

ST. HELENA
LEGISLATIVE COUNCIL

THE SPEAKER

Mrs Margaret Anne Catherine Hopkins MBE

EX-OFFICIO MEMBERS

The Honourable Acting Chief Secretary	-	Mrs Gillian Francis
The Honourable Financial Secretary	-	Mr Colin Owen
The Honourable Attorney General	-	Mr Kenneth Baddon

ELECTED MEMBERS

The Honourable Rodney Garth Buckley	-	East Electoral Area
The Honourable John Gilbert Cranfield	-	“ “ “
The Honourable Cyril Keith Gunnell	-	“ “ “
The Honourable Brian William Isaac	-	“ “ “
The Honourable Bernice Alicia Olsson	-	“ “ “
The Honourable Stedson Graham Francis	-	West Electoral Area
The Honourable Anthony Arthur Green	-	“ “ “
The Honourable Earl Hilton Henry	-	“ “ “
The Honourable Derek Franklin Thomas	-	“ “ “
The Honourable Raymond Kenneth Williams	-	“ “ “
The Honourable Mervyn Yon	-	“ “ “

CLERK OF COUNCILS

Miss Linda Benjamin

PROCEEDINGS OF THE LEGISLATIVE COUNCIL

Thursday, 13th September, 2012

The Council met at 10.00 am
in the Court House, Jamestown

(The Speaker in the Chair)

ORDER OF THE DAY

1. FORMAL ENTRY OF THE PRESIDENT

2. PRAYERS
Fr. Dale Bowers

The Speaker –
Next item, please.

3 ELECTION OF CHAIRMAN, ECONOMY AND FINANCE COMMITTEE

The Speaker –
The Honourable Chief Secretary?

The Hon. Gillian Francis –
Madam Speaker, I beg to present a copy of the Council Committees Constitution Order 2012 and hereby inform this Council that the position of Chairman of the Economy and Finance Committee is vacant.

The Speaker –
Thank you, Honourable Chief Secretary. Under Standing Order 5, Elections, I call for nominations to the Chair of Economy and Finance Committee. The Honourable Mervyn Yon?

The Hon. Mervyn Yon –
Madam Speaker, I propose that the Honourable Anthony Green in his absence be elected as Chairperson of the Economy and Finance.

The Speaker –

Thank you, Honourable Member. Is there a seconder to the nomination?

The Hon. Stedson Francis –
I beg to second, Madam Speaker.

The Speaker –
Thank you. Do we have, in the absence of the Honourable Tony Green from this meeting, the agreement of the Honourable Tony Green in writing, please?

The Hon. Mervyn Yon –
Madam Speaker, yes, in my possession.

The Speaker –
Thank you. Could you lodge that with the Clerk?

The Hon. Mervyn Yon –
For further information, Madam Speaker, that agreement was given to Councillor Derek Thomas during the travel of Councillor Green and Thomas from here to South Africa.

The Speaker –
Thank you very much. Are there any other nominations, please? In that case, in the absence of any other nominations, the candidate stands duly proposed for election.

Question on nomination, put and agreed to.

The Speaker –
Thank you. In which case, the Honourable Tony Green has been duly elected as Chairman of the Economy and Finance Committee. Next item?

4. ELECTION OF MEMBER OF EXECUTIVE COUNCIL

The Speaker –
Thank you. I call for nominations to the election to the vacant seat on Executive Council. The Honourable Derek Thomas?

The Hon. Derek Thomas –
Madam Speaker, I propose the Honourable Stedson Francis.

The Speaker –
Thank you. Is there a seconder to the nomination, please?

The Hon. Bernice Olsson –
Madam Speaker, I beg to second.

The Speaker –
Thank you, Honourable Member. Honourable Stedson Francis, do you accept the nomination?

The Hon. Stedson Francis –

I accept the nomination, Madam Speaker, thank you.

The Speaker –

Thank you. Are there any further nominations to fill the vacancy on Executive Council?
Honourable Cyril Gunnell?

The Hon. Cyril Gunnell –

Madam Speaker, I wish to propose the Honourable Rodney Buckley to become a member of the Executive Council.

The Speaker –

Thank you, Honourable Member. Is there a seconder to that nomination, please?

The Hon. Raymond Williams –

Honourable Speaker, I beg to second.

The Speaker –

Thank you. Honourable Rodney Buckley, do you accept the nomination?

The Hon. Rodney Buckley –

Thank you, Madam Speaker, I accept the nomination.

The Speaker –

Are there any further nominations to fill the vacant seat? Honourable Rodney Buckley?

The Hon. Rodney Buckley –

Madam Speaker, I beg to propose the Honourable Cyril Gunnell to fill the vacant seat on Executive Council.

The Speaker –

Thank you. Is there a seconder to the nomination, please? In which case, the nomination falls away. Are there any further nominations to Executive Council, to the vacant seat? Thank you, in which case we have the Honourable Stedson Francis and the Honourable Rodney Buckley nominated. Under Standing Order 5, (10), each candidate may address the Council for not more than five minutes and they are called on in alphabetical order of their surnames. Whilst this is being done, could the Clerk or the Secretary to Elected Members, I think it is going to have to be the Clerk, please arrange ballot papers. I therefore call upon the Honourable Rodney Buckley to speak.

The Hon. Rodney Buckley –

Thank you, Madam Speaker. I acknowledge the time limit of five minutes, but I can assure you you will not need to use a yellow card let alone a red card.

Honourable Members, you will be well aware of my work on Council, including my work for the first two years on Executive Council. I have worked on many committees and working groups with each and every one of you and obviously each and every one of you have been able to assess my output performance, political direction and dedication to the development of our island. I now leave it in your capable hands to complete my job appraisal for the last two years and ten month. Thank you, Madam Speaker.

The Speaker –

Thank you, Honourable Member. I call upon the Honourable Stedson Francis to speak.

The Hon. Stedson Francis –

Thank you, Madam Speaker. I feel I have the right qualities to be a member of Executive Council. I've been a member of Legislative Council for eleven years, since July 2001. If I'm elected as Chairman I feel I have the necessary skills for this role as I've served on ExCo for four years from 2005 to 2009 and for a short period earlier this year standing in for Councillor Yon whilst he was off island on a conference. I believe that I contribute well to discussions and am willing to make high level and tough decisions in the best interests of the island and its people and feel that members by now should know me well enough to judge my performance as a Councillor and to vote for me as a member of Executive Council. Thank you, Madam Speaker.

The Speaker –

Thank you, Honourable Member. It would appear that we have a slight hiatus because we don't have the ballot papers just yet, but I'm not whether, I think we'll just sit quietly and wait rather than suspend the sitting, because if I suspend the sitting we've all got to get out and in again. I wonder if it's too late to just go and chase up the ballot papers for me, just chase up the ballot papers please.

Thank you. The result of the election to Executive Council is that the Honourable Stedson Francis has been duly elected. Thank you. The next item of business.

5. ADDRESS BY THE PRESIDENT

Honourable Members, senior public officials and members of the public, welcome to this the first sitting of the fourteenth meeting of the Council. I should firstly like to acknowledge the cooperation of the Court in enabling us to meet in formal session today, which is normally a Court day.

I should like to welcome the new Financial Secretary, Mr Colin Owen, to his first formal meeting of Council and wish him well in what is a demanding role. As former Chief Auditor, I suspect he knows exactly how demanding the job of being Financial Secretary is going to be.

Today, I should also like to say a public thank you to Miss Tara Thomas, who, until 31st August when she resigned from Council, served as a member of the Executive Council and as Chairman of Economy and Finance Committee since the elections in 2009. We thank her for her dedicated service and wish her well with her studies through a Chevening Scholarship.

We have already had an election to the Chair of the Economy and Finance Committee and in his absence I will have to congratulate the Honourable Tony Green on his election and we have also just had the election to fill the vacancy on Executive Council and I offer my congratulations to the Honourable Stedson Francis. Both these vacancies occurred when Miss Thomas resigned her seat.

Currently away from St Helena on Government business is the Honourable Tony Green who is attending the CPA Conference for Small Countries in Sri Lanka and travelling to Greenland for an EU-OCT meeting.

Honourable Members, we have an interesting Order Paper today; several Motions which should see lively debate. Among them is a Motion asking for the support of this House in requesting that Her Majesty's Government looks at some minor adjustments to the Constitution. Sometimes, Honourable Members, it is getting the little things right that makes

the whole machine work rather better. There's a great deal of truth in the rhyme which starts "For the want of a nail the shoe was lost". It can be all too easy to forget about the small but important things of life when looking at the bigger picture, and, from conversations with Honourable Members, I am aware that you are conscious of the difficulties of getting the balance right when seeking to set priorities and allocate funding.

Next month, it will be a year since the inaugural meeting of the St Helena Youth Parliament, which was held as part of our celebrations of the 100th Anniversary of the CPA. We have been invited to join the Youth Parliament at this year's formal meeting and I would encourage young people to come and listen to the debate and cast their votes. The meeting will take place on Monday, 22nd October and 10 o'clock to fit in with the half-term break for the schools. It is encouraging to see the Youth Parliament maintaining its dynamism and I look forward to being there to hear their debate.

There is much work going on within Committees with preparations for the budget for 2013/14 and discussions with the DFID Development Aid Planning Mission are scheduled to take place in November. Honourable Members, you do not have an easy task when setting this budget. The economic recession continuing and competing pressures on you to allocate what is a very limited pot of money.

Honourable Members, please use your name boards to indicate when you wish to speak if you're unable to catch my eye, and please remember that when you are seated the microphones, being rather better than they used to be in the olden days, may pick up what you're saying in an aside to another member. We shall now move to the next item on the Order Paper.

6.

PAPERS

The Honourable Attorney General –

Madam Speaker, I beg to present Sessional Paper No. 31/2012, a report by St Helena Audit Service entitled Vehicle Customs Revenue - - Final Value for Money Report.

The Speaker –

Thank you, Honourable Member.

Ordered to lie on the table.

The Honourable Raymond Williams –

Madam Speaker, I beg to present Sessional Paper No. 32.2012 entitled Agriculture and Livestock Improvement (Amendment) Bill, 2012.

The Speaker –

Thank you, Honourable Member.

Ordered to lie on the table.

The Honourable Rodney Buckley –

Madam Speaker, I beg to present Sessional Paper No. 33/2012 entitled the Employment Rights (Amendment) Ordinance, 2012.

The Speaker –

Thank you, Honourable Member.

Ordered to lie on the table.

The Honourable Raymond Williams –

Madam Speaker, I beg to present Sessional Paper No. 34/2012 entitled Dogs and Cats (Amendment) Bill, 2012.

Ordered to lie on the table.

The Honourable Attorney General –

Madam Speaker, I beg to present Sessional Paper No. 35/2012, a Bill for an Ordinance – The revised Edition of the Laws (Amendment) Bill, 2012.

The Speaker –

Thank you.

Ordered to lie on the table.

The Honourable Attorney General –

I think the numbers are slightly out of sync, Madam Speaker, we're on 36. I beg to present Sessional Paper No. 36/2012 which is a St Helena Audit Service report entitled St Helena Currency Fund, the Final Accounts 2011 – 2012, the Auditors Management Letter.

The Speaker –

Thank you.

Ordered to lie on the table.

The Honourable Attorney General –

Madam Speaker, I beg to present Sessional Paper No. 37/2012, a report by St Helena Audit Service entitled Independent Auditor's Report – The St Helena Currency Fund for the year ended 31st March 2012.

The Speaker –

Thank you.

Ordered to lie on the table.

The Honourable Attorney General –

Madam Speaker, I beg to present Sessional Paper No. 38/2012, a report by St Helena Audit Service which is entitled Follow-up of previous St Helena Government Value for Money Recommendations.

Ordered to lie on the table.

The Honourable Attorney General –

Madam Speaker, I beg to present Sessional Paper No. 39/2012, a further report by St Helena Audit Service, this one entitled Report on the role of the Tender Board.

Ordered to lie on the table.

The Honourable Attorney General –

Madam Speaker, I beg to present Sessional Paper No. 40/2012, another report by the Audit Service, this one entitled The Value for Money Review of the new Customs Buildings.

Ordered to lie on the table.

The Honourable Attorney General –

Madam Speaker, I beg to present Sessional Paper No. 41/2012, an Audit Service Report entitled St Helena Fisheries Corporation – Financial Statements for the year ended 31st March 2012.

Ordered to lie on the table.

The Honourable Attorney General –

Madam Speaker, I beg to present Sessional Paper No. 42/2012, the St Helena Development Agency Accounts for the year ended 31st March 2012.

Ordered to lie on the table.

The Honourable Attorney General –

Madam Speaker, I beg to present Sessional Paper No. 43/2012, the St Helena National Trust Annual Report for the year 2011 to 2012.

Ordered to lie on the table.

The Honourable Attorney General –

Madam Speaker, I beg to present Sessional Paper No. 44/2012, the St Helena National Trust Financial Statements for the year ended 31st March 2012.

Ordered to lie on the table.

The Honourable Attorney General –

Madam Speaker, I beg to present Sessional Paper No. 45/2012 entitled the Bulk Fuel Installation Financial Statements for the year ended 31st March 2012.

Ordered to lie on the table.

The Honourable Attorney General –

Madam Speaker, I beg to present Sessional Paper 46/2012 Bulk Fuel Installation 2011/12 Independent Audit Manager's Letter.

Ordered to lie on the table.

The Speaker –

I think, the Honourable Attorney General, you might just like to explain why it has been you laying all of those papers on the table, rather than the new Financial Secretary who normally would ask to have papers laid on the table.....

The Speaker –

Thank you, Madam Speaker. Honourable Members have, of course, been alerted in advance but the listening public might well be wondering why I have been speaking so much this morning. Most of the papers which I have just presented are reports from the Audit Service, prepared at a time when my Honourable Friend the current Financial Secretary was the Chief Auditor. I don't think there ever was any real conflict of interest, but there was a danger that a conflict of interest might be perceived, so we took the view that it was better that I present the papers.

The Speaker –

Thank you for that. Next item, please.

The Hon. Attorney General –

Madam Speaker, on a point of order, I beg to move that Standing Order 7 (1) be suspended so it shall allow the presentation of three Sessional Papers of which less than five days notice has been given. Madam Speaker, again, Honourable Members have been alerted in advance to this but for the benefit of the listening public these are reports prepared by the Deputy Speaker in connection with complaints made against Honourable Members of this House. The Code of Conduct requires that those reports be laid before the House as soon as is practicable. If they can't be presented today, then it is likely that they would not be presented until into the New Year. I therefore seek to suspend the Standing Orders so that we can deal with the matter expeditiously.

Question on suspension of Standing Order 7 (1), put and agreed to.

The Speaker –

The Ayes have it, Standing Order 7 (1) is therefore suspended.

The Honourable Attorney General –

Me again, Madam Speaker, I beg to present Sessional Paper No. 47/2012, a Report by the Deputy Speaker on his investigation of a complaint made by the Honourable Tara Thomas MLC as she then was.

The Speaker –

Thank you.

Ordered to lie on the table.

The Honourable Attorney General –

Madam Speaker, I beg to present Sessional Paper No. 48/2012 – Report by the Deputy Speaker on his investigation of a complaint made by the Immigration Control Board.

Ordered to lie on the table.

The Honourable Attorney General –

Madam Speaker, I beg to present Sessional Paper No. 49/2012 Report by the Deputy Speaker on his investigation of a complain made by the Citizenship Commission. Before I actually hand it in, Madam Speaker, perhaps I might just add for the benefit of Honourable Members and the listening public that the Standing Orders and the Code of Conduct are silent as to who

should present this type of paper. We agreed as a matter of convenience that I would present them.

The Speaker –
Thank you.

Ordered to lie on the table.

The Speaker –
It's rarely that we've had so many papers to lie on the table in one meeting. Next item of business, please.

7. QUESTIONS

Question 1. The Honourable Mervyn Yon to ask the Chairman, Access and Transport Committee.

The Hon. Mervyn Yon –
Madam Speaker, will the Honourable Chairman of Access and Transport Committee give this House an update on the refitting and upgrading of the RMS St Helena following her last drydocking and also say whether there are any plans envisaged for the ship after April 2015?

The Speaker –
Thank you, Honourable Member. The Honourable John Cranfield.

The Hon. John Cranfield –
Thank you, Madam Speaker and I thank the Honourable Member for his question. As members will know, the RMS St Helena's drydock period was from 5th to 28th July. During this drydock, some significant works were undertaken to upgrade aspects of the ship. A full blasting, cleaning and repaint of the ship's keel took place as well as other painting and general maintenance, including repairs to cargo hatch covers. The work on the keel will mean less drag through the water and so will help the ship's fuel consumption. The major works included a major refurbishment of the starboard main gear, a new propeller control system, a new domestic hot water system, the installation of an electronic chart display system on the Bridge and upgrading of the ship's public address system. There was also the addition of new berths in some existing cabins and the reconfiguring of some other areas to provide an additional seven new cabins, six on B Deck and one on A Deck. These changes also allowed for improvements to be made to crew quarters, including the mess area. Overall, Madam Speaker, this has allowed for twenty-seven further berths to become available. Some final items were finished after the ship left drydock, but all the new cabins are now complete, in use and on sale. In addition, the Gym was relocated to the Sun Deck, which has proved popular with passengers. These works improved the ship for both crew and passengers alike. At the present time, Madam Speaker, the schedule has been extended to April 2015 and the schedule will be reviewed at a later date to take the RMS St Helena through to shortly after the airport opening. There are no definite plans envisaged for the RMS after this date. Discussions have yet to be finalised about any future sea access arrangements and it is not possible to say therefore what plans may or may not come about for the RMS St Helena. I can, however, undertake to keep members informed about any plans as they take shape. Thank you, Madam Speaker.

The Speaker –

Thank you, Honourable Member. The Honourable Mervyn Yon?

The Hon. Mervyn Yon –

Thank you, Madam Speaker and thank the Honourable Chairperson for his report. Madam Speaker, can I ask if the RMS is to be taken out of commission following 2015, and if there is no plans in place, how will the island be catered for with regards to freight and cargo?

The Speaker –

Honourable John Cranfield?

The Hon. John Cranfield –

Thank you, Madam Speaker. The Director of Enterprise St Helena, Julian Morris, is currently in the UK having meetings with St Helena Line and Andrew Weir Shipping on this very subject, Madam Speaker, so I think it would be prudent if members would wait until the return of Julian Morris to give a report on his findings with meetings with Andrew Weir Shipping and St Helena Line.

The Speaker –

Honourable Mervyn Yon?

The Hon. Mervyn Yon –

Madam Speaker, if there is no definite plans to keep the RMS in the South Atlantic to cater for St Helena's needs after 2015, what was the reason for the additional cabins to be fitted?

The Speaker –

Honourable John Cranfield?

The Hon. John Cranfield –

Thanks, Madam Speaker, I can give you the cost of the actual cabins to be justified, Madam Speaker, and the cost of the additional cabins accommodation represents just 23% of the total cost of the drydocking. The RMS optimisation report and other work indicated that there would be increased demand for accommodation on the RMS and for the greater part of this year overall passenger numbers have been ahead of last year, particularly on the Cape Town route where occupancy is around 80% for most sailings. There were clear capacity constraints which were sought to be addressed. Therefore, the RMS is fully justified in seeking to address capacity issues before they happen rather than waiting to see and then being caught napping. The justification is also represented by the fact that Wednesday's arrival of the RMS, that's yesterday, Madam Speaker, from Cape Town, was fully booked with 125 passengers onboard. It is also important to remember that passengers now booking a cabin for single occupancy have to pay a 100% premium, also ensures that the optimum return of investment is achieved. It is likely that we shall continue to see strong demand for accommodation on the RMS, particularly on the Cape Town route which will more than justify the investment made on accommodation. Thank you, Madam Speaker.

The Speaker –

Thank you, Honourable Member. Honourable Mervyn Yon?

The Hon. Mervyn Yon –

Thank you, Madam Speaker. Madam Speaker, a point of information. I'm not sure if this question is out of the realms of my original question, but if you will allow me to ask it and you can tell me after. Madam Speaker, could the Honourable Chairman state who owns the RMS St Helena?

The Speaker –

I think you have strayed away from the original question, I'm quite sure the Honourable Chairman will be able to find an answer outside..... Next.....,sorry the Honourable Cyril Gunnell?

The Hon. Cyril Gunnell –

Thank you, Madam Speaker. Would the Honourable Member say if sole occupancy on the RMS St Helena would hamper the efforts made by someone else to be able to travel on the RMS St Helena and actually lose a cabin?

The Speaker –

Honourable John Cranfield?

The Hon. John Cranfield –

Thank you, Madam Speaker. That's why there's a 100% premium, Madam Speaker, to cover the cost.

The Speaker –

Honourable Cyril Gunnell?

The Hon. Cyril Gunnell –

Madam Speaker, my question was would it hamper the efforts of somebody else wishing to have perhaps that same cabin if someone is having sole occupancy of it?

The Speaker –

Honourable John Cranfield?

The Hon. John Cranfield –

In theory, Madam Speaker, I think that's the right thing, but I don't think we can stop people asking for a single occupancy cabin, because it's being paid for, Madam Speaker.

The Speaker –

Next question, please.

Question 2. The Honourable Raymond Williams to ask the Honourable Acting Chief Secretary.

The Hon. Raymond Williams –

Thank you, Madam Speaker. Will the Honourable Acting Chief Secretary tell this Council if the St Helena Government will consider trialling the Daylight Saving Time again?

The Speaker –

Thank you, Honourable Member. The Honourable Gillian Francis?

The Hon. Gillian Francis –

Thank you, Madam Speaker. SHG would, I am sure, consider trialling Daylight Saving Time again, subject, of course, to there being majority support from elected members and the general public. In this regard, we would look to members to consult with their constituents before submitting a firm proposal for Executive Council's consideration. Having said this, it might be worth noting that Daylight Saving Time was trialled in St Helena from 18 October 1981 to 21st March 1982 and whilst I cannot find any official record as to say why it was discontinued feedback from the public via the St Helena News Review of the day showed that there wasn't much support for this initiative. Also in 2006/2007, a proposal for the same was received from the Tourism Association, but was later withdrawn, following a number of constituency meetings where it became quite clear that there was little or no support for a further trial. Thank you, Madam Speaker.

The Speaker –

Thank you, Honourable Member. Honourable Raymond Williams?

The Hon. Raymond Williams –

I thank the Honourable Member for her reply, but can I finally ask has Government considered the private sector when reaching their decision?

The Speaker –

Honourable Gillian Francis?

The Hon. Gillian Francis –

Government would at that time have taken onboard all the comments that were received which I daresay would have included consideration of the private sector, but as I've said, Madam Speaker, if Honourable Members feel, after consulting again with the public, their constituents, that there is merit in reintroducing Daylight Saving Time then, of course, that proposal will need to come back to the Executive Council for a decision.

The Hon. Raymond Williams –

Thank you, Honourable Member, thank you, Madam Speaker.

The Speaker –

Next question, please?

Question 3. The Honourable Stedson Francis to ask the Honourable Chairman, Infrastructure and Utilities Committee.

The Hon. Stedson Francis –

Will the Honourable Chairman of The Infrastructure and Utilities Committee tell this House what will be the benefits of divesting utilities?

The Speaker –

Thank you, Honourable Member. The Honourable Mervyn Yon?

The Hon. Mervyn Yon –

Thank you, Madam Speaker, I thank the Honourable Member for his question. As we both know, that this is a big step for Government. SHG will take advantage of the timeframe to

permit some of the public dialogue and explanation of the benefits of divestment. You will appreciate that no firm date has been agreed for the actual divestment to take place. The reason that no concerted effort has been made to fully inform the public about the benefits of divestment is because Government itself need to be assured that all reasonable steps are in place to make divestment a success. Radio discussions have been held and some information has been the subject of separate press releases, but until Government is satisfied that this is a reasonable step in practice as well as in theory then we will not move into full and detailed information sessions. As you know, the demand for electricity and water is growing so the charges appear generally to be accepted by consumers as they make their individual choices about what to use electricity for. Tariffs will increase without divestment and they will continue to increase but to a lesser extent with divestment. It is expected that the efficiencies a private company can offer will reduce the amount of which the tariffs need to rise. Services will continue to be delivered after divestment as they were before with the intention of releasing efficiencies that would allow service improvements. DFID investment in infrastructure will continue as it would have done before divestment because of UK Government have to make a broader view on the needs and affordability of investments rather than relying on a private sector to provide this when it is clear that there is no profit to deliver the level of investment needed, but the company's business plan and the consequences on the Government's budget will be assessed by different Council Committees before the final proposal goes to Executive Council. I do need to make it clear nobody is predicting that tariffs will go down as a result of divestment. The efficiencies gained through divestment should slow down the increase but fairly significant increases are inevitable as the Government subsidy is reduced and we move in the direction of full cost recovery. This needs to go hand in hand with the improved and targeted support for those that generally need it and some of the burden that falls on those who can afford it. To continue on the way we are going at the moment is no longer acceptable and we must change to accommodate this. I realise that this will not be a popular view, but the public demand openness and transparency and the need to understand some of the current state of the world's financial circumstances. Divestment is a method to try and mitigate against global economy factors whilst still maintaining the improved and essential services. Further information is to hand for Honourable Members in the Connect St Helena Business Plan, particularly on page 5 and 6 of that document. Divesting the provision of public services is intended to improve value for money via a customer focus approach that includes quality, promptness, reliability and cost effectiveness. A secondary objective is the reduction of the Government footprint. This should overcome some of the shortcomings of the process and governance constraints within which the public sector has to operate. A Business Plan has been prepared to debate among members and the documents span the first five years of operation. However, the Business Plan was approved on the basis of the longer term benefits that would be achieved by divestment, being longer term, the benefits extended beyond financial analysis within this document and the same of the benefits are unlikely to be visible within the five-year horizon. A major benefit of divestment is the Connect St Helena will have clarity of mission. One of the shortcomings of being part of a wider government organisation is the tendency to be drawn into Government processes that are more focused toward the centre of government rather than the consumer. The delivery of utility services as a divested organisation will direct resources at the things that matter in the delivery of that service with the mission being simple, the delivery of services to regulate standards at minimum costs. Madam Speaker, further information can be found in the Business Plan on page 5 and 6. If I go through all of that, I'll be here just speaking by myself all day, but I trust that this will help the Honourable Member with his question, Madam Speaker.

The Speaker –

Thank you, Honourable Member. Honourable Cyril Gunnell?

The Hon. Cyril Gunnell –

Apologies, Madam Speaker, I just wanted to ask to what extent the document referred to is to be made available to the public?

The Speaker –

Honourable Mervyn Yon?

The Hon. Mervyn Yon –

Madam Speaker, at the moment, the document is still under confidentiality since no other bids have been asked to compete for divestment.

The Speaker –

Honourable Cyril Gunnell?

The Hon. Cyril Gunnell –

Madam Speaker, may I ask to what extent with openness and transparency there will be a social impact assessment carried out prior to the implementation of the new scheme?

The Speaker –

Honourable Mervyn Yon?

The Hon. Mervyn Yon –

Madam Speaker, I'm made to understand that a social impact assessment is about to start, if it's not already started.

The Speaker –

Thank you, Honourable Members. The next question please.

Question 4. The Honourable Cyril Gunnell to ask the Chairman, Natural Resources, Development & Environment Committee.

The Hon. Cyril Gunnell –

Thank you, Madam Speaker. Will the Honourable Chairman of the Natural Resources, Development & Environment Committee tell this House what plans does the Government have for enabling farmers producing meat for sale for human consumption closer access to a fully functional slaughterhouse on the Eastern side of the island?

The Speaker –

Thank you, Honourable Member. The Honourable Raymond Williams?

The Hon. Raymond Williams –

Madam Speaker, Honourable Members and the listening public, SHG does not have short-term plans for a slaughterhouse on the Eastern side of the island. The Longwood slaughterhouse has been closed since 2005 after retirement of the last tenant. Following several unsuccessful attempts by A&NRD in 2006 and again in 2009 to secure a private sector tenant to operate the slaughterhouse and butchery premises, there has not been any

private sector interest in delivering a slaughterhouse service to livestock farmers from this Longwood premises. At present, there are two private sector slaughterhouses in operation of slaughtering livestock, both being on an average of eight miles from the areas of Longwood, Alarm Forest and Levelwood districts. The Honourable Member raising this question this morning will be aware that through Enterprise St Helena conceptual plans are being prepared to explore options for developing the Longwood Green area, referred to as the Longwood Hub, in readiness for the opening of the airport, currently early in 2016, and at present include the Longwood Dairy where the Longwood slaughterhouse is located. Over the last few years, an average of some fifty-seven animals have been slaughtered in the slaughterhouses annually between the Longwood, Levelwood and Alarm Forest districts and some livestock are not required to be slaughtered in a slaughterhouse if not for sale to the public. With the planning parameters of the current Land Development Control Plan, provision has been made below Middle Point at Longwood for a new site for pig production expansion, if needed, and includes consideration also for a slaughterhouse, if, indeed, such a facility is required on the Eastern side of the island in the medium, longer term and the Longwood Dairy facility is no longer able to host such a building. However, both of the two existing slaughterhouses are currently privately funded and owned, therefore discussion and decision making would need to follow as to whether it would be a responsibility of SHG to provide a third premises.....

The Hon. Cyril Gunnell –

.....member accept that the cost for transporting animals across the island from the East to slaughterhouses in the West, which are, we heard, private slaughterhouses, be prohibitive for some farmers and there could be a danger of those farmers in the East discontinuing meat production for the public?

The Speaker –

Thank you, Honourable Member. The Honourable Raymond Williams?

The Hon. Raymond Williams –

Yes, Madam Speaker, I do agree with the Honourable Member's statement.

The Speaker –

Honourable Cyril Gunnell?

The Hon. Cyril Gunnell –

Madam Speaker, I thank him for that answer. Would he not agree that if there were to be a fully functional slaughterhouse available to farmers in the Eastern side of the island that the use of this facility would help to alleviate the technically illegal practice of home slaughter for human consumption in that area?

The Speaker –

Honourable Raymond Williams?

The Hon. Raymond Williams –

Yes, I do agree, Madam Speaker.

The Speaker –

Next question, please?

Question 5. The Honourable Mervyn Yon to ask the Honourable Acting Chief Secretary.

The Hon. Mervyn Yon –

Madam Speaker, will the Honourable Acting Chief Secretary say what are the procedures and criteria used when selecting a panel for interviewing personnel for a job within the St Helena Government?

The Speaker –

Thank you, Honourable Member. The Honourable Gillian Francis.

The Hon. Gillian Francis –

Madam Speaker, recruitment and selection in St Helena Government is undertaken in accordance with Chapter 5 of the Code of Management for local, permanent posts. There are procedures for both internal and external recruitment. For Grades A and B, Directorates choose personnel from within their Directorate to sit on the selection panel and then choose a Secretary to record the notes of the interviews. For posts graded at C and D, Directorates choose a representative from Human Resources Directorate and two Directorate representatives to sit on the panel and for grades E to G, the Public Service Commission selects external candidates. Once the panel is set up, a short listing process takes place whereby the Secretary of the panel would send Part B of the application form only to panel members to assess whether the candidates meet the requirements of the job role. Once short listing is complete, then panel members will receive Part A of the application form which has the candidates' personal details on it. If any panel member is a close relative of the applicant or has a close relationship with the applicant outside of work, they are required to declare their interest and should not take part in the selection process.

For international recruitment, the SHG UK Representative sends in the application forms to HR Directorate. Once the four-person panel is confirmed, then Part B of the application form without the applicant's name and personal details, go out to panel members. A short listing process takes place and when the list is confirmed, panel members will receive Part A of the application forms. The SHG UK Representative and the Director of Human Resources sits on most international panels with the relevant Director or Line Manager and a technical expert, which could be a DFID or FCO staff member. In terms of succession planning, there is provision for a Director to make a case not to go to open recruitment if there is a candidate within their Directorate who shows potential for the job. If Directors wish to fill a post on a temporary basis they can choose a candidate who has worked in SHG before who has the skills and experience needed for the role to fill the gap period. Thank you, Madam Speaker.

The Speaker –

Thank you, Honourable Member. Honourable Mervyn Yon?

The Hon. Mervyn Yon –

Thank you, Madam Speaker and I thank the Honourable Acting Chief Secretary for her answer. Madam Speaker, has all of the candidates selected under these procedures and criteria been value for money or have there been failures?

The Speaker –

Honourable.....

The Hon. Ken Baddon –

Point of order, Madam Speaker, it's a request for an opinion about value for money. Questions may not solicit opinions.

The Speaker–

Honourable Mervyn Yon?

The Hon. Mervyn Yon –

Madam Speaker, has all of these candidates selected under these procedures been a failure or have they all been.....

The Speaker –

Honourable Member, you're again asking for an opinion.

The Hon. Mervyn Yon –

Okay. Madam Speaker, when choosing the panel, is it taken into consideration that at least one of the members on the panel should have some experience of the work what the candidate has to perform?

The Speaker –

Honourable Chief Secretary?

The Hon. Gillian Francis –

Yes, Madam Speaker, and that is always the case.

The Speaker –

Honourable Derek Thomas?

The Hon. Derek Thomas –

Thank you, Madam Speaker. Can I ask the Honourable Acting Chief Secretary for those candidates who are unsuccessful for jobs, are they provided with feedback?

The Speaker –

Honourable Chief Secretary?

The Hon. Gillian Francis –

Madam Speaker, the practice is, and dare I say, the requirement is, to say to the unsuccessful candidates that if they require feedback that they can request and that feedback is provided. Thank you, Madam Speaker.

The Speaker –

Next question, please?

Question 6. The Honourable Raymond Williams to ask the Honourable Acting Chief Secretary.

The Hon. Raymond Williams –

Will the Honourable Acting Chief Secretary tell this Council if the St Helena Government would consider outsourcing boat inspections and licensing procedures and services on the same basis as the Vehicle Inspection Service?

The Speaker –

Thank you, Honourable Member. The Honourable Acting Chief Secretary?

The Hon. Gillian Francis –

Madam Speaker, currently boat inspections and licensing processes for the same are carried out by the Harbour Board established under the Harbours Ordinance and its Regulations. The Board is required to carry out examinations and inspections with respect to the suitability of any vessel, other than a ship, which is moored in harbour waters. Annual inspections of boats are carried out and licenses are issued by the Harbour Master. Having said this, the Harbours Ordinance is up for review and this includes a review of procedures and standards currently in place for boat inspections. In this regard, it would be premature to make a commitment at this stage to outsource boat inspections, but the idea will be borne in mind during the course of the review. Any future decision to outsource boat inspections will, of course, be subject to the completion of a business case study report. Most other licensing processes and services are carried out as part of the Customer Services Centre function and are not deemed suitable for outsourcing at this present time or in the near future. Thank you, Madam Speaker.

The Speaker –

Honourable Raymond Williams?

The Hon. Raymond Williams –

Can I be told how long this exercise will take to implement?

The Speaker –

Honourable Gillian Francis?

The Hon. Gillian Francis –

Can I ask the Honourable Member to clarify what he means by how long will it take for the exercise to be completed? Is the Honourable Member referring to the review of the Harbours Ordinance?

The Hon. Raymond Williams –

Yes, I am, Madam Speaker.

The Speaker –

Thank you, Honourable Member.

The Hon. Gillian Francis –

Madam Speaker, I don't have the timeframe to hand, but I would like to say by the end of this current calendar year we would hope to have completed the review of the Harbours legislation. Thank you, Madam Speaker.

The Hon. Raymond Williams –

Thank you very much for your reply.

The Speaker –
Next question, please?

Question 7. The Honourable Stedson Francis to ask the Honourable Acting Chief Secretary.

The Hon. Stedson Francis –
Will the Honourable Acting Chief Secretary tell this House if there are any plans in hand to carry out a review of the pay and grading of the Public Service?

The Speaker –
Thank you, Honourable Member. The Honourable Gillian Francis?

The Hon. Gillian Francis –
Madam Speaker, pay and grading within the Public Service has had more than one review. The most recent review is an examination of the design of the pay system and is being undertaken remotely by a Public Sector Management Consultant under the Public Sector Modernisation Programme and the draft report has just been received. There are a number of recommendations resulting from this review, some of which were already being considered, such as benchmarking of pay to help improve recruitment and retention in the Public Service and annual performance bonus payment for employees performing above the requirement of their roles, an increase of the number of pay grades from seven to eight. The report also recommends that SHG look at designing job families, or cadres, where there is grouping of jobs within a profession and rewarding employees for taking on additional responsibilities and looking at different mechanisms to address poor performance. The report confirms that the job evaluation system introduced with the 2010 pay and grading exercise is valid, but still needs some adjustment if there is introduction of job families or cadres. It further recommends that a job evaluation and grading exercise should be carried out every five years. The Consultant echoes the view that air access will bring forth a more dynamic, economic and social environment. Officials are currently addressing the recommendations within the report but implementation of any of these recommendations will be subject to affordability. Thank you, Madam Speaker.

The Speaker –
Honourable Stedson Francis?

The Hon. Stedson Francis –
Can I ask, was this review held for all of the Public Service and when will the recommendations of the report be implemented?

The Speaker –
Honourable Gillian Francis?

The Hon. Gillian Francis –
Madam Speaker, I must emphasise here that the review was about the design of the current pay system. As to the Honourable Member's second question, when we will know the outcome, I can't give a definite date at the minute. The report has been received in draft form and is currently being considered by officials. Thank you, Madam Speaker.

The Speaker –
Honourable Cyril Gunnell?

The Hon. Cyril Gunnell –
Madam Speaker, when will the draft be made available for Councillors to see?

The Speaker –
Honourable Gillian Francis?

The Hon. Gillian Francis –
Madam Speaker, as I said, the report is still in draft form and once it has been finalised we will hope to make it available for Honourable Members.

The Speaker –
Honourable Cyril Gunnell?

The Hon. Cyril Gunnell –
Madam Speaker, can we have a bit more substantiated reply than that? I didn't want the word 'hope' to be included in that answer.

The Speaker –
Honourable Gillian Francis?

The Hon. Gillian Francis –
I do apologise, Madam Speaker, Honourable Member, the report, once finalised, will be available for Honourable Members.

The Hon. Cyril Gunnell –
Thank you.

The Speaker –
Next question, please?

Question 8. The Honourable Cyril Gunnell to ask the Chairman, Access and Transport Committee.

The Hon. Cyril Gunnell –
Thank you, Madam Speaker. Will the Honourable Chairman of Access and Transport Committee say what is the Government's strategy for facilitating ongoing travel by sea following the withdrawal of the RMS St Helena from service?

The Speaker –
Thank you, Honourable Member. The Honourable John Cranfield?

The Hon. John Cranfield –
Thank you once again, Madam Speaker and I thank the Honourable Member for his question. At the present moment, Madam Speaker, no final decision has been reached about the future of the RMS other than the service and the ship will be withdrawn once the airport is operational or about access services by sea to and from St Helena once the airport is running.

Several factors have to be considered before any final strategy can be drawn up and any preferred decisions can be considered. Sea access will be required once the airport is operational in order to facilitate the movement of heavy and bulky freight. How this may operate still requires further study. The Access and Transport Committee will have yet to discuss what possible options there might be and how other stakeholders might be involved in the drawing up of any strategy. I do assure Members, Madam Speaker, that once this work is underway they will be kept up to date with considerations at the appropriate times. Thank you, Madam Speaker.

The Speaker –
Honourable Cyril Gunnell?

The Hon. Cyril Gunnell –
Madam Speaker, can the Honourable Member say to what extent the strategy will include passenger travel by sea?

The Speaker –
Honourable John Cranfield?

The Hon. John Cranfield –
All these will be taken into consideration, Madam Speaker. Like I said before, the Director of Enterprise St Helena is currently in the UK and I'm sure that all these supplementary questions, Madam Speaker, will be able to be answered as soon as he returns to the island.

The Speaker –
Next question, please? Oh sorry, Honourable Mervyn Yon?

The Hon. Mervyn Yon –
Thank you, Madam Speaker. Madam Speaker, if the RMS is to be withdrawn in 2015, can this House be told where is it likely to be docked after being taken out of commission?

The Speaker –
Honourable Member, I think you're asking the impossible of the Chairman.....

The Hon. John Cranfield –
I was going to suggest the same thing, Madam Speaker. I haven't a clue, until the RMS is nearer the time it's to be taken out of operation.

The Speaker –
Honourable Cyril Gunnell?

The Hon. Cyril Gunnell –
Thank you, Madam Speaker. If the RMS St Helena is not withdrawn from service immediately upon the opening of the airport, would she be available for transporting passengers in the meantime?

The Speaker –
The Honourable John Cranfield?

The Hon. John Cranfield –

I think that would be obvious, Madam Speaker, with the increase in berths, I am sure that they would make good use of the existing operations of the RMS.

The Hon. Cyril Gunnell –

Madam Speaker, forgive me if I don't think it is obvious, I was looking for some kind of confirmation.

The Speaker –

I think you've had your confirmation.

The Hon. John Cranfield –

Yes, I think I've confirmed, Madam Speaker, that the RMS will continue in the same vein as it's doing now.

The Speaker –

Next question, please?

Question 9. The Honourable Mervyn Yon to ask the Honourable Financial Secretary.

The Hon. Mervyn Yon –

Madam Speaker, will the Honourable Financial Secretary confirm if the commitment given by the Financial Secretary during the 2012/13 budget speech that all recipients in receipt of Income Related Benefits and Basic Island Pension will receive a further increase in their benefits from 1st October this year?

The Speaker –

Thank you, Honourable Member. The Honourable Colin Owen?

The Hon. Colin Owen –

I thank the Honourable Member for his question. The Financial Secretary's 2012/13 budget speech stated that benefits would receive increases scheduled for April and October this year and a further increase of Basic Island Pensions will be planned from 1st October, stating that the exact amount has yet to be finalised. The actual committee with policy responsibility in this area is the Health and Social Welfare Committee. However, no further commitment, firm commitment, with regards to increases can be given at this stage because that would be pre-empting ExCo, which is the body that has authority and law to change the rates. It is therefore not appropriate for me to comment on what, if any, increase would be at this stage. This would need to be discussed by the Health and Social Welfare Committee and would then need to be approved by ExCo.

The Speaker –

Thank you, Honourable Member. The Honourable Cyril Gunnell?

The Hon. Cyril Gunnell –

Madam Speaker, could I rise on a point of information referring to what the Honourable the Financial Secretary just said. He would be pleased to hear that Health and Social Welfare Committee have had two meetings with the Economist for him to make some kind of a recommendation as to what ought to be put forward for the hopeful increase in October. Thank you, Madam Speaker.

The Speaker –

Thank you, Honourable Member. Honourable Mervyn Yon?

The Hon. Mervyn Yon –

Madam Speaker, I thank both the Honourable Financial Secretary and the Honourable Chairperson of Health and Social Welfare for their replies and I'm pleased to hear that something is going to take place during October. Thank you, Madam Speaker.

The Speaker –

Next question, please?

Question 10. The Honourable Raymond Williams to ask the Honourable Acting Chief Secretary.

The Hon. Raymond Williams –

Will the Honourable Acting Chief Secretary tell this House if the St Helena Government has any plans to increase the late night bus service?

The Speaker –

Thank you, Honourable Member. The Honourable Gillian Francis.

The Hon. Gillian Francis –

Thank you, Madam Speaker. Honourable Members will be aware that a public transport review commenced in April 2012. The purpose of the review is to consider what improvements can be made to the public transport on St Helena. The review is considering ways of improving the effectiveness, efficiency, reliability and accessibility of the island's passenger transport network by considering the interaction between all public transport, home to work, school, SHG's internal transport and other related transport services on St Helena. Other objectives include improved coverage, connections and service levels and ensuring that capacity is matched to demand and provides value for money in line with SHG's untargeted subsidies strategy. The review aims to consolidate and enhance the existing with potentially new services to improve efficiency, cost effectiveness and to protect the environment. The review will make recommendations to enable informed, evidence-based decisions to be made on making improvements to the existing services. The review will also make an assessment of future requirements in line with the airport associated developments as it is anticipated that there will be an increase in tourism. Also, the review will consider a more flexible working hour arrangement, how it can be facilitated through an improved passenger transport network. The key output of the review will be recommendations on the most appropriate transport arrangements for meeting the island's needs now and in the immediate future. The study has not yet been finalised and at this stage it is not possible to pre-determine the findings. All possibilities are being examined, including various options for introducing later services. It is anticipated that an emerging findings report will be presented to Honourable Members and others very shortly. Thank you, Madam Speaker.

The Speaker –

Honourable Raymond Williams?

The Hon. Raymond Williams –

My final question, Madam Speaker, is, can I be given some timeframe as to when the review will be completed?

The Speaker –
Honourable Gillian Francis?

The Hon. Gillian Francis –
Madam Speaker, I understand that the emerging findings report will be ready for presentation to Honourable Members within the next fortnight or so.

The Hon. Raymond Williams –
Thank you, Madam Speaker, thank you Honourable Member.

The Speaker –
Next question, please?

Question 11. The Honourable Stedson Francis to ask the Honourable Chairman, Education and Employment Committee.

The Hon. Stedson Francis –
Will the Honourable Chairman of The Education and Employment Committee say what is the position regarding Government's proposal to introduce legislation for a minimum wage?

The Speaker –
The Honourable Rodney Buckley?

The Hon. Rodney Buckley –
Thank you, Madam Speaker. The Honourable Member is thanked for his question as there certainly is a lot of interest in the community regarding this piece of work. The position at this time is that the Employment Rights Committee has been appointed in accordance with the Employment Rights Ordinance 2010 and the terms of reference appointing a Consultant to undertake the necessary Social Impact Study has been issued and the Consultant will arrive on the island on 19th September. The Social Impact Study is programmed to take seven weeks and will cover three main tasks – one to one consultation with employers, employees and other stakeholders on the introduction of an hourly minimum rate; develop options for consideration; and develop monitoring and review guidelines to support annual reviews. The Consultant will also report to the Employment Rights Committee and liaise closely with elected members and all other stakeholders. The Consultant will also work closely with the University of York, a consultancy appointed to undertake a study of income related benefits. These two studies go hand in hand and will determine whether or not a minimum wage is to be recommended at this time. A report on the social impact of a minimum wage is scheduled to be submitted to the Employment Rights Committee by the end of October. The original timeframe set for decision by 1st October fell behind basically because complexities of introducing minimum wages on the economy, small businesses and income related benefits, in particular, was the lack of expertise in this field was not fully appreciated in the number of circles at the time the timeframe was set. However, minimum wages can be introduced at any given time and once the social impact assessment study is complete the next steps can then be decided. Thank you, Madam Speaker.

The Speaker –

Thank you, Honourable Member. Honourable Cyril Gunnell?

The Hon. Cyril Gunnell –

Madam Speaker, just for the listening public, would the Honourable Member like to say what the composition of the Employment Rights Committee is?

The Speaker –

Honourable Rodney Buckley?

The Hon. Rodney Buckley –

Yes, Madam Speaker, I can give the names if that is permitted or just the.....?

The Speaker –

I'll take advice from the Attorney General, I presume it's perfectly alright to name members?

The Hon. Ken Baddon –

Madam Speaker, I don't see any reason why names should not be mentioned, this is a matter of public record that these people have been appointed, there's no harm in mentioning their names.

The Speaker –

Perhaps names and positions, Honourable Member?

The Hon. Rodney Buckley –

Not a problem, Madam Speaker. The composition then of the Employment Rights Committee is the Government Economist who will input the economic dimension to the group, which is Mr Colin Owen, sorry, Mr Owen James, I beg your pardon, sorry Mr Colin Owens, Miss Shirley Anderson who will be representing the employer's representation, Mrs Marianne Young who will represent private sectors and Mr Jack Horner who is the independent member appointed by the Governor and the Chairman of the Education and Employment, currently myself.

The Speaker –

Honourable Stedson Francis?

The Hon. Stedson Francis –

Madam Speaker, I might have missed it, but will the Honourable Chairman say who determines as to what the minimum wage will be?

The Speaker –

Honourable Rodney Buckley?

The Hon. Rodney Buckley –

Madam Speaker, the determination of whether or not there is a minimum wage introduction will be done by Governor in Council, the Employment Rights Committee's job is to make recommendations to the Governor in Council whether or not there should be a minimum wage introduction at this point in time.

The Speaker –

Honourable Stedson Francis?

The Hon. Stedson Francis –

And will they determine what the minimum wage should be, the actual amount, if you like to call it that?

The Hon. Rodney Buckley –

No, Madam Speaker, the recommendation will be put to Governor in Council by the Employment Rights Group and it will be for Executive Council to consider those options and decide what the actual rate would be.

The Speaker –

Thank you, Honourable Members. I think this is probably a convenient time to take a break. If you look at the clock on the wall, we will resume at twenty to twelve, my watch is about five minutes before that, and could I please see the Honourable John Cranfield and the Honourable Attorney General for a moment just after I suspend the sitting? Thank you.

Council suspended.

Council resumed.

The Speaker –

Honourable Members, just before we begin, it is my intention that we will work until 1 o'clock or thereabouts and then have an hour's break for lunch. Thank you. Next item, please?

8.

MOTIONS

Motion 1. The Honourable Rodney Buckley, Chairman, Education and Employment Committee.

The Hon. Rodney Buckley –

Madam Speaker, I beg to move that the Employment Rights (Amendment) Bill, 2012, be approved in principle and referred to a Committee of the whole Council.

The Speaker –

Thank you, Honourable Member. Is there a seconder to the Motion, please?

The Hon. Brian Isaac –

Madam Speaker, I beg to second.

The Speaker –

Thank you, Honourable Member. Honourable Rodney Buckley?

The Hon. Rodney Buckley –

Madam Speaker, the Bill before the House is to amend the Employment Rights Ordinance 2010. The need for this amendment is because when the Employment Rights Ordinance was debated in this House it is clear from the Hansard Report that it was not envisaged at that

time that the Chief Magistrate would assume the role of Labour Regulating Authority, but the Labour Regulating Authority would be a part-time independent post. Subsequently, lengthy discussions about finding an independent person with the Labour Regulating Authority led only to the conclusion that the only credible solution was to appoint the proposed Chief Magistrate. The enactment of the Ordinance was delayed until the arrival of the Chief Magistrate who is now in post. In preparing to enact the Ordinance, it was picked up that as enacted the Ordinance provides for appeals from the Labour Regulating Authority to the Magistrates Court. Clearly, we cannot have appeals from the Chief Magistrate to the Magistrates Court. It was therefore concluded that the way forward would be to amend the Employment Rights Ordinance so that appeals go to the Supreme Court. It also requires a corresponding amendment to the payment of fees to be made to the Clerk of Peace instead of to the Regulatory Authority. Honourable Members, this is a small amendment, but an important one in dealing with appeals either from employers or employees. I trust Honourable Members will find no difficulty in giving their endorsement to this important amendment. Madam Speaker.

The Speaker –

Thank you, Honourable Member. I put the question that the Employment Rights (Amendment) Bill, 2012, be approved in principle and referred to a Committee of the whole Council. The question is open for debate. Does any Honourable Member wish to speak? Honourable Brian Isaac?

The Hon. Brian Isaac –

Madam Speaker, I would just like to say that the Mover has made a very clear exposition of the contents of this Bill and in doing so I give my full support to it. Thank you.

The Speaker –

Thank you, Honourable Member. Honourable Stedson Francis?

The Hon. Stedson Francis –

Madam Speaker, I can support the Bill. The Employment Rights Ordinance was enacted in November 2010. It creates mechanisms for setting a minimum wage and for various rights of employees, such as the right to have a written statement of terms and conditions and the right not to be unfairly dismissed. At that time, I was a member of the Education and Employment Committee. Members might recall, as the Honourable Chairman mentioned, that the commencement of the Ordinance was delayed due to difficulty in identifying a suitable, independent person to be appointed the Labour Regulation Authority and now with the Chief Magistrate on island he has been appointed to that office. The Ordinance, when amended, will also revise the appeals procedure so that appeals from a decision of the Labour Regulating Authority will be dealt with by the Supreme Court as well as it provides for financial penalties to be paid to the Clerk of the Peace instead of the Labour Regulating Authority. Thank you, Madam Speaker.

The Speaker –

Thank you, Honourable Member. Any other Honourable Member wish to speak? In which case I'll invite the Honourable Mover to respond to the debate.

The Hon. Rodney Buckley –

There is little for me to respond to, Madam Speaker. I thank the Honourable Stedson Francis for backing up the details of the amendments proposed and I think we can move to the next stage Madam Speaker.

The Speaker –
Thank you.

Question that the Bill be approved in principle and referred to a Committee of the whole Council, put and agreed to.

The Speaker –
Honourable Rodney Buckley?

The Hon. Rodney Buckley –
I beg to move that this Council do resolve itself into a Committee to consider the details of the Bill.

The Speaker –
Thank you. Is there a seconder, please?

The Hon. Brian Isaac –
Madam Speaker, I beg to second.

The Speaker –
Thank you, Honourable Member.

Question that the Council resolves itself into a Committee, put and agreed to.

Council in Committee.

The Speaker –
I put the question that the Title, Enacting Clause and Clause 1 do stand part of the Bill. Does any Honourable Member wish to speak?

Title, Enacting Clause and Clause 1.

Question put and agreed to.

The Speaker –
I put the question that Clauses 2, 3 and 4 do stand part of the Bill. Does any Honourable Member wish to speak?

The Hon. Ken Baddon –
Madam Speaker, it may assist Honourable Members if I give the customary brief explanation of what these things are about. They are longer on the page than their significance actually justifies in the sense that we've had to use a lot of words to achieve small changes. As the Honourable Mover of the Bill said in Stage 1, the principle purpose of these changes is to enable appeals to be made to the Supreme Court, but Honourable Members and the listening public might be interested to note that we within the Legal Service had concerns that that might cause delays in dealing with employment disputes and we have incorporated a

provision about, general speaking, appeals in employment cases will be dealt with on written submissions only, which means that the Chief Justice will be able to deal with them when not on the island, but with a residual power for the Chief Justice to say that he's going to delay it and have an oral hearing if he thinks that in the interest of justice require that, so that's the crux of Sections 2 and 3. Section 4 is a pure technicality about how we handle any financial penalties imposed. It is arguable, I put it no more strongly than that, that there's a conflict between the present Ordinance and the Constitution and we've taken the opportunity to remove the possibility of that argument. Any financial penalties imposed will be dealt with exactly as if they were fines imposed by the Magistrates Court. That does not mean that the person will thereby have a conviction it just means that that's the way we handle the money.

The Speaker –

Thank you, Honourable Member. Any comments from Honourable Members?

Clauses 2, 3 and 4.

Question put and agreed to.

Council resumed.

The Speaker –

Honourable Rodney Buckley?

The Hon. Rodney Buckley –

I beg to report, Madam Speaker, that the Employment Rights (Amendment) Bill, 2012, passed the Committee with no amendments and to move that this Council approves the said Bill and recommends to the Governor in Council that it should be enacted.

The Speaker –

Is there a seconder, please?

The Hon. Brian Isaac –

Madam Speaker, I beg to second.

The Speaker –

Thank you. Honourable Mover, do you wish to speak to the Motion?

The Hon. Rodney Buckley –

No, Madam Speaker, I don't have anything to speak to the Motion on.

The Speaker –

Thank you. I put the question that this Council approves the Employment Rights (Amendment) Bill, 2012, and recommends to the Governor that it should be enacted. Does any Honourable Member wish to speak? I hardly think I will ask the Mover if he wishes to respond to a non-existent debate.

Question that Council approves the Bill and recommends to the Governor that it should be enacted, put and agreed to.

The Speaker –

Next item of business, please?

Motion 2. The Honourable Attorney General.

The Hon. Ken Baddon –

Madam Speaker, I beg to move that the Revised Edition of the Laws (Amendment) Bill, 2012, be approved in principle and referred to a Committee of the whole Council.

The Speaker –

Thank you, Honourable Member. Is there a seconder, please?

The Hon. Derek Thomas –

Madam Speaker, I beg to second.

The Speaker –

Thank you. Honourable Mover?

The Hon. Ken Baddon –

Madam Speaker, this, like the previous Bill, is something of a technicality, but it's an important technicality. It has been part of our law for some time that we have procedures of updating laws when they are changed and re-publishing them. History has shown for the last twelve years since the last Revised Edition was published that the resource implications of doing that in paper form are something which St Helena cannot bear. What we have discovered through experiment over the last twelve months or so is that we do have the capacity without extra resources to keep the laws up to date in electronic form and to publish them on the SHG website. The purpose of this Bill is to enable us to use electronic publications as the primary means by which we publish updated laws. It is fundamental to a modern democracy and the principle of the rule of law which is enshrined in our Constitution that the public should have access to the law; they should be able to find out what the law is. Currently, only a handful of people have ready access to the up to date laws, basically, me and my staff. That's not good enough. We hand it out if asked, but if you actually want to get your hands on it, it's difficult. This Bill will enable us to update the laws day by day, week by week. The amendments which are made today to various laws and will probably be enacted sometime next week can be on the internet by the end of next week. If we have to reprint them it will take weeks. That's what it's all about. It's about improving our accessibility and our ability to let people get the information that they need about our legal system. As with the last Bill, the actual wording of this Bill is quite detailed and technical, but what it essentially achieves is to give us this swift mechanism whereby we can make the law accessible to anyone who has access to the internet and we will see in Committee that there will also be a mechanism, the details of which are still to be worked out, whereby a person who does not have access to the internet, will be able to go to a specific place, probably the Customer Service Centre and get it printed out for them there. Madam Speaker, I beg to move.

The Speaker –

Thank you, Honourable Member. I put the question that the Revised Edition of the Laws (Amendment) Bill, 2012, be approved in principle and referred to a Committee of the whole

Council. The question is open for debate. Does any Honourable Member wish to speak?
Honourable Derek Thomas?

The Hon. Derek Thomas –

Yes, Madam Speaker, just to say that this is a very useful piece of legislation, this Bill. As the Attorney General said, it will provide the public the immediate access to the laws via the internet and with the island in a form of development now it's very important and essential for the public to have ready access to our laws, so it's an essential piece of legislation. Thank you, Madam Speaker.

The Speaker –

Thank you, Honourable Member. The Honourable Brian Isaac.

The Hon. Brian Isaac –

Madam Speaker, I support the Bill, but I would also like to commend the Attorney General on the savings of using paper. You know, anything electronic it is very good, the waste of paper do damage the environment and I hope that Government will continue to use this form of getting information around, especially with Councillors, because we do receive a lot of paper and I don't want to digress from the Bill, but I do support the lack of use of paper. Thank you.

The Speaker –

Thank you. The Honourable Rodney Buckley.

The Hon. Rodney Buckley –

Madam Speaker, I don't have a problem in supporting this Bill. It is just simply moving St Helena into the twenty-first century.

The Speaker –

Honourable Cyril Gunnell?

The Hon. Cyril Gunnell –

Madam Speaker, I rise to say I support the Bill, it does, in fact, help when it comes to openness and transparency if the information is made available very, very quickly. I would just like to see though a hard copy placed in the Public Library. Thank you.

The Speaker –

Any other Honourable Member wish to speak? Honourable Bernice Olsson?

The Hon. Bernice Olsson –

Madam Speaker, I support the Bill. I just need to ask the Honourable Attorney General, he mentioned in his speech before about people, a lot of people who don't have internet, they will be able to pick up a hard copy from the Customer Service, if I remember rightly, will that person have to pay for a hard copy?

The Hon. Attorney General –

I'll answer when I respond.

The Hon. Bernice Olsson –

Thank you, Attorney General.

The Speaker –

Any other Honourable Member wish to speak? Honourable Mervyn Yon.

The Hon. Mervyn Yon –

Just to say that I rise in support of the Bill, Madam Speaker.

The Speaker –

Thank you, Honourable Member. In which case I'll invite the Honourable Attorney General to reply to the debate.

The Hon. Ken Baddon –

Thank you, Madam Speaker. I first of all thank the Honourable Brian Isaac for picking up the environmental point, I wish I'd thought of that and mentioned it in my exposition, thank you, a very good, additional reason to support the Bill. The Honourable Cyril Gunnell mentions putting a hard copy in the Public Library, I will give a commitment to look into the practicalities of that and how we make sure that we do it every time and there will be some practical issues to look out for, but I certainly give a commitment that we will be discussing that with the Library before we publish the first new version of the law under these amendments. In response to the Honourable Bernice Olsson, does one have to pay for a hard copy, I think the answer will be yes. If you want to buy a copy of an Ordinance at the moment you pay for it. If you want to buy a copy of an Act of Parliament in the UK, you pay for it, but the good news about having the thing available electronically is that those who have access to the internet or can get access by going into the Library and using the internet service there, will be able to access it for the cost only of the time on.....

The Speaker –

Thank you.

Question that the Bill be approved in principle and referred to a Committee of the whole Council, put and agreed to.

The Hon. Ken Baddon –

Madam Speaker, I beg to move that the Council do resolve itself into a Committee to consider the detailed provision of the Bill.

The Speaker –

Thank you, Honourable Member. Is there a seconder, please?

The Hon. Derek Thomas –

Madam Speaker, I beg to second.

The Speaker –

Thank you.

Question that the Council resolves into Committee, put and agreed to.

Council in Committee.

The Speaker –

I put the question that the Title, Enacting Clause and Clause 1 do stand part of the Bill. Does any Honourable Member wish to speak?

The Hon. Ken Baddon –

Madam Speaker, these are the usual provisions ofits name and providing for commencement, except in this case it doesn't actually provide for commencement, which means it will come into force on the day it's gazetted.

Title, Enacting Clause and Clause 1.

Question put and agreed to.

The Speaker –

I put the question that Clauses 2, 3, 4, 5, 6 and 7 do stand part of the Bill.

The Hon. Ken Baddon –

Madam Speaker, briefly, as I say, quite detailed provisions are what we need to achieve the outputs which I described in Stage 1. It is, perhaps, just worth mentioning specifically Section 7, which mentions Ascension and Tristan da Cunha. The present law says that a complete revised edition shall contain the laws of Ascension and Tristan. Frankly, I don't know why it says that because the legislature here has no right to tell Ascension and Tristan how to manage their legal systems. I will tell the House though that I do intend to discuss with the Administrators of those islands how best to keep their laws up to date in the future, but in the short term, my concern is to make sure that we've got a system that works for St Helena and especially in the context of the economic development for which we hope. People, who are thinking of investing on the island or setting up businesses here or whatever will want to be able to find our laws and we need to get on with that without having the Ascension and Tristan issue to hold us back. The other point which I should perhaps mention, which I didn't mention in Stage 1, is that part of the reason for the difficulty of the present system is not just the use of paper, but there's also quite a complicated process to go through to get a new Edition of the Law brought into force, it has to go to the Governor in Council. Governor in Council can't change what the Law Revision Commissioner has written, but the Governor in Council has to say that's the new version. The changes will mean that the Attorney General will issue a Gazette Notice saying I have today published a Revised Edition and that will immediately bring it into force. If we have to continue with the system of going through ExCo every time, we would justExCo with all this stuff without actually achieving anything, so happy to answer any specific questions, Madam Speaker, but those are, I think, the key points about the clauses which you have just put on the table.

The Speaker –

Any questions, Honourable Members?

Clauses 2, 3, 4, 5, 6 and 7.

Question put and agreed to.

Council resumed.

The Hon. Ken Baddon –

Madam Speaker, I beg to report that the Revised Edition of Laws (Amendment) Bill, 2012, passed the Committee with no amendments and I beg to move that this Council approves the said Bill and recommends to the Governor that it should be enacted.

The Speaker –

Thank you, Honourable Member. Is there a seconder, please?

The Hon. Derek Thomas –

Madam Speaker, I beg to second.

The Speaker –

Thank you, Honourable Member. The Honourable Attorney General, do you wish to speak to the Motion?

The Hon. Ken Baddon –

Madam Speaker, based on what has gone before, I think there's little to add. The Bill seems to have the acclaim of the House, I simply beg to move.

The Speaker –

Thank you. I put the question that this Council approves the Revised Edition of Laws (Amendment) Bill, 2012, and recommends to the Governor that it should be enacted. Does any Honourable Member wish to speak? With the lack of debate, I rather feel the Attorney General probably isn't going to rise to respond to it?

The Hon. Ken Baddon –

I simply beg to move, Madam Speaker.

The Speaker –

Thank you.

Question that Council approves the Bill and recommends to the Governor that it should be enacted, put and agreed to.

The Speaker –

Next item of business, please?

Motion 3. The Honourable Raymond Williams, Chairman, Natural Resources, Development & Environment Committee.

The Hon. Raymond Williams –

Madam Speaker, I beg to move that the Dogs and Cats (Amendment) Bill, 2012, be approved in principle and referred to a Committee of the whole Council.

The Speaker –

Thank you, Honourable Member. Is there a seconder, please?

The Hon. Mervyn Yon –

Madam Speaker, I beg to second.

The Speaker –

Thank you. Honourable Mover, if you'd like to speak to the Motion?

The Hon. Raymond Williams –

Madam Speaker, the proposed amendment to the Dogs and Cats (Amendment) Bill, 2012, is to allow the A&NRD to receive information related to the Census returns every three years. The change indicates how many cats and dogs are on island, how many are licensed and the numbers neutered. The amendment is related to gathering statistics only.

The Speaker –

Thank you, Honourable Member. I put the question that the Dogs and Cats (Amendment) Bill, 2012, be approved in principle and referred to a Committee of the whole Council. The question is open for debate. Does any Honourable Member wish to speak? The Honourable Derek Thomas.

The Hon. Derek Thomas –

Yes, Madam Speaker, I rise in support of the Bill, it's very essential that the Natural Resources, Development & Environment Department do have accurate and proper access to statistical information on our dogs and cats. Thank you.

The Speaker –

Thank you. The Honourable Stedson Francis?

The Hon. Stedson Francis –

Yes, thank you, Madam Speaker, I rise too in support of this Bill. A&NRD, as the Chairman mentioned earlier, will shortly be making plans to conduct a triennial Animal Census and the adjustment of the Dogs and Cats Ordinance is to make provision for dogs and cats census returns. A long-life licence is being issued for neutered cats and by capturing data on the cats it will then be known how many cats are on the island and in addition to supporting neutering initiative it would also assist with the problem of strays I am sure. Thank you, Madam Speaker.

The Speaker –

Thank you, Honourable Member. Honourable Mervyn Yon?

The Hon. Mervyn Yon –

Thank you, Madam Speaker. Not much more for me to say, Madam Speaker, but the purpose of this Ordinance is to enable the Committee responsible for Natural Resources, Development & Environment to request estimates or returns by keepers of dogs and cats in St Helena.

The Speaker –

Any other Honourable Member wish to.....the Honourable Attorney General.

The Hon. Ken Baddon –

Madam Speaker, I don't usually rise in Stage 1, but just one point which is perhaps worth mentioning for the benefit mainly of the listening public is that, of course, there is already a mechanism for having a triennial survey of livestock on the island under the Agriculture and Livestock Improvement Ordinance and we shall be looking at that shortly, but this is an add on, as it were, to that process so as to include dogs and cats in the data capturing exercise.

The Speaker –

Thank you, Honourable Attorney General. Any other Honourable Member wish to speak? In which case I'll invite the Honourable Mover to respond to the debate.

The Hon. Raymond Williams –

Thank you, Madam Speaker. I thank the Honourable Members for their support at this stage.

Question that the Bill be approved in principle and referred to a Committee of the whole Council, put and agreed to.

The Hon. Raymond Williams –

Madam Speaker, I beg to move that the Council do resolve itself into a Committee to consider the detailed provisions of the Bill.

The Speaker –

Thank you, Honourable Member. Is there a seconder, please?

The Hon. Mervyn Yon –

Madam Speaker, I beg to second.

The Speaker –

Thank you, Honourable Member.

Question that the Council resolves into Committee, put and agreed to.

Council in Committee.

The Speaker –

I put the question that the Title, Enacting Clause and Clause 1 do stand part of the Bill. Does any Honourable Member wish to speak?

The Hon. Ken Baddon –

I'll just give the usual comment, Madam Speaker. This is the standard introduction to a Bill and this is another one which will come into force on the date on which it is gazetted.

The Speaker –

Thank you, Honourable Member. Any comments or questions from Honourable Members?

Title, Enacting Clause and Clause 1.

Question put and agreed to.

The Speaker –

I put the question that Clause 2 do stand part of the Bill.

The Hon. Ken Baddon –

Madam Speaker, this is the operative clause. Honourable Members may wonder why this is an amendment to the Dogs and Cats Ordinance rather than an amendment to the Agriculture and Livestock Improvement Ordinance. There are technical reasons why we cannot include

dogs and cats in the other Ordinance so we make an amendment to the Dogs and Cats Ordinance but cross reference it to the Agriculture and Livestock Improvement Ordinance, but essentially what this means in practice is that when later this year the A&NRD issues the triennial demand for information about livestock it will be able to include dogs and cats.

The Speaker –

Any questions or comments, Honourable Members?

Clause 2.

Question put and agreed to.

Council resumed.

The Speaker –

Honourable Raymond Williams?

The Hon. Raymond Williams –

Madam Speaker, I beg to report that the Dogs and Cats (Amendment) Bill, 2012, passed the Committee with no amendments and to move that this Council approves the said Bill and recommends to the Governor that it should be enacted.

The Speaker –

Thank you, Honourable Member. Is there a seconder, please?

The Hon. Mervyn Yon –

Madam Speaker, I beg to second.

The Speaker –

Thank you, Honourable Member. Does the Honourable Mover wish to speak to the Motion?

The Hon. Raymond Williams –

Thank you, Madam Speaker. I believe the intention of this Motion is clearly understood by all present. Thank you, Madam Speaker.

The Speaker –

I put the question that this Council approves the Dogs and Cats (Amendment) Bill, 2012, and recommends to the Governor that it should be enacted. Does any Honourable Member wish to speak? In which case, there is no debate and I rather think the Honourable Mover won't wish to try and respond to it.

The Hon. Raymond Williams –

I have no further comment, Madam Speaker.

Question that Council approves the Bill and recommends to the Governor that it should be enacted, put and agreed to.

The Speaker –

Next item, please?

Motion 4. The Honourable Raymond Williams, Chairman, Natural Resources, Development & Environment Committee.

The Hon. Raymond Williams –

Madam Speaker, I beg to move that the Agriculture and Livestock Improvement (Amendment) Bill, 2012, is approved in principle and referred to a Committee of the whole Council.

The Speaker –

Thank you, Honourable Member. Is there a seconder, please?

The Hon. Mervyn Yon –

Madam Speaker, I beg to second.

The Speaker –

Thank you. Honourable Raymond Williams?

The Hon. Raymond Williams –

The amendment to the Agriculture and Livestock Improvement (Amendment) Bill, 2012, increases the penalties and acts as a deterrent for roaming goats and sheep on Crown land and also to bring in line fees and penalties with other legislation, thus reducing the potential environmental impact as a result of trespassing livestock going unnoticed over a period of time.

The Speaker –

Thank you, Honourable Member. I put the question that the Agriculture and Livestock Improvement (Amendment) Bill, 2012, be approved in principle and referred to a Committee of the whole Council. The question is open for debate. Does any Honourable Member wish to speak? Honourable Mervyn Yon?

The Hon. Mervyn Yon –

Thank you, Madam Speaker. Madam Speaker, as a member of the Agriculture and Natural Development Committee, I too is in support of this Bill and what it has done now is that the Bill only covered goats at one time, now it has put into the wording as well alongside of that, the heading should also read now sheep and goats. This Bill is also, Madam Speaker, an Ordinance to review the penalties imposed under the Agriculture and Livestock Improvement Ordinance and also to impose a restriction on the fees of free ranging sheep,

The Speaker –

Thank you, Honourable Member. Any other Honourable Member wishes to speak? In which case I invite the Honourable Mover to reply to the debate.

The Hon. Raymond Williams –

I thank the Honourable Member for his comments, Madam Speaker, and I don't have any further comments myself at this time.

The Speaker –

Thank you.

Question that the Bill is approved in principle and referred to a Committee of the whole Council, put and agreed to.

The Hon. Raymond Williams –

Madam Speaker, I beg to move that the Council do resolve itself into a Committee to consider the detailed provisions of the Bill.

The Speaker –

Thank you, Honourable Member. Is there a seconder, please?

The Hon. Mervyn Yon –

Madam Speaker, I beg to second.

The Speaker –

Thank you.

Question that the Council do resolve into Committee, put and agreed to.

Council in Committee.

The Speaker –

I put the question that the Title, Enacting Clause and Clause 1 do stand part of the Bill. Any Honourable Member wishes to speak?

The Hon. Ken Baddon –

Madam Speaker, if I could start off on this. These are the usual provisions of enacting clause and Clause 1, but with my apologies to the Honourable Mover and to the House for not picking this up earlier, I do need to propose an amendment to Clause 1, subclause 1. It has been published ending with the words “and shall come into force on” and a blank. My proposal is that it should come into force on publication and I therefore beg to move that the words “and shall come into force on” be deleted. I hope someone will second it.

The Speaker –

Is there a seconder to the proposed amendment, please?

The Hon. Mervyn Yon –

I beg to second, Madam Speaker.

The Speaker –

Thank you, Honourable Member. The amendment proposed is that Clause 1, subclause 1, the words “and shall come into force on” be deleted. Does any Honourable Member wish to speak on the amendment?

Question on amendment, put and agreed to.

The Speaker –

Does any Honourable Member wish to speak on the Title, Enacting Clause and Clause 1, as amended?

Title, Enacting Clause and Clause 1 (as amended) –

Question put and agreed to.

The Speaker –

I put the question that Clauses 2, 3, 4 and 5 do stand part of the Bill.

The Hon. Ken Baddon –

Madam Speaker, just for the benefit of Honourable Members and the listening public, these are the operative provisions. Clause 2 amends the penalty, the maximum penalty for failing to comply with an order issued by the Council Committee for improving agricultural land from £200 to £1,000, I emphasise that is the maximum, but if the maximum is £200 the Court is likely to impose a fine of maybe £20 or £30 which is hardly a deterrent. Section 3 deals with the provisions in the existing law about making rules. Currently what it says is that when making rules under the Ordinance the rules can set a penalty for breaking the rules of, again, up to £200, that again, it is proposed should be amended to a maximum of £1,000. Section 4, Clause 4, amends section 6 of the principle Ordinance. Currently, section 6 makes it an offence to allow goats to roam, range freely on Crown land. Historically, this was because of goats ravaging the countryside and destroying the forests, but sheep can be just as destructive and the recommendation from the Committee was that that section should apply to letting sheep roam free as well. And then, finally, Clause 5, which is about the penalty for failing to fill in the form in the triennial Census, is it is currently £1.00 for each day that the form is delayed, which, again, is hardly a deterrent and the proposal is to make it a maximum penalty of £100 for each day, but I emphasise again, that's the maximum, the Court will, of course, fix a penalty forcircumstances.

The Speaker –

Honourable Members, could I just ask one question? If you read Section 4, Clause 4, if you read to the end it reads “the owner of any goat or sheep who allow their goat to”, should it read goat or sheepon Crown land, or have we got that amended by.....?

The Hon. Ken Baddon –

This was actually raised when the matter went through ExCo, Madam Speaker and I did check it quite carefully. What you have to do is read each provision as you come at it and implement it before moving on to the next one and the first amendment, in paragraph (a) deals with goats or sheep, so that amendment has already been made by the time you get to paragraph (b) which is why it says “or sheep” after “goat” in the heading and where it's just “other than” in subsection (1), because subsection (1) has already been amended.

The Speaker –

Thank you. Any questions or comments from Honourable Members?

The Hon. Rodney Buckley –

Just a comment, Madam Speaker, on section 4, it did strike me that the fine of £250 might be more than a goat is valued or a sheep is valued, may not be the sheep, but maybe the goat's not valued £250 and the owner will say, well, you can keep the goat, that's the maximum, I accept that's the maximum, but.....

The Hon. Raymond Williams –

Can I just come in here please, Madam Speaker? It says a fine of £250, that is the maximum penalty, it doesn't sayit's a fine up to £250.

The Hon. Rodney Buckley –

Fair enough, they'd have to value the goat then.

The Hon. Raymond Williams –

It is a deterrent actually, these high fines are deterrents so that people don't do these things.

The Hon. Bernice Olsson –

Madam Speaker, me being a town girl, how would I identify Crown land, is there, you know, a notice up saying this is Government?

The Speaker –

I will allow the Honourable Attorney General to

The Hon. Bernice Olsson –

Well, I just thought I'd ask the question before I put me goat out.....

The Hon. Ken Baddon –

I think the same thing is don't let your goat or your sheep out on land unless you know who the owner is and you get the owner's permission.

The Hon. Bernice Olsson –

That's what I'm asking, how do I know it's Crown land, if I'm going to be fined £250?

The Hon. Ken Baddon –

But that's my point, if you want to let your goat loose on a piece of land which is owned, let us say, by the Councillor sitting next to you, Councillor Isaac, you should jolly well find out who owns the land and ask his permission. But this is about Crown land and all the land on the island which does not belong to anybody else belongs to the Crown.

The Hon. Bernice Olsson –

So if my goat wanders up the hill, I am liable for £250?

The Hon. Ken Baddon –

Yes, because you should keep your goat under control.

The Hon. Bernice Olsson –

But my goats, they used to wander all over the hills, so, alright, thank you very much.

The Hon. John Cranfield –

This Ordinance is to correct that, with respect, Councillor.

The Hon. Bernice Olsson –

I know, my goats used to run free.

The Speaker –

Any other comments or questions about goats or sheep

Clauses 2, 3, 4 and 5.

Question put and agreed to.

Council resumed.

The Hon. Raymond Williams –

Madam Speaker, I beg to report that the Agriculture and Livestock Improvement (Amendment) Bill, 2012, passed the Committee with one amendment and to move that this Council approves the said Bill and recommends to the Governor that it should be enacted.

The Speaker –

Thank you, Honourable Member. Is there a seconder, please?

The Hon. Mervyn Yon –

Madam Speaker, I beg to second..

The Speaker –

Thank you. Does the Honourable Mover wish to speak to the Motion?

The Hon. Raymond Williams –

I don't have any further comments other than thanking those members who've shown their concern and support of the Bill. Thank you, Madam Speaker.

The Speaker –

Thank you, Honourable Member. I put the question that this Council approves the Agriculture and Livestock Improvement (Amendment) Bill, 2012 and recommends to the Governor that it should be enacted. Does any Honourable Member wish to speak? In the absence of any debate, does the Honourable Mover wish to say anything further?

The Hon. Raymond Williams –

Not at this time, thank you.

Question that Council approves the Bill and recommends to the Governor that it should be enacted, put and agreed to.

The Speaker –

Next item of business, please.

Motion 5. The Honourable Stedson Francis.

The Hon. Stedson Francis –

Madam Speaker, I beg to move that in accordance with section 36(2)(e) of the Constitution there shall not be an election of members of the Executive Council at the end of the tenure of the current members and that accordingly the current members shall remain in office.

The Speaker –

Honourable Member, the draft Order Paper had section 36(2)(e), the correct section is section 36(2)(a) according to my Order Paper this morning.

The Hon. John Cranfield –

Mine as well.

The Speaker –

Would you mind just, in order to comply with Standing Orders, reading the Motion again, sorry.

The Hon. Stedson Francis –

That in accordance with section 36(2)(a) of the Constitution there shall not be an election of members of the Executive Council at the end of the tenure of the current members and that accordingly the current members shall remain in office.

The Speaker –

Thank you, Honourable Member. Is there a seconder to the Motion, please?

The Hon. Raymond Williams –

Madam Speaker, I beg to second.

The Speaker –

Thank you. The Honourable Mover, Honourable Stedson Francis?

The Hon. Stedson Francis –

Madam Speaker, after the General Election on 4th November 2009, the then new Legislative Council met for the first time on 13th November during which time they elected five members of Executive Council under sections 36 and 37 of the Constitution. These seats then became vacant on 13th November last year, 2011. A fresh election was held prior to that date and the elected members then elected to serve until 13th November this year, that's November 2012 when their seats would become vacant unless before then either any of them is re-elected at a fresh election or if there is a formal resolution of the Legislative Council under section 36(2)(a) not to hold an election and this is what the Motion is seeking today. This is the first time that this procedure has had to be implemented as there was no corresponding provision in the 1988 Constitution. Section 36 (2) (a) refers to a decision of the majority of the elected members of the Council as to whether or not in Executive Council elected members remained lawfully in office. Madam Speaker, one of the main reasons for moving this Motion is for members to remain in office is for continuity. Thank you, Madam Speaker.

The Speaker –

Thank you, Honourable Member. I put the question that in accordance with section 36(2)(a) of the Constitution there shall not be an election of members of the Executive Council at the end of the tenure of the current members and that accordingly the current members shall remain in office. The question is open for debate. Does any Honourable Member wish to speak? Honourable Cyril Gunnell?

The Hon. Cyril Gunnell –

Madam Speaker, I have some difficulty with this Motion because it asks that the current members of Executive should remain in office until the end of the tenure of this Council. At the beginning of the four-year tenure of this Council, it was agreed that Executive Council members would hold the executive position for the first two years. At the beginning of the third year or mid-term, there would be an election of members of the Executive Council and in that way some fresh blood could be injected if that were to be the wish of the Honourable Members. That election did take place. In accordance with what was agreed when this Council took office a further election of members of Executive Council should take place around November this year. The timing would once again, if necessary, allow for a change

of some Executive Council members. I didn't write the rules, Madam Speaker and I'm not saying that I actually agree with all that was agreed, but there was an agreement. The timing could allow for a current Executive Council member to step down from Executive Council for whatever reason, but allow me to point out here that an Executive Council member is at liberty to step down at any time, for example, if they felt they could not go along with a particular decision that is made in Executive Council. I was advised, Madam Speaker, that there could well be a current non-Executive Council member who would wish to be considered for a seat on the Executive Council and we actually had a nomination this morning and if I were to agree to the Motion as worded I would be denying that member, or, indeed, other Executive Council members the chance to try and make a difference at Executive Council level. Madam Speaker, there is another matter, it is a matter of principle. I readily accept, but perhaps more important when it comes to membership of the Executive Council. Speaking as a representative of the public, I am very uncomfortable that the system allows members of the Public Accounts Committee to also be members of the Executive Council and vice versa. This does concern me greatly and I want to make it very clear, Madam Speaker, that my concerns are about principle, what is right and what is not right. My concerns have nothing to do with any individual or personalities. Madam Speaker, is it satisfactory that an Executive Council member sitting in Executive Council, making decisions on behalf of the Government, can potentially later scrutinise those same decisions when sitting as a member of the Public Accounts Committee? Would the Executive then be scrutinising itself? The Public Accounts Committee, in accordance with the Constitution, is supposed to be independent of the Governor and the Executive Council or any other person of authority, but I ask myself that if is that independence potentially compromised when one member or more of Executive Council can have a seat on the Public Accounts Committee? As far as I am concerned, proper accountability dictates that the duties of the Executive and the Public Accounts Committee should be separated. It gets even more alarming. Currently, three elected members make up the composition of elected members on the Public Accounts Committee. It is possible, in the present system, for all three members to also be members of the Executive Council. This, Madam Speaker, to me, is not acceptable. It is also possible for the three elected members position to be filled by Executive Council members on the PAC. Madam Speaker, if I were to support the Motion as worded, which asked that there shall not be an election of members of the Executive Council, but that current members shall remain in office, I would indirectly also be accepting that I am satisfied with the present system and I hope I have made it clear that I am not satisfied.

The Speaker –

Thank you, Honourable Member. The Honourable Rodney Buckley?

The Hon. Rodney Buckley –

Thank you, Madam Speaker. Honourable Members, my extensive considered conclusion to respond to this Motion is that for me the right thing to do is to vote against this Motion. I am a very strong believer, as my exposition on the next Motion on Constitutional adjustment will bring out, is that the situation our political governance is in at this time needs to change. Practically, whether there be Executive elections in November or not, I don't think it will make any significant difference at this time simply because, to put it mildly, the muddled situation we find ourselves in. What is making the difference is this mid-term ExCo elections which provides for total destruction of continuity. I do not disagree with many of my colleagues that continuity is very important, hence the basis of this Motion, but for a Constitution to provide for the possibility of the entire Executive Council members to be replaced after only two years in office of a four-year election term and then every year

thereafter can only breed political floundering. This is actually what we are experiencing, political floundering. The fundamentals of good political governance is not with us by the reason of the structure of our Constitution. It cannot, my Honourable Friends, be right for me to support this provision in our Constitution. That, I strongly protest, is not the right way to govern our island. Honourable Members, during my election campaign my manifesto set out that I would do all I can to change the way politics is currently done on the island. I believe that I was voted into Council on that promise. I have worked hard on that promise for the last two years and ten months and made some progress. There is still a lot more to be done and I intend to keep that promise. Madam Speaker, Honourable Members, I will exercise what I believe is my right duty to do what is clear to me is the right thing and that is vote against this Motion. Madam Speaker.

The Speaker –

Thank you, Honourable Member. Any other Honourable Member wishes to speak to the Motion? Honourable Bernice Olsson?

The Hon. Bernice Olsson –

Thank you, Madam Speaker. I can go along with this Motion. It makes good sense for Executive Council to remain for continuity purposes. Since there were changes at the midway period of two years, making further changes of Executive Council for the remaining year will absolutely destroy continuity. Thank you, Madam Speaker.

The Speaker –

Thank you, Honourable Member. Honourable Raymond Williams?

The Hon. Raymond Williams –

Madam Speaker, as the seconder to this Motion, I would agree with the Honourable Mover's sentiments and give my support in terms of continuity only for the next fourteen months or thereabouts and agree that Executive Council be resolved.

The Speaker –

Thank you, Honourable Member. Honourable Mervyn Yon?

The Hon. Mervyn Yon –

Thank you, Madam Speaker. Madam Speaker, I thank the Honourable Member for bringing this Motion to the House. He has sit down, in my opinion, sorted things out and said to himself, we need continuity in Executive Council and the only way to have continuity is for me to put this Motion through the House today. I'd like to say, Madam Speaker, that I would support the Honourable Member with his Motion and I trust that other Members will follow, but they'll have to use their own initiative. Thank you, Madam Speaker.

The Speaker –

Thank you, Honourable Member. Any other Honourable Member wish to speak? Honourable Derek Thomas?

The Hon. Derek Thomas –

Thank you, Madam Speaker, I rise in support of the Motion. There is a provision for a new election but also the Constitution, Madam Speaker, can be exercised unless that either of the times the elected members of Legislative Council decide by a majority of their numbers not

to hold such an election, so there is the provision there, and for continuity purposes I feel that I support the Motion. Thank you, Madam Speaker.

The Speaker –

Thank you, Honourable Member. Any other Honourable Member wish to speak? The Honourable Attorney General?

The Hon. Ken Baddon –

Madam Speaker, it's not to either support or oppose the Motion, but simply to explain to members and anyone listening outside that we had an election this morning of a new member of Executive Council. That election took effect the moment it happened, so the effect of this Motion will be to carry forward the five, including the one that was elected this morning.

The Speaker –

Thank you, Honourable Member. Honourable Brian Isaac?

The Hon. Brian Isaac –

Madam Speaker, I support the Motion, but as a member of Executive Council I will not make a debate. Thank you.

The Speaker –

Any other Honourable Member wish to speak? In which case, I'll invite the Honourable Mover to respond to the debate, the Honourable Stedson Francis?

The Hon. Stedson Francis –

Just to say thank you to those who supported the Motion, and for those who didn't, I respect your views. Thank you, Madam Speaker.

Question on Motion, put and agreed to.

The Speaker –

Sorry, the Honourable Rodney Buckley?

The Hon. Rodney Buckley –

A point of order, Madam Speaker, on a point of order, should the current members of Executive Council declare an interest?

The Speaker –

I think all members would have to declare an interest because you're all part of the Legislative Council whether you are or are not a member of the Executive Council. I think you all have an interest, which is why I didn't actually ask anybody to declare an interest at the beginning, I don't know whether the Attorney General has a thought on it?

The Hon. Ken Baddon –

Madam Speaker, this one exercised my mind some weeks ago. It seems to me clear that the current members of the Executive Council do, in a sense, have an interest in this matter, but the Constitution is clear. The decision as to whether or not to cancel the planned election, the scheduled election is a decision of the majority of all the elected members and I think that partly for that reason, but partly also because conflict of interest is usually regarded as a conflict which is peculiar to the individual as distinct from a group of which he is a member.

A good example of that is when there are questions in Westminster about changing income tax rates. Clearly, the members of the House are affected because they pay income tax and it's long established practice that they are allowed to vote, because their interest is an interest as part of the life of the community, not a purely personal interest, so on balance, I respect the Honourable Member raising the point, as I say, it did exercise my mind when we were preparing for this meeting, but I think that partly from principle, reinforced by the specific wording of Section 36(2)(a) the Members should be entitled to vote.

The Speaker –
Thank you.

Question on Motion, put and agreed to.

The Speaker –
Next item, please?

Motion 6. The Honourable Rodney Buckley.

The Hon. Rodney Buckley –

Madam Speaker, I beg to move that this House requests Her Majesty's Government to undertake minor adjustments to the St Helena Constitution 2009 in order to provide improvements to Section 36, Election of elected members of Executive Council and Section 69, Public Accounts Committee, thereby to further the practice of good governance on St Helena.

The Speaker –

Thank you, Honourable Member. Is there a seconder to the Motion, please?

The Hon. Cyril Gunnell –

Madam Speaker, I beg to second.

The Speaker –

Thank you, Honourable Member. Honourable Mover.

The Hon. Rodney Buckley –

Thank you, Madam Speaker. Firstly, I draw members' attention to the wording of this motion, and for the benefit of the listening public. The wording makes very clear that it is not a review of the Constitution that is being sought, but to make minor adjustments to sections 36 and 69. Section 36 is the method of electing members to the Executive Council and Section 69 is the method of electing members to the Public Accounts Committee. Members should also note that any adjustment to section 36 will also require a corresponding minor adjustment to section 56, which is the method of electing members to Council Committees. Both sections were used for elections this morning.

Honourable Members, our Island is now facing significant challenges and the importance of strengthening our governance cannot be overstressed. The scaling-up of the present initiatives for economic development and ensuring that the voice of the poorest and the most marginalised amongst our community calls for a renewed political will. It is critical, however, for a new political will to be backed by local ownership. Development can only

succeed if it is led and tailored to our national context and supported by and accountable to the people of our Island.

It is well recognised the important role Her Majesty's Government exercise in maintaining stability in the Overseas Territories through well structured constitutions. However, in the case of St. Helena, the de-coupling of both the Executive Council Membership and the Chairmanship of the five Council Committees under our revised 2009 Constitution is not conducive to the scale of the challenges that the Island is now faced with. Executive Council is the highest level in our political governance and personally I strongly believe that the Public Service could be reduced to five Directorates and five Chairmen to form a collective and united ExCo, which one of the five Committees acting as Chief Councillor. This removal of the adversarial relationship between Council Committees and Legislative Council has resulted in the removal of any meaningful opposition to the Executive Council. This de-coupling also removed a collective and coherent Executive Council. This in turn destabilized leadership power and influence over policy and budgetary matters. In short, few if any, will disagree with me when I say that the Island is a long way from modern day governance of a united government.

Whilst the eight Council Committees operate within the framework of the Constitution and by the formal instruments constituting the Committees and regulating their procedures, one can argue that the eight Council Committees could therefore easily be reduced to five Committees, without any adjustment to the constitution. But, the removal of the appointments of members to the Executive Council and Council Committee Chairpersons, by the Legislative Council Members, is where the strengthening of political governance will come from. The current method of electing members, nominating chairmanships for both Executive Council and Council Committees are never likely to produce a coherent government. It may not be impossible but it is highly unlikely that this method will produce getting the right people with the right experiences in the right places.

The fundamentals of good governance in our small political system must be conducive to:-

- (a) Collective leadership
- (b) Ensuring that there is the best use of skill and experience
- (c) Spreading the work load in a fair manner; and
- (c) Distributing responsibility

Politically, none of these four basic fundamentals are actually in practice in our governance at this time, simply because there is no political leadership. The Constitution sends an open invitation for territorial power, not only in the political arena, but also in the administrative arena.

Honourable Members, for me it is very clear that our Island urgently needs a new political mandate to take on the challenges that lie ahead. We have committed to working in partnership with Her Majesty's Government and I am more than confident that our fellow Islanders will honour our commitments to the bitter end. We are British and we will remain British.

However, within the strategy of the 2012 White Paper our constitutional relationship must continue to evolve. Ministers in London must appreciate that in the Overseas Territories, one size does not fit all. In respect of Section 69, Section 36 took no account of Section 69 since it permits an elected member to serve on Executive Council and to serve also on the Public Accounts Committee. The executive of the government not only do not have any political opposition, the Constitution provides in this section for Government to endorse reporting on itself. This situation needs to change.

The constitution was signed off in 2009 as a living document, lending itself to sensible approaches with sensible adjustments to be made to suit changing circumstances. The 2012 White Paper calls for Constitutions to continue to evolve and to require adjustments in the light of changing circumstances. St. Helena's circumstances have changed significantly since 2009. An adjustment now is at the top of the critical stage, to bring the Island in line with good governance. Governance in relation to the Island's culture and circumstances and which is now absolutely necessary to support economic growth and provide for social prosperity.

Honourable Members the motion therefore requires your endorsement, enabling a request to be sent to Her Majesty's Government requesting opening of discussions with Elected Members, specifically for adjustments to the procedures of electing membership of both the Executive Council and Council Committees under section 36 and 69 and corresponding section 56 of the St. Helena, Ascension and Tristan Da Cunha (Constitution) Order 2009.

The specific details of this adjustment are a matter for open discussion with elected members and the community. Madam Speaker.

The Speaker –

Thank you, Honourable Member. I put the question that this House requests Her Majesty's Government to undertake minor adjustments to the St Helena Constitution 2009 in order to provide improvements to Section 36 – Election of Elected Members of Executive Council and Section 69 – Public Accounts Committee, thereby to further the practice of good governance on St Helena. The question is open for debate. Does any Honourable Member wish to speak, please? Honourable Cyril Gunnell?

The Hon. Cyril Gunnell –

Thank you, Madam Speaker. The Honourable Member in his exposition has put forward, in my opinion, sound arguments for minor adjustments to Sections 36 and 69 of the St Helena, Ascension and Tristan da Cunha (Constitution) Order 2009. Section 36 deals with election of elected members of Executive Council, Section 69 speaks about the Public Accounts Committee. It is not my intention that I should respond to each of the points raised by the Honourable Member, but suffice it to say I agree wholeheartedly that a case for minor adjustments to the two sections mentioned in the Motion should be put forward to Her Majesty's Government for consideration.

I should like first of all to speak on the election of elected members of Executive Council, which the Honourable Member points out is described in Section 36 of the Constitution. I am, Madam Speaker, if you like, from the old school. I've been knocking around for twenty-one years, when the composition of Executive Council members comprised of the Chairs of those Committees representing the five largest Government Departments – Public Health, Education, Public Works and Service, Agriculture and Forestry and Employment and Social Services. Alongside of these Committees was the Development and Economic Policy Group; its composition comprised of the five members of Executive Council and two other elected members. Names and designations changed over along the way as Government evolved to what it is today. The main difference as I see it, Madam Speaker, between the way the old Executive Council worked and the way in which the Executive Council operates within the system today is that Executive Council worked more like a Cabinet. There was no election of Executive Council members halfway through and in the third year of the four-year tenure of Council. Executive Council of today comprise of portfolio holders and non portfolio holders, which, in itself, is very odd. One member of Executive Council recently said he is uncomfortable being a member of the Executive Council because he does not have a

portfolio, but as the Honourable Tony Green was elected this morning, he will now, at least, have a portfolio, but then there are two on now who do not have a portfolio. At formal Legislative Council meetings, like we are a part of today, the Executive Council members did not ask questions in the House, they were there to represent the Government and answered questions that were put to them by the other elected members, who could have been called backbenchers and whose job it was to scrutinise the Executive Council, holding it publicly accountable for its actions and decisions. There was much robust debate in the House, which sadly is not seen in the so-called collegiate system of today and there is no opposition. I strongly contend that Executive Council's style of today is watered down compared with former years and would agree with the Honourable Mover that this could be righted by an appropriate adjustment to Section 36 of the Constitution.

Now may I turn to the Public Accounts Committee, the workings of which, as the Honourable Mover has indicated, is described in Section 69 of the Constitution. The Public Accounts Committee was introduced into St Helena in recently relative years. When I represented St Helena at the Plenary and Small Countries Conference held in Nassau, the Bahamas, in 1992, the pros and cons of introducing Public Accounts Committees was one of the items on the agenda. I spoke earlier at some length when responding to an earlier Motion about membership of the Executive Council, so I won't go into any great detail here, except that, like the Honourable Mover has intimated, I find it politically unacceptable that a Public Accounts Committee member can also be a member of the Executive Council and a member of the Executive Council can also be a member of the Public Accounts Committee. Accountability, it has to be said, is compromised when an elected member can have a seat on both of these high powered Committees. The independence of the Public Accounts Committee is brought into question when elected members are appointed to both bodies. Incidentally, when this matter was discussed by Honourable Members in March of this year, all Councillors, Madam Speaker, all Councillors present accepted the principle that there should be a separation of duties, especially when it comes to accountability between the Executive Council and Public Accounts Committee. Members agreed then that there should be a separation of duties. This was duly recorded and yet this morning, a sitting member of the Public Accounts Committee was nominated for a seat on Executive Council and was approved. So much for agreements. This now brings the number of Public Accounts Committee members sitting also on the Executive Council up to two. Madam Speaker, the Constitution does not stipulate that an Executive Council member should not sit on the Public Accounts Committee, however, as this allows for all three elected members positions on the Public Accounts Committee to be filled by Executive Council members, which would, I would urge, is unacceptable, it is therefore equally unacceptable for any Executive Council member to be a member of the Public Accounts Committee. I hasten to add that this ambiguity can be removed with an appropriate adjustment to Section 69 of the Constitution. Madam Speaker.

The Speaker –

Thank you, Honourable Member. Any other Honourable Member wish to speak to the Motion, please? Honourable Brian Isaac?

The Hon. Brian Isaac –

Madam Speaker, I thank the Honourable Mover for bringing this Motion to the House, it's been something that's been within the woodwork for some time, since I accepted a post, a seat within the PAC, but that's not what I want to say.

I would like to refer to the Constitution, which the Motion quotes. I have been, and many members around this table, have been part of the body that supported this Constitution in its

infancy and in its passing through the House, and, yes, I will agree that there probably needs to be amendments to the Constitution and I for one will have some difficulty in just picking out, nitpicking issues within the Constitution for amendments at this particular stage. I would give my full support to the Mover of this Motion if it was asking to review the whole Constitution. Just previously I was, under the Governorship of Governor Gurr, supported the move to portfolio holders and the new change within Government and seats on Executive Council. There are concerns, I agree, but to just ask Her Majesty's Government just to make amendments to these two commitments, I do have some difficulty at this time, but there are resolutions at the end which could resolve the concerns raised here today. Madam Speaker, you will recall that during my occupation as a seat on the PAC advice was sought from Ian Hendry, the FCO lawyer on this issue, who did not have any major concerns and I think, if I be correct in quoting it, he said that as long as the member declares his interests within the PAC he doesn't have a problem with that.

I would now like to refer to the Mover and the Seconder who highlighted many issues of Executive Council members sitting on the PAC, but at no one time did I hear a mention of portfolio holders sitting on PAC. At the end of this meeting, Madam Speaker, I will announce my resignation from the PAC so I hope that this will make matters much easier for the workings of this House, but if I look around this House today, I see that, even if my Honourable Member, I'm not sure what's his intentions, if he was to resign his seat on the PAC, will it just leave just one member as a member of the Legislative Council to sit on the PAC or will it require portfolio holders to sit on the PAC? Now, I would be quite clear if someone could explain to me what is the difference between a portfolio holder sitting on a seat on PAC or an Executive Council member sitting as a member of the PAC? That's a question that I have at the back of my mind, so it leaves just Councillor Henry, who is not a portfolio holder nor a member of the Executive Council at this particular time to sit on the PAC and I hope that question could be answered today if not later after seeking legal advice on it.

But back to the Constitution, Madam Speaker, I do share the concerns of the Mover but just to nitpick little issues within the Constitution, this is a supreme document that governs how Government work and supreme for St Helena and to ask Her Majesty's Government just to amend these two issues which I feel can be resolved within reason and the part of that is that I will formally announce my resignation at the end of this Sitting. Thank you, Madam Speaker.

The Speaker –

Thank you, Honourable Member. Does any other Honourable Member wish to speak? The Honourable Derek Thomas?

The Hon. Derek Thomas –

Thank you, Madam Speaker. I have some concerns about the Motion in the way it is worded. The election of elected members to Executive Council, Section 36 (1) of the Constitution provides for five elected members to be members of the Executive Council and that is to be decided at the first sitting of Legislative Council. The Section provides that a further review, they are to serve for a period of two years from the date of the election to the Executive Council. The Constitution, Madam Speaker, in my view, provides a provision for Legislative Council to call for a new election of Executive Council if they are of the view that there needs to be a change. There might be necessary that Legislative Council will want to see a change for a number of reasons, there might be certain members that they feel are not performing and they would wish to see change and that, in my view, is achieving best value, that is what the Council is here for, to achieve best value. I see nothing wrong with that, the

way the Constitution is. The concern I have under that Section, Madam Speaker, is allowing a further election, the one at midway I have no difficulty, I think that is correct, it is the right balance, the difficulty I have is allowing a further election within the third year, for one year, I think that I do not agree with that, Madam Speaker. In deciding on Executive Council with five members for the larger Departments, again I don't agree with that. If you're a Chairperson of the larger Department, it's not necessarily you are the best member to be serving on Executive Council. It is the duty of Executive Council to deal at a very high, strategic level and to take account of the whole of the island-wide issues, so again, in my view, that if you're a member of the larger Department is not necessarily, like I say, you are the right person to be on Executive Council, because Executive Council is there to take account of all views of the island. So as the Motion stands, Madam Speaker, I have some difficulty in supporting the two particular issues, the main one I have is the election to Executive Council. A review of the whole Constitution, I would have no difficulty with that, but to just ask for those two particular issues to be addressed, I have some concerns with that. Thank you, Madam Speaker.

The Speaker –

Thank you, Honourable Member. Does any other Honourable Member wish to speak? The Honourable Mervyn Yon?

The Hon. Mervyn Yon –

Thank you, Madam Speaker. Madam Speaker, I have difficulty in supporting this Motion since I do not know what adjustments are expected to be made to Sections 36 and 69. If these issues had been discussed with members before this Motion was brought to the House, explaining the adjustments I might have had a clearer conscience to decide which way to vote. At this time, Madam Speaker, I cannot support the Motion. Thank you.

The Speaker –

Thank you, Honourable Member. Any other Honourable Member wish to speak? In which case, seeing as I did say we would suspend the sitting at 1 o'clock for lunch, perhaps this is a sensible time to have the suspension for lunch and we will meet again at 2 o'clock, please.

Council suspended.

Council resumed.

Resumed Debate.

The Speaker –

Honourable Member, we are at the point of debate on Motion No. 6 where I had invited all members to speak, there was no further members wishing to.....you wish to speak now?

The Hon. Raymond Williams –

No, I did then, Madam Speaker, sorry, but you didn't notice my card.

The Speaker –

I do beg your pardon. In that case.....

The Hon. Raymond Williams –

I must apologise, I didn't put my card up as you told us to, sorry.

The Speaker –

Ah. Thank you. Right, the Honourable Raymond Williams.

The Hon. Raymond Williams –

Madam Speaker, I respect the intention of this Motion, but I am very mindful that the timespan with having these adjustments made will exceed my time in office as such matters are time consuming. I am still mindful that making amendments now would probably not materialise until this Council is dissolved. The decision, therefore, could reflect on a new Council next year, which the new Council may not wish to accept. Thank you, Madam Speaker.

The Speaker –

Thank you, Honourable Member. Does any other Honourable Member wish to speak? In which case, I call upon the Honourable Mover to wind up the debate. The Honourable Rodney Buckley.

The Hon. Rodney Buckley –

Thank you, Madam Speaker. I'll start in the reverse order with the honourable comments from the Honourable Raymond Williams just now on the time factor. Whilst I have to agree that the new Council might not agree to any debate, but I have to agree that it will be a long time, I suspect, before anything will come out of it, but the debate is basically for the community to debate, not individuals, and moving from that straight on to the Honourable Mervyn Yon that he don't have the details. That's exactly where we are, coupling these two comments together. At the end of my exposition, I said the details, the specific details of this adjustment are a matter for open discussion with elected members and the community. It is not for me, and, indeed, no other individual around this table to decide on the details, it is the details to be discussed with Her Majesty's Government and the community to decide what is the best structure for our island. Whether that happens in this election term or the next election term, it is a matter for discussion to be put on the table.

Moving on to Honourable Derek Thomas, change, to my mind, can be achieved in mid-term, it don't have to be with the same method of change we're having now by elections, it can be still by elections but it will depend on what the details would emerge from any changes. It doesn't mean to say that mid-term elections would be eliminated altogether. For instance, if there was just, hypothetically, if there was a Chief Councillor, mid-term elections would provide for a re-election of the Chief Councillor at mid-term, it doesn't mean to say that mid-term elections would be eliminated altogether, the point is, mid-term elections are not providing for continuity, that is the point, with removing the entire Executive Council, but it could provide for change by removing one or two people.

Again, Councillor Thomas made mention of don't have to be five members of the major Committees, Chairmen of Committees to be on Executive Council. Well, that's exactly the point of we are trying to improve our Constitution, for the people with the best experience to be allocated to the places that's best suited to them and if in this particular instance, to comment on Councillor Thomas's comment, if the people with the best experience was allocated to the appropriate five Committees then they obviously would be the people with the best experience to serve on Executive Council. So, it is a question of open for debate and it is a question for our Council and Committees in collaboration with the community to

decide what do we need to strengthen our governance of St Helena and quite clearly it needs strengthening.

Moving up one to Councillor Isaac, review of the entire Constitution. That is a huge step at this point in time and I do not agree that we are just nitpicking on the Constitution. We are asking specifically for these three sections, or two sections, to talk about it and to have discussions on. To review the entire Constitution would take many, many years and in my view reviewing the entire Constitution moves one big step forward, we can only move to a complete review to a ministerial government and that's not what we're asking at this point in time. We are simply asking to have a look and discuss Sections 36 for the election of Executive Council and the Council Committees and I do not agree, I can't agree that that is nitpicking. But Councillor Isaac's address really do demonstrate the muddle that we are currently in in our governance and the political situation that the island finds itself in, demonstrates very clearly that something needs to be done.

I also have to make comment, Madam Speaker, that Councillor Isaac advised he is stepping down. I have to make quite clear, this is not about individuals, it is about providing a strong and robust system for the people of St Helena, it is certainly not about individuals, it is about the system, what we are saying is that the system is not right, individuals don't come into play.

So, Honourable Members, think very carefully where we are, think very carefully about the wording of the Motion. We are simply asking Her Majesty's Government to open discussions with elected members on improving our Constitution to improve the governance of St Helena, nothing more. When that happens, it will be for the elected members to take it to the community and get the community to decide what detailed changes they would like to see in a Committee, if any. The community might well come back and say, no, leave it like it is, we're happy, but it is not for me or any member of this Council to say what the details is at this point in time. For that, Honourable Members, is please think very carefully what we are asking for and what we are asking Her Majesty's Government, simply to open up debate with you.

And moving finally up to the Seconder's exposition, I can only say I have to thank him for his explaining, his detail, to support the Motion. So I think, Madam Speaker, that's about all I can sum up, but I would like just to conclude by saying to members, just to make sure that you are very clear on what you are voting on and it is the endorsement of asking Her Majesty's Government to open a discussion with the island. Thank you.

The Speaker –

Thank you, Honourable Member.

Question put.

The Speaker –

Sorry, you want to come in before I....

The Hon. Brian Isaac –

Madam Speaker, before we put the vote, a member just left the House, could we just wait on his return?

The Speaker –

In the interest of having everybody present, I'm quite happy just to wait a minute or two if Honourable Members don't mind us waiting, sorry.

The Hon. Ken Baddon –

Madam Speaker, it might actually help, I know something or other was going on in the background, it might actually help if you suspend the sitting for ten minutes, then we can all come back and have the vote on this Motion and move on with other business.

The Speaker –

Okay. Thank you. I will take the advice of the Attorney General, I'm a little bit mystified, but I will take his advice and I suspend the sitting for ten minutes. Perhaps, Honourable Members, we can meet in here without the microphones and everything else turned on.

Council suspended.

Council resumed.

Resumed Debate.

The Speaker –

Honourable Members, we're just one member short at the moment and I think he's going to be rejoining us in a second. Perhaps, my apologies to the public, who will have wondered what's going on and at a later point in the afternoon they'll perhaps begin to appreciate why we just had a short break to sort ourselves out slightly. I'm not going to call for votes until the Honourable Brian Isaac has rejoined us, I don't think he's going to be more than a minute; I thought he was already back in. Thank you, AG.

Thank you, Honourable Members and thank you to the listening public for your patience with us. I think, in the interests of just making it quite clear where we are, we are looking at Motion 6 and I'm going to repeat the wording of it and put the question again before calling for votes, simply so that everybody is reminded, particularly the public, of what it was we were debating.

I put the question that this House requests Her Majesty's Government to undertake minor adjustments to the St Helena Constitution 2009 in order to provide improvements to Section 36 – Election of Elected Members to Executive Council and Section 69 – Public Accounts Committee thereby to further the practice of good governance on St Helena.

Question put.

The Speaker –

I am not clear as to the number of Ayes, the number of Noes, I think therefore I have to call a Division please.

Division claimed.

Ayes	Noes	Abstentions
The Hon Rodney Buckley	The Hon John Cranfield	
The Hon Stedson Francis	The Hon Brian Isaac	
The Hon Cyril Gunnell	The Hon Mrs Bernice Olsson	
The Hon Earl Henry	The Hon Derek Thomas	

The Hon Raymond Williams
The Hon Mervyn Yon

The Speaker –

Thank you. I just need to clarify. Clerk, would you mind coming and looking at this please. So, Councillor Yon, your vote was Yes?

The Hon. Mervyn Yon –

Sorry, my vote was, I made a mistake.

The Speaker –

But you voted Yes.

The Hon. Mervyn Yon –

My vote was Yes, I did say yes, but no it was my mistake, sorry.

The Hon. Rodney Buckley –

Councillor, he voted Yes.

The Speaker –

Sorry, I clearly heard yes and it was recorded as yes.

The Hon. Mervyn Yon –

I know it was recorded yes, but I made a mistake according to my speech that I gave.

The Speaker –

Honourable Attorney General, I do need advice.

The Hon. Ken Baddon –

Madam Speaker, the vote which has been recorded is the vote which you must count.

The Speaker –

In which case, Honourable Members, the Motion is passed. Thank you. Next item of business, please.

Motion 7. The Honourable Rodney Buckley.

The Speaker –

Sorry, could Honourable Members just stop for a second. Is everybody ready please for the next Motion? Thank you. Motion No. 7, the Honourable Rodney Buckley.

The Hon. Rodney Buckley –

Thank you, Madam Speaker. I beg to move, calling upon this Honourable Council to support the reprioritisation of the Education Reorganisation Project under the next three-year Development Aid funding from its present category of Desirable Projects, into the category of Essential Projects, thus bringing primary, secondary and tertiary education resources into the twenty-first century.

The Speaker –

Thank you, Honourable Member. Is there a seconder to the Motion, please?

The Hon. Earl Henry –

Madam Speaker, I second the Motion.

The Speaker –

Thank you. Honourable Rodney Buckley?

The Hon. Rodney Buckley –

Thank you, Madam Speaker. Firstly, the Education Directorate thank Ministers for sharing our vision in the White Paper of building a well educated society and we welcome their commitment in positioning Education as a priority for the UK Development Programmes managed by the Department for International Development. We also thank the Department for International Development for their unfailing support to education on St Helena. Honourable Members, education underpins the very foundation of our society. Our society becomes more and more modernised, expectations will become more and more demanding, especially from our young people. Those of us who represent the community cannot afford to underestimate the role education can play in bringing about economic growth, social prosperity and keeping a lid on political stability. Indeed, a lot of positive work is currently being accomplished through financial and technical assistance from the UK Government. However, a long-term strategy and funding programme is now required to implement education strategies and adequately address the wider threats and issues. The island is committed to reforming education in doing so produce a long-term strategic, sustainable Education and Employment Development Plan. Addressing the reorganisation of education carries a significant cost, but not to do so is not an option. Present study and work environments, management and governance structures are not conducive to improving attainment levels of any significance. The Motion therefore seeks to upgrade the education repriority, reorganisation project which currently forms part of the longer term indicative capital budgets. The Infrastructure Development Programme categorizes projects as committed, essential, important, desirable and not critical. The Education Development Project sits in Desirable. We strongly recommend that education is nothing less than Essential if attainment levels are to improve to a level necessary to sustain the huge investment currently being invested in economic development and infrastructure. The Education Directorate considers it critical that we move ahead quickly. Work in preparation of the main project is already in progress by the Directorate Management. Upgrading calls for the project to be given the attention it deserves in the next financial year. Our children deserve to be educated in a twenty-first century primary classroom and not in three schools that are barely suitable for their grandparents. Our secondary age children, sixth form students, teachers and nurses training and trades work deserve to study in a building which is conducive to learning. Home support services and teaching for our special needs children must be improved. The register shows that children with severe learning difficulties are in excess of 18% from the school population of around 580 children. Using this as numbers, this is well in excess of 100 children and this figure excludes children with emotional and behaviour disorders. These children are in some classes with severe and complex autistic spectrum disorders alongside children who are gifted and talented, alongside children who have severe learning difficulties plus children with emotional and behaviour disorders. Let me, Honourable Friends, give you just a few statistics that is extremely disturbing. You may want to write the percentages down that I will give you because you will have a really clear feel for where we are in education. I will call them so that you can write them down.

55 children moved from Primary School to Prince Andrew Secondary last week, 55 children. Children who moved over with four years behind their expected age, four years behind their expectation age. I'll give you the figures. In Maths, four years behind, in Maths 14% of 55. English 8%, Writing 8%, Reading 24%.

The Hon. Mervyn Yon –

Madam Speaker, can it be said a little slower, not got much change here to jot it down?

The Hon. Rodney Buckley –

Maths 14%, English 8%, Writing 8%, Reading 24%. Children of that 55 two years behind their expectation age, two years. Mathematics 45%, English 32%, Writing 8% and Reading 46%. My Honourable Friends, that is simply not good enough and my Honourable Friends that is a significant improvement on the children who moved to Prince Andrew last year. It can demonstrate where we are and what our staff, teachers are up against in trying to take education forward, frightening statistics. It is a no brainer that such teaching conditions on top of the poor state of our schools have a huge impact on student attainment levels. If this situation is not corrected it is obvious it can only escalate with ageing buildings and an increasing population. Main school teaching also needs to better understand special needs training. Learning difficulties create behavioural difficulties and behavioural difficulties create learning difficulties. Twenty-first century schooling for children with special needs provides for exclusion by inclusion for all children, no child should be left behind. Exclusion refers to special teaching facilities within the school and inclusion refers to those children being included in all other forms of school activity. To say that the facilities are poor and the state of our buildings are in a state of disrepair is an understatement. The buildings, including Prince Andrew School, do not match the expectations of learners, teachers and the wider community. The current study and working environments are not fit for purpose. It is time to demonstrate to our children, young people and the wider community that we can do better. I, like my colleagues in Education Directorate, recognise that elected members are the driving force for change and we need to work together to achieve our vision of building a well educated society. Education is everybody's business. Unless we are creative we can forget about having a well educated society that will be of any quality in sufficient numbers to continue developing and maintaining our economy necessary to improve the lifestyle our people now enjoy. Education is everybody's, we need to be creative. I am surrounded in the Education Department with people activating unused brain cells everyday and using this brain power to be creative. It is a joy to be part of this environment and I call on my fellow Councillors to join me in nurturing this positive attitude and to demonstrate that we can do better. I hope my Honourable Friends will have no difficulty in giving their full support to this development project and to push forward quickly in giving our children a good education and in turn strengthening our economy and provide the standard of living our people have come to expect. Thank you, Madam Speaker.

The Speaker –

Thank you, Honourable Mover. I put the question calling upon this Honourable Council to support the reprioritisation of the Education Reorganisation Project under the next three-year Development Aid funding from its present category of Desirable Projects, into the category of Essential Projects, thus bringing primary, secondary and tertiary education resources into the twenty-first century. The question is open for debate. Does any Honourable Member wish to speak? The Honourable John Cranfield?

The Hon. John Cranfield –

Sorry, Madam, I just wanted to rise in full support of this Motion, Madam Speaker.

The Speaker –

Thank you, Honourable Member. Any other Honourable Members? The Honourable Cyril Gunnell?

The Hon. Cyril Gunnell –

Thank you, Madam Speaker. Once again, the Honourable Member put forward a case that can't really be argued against and really alarming the figures that were produced, but we have an attainment, or do we now have two attainment level partners on the island? Michael Theobald in the Primary School and some person arrived very recently for the Prince Andrew School and you know, if the person for the Prince Andrew School can make the same kind of achievement as Michael Theobald has done in the Primary School then it's all for the good. I was very impressed with the numbers and we, I mean, Councillor, my Friend Mervyn Yon and myself we have an In Focus programme and we had Mr Theobald there and we were very impressed with what he was telling us and hope it will continue, but certainly there was vast improvement in the last year. And the Honourable Member did mention special needs and that's an area that has been falling behind and hopefully now they can pick up on that as well, because like the Honourable Member did say no-one, no child needs to be, should be left behind, but I give my full support to the Motion, Madam Speaker.

The Speaker –

Thank you, Honourable Member. The Honourable Stedson Francis?

The Hon. Stedson Francis –

Madam Speaker, I was always going to support the Motion, but my question was going to be why wasn't the reprioritisation of the Education Reorganisation Project under the next three-year Development Aid Funding not categorised as Essential Projects in the first place, but having heard the Honourable Member's exposition I can see why and I fully support that our children be given a good education. Thank you.

The Speaker –

Thank you, Honourable Member. The Honourable Brian Isaac?

The Hon. Brian Isaac –

Madam Speaker, I thank the Honourable Member for bringing this Motion to the House, it's something that, you know, is dear to most members and the community, the wider community. Without a constructive Education system we are stranded and we are looking forward to the development of air access on the island, with building a stronger economy and without education none of these things will work. Education within our society is something that has been lacking over the years and there are reasons for that, but we cannot use those reasons as excuses not to improve what we are aiming to do, which this Motion is aiming to do and on that note it was a clear explanation given by the Mover, I give my full support and I hope members will support this Motion as well. Thank you, Madam Speaker.

The Speaker –

Thank you, Honourable Member. The Honourable Derek Thomas?

The Hon. Derek Thomas –

Thank you, Madam Speaker. Education is of the utmost importance to our society and we must invest correctly in our Education system to ensure that our young children are provided with the correct level of education in terms of being able to develop and to take the island forward. As it stands, education is one of our top strategic priorities and as the Honourable Member said, it is now desirable and he proposed for it to be moved into Essential. He talked about the buildings not being fit for purpose and I'm a bit concerned about that particular issue. What he's asking for is that, does he mean that the buildings be replaced with new buildings and if so where is the funding coming from? Are we going to drop other priorities in our Infrastructure Programme to accommodate new schools or is it going to be additional funding, because if we are expected to change our infrastructure and fund this from within the existing grant-in-aid I would have some difficulty in supporting the Motion without fully knowing our budget allocation and without looking at other priorities, because we do have other priorities such as health, security, infrastructure, poor and vulnerable, so I'm a bit concerned. DfID have made it clear, Madam Speaker, on their last visit that the grant-in-aid funding is going to be reduced, it's going to be reduced in the coming years, so in moving the education to Essential will it come at a cost, will it mean at a cost of dropping other priorities and I'm a bit uneasy and very concerned about this. Until I'm able to look and be involved as a member with the allocation of our funding and taking into account our many priorities I would have difficulty in supporting the Motion at this time. Thank you, Madam Speaker.

The Speaker –

The Honourable Mervyn Yon?

The Hon. Mervyn Yon –

Thank you, Madam Speaker. Madam Speaker, I rise in support of this Motion. As the Honourable Mover said, education is everybody's business, I solely agree with him in what he's just said and I also will say, Madam Speaker, that I too is concerned about education because as most members here will know I have been concerned with education in particular with regards to Technical Training and this is part of my remit that I trust will happen before I leave the office of Council that we will be able to have something like Technical Training in place that everybody can benefit from. I would also like to say with regards to the state of the building, I'm very surprised to hear this, but I do believe, and maybe the Honourable Member can correct me if I'm wrong, that there has been a contract awarded for a colossal sum of money to have the redecorating done within that School and I would like to know if that is the truth about it Madam Speaker. Thank you.

The Speaker –

Thank you, Honourable Member. The Honourable Financial Secretary.

The Hon. Colin Owen –

Thank you, Madam Speaker. I generally follow on from what Derek Thomas was saying really that if we're reprioritising schools over other projects or areas I think we need to take into consideration that there's a number of wider projects that are going on at the moment with various different priorities and I would be concerned if we are looking at one individual project rather than looking at a number of projects at the same time based on evidence. Further, you know, there's work going on around the medium term expenditure frame, M-TEF as we call it, and that takes into consideration a number of projects too, so my concern would be to the House is are you taking into consideration across the board or what the issues are. From another point of view, I would just like clarification of what we're actually asking for. Are we asking for additional buildings, are we asking for a new building to be built and I

think the House needs to take into consideration if that means other schools closing the impact that would have on the community in those schools.

The Speaker –

Thank you, Honourable Member. The Honourable Raymond Williams.

The Hon. Raymond Williams –

Madam Speaker, I rise in support of this Motion, but I'm a little disturbed over the figures that Councillor Buckley has given us today, the percentages and the student attainment levels and I think that I can't just stand here and say yes I support it, but meaningful, I give it full support. Thank you.

The Speaker –

Thank you, Honourable Member. Any other Honourable Member wishes to speak to the Motion, please? In which case I invite the Honourable Mover, the Honourable Rodney Buckley, to respond to the debate?

The Hon. Rodney Buckley –

Madam Speaker, I will try and sum up and cover all the points that have been raised. I think I'd better start first, Madam Speaker, with Councillor Derek Thomas's concern about the cost and our Honourable Financial Secretary. In terms of the schools and the buildings, it will be for this community and the people of this island to in the consultation process of the Project of Reorganisation of Schools, what the island wants over the next fifteen/twenty years. I can only tell members that the condition of the buildings at the moment, of the three Primary Schools, are most certainly not fit for purpose. They are awful and this obviously is having a huge impact on the children, but it will be up to this community to decide whether they want refurbishment of those schools or they want new schools built for our primary children. The figures I gave you just now is the 55 children who moved from Primary to Secondary School four years behind expectation age. Education starts with the Primary Schools, it starts with the foundation of children in the Primary Schools. If we can't provide proper resources from the beginning then we're not going to improve these figures moving through to Secondary. At the moment, the indicative budget shows in the capital bids that the Reorganisation of Primary Schools sits in next year and the following year's funding. On the Capital Indicative Budget for 2013/14 and 2014/15 for the Reorganisation Programme of Education. The Reorganisation Programme, the details of that is left to Council members in conjunction with consultation of this community as a whole, the entire community needs to decide what education will be like ten or fifteen years from now. So Honourable Financial Secretary, I agree with you that it needs to be categorised, but at the moment it sits in Desirable, we're suggesting it should be moved into Essential, that doesn't mean, that doesn't mean that other projects fall behind, it's Essential, whether it's Essential for this year, next year or year after or ten year's time, but it is Essential, and needs to be categorised in that respect.

Councillor Isaac mentioned the schools again, Primary Schools. He would know from Longwood, Harford School, that the School is in an extremely poor condition, the buildings I am talking about, the windows, the doors, the roof, the classrooms, the classrooms, and I invite all members to go around and visit the three Primary Schools, first chance you get go and visit the three Primary Schools and have a look at the buildings. You will find, and ask some of the teachers, to show you what's behind a lot of the big placards on the wall; some of those placards are hiding huge holes in the fabric. So the buildings, you either will spend a million pounds on refurbishing the three Primary Schools or you build new schools for a bit

more, that's for you to decide. The question is we need to pay some more attention to what we want in the future for education on St Helena.

I agree, Councillor Thomas, yes, you need to be concerned about the thing, but don't forget that this Council decide who distributes and allocates costs, whether it be capital projects or whether it be recurrent, it is this Council who allocate costs to whatever we want to spend the money on, so it will come back to this Council. If you don't think that it should go into buildings for the Primary Schoolchildren to provide the island for the next ten years and go into the Poor and Vulnerable, that's your decision, but what we need to do is to make sure that we know what we are voting on.

I think, Madam Speaker, that about winds up the comments that most people made, I don't think there's anything else that I need to really comment on, except to say that education is definitely everybody's business and whether we find the money next year, year after, the year after that, ten years from now, we need to find it. Thank you, Madam Speaker.

The Speaker –

Thank you, Honourable Member.

Question on Motion, put and agreed to.

The Speaker –

Next item, please?

Motion 8. The Honourable Cyril Gunnell.

The Hon. Cyril Gunnell –

Thank you, Madam Speaker. I beg to move that this Council calls upon the Government, through the appropriate Council Committees, to review the Constitutional provisions forbidding discrimination and consider whether or not they are adequate to control discrimination in the private sector and to present their report to this Council thereon.

The Speaker –

Thank you, Honourable Member. Is there a seconder, please? Is there a seconder to the Motion? Thank you, the Honourable Brian Isaac.

The Hon. Brian Isaac –

Madam Speaker, I beg to second.

The Speaker –

Thank you. The Honourable Cyril Gunnell.

The Hon. Cyril Gunnell –

Madam Speaker, enshrined in the St Helena, Ascension and Tristan da Cunha Constitution Order 2009 in Chapter 1, Part II, Fundamental Rights and Freedoms of the Individual, one of the rights is protection from discrimination. If I may quote from the Constitution, Madam Speaker, under the heading Protection from Discrimination at 21(2) it reads – “Subject to subsection (4) and (6) no person shall be treated in a discriminatory manner by any organ or officer of the executive or judicial branches of Government or any person acting in the performance of the functions of the St Helena Public Service or any public authority.” It is very clear that this does not bind the private sector. This is unfortunate because at 21(3) it

reads – “In this section, the expression “discriminatory” means affording different treatment to different persons on any grounds such as sex, sexual orientation, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, age, disability, birth or other status.” It appears then, Madam Speaker and Honourable Members that there is a gap in the Constitution and it could very well be proved following a review by the appropriate Council Committees that there is need for a separate discrimination ordinance to control discrimination in the private sector. The purpose of this Motion is to bring the issues into force and allow Honourable Members an opportunity to speak on the underlying issues. The debate would inform the review. Honourable Members will be aware from a recent presentation by the Human Rights Facilitator that a number of discrimination issues have been reported to the Human Rights Facilitator or Committee. People have complained because they have been put in unfair or uncomfortable positions. The complaints reported vary but include the following: female staff paid less than their male counterparts who are doing the same or even more complex or skilled work; girls expected to wear short skirts and high heels to work and must not come to work without makeup; senior male personnel making unwelcome sexual advances to more junior female staff; a pregnant woman told not to return to work once she has had her baby because she will not be able, according to her employer, to do her job properly; potential applicants for jobs not considered for employment simply because they are over thirty and employing them would create the wrong image; despite having driven for many years with a clean driving record, a woman said she has been refused a job because the job would include driving and a woman driving the employer’s vehicles was not what was wanted; and a male was told he cannot wear a stud type earring at work despite the fact.....

.....earlier, Honourable Members, it would appear that there is a gap in the Constitution, and, Madam Speaker, if I may, reiterate the first quote I made earlier from the Constitution under the heading “Protection from Discrimination” at 21 (2) it reads “Subject to subsection (4) and (6) no person shall be treated in a discriminatory manner by any organ or officer of the Executive or Judicial branches of Government or any person acting in the performance of the functions of the St Helena Public Service or any public authority.” So what is very clear, Madam Speaker, is that provisions in the Constitution forbidding discrimination do not bind the private sector, as I said earlier. The corollary here, it seems that the Constitution does not afford Private Sector employees protection from discrimination in the same way that Public Sector employees are protected. Is this fair? I believe not. Madam Speaker, I believe it is important that a review of the Constitutional provisions forbidding discrimination is carried out to consider whether or not they are adequate to control discrimination in the Private Sector and that a report be presented to this Council. Honourable Members, I now commend this Motion to you for debate and trust you will be able to give the Motion your full support. Madam Speaker.

The Speaker –

Thank you, Honourable Member. The Honourable Attorney General.

The Hon. Ken Baddon –

Madam Speaker, I shall neither support nor oppose the Motion, but there is perhaps just one or things that I can usefully say to inform the debate. I certainly don’t want to pre-empt the result of any consideration which might take place as a result of this Motion, but the Honourable Member has accurately quoted Section 20 subsection (2) of the Constitution which does direct itself specifically at the way Public Sector behaves in terms of discrimination. It is interesting that there is a separate subsection, subsection (5) which does seem to apply both to Public Sector and to the Private Sector. It has to do with discrimination

in the way that people are granted access to places like shops, hotels, restaurants and bars, but it is interesting that there is a difference between those two subsections. One clearly citing the Public Service, the other apparently being of much wider application, so I think it would be useful to have a review of the kind that the Honourable Member has called for. I put up the warning flag that anti discrimination laws are notoriously difficult to draft in such a way as to fit as many circumstances as you want them to fit, that's not a reason not to attempt the exercise. There are several different laws in England and Wales dealing with these issues, we shall want, if this Motion is passed, to look at whether we can amalgamate them in some way to have a single law dealing with aspects of discrimination, so, as I say, I neither support nor oppose the Motion, I can certainly see the reasoning behind it and will be happy to provide the resources of my Office to assist with any review which might be undertaken.

The Speaker –

Thank you, Honourable Member. The question is that this Council calls upon the Government, through the appropriate Council Committees, to review the Constitutional provisions forbidding discrimination and consider whether or not they are adequate to control discrimination in the private sector and to present their report to this Council thereon. The question is open for debate, does any Honourable Member wish to speak? The Honourable Rodney Buckley?

The Hon. Rodney Buckley –

Thank you, Madam Speaker. Yes, I can support this Motion, Madam Speaker, simply because it is very clear what we are walking on and although I haven't studied the issue at all, may I add, but I am very happy to endorse the Motion or support the Motion simply because it's asking for a review and that to me is what most Motions are, asking for a review.

The Speaker –

Thank you, Honourable Member. Does any other Honourable Member wish to speak? The Honourable Stedson Francis?

The Hon. Stedson Francis –

Yes, Madam Speaker, I would have ideally liked to have more floor time to discuss the issue, but seeing that the Motion asks for a review of the Constitutional provisions forbidding discrimination by the appropriate Council Committee, I can give it my full support.

The Speaker –

Thank you, Honourable Member. Any other Honourable Member wishes to speak, please? Honourable Derek Thomas.

The Hon. Derek Thomas –

Yes, Madam Speaker, I rise in full support of the Motion. We are committed to developing and growing the Private Sector and really people must be properly protected from discrimination and as the Honourable Member said the Constitution covers Public Service, section 21 and not the Private Sector, so clearly we must protect employees within the Private Sector as well, so the Motion meets my full support.

The Speaker –

Thank you, Honourable Member. The Honourable Raymond Williams?

The Hon. Raymond Williams –

Thank you, Madam Speaker. Yes, Madam Speaker, I support the Motion. My belief is discrimination in any workplace, be it Public or Private, should not be tolerated and an amendment or addition to the law should be reviewed. I support the Motion wholeheartedly.

The Speaker –

Any other Honourable Member wishes to speak? Honourable Mervyn Yon?

The Hon. Mervyn Yon –

Just to say, Madam Speaker, that I rise in support of the Motion.

The Speaker –

Thank you, Honourable Member. Honourable Brian Isaac?

The Hon. Brian Isaac –

Madam Speaker, a Motion was passed here in the House today for a review of certain issues within the Constitution and this would fall within that category. I have no problem in supporting the Motion. Thank you.

The Speaker –

Honourable Bernice Olsson?

The Hon. Bernice Olsson –

Madam Speaker, I support the Motion.

The Speaker –

Thank you, Honourable Member. Any other Honourable Member wishes to speak? In which case, I'd like to invite the Honourable Cyril Gunnell, the Mover, to reply to the debate.

The Hon. Cyril Gunnell –

Thank you, Madam Speaker. Just to say thank you everyone for their full support and to the Attorney General for his clarification and for seeing the reasoning behind the Motion. I did not ask for a time to be placed on the report, Madam Speaker, on the review, because who knows how long this could take, it could take a long time. The main thing was to bring the issue to the table so that they can inform part of the review when it is carried out. Thank you, Madam Speaker.

The Speaker –

Thank you, Honourable Member.

Question on Motion, put and agreed to.

The Motion is carried.

The Speaker –

Honourable Attorney General.

The Hon. Ken Baddon –

Madam Speaker, I rise to propose the adjournment of the Council and with your indulgence perhaps I might say just one or two words explaining how it is that I am rising at this stage to propose an adjournment overnight rather than the Honourable Chief Secretary rising to

propose an adjournment sine die. There have been developments during the course of today which mean that there is some additional business which this Council ought to transact in the interest of good government, transacted sooner rather later. I have the permission of the Honourable Members concerned to say publicly that the Honourable Stedson Francis and the Honourable Brian Isaac have this afternoon taken to the Governor their resignations from the Public Accounts Committee. That means that there are two vacancies on that Committee. Those vacancies can only be filled by an election held in this Council. It really would be quite silly, I would suggest, to adjourn sine die knowing that those matters are requiring attention. I therefore beg to move, Madam Speaker, if I may, that the Council do now adjourn until 9 am tomorrow morning. Just before I sit down for a seconder, may I mention one matter which I would have mentioned in the adjournment debate, but I might have to excuse myself from that debate tomorrow, due to the fact that I am due to get on the ship. I mentioned earlier today that the election of the Honourable Stedson Francis as a member of Executive Council took effect the moment that the result was announced. There was another election this morning for the Chairmanship of the Economy and Finance Committee. Because of the way a Constitution is written, the effect of that election is that it is a recommendation to the Governor. The Honourable Tony Green will not become Chairman until he is appointed by the Governor. I don't know when the Governor will do that, but given that Councillor Green is off the island at the moment it might be sensible to delay the appointment and until that appointment is made the Honourable Rodney Buckley's appointment as Acting Chairman will remain valid. Sorry to prolong the process, Madam Speaker, but I really did want to get that on the record in case there should be any misunderstanding. Madam Speaker, I beg to move that the Council do now adjourn until 9 am tomorrow.

The Speaker –

Thank you. Is there a seconder, please, for the adjournment?

The Hon. Gillian Francis –

I beg to second, Madam Speaker.

Question that the Council adjourns until 9 o'clock tomorrow, Friday, 14th September, put and agreed to.

The Speaker –

Thank you, Honourable Members, thank you for your contributions to today's debates and I look forward to seeing you in the morning at 9 o'clock.

Council adjourned.

