

ST. HELENA
LEGISLATIVE COUNCIL

THE SPEAKER

The Honourable Eric William Benjamin

THE DEPUTY SPEAKER

The Honourable John Gilbert Cranfield

EX-OFFICIO MEMBERS

The Honourable Chief Secretary	-	Mr Roy Burke
The Honourable Financial Secretary	-	Mr Dax Richards
The Honourable Attorney General	-	Mr Angelo Berbotto

ELECTED MEMBERS

The Honourable Cruyff Gerard Buckley
The Honourable Wilson Charles Duncan
The Honourable Gavin George Ellick
The Honourable Cyril Robert George
The Honourable Lawson Arthur Henry
The Honourable Brian William Isaac
The Honourable Christine Lilian Scipio O'Dean
The Honourable Bernice Alicia Olsson
The Honourable Dr Corinda Sebastiana Stuart Essex
The Honourable Derek Franklin Thomas
The Honourable Pamela Ward Pearce

CLERK OF COUNCILS

Mrs Carol George

PROCEEDINGS OF THE LEGISLATIVE COUNCIL

Tuesday, 16th May, 2017

The Council met at 10.00 am
in the Council Chamber, Jamestown

(The Speaker in the Chair)

ORDER OF THE DAY**1. FORMAL ENTRY OF THE PRESIDENT****2. PRAYERS**
(Clerk of Councils, Mrs Carol George)**3. ADDRESS BY THE PRESIDENT**

Honourable Members, ladies and gentlemen, good morning and welcome to the third sitting of the twentieth meeting of Legislative Council. The remaining business, Honourable Members to be included today consists of one Question, two Bills, a Motion for debate and the Adjournment Debate. Honourable Members will, of course, know that unlike other debates, the time allocated to each Member in the Adjournment Debate is restricted to ten minutes. The meeting has been of necessity a lengthy one because of the importance of putting in place a workable budget for the new Council to manage. Thank you for achieving that, Honourable Members. I believe the presentation by the Honourable Financial Secretary is welcome and debate at the Committee stage was most informative, so my congratulations to all who contributed and that includes Councillors, Departments, Committees, officials and staff of all the Departments and more particularly the staff of the Finance Department. Thank you all.

Today's meeting is to be our last meeting before dissolution takes place, so may I also thank you Honourable Members and officials and staff members for your valuable support to me in the office of Speaker for the past four years. Although each of us have different ways of expressing our thoughts and concerns I believe that together we have all striven to uphold the principles of our Constitution and played by the rules of our Standing Orders. That is not to say we have not drifted from the very narrow path that we sometimes have to tread nor that there is no room for improvement, there always will be room for improvement and provided we are always headed in that direction all will be well. It has been a pleasure for me to have been your humble servant and I wish you well in the part that you may wish to follow in the future.

Our work in this House, Honourable Members, could not have been properly performed had we not received the support of our officers, clerks, our secretaries, our Heads of Departments, our Mace Bearer and our media staff and the staff of all our departments. To them I say thank you for your support.

Finally, it would be amiss of me if I did not draw attention to the listening public to the forthcoming elections in July. If you are on the voters roll, do please use your vote, there is not greater satisfaction than helping your fellow countrymen to build and enjoy a better life for all. In exercising your vote you can do just that.

So I now will call on the Clerk to announce the next item of business.

4. QUESTIONS

Question No. 1 – The Honourable Brian Isaac to ask the Honourable Chairman, Environment and Natural Resources Committee.

The Speaker –
The Honourable Brian Isaac?

The Hon. Brian Isaac –
Thank you, Mr Speaker. Will the Honourable Chairperson of the Environment and Natural Resources Committee tell this House what progress has been made to provide affordable Crown land for first time house builders on island?

The Speaker –
Thank you, Honourable Member. The Honourable Chairperson of the Environment and Natural Resources Committee.

The Hon. Pamela Ward Pearce –
Thank you, Mr Speaker. I thank my Honourable Friend for his question. St Helena Government is committed to ensuring access to affordable housing for the local housing market and first time house builders. This is supported by the adopted Housing Strategy and by the Lands and Building Disposal Policy of 2016. The Lands and Building Disposal Policy 2016 restricts the sale of designated plots within the Comprehensive Development Areas which are to be serviced and reserved for the provision of affordable housing. The inclusion of planning conditions will set aside between twenty to thirty percent of the available plots for this purpose. Infrastructure works on the Half Tree Hollow Comprehensive Development Area are now well established with drainage, roads and a new water main currently being installed. Works are also well underway by St Helena Government's in house Technical Services Team, Planning Department and Connect to design a clear infrastructure plan and site layout for the Bottom Woods CDA.

Qualifying local residents may also be eligible for up to a fifty percent discount for the first ten years on the cost of leasing Crown land with an option to purchase and as a further concession the option price will be held at the discounted rate if exercised within the first ten years. New evaluation criteria have also been introduced for assessing bids received for Crown land that do not place the emphasis simply on the highest bid and are supportive of first time owner occupation or new business enterprise.

Environment and Natural Resources Department is also exploring further measures to support the provision of affordable Crown land for first time house builders. These include possible revisions to the stamp duty Ordinance for plots sold on the CDA and the offsetting of rental receipts from leased Crown land against the final option price for qualifying local residents if exercised within the first ten years. Thank you, Sir.

The Speaker –

Thank you, Honourable Chairman. The Honourable Brian Isaac?

The Hon. Brian Isaac –

Thank you, Mr Speaker and I thank my Honourable Friend for her reply. Mr Speaker, will the Chairman of Environment and Natural Resources say what would be the cost of a plot of land within the CDA for a first time house builder or a provisional cost?

The Speaker –

Honourable Chairperson?

The Hon. Pamela Ward Pearce –

Thank you, Sir. It's about £20k an acre and with a discount of about £5k.

The Speaker –

Thank you, Honourable Chairperson. Honourable Brian Isaac?

The Hon. Brian Isaac –

Mr Speaker, I thank my Honourable Friend for her reply. I was asking really what would the plot cost, not an acre, because I don't think a first time house buyer would be able to buy an acre, just a house plot, a serviced house plot. Thank you, Mr Speaker.

The Hon. Pamela Ward Pearce –

Thank you. With the plot size of a quarter of an acre, that would represent a quarter of the price, so that would be £5k plus the discount which could bring it down to about £2k. Thank you, Sir.

The Speaker –

Thank you, Honourable Member.

The Hon. Brian Isaac –

Mr Speaker, I thank my Honourable Friend for that, £2k for a house plot, a serviced house plot I think is very reasonable at today's prices.

The Speaker –

You can't be making any statements.

The Hon. Brian Isaac –

Mr Speaker, I thank my Honourable Friend for her reply.

The Speaker –

You're still making a statement. As your question.

The Hon. Brian Isaac –

I'm happy, Mr Speaker, thank you.

The Speaker –
Honourable Derek Thomas?

The Hon. Derek Thomas –
Thank you, Mr Speaker. If I'm straying away from the question then I'll be guided by you, but may I ask the Honourable Chairperson will the Honourable Chairperson say what is being done to address the high rates of land rents?

The Speaker –
Affordable powers, I think I will allow it.

The Hon. Pamela Ward Pearce –
Thank you, Sir, I thank my Honourable Friend for his question. For qualifying local residents, as I said before, there's up to fifty percent discount. Thank you.

The Speaker –
Thank you, Honourable Member. Honourable Derek Thomas?

The Hon. Derek Thomas –
Thank you, Mr Speaker. I'm asking the Chairperson what is being done to address the high land, rates of land that currently exist?

The Speaker –
Honourable Chairperson, would you like to answer that?

The Hon. Pamela Ward Pearce –
Thank you, Mr Speaker. The current market values dictate the current prices that are being charged and the policy would also be supporting this, but we're looking for the future, we're looking at discounting for local people who qualify. Thank you.

The Speaker –
Thank you, Honourable Member. Honourable Derek Thomas?

The Hon. Derek Thomas –
Thank you, Mr Speaker. Mr Speaker, this House was given an assurance by ENRD Committee that the current leases and rents of land, which has gone up tremendously, will be reviewed with a view of having them lowered and the question now, what is being done to address that?

The Speaker –
Honourable Chairperson?

The Hon. Pamela Ward Pearce –
Thank you, Sir. For the people whose rents are due for renewal, they have been forewarned if they qualify for the discount and they have been pushed towards that direction. For market value, we can't do anything about it at the moment, but there has been a review and it is in the process of being reported back to Committee. Thank you.

The Speaker –

Thank you, Honourable Chairperson. Honourable Derek Thomas?

The Hon. Derek Thomas –

Thank you, Mr Speaker. Mr Speaker, is the Honourable Chairperson aware that the house leases and land rents have increased in some cases from fifty pounds to seven, eight hundred pounds?

The Speaker –

Honourable Chairperson?

The Hon. Pamela Ward Pearce –

Thank you, Sir. Yes, we are aware, but this has been as a direct result of the implementation of policies passed by this Council over the last few years. Thank you.

The Speaker –

Thank you, Honourable Member. Honourable Derek Thomas?

The Hon. Derek Thomas –

Mr Speaker, this House was given an assurance that the ENRD Committee would review these high leases and that is why I'm asking now what is being done to address that?

The Speaker –

You're making a statement to me, are you?

The Hon. Derek Thomas –

No, Mr Speaker, I'm not making a statement, my question is, this House was given an assurance that the ENRD Committee would be reviewing the high land leases and rents with a view of having them reduced and I'm asking what is being done to address that?

The Speaker –

Alright, the question is what has been done.....

The Hon. Derek Thomas –

What is being done, that's the question, Mr Speaker.

The Speaker –

Honourable Chairperson?

The Hon. Pamela Ward Pearce –

Mr Speaker, thank you, Sir, and as I said before, the review has been done and it's due to be reported back to the ENRC Committee on Thursday.

The Speaker –

Thank you, Honourable Chairperson. Honourable Lawson Henry?

The Hon. Lawson Henry –

A point of information, Mr Speaker. I do not believe it was this Council who raised the charges on rents and leases, it was the former Council following MOU reforms. Thank you.

The Speaker –

Thank you for a point of information. Honourable Brian Isaac?

The Hon. Brian Isaac –

Mr Speaker, will the Honourable Chairman say how would one, a first time house builder purchase a piece of land outside of the CDA?

The Speaker –

I think we're straying a bit, we're really straying a bit. The original question, what progress has been made and I think the Chairperson got up and said what progress has been made. Arising out of that is about the word 'affordable' and so we have had questions on the affordability of the plots. Your question again is?

The Hon. Brian Isaac –

Mr Speaker, for a first time house builder wanting to build a house or purchase a piece of land outside of the CDA, what is the process for that?

The Speaker –

Yeah, I think we are actually straying outside of that. We have to keep within the bounds of what progress has been made and what are the affordable prices. Can you, if you would like to ask another question within that bounds I will allow it.

The Hon. Brian Isaac –

Mr Speaker, will the Honourable Chairman say what would be the cost of a piece of affordable Crown land for a house builder.....

The Speaker –

I thought that was already answered at the beginning?

The Hon. Brian Isaac –

Other than that I accept it. Thank you, Mr Speaker.

The Speaker –

Thank you. Any further questions? You're happy?

The Hon. Brian Isaac –

Thank you, Mr Speaker. Yes, Honourable Member, Cruyff Buckley?

The Hon. Cruyff Buckley –

Thank you, Mr Speaker. Will the Honourable Chairman of the ENRC Committee tell this House if there's any conditions upon purchasing the land in regards to how long do they have to build on it, before they can build on it, Mr Speaker?

The Speaker –

Yes, Honourable Chairman?

The Hon. Pamela Ward Pearce –

Thank you, Mr Speaker. Under the Land Disposal Policy, it is five years. Thank you.

The Speaker –

Any further questions? No further questions? Okay, Clerk, call the next item, please?

5. MOTIONS

Motion No. 1 – The Honourable Brian Isaac.

THE EMPLOYMENT RIGHTS (AMENDMENT) BILL, 2017

The Speaker –
The Honourable Brian Isaac?

The Hon. Brian Isaac –
Thank you, Mr Speaker. I beg to present a Motion that the Employment Rights (Amendment) Bill be approved in principle and referred to a Committee of the whole Council.

The Speaker –
Is there a seconder to the Motion, please?

The Hon. Derek Thomas –
Mr Speaker, I beg to second.

The Speaker –
Thank you very much, Honourable Derek Thomas. Mover, would you like to speak to the Motion?

The Hon. Brian Isaac –
Mr Speaker, this Ordinance amends the Employment Rights Ordinance 2010 to reinstate an employee's rights not to be required to work on a Sunday or a Public Holiday and repeal the Sunday Observance Ordinance, cap 161. The repeal of the Ordinance also lifts the restriction on opening hours for shops on Sundays, the Ordinance also amends the Liquor Licence, cap 56 to remove the prohibition on the sale of liquor by a liquor licence holders on Christmas Day and Good Friday. During the months of January and February 2017, the Social and Community Development Committee held public consultation meetings on the proposed amendment to the Employment Rights Ordinance. Apart from the public meetings, the Committee also issued a questionnaire to the public as an insert in the newspaper specifically to gauge views on the proposed amendment to the Employment Rights Ordinance. The questionnaire asked should businesses be allowed to sell liquor on Christmas Day and Good Friday, there were twenty-six responses in favour; eleven responses were not in favour. The second question was should businesses be allowed to open on a Sunday. Twenty responded in favour, three were not in favour. As we are aware, a number of shops on Sundays open for longer than they are required, currently allowed. The Sunday Observance regulations state that shops, stores and businesses may open from 10.00 am to 6.00. The Bill before the House repeals in its entirety the Sunday Observance Ordinance, together with the corresponding regulations. This will enable shops, stores and business to regulate their own opening hours on a Sunday if approved. The Liquor Ordinance is amended by removing the prohibition on opening on Good Friday, Christmas Day or after 11.30 pm on the day immediately preceding those days. The Public Holidays Ordinance is amended to remove the requirement on undertaking and establishments to close on Public Holidays but require that employers give

the employee who work on a public holiday a day's holiday with pay on another day. Thank you, Mr Speaker.

The Speaker –

Thank you, Honourable Member. I put the question that the Employment Rights (Amendment) Bill, 2017, be approved in principle and referred to a Committee of the whole Council. The question is now open to debate. Any Member would like to speak on the Bill? The Honourable Christine Scipio O'Dean?

The Hon. Christine Scipio O'Dean –

Thank you, Mr Speaker. I welcome this Bill today, but I do have a concern regarding it. I note that the Sunday Observance Ordinance would allow the small shops, family shops as we refer to here on St Helena, to open on a Sunday and we do know that there are some shops that are currently opening on a Sunday, so it would appear that they are in breach of the regulations. I do not have any objection to this, Mr Speaker. What I'm concerned about is that repealing the Public Holidays Ordinance where it states in subsection (3) of section 6 that the holder of a Liquor Licence shall not sell or offer sale for any intoxicating liquor during any part of Good Friday or Christmas Day, so today we're being asked to repeal that section, Mr Speaker and my constituents have contacted me, this is not a personal view, Mr Speaker, I'm here to represent the people of the island and my constituents have contacted me and said they do not support in going forward with repealing that part of the Liquor Licence Ordinance because we should respect that it is Good Friday and Christmas Day, so Mr Speaker, I don't have any issues with the other part of the this Bill, only that I will be objecting to allowing the sale of liquor on Good Friday and Christmas Day. Thank you, Mr Speaker.

The Speaker –

Thank you, Honourable Member. The Honourable Lawson Henry?

The Hon. Lawson Henry –

Thank you, Mr Speaker. Mr Speaker, Honourable Members, I rise in support of this Motion in its entirety. Changing the way that we do business is key to economic development. At the same time, we must ensure the protection of those who work in the service industry, therefore, the Bill seeks to change the law by allowing businesses to regulate their own hours on opening for Sunday and Public Holidays and by repealing the existing legislation. By doing so, the current practice of Sunday opening by small businesses are no longer in breach of the existing regulations under the Sunday Observance Ordinance. At the same time, the Employment Rights Ordinance is amended to reinstate the employee's rights not to be required to work on a Sunday or Public Holiday. Finally, and importantly, the Bill makes provision to amend the Liquor Ordinance by removing the prohibition on opening on Good Friday and Christmas Day after 11.30 pm. This is also a necessary amendment as the island moves forward where both islanders and our expected growing tourism industry will require services during the current prohibited closing hours. I very much support these amendments to the existing legislation as it enhances our ability to improve service delivery in key sectors. Mr Speaker, I beg to move and support the amendments in its entirety. Thank you.

The Speaker –

Thank you, Honourable Member. I have just been informed that there's a technical fault in the system and the broadcast is not going out. I hated to stop you in mid flow, but we can give you an opportunity to do yourself again. Can we take a recess for about 15 minutes or

so until the technicians can find out exactly what is going on because I think the public out there are hoping to hear what's going on. Yes? Okay.

Council Adjourned.

Council Resumed.

The Speaker –

Alright, welcome back again, I've seen you before, but let's get on with the job. I think we had a technical fault here and it can't be rectified at the moment and anyhow, what we're saying is it's being recorded and will be replayed at some later time.

I think we got to the stage where we were speaking to the Bill. Can I ask if there's anybody else who would like to speak to the actual Bill itself, please? Principles of the Bill. Honourable Derek Thomas?

The Hon. Derek Thomas –

Thank you, Mr Speaker. First of all, I declare my interest; my wife owns a small corner shop.

The Speaker –

Thank you very much for that.

The Hon. Derek Thomas –

Mr Speaker, I rise in support of this Bill, it makes provision for shops to open on Sundays and it also lifts that restriction on opening hours for shops on Sunday and the Bill also makes a provision for pubs, licensed premises to be open on Public Holidays, that is Good Friday and Christmas Day. Now I know there has been some concerns from members of the public and some of them unfortunately didn't take part in the consultation, but nevertheless they quite rightly expressed their concerns about protecting those days, but where I'm coming from, I'm looking at the bigger picture and I think as a Government we should be doing that, I'm looking at the bigger picture in terms of economic development. We will hope to soon have regular commercial flights in here, we want our tourist industry to grow and we need to have these provisions available, not only to the tourists but to the general public as well and whereas it makes provision for these places to be open on a Sunday and the licence holder doesn't have to open if he chooses not to. I was involved with the public consultation, Mr Speaker, and there was concerns of employees, and quite rightly so, they were concerned about being forced to work on public holidays and on Christmas Day and Good Friday, but we listened to them and there are added protections in the Ordinance for that, so in support of economic growth and development, I support this Bill. Thank you.

The Speaker –

Thank you, Honourable Member. The Honourable Pamela Ward Pearce?

The Hon. Pamela Ward Pearce –

Thank you, Mr Speaker. I have reservations about some of this Bill and I've been approached by constituents as well. St Helena is a predominantly Christian country as evidenced in the last Census, there was more than 90% of the people there. Good Friday and Christmas Day, they're most important days in the Christian calendar. I have no problem with family shops opening, I don't want to criminalise them, but I do think that we need to hold on to some of our traditions and Good Friday and Christmas Day, shops have never previously opened and sold liquor and I think this could be one of St Helena Tourism's

unique selling points. We're not the only Christian country in the world that respect the provision of Good Friday and Christmas Day, I have been to places like Malta and Greece where they still celebrate the Christian calendar and the shops don't open those days then and as far as I could tell it wasn't damaging their tourism product, so I think we can still have these two days as sacrosanct but not having to damage the tourism product. I recall when the ship, The World, came in last year on Good Friday, it was here for Easter. Now, if the tourists know that this is going to be closed there can be some forward planning. You know, why bring a ship in if you know it's going to be closed during that time. These are the sort of things that need to be addressed and I do think that we are seriously undermining local traditions here, we need to be able to hold on to some of this. I am not averse to progress, I am not averse to development, I'm not averse to tourism coming here, but we need to get it right for St Helena and to my mind and those of my constituents that have approached me on this, Christmas Day and Good Friday should be a closed shop for selling liquor. Thank you, Mr Speaker.

The Speaker –

Thank you, Honourable Member. Is there any other Honourable Member who wishes to speak to the Motion? The Honourable Dr Corinda Essex?

The Hon. Dr Corinda Essex –

Thank you, Mr Speaker. I will start by declaring my interest as a retailer and as President of the St Helena Chamber of Commerce.

Mr Speaker, I support the Bill, it's long overdue, we've been having really stupid, for want of a better word, situations recently because of the fact that there was no provision for, for example, shops to open on a public holiday, such as Easter Monday or St Helena Day, but a shop could put a stall outside its front door and sell goods from there and that sort of situation is just confusing to everybody and I'm very pleased to see that this piece of legislation will prevent that from having to be the case in the future. The Honourable Lawson Henry referred to catering for tourism and increased economic growth and certainly the ability for shops to open on alternative days such as public holidays and Sundays will be of extreme importance if we, for example, got a plane arriving on a Sunday and leaving the same day or on a public holiday. Having said that, as other colleagues have mentioned here, there is concern within the community about opening licensed premises on Good Friday and on Christmas Day. There is a strong feeling that those two days should be kept sacrosanct and as my Honourable Friend opposite has already indicated there are a number of locations in the world where that is the case, particularly, predominantly Roman Catholic countries, although it tends to vary from region to region within those countries in some instances. Although I do not actually believe that I'm going to oppose the Bill because of the fact that Good Friday and Christmas Day opening of licensed premises is included, I think that it is my duty to flag the reservations that have been expressed and I also feel that it is something that is going to need to be monitored. One of the concerns is not just on religious grounds, but on the grounds that, and as a resident of Jamestown I declare my interest and actually agree, there was an enormous amount of noise after the closure of licensed premises, particularly on Christmas Eve and also on weekends and other particular holidays and I think the actual impact that opening on Good Friday and Christmas Day has is something that will, as I said, need to be monitored and then there may be need to make amendments or propose amendments at a future date, but at this point in time I am prepared to support the Bill in its entirety. Thank you, Mr Speaker.

The Speaker –

Thank you, Honourable Member. Is there any other Honourable Member wish to speak to the principles? Honourable Gavin Ellick?

The Hon. Gavin Ellick –

Thank you, Sir. I was one of the people who went out with the consultation as well and for what the people said, I think we got a right, and I think it's nice that we got a choice, you got a choice of or if not your got a choice, it's all about choices and now we have choices. I understand about Good Friday and Christmas Day, Lord knows my Mama take me to all the Churches on the island, you know what I mean, so I understand that, but for me if we're gonna have economic development then this is the time for us to change as well, so therefore I support the Motion. Thank you.

The Speaker –

Thank you, Honourable Member. The Honourable Cyril George?

The Hon. Cyril George –

Thank you, Mr Speaker. I also rise in support of this Bill. I had reservations from the beginning when we talked about opening Good Fridays and opening Christmas Day, but on second thoughts, if you want to develop St Helena you have to move with the times and we're expecting to have tourists here and we're gonna have to cater for these people when they arrive, so I stand and fully support this Bill. Thank you, Mr Speaker.

The Speaker –

Thank you, Honourable Member. Any other Honourable Member wish to speak to the Bill? No other Honourable Member to speak to the Bill. Honourable Mover, would you like to reply?

The Hon. Brian Isaac –

Thank you, Mr Speaker and I thank all my Honourable Colleagues who rised to support or voice their concerns and I would like to say the concerns raised this morning were concerns that have been brought to my attention as well, you know, they're very genuine and I'm sure that members of the public have addressed different Councillors and various times, so I do take onboard what has been said, but if I go back to the questionnaire, you can tell from the questionnaire, it's very controversial because engaging the public's opinion the question was should businesses be allowed to sell liquor on Christmas Day and Good Friday, we had 26 people saying yes, 11 people saying no, so there weren't, a, you know, the majority leading on that one. Should businesses be allowed to open on Sunday, 20 said yes, 3 said no, so you can see that there are people in favour, there were people who were not, but in a democratic society, democracy will rule in this House today and we will have to take the majority of how engaging the public, what was their views, but in saying all that, the points that have been raised this morning are very valid, I have my own personal opinion, which I will not share here today, but I have to do what I'm expected to do as the Chair of Social and Community Development Committee portfolio for this particular piece of legislation. Thank you, Mr Speaker.

The Speaker –

Thank you.

Question that the Employment Rights (amendment) Bill, 2017, be approved in principle and referred to a Committee of the whole Council, put and agreed to.

The Speaker –
Honourable Mover?

The Hon. Brian Isaac –
Mr Speaker, I beg to move that the Council do resolve itself into a Committee to consider the detailed provisions of the Bill.

The Speaker –
Is there a seconder to the Motion, please?

The Hon. Derek Thomas –
Mr Speaker, I beg to second.

The Speaker –
Thank you, Sir.

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

Council in Committee.

The Chairman –
Now we go through clause by clause more or less. I put the question that the Title, Enactment Clause and Clause 1 do stand part of the Bill.

Title, Enactment Clause and Clause 1.

Question put and agreed to.

The Chairman –
Clause 2.

The Hon. Brian Isaac –
Mr Speaker, this is the Clause that provides for working hours and leave periods and the amendments speaks of the emergency services, says what the emergency services, first line services, it speaks of the essential public services and the public holidays, which means that, which is observed as a public holiday under the Public Holidays Ordinance, cap 51. That is the in a nutshell, but I'll ask the Attorney General if he wish to explain the clauses if anyone have any legal concerns.

The Chairman –
Attorney General?

The Hon. Angelo Berbotto –
Thank you, Mr Speaker. So the main provision that is amended is section 27 of the Employment Rights Ordinance. This new paragraph which says that except for the emergency services no person shall be compelled to perform work on a Sunday or a Public Holiday, this is because the provision of essential emergency services needs to be guaranteed. That means that, for example, a person working in a shop, which at the moment doesn't open on a Sunday, but will open on a Sunday as a result of the change to the law, cannot be

compelled to work on a Sunday, it will be a matter for negotiation between the employer and the employee.

The second part of the provision states that the definition of Public Holiday is the one that is included in the Public Holidays Ordinance. Thank you.

The Chairman –

Thank you. Any questions on that, please? Any questions?

Clause 2.

Question put and agreed to.

The Chairman–

Sorry, I called it Clause 2. Yes, there are two Clause 2's?

The Hon. Angelo Berbotto –

Yes, I was.... Thank you; the second one should be changed to Clause 3.

The Chairman –

Okay, so that's an amendment. I'll put the question, Clause 3. Any questions on Clause 3 or, sorry, Councillor Isaac, would you like to explain it?

The Hon. Brian Isaac –

This is a list of the repeal and amendments of the legislation, Mr Speaker.

The Chairman –

Attorney General want to add anything to that?

The Hon. Angelo Berbotto –

Yes, what the Councillor has said is correct, so Clause 3, subsection (1) repeals the Sunday Observance Ordinance, that means that the prohibition to open or to work on a Sunday is removed. Subsection (2) repeals section 6, subsection (3) of the Liquor Ordinance. I will read, for the benefit of listeners what that provision says. Section 6, subsection (3) of the Liquor Ordinance says, the holder of a liquor licence shall not sell or offer for sale any intoxicating liquor during any part of any Good Friday or Christmas Day nor after 11.30 pm on the day preceding such a day. So this provision will be deleted, will be repealed by Clause 3, subsection (2). And the last subsection, subsection (3) amends the Public Holiday Ordinance. The Public Holiday Ordinance, section 2, the heading says Days to be Observed as Holidays by certain undertakings. The heading will only read from now on Days to be Observed as Holidays and the first subsection is deleted. This subsection says "There are several days specified in the First Schedule to this Ordinance which are hereinafter referred to as Public Holidays shall be kept as closed holidays in all undertakings and establishments specified in the Second Schedule to the Ordinance, so this subsection is repealed and substituted for the following – "The several days specified in the First Schedule shall be Public Holidays, so the prohibition to close on these Public Holidays is removed. The other change to the Public Holidays Ordinance is the following: at the moment section 4, subsection (2) of the Public Holidays Ordinance says "Any employer who employs any person other than a person who is in receipt of a monthly salary in an undertaking permitted to open in the manner herein before set out on a Public Holiday shall grant to such person in respect of his work on the Public Holiday a day's holiday with pay on another day or at the

option of such person pay to him one day's pay in addition to the amount of salary or wages or other remuneration to which he is entitled by virtue of the preceding subsection. What is deleted is the following phrase is deleted from this subsection: undertaking permitted to open in the manner hereinbefore set out. So, the person who works on a Public Holiday is still entitled to a day off in lieu plus whatever negotiation in terms of additional pay with the employer, but what this removes is the prohibition on the business to close on a Public Holiday. Yeah, that is the extent of the changes. If anybody has any questions, I'm happy to answer.

The Chairman –

Yes, Dr Corinda Essex?

The Hon. Dr Corinda Essex –

Thank you, Mr Speaker. The Honourable Attorney General said the prohibition to close, shouldn't it have been the prohibition to open?

The Hon. Angelo Berbotto –

Yeah, sorry, the prohibition to open, that is the....the obligation to close, that's what I meant to say. Thank you.

The Chairman–

Any questions on that? Yes, Councillor?

The Hon. Christine Scipio O'Dean –

Thank you, Mr Chairman. In Clause 3, section 3, subsection (b) when we asked to repeal the section 2 (1) and have some revised wording, the existing law refers to Schedule II Attorney General, so does that mean that the Schedule II then now will become deleted as well?

The Hon. Angelo Berbotto –

No, Schedule II says at the moment, offices, shops, workshops and factories, I think it defines, the second Schedule I think it relates to what an undertaking is. These, I haven't looked at this and it's the first time I'm asked this question. I'm not proposing to delete the second Schedule because it doesn't interfere with the purpose of the changes that are being made today. I'm happy to look into that and if it's needed to be changed or deleted to be done as part of the Law Revision exercise.

The Chairman –

Yes, Councillor?

The Hon. Christine Scipio O'Dean –

My understanding, Mr Chairman, is that just recently we repealed the Factories Ordinance and as Schedule II refers to the Factories Ordinance hence I assumed that it would be removed from this particular Ordinance, because the existing, the current Public Holidays Ordinance does refer to Schedule II, but the re-wording removed Schedule II so I assumed that that was the reason why it's still in place.

The Hon. Angelo Berbotto –

Yes, I follow, thank you, yes, I follow what you're saying. I propose that the second Schedule now reads - offices, shops, workshops and factories, but we take out as defined in

the Factories Ordinance, because, yes, we don't have Factories Ordinance since December, I believe, yeah, so I would propose that amendment.

The Chairman –

Can I have that amendment again, please?

The Hon. Angelo Berbotto –

Yes, so it would be Clause 4.....

The Chairman –

Clause 4?

The Hon. Angelo Berbotto –

Yes. The words after “open factories” in the second Schedule be deleted. That means that the bracket, (as defined in the Factories Ordinance) are no longer part of the second Schedule.

The Chairman –

Yeah, what is the actual wording, I have to put the actual wording to you to.....

The Hon. Angelo Berbotto –

The actual words are “(as defined in the Factories Ordinance).”

The Chairman –

Okay, I am still not following, I think it's because of my hearing, but

The Hon. Angelo Berbotto –

Would you like me to summarise what I have just said?

The Chairman –

Yes, do.

The Hon. Angelo Berbotto –

The concern arises because the Honourable Scipio O'Dean points out the Factories Ordinance has been repealed and the second Schedule to the Public Holidays Ordinance refers to the Factories Ordinance and so my proposal is that that reference to the Factories Ordinance is removed, is deleted, so what I'm proposing is a new clause, Clause 4 saying the following words are deleted from Schedule II: “(as defined in the Factories Ordinance)”.

The Chairman –

Okay, that's quite a lot for me to take in and repeat, so you will say it once again, Attorney General and I'll ask the others if they agree entirely with it. Please make the proposal.

The Hon. Angelo Berbotto –

Thank you. Yes, I propose that the following clause be included, Clause 4. That the following words in the second Schedule be deleted: “(as defined in the Factories Ordinance)”.

The Chairman –

Right, is there a seconder to the amendment?

The Hon. Christine Scipio O'Dean –

Can I ask something first, Mr Chairman, as I raised this? And the reason why I didn't raise it previously with the Attorney General because I assumed that the second Schedule would just be repealed and I was just expecting a Clause 4 saying that Schedule II will be repealed because the Factories Ordinance has already been repealed, so there doesn't need to be any reference to the Factories Ordinance because it's not in existence, so I'm a little confused now, so.....

The Hon. Angelo Berbotto –

I hope to help with the confusion, to dispel the confusion. Section 4 of the Public Holidays Ordinance says “every person who is responsible for the conduct of any undertakings stated in the second Schedule to this Ordinance, hereinafter referred to as an employer, so there is in the Public Holidays Ordinance a reference to the second Schedule, so that's why we cannot just delete the second Schedule, because the second Schedule not only refers to factories, it refers to offices, shops, workshops and factories, plus a factory can operate even if we don't have a Factories Ordinance anymore, so for that reason what I think you have, Councillor, you have clearly identified and properly identified is that the reference to the Factories Ordinance should be deleted, because it's no longer there.

The Chairman –

Thank you. Then is there a seconder to the proposal?

The Hon. Christine Scipio O'Dean –

I propose to second, Mr Speaker.

The Chairman –

You second it, okay.

Question on amendment, put and agreed to.

Council Resumed.

The Chairman –

I return to my table, thank you, Wilson Duncan for making me work like that and look at the Bill again. Now, where are we? Mover?

The Hon. Brian Isaac –

Thank you, Mr Speaker. Mr Speaker, I beg to present the Employment Rights (Amendment) Bill, 2017, passed the Committee stage with two amendments.....

The Chairman –

Sorry, we haven't reached there, we haven't got as far as there, we just left the Committee stage now, haven't we? Yes, you have to report.

The Hon. Christine Scipio O'Dean –

A point of information, Mr Chairman. I didn't thought that..... we agreed on the amendment, but did we agreed on that particular Clause 3? I think you.....

The Chairman –

I think you're right and I should put the Clause again while I'm in sitting in this position.

The Hon. Christine Scipio O'Dean –

Probably I confused you, Mr Speaker, when I asked for an amendment.

The Chairman –

Yes, there's quite a lot of confusion, I think after we had the amendment then, the whole clause has to be agreed with those amendments as number three as well.

Clause 3 (as amended) –

Question put and agreed to.

The Speaker –

And you will report it now then, Councillor?

The Hon. Brian Isaac –

Mr Speaker, I beg to report that the Employment Rights (Amendment) Bill, 2017, passed the Committee with two amendments, one was the numbering and one is the removal of the Factories Ordinance, explained by the Attorney General and to move that this Council approves the said Bill and recommends to the Governor that it should be enacted. Thank you, Mr Speaker.

The Speaker –

Right, there's set form that you have to read, okay. Is there a seconder?

The Hon. Dax Richards –

Mr Speaker, I don't think we've actually confirmed Clause 4 of the Bill in the Committee stage.

The Speaker –

We haven't confirmed?

The Hon. Dax Richards –

We haven't agreed Clause 4 of the Bill.

The Speaker –

Thank you, that was the new clause that you're pushing now. Oh dear, what's wrong. Okay, that is right too, thank you very much for that. So Clause 4, will you read Clause 4 now, Attorney General?

The Hon. Angelo Berbotto –

Yeah, 4, the following words in the second Schedule, sorry, the following words in the second Schedule are deleted: "(as defined in the Factories Ordinance)".

The Speaker –

Okay, we're happy with that and is there a seconder to that?

The Hon. Christine Scipio O'Dean –

I beg to second.

The Speaker –

Yes, I thought you did before. Now I put the question that Clause 4 do stand part of the Bill.

Clause 4.

Question put and agreed to.

The Speaker –

Your turn to report again, Brian, good practice for you, Councillor.

The Hon. Brian Isaac –

Mr Speaker, I beg to report that this Council approves the Employment Rights (Amendment) Bill, 2017, and recommend to the Governor that it should be enacted.

The Speaker –

Is there.... Have you read the right paragraph? Paragraph 16.

The Hon. Brian Isaac –

Mr Speaker, I report that the Employment Rights (Amendment) Bill, 2017, passed the Committee with two 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 very much. Is there a seconder?

The Hon. Derek Thomas –

Mr Speaker, I beg to second.

The Speaker –

Okay, thank you very much indeed. I put the question, er, we're all getting mixed up here. You want to speak anymore, Brian, on that, on the Bill itself generally?

The Hon. Brian Isaac –

Yes, Mr Speaker and thank you, Mr Speaker and I would just like to thank the Members who supported it and for my Colleagues who raised their concerns and to thank the Attorney General for assisting with the amendments to this Bill. Thank you, Mr Speaker.

The Speaker –

Okay. I put the question that this Council approves the Employment rights (Amendment) Bill, 2017, and recommends to the Governor that it should be enacted. Anybody else wish to speak at this stage now? No? Mover, there's no need for you to respond.

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

The Speaker –

Now, I wonder if we're gonna start this Bill right now, I think we might, yes, okay. Call the next item, please?

Motion No. 2 – The Honourable Brian Isaac.

THE GENERAL AMENDMENT (GENDER EQUALITY) BILL, 2017

The Hon. Brian Isaac –

Thank you, Mr Speaker. I beg to move that the General Amendment (Gender Equality) Bill, 2017, be approved in principle and referred to a Committee of the whole Council.

The Speaker –

Is there a seconder. Please?

The Hon. Cruyff Buckley –

Mr Speaker, I beg to second.

The Speaker –

Honourable Mover, would you like to speak to the Bill?

The Hon. Brian Isaac –

Thank you, Mr Speaker. The General Amendment (Gender Equality) Bill, 2017, proposes to amend various Ordinances to remove differential treatment of persons based on gender equality, neutrality and eliminate discrimination against women. The General Amendment (Gender Equality) Bill, 2017, constitutes part one of the work carried out by the Attorney General's Chambers in relation to the extension of the Convention of the Elimination of all forms of discrimination against women, known as CEDAW. The Bill presents the first steps to making the laws of St Helena compatible with CEDAW. Part 2 will deal with the legislation in respect of civil remedies relating to violence against women in addition to any criminal proceedings, Executive Council have given approval for the extension of CEDAW to St Helena on 31st May 2016 as the benefits to St Helena is clear. Mr Speaker, I would like to make you aware that I have been made aware that there will be an amendment when we go to Committee stage, which I support. Thank you, Mr Speaker.

The Speaker –

Thank you very much, Honourable Member. I put the question that the General Amendment (Gender Equality) Bill, 2017, be approved in principle and referred to a Committee of the whole Council. Honourable Members, the Motion is now open to debate. The Honourable Derek Thomas.

The Hon. Derek Thomas –

Thank you, Mr Speaker. Mr Speaker, I have some concerns about the principles of the Bill and in Committee I will be making a proposal for an amendment which I hope Members will support. Thank you.

The Speaker –

Thank you, Honourable Member. Any other Honourable Member would like to speak to the principles of the Bill? Nobody wish to speak to the Bill? Honourable Mover, would you like.....

The Hon. Derek Thomas –

Mr Speaker, I will be guided by you, but I do have a proposal for an amendment, do I make that proposal now or in Committee stage?

The Speaker –

No, you're speaking to the principles, is it a good thing, is it a bad thing, what you need to say. If you want to say anything you say it right now. The second stage is where you amend the sections, you only can put proposals to amend the sections.

The Hon. Derek Thomas –

So if I want to talk about the details.....

The Speaker –

If you want to talk about the Bill you can talk about the Bill now.

The Hon. Derek Thomas –

Thank you. May I be allowed to do that, Mr Speaker?

The Speaker –

I'll allow you to.

The Hon. Derek Thomas –

Mr Speaker, Honourable Members, in relation to the Schedule of the Bill, under Matrimonial Causes Ordinance, cap 81, there is a proposal.....

The Speaker –

Councillor, you have to speak to the principles of the Bill now.

The Hon. Derek Thomas –

Yes, okay, Mr Speaker.....

The Speaker –

Whether it's a good thing, a bad thing or what you think about it, but not to the detail.

The Hon. Derek Thomas –

Right. Mr Speaker, I would leave that to Committee stage then. Thank you.

The Speaker –

Okay. Is there anyone who would like to speak to the principles of the Bill, please? Honourable Lawson Henry?

The Hon. Lawson Henry –

Thank you, Mr Speaker. I rise in support of the Bill and certainly its principles as it proposes to removing differential treatment of persons based on gender equality and neutrality and the Bill support the policies in determination to eliminate any form of discrimination against women in our society, so I support the Bill.

The Speaker –

Thank you, Honourable Member. Anybody else would like to speak to the Bill? Alright. Then the Mover, would you like to reply?

The Hon. Brian Isaac –

Thank you, Mr Speaker. I would like to thank my Honourable Friends who rised in support of the Bill. 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 –
Mover?

The Hon. Brian Isaac –
I have nothing to add, Mr Speaker. Thank you.

The Speaker –
You have to move.

The Hon. Brian Isaac –
Oh, sorry. Mr Speaker,

The Speaker –
Section 10.

The Hon. Brian Isaac –
Mr Speaker, I beg to move that the Council do resolve itself into a Committee to consider the detailed provisions of the Bill. Thank you.

The Speaker –
Is there a seconder, please?

The Hon. Cruyff Buckley –
Mr Speaker, I beg to second.

The Speaker –
Thank you, Sir.

Question that the Council do resolve itself into a Committee to consider the detailed provisions of the Bill, put and agreed to.

Council in Committee.

The Chairman –
Alright, I'm now into Committee of the whole Council as your Chairman and we'll go through the various sections. I put the Title, the Enactment Clause and Clause 1.

Title, Enactment Clause and Clause 1.

Question put and agreed to.

The Speaker –
Clause 2, which includes the Schedule.

The Hon. Brian Isaac –

Mr Speaker,(*inaudible*).....is the amendment to the legislation and relates to births and deaths registration, cap 79, but I would ask the Attorney General for his assistance at this stage to explain for the benefit of the public and Members of the Chamber the proceedings on this amendment.

The Chairman –
Honourable Attorney General?

The Hon. Angelo Berbotto –
Thank you, thank you, Councillor, thank you, Mr Speaker. So the Schedule amends a number of Ordinances. The first one is section 9 (2) of the Births and Deaths Registration. The amendment, firstly the section that is amended deals with who the Registrar of Births must give notice to of the duty to vaccinate a child. The old provision states that the Registrar must give notice to the mother or father. There are children who live with neither, but with a grandmother or they are in care, so the new provision states that the Registrar must give notice to the person with parental responsibility for the child. This person is the mother, the father, if he's on the birth certificate or married to the mother and it can be another relative or the Safeguarding Directorate if parental responsibility has been given to either. So that is the first amendment, that the word "mother or father" be replaced by "the person with parental responsibility". And section 10 (1) deals with who is responsible to give notice of the birth of a child to the Registrar. The current wording is the father or the mother and the amendment is to replace that with the word "the parents". So that is the first two changes. I think it may be, if you're happy, I'd proceed in chunks so it is easier.

The Chairman –
Yes, okay, I think that makes sense. So we've gone through the first section with the Birth and Death Registration Ordinance which the Attorney General explained that time and is there anybody with any questions on that section? Councillor Dr Corinda Essex?

The Hon. Dr Corinda Essex –
Mr Chair, thank you. Shouldn't the amendment to section 10 (1) substitute persons with parental responsibility rather than parents if it's going to be consistent with 9 (2)?

The Hon. Angelo Berbotto –
Yes, I have no objection to that if the other elected members are in agreement, it does help with consistency.

The Chairman –
Any further debate on that before I put the amendment, any discussion? Can you propose the amendment again, please, Dr?

The Hon. Dr Corinda Essex –
Thank you, Mr Chair. I would like to propose that the word "parents" be deleted and the word "person with parental responsibility" be substituted in section 10 (1), proposed amendment to section 10 (1).

The Chairman –
Is there a seconder to the amendment?

The Hon. Pamela Ward Pearce –

I beg to second.

The Chairman –

Thank you, Honourable Member.

Question on amendment, put and agreed to.

The Chairman –

Yes, Attorney General?

The Hon. Angelo Berbotto –

The second Ordinance to be amended is the Civil Procedure Ordinance. Section 37, subsection 1, paragraph (a) of the Civil Procedure Ordinance deals with the property liable to attachment and sale in execution of judgement. At the moment, I don't know if I need to explain what that means, that means, for example, if I married and I am a debtor and my creditor takes me to Court the Court may make an Order for attachment and sell in execution of judgement which means that the creditor will be able in law, because there is a Court Order to grab my property and sell it and with the money of the sale satisfy my debt, so at the moment the provision says that the property not liable to attachment or sale includes the necessary wearing apparel, cooking vessels, beds and bedding of the judgement debtor and of his wife and children. The amendment is to delete the words "his wife" in paragraph and substitute with "his or her spouse". There are four so they may apply to both men and women. At the moment, the provision in the Civil Procedure Ordinance only protect the wives of any debtors, but not, if the one who is the debtor is a woman who is married and the creditor can go after the property of the spouse, I mean, at least there's no protection, so by changing the word "wife" to "spouse" basically we are making any person's spouse protected by this provision. I don't know if there are any questions, because I know that these legal principles are a little bit technical.

The Chairman –

Yes. Honourable Dr Corinda Essex?

The Hon. Dr Corinda Essex –

Thank you, Mr Chair. Would it be possible for the Honourable Attorney General to state how this would impact on life partners?

The Hon. Angelo Berbotto –

Well, at the moment the law, there is no, if you are in a, if you share your life with somebody in, your property remains your property and your partner's property remains his property unless there are things, unless you have some shared property, but there's no in the law a presumption that whatever is in your title only, for example, if the car, if your car is only in your title there's no presumption that also your non-married partner will be the half owner or any other quantity owner of the car. Those are the, marriage is a bundle of rights and obligations and that's why the Civil Procedure Ordinance in this particular section protects, well, the property of the wife. For the protection of, the situation of a life partner would have to make some further work, but I would wish to remind, Mr Speaker, and the House, that what the aim of the law reform in respect of this was to look out our laws and see what needed to be changed to comply with CEDAW, it was not in order to look at civil status, married or not married and living in an enduring relationship. I'm not saying that that work shouldn't take place, what I'm saying is that the aim on this exercise wasn't that.

The Chairman –
Dr Corinda Essex?

The Hon. Dr Corinda Essex –
Thank you to the Attorney General for his response. So, for point of clarity at this point in time, a life partner cannot be held accountable for his or her life partner's debts?

The Hon. Angelo Berbotto –
That's correct, unless there, yes, no, that's correct.

The Hon. Dr Corinda Essex –
Okay, thank you.

The Chairman –
Any other questions, please? No other questions. Alright, Attorney General? Liquor Ordinance?

The Hon. Angelo Berbotto –
So, the Liquor Ordinance. This clause amends section 31, subsection 3 of the Liquor Ordinance. Section 31, subsection 3 provides that defence to a wife, husband or child who sells, delivers or supplies any intoxicating liquor to a person in respect of whom they know a restriction order is in force. The amendment is to delete the words "wife, husband or child" and substituting "spouse, life partner or child" so that this offence can extend to life partners as well. So, in the Liquor Ordinance, there is something called a restriction order, so a restriction order says that Person X cannot be sold alcohol and that Order is imposed by the Court. Now, let's say that the person X's partner or spouse or child gets alcohol for that person because Person X demands that from the spouse or partner or child, this section protects the wife, husband or child because the relationship would be so the law says, well, if it is a child of the wife or the husband of Person X who provides the alcohol, well, that is a special relationship, so where this breach of the section is directed at, for example, a licence holder, so if I know that Person X should not have access to alcohol and I am the pub owner and I sell that it is to that type of person that this section is aimed at, so at the moment the categories that are protected are husband, wife or child and in this case the amendment is to put spouse, life partner or child, so in this case we are including the life partner into this category.

The Chairman –
Honourable Derek Thomas?

The Hon. Derek Thomas –
Thank you, Mr Chairman. Just for clarification, it is my understanding that spouse and life partner can be acquired relatively easily, you can be travelling, for instance, on the RMS, meet somebody today, come here and you can say that is my spouse/life partner, is that true, because if that is the case, that's my understanding, not too much for this one, but certainly the one above when we're talking about this could have serious consequences on what the Attorney General alluded to earlier, but it is my understanding that spouse and life partner can be, the way our current law stands, it can be achieved overnight, do we really want to be making laws to include spouse and life partner when you can meet somebody today and tomorrow that's my spouse or life partner? I think we really need to look at the consequences

that bear upon the spouse and life partner under these circumstances. Perhaps the Attorney General might wish to clarify that.

The Chairman –
Attorney General?

The Hon. Angelo Berbotto –

Well, there is an issue of terminology. Spouse is different from life partner. Spouse means husband or wife is like parent include mother and father, spouse includes husband and wife. Life partner is somebody in an enduring relationship. At the moment, the laws of St Helena are a little bit flexible as to what is, in fact, a life partner. The way to look at this is adjusting the definition of what a life partner is when we resume the work on the Immigration Ordinance, so I would, my suggestion is that rather than trying to extricate life partner from all the legislation on St Helena, because there are a number of modern Ordinances that refer to this category, is that further definition of or fine tuning of the minimum cohabitation requirement is put into the Immigration Ordinance, but I don't know if that answers your question, Councillor?

The Hon. Derek Thomas –

Yes, it does answer the question. The point I was making, which you confirmed, is that the life partner can be established quite easily the way the Immigration Ordinance currently stands and I know the review is currently underway with the Immigration Ordinance and that is one of the areas that will be, as you alluded to, recommended to be tightened up upon. Should we be making laws now to change this until such time the Immigration is reviewed, I just raise it because I know it is quite, life partner is quite easy to achieve?

The Hon. Angelo Berbotto –

If I may just comment on one aspect. The fact that there is at the moment in the laws of St Helena, there is no minimum requirement of cohabitation doesn't automatically mean that it is easy to satisfy the Immigration authorities that there is an actual life partner relationship, so it does help, and I agree with Councillor, it would help and it would make it much easier for the Immigration authorities if there was in black and white written for a life partnership to be recognised then it's to be a minimum cohabitation period of x. At the moment, for the, what the Immigration authorities do is that they sit with one party and then they sit with the other party and they ask questions to ascertain whether an actual partnership exists and then they decide on that, but as I said before, the expression life partner is already in many of the Ordinances of St Helena, so my advice is that we fine tune the definition when we look at the Immigration Ordinance, but try now to undo the fact that this category of life partner exists in many Ordinances would not be worth the task.

The Chairman –
Dr Corinda Essex?

The Hon. Dr Corinda Essex –

Thank you, Mr Chair. Is it not so that there's reference in the Immigration Ordinance to a period of three months of cohabitation in order to be considered a life partner?

The Hon. Angelo Berbotto –

I can't, from the top of my head, I cannot recall.

The Hon. Dr Corinda Essex –

I'm reasonably certain that there is, it's not in the actual interpretation clause, interpretation section, but there is a clause that makes a reference to a period of three months for a life partner and if that is the case it would be possible for somebody to qualify as having four life partners in a twelve-month period.

The Hon. Angelo Berbotto –

Well, that would be a very busy person indeed and I wouldn't wish to comment, but the category life partner exists, seeing whether a three-month or a six-month or a one year cohabitation period, that is something that can be looked at, but there are many life partnerships on St Helena involving two St Helenians so there is no issue of immigration, for example, but it is something that needs a little bit more containment structure, because it is a very fluid definition. And the reason why we added life partner in this legal Ordinance, amendment, is because to ask, looking at this from the point of view of lawyers, we could not see why life partners couldn't be protected under the same clause. So, for example, if a person who has restriction order, a liquor restriction order, imposed sends his or her life partner to buy alcohol for him or for the person, should be protected from prosecution, because of the special relationship, but, of course, it is up to Members to decide whether this protection should be extended to life partners or not.

The Chairman –

Honourable Pamela Ward Pearce?

The Hon. Pamela Ward Pearce –

Thank you, Mr Chair. So given what you've just said then, Attorney General, is there an interim measure that we can use to qualify what a life partner is to take us up until when the Immigration Ordinance is reviewed?

The Hon. Angelo Berbotto –

Well, the answer to that question is that a life partner is a question of fact. A question of fact is a notion in law in which you look at the actual fact, you look at are these two people living together, is there evidence that they assist each other, is there evidence that they live in a husband and wife type of arrangement, so that is what, for example, the Court, let's say that we have Person X male and Person Y female, the man and the woman are in an enduring relationship, the man has a problem with alcohol and there is an Order against him, a restriction order is in force. The man tells the woman I want a beer. The woman knows that she cannot get it, but she feels compelled because of the nature of the relationship. The woman goes and buys alcohol and the person who sells the alcohol knows that the beer is not for her, it's for Mr X, the Police turn up, she is drinking the beer, Police ask where did you get the beer from, he says she bought it for me, now she's in trouble. Without these laws, if this law is not amended she will be in breach, so if this matter goes to Court the Chief Magistrate will look at this, are you married, no, you're not married, okay, so this protection doesn't extend to you, this is your fine or this is your suspended sentence, so it will be a question for the Court to decide whether those two living together are life partners or not, because it is what we call in law a question of fact. The Court will ask them, okay, where do you live, do you live in the same house, yes, no, do you help each other financially, do you share your meals together, all those questions that would help ascertain whether in fact these two people are life partners or not.

The Chairman –

Councillor Derek Thomas?

The Hon. Derek Thomas –

Yeah, Mr Chairman, seeing that the life partner exists in other pieces of legislation, making a change here wouldn't address the other legislation which contains life partner, the issue is that life partner, the definition, needs to be tightened up and that needs to be done in the Immigration Ordinance, so I would recommend rather than wasting any more time on this, I raised it because I know life partner is easy to acquire, but there are life partner in many other pieces of legislation, making a change to this one wouldn't solve the other issues, so it needs to happen in the Immigration Ordinance, Mr Chairman.

The Chairman –

Honourable Christine Scipio O'Dean?

The Hon. Christine Scipio O'Dean –

Thank you, Mr Chairman. May I ask the Attorney General if he can clarify the rationale after deleting the words "or child" and substitute those words with "or child"?

The Hon. Angelo Berbotto –

Where are you, please?

The Hon. Christine Scipio O'Dean –

Under Liquor Licence where it's amended by deleting the words "wife, husband or child" and substituting "spouse, life partner or child", so we're deleting "or child" and then we're putting "or child" back in, so can you explain the rationale for that?

The Hon. Angelo Berbotto –

Yes, because we just took all the people that are, the categories that are affected by one Ordinance and what categories are going to be affected by the amendment.

The Hon. Christine Scipio O'Dean –

But "or child" is already in the categories?

The Hon. Angelo Berbotto –

Yes, that's right, what I'm saying is that we took all the categories that the Ordinance as it is covers, which is husband, wife or child and we put all the categories that will, if the amendment is successful, will cover, which are spouse, life partner or child.

The Hon. Christine Scipio O'Dean –

So, should the amendment just be deleting the words wife, husband and substitute spouse, life partner?

The Hon. Angelo Berbotto –

No, the amendment are as it is, because it's for the sake of clarity, you put all that are in the bag together and all that is in this bag together and you say, this bag replaces this bag, that's the way you do it.

The Chairman –

Yeah, that's correct.

The Hon. Christine Scipio O’Dean –

Thank you.

The Chairman –

Alright. Now, Honourable Members, this is quarter past twelve and I see we’re a long way to go. Maybe at this time we should adjourn and come back at quarter past one and continue with the process, yes? Thank you. Council is suspended until a quarter past one.

Council suspended.

Council resumed.

The Speaker –

Honourable Lawson Henry?

The Hon. Lawson Henry –

Thank you, Mr Speaker. Could we indulge you again and ask for permission to remove jackets, please?

The Speaker –

Yes, it’s a very hot day, so please do that.

The Hon. Lawson Henry –

Thank you, Mr Speaker.

The Chairman –

Alright, Honourable Members, I think we’re back in form again, I’m trying to see where we left off from. I think we were on to the General Amendment, Gender Equality, is it?

THE GENERAL AMENDMENT (GENDER EQUALITY) BILL, 2017

Council in Committee.

Resumed Debate.

The Chairman –

Honourable Members, I realise where we got to at this stage and then we can continue from there now. We’re in Committee stage, I think we are, yes, we’re in Committee stage and if we turn to the second page of the Bill, we’re at Matrimonial Causes Bill. Yes, Sir, Honourable Derek Thomas?

The Hon. Derek Thomas –

Thank you, Mr Chairman. Mr Chairman, Honourable Members, I am proposing an amendment to this section, the Matrimonial Causes Ordinance, cap 81, in that it be deleted from this Ordinance and without going into any real detail, but Mr Speaker, Honourable Members, you will be aware that there’s at present an ongoing Supreme Court case in relation to same sex marriage. Hinging around this case is the Matrimonial Causes Ordinance which

refers to husband and wife and by, in my view, Mr Speaker, Honourable Members, by allowing this to go ahead and delete wife could be detrimental to the proceeding of this case. It's my view that the Supreme Court case should take its course on the legislation as it currently stands, Mr Speaker, so I'm therefore proposing an amendment that this be deleted until such time the outcome of the Supreme Court case hearing.

The Chairman –

Let's hear some argument on it first.

The Hon. Angelo Berbotto –

Can I ask, for what, what is it that the Honourable Member is asking to be deleted, is it the entire amendment to the Matrimonial Causes Ordinance or is there any specific section, because I may have misunderstood but it's not clear to me? Thank you.

The Hon. Derek Thomas –

Mr Chairman, I'm asking for this particular section that is recommended in the Schedule here, the recommendation is to remove the word "wife" and it is in my view that that will have a bearing on the current court case which is pending in the Supreme Court. I'm asking that this recommendation that has been put forward in the Schedule be removed from the Schedule until such time this case is heard.

The Chairman –

Attorney General?

The Hon. Angelo Berbotto –

I'm looking.....

The Chairman –

I think he's asking for the whole section to be removed until there's a Court decision/judgement and....

The Hon. Angelo Berbotto –

Is the elected member saying all the amendments under the Matrimonial Causes Ordinance or only section 21 or the Matrimonial Causes Ordinance?

The Hon. Derek Thomas –

Section 21 has been recommended here, I see section 21 by deleting the words "wife" and there might be other associated sections, but what is recommended here in relation to deleting "wife" I'm recommending that this be deleted from the schedule and it is my view that the whole of what is recommended here should be deleted, it is likely, in my view, to interfere with the proceedings.

The Chairman –

Okay, so it's a proposal which I'll put to the vote afterwards, but I'd like to hear

The Hon. Angelo Berbotto –

Yes, I just want to address one issue which is interference with proceedings. There is no such thing. There's no such interference with proceedings, so if that is a concern of the elected member to justify this, that is not a founded concern. As for whatever is left in or out, when, Mr Speaker, Mr Chairman, when it's time to go through what each section contains I think it

would become clear why in order to comply with CEDAW these changes are fitting. It would be empty words if St Helena says we want CEDAW extended to this territory and then the laws of St Helena remain biased against women, so I invite Members to consider that as well. There needs to be consistency between actions. Thank you, Mr Speaker.

The Chairman –

Honourable Derek Thomas?

The Hon. Derek Thomas –

Mr Chairman, I'm recommending that this be withdrawn until the outcome of the Supreme Court case, the Matrimonial Causes Ordinance refers to husband and wife, here is a recommendation under 21 to delete wife and substitute it by either party. The current case, and I said it would be wrong to go into the detail, I don't think we should be jeopardising this case, I know that the case will be heard and examined on the current law as it stands, Mr Chairman.

The Chairman –

Honourable Christine Scipio O'Dean?

The Hon. Christine Scipio O'Dean –

Okay, Mr Chairman. If you look at section 21 where it's asked to delete the word "wife" and substitute it with "either party", section 21 said in a suit under this Ordinance the wife, if we change it to either party may present a petition for maintenance, so I just don't understand why.....

The Hon. Angelo Berbotto –

I propose, Mr Chairman, that if we're going to consider each provision we start in order which is from the top so that all elected members have an opportunity to understand what the changes involve so that they can decide afterwards, after hearing what the changes are, whether they want the changes or they don't want the changes, but starting from the middle doesn't seem to me a logical way to start.

The Chairman –

Okay, Honourable Brian Isaac?

The Hon. Brian Isaac –

Mr Speaker, here today I'm listening to during the debate certain concerns raised, there seems not to be a very clear understanding on some of the issues and the amendments as they stand. I am aware of the CEDAW presence here and that is going to be approved by Executive Council on 31st May so we've accepted it, I understand that the laws hasn't been adjusted to deal with CEDAW, but as the Mover of this Bill I feel uncomfortable in taking it forward at this stage as I understand, and I feel from the discussion here, that some more work needs to be done. We are very near our tender here as a Council and I would ask that this piece of legislation be removed so that further work can be taken with the new Council to enable for it to be processed in the House. Thank you, Mr Speaker.

The Chairman –

I'm looking at procedure at the moment, we're still discussing on the first Motion, I have to deal with that before I deal with your proposal. Honourable Lawson Henry?

The Hon. Lawson Henry –

Are we still in Committee, Mr Chair?

The Chairman –

Yes, please be seated.

The Hon. Lawson Henry –

We've heard my colleague's proposal to put forward various amendments on the basis that there is a Court case. What I'm unclear over is how he thinks the court case is going to impact on our ability to enforce CEDAW and if I have to support the amendments I really need to understand that. Is it a hearing or is it, for instance, a judicial review, because a judicial review is just what it says, you know, it's not going to, in my view, impact on what we got here today before us on CEDAW and given the importance of CEDAW to this territory we have already reported to the British Government, as I understand it, that we are introducing or doing the process to introduce CEDAW and it does seem to me that what he is suggesting is a wife, the same applies to the definition what is being substituted, so I really not clear.

The Chairman –

Are you able to explain?

The Hon. Derek Thomas –

Mr Chairman, the case before the Chief Justice is, as far as I'm aware, is a hearing and under the Matrimonial Causes Ordinance provides for husband and wife. That, in my view, is relevant to the case that is pending hearing. If we now remove the word "wife" as recommended here and substitute it by "either party" it doesn't, in my view, mean the same. It doesn't, in my view, mean the same. The Ordinance is quite specific, the Matrimonial Causes Ordinance, specifically talks about husband and wife. It is my understanding that the case will be heard on the basis of what our law currently stands and I feel, it is in my view, it is wrong to change this law now knowing that a case is due to be heard in the Supreme Court where the Matrimonial Causes Ordinance will play a part when it comes to husband and wife, that is what is being challenged at the moment.

The Chairman –

Alright, I take your point. Honourable Attorney General?

The Hon. Angelo Berbotto –

Mr Chairman, the case before the Supreme Court is in relation to the Marriage Ordinance. The case involves whether the Marriage Ordinance prevent two applicants of the same gender from being married under the Laws of St Helena. The questions in the case do not involve the engagement of the Matrimonial Causes Ordinance. Putting that aside, it is up to the Members if they want to leave the text as it is, but there are other matters that these amendments deals with which are much more important under section, the repealing of sections 10, 11 and 12 which I would be extremely concerned if the elected members today said already we approve CEDAW and they leave that in and the reason for that is because sections 10, 11 and 12 at the moment allow for, let's take for example, (a) a man married to (b) a woman; (b) starts an extra marital affair with (c) and under the laws of St Helena at the moment, (a) can sue (c) for damages, for money, because (c) is in an adulterous relationship with his wife, that is the current law in St Helena, that law discriminates against women because the opposite is not provided for in the law. So, if a woman is married to a man and

the man has an adulterous relationship, the woman, the wife, cannot sue the third party woman, so let's be clear, if there are concerns and if there's elected members do not want to make the entire battery of changes, that's fine, but there are here amendments that go to the core of what CEDAW is and that is why I am insisting, if I may, on starting from the beginning, going through the reading of what actually is involved, dismissing any misunderstandings and then, well, of course, it is up to elected members to vote, but they need to know what they're voting for and be accountable for whatever they're voting, so that is the only point of clarification that I wanted to add. Thank you.

The Hon. Derek Thomas –

I would welcome that line of approach, Mr Chairman. I'm barely speaking from the current case that is ongoing in the legislation as it stand, but if there's other areas that is in no way interferes with this case but is in breach of CEDAW then I think a clear explanation by the Attorney General would be helpful.

The Chairman –

Honourable Lawson Henry?

The Hon. Lawson Henry –

I think, for me, the Attorney General has given that explanation, Mr Chairman, because what he is saying, the application before the Court is under a different piece of legislation, so I can't see how what we're doing today, to tell the world that we're an equality island under CEDAW going to do or impact on the case that's before the Court, because it's about marriage, this is not about, this is the Matrimonial Ordinance, not the Marriage Ordinance.

The Chairman –

Honourable Derek Thomas?

The Hon. Derek Thomas –

Yeah, I did say I wouldn't go into the detail, it's wrong, but I can say that in skeleton arguments that is being used, the Matrimonial Causes Ordinance here when it comes to "wife", is being used in relation to this particular case, so I do hear what the Attorney General got to say, there's the Chief Justice who got to make a ruling on this and I am aware because I'm one of those who've lodged a caveat and that is being used as part of the case.

The Chairman –

Alright, I am concerned that we don't want anything that will upset the Chief Justice's case at the moment, which is sub judice. Is there any particular section in here to which the, I don't know what the applications refer to. Did you use any particular section under this law, the Marriage Law to refer to your case at all?

The Hon. Derek Thomas –

Reference is being made to the current law which includes this legislation here, husband and wife; references are being made as part of the defence in submission, Mr Chairman.

The Chairman –

Attorney General?

The Hon. Angelo Berbotto –

What I propose, Mr Chairman, is that we go one by one and see whether the terms “husband” and “wife” are necessary to be changed because of the particular provision or in those where they can just stay as they are, because they don’t put one party at a disadvantage, for example, in the case I just referred where the husband can sue another man who is having an adulterous relationship with his wife. I propose, I think that in that way if amendments are made on those provisions and not just generally that will perhaps satisfy the concerns of all parties, of all Councillors. What I am saying is that there are specific instances, just like the one I mentioned, where if no change is made the situation of women remains unequal to that of men.

The Chairman –
Yes?

The Hon. Derek Thomas –
I did earlier on recommended that line of approach, Mr Chairman.

The Chairman –
You’re prepared to go through and see what affects the case, is it, is that what you’re trying to do? Are you prepared, the Attorney General’s recommendation is go through the sections and see what section will interfere or impinge on the case before the Court.

The Hon. Derek Thomas –
I mean, I, if I can fully understand, I mean, this case is in the hands of the Supreme Court for which the complainants and persons involved are getting qualified legal advice, qualified legal advice as instructed by the Chief Justice, Mr Chairman. I’m not a qualified legal person here and I wouldn’t want anything to be deleted that is subsequently being used in relation to this case.

The Chairman –
Okay.

The Hon. Derek Thomas –
So.....

The Hon. Angelo Berbotto –
And I have understood the concern of the Councillor and that’s why I’m saying, because I have ethical duties as a lawyer, that the proposals that I’m making is for changes, those are essential, so, for example, 10, 11 and 12, but 21 can stay as it is until the case is disposed off, but my suggestion is that we go one by one so that it can be decided what is essential and what can stay as it is.

The Chairman –
Okay, can I suspend your proposal at the moment to see if we can advance down this line or are you sticking to your proposal?

The Hon. Derek Thomas –
No, you can suspend and if I can get a clear understanding, I don’t want to hinder process, I merely want, feel it’s our duty, knowing that this case is ongoing, to protect the case, I don’t want to hinder progress when it comes to CEDAW, Mr Speaker, so I’m quite happy to go

through one by one, as the Attorney General recommended, if I can get a clear understanding it's fine with me and hopefully others as well.

The Chairman –

Alright, this debate is being recorded, as you well know. Attorney General, will you inform us which is applicable to the matters before the Court and, please, so that we don't tread on the Chief Justice's rulings?

The Hon. Angelo Berbotto –

I understand the concern, Mr Chairman. So, if I can start with section 10 in the Matrimonial Causes Ordinance, this is the clause that we proposed be repealed because this is the clause that allows the husband to claim damages from his adulterous wife.

The Chairman –

Right.

The Hon. Angelo Berbotto –

Any questions about that, Mr Chairman?

The Chairman –

Any questions on that, I'm not taking any sounding at the moment, I'm just looking through as we go along. I'm conscious that the matter has been raised and I've got to ensure that it doesn't tread on Supreme Court grounds. Corinda?

The Hon. Dr Corinda Essex –

If that section is repealed, Mr Chair, will that mean in effect that neither husband nor wife can sue an adulterous person who is having an affair with the partner?

The Hon. Angelo Berbotto –

That's correct. In contemporary values, it is no longer deemed acceptable that because there is a breakdown in a relationship that any party should go to the Court to claim damages for that.

The Chairman –

Okay, that's section 10, is it?

The Hon. Angelo Berbotto –

That's right. Section 11, may I proceed?

The Chairman –

Yes, proceed to explain. Sorry, yes?

The Hon. Derek Thomas –

Yeah, I think I clear on this. What it means then is that the husband or wife cannot claim damages for adultery?

The Hon. Angelo Berbotto –

That's right, that means that by repealing this it means that nobody, the husband or the wife if their spouse is having an affair with somebody else they cannot take them to Court and sue them for damages, cannot claim money just because they are in an adulterous relationship.

The Hon. Derek Thomas –

Thank you, I understand that. This is not going live, but it is being recorded here, Mr Chairman?

The Chairman –

Yes, it is being recorded and I'm taking through, I'm not calling for agreements at the moment, I just want to hear what the sections are. Section 11.

The Hon. Angelo Berbotto –

So section 11 needs to be repealed because this section at the moment allows the husband to claim costs in a divorce against the man that was, had the affair with the wife, so we are saying this is not in a agreement with contemporary values, so if you repeal this neither the husband or the wife will be able to sue the third party in the triangle.

The Chairman –

Okay.

The Hon. Angelo Berbotto –

And 12, 12 deals with the powers of the Court to dismiss the application of the husband against the man who engaged in the affair with the adulterous wife, so if we, if 10 and 11 are repealed, 12, which is what the Court can do if there is a claim from Man A against Man C, because Man C was in an adulterous relationship with A's wife, so 12 is no longer necessary, the Court doesn't need that power because the reason to have that power no longer exists if you delete 10 and 11.

The Chairman –

Section 16?

The Hon. Angelo Berbotto –

Section 16 deals with when a decree of divorce of marriage is made absolute, so in divorce law there are two stages of the divorce, there's the petition, so if I want to get divorced I have to make a petition, then there's a decree nisi, which is the decree when the Court gives an opportunity, a final opportunity for the spouses to reconcile so the decree nisi is made today and then in a month if nothing changes the decree will be made absolute, so section 16 deals with when a decree of divorce of marriage is made absolute, subsection (4) states that the Court may order one of the parties to pay the cost of the proceedings. The current provision states, including a wife if she has separate property and we are saying this should be repealed because it's not equal between husband and wife so the Court should have the power to make, to order costs from whoever, the husband or the wife, but at the moment the wife is at a situation above the husband because it says, including a wife if she has separate property. So we're saying that delete, including a wife if she has separate property, just leave it as, the Court may order one of the parties to pay the cost of the proceedings, full stop. That would be an equal wording of this provision.

The Chairman –

Any questions? Derek, Councillor?

The Hon. Derek Thomas –

Yes, I hear what the Attorney General, thank you, Mr Chairman, I hear what the Attorney General said, it will then allow for one of the parties to claim. Where is that wording, the

exact wording if you delete, including a wife if she has separate property, we're gonna substitute it with what exact wording?

The Hon. Angelo Berbotto –

No, no, we're not saying, do not substitute it with anything, just delete, including a wife if she has separate property. If you delete that the provision states remains, the Court may order one of the parties to pay the cost of proceedings, so it then is up to the Court to decide, but if you ask, it is as the moment including a wife if she has separate property, it forces the Court to look at the particular situation of the wife and that's why it's not equal.

The Chairman –

Honourable Dr Corinda Essex?

The Hon. Dr Corinda Essex –

Can I just ask, Mr Chair, in the instance where perhaps both parties are responsible for the breakdown of the marriage, is there provision for them both to make a contribution to the cost of the hearing?

The Hon. Angelo Berbotto –

Usually the Court will not make a cost order, so cost order is how much you expend, you spend on your lawyers, that's your costs. In England, for a while now, divorce proceedings are not, are non fault, so it means that you don't have to explain if who is at fault or who caused the divorce or who caused the breakdown and for that reason each party pays their own costs. Now, we don't have to go to that extent of changing the law here, because, and I'll remind everybody again, the exercise that we carried out was to bring, to change the laws of St Helena to make them CEDAW compliant, this is not because we have gone through the matrimonial causes for our review of the entire Ordinance, that is in the pipeline, but it's not going to be accomplished within this Council's term, so routinely the divorce is that the Court, the divorce, the petitions that the Court hears, that the Chief Justice hears in St Helena he doesn't make court orders so if one person goes to a lawyer and the other person goes to a Lay Advocate each person just pays their own thing, but what we're deleting here is the possibility that the Court needs to concentrate on the wife as it is at the moment. I don't know if that answers the question.

The Chairman –

Dr Corinda Essex?

The Hon. Dr Corinda Essex –

Without having the actual wording in front of me it's difficult, but you indicated that currently it is possible for both parties to share the costs, they pay their own costs?

The Hon. Angelo Berbotto –

That's right.

The Hon. Dr Corinda Essex –

Wouldn't the amendment that you're suggesting in fact make it more or less obligatory for just one individual to meet all costs, Honourable Attorney General?

The Hon. Angelo Berbotto –

Well, the issue of costs is, comes across when one of the parties, firstly, in matrimonial proceedings in divorce, one of the parties will have to persuade the Court that their costs need to be paid by the other party. The practice in St Helena is that each person pays their own. What we're trying to do here is removing from the provision this focus on the wife, but in a way the practice of the Court is more advanced than were the laws written. As the Attorney General plays no role in the actual divorce proceedings, because nobody's divorced in the Government, usually people are not represented or represented by a Lay Advocate or the Public Solicitor, but my understanding is that each party bears their own costs.

The Chairman –

Yes, Dr Corinda Essex?

The Hon. Dr Corinda Essex –

Mr Chairman, I'm just wondering if in fact the suggested amendment wouldn't make it worse for the wife, because here it gives the condition, it says, if she has separate property. From what the Attorney General's been saying it wouldn't change the amendment, it would be possible to make her pay anyway even if she does not have separate property?

The Hon. Angelo Berbotto –

Well, the amendments are to put all parties, for the law to look at all parties on an equal footing. If the wife has no separate property, well, she won't be asked to pay, I assume, in any event, those procedural matters are for the Court to look at on a case by case basis. If, what we have identified here is a provision where one of the parties, because of her gender, is looked at differently. If Members are saying that this should remain, that's fine. If Members agree with our legal analysis that this puts undue, highlight or focus on the wife, that's alright as well. We, our analysis is that there's no reason in a modern society to make special provisions for the wife in this context of this section 16, subsection (4).

The Chairman –

Yeah, Honourable Dr Corinda Essex?

The Hon. Dr Corinda Essex –

Mr Chairman, I can see the amendment would perhaps make more equality between the two partners, because the caveat that if she has separate property would no longer exist, but I cannot honestly see how this proposed amendment would help to achieve the aims of CEDAW.

The Hon. Angelo Berbotto –

I think it is a matter for the elected member if the Honourable Corinda Essex proposes that this section be, not be amended, that can be done, our analysis is that there is no need for this provision focusing on just one of the parties to the divorce.

The Chairman –

Any other contributions to that discussion? Is there then uncertainty about that section or not? We're just going through, I have to come back and take them carefully. Now, there's subsection repealing subsection (2)?

The Hon. Angelo Berbotto –

That's section 19.

The Chairman –

That's all inclusive, is it?

The Hon. Angelo Berbotto –

Section 19, yeah. So the next clause repeals section 19 (1) of the Matrimonial Causes Ordinance. This section deals with the property and acts of the wife after judicial separation, so the way we have dealt with this with a clause has been amended so that there's no focus on just the wife, but both the husband and the wife after judicial separation are considered to be the sole owners of property. So, according to our Matrimonial Causes Ordinance there was a specific scheme or arrangement after judicial separation. Judicial separation is not divorce, judicial separation is where both parties in a marriage are no longer living together and under section 19 it focuses on just the woman, so we have amended it so that it focuses now on both parties, because it may be that in a marriage the woman is the breadwinner and she has, I know that is not the most common situation, but there may be those cases, so, again, the focus is on bringing both parties to the footing of equality.

The Chairman –

Honourable Derek Thomas?

The Hon. Derek Thomas –

Thank you, Mr Chairman. I see this substitute the proposed section. One refers to him or her or his and her, so that I don't see any difficulty with that in my view, that proposed substitute to this section and in relation to repealing subsection (2) I take it you'll come on to that, Attorney General?

The Hon. Angelo Berbotto –

Section 21, you mean?

The Hon. Derek Thomas –

Er, no, you talking about section 19 is amended by repealing subsection (1) and substitute the following and in the following you talk about him or her, his or her, so I don't have a difficulty with that, and then underneath there you're saying ...?....by repealing subsection (2), you will explain that?

The Hon. Angelo Berbotto –

Yes, unfortunately I don't have the, can I borrow the thank you. 19(2), yes, in every case, I'm going to read subsection (2) because it will make things clearer. It says, in every case of a judicial separation, the wife shall while so separated be considered as a ...*fan sol* which from French means lonely woman. For the purposes of contract and wrongs and injuries and of suing and being sued in any civil proceedings and her husband shall not be liable in respect of any engagement or contract which he may have entered into or for any wrongful act or omission by her or for any cost which she may have incurred as plaintiff or defendant, provided that in any such judicious separation maintenance has been decreed or ordered to be paid to the wife and the same shall be duly paid by the husband, she shall be liable for the necessary supplied for her use provided also that nothing shall prevent a wife from joining at any time during such separation in the exercise of any joined power given to herself and her husband. I just want to make a point in stating that this Ordinance commenced in February 1961. Unfortunately the situation of women has evolved somewhat since then, because these, this provision deals with *fan sol* which means where she's not under the dominion of a husband and she can enter her own contracts and her own

transactions without binding the husband. For that reason, we are saying that this should be repealed because it is not the case, fortunately, anymore that a woman needs to ask her husband for permission to enter a contract to get a mobile phone, for example, or that the husband is liable for the debts of the wife's mobile phone debt, for example. Persons in law are fully considered persons, regardless of their status and that's why we're saying that this provision is no longer with harmony with contemporary values, to my knowledge it hasn't been invoked by the Court so really it is considered to be in line with CEDAW that this is just deleted.

The Chairman –

So, in your opinion, Attorney General, these sections, as far as we've got, doesn't have any impact on what the Court has?

The Hon. Angelo Berbotto –

No.

The Chairman –

What about the following sections, 21.... Sir?

The Hon. Derek Thomas –

Yeah, I was gonna ask, for myself, I'm content so far, but I'm asking, what I'm gonna ask now, for an amendment to this section, Mr Chairman, that this specifically refers to wife, deleting the words "Wife" and substituting "by either party", I do see this have some bearing on this case that is being heard and I will ask that this be deleted from the Schedule, section 21 (a), I'm asking that that be deleted, Mr Chairman, for the reasons I have given previously.

The Chairman –

Yeah, okay, I don't think we have moved on that section just yet.

The Hon. Angelo Berbotto –

I am a bit confused, are you.....

The Chairman –

Alright, I take notice what you say, I don't think we have actually moved on that section just yet.

The Hon. Angelo Berbotto –

It's 19 that I, I was wondering if the Honourable Councillor is happy with 19, because I just caught up to 19?

The Chairman –

Yeah, you're happy down as far as 19?

The Hon. Derek Thomas –

I'm happy with the explanation given on 19.

The Chairman –

Okay.

The Hon. Angelo Berbotto –

So, 21, Sir? So 21, the next clause amends section 21; it deletes the word “wife” and substitutes “by either party” so that either the husband or wife may claim for maintenance. At the moment the law only allows the wife, so this provision discriminates against men when the wife is the breadwinner. So maintenance is when one of the parties, usually the one that stays at home asks the Court that the other party that went out and worked and got the money for that person to provide some amount of money for the support of the spouse that stayed at home. In most cases, it is the woman that stays at home, not in all cases, so by changing the words in this provision there is, we are actually putting the minority of men that may be the home makers on an equality basis. At the moment, yeah, at the moment it’s only the woman who can ask for petition, so there is some, a husband and wife, the wife is a Manager in one of the Directorates, she makes good money. The husband is much older, is retired, he just gets a pension. Now the wife, much younger, meets a nice bloke that’s come off the RMS and says to the husband, I’m divorcing you. Can he make a claim for maintenance? No, he can’t because the law doesn’t allow it. Clear as that. Is that a situation of equality? No. How do we solve that? By allowing both parties to have the right to claim for maintenance? It doesn’t mean that people will, but at least the law reflects the understanding that just because one person is of a certain gender it doesn’t mean that that person will go out and work or will stay home, because contemporary values show us that there are a minority of men who are the home makers and it may be because their working life is finished because of their age or it may be because husband and wives now choose to arrange their ownaffairs in a different way and it may be more economical for the husband to stay with the kids rather than the husband going out to work. Just look, for example, at some of the expat social workers who have come to St Helena, their husband perhaps are not working or doing volunteering and their wives are the ones who are the breadwinners, so in a situation like that, under the laws of St Helena, men are treated in a unequal way, so this provision actually would allow men to have the opportunity to make an application for maintenance.

The Chairman –

Oh sorry, Honourable Brian Isaac?

The Hon. Brian Isaac –

Mr Chairman, can I ask the Attorney General what bearings will these amendments have, if any, on the Benefits Regulations in the Benefits Ordinance for claiming for benefits, the man and the woman. I don’t know, I’m just asking if it’s any comparison, if any review of the benefits had been taken into account?

The Hon. Angelo Berbotto –

The answer, Mr Chairman, is that no bear....., none that is, that jumps to my eyes because what we’re talking about is the end of a marriage, we’re not talking about the relationship between a citizen and the state. As I said before, I don’t get involved in divorce cases because the Government is not married to anybody so people who want to get divorced they will go to the Public Solicitor, they go to the Lay Advocates, they don’t come to see the Attorney General or the Lawyers that work with me, so as far as I can say the only potential influence is that if somebody gets divorced and one, the ex husband or the ex wife now has to give certain money per month to the other ex spouse, probably the person that is receiving the maintenance will have to declare that with the Benefits Officer if they’re getting benefits, but apart from that I don’t see any other points of crossing between something that is the arrangement of private life and then something that is the arrangements between the individual and the State. I don’t know if that answers the question?

The Hon. Brian Isaac –

I didn't know so I asked the question

The Chairman –

While you're arguing, while you're debating I am trying to see where the Councillor is coming from and where you're coming from. Tell me one question, if this section was passed as it is, does it delete all references to husband and wife in the Marriage Ordinance?

The Hon. Angelo Berbotto –

No, no, because....

The Chairman –

It does not?

The Hon. Angelo Berbotto –

If you look at section 21, it says, section 21 is amended by deleting the words "the wife" in subsection (1) and substituting "either party thereof" by deleting section (2) and substituting, so it only affects section 21.

The Chairman –

Section 21 which seem to be the, I'm trying to find out what is the argument between, from the Court, in the Courts. Section 21 is deleting the word "the wife" is it?

The Hon. Angelo Berbotto –

It's deleting the word "wife" and is substituting "either party".

The Chairman –

So I'm asking you now does this section delete all reference to the wife in the Marriage Ordinance?

The Hon. Angelo Berbotto –

No, no, this change only affects this section, section 21, so....

The Hon. Lawson Henry –

So in other words, the changes is just where there is an unequal between husband or wife, so it makes it equal to both parties, that's my understanding and reading of it.

The Chairman –

Yes, sorry?

The Hon. Derek Thomas –

Carry on,

The Chairman –

No, then I was just trying to ask what is the basis of your objections in this?

The Hon. Derek Thomas –

Mr Chairman, I have the proposed amendments here and not the full context, so it will have to be read in the full context. The Attorney General have explained so far deleting the word

“wife” and substituting “either party” under section 21(a). Can you repeat the context again as to the impact this particular section will have? Thank you.

The Hon. Angelo Berbotto –

Yeah. So at the moment, this section, section 21 deals with maintenance. Any questions about what maintenance means? Okay. So it deals with maintenance and at the moment it says that only the wife can claim for maintenance, so by putting the word, by deleting the word “wife” and put in “either party” that means that they have, if the one who has the money is the wife, the husband can also apply for it, claim for it, but at the moment he can’t because the word in the provision is that the “wife” and that change only affects section 21, not the entire, not the entire.....

The Hon. Derek Thomas –

So as the law, this particular section stands at the moment, Attorney General, the only one who can claim for maintenance in relation to this particular section is the wife.

The Hon. Angelo Berbotto –

Yeah, yeah.

The Hon. Derek Thomas –

Thank you.

The Hon. Angelo Berbotto –

And what we’re saying is that CEDAW recognises the right of self realisation of women and women being individuals not just the rib of a man, that’s why both parties, in order to demonstrate their equality, both parties should have the opportunity to claim and then it’s for the Judge to look at the specific of each case, but when we are changing the law we need to think about all the potential cases. Most men, most marriage couples in St Helena both parties work or the man works and the woman stays at home, but there may be cases where it is the man who stays home especially when, as the example I cited, a much older husband, a much younger and successful wife who may, the thing is that the law needs to be fair for everybody and at the moment it’s not, because it’s dated, as I say, it’s 1961, things have moved on.

The Chairman –

Yes, Dr Corinda Essex?

The Hon. Dr Corinda Essex –

Thank you, Mr Chair. Would it be possible for the Attorney General to read out how section 21 (a) would read if it’s amended?

The Hon. Angelo Berbotto –

So it would say “in any suit under this Ordinance either party may present a petition for maintenance pending the suit. Such petition shall be served on either party, on the defendant and the Court may make such order on the defendant for payment to the petitioner of maintenance as it deems fit, as it deems just.”

The Hon. Dr Corinda Essex –

Thank you.

The Hon. Angelo Berbotto –

So the one who wants to get divorced is called the Petitioner and the one who is responding is called the Defendant.

The Hon. Dr Corinda Essex –

So for the sake of consistency with the rest of the amendments, will it be possible to say the husband or wife, in section 21?

The Hon. Angelo Berbotto –

Yeah, there is no reason why, because we're talking about defendant and petitioner, those are parties to proceedings and that is why, for the sake of consistency we use the parties, because that is the language when you are in proceedings, so if you look at the chapter, it's called Maintenance and the heading is called Maintenance *pendenta lita*, which means whilst the litigation is ongoing and we're talking about the parties in the litigation. In any suit under this Ordinance, either party may present a petition for maintenance pending the suit. Such petition shall be served on the defendant and the Court may make such order on the defendant for payment to the petitioner of maintenance as it deems just. So what we're using is the language of the Court which in a proceedings like this deals with parties and deals with whom makes, who is the party bringing the matter, the petitioner, the petitioner can be the husband or can be the wife, because in a divorce it's not always the wife who wants to get divorced, it may be the husband, so that is the petitioner.

Another way that we can change this is to say in any suit under the Ordinance either the petitioner or the defendant may present, no, sorry, no it's either party, yeah, either party is the worry that, reads the best according to what we have worked on. I don't know if that answers the question?

The Chairman –

Dr Corinda Essex?

The Hon. Dr Corinda Essex –

Sorry, Mr Chair, would there be any actual legal justification for not saying the husband or the wife?

The Hon. Angelo Berbotto –

I don't say, I am not saying legal justification, but because the way that it's drafted they're dealing with petitioner and defendant, just with the parties.

The Hon. Dr Corinda Essex –

From the Layman's perspective, I think it could be less ambiguous and more easy to understand with the terminology of a husband or wife rather than either party.

The Hon. Angelo Berbotto –

Yeah, members can, if they think this is necessary, can change it. Usually people who want to get divorced rather than picking up the Ordinance they go and talk to the Lay Advocates or the Public Solicitor.

The Chairman –

Alright, Councillor Christine Scipio O'Dean?

The Hon. Christine Scipio O'Dean –

Yes, Mr Chairman, just a matter of observation, throughout the substantive Ordinance there is reference to husband or wife or either party, so, I mean, if we change either party to husband and wife does it mean anything, because it's already throughout the substantive Ordinance referring to husband and wife of either party? Just an observation, Mr Chairman.

The Chairman –

Alright, are we happy, well going to section 22, the section 22 has been substituted to this one, is it?

The Hon. Angelo Berbotto –

Yes, so section 22....

The Chairman –

The whole section has been taken out and a new one put in, is it?

The Hon. Angelo Berbotto –

Yes. So it reads, the Court may if it sees fit on any decree absolute of divorce or nullity of marriage, so nullity of marriage is when the, other than divorce, is when the Court, one of the parties says, well actually their marriage was not valid from the beginning, it can be, for example, if one of the parties was forced to get married, so he didn't enter freely, or if one of the parties is insane, suffers from insanity, so couldn't have consented. Nullity is not very common these days. Or on any decree of judicial separation order that one party shall secure to the other party such gross sum of money or such annual sum of money for any term not exceeding that other party's life as having regard to the circumstances reasonable or the Court may make an order on either party for the payment to the other party during the joint lives of such monthly or weekly sums. Basically this provision deals as to how the maintenance is going to be paid. In some cases the maintenance can be lump sum, but in other cases it may be through weekly or monthly, so, for example, if two people are married, one owns a huge plot of land, the Court may say, well, you wife need to sell that and the lump sum will constitute the entire maintenance, so the husband will not be able to get any more money, that's it, but in other cases it may be that is more fair that any maintenance is ...?.... on regular payments, weekly or monthly, so this section 22 also comes from section 21 so either the wife or the husband may apply to get from the other party maintenance.

The Chairman –

Right, okay, I still am conscious that we got two proposals on the floor unless, yes?

The Hon. Derek Thomas –

Mr Chairman, I raised this issue on the proposals because I felt that it was necessary. When we pass laws we have to have a clear, comprehensive understanding of what we pass, I'm aware of the current court case and references are being made to the Matrimonial Causes Ordinance. The Attorney General has given comprehensive explanations of these proposed changes and I am satisfied of the explanations he's given thus far. It doesn't interfere with the case that is ongoing, but I felt it was necessary to raise it in order to obtain a full and comprehensive understanding, the Attorney General has given that so I'm satisfied with what has been said so far. Thank you.

The Chairman –

Thank you very much. Then are you withdrawing your proposal?

The Hon. Derek Thomas –

I am withdrawing my proposal, Mr Chairman.

The Chairman –

Councillor Brian Isaac, the Councillor withdrew his proposal, you wanted to withdraw and this is your Bill. The Bill, are you going to withdraw your proposal to withdraw the Bill or proceed?

The Hon. Brian Isaac –

Mr Chairman, previously there seemed to be confusion in proceeding, that was the reason for making the proposal to withdraw the Bill, it now has been clearly explained by the Attorney General and my colleague here, he had some concerns, he's quite happy with the explanation given by the Attorney General and on that note I'm happy to withdraw and proceed as proposed.

The Chairman –

Then can we proceed. So going through that section, Matrimonial Causes, I take it so nobody has an objection at the moment. Can we then look at the next section, Trade Unions and Disputes Ordinance?

The Hon. Angelo Berbotto –

Yes, thank you. So the Trade Unions and Disputes Ordinance provides a protection of intimidation and annoyance of a Trade Union member and the section forbids a person from using violence to or intimidating the Trade Union member's wife or parent or child, so we are changing the amendment so that if the Trade Union member is a woman the husband will be protected as well. At the moment what is contemplated is that a Trade Union member will be male only. That is why we are changing; we are substituting the words "his wife" for "his or her spouse" so that it would protect the spouse of the Trade Union member. I am aware that there are no Trade Unions on St Helena at the moment, but there may be, but this is also another change to the laws of St Helena that sends the signal that CEDAW is being taken seriously and that the laws of St Helena are being revised to delete, to cancel out any inequality with genders.

The Chairman –

Any questions on the other two items in the list in the Schedule? Yes, Councillor Scipio O'Dean?

The Hon. Christine Scipio O'Dean –

Other items, you mean Vaccinations and the Welfare of Children?

The Chairman-

Pardon?

The Hon. Christine Scipio O'Dean –

When you say other two items.

The Chairman –

Vaccination Ordinance and Welfare of Children.

The Hon. Christine Scipio O'Dean –

Okay, can I, previously, Mr Chairman, under Births and Deaths, section 10 (1) we made an amendment, not we made, we discussed an amendment, I should say, because I don't think we agreed to it, about revising the word "parents" to "person with parental responsibility", so I'm suggesting that in the other section there is reference to substituting "father or mother" with the word "parents", so to be consistent, I would suggest that we amend that to "person with parental responsibility" and also under the Welfare of Children Ordinance we're asking to delete the word "mother or father" and substitute with one of the parents, should we also be looking at substituting it with "person with parental responsibility" to ensure that we are consistent throughout this Bill?

The Chairman –

How is that going to read in the legislation?

The Hon. Angelo Berbotto –

So there's no issues about Vaccination Ordinance, is that correct?

The Hon. Christine Scipio O'Dean –

That's incorrect, AG, under section 3 (6) we're asking to delete the words "father or mother" and replace it with "parents", but to be consistent with Births and Deaths, section 10 (1) where we change the words to "person with parental responsibility" and the same apply to Welfare of Children Ordinance.

The Hon. Angelo Berbotto –

Yeah, well, there's no problem with the Vaccination Ordinance being changed to "a person with a parental responsibility". The final one, the Welfare of Children Ordinance is different and I explain that in a second. So section 3 deals with an adoption order so an adoption order is an order made by a Court, cutting the ties, the kinship ties between a child and his parents, so at the moment the law requires that an order cannot be made on the application of the mother or father of the child alone unless the Court is satisfied that certain criteria are met, so in this case actually, a person with parental responsibility will not do because of the particular effect of an adoption order.

The Hon. Christine Scipio O'Dean –

What happens if either parents are dead, so neither of the parents are alive then would that mean the person with parental responsibility will then.....

The Hon. Angelo Berbotto –

No, because it's different. You see, the, let's say, for example, that we have a boy and this boy is being looked after by granny because both parents are off island. Granny gets an order of the Court, she has parental responsibility and then there is a couple on island who really like this little child and they want to adopt it, but Granny, she has parental responsibility, but she cannot consent to the adoption because she's not the mother or the father, so there is, adoption is such that only a parent can consent, it's not sufficient for a person with parental responsibility.

The Hon. Christine Scipio O'Dean –

So if the parents are dead?

The Hon. Angelo Berbotto –

Well, in that case it's different, because you have a case of a child who is orphaned. If, somebody will need to have parental responsibility for the child so there will be involvement of the Court and it is likely that, and then there may be an adoption order for the granny who is looking after or another type of order that protects the child in that home, but for the purposes of adoption, yeah, you actually need the parents to, yeah. So now that I am looking at this subsection I don't know whether the change is actually necessary and I would perhaps propose that we take this one out of the, yeah....

The Chairman-

Yes, I think it is wise to consider this one very carefully, because particularly the Welfare of Children's Act, it has a different meaning when you start changing and playing around with this. You can't just adopt a same position for every Ordinance, because it has a different effect and Attorney General is wise to think about that.

The Hon. Christine Scipio O'Dean –

So we come back to what I originally asked is that we are deleting the words “mother or father” and substituting it with “one of the parents” but mother or the father is one of the parents, yes?

The Hon. Angelo Berbotto –

Yes, and that's why I am suggesting that this last one we just take it completely out of the Ordinance because actually we're saying the same thing.

The Chairman –

Yeah.

The Hon. Angelo Berbotto –

So there would be one amendment, unless there are any others, the amendment, Mr Chairman, would be that the final, yes, I think I have used two copies, Sir, and that now I don't know where I am. Yes, one amendment, two amendments, three amendments.

The Chairman –

Three amendments. And can you point out those three amendments to us, just to make sure that we have it for the record?

The Hon. Angelo Berbotto –

So the first amendment and please Members, correct me if I am making a mistake, is in the Births and Deaths Registration Ordinance, section 10, subsection (1) so the full text now says, section 10, subsection (1) is amended by deleting the words “father and mother” wherever it occurs in the words preceding the proviso and substituting “persons with parental responsibility” therefor.

The Chairman –

The Births and Deaths?

The Hon. Angelo Berbotto –

Yes.

The Chairman –

And you can substitute that for parents is it, without affecting anything?

The Hon. Angelo Berbotto –

That's right. We're substituting, (person with parental responsibility) and we cross out the word "parents".

The Chairman –

Okay.

The Hon. Angelo Berbotto –

The second change is in the Vaccination Ordinance, sections 3 and 6 are amended by deleting the words "father or mother" wherever they occur and substituting the word, at the moment it says "parents" and we put "persons with parental responsibility". And the same in 4 and 5.

The Chairman –

Okay. I think I got to clue up all those and do them one by one, because I don't think we had seconds for either of those. So the first, in the Schedule we're looking at now, the proposal I think it was Dr Corinda Essex who made the proposal?

The Hon. Dr Corinda Essex –

Yes.

The Chairman –

Will you make the proposal again, please? That's on the parent's side.

The Hon. Dr Corinda Essex –

Thank you, Mr Chair. This relates to the first section in the Schedule pertaining to Births and Deaths Registration Ordinance and the proposal is that section 10 (1) is amended by deleting the words "father and mother" wherever it occurs in the words preceding the proviso and substituting "person with parental responsibility" in place of the current word "parents".

The Chairman –

Okay. Is there a seconder for that?

The Hon. Christine Scipio O'Dean –

I beg to second.

The Chairman –

Okay, thank you very much indeed. So the proposal is that delete the word "parent" and substitute "person with parental responsibility". Happy, Attorney General?

The Hon. Angelo Berbotto –

Yes.

Question on amendment, put and agreed to.

The Chairman –

Thanks, that one is out of the way. The second one, Attorney General?

The Hon. Angelo Berbotto –

Yes, the Vaccination Ordinance.

The Chairman –
On the Vaccination Ordinance.

The Hon. Angelo Berbotto –
On the very end of the, last page, section 3, 6 are amended by deleting the word “father or mother” wherever they occur and substituting the words “persons with parental responsibility”, so the word “parents” is crossed out, taken out of the amendment and what we put instead is “persons with parental responsibility”.

The Chairman –
Who proposed that? Honourable Christine Scipio O’Dean?

The Hon. Christine Scipio O’Dean –
I proposed it, yes. Thank you, Mr Chairman. I propose that amendment.

The Hon. Angelo Berbotto –
And then sections 4 and 5 are amended by deleting the words “the father or mother” wherever they occur and substituting “person with parental responsibility”.

The Hon. Christine Scipio O’Dean –
I proposed that amendment too, Mr Chairman, but I recognise that we didn’t get a seconder for section 3 (6), so I not sure if you want to do two together, because it’s all within the same Ordinance.

The Chairman –
Okay, so those are two proposals. Any seconders for those proposals?

The Hon. Pamela Ward Pearce –
I second it, Sir.

The Chairman –
Thank you very much indeed.

Question on amendments, put and agreed to.

The Hon. Angelo Berbotto –
And the last proposal is that the last, the Welfare of Children Ordinance amendment is taken out the Amendment Bill, no longer necessary.

The Chairman –
Okay, that’s no amendment as such, is it? It is an amendment?

The Hon. Christine Scipio O’Dean –
Well, it is in the Bill that’s been published, Mr Chairman, so I guess it will need to be deleted as an amendment.

The Chairman –
It is an amendment?

The Hon. Angelo Berbotto –

So it's the last line of the Schedule. The proposal is that the last line in the Schedule be deleted.

The Chairman –

Be deleted, okay. And who proposed that then?

The Hon. Dr Corinda Essex –

I'll propose that.

The Chairman –

Okay and is there a seconder for that?

The Hon. Gavin Ellick –

I beg to second.

Question on amendment, put and agreed to.

The Chairman –

So that's where are three amendments come in then. Okay, right. Council will be resumed I think.

Council Resumed.

The Speaker –

Bill to be reported. It's Tony Duncan's fault.

The Hon. Wilson Duncan –

I do get paid extra

The Chairman –

Alright. Back into forum, informal forum. Please, Bill to be reported, Mr Chairman?

The Hon. Brian Isaac –

Mr Speaker, I beg to report that the General Amendments (Gender Equality) Bill, 2017, passed the Committee with four amendments and to move that this Council approve the said Bill and recommends to the Governor that it should be enacted.

The Speaker –

Is there a seconder?

The Hon. Cruyff Buckley –

Mr Speaker, I beg to second.

The Speaker –

Thank you very much. Would you like to speak to the Bill now, please?

The Hon. Brian Isaac –

Thank you, Mr Speaker, it started off, in my words, a little controversy because there were some unclear understandings of the proposals in the Bill, but with your approach of the

discussion throughout the Committee stage and with the support of the Attorney General which was appreciated and I'm pleased to say that the Bill is, as I mentioned earlier, to be enacted. Thank you, Mr Speaker and I thank Members for their contribution in bringing the amendments to this Committee. Thank you.

The Speaker –

I put the question that this Council approves the General Amendment (Gender Equality) Bill, 2017, and recommends to the Governor that it should be enacted. Members are encouraged to speak if they wish at this stage. Anybody wish to speak on the Bill? Honourable Christine Scipio O'Dean?

The Hon. Christine Scipio O'Dean –

Thank you, Mr Speaker. Mr Speaker, in May 2016, ExCo had given approval for CEDAW's extension to St Helena, hence the Bill today that we just recently discussed, represents the very first step in making laws of St Helena CEDAW compliant. Mr Speaker, this is to ensure gender equality and eliminate discrimination against women, that I fully support and like my Honourable Friend said, I'd like to also convey thanks to the Attorney General in providing extensive explanations to ensure that we all here today understand fully what we are agreeing to. Thank you, Mr Speaker.

The Chairman –

Thank you, Honourable Member. The Honourable Dr Corinda Essex?

The Hon. Dr Corinda Essex –

Thank you, Mr Speaker. Mr Speaker, it is very gratifying that we've managed to finally reach a resolution on this Bill before us today and I'd like to thank the Honourable Attorney General for his input on this matter. However, I think it should also be flagged as a matter of concern that the debate indicated that there is a lot of other work that needs to be done to revise and review and update other Ordinances that are on our Statute Books, and particularly the Immigration Ordinance and others as well and I trust that the new Council will take that onboard very soon after their election. Thank you, Mr Speaker.

The Chairman –

Thank you, Honourable Member. Is there any other Honourable Member? The Honourable Pamela Ward Pearce?

The Hon. Pamela Ward Pearce –

Thank you, Mr Speaker. As previously spoke by my colleagues around the table here, I am pleased that we are able to come to an amicable arrangement and that the Attorney General did some very good work here today to make this acceptable to us, because having passed through Council thus far, the CEDAW arrangements, it would be very disappointing if they hadn't come to this, so I do support this. Thank you very much.

The Chairman –

Thank you, Honourable Member. Any other Honourable Member wish to speak? Honourable Move, do you wish to reply?

The Hon. Brian Isaac –

Thank you, Mr Speaker, I would just like to say thank you to all those who supported and their comments, thank you.

Question that Council approves the General Amendment (Gender Equality) Bill, 2017, and recommends to the Governor that it should be enacted, put and agreed to.

The Speaker –
Clerk?

Motion No. 3 – The Honourable Lawson Henry.

The Speaker –
Honourable Lawson Henry?

The Hon. Lawson Henry –

Mr Speaker, I beg to move that this House agrees that a delegation from the St Helena All Party Parliamentary Group should be invited to visit St Helena on a fact finding mission as soon as practicable and that funding for this visit should be sought through the Commonwealth Parliamentary Association. Mr Speaker.

The Speaker –
Is there a seconder?

The Hon. Dr Corinda Essex –
Mr Speaker, I beg to second.

The Speaker –
Thank you. Honourable Mover?

The Hon. Lawson Henry –

Mr Speaker, Honourable Members, I sought to bring this Motion as while I had previously requested that we do this in the Adjournment Debate, I believe if we are to get the appropriate support for this important request then there needs to be a Motion where there is ownership and the ability for the Mover and others to have the mandate to take it forward. I also took into account that this is, in fact, the last sitting of this Council and whilst I might not have the ability to move the Motion forward it will be there as a record to inform the new Council should they choose to take it forward.

The Motion seeks to request a delegation from the St Helena All Party Parliamentary Group to visit St Helena on a fact finding mission. I would hope that if such a visit can be agreed that the delegation would provide a report and this report would be debated in the UK Parliament thus raising important issues and challenges that St Helena is currently facing. Such a delegation would look at the state of the island, its governance, look at the current relationship with HMG that is working and correct what is not working and what the future relationship with HMG should be. Let me be clear. St Helena is grateful to Her Majesty's Government for the support they are receiving. However, recent matters relating to, firstly, to the airport and even more recent access issues and, of course, the budget process, have shown there is a change in the political arena in Britain on overseas aid. Foreign aid, as it is referred to, and I will come back to that later. I also believe that the challenges facing small communities is not fully understood in Whitehall and the frequent changing of personnel there makes it even more challenging for there to be any form of continuity. This has been reflected in recent negotiations with our budget settlement and is ongoing with regard to capital expenditure.

The MOU relating to approval of air access project was merely a set of agreed, important commitments and conditions pertaining to the achievement of mutually beneficial conditions pertaining to key objectives on scheduled air services and associated economic growth which, hopefully, will be attained successfully in the near future. Five years on, whilst we have an airport, it has not delivered the anticipated outcomes although I recognise that there is a tender process to do just that and that it is at an advanced stage. However, this is only an interim solution. If we are to get the full benefits from the investment then we must have an air service to do just that. Some of the reforms from the MOU are not working in the best interests of our island or its people. Development of Crown land for lease or sale for first time house buyers is just one that have stifled first time house owners in terms of cost of the land and rents charged by SHG has more than tripled and is out of the reach of young St Helenians wishing to build their own homes. There was a scheme where SHG worked directly with islanders, facilitating building family homes, providing affordable plots of land, it was a form of social housing, it was the main contributing factor to 1,334 islanders who own their own homes, 2016 Census. Increased prices in Crown land and other high costs and changes mandated by the MOU have created a housing crisis, especially for young people not being able to any longer to afford the high costs of renting or being able to afford to build a home, many are now staying at home with their parents. Our economy is also losing income from house building, it is estimated that the last four decades offshore workers and those working on the RMS have been putting £5m into our economy annually, much of this money going into building family homes. At today's prices, this amounts to somewhere in the region of £140m of private capital investment. This is half of the capital investment of aid for our airport and the largest private capital investment since the East India Company left in the 1830s. By SHG facilitating 72% of islanders to provide their own homes meant that other aid capital for Council housing could be used in other developments. This is no longer the case, the list of social housing is getting bigger and young people can no longer afford to get a loan due in some cases to the high cost of Crown land and other costs for construction materials. SHG have not built any social houses since 2013 when three were built in Longwood. There is some 48 people on the waiting list for social housing.

Immigration. One aspect is that a non islander can now able to buy up to two acres of land without a licence, contributing to increase in the price of land as well as the price of houses of islanders that come on the market. It is almost exclusively out of range of local people being able to buy. SHG have not put measures in place that recognise the benefit of islanders building their own homes or recognise that islanders cannot compete for Crown land on an equal basis as an investor but yet no special measures have been put in place to correct this inequality nor have we as a Government been able to build any social houses.

Investment taxation. Increased Customs duties and the introduction of service charges have meant increased costs of essential goods for people. These taxes also affect businesses. The impact of the new tax regime is felt by families with children. One of the main aspects was the child allowances was withdrawn.

Removal of untargeted subsidies. One of the main social impacts have been privatising of utilities, the high cost, especially electricity 46p a unit. With fewer numbers of tourists arriving to inject money into our economy and few projected the burden falls on the small tax base of the island community of just over four thousand people fewer of whom are eligible to pay tax; this high cost of utilities also affect businesses. The benefits that we were promised from the investment in solar and wind energy have not, after the last four years since divestment reached the pocket of the consumer, but yet, year on year, there have been an increase with the exception of this year. St Helena have one of the highest utility charges in the world, the formula where you use more you pay more is not working either although I recognise the new energy policy and the efforts being made to reduce Customs duty on green

energy items and that there were no increase of electricity this year, but as I have already mentioned during the budget session of this sitting, we have had an increase year on year since 2012. It is hoped that the much anticipated social impact assessment on the MOU Reforms will include whether those policies and reforms have met the aim of a sustainable and inclusive economic growth and social development and whether the overall way of achieving this through inward investment and increased tourism is meeting its objective. To date, not one inward investor have crossed the line, but many Saints have taken the risk to invest in the hope that the airport will become operational for commercial flights.

As part of the airport investment and to top up the funding that was allocated to the island by the European Union to develop a safe port for the island, some £22m have been spent on building a jetty in Ruperts. I understand DfID's contribution was some £7m and they were only prepared to make this contribution if we agreed to move the project from Jamestown to Ruperts. Members will be aware that critical to this project was rockfall stabilisation which was the major reason why the island wanted to develop James Bay as a safe landing port is because we already have protection in place. This is not the case for Ruperts, in fact, one of the planning conditions for Ruperts project was that such protection was to be in place before the project could commence. The project, as Members know, is completed, it cannot, however, be used, nor have the planning condition on rockfall protection been discharged. As of today, the facility is not operational, not only because there is no rockfall protection, but importantly there is no enabling infrastructure nor do we, as a Government, have the funds to do so. Not only do we have a very expensive airport that has not delivered, but we now have a sea port with no enabling infrastructure. This has not been recognised by DfID, nor are they taking responsibility of why we are in this position in the first place. No mention is made of how we can fund the enabling infrastructure although it was recognised previously by Her Majesty's Government that there would be a transitional period after the airport was completed where there would be a need for support for much enabling infrastructure to give the island the best chance to grow the economy. This was re-stated by the former DfID Secretary of State this year in a gathering in London, but sadly not by the current Secretary of State. These are challenging times for St Helena and unless we take forward these issues by way of debate directly with Parliamentarians from Britain so that our concerns are being heard in London we will not be able to fund much of the enabling infrastructure to make the airport work and grow our economy which was the very reason why the investment was made in the airport in the first place. Alternatively we must look for investment elsewhere. With Brexit in place we have lost our ability to get funding from the EU. The island along with other British Territories, have the status of a self-governing overseas territory. In doing so, Britain recognised then the difficulties of such a status for some territories. The 2012 White Paper shows that each territory is different. The UK Overseas Territories are highly diverse and each has its own relationship with the UK. Most territories face challenges as a result of their small scale or isolation and are more vulnerable than the UK. DfID in its operational plan shows that the UK Government remains committed to meeting the reasonable needs of territories where financial self sufficiency is not possible as a first call on the aid budget. The UK International Development Act 2002 exempts OTs from the criteria that applied to the rest of the DfID budget and the Territories' aid is separate to Foreign aid yet it appears we are being treated as if we are in receipt of foreign aid. The difficulty for St Helena as a self-governing territory is that with our small population of just over 4,000 it would be like a village in the UK, yet it has to deliver all the services of a National Government; Health, Education, Parliamentary, Legal, Police, Immigration, Customs, to name but a few. If we are to come off grant in aid it is expected that the tourism driven economy will pay for a substantial part of these services. The MOU that I referred to previously proposes this can be achieved through an island economy based on inward

investment and increased tourism and by introducing a raft of reforms and taxation. Six years on we see this is not working. We have an airport that has not delivered, we see this global model is not working rather it is creating more problems as I have listed previously. This is not sufficiently or fully understood by HMG and, indeed, DfID and a letter received recently from the Secretary of State setting out the conditions of our 2017/18 budget settlement, clearly indicate the lack of understanding by HMG of how a small, self-governing territory function. We are being treated as if it is foreign aid. This should not be the case, this is a British Territory, we are British citizens, there is no corruption here on the island and the aid given to us is fully accounted for. Government accounts have been independently audited and are up to date. There has not been a review of the relationship between HMG and the overseas territories since 2012 White Paper. The recent saga over the airport and the handling of this has placed a huge strain on the relationship between elected members and key officials in DfID. The reputational damage caused and still is being caused by the fallout over the airport and the recent breakdown of the RMS should not be underestimated. What is needed is an urgent review of the relationships between HMG and St Helena and what that relationship should be in going forward. St Helena has always been grateful for the support it receives from HMG but these are challenging times for the island and what is needed is a relationship that not only understand the challenges that a small, isolated island community faces, but takes this into account and recognise them. We need a relationship that honours the partnership values that we have signed up to in our Constitution. It is hoped that we can achieve this by a visit by parliamentarians from the UK so that they can see firsthand what is happening here and, more importantly, what is not. They can gather their evidence and make a judgement on what they have seen and heard. In going forward, it is hoped that such a visit would highlight the need for a better understanding by HMG of the island's needs and the difficulties we face as a small isolated community. It's been a number of years since we last had a visit by parliamentarians, therefore it is timely.

In closing, Mr Speaker, I would like to thank Mr Basil George for his research and support and importantly his wisdom and understanding and finally to my seconder, Dr Essex. Mr Speaker, Honourable Members, I beg to move and would ask you to support this Motion. Thank you.

The Speaker –

Thank you, Honourable Member. I had planned this afternoon to see if we could get a group photograph and I didn't want to break up the discussion as we go along. Maybe this would be a convenient time if we get to go down to the bottom of the steps, take a picture of all the group and then come back. It would give you also a chance to have a break and come in refreshed to debate that important Motion that we have here. So can we perhaps go down with coats on, please, if you don't mind, make ourselves look a bit formal, take a picture, officials as well, nice to have your faces in there. I suggest that we should do it as ExCo on the bottom steps and work your way up for the Speaker, alright?

Council suspended.

Council resumed.

The Speaker –

Debate is now resumed. The Motion, standing in the name of the Honourable Lawson Henry is that this House agrees that a delegation from the St Helena All Party Parliamentary Group should be invited to visit St Helena on a fact finding mission as soon as is practicable and that funding for this visit should be sought through the Commonwealth Parliamentary Association. The Motion is now open to debate. The Honourable Dr Corinda Essex?

The Hon. Dr Corinda Essex –

Thank you, Mr Speaker. Mr Speaker, I fully concur that a visit by a delegation of British Parliamentarians could be extremely beneficial and contribute to the formulation of a new, appropriate and up to date partnership between St Helena and Her Majesty's Government. Apart from the relevant White Paper of 2012, which articulates high level principles, there is no blueprint for what the relationship between Britain and her Overseas Territories should be or how the partnership values enshrined within our Constitution should be applied in practice. My Honourable Friend made reference to the Memorandum of Understanding relating to approval of the Air Access Project. In September 2016, St Helena Government's senior officials agreed with elected members that this MOU is a working document and therefore key issues should be re-examined to suit the island's present needs and an undertaking was given that this would be disseminated to all Directorates. This re-examination has already started as evidenced by the development and approval of a considerably revised Land and Building Disposal Policy last year and commencement of a review of Immigration legislation and of the Land Development Control Plan. It is a source of great disappointment that neither of the latter will be able to be completed before dissolution of this Council due to staff shortages and competing priorities within the Attorney General's Chambers and Planning Section respectively. However, the new Council will benefit. They will be able to continue the substantial work already undertaken and see it concluded.

There is a pressing need for greater firsthand knowledge of St Helena's constraints, needs and aspirations within Her Majesty's Government and also for elected members to be more fully sighted regarding the climate in which our United Kingdom counterparts are working and the challenges they face which will impact on St Helena. True partnership grows from mutual understanding and awareness. It cannot be successfully developed at a distance or in a vacuum. In the absence of such understanding and awareness, misconceptions, suspicion and mistrust flourish and Honourable Members do not need me to tell them how destructive to any form of partnership this can be. Sadly, at this critical point in St Helena's history, there are some indications that the partnership between St Helena and the mother country may be weakening and this can only be counterproductive, particularly in the transition period until the island can become more self sufficient. Indeed, it could prevent the aims of a massive investment relating to air access being achieved which would be a tragedy for all parties concerned. This must be avoided. Both Britain and St Helena will have new governments within the next three months. This provides an excellent opportunity to promote awareness and forge close links that will underpin a productive and constructive partnership going forward. Therefore, the timing of a fact finding visit by parliamentarians could hardly be better. Mr Speaker, I consider an early visit to be of primary importance and sincerely hope that this Motion will be fully supported in this Honourable House today and that the Commonwealth Parliamentary Association will be able to identify the funding required to facilitate it. Mr Speaker, I beg to second.

The Speaker –

Thank you, Honourable Member. Is there any other Honourable Member wish to speak? Honourable Pamela Ward Pearce?

The Hon. Pamela Ward Pearce –

Thank you, Mr Speaker. I rise in support of this Motion, I believe that the St Helena All Party Parliamentary Group should be invited to visit St Helena on a fact finding mission. I think it's very important that Her Majesty's Government has a sound, current knowledge and an unbiased one of what St Helena stands for and what our needs here are and not just to be a

knee jerk reaction to the recent PAC investigations or the adverse publicity in international press. It is also important for future relationships between Her Majesty's Government and St Helena Government to reflect mutual respect and understanding. The debates and discussions over these past three days have served to illustrate strong rationale for such a visit. I would further suggest that the timing of this visit should be very early within the next Council which coincidentally will also be the start of a new British Government and I think the start of a new relationship. Thank you, Mr Speaker.

The Speaker –

Thank you, Honourable Member. The Honourable Christine Scipio O'Dean?

The Hon. Christine Scipio O'Dean –

Thank you, Mr Speaker. Mr Speaker, I rise in support of this Motion. All Party Parliamentary Groups are informal, cross-party interest groups. They do not have an official status within the parliament nor are they given any power or funding by it. They are run by and for members of the Commons and Lords mainly as a place for backbenchers to meet and discuss their various areas of interest. The purpose of the St Helena All Party Parliamentary Group is to promote and support St Helena as an UK Overseas Territory. Mr Speaker, while I was in the UK last year, I had the privilege to attend a meeting of the St Helena All Party Parliamentary Group and was pleased about the overwhelming support that St Helena is receiving from members of this Group. Mr Speaker, a familiarisation visit to our island would provide the Group with a valuable insight of our achievements, our challenges and aspirations. It would give elected members an opportunity to learn from the expertise, experiences, build relationships and to raise St Helena's profile. Mr Speaker, I beg to move.

The Speaker –

Thank you, Honourable Member. Is there any other Honourable Member? The Honourable Brian Isaac?

The Hon. Brian Isaac –

Mr Speaker, I wish to rise in support of the Motion and thank my Honourable Friend for his exposition, the research of others and I see the need for this, it's been discussed many times before, for a visit of such a nature, but unfortunately it was always the travel time that would hinder the process of going forward. Now that we have access to the island I sure that by the time the new government in the UK come into office we should be, hopefully, up and running, the airport should be open and it'll be much easier for access to and from the island. I see this as also a milestone for the new Government when they come in, they will also support them in taking matters forward over the next four years and I hereby give my full support to the Motion and wish every success with the outcome. Thank you, Mr Speaker.

The Speaker –

Thank you, Honourable Member. The Honourable Derek Thomas?

The Hon. Derek Thomas –

Thank you, Mr Speaker. Mr Speaker, I rise in support of this Motion that a delegation from the St Helena All Party Parliamentary Group should be invited to visit St Helena on a fact finding mission as soon as is practicable. Benefits are to be gained from such a visit. The British Government is scrutinising its spending and cutting back on funding. If St Helena is to benefit from the British Government's investment of our £285m airport then there is immediate funding requirements in support of necessary and essential infrastructure. There is

our jetty at Ruperts which needs to be certified and become operational, in order for this to happen we need funding. Rock stabilisation, road improvements to Field Road and Sidepath and other essential requirements. If we are expected to fund such activities from within our current allocation of funding it will take years. The challenges we face are not fully appreciated by our aid donors in London. To a certain degree, Mr Speaker, we have been set up to fail. The Overseas Territories are being encouraged by the British Government to embrace and develop. This cannot be achieved without a clear and comprehensive understanding of our essential needs. Such a visit should aid to facilitate and support our immediate requirements if we are to aspire to achieving economic growth. The White Paper sets out Her Majesty's Government's obligation to meet the Overseas Territories reasonable needs. What are reasonable needs? It needs to be properly defined. Mr Speaker, I support the Motion.

The Speaker –

Thank you, Honourable Member. The Honourable Wilson Duncan?

The Hon. Wilson Duncan –

Mr Speaker, I rise in support of this Motion for all the reasons pontificated by previous speakers. Thank you, Mr Speaker.

The Speaker –

Thank you, Honourable Member. The Honourable Gavin Ellick?

The Hon. Gavin Ellick –

Thank you, Sir. I stand in support of this Motion. We only got to look back when we first come into office when Lord Shutt and his team came down here and how beneficial it was to us then, so maybe this here would be better, so therefore I support this Motion. Thank you.

The Speaker –

Thank you, Honourable Member. The Honourable Cyril George?

The Hon. Cyril George –

Mr Speaker, I rise in support of the Motion and thank our Honourable Friend, Councillor Lawson Henry, for bringing this Motion to the House today. It's a much needed request and I fully support the Motion. Thank you, Mr Speaker.

The Speaker –

Thank you, Honourable Cyril George. Is there any other Honourable Member wishes to speak? Honourable Cruyff Buckley?

The Hon. Cruyff Buckley –

Thank you, Mr Speaker, I rise in support of the Motion and I hope this is the start of what is to become the first of many visits by parliamentary groups to St Helena to perhaps give a better outlook on what's really happening here on St Helena and report back to the mother parliament. Thank you, Mr Speaker.

The Speaker –

Thank you, Honourable Member. Is there any other Honourable Member wishes to speak? The Honourable Member would like to wind up?

The Hon. Lawson Henry –

Yes, Mr Speaker, just very briefly I'd like to thank my Honourable Colleagues for supporting this Motion. Thank you very much.

The Speaker –

Thank you, Honourable Member. The Motion, standing in the name of the Honourable Lawson Henry is that this House agrees that a delegation from the St Helena All Party Parliamentary Group should be invited to visit St Helena on a fact finding mission as soon as is practicable and that funding for this visit should be sought through the Commonwealth Parliamentary Association.

Question on Motion, put and agreed to.

The Motion is carried.

The Speaker –

Yes?

The Hon. Roy Burke –

Mr Speaker, I beg to move that this House do now adjourn sine die.

The Speaker –

Thank you very much, Honourable Chief Secretary.

The Hon. Dax Richards –

Mr Speaker, I beg to second.

The Speaker –

Thank you very much, Financial Secretary. The Motion is that this House do now adjourn sine die. Anybody would like to speak? The Honourable Lawson Henry?

The Hon. Lawson Henry –

Thank you, Mr Speaker. Mr Speaker, Honourable Members, I rise in support of this adjournment debate. I would first like to say something about our access. I doubt there has been a formal session of this House since last April without a mention of this very important matter. What I want to say today is firstly to pay tribute to our officials here and the Governor, including Dr Niall O'Keefe for bringing together a solution to bring those stranded Saints back to the island by chartering of the flight. These were testing times, but what the landing of this flight did was to prove that the right kind of aircraft can land at our airport with passengers; secondly, I'd also like to pay tribute to the staff at the airport for their hard work on that day. This charter flight was funded by SHG without any financial support from DfID. This really concerns me as Ministers there and key officials have a short memory span as we are in the position we are in because of the failure at the airport up to then not being able to support commercial flights. This is in no short measure down to the shortcomings of not following the recommendations of the Atkins Report about overflights and wind study before the runway alignment was agreed. You will remember that it was SHG who commissioned the study on wind conditions in 2014. This report was not published, this House were never informed of it and we only became aware of it when we read Lord Ashcroft's blog in 2016.

I would also like to raise the access issue for those Saints working on Ascension and the Falklands and whilst I'm aware that officials and Councillors here and in the Falklands are holding discussions to support those affected, a solution must be found. SHG should do all it can to facilitate, it is worth reminding ourselves of the huge financial contribution Saints working on Ascension and the Falklands make to our economy through remittances, and, indeed through house building. They need to be aware that they are not forgotten and we are doing what we can to support them in their time of need.

I would also like to speak on a matter that I know is of great concern to all elected members and that is about the Legislative Programme over the last year and the failure of not being able to bring important legislation to the House. For me, this was the Freedom of Information Bill and associate piece of legislation, Data Protection. For many, this was an election pledge and not being able to achieve this through capacity issues in the Attorney General's Chambers, is not acceptable. It is my hope that the new Council will not be subject to such failures.

Mr Speaker, Honourable Members, this is the last formal sitting of this Council before dissolution on 20th May. The last four years and, in particular, during the construction of the airport we have seen substantial growth in our economy and very low unemployment. There have been much development too and much of this is down to the support we have been given by HMG. We heard during delivery of the budget the level of improvements in all areas of SHG – Health, Education, Safeguarding budgets ring fenced, so that expenditure is geared to making a difference to the lives of our elderly and young people. We have much to be thankful for and sometimes even us need a pat on the back as it has not all been bad, there are many other countries in the world much worse off than we are on this island. This does not mean, however, we should not strive to continue to develop our island and our people. This will be the last time in this Council we will stand before you, Mr Speaker, and I would like to end by thanking you and all the officials and Directorates from SHG for their support to me as an elected member. Things have not always been easy over the last four years and, in particular, the last year has been very challenging with all things airport.

Finally, a big thank you to the electorate who had the confidence in me by voting for me at the last Election, I hope I was able to make some small difference.

Finally, I would like to thank my fellow Councillors for their support and wish the incoming Council fair debate during these challenging times. Mr Speaker, I beg to move and support the adjournment debate. Thank you.

The Speaker –

Thank you, Honourable Member. The Honourable Pamela Ward Pearce?

The Hon. Pamela Ward Pearce –

Thank you, Mr Speaker. I rise in support of the adjournment debate. I have no doubt and my Friend, Mr Lawson Henry on my left has just cemented that feeling, but I won't be the only one commenting on recent access issues, I'm sure there's some more lined up here to go today. These past weeks have been difficult with our transport links with the outside world with the RMS having to return to drydock resulting in the cancellation of two full voyages and to compound the problems the airbridge on Ascension Island also succumbed to closure effectively severing our links and impacting our lives in unimaginable ways, people having to cut short precious and long-planned holidays to guarantee they were not stuck on the island and/or jeopardising jobs, others hitching lifts on passing ships to ensure that they're able to return to start new jobs, attend meetings or to fulfil onward travel arrangements. Of course, this is not the first time that the island has been cut off in this way. I recall during the Falklands War there was a period then when our ship was requisitioned for the war effort, but

this is not 1982, this is 2017 and we have a brand new airport. However, there was a reluctance on the part of DfID to sanction a humanitarian flight to bring home our people who were stranded in Cape Town. This reluctance was eventually overcome and a flight was organised. The atmosphere at the airport on the day was absolutely incredible. Here was the first flight coming in to our airport and bringing our people and it was also leaving on the same day after a quick turnaround and taking people back out. The place was packed out, people so much wanted to be a part of that experience and everyone wanted it so much to be a success. There was a tangible feeling of hope at the end, hope that this could be the start of regular flights. However, we must not become complacent; we still have people living and working on the Falklands who have no easy way to return home yet. Our history is peppered with reports being written and left on the shelf to gather dust, so unusually, a small Working Group of representatives from the National Trust, the Heritage Society and Environment and Natural Resources Committee have been reviewing reports and recommendations from the last forty years related to protection and conservation of our built environment. Crallan 1974 through to **Barber** 2014 and including along the way **Cheetham, Simons and Jeffs, Sargent** and the Historic Environment Record of 2012. There is a wealth of information here and it's being collated to see what is still relevant today and will be fed back to the Environment and Natural Resources Committee later this week.

The relaunch of the Red Cross on 25th April at Plantation House was a great success. Kevin Stubbs of the Overseas Territories Manager was unable to be present, as originally planned, he was one of the casualties of the cancelled voyage of the RMS, but he was able to be a part of that launch via Skype. It is good to know that there will be a St Helena Branch of the Red Cross here again. It started back in the 1950s and faded away in the 1970s. We hope that we can re-energise this branch. The Governor has kindly agreed to be our Patron and we plan to start a training programme soon. All volunteers are welcome. Thank you very much, Mr Speaker.

The Speaker –

Thank you, Honourable Member. The Honourable Dr Corinda Essex?

The Hon. Dr Corinda Essex –

Thank you, Mr Speaker. Mr Speaker, as this is the final sitting of this Honourable Council I will start by paying tribute to my colleagues, including those who have resigned their seats during the past four years. On the whole, we have worked well as a team and have all focused on trying to achieve the best we could for St Helena. Sadly, largely for many reasons beyond our control, some of which I will touch on later, we will leave a considerable amount of unfinished business, but at least the new Council will be in a strong position to build upon what has already been done. Our term of office should have been one of the most satisfying and rewarding in the history of St Helena spanning commercial operation of the airport and the start of related economic growth. It turned out to be the opposite as St Helena faced the exogenous shocks and setbacks of unprecedented number and scale. Trying to minimise the negative impacts of these bolts from the blue occupied a lot of our time and effort as well as that of officials. If it had not been for the commitment and endeavours of all, St Helena and its people would be in a far worse situation than they are now. It has been a period of great uncertainty regarding many vital issues, some of which have already been touched on today; access, water security etc. It has been a period of staffing shortages within SHG that have impeded development of legislation and policies and of poor communication regarding some matters, but we have struggled on to try to achieve the best possible outcomes with the resources available. Hindsight is a wonderful thing and the outcome of some decisions has not been what was hoped for, but these decisions were made, Mr Speaker, on the basis of the

information and evidence available at the time and there is no proof that a different decision would have been a better decision. Some serious issues remain unresolved at this point, in particular, travel arrangements to enable Saints to go to and from the Falklands during the closure of Wideawake Airfield is a major concern as are the weaknesses in the current benefits system, which result in some individuals facing real hardship. A clear way forward on these matters must be found urgently, even if interim solutions have to be put in place initially.

Better ways to engage the public and let them express their concerns and views need to be explored. During the current public consultation regarding the proposed amendment of the 2009 Constitution Order, many persons have stated that they do not read the newspapers or listen to the radio regularly, but when approached on a one to one basis, clearly have a real interest in local affairs and put forward constructive views and comments. I have personally approached over three hundred individuals as part of this exercise and I'm very pleased to be able to say that there were only five of them who responded in a way that could be termed apathetic. I've had three who indicated that they did not support the proposal, the rest have not only been able to indicate that they did support the proposal but they've been able to explain why in most instances. That is not representative of an apathetic community that doesn't care, isn't interested in politics and doesn't want to be engaged, so I feel that there are some tricks that are being lost in how we can actually get them onboard, encourage participation at public meetings, encourage participation in voting and so on.

The island-wide single constituency setup, which we now operate under, has advantages, but it has undermined the direct and close relationship between a Councillor chosen by a particular district and his or her constituents and I believe that ways of reinstating this special bond should be explored by the next Council.

I wish to express my thanks, first and most importantly, to my constituents for their unfailing support, their willingness to raise and discuss their concerns and their patience and understanding when delays occurred or the outcome they wished to see could not be achieved. There have been many successes over these past years, but also plenty of disappointments and frustrations, mainly associated with lack of funding and other resources. I wish to thank you, Mr Speaker, for your wisdom and guidance, which reflects the experience you've gained from over fifty years in the political arena and has been very valuable to us all. I wish to thank officials at all levels within St Helena Government for their hard work and input; it has certainly not been the case that officials have driven the political agenda and made decisions which we have just rubber stamped as elected members. At times there have been quite strong clashes of opinion or major differences and perspectives, but we have worked through these and reached an acceptable outcome in almost all cases with most officers and members remaining truly professional in their actions at all times.

Last, but not least, I wish to thank my fellow elected members for their unfailing support. We have worked well together and I value the input of each and every one of you. I will really miss working with you when Council is dissolved later this week and will hold many treasured memories of the time we've spent together trying to make things better for St Helena under what were often very difficult circumstances. Thank you, Mr Speaker.

The Speaker –

Thank you, Honourable Member. The Honourable Derek Thomas?

The Hon. Derek Thomas –

Thank you, Mr Speaker. Mr Speaker, I rise in support of the Adjournment Debate. Mr Speaker, since Legislative Council will be dissolved on Saturday, 20th May, this coming Saturday, I would like to take this opportunity of thanking my constituents for their support

and to my Honourable Colleagues, SHG officials, yourself, Mr Speaker, and to the Deputy Speaker for your support. I am pleased to say that this Council has made significant progress in a number of areas which will stand to benefit the people of St Helena. An increase in the budget for home adaptations are long overdue and I'm pleased to say that with the budget approval we have just approved will provide additional funding for people with disabilities and our elderly people to aid and assist them in living in their homes as long as they possibly can assisted by the Carers Policy, which is now much more attractive in securing the services of suitable carers. As the Financial Secretary alluded to in his budget speech, St Helena has one of the highest rates of home ownership and Saints should be really proud of such an achievement. Many Saints have had to make sacrifices like going off island to work in order to achieve this. The recent review of the Land Disposal Policy will add support to house building, however, the review of the Land Development Control Plan is still underway and will need to be completed and consulted with the public. It is the aim of SHG to reduce barriers and make it much easier for people to acquire land and build at affordable prices.

Mr Speaker, during the last sitting of Legislative Council on 14th March, a Motion which I put forward and was supported was calling for a review to be carried out on unproductive agricultural land and forestry land with a view of releasing this land for the purpose of house building. This exercise, Mr Speaker, needs to be completed, it will make a valuable contribution to house building and provide additional land. People are waiting to put this land to proper use.

Mr Speaker, it is disappointing that the review on the high prices of land, leases and rents have not been completed, but what was pleasing today to know that the ENRD Committee will be discussing this again this coming Thursday and I hope that the exercise can be completed with a view of reducing these high prices that people are facing.

Another issue of concern is the Immigration Review and a lot of work was put into this review by our Working Group and due to lack of capacity in the Attorney General's Chambers we were not able to take this piece of work out to public consultation. Mr Speaker, this work, which is about ready for the new Council to action upon and take it to the public.

There is still the ongoing problem with parking, especially in Jamestown and SHG should be addressing this issue as a priority in properly utilising the parking areas we have for specific purposes and identifying additional parking areas. Managing our parking in Jamestown is virtually non-existent.

Mr Speaker, to end on a high, it was a good day for St Helena when the South African Airlink flight brought our passengers in on 3rd May who were stuck in Cape Town. What a successful day it was with an excellent turnout and we look forward, Mr Speaker, to regular, scheduled flights later in the year. However, SHG should ensure that all support is given where possible to support the access difficulties Saints are facing on Ascension and the Falklands, we must remember that these people are making valuable contribution to the benefit of St Helena. Thank you, Mr Speaker.

The Speaker –

Thank you, Honourable Member. The Honourable Wilson Duncan?

The Hon. Wilson Duncan –

Mr Speaker, I rise in support of the Adjournment Debate. Mr Speaker, there are several pieces of legislation which has been held up in the Attorney General's Chambers for several months, one of which is the revised Immigration Ordinance, which, I believe, has been there since September 2016 which Council see as urgent because we're told there is no one other than the Attorney General who can deal with this, which resulted in this important and urgent

legislation not being able to progress to formal legislation before the Council is dissolved on 20th May. Frankly, this is not good enough and it shouldn't be allowed to continue and I call on the Attorney General and the Attorney General's Line Manager to rectify this urgently.

Mr Speaker, another area I am concerned about is farming and when I refer to farming I mean all types of farming. In the Honourable Financial Secretary's budget speech, he referred to the £180k which Enterprise St Helena will receive to support fishing, and rightly so, but nothing about support for farming. If we, St Helena Government, are serious about helping farmers then I believe they should be subsidised financially, so if, due to circumstances beyond their control, such as drought and disease to the crops resulting in loss of yields, which is their only means of income. Governments of countries worldwide, including our mother country, have recognised how important farming is to produce our food, are paid subsidies and this is not only to grow food, but are also subsidised to leave fields to lay fallow to allow them to re-energise. If you recognise that farming is important for the island and want farmers to increase and improve their produce St Helena Government should seriously consider subsidising farmers initially, which will give them the confidence to continue and to expand. I am aware that farmers receive small grants from Enterprise St Helena to purchase equipment etc, but this is not the same as being subsidised financially as mentioned previously.

Mr Speaker, another contentious area for me is the short sightedness of DfID and whilst we are grateful for financial aid from the UK people, for which I am one, and when I say short sightedness I draw attention to DfID not supporting funding for the infrastructure required for the development of Ruperts, because without this funding how are we expected to find funding from our already stretched budget; the airport has not generated extra revenue from tourism due to not being able to receive scheduled weekly commercial flights for the past year because of wind shear. Directorates across St Helena Government will endeavour to strive to make efficiency savings, but this will be minimal. Even the Minister who made it possible for St Helena to build the airport recognised the need for future funding to build enabling infrastructure in the interim after the completion of the airport until tourism get established. It is difficult to build the necessary infrastructure required for Ruperts from revenues generated on island and I call on DfID to have a rethink and provide the funding for Ruperts development and I urge the Honourable Financial Secretary to raise this again with DfID urgently.

Mr Speaker, I now wish to explain a few reasons why the independent review to increase Councillors' remuneration was not approved. At first glance it looked like a very good report, but when examined in detail there were areas that wasn't as good as first thought. For instance, the various allowances were amortised in the salary without indicating what percentage increase there was. It was recommended that Councillors use the home to duty transport which is inappropriate for Councillors as Councillors are not office workers. It was recommended that when Councillors went overseas to attend various conferences and at day's end after attending a conference, which can start from 8.30 am and end late, we are expected to eat at Wetherspoons or Spooners if the evening meal were not provided at the end of the conference in order to keep within the daily meal allowance and not to order room service from the hotel. This may seem practical to the uninitiated, but Wetherspoons or Spooners are far and few between in the hotel areas where conferences are held and where Councillors are booked to stay, which would incur hiring a taxi. I've only highlighted a few reasons, as I'm sure more reasons will be explained by other Honourable Members.

Mr Speaker, to conclude, I've enjoyed my time as Councillor and I now wish to thank my fellow Honourable Colleagues, you, Mr Speaker, the present Deputy Speaker, the late Deputy Speaker, all St Helena Government officials, especially our Secretary, Miss Anita Legg who are ever ready to help and assist elected members, for the help and assistance afforded me

during the past four years, and last, but by no means least, the people of St Helena who made it possible for me. I consider it an honour and a privilege to have served the people of this great island and thank you from the bottom of my heart and wish the new Council every success in their endeavours in taking St Helena and her people forward in the future. Once more, I thank you all from the bottom of my heart. Mr Speaker, I support the Adjournment Debate.

The Speaker –

Thank you, Honourable Member, thank you. The Honourable Christine Scipio O’Dean?

The Hon. Christine Scipio O’Dean –

Thank you, Mr Speaker. Mr Speaker, I rise in support of the Adjournment Debate. Mr Speaker, whilst we have been able to bring our delayed passengers from Cape Town, it is hoped that arrangements can be made soon to enable Saints on the Falkland Islands to visit their family and friends at affordable cost. Shall we remind ourselves, Mr Speaker, that there is a period in our history that we encouraged Saints to take up employment on Ascension and the Falkland Islands to aid our economy? They represented St Helena well as they were diligent and reliable workers, hence the reason for them still being employed today on these islands thus making them good ambassadors for St Helena. These Saints have and are still contributing significantly to the island’s economy.

Mr Speaker, while there has been much discussion about the St Helena Social Welfare Review in 2013 by Roy Sainsbury and Jonathan Bradshaw, it is disappointing that the introduction of child benefits or an allowance has not progressed. Mr Speaker, I believe that the introduction of such an allowance to low income families would have gone a long way to raise the standards of child welfare.

Mr Speaker, at Friday’s session of this meeting, whilst discussing the Elections Bill, the Honourable Mover stated that I was being a Devil’s Advocate. Mr Speaker, I’d like to remind my Honourable Friend that in my role as Children’s Champion, it is my duty to ensure that the students, the young people have a voice in determining key decisions regarding their lives. Mr Speaker, I encourage the Honourable Mover to return to Prince Andrew School and explain to the students that he had consulted on the rationale for not lowering the age to sixteen years and instead of seventeen, because he’s lowered it to seventeen instead of sixteen, I should say, so I would urge and encourage the Honourable Mover to go back knowing that students had voiced their expression that the voting age should be lowered to sixteen.

Mr Speaker, having read the independent review of Councillors’ remuneration, which was laid on the table at the beginning of this sitting, it is my humble opinion that it does not, does little to attract strong, dynamic, strategic thinking candidates who are currently in higher income bracket to make a career in politics. Whilst the independent body was appointed by Her Excellency the Governor under section 72 (2) of the Constitution, I have questioned the independence of the panel consisting of three Government employees and one other member of civil society.

Finally, Mr Speaker, this being my final Adjournment Debate before Council is dissolved, I would like to thank you for your guidance and support to fellow elected members, staff within St Helena Government, my family, friends and the constituents for their support during my tenure as a Councillor. Mr Speaker, I beg to move.

The Speaker –

Thank you, Honourable Member. The Honourable Brian Isaac?

The Hon. Brian Isaac –

Thank you, Mr Speaker, I rise in support of the Adjournment and with your permission I would wish to speak.

The consultation process on the proposed enabling amendment to the Constitution will shortly be concluded. The response from the public has been positive in respect of a mandate and those people who submitted in writing their concerns were recorded and included with all other submissions and put to Executive Council. The signatures of those people in support of the proposed amendment have been well received and totalling close to a thousand if not more. It also includes Saints on Ascension Island, Saints on the Falkland Islands were encouraged to submit their opinions and views on going forward. If approval is forthcoming, this piece of work will be for the new Council. With your permission, Mr Speaker, I take this opportunity to thank all for their support and those who did not feel confident to support the amendment.

Following concerns raised in this House on Friday with reference to the vulnerable and unemployed in the community, a proposal was put forward by the Social and Community Development Committee to see what can be done locally with the current expertise on the island in reviewing the problems encountered under the current benefits policy rather than bring a consultant in. Mr Speaker, my Honourable Friend spoke on the Child Welfare benefits that weren't implemented. These were, as said in the formal LegCo meeting previously, the reasons why this child allowance hasn't been implemented at the time, but it has been delayed and it is something for the new Council to take into consideration and to see that it is affordable under the current budget.

Mr Speaker, I would wish to share with colleagues and the listening public the background and some of the problems that Making Ends Meet are encountering on a daily basis. This is not to say that other voluntary groups are not doing very much the same, but it's just that Making Ends Meet are regularly being approached for assistance when people cannot cope. I take this opportunity in thanking all other NGOs who are supporting the less fortunate in society. Mr Speaker, Making Ends Meet was set up in July 2013 to alleviate financial struggles for all people residing in St Helena, because the island's Social Service did not have and could not secure funding for a social emergency fund. Making Ends Meet support individuals and families who face an economic struggle with food, clothing, household white goods, linen, medical prescriptions, medical referrals, utilities and more. One of the supports that Making Ends Meet do will not support ongoing support if an individual requests support on an ongoing basis. A welfare assessment is clearly needed. The charity will continue this support for as long as funds are available. Making Ends Meet relies on donations from individuals or other organisations. Little funding is received from SHG unless a grant is applied for for funding for a specific project. The charity will work alongside of SHG to supplement the support provided, but will not provide the support that SHG should, e.g., both welfare benefits. The Committee is gravely concerned that requests have tripled over the last six months. Some of the requests received are for people who are moving into new and first time homes, especially lone mothers who are clients of social services, for example, survivors of domestic abuse who are moving on from the Women's Refuge. Requests include essential white goods, bedding, mattresses, fencing to keep their vulnerable children safe, assistance with medical bills and structural repairs to housing of the vulnerable and the elderly. The Committee feels strongly that much of the above can be provided from a Social Emergency Fund that is managed by SHG.

Mr Speaker, I would also like to touch on a concern by my Honourable Friend, Christine Scipio O'Dean with reference to the Elections Ordinance. The Elections Ordinance was presented in this House and democratically the proceedings followed as laid down to do so and I will not make any amendments to the children of Prince Andrew School because it was

the decision of this Council that the age of seventeen would be the age that was proposed and was approved to stand or elect at the next election, but in doing so, Mr Speaker, if there's an opportunity to explain to the children why it can happen, but I am aware that purdah is very close on our doorsteps and it might not be appropriate to do so, but I thank my Honourable Friend for raising it. Thank you, Mr Speaker.

The Speaker –

Thank you, Honourable Member. The Honourable Cyril George?

The Hon. Cyril George –

Mr Speaker, I rise in support of the Adjournment Debate. Mr Speaker, during the past four years as a member of this Council we have successfully seen achievements and progress in various areas. Unfortunately the problems experienced with the RMS and the problems of getting people home from Cape Town, Ascension and the Falklands have caused a lot of concern. Thankfully we've seen that problem solved and hopefully that we can go forward. Mr Speaker, I wish to thank you, the Deputy Speaker, the previous Deputy Speaker, officials and all elected members for their valuable support during my term of office and I wish the new Council every success in their term of office. Mr Speaker, I beg to move.

The Speaker –

Thank you, Honourable Member. The Honourable Gavin Ellick?

The Hon. Gavin Ellick –

Thank you, Sir, I rise in support of the Adjournment Debate. It won't be no long storytelling, Sir, because I fancy everybody else done this here, so firstly I would like to thank all the constituents who voted and supported me for the last four years, it has been a privilege and honour to serve you. Secondly, I would like to thank you, Mr Speaker, for the last four years and the help you have given me. To all the other elected members, Deputy Speaker and, indeed, our Secretary, the Financial Secretary, Chief Secretary, Attorney General and the whole of the Administration, thank you. You gotta say, we really did have some really heated debates, didn't we, but it was all worth it as we did manage to achieve some positives, but we should not take our eye of the ball as we still have a lot to do. The Ten-Year Plan is the people's future, so with that in mind I hope that in the next election that we all will see each other again and will see everybody at the Polls. Thank you.

The Speaker –

Thank you, Honourable Member. The Honourable Cruyff Buckley?

The Hon. Cruyff Buckley –

Thank you, Mr Speaker, I rise in support of this Adjournment Debate. Mr Speaker, these last few months have been very eventful, historical and momentous for St Helena. We've been through a variety of mixed emotions and islanders have had a lot to digest. Access issues will ultimately always take centre stage as we have just had what could be described as our first commercial flight to the island and many entrepreneurs rest their hopes of economic prosperity on the tourism industry. On the other hand, Saints abroad see it only as a means to get back home to visit friends and family. Mr Speaker, with the airport opening on the horizon, I feel we cannot let our economic ambitions come at the expense of our culture and heritage. We as Saints must recognise and embrace our culture and identity, we must contribute and do all we can to protecting our environment and to conserve our natural resources, especially water. This year has seen a drought crisis situation which tested the

resolve of our Resilience Forum and gave the island a real wakeup call. I feel the response from the public during that crucial period is to be commended and I feel confident that we can rely on Saints to do the right thing when it counts.

Mr Speaker, as a member of the Education Committee, I feel optimistic about the investments we as a Council have made in Education this year. With the newly formed Community College, we have seen 426 individuals register for 515 courses, including 9 degree level courses. Also this year, 7 scholarships have been offered for tertiary studies in the UK which also serve as exposure visits for younger individuals who haven't been off island. These seeds which we plant today will blossom into the leaders of tomorrow and St Helena is set to reap the benefits.

Mr Speaker, this coming Sunday is St Helena's Day, I hope everyone will have an exciting day and participate in the various floats and activities. This year's theme is based on our wider family of the Commonwealth, let us show we can work together and create an event worth remembering.

Mr Speaker, I would also at this stage like to thank the Honourable Members in this Council for the support they've shown me during my time here on the Council, it has been challenging, but it has also been very rewarding. I wish them well in their future endeavours. Mr Speaker, it has been a pleasure to serve on this Council. Thank you.

The Speaker –

Thank you, Honourable Member. Thank you. Is there any other Honourable Member who would like to speak? Honourable Attorney General?

The Hon. Angelo Berbotto –

Thank you, Mr Speaker. I just wish to make a brief statement as the Chambers I lead have been subject of comment. Firstly, I'd like to clarify that the reason why the Freedom of Information and Data Protection legislation hasn't been concluded is because the person who was chairing that Committee was the Honourable Mike Olsson who resigned. The Lawyer working on that project with the Working Group was asked to lead the project by the elected members and she rightly said it wasn't her role. As I have explained many other times on this House, the Lawyers at the Attorney General's Chambers are not the ones that drive through legislation, those are for the Committees, so I need to clarify this as it has perhaps been presented as our fault, the Attorney General's Chambers that these Freedom of Information, Data Protection legislation didn't progress, that is not correct.

Secondly, there has been a comment about the Immigration Ordinance being presented as ready to be passed or ready to go for consultation. I am afraid that perhaps Members or some Members have misunderstood me when I have explained that there is a very big piece of work that needs to be done because the Immigration Ordinance has a chapter that leads with Landholding Licences and the proposal is to completely do away with that chapter and to create a new entity called a Licensing Authority. That is something that I have said many times, was not within the capacity to carry out during this term. Also, the proposals that, for amendment of the Immigration Ordinance require the input of many other professionals like the Economist because there is the risk of fixing one thing now may become a problem in the future, so I just wish to clarify that. Many, the Gender Equality legislation that was read and approved today, the explanations that I provided to this House, Mr Speaker, I had written them down and circulated them in March. It's not criticism, but it is an observation that if resources are going to be used and going to be used well, that involves not just the Attorney General's Chambers, but also involves how elected members use our resources, because, and I need to know this, sitting in a meeting for four hours takes time from working on another project, and it is with regret that I need to flag that coming to meetings unprepared or falling

asleep in meetings has not been very, a sign of productivity, so perhaps, and I invite this Council to be a little bit more self critical rather than trying to apportion responsibility just on one organisation or individual. I do not think that is fair. Much work has been done since I took control; I was promoted in a way from Crown Counsel, Civil and Child Protection, to Attorney General. Unfortunately I have not heard much praise or acknowledgement of all the different pieces of legislation, but I have heard that there is a lot to be done that hasn't been done. I also wish to say that there is another Bill, the one dealing with Children and Working Conditions, that was also ready for presentation, I don't know the reasons why it wasn't presented as well as the Law Revision (Amendment) dealing with the Law Revision, so the purpose of this address is not to blame, it's not to be critical to any person in particular, but is to highlight that there are ways that this House can use its resources in a more, in a smarter way, for example, by preparing fully for meetings by reducing the duration of meetings by doing much more work independently. There is mention today of the dissatisfaction of some members in respect of the report, the independent report on the remuneration of Councillors. I invite, and I reflect on this and I wonder if rather than complaining on the proposed increases, which would be £18,000k per year for ExCo members, £14,000k per year for LegCo members, whether, I reflect on whether elected members think that, what their perception is of the electorate, whether it is good value for money and so I just wish to conclude by saying that it is, if it is a concerted and team effort and if we are onboard one vessel that means that we need to support and show that support not just in nice words, but also in actions and I reflect on what has been learned on this term and what hopefully can be improved for the next. Thank you, Mr Speaker.

The Speaker –

Thank you very much indeed, thank you. No, I'm not taking points of order, if you don't mind. Thank you.

The Hon. Brian Isaac –

Mr Speaker, could I respond to the Attorney General's...

The Speaker –

No, you can't.

The Hon. Brian Isaac -

Information?

The Speaker –

This is a Adjournment Debate, will you sit down, please? Thank you. Everybody's entitled to their own opinion and to be able to speak. Alright.

The Hon. Brian Isaac –

It must be, Mr Speaker.

The Speaker –

Chief Secretary?

The Hon. Roy Burke –

Thank you, Mr Speaker. Well, I think that's stolen a bit of my thunder. Mr Speaker, there's a number of comments which were made today which are on a similar theme and I'm mindful of the time and the fact that if this recording is being played immediately after the session

today the public will probably have their cocoa and their dressing gowns on and their slippers ready to go to bed, so hopefully I won't send them straight to sleep, so if I can just group a few of the issues together it might be helpful.

So the access issues are very high on the agenda of members, I know that, local issues and Ascension issues as well as Falklands and as the Honourable Lawson Henry did set out, work is going on that challenge that we have, both for Ascension with the Ascension Island Government, but also with Saints in the Falklands, it must be very difficult for those individuals who are unable to get back in a either timely or affordable way to St Helena, so we won't give up in that respect. The plane that came a few weeks ago was, in fact, a concerted joint effort between a lot of people, there's no question that it was a big challenge and I will say here that we had a lot of support from our colleagues in DfID although acknowledging that we needed to make sure that there was no interference with the tender process which is going on at the moment, that was the main stumbling block, if that's the right phrase. The adage that Winston Churchill used on a number of occasions was about not giving up and I think that's testament to the way in which we dealt with that issue during those few weeks. The fact is that we managed to stand up a charter plane in relatively few days in the end, if you look back on it, from that Bank Holiday weekend to the time the plane actually got here, it was a relatively short period of time, but goodness me, it was frustrating. We're all conscious of the amount of work that's outstanding and wherever the responsibility lies, and I don't really want to get into those issues, that unfinished business needs to persist as far this Council is concerned, the St Helena Government is concerned, no matter who sits in these chairs after the election, so the issues about Immigration and parking, land disposal, all those legislative issues with respect to looking after the more vulnerable members of our society must continue once we're finished through this Council and I'd like to think that the Ten-Year Plan that we have in place is the backbone for that work and will continue to drive that work with the officials who are seized of that work and it will continue throughout the next four-year period of Council.

We're all conscious of the capital programme issues that we have and I can assure Honourable Members and anybody listening that the Financial Secretary and I, together with the Honourable Derek Thomas who sits on that Capital Programme Group now and who knows, for the future, will continue to press for those capital issues to be addressed within this financial year, because we really can't wait. The issues in Ruperts are significant for us, as the Honourable Lawson Henry mentioned the rockfall protection issue is a planning condition, although the assessment of the rockfall risk, rather than the implementation of the rockfall protection which is the planning condition, although there's not much point in having one without the other unless the assessment of the risk is zero, which we know it isn't, so the implementation of that rockfall protection is crucial for the island going forward.

Just a number of other issues that I'll pick up as Members have spoken. I am very grateful to the Honourable Pamela Ward Pearce and her colleagues for taking forward the Heritage Working Group, I think that's a really important innovation for St Helena, protecting our built and natural heritage is crucial for the future of the island, not just in terms of the obvious need to look after it, but also as a key element of our tourism strategy going forward. The Red Cross, I think my wife signed me up for that so I have to support that one and then there's lots of.....oh, she's not, thank goodness for that. So, and then there's lots of other bolts from the blue, as the Honourable Dr Corinda Essex talked of them. It seems that in my career bolts from the blue have followed me all over the place, so it's quite possible that I am a jinx here.

The Community Engagement Strategy is really important; I would certainly support that for the Honourable Dr Corinda Essex. Paul McGinnity's leading on a piece of work from a

community engagement strategy perspective. We need to do a lot more of it and we need to do it better than we're doing at the moment.

The words of the Honourable Derek Thomas clearly demonstrates how much more we have to do, there are issues that we need to overcome, there always will be, but I think that we're starting to address them and certainly as far as the Honourable Attorney General's Chambers is concerned, there's a clear way forward as far as staffing is concerned and that will be implemented in the next few months.

The Honourable Tony Duncan mentioned matters associated with farming and his hope that funding can be made available. I would just refer Honourable Members to the speech that was made by the Honourable Lawson Henry when considering economic development committee in which he told the House that there was £187,500k being made and other support in terms of grants, which is available to farmers as well as other sectors of society. I don't want to get involved in discussing the remuneration issues here for Councillors, so I'm gonna skip over that, if you don't mind.

And finally, the Ten Year Plan, I think, which has been made mention of, I think is really important. Many of the issues that we've talked about are set out in the Ten-Year Plan and will form the backbone for the policy formulation for the incoming Council. I think a lot of what was said today felt a little bit like an end of term party, I think it's important to recognise that Government does go on, it might sound a little bit like the theme tune from Titanic, but it certainly does go on and although Council, Legislative Council may well be dissolved, Council Committees continue to operate and the Civil and Public Service certainly does that.

Mr Speaker, I would like to thank Members for their support for the Civil and Public Servants of St Helena over this four-year period, it would be inappropriate I think for Government, if we all agreed on everything, we wouldn't be able to get that effective and heated debate that's been referred to, but ultimately we're all on the same side and we're all aiming for the same outcomes. I look forward to working with some of the members in this room should you be fortunate enough to be e-elected, so good luck with those elections and for those of you who have chosen not to stand again, I thank you for your contribution and wish you well in whatever else you seek to do in St Helena in the coming months and years, so I wish everybody good health and good luck and I beg to move.

The Speaker –

Thank you very much, Honourable Member. Just before I put the question, I want to thank the Honourable Members who mentioned my little input, only a small bit, but they tried to reveal my age by saying how long I've been on Council, I understand that, I'll get my own back sometime.

Just a thought also, but I wish you all well and it's been a pleasure to be your Speaker and to work with you at this time over the last four years. Just leave me with a little thought. I'm reading from the Constitution in case you haven't read it. If after a dissolution of the Legislative Council and before the holding of the ensuing General Election and emergency arises of such a nature that the Governor considers it necessary for the Council to be recalled, the Governor acting in his or her discretion, may summon the Council that has been dissolved and that Council shall thereupon be deemed not to have been dissolved. So go away and bear that in mind, let's hope no emergencies arise, but you can't rest on your laurels because if you are called back you'll get back here. Okay, thank you very much indeed.

Question that the Council be dissolved sine die, put and agreed to.

The Speaker –

Thank you.

Council adjourned sine die.