

AGAINST

Mr Boot
Mr Cannan
Mr Quayle
Mr Robertshaw
Mr Shimmins

4390 **The Speaker:** Mr President, in the House of Keys, 17 for, 5 against.

In the Council – Ayes 7, Noes 1

FOR

Miss August-Hanson
Mr Greenhill
The Lord Bishop
Mrs Lord-Brennan
Mrs Maska
Mrs Poole-Wilson
Mrs Sharpe

AGAINST

Mr Henderson

The President: And in the Council, 7 votes for, 1 against. That recommendation therefore carries.

Recommendation 4, 'Items on the Register'. Those in favour, say aye; against, no. The ayes have it.

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

In the Keys – Ayes 18, Noes 4

FOR

Dr Allinson
Mr Ashford
Mr Baker
Mrs Barber
Mrs Caine
Mr Callister
Mrs Christian
Ms Edge
Mr Harmer
Mr Hooper
Mr Moorhouse
Mr Peake
Mr Perkins
Mr Quayle
Mr Quine
Mr Skelly
The Speaker
Mr Thomas

AGAINST

Mr Boot
Mr Cannan
Mr Robertshaw
Mr Shimmins

4395 **The Speaker:** Mr President, 18 for, 4 against in the Keys.

In the Council – Ayes 7, Noes 1

FOR

Miss August-Hanson
Mr Greenhill
Mr Henderson
The Lord Bishop
Mrs Maska
Mrs Poole-Wilson
Mrs Sharpe

AGAINST

Mrs Lord-Brennan

The President: In Council, 7 for, 1 against; that carries.

Recommendation 4A, 'Members' names on amendments'. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

4400 Recommendation 5, 'Written questions'. Those in favour, say aye; against, no. The ayes have it.

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

In the Keys – Ayes 16, Noes 6

FOR

Mr Ashford
Mr Baker
Mrs Barber
Mrs Caine
Mr Callister
Mrs Christian
Ms Edge
Mr Harmer
Mr Hooper
Mr Peake
Mr Perkins
Mr Quayle
Mr Quine
Mr Skelly
The Speaker
Mr Thomas

AGAINST

Dr Allinson
Mr Boot
Mr Cannan
Mr Moorhouse
Mr Robertshaw
Mr Shimmins

The Speaker: Mr President, in the House of Keys, 16 votes for, 6 against.

In the Council – Ayes 7, Noes 1

FOR

Miss August-Hanson
Mr Greenhill
The Lord Bishop
Mrs Lord-Brennan
Mrs Maska
Mrs Poole-Wilson
Mrs Sharpe

AGAINST

Mr Henderson

The President: And in the Council, 7 for, 1 against. That therefore carries.

Recommendation 5A, 'Review of the Questions' system'. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

4405 Recommendation 5B, 'Grouping Questions'. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Recommendation 6, 'Submitting Questions'. Those in favour, say aye; against, no. The ayes –

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

In the Keys – Ayes 17, Noes 5

FOR

Dr Allinson
Mr Ashford
Mr Baker
Mrs Barber
Mr Boot
Mr Callister
Mrs Christian
Ms Edge

AGAINST

Mrs Caine
Mr Cannan
Mr Moorhouse
Mr Robertshaw
Mr Shimmins

Mr Harmer
Mr Hooper
Mr Peake
Mr Perkins
Mr Quayle
Mr Quine
Mr Skelly
The Speaker
Mr Thomas

The Speaker: Mr President, in the Keys, 17 votes for, 5 against.

In the Council – Ayes 8, Noes 0

FOR	AGAINST
Miss August-Hanson	None
Mr Greenhill	
Mr Henderson	
The Lord Bishop	
Mrs Lord-Brennan	
Mrs Maska	
Mrs Poole-Wilson	
Mrs Sharpe	

The President: In Council, 8 for, none against. That carries.

4410 Recommendation 7, 'Proper use of subordinate legislation'. Those in favour, say aye; against, no. The ayes have it.

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

In the Keys – Ayes 17, Noes 5

FOR	AGAINST
Dr Allinson	Mr Boot
Mr Ashford	Mr Cannan
Mr Baker	Mr Robertshaw
Mrs Barber	Mr Shimmins
Mrs Caine	Mr Thomas
Mr Callister	
Mrs Christian	
Ms Edge	
Mr Harmer	
Mr Hooper	
Mr Moorhouse	
Mr Peake	
Mr Perkins	
Mr Quayle	
Mr Quine	
Mr Skelly	
The Speaker	

The Speaker: Mr President, 17 votes for, 5 against.

In the Council – Ayes 5, Noes 3

FOR	AGAINST
Mr Greenhill	Miss August-Hanson
The Lord Bishop	Mr Henderson
Mrs Maska	Mrs Lord-Brennan

Mrs Poole-Wilson
Mrs Sharpe

The President: In the Council, 5 for, 3 against. That motion therefore carries, recommendation carries.

4415 Recommendation 8, 'Notice of proposed subordinate legislation'. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Recommendation 8A. Those in favour, say aye; against, no.

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

In the Keys – Ayes 14, Noes 8

FOR

Dr Allinson
Mr Ashford
Mr Baker
Mrs Barber
Mrs Caine
Mrs Christian
Mr Harmer
Mr Hooper
Mr Moorhouse
Mr Peake
Mr Perkins
Mr Quine
Mr Skelly
The Speaker

AGAINST

Mr Boot
Mr Callister
Mr Cannan
Ms Edge
Mr Quayle
Mr Robertshaw
Mr Shimmins
Mr Thomas

The Speaker: Mr President, 14 for, 8 against.

In the Council – Ayes 4, Noes 4

FOR

Mr Greenhill
Mrs Maska
Mrs Poole-Wilson
Mrs Sharpe

AGAINST

Miss August-Hanson
Mr Henderson
The Lord Bishop
Mrs Lord-Brennan

The President: And in the Council, 4 for, 4 against. The motion carries.

4420 Recommendation 8B. Those in favour, say aye; against, no. The ayes have it. The ayes have it.
Recommendation 9. Those in favour, say aye; against, no. The ayes have it.

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

In the Keys – Ayes 17, Noes 5

FOR

Mr Ashford
Mr Baker
Mrs Barber
Mrs Caine
Mrs Christian
Ms Edge
Mr Harmer

AGAINST

Dr Allinson
Mr Boot
Mr Callister
Mr Cannan
Mr Shimmins

Mr Hooper
Mr Moorhouse
Mr Peake
Mr Perkins
Mr Quayle
Mr Quine
Mr Robertshaw
Mr Skelly
The Speaker
Mr Thomas

The Speaker: Mr President, in the Keys, 17 for, 5 against.

In the Council – Ayes 7, Noes 1

FOR

Miss August-Hanson
Mr Greenhill
The Lord Bishop
Mrs Lord-Brennan
Mrs Maska
Mrs Poole-Wilson
Mrs Sharpe

AGAINST

Mr Henderson

The President: In the Council, 7 for and 1 against. That carries.

Recommendation 10. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

4425

Recommendation 11. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

I put the substantive motion at Item 5, recommendations as amended. Those in favour, say aye; against, no. The ayes have it.

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

In the Keys – Ayes 18, Noes 4

FOR

Dr Allinson
Mr Ashford
Mr Baker
Mrs Barber
Mr Callister
Mrs Caine
Mrs Christian
Ms Edge
Mr Harmer
Mr Hooper
Mr Moorhouse
Mr Peake
Mr Perkins
Mr Quine
Mr Robertshaw
Mr Skelly
The Speaker
Mr Thomas

AGAINST

Mr Boot
Mr Cannan
Mr Quayle
Mr Shimmins

The Speaker: Mr President, in the Keys, 18 for, 4 against.

In the Council – Ayes 7, Noes 1

FOR

Miss August-Hanson
Mr Greenhill
The Lord Bishop
Mrs Lord-Brennan
Mrs Maska
Mrs Poole-Wilson
Mrs Sharpe

AGAINST

Mr Henderson

The President: And in the Council, 7 votes for, 1 against. The motion carries.
That completes Item 5.

4430