

ST. HELENA
LEGISLATIVE COUNCIL

THE SPEAKER

The Honourable Eric William Benjamin

EX-OFFICIO MEMBERS

The Honourable Chief Secretary	Mr Roy Burke
The Honourable Financial Secretary	Mr Colin Owen
The Honourable Attorney General	Ms Nicola Moore

ELECTED MEMBERS

The Honourable Leslie Paul Baldwin
The Honourable Nigel Dollery
The Honourable Wilson Charles Duncan
The Honourable Gavin George Ellick
The Honourable Cyril Robert George
The Honourable Brian William Isaac
The Honourable Bernice Alicia Olsson
The Honourable Ian Sebastian Rummery
The Honourable Christine Lilian Scipio O'Dean
The Honourable Dr Corinda Sebastiana Stuart Essex
The Honourable Derek Franklin Thomas

The Honourable Lawson Arthur Henry (on overseas business)

CLERK OF COUNCILS

Mrs Carol George

PROCEEDINGS OF THE LEGISLATIVE COUNCIL

Thursday, 11th December, 2014

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

(The Speaker in the Chair)

ORDER OF THE DAY**1. FORMAL ENTRY OF THE PRESIDENT****2. PRAYERS**
(The Rt. Rev. Bishop Richard Fenwick)**3. ADDRESS BY THE PRESIDENT**

Honourable Members, ladies and gentlemen, boys and girls, welcome to the sixth meeting of the Legislative Council. First of all, I must thank the Honourable Deputy Speaker for taking on the role of Speaker during my absence through ill health and for skillfully managing Council for the past few months. I also would like to thank the Honourable Members for the support that they have unstintingly given. Needless to say it gives me much pleasure to be able to preside in this Council meeting today.

I would like to say a special welcome to our new Attorney General, Nicola Moore, who has already taken the Oaths of Office as are required by our Constitution. I wish the Honourable Member well as she continues to work with us on this island.

Here again I would like to express my thanks and say how much we appreciate the valuable input over the past months from our Solicitor General Morag Stevenson whilst performing the role of Acting Attorney General.

I give recognition also to the valuable assistance of our Acting Clerk of Councils in the absence of the substantive Clerk of Councils through ill health and, in particular, Mrs Carol George, who takes on the role of Clerk of Councils in this forum today. This recognition also extends to the other team members from the Secretariat who has worked hard in preparation for this meeting.

Honourable Members, following consultation with you I have given approval for the filming of part of this process later today on the understanding that there is no disruption to the Council process and no interference that might hinder the work of this Council. A warm

welcome is given to the team; I trust that they are enjoying the picturesque scenery and friendly people.

As is customary, we need to reflect on some of the highlights of this Council's activities since the last formal meeting, only a few months away. Councillor Christine Scipio O'Dean has ably represented St Helena at a CPA forum in the Cameroon where it is evident that she has gained much valuable experience and where she was later able to contribute positively through various discussions in London. Thank you, Councillor. This exposure will, I know, be beneficial to the Honourable Member in her continued work for the island.

The Honourable Lawson Henry is currently away from the island to attend a meeting of the Joint Ministerial Council in London. These sessions can only benefit St Helena as it helps bring awareness to the members of other parliaments, in particular, London itself, as to our aspirations and, indeed, our difficulties at this time of our development. We wish him well.

Locally, Honourable Members have been busily engaged in a wide range of activities in preparation for the development of the island, which we believe is on the horizon. In addition, Members have developed and adopted a Constitution for their own local branch of the Commonwealth Parliamentary Association. Our local Honorary branch Secretary, Gillian Francis, is thanked for carrying out the often difficult workload of the branch.

Honourable Members, our agenda today includes the presentation of twenty-four Sessional Papers, fifteen questions for oral response, six Bills for an Ordinance, seven private members Motions and, of course, the Adjournment Motion. Honourable Members, will, I am sure, need no reminder of the strict rules for debate as well as for those that apply to questions, so without further delay, I would ask the Clerk to call the next item of business. Thank you.

4. PAPERS

The Hon. Nigel Dollery –

Mr Speaker, I beg to present Sessional Paper No. 35/2014 entitled St Helena Public Accounts Committee – Report to Legislative Council on the formal session of the Public Accounts Committee held on 7th October 2014.

The Speaker –
Thank you, Sir.

Ordered to lie on the table.

The Hon. Financial Secretary –

Mr Speaker, I beg to present Sessional Paper No. 36/2014 entitled St Helena Audit Service – St Helena Fisheries Corporation Financial Statements for the year ended 31st March 2014.

Ordered to lie on the table.

The Hon. Derek Thomas –

Mr Speaker, I beg to present Sessional Paper No. 37/2014 – The Eliza Mary Lloyd Trust (Amendment) Bill, 2014.

Ordered to lie on the table.

The Hon. Derek Thomas –

Mr Speaker, I beg to present Sessional Paper No. 38/2014 – Government of St Helena Aviation Bill 2014.

Ordered to lie on the table.

The Hon. Ian Rummery –

Mr Speaker, I beg to present Sessional Paper No. 39/2014 – Coroners and Presumption of Death Bill, 2014.

Ordered to lie on the table.

The Hon. Leslie Baldwin –

Mr Speaker, I beg to present Sessional Paper No. 40/2014 – Government of St Helena – Police Service (Amendment) Bill, 2014.

Ordered to lie on the table.

The Hon. Chief Secretary –

Mr Speaker, I beg to present Sessional Paper No. 41/2014 – Government of St Helena, Proceedings of the Legislative Council, Friday, 22nd March 2013, First Sitting of the Sixteenth Meeting.

Ordered to lie on the table.

The Hon. Chief Secretary –

Mr Speaker, I beg to present Sessional Paper No. 42/2014 – Government of St Helena, Proceedings of the Legislative Council, Monday, 25th March 2013, Second Sitting of the Sixteenth Meeting. Mr Speaker, due to a technical problem with the recording facility, the first ten to fifteen minutes of the meeting has unfortunately not been captured in the transcript.

Ordered to lie on the table.

The Hon. Chief Secretary –

Mr Speaker, I beg to present Sessional Paper No. 43/2014 – Government of St Helena, Proceedings of the Legislative Council, Wednesday, 24th July 2013, Inaugural Meeting.

Ordered to lie on the table.

The Hon. Chief Secretary –

Mr Speaker, I beg to present Sessional Paper No. 44/2014 – Government of St Helena, Proceedings of the Legislative Council, Monday, 14th October, 2013, First Sitting of the First Meeting.

Ordered to lie on the table.

The Hon. Chief Secretary –

Mr Speaker, I beg to present Sessional Paper No. 45/2014 – Government of St Helena, Proceedings of the Legislative Council, Tuesday, 15th October, 2013, Second Sitting of the First Meeting.

Ordered to lie on the table.

The Hon. Chief Secretary –

Mr Speaker, I beg to present Sessional Paper No. 46/2014 – Government of St Helena, Proceedings of the Legislative Council, Monday, 11th November, 2013, First Sitting of the Second Meeting.

Ordered to lie on the table.

The Hon. Chief Secretary –

Mr Speaker, I beg to present Sessional Paper No. 47/2014 – Government of St Helena, Proceedings of the Legislative Council, Friday, 14th February, 2014, First Sitting of the Third Meeting.

Ordered to lie on the table.

The Hon. Financial Secretary –

Mr Speaker, I beg to present Sessional Paper No. 48/2014 – Government of St Helena – Schedule of Special Warrants 2014/2015.

Ordered to lie on the table.

The Hon. Derek Thomas –

Mr Speaker, I beg to present Sessional Paper No. 49/2014 – The Minerals Vesting (Amendment) Bill, 2014.

Ordered to lie on the table.

The Hon. Financial Secretary –

Mr Speaker, I beg to present Sessional Paper No. 50/2014 entitled A Bill for an Ordinance, the First Supplementary Appropriation Ordinance, 2014.

Ordered to lie on the table.

The Hon. Chief Secretary –

Mr Speaker, I beg to present Sessional Paper No. 51/2014 – Government of St Helena, Proceedings of the Legislative Council, Friday, 21st March 2014, First Sitting of the Fourth Meeting.

Ordered to lie on the table.

The Hon. Chief Secretary –

Mr Speaker, I beg to present Sessional Paper No. 52/2014 – Government of St Helena, Proceedings of the Legislative Council, Monday, 24th March 2014, Second Sitting of the Fourth Meeting.

Ordered to lie on the table.

The Hon. Chief Secretary –

Mr Speaker, I beg to present Sessional Paper No. 53/2014 – Government of St Helena, Proceedings of the Legislative Council, Monday, 11th August, 2014, First Sitting of the Fifth Meeting.

Ordered to lie on the table.

The Hon. Financial Secretary –

Mr Speaker, I beg to present Sessional Paper No. 54/2014 – Government of St Helena – Third Supplementary Estimates 2014.

Ordered to lie on the table.

The Hon. Attorney General –

Mr Speaker, I beg to present Sessional Paper 55/2014 - Government of St Helena – Report by the Deputy Speaker on her investigation of a complaint made by the Director of Health and Social Welfare.

Ordered to lie on the table.

The Hon. Attorney General –

Mr Speaker, I beg to present Sessional Paper 56/2014 - Government of St Helena – Report by the Deputy Speaker on her investigation of a complaint made by Mr Donovan Stroud and Miss Ivy Bennett.

Ordered to lie on the table.

The Hon. Attorney General –

Mr Speaker, I beg to present Sessional Paper 57/2014 - Government of St Helena – Report by the Deputy Speaker on her investigation of a complaint made by Mr Raymond Francis.

Ordered to lie on the table.

The Hon. Attorney General –

Mr Speaker, I beg to present Sessional Paper 58/2014 - Government of St Helena – Report by the Deputy Speaker on her investigation of a complaint made by Honourable Dr Corinda Essex, Honourable Brian Isaac, Honourable Lawson Henry and the Honourable Derek Thomas.

Ordered to lie on the table.

The Speaker –

I call on the Clerk, next item of business, please?

5.

QUESTIONS

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

The Hon. Derek Thomas –

Thank you, Mr Speaker. Will the Honourable Chairman of the Environment and Natural Resources Committee tell this Council when will the funding, which has been allocated in this year's budget for community roads, be spent?

The Speaker –

Honourable Chairman?

The Hon. Wilson Duncan –

Mr Speaker, Honourable Derek Thomas, the funding for the Community Roads will be spent by 31st March 2015 and letters have already been sent out on 27th November to these applicants.

The Speaker –

Honourable Derek Thomas?

The Hon. Derek Thomas –

Thank you, Mr Speaker. Would the Honourable Chairman not agree that all of this happened after I put in my question for a response?

The Hon. Wilson Duncan –

Mr Speaker, Honourable Derek Thomas, I wouldn't say that this only happened after you put in a letter to bring this forward, this was always ongoing. We didn't have a substantive Roads Manager in place early part of the year so when the Roads Manager came to the island he was charged with going around to inspect these roads that the applicants wanted funding for and he set up a criteria which the Committee agreed and that's why the letters were sent out on 27th November.

The Speaker –

Honourable Derek Thomas?

The Hon. Derek Thomas –

That you, Mr Speaker, I thank the Honourable Member for his answer. Will the Honourable Member say whether there is a policy in place as to how Community Roads qualify for funding?

The Hon. Wilson Duncan –

Mr Speaker, Honourable Derek Thomas, yes, there is this policy now that the Roads Manager has devised and agreed by the ANRC Committee and for future funding for applications for Community Roads.

The Speaker –

Honourable Derek Thomas?

The Hon. Derek Thomas –

Thank you, Mr Speaker. Will the Chairman say if the Roads Policy has been in existence before the Roads Manager arrived?

The Speaker –

Honourable Chairman?

The Hon. Wilson Duncan –

Mr Speaker, the Honourable Derek Thomas, I am not sure at this time, but I can find out and if the Honourable gentleman agreed, I will forward the information to you by letter or e-mail.

The Speaker –

Honourable Derek Thomas?

The Hon. Derek Thomas –

Mr Speaker, can the Honourable Chairman say why has it taken so long to distribute the funding for Community Roads since the financial year is almost coming to a close?

The Hon. Wilson Duncan –

Well, Mr Speaker, Honourable Derek Thomas, the reason for that is because like I said previously we didn't have a substantive Roads Manager in place and that and it took a little while longer than we anticipated, but at least now letters have been sent out to these applicants to receive funding which will be spent by 31st March 2015.

The Speaker –

Any other supplementaries? Next question, please?

Question No. 2 – The Honourable Brian Isaac to ask the Honourable Chairman, Environment and Natural Resources Committee.

The Hon. Brian Isaac –

Thank you, Mr Speaker. Will the Honourable Chairman of the Environment and Natural Resources Committee update this Council and tell them what measures have been undertaken to improve the security lighting throughout the island following the commitment given in this House?

The Speaker –

Honourable Chairman?

The Hon. Wilson Duncan –

Mr Speaker, Honourable Brian Isaac, as part of the planning process for next year, ENRD is planning to prioritise decreasing the cost of lighting through the introduction of LED lighting. These measures to decrease the cost of street lighting will enable the current service to be managed better with available resources. It is planned to establish a long-term management plan for street lights which will include a full replacement of light fittings in ten to thirteen years. It could be that there may be scope in the interim period to increase some expenditure on lighting. Any increasing on lighting coverage will need additional finance which would at present need to come from the Roads Maintenance Programme. Environment and Natural Resources Committee has also requested additional funding for 2015/16 to improve pedestrian access to bus stops to include lighting as part of the improvements planned to the Public Transport System. Improving safety access for pedestrians and Public Transport should be seen as a priority, however, with the financial pressures on St Helena Government, it is unlikely that this additional funding support will be forthcoming at this time.

The Speaker –

Thank you, Sir. Honourable Brian Isaac?

The Hon. Brian Isaac –

Mr Speaker, I thank the Honourable Member for his reply, but my question would be will the Honourable Member say what has happened to the commitment given in this House that an Engineer from the manufacturers would come out to assess the damaged lights on the island?

The Hon. Wilson Duncan –

Mr Speaker, the Honourable Brian Isaac, St Helena Government has been in contact with the **Bakelstrada**, the manufacturers of these solar powered lights, and it's been an ongoing process and at present we have a representative in Cape Town who is acting on our behalf and hopefully a conclusion will be reached in the not too distant future.

The Speaker –

Thank you, Sir. Honourable Brian Isaac?

The Hon. Brian Isaac –

Thank you, Mr Speaker. Would it not be in the best interests of the St Helena Government to send a component of the lights that is not functioning to the manufacturers to identify the problem; that was a commitment also given in this House?

The Hon. Wilson Duncan –

Mr Speaker, the Honourable Derek Thomas, I don't know the reason why a light weren't sent to the manufacturer, all I can say is that there's been some negotiations with the help of Connect St Helena.

The Speaker –

Yes, the question was asked by the Honourable Brian Isaac, not Derek Thomas as said, okay?

The Hon. Brian Isaac –

Mr Speaker, will the Honourable Member say, has there been any maintenance carried out locally on the security lighting?

The Hon. Wilson Duncan –

Mr Speaker, the Honourable Brian Isaac, I'm not aware that any have been carried out, but I can certainly find out and let you know by letter or by an e-mail.

The Hon. Brian Isaac –

I thank the Honourable Member for.....

The Speaker -

Honourable Brian Isaac, just wait to be called.

The Hon. Brian Isaac –

Mr Speaker, I thank the Honourable Member for his response, but it is not necessary to reply because I understand that no maintenance has been carried out on these lights. Thank you.

The Speaker -

Honourable Brian Isaac, you're making a statement now, you must stick to a question.

The Hon. Brian Isaac –

Mr Speaker, can I ask the Honourable Member would the Department consider reconnecting the current lights that was fit to the network until this matter can be sorted?

The Hon. Wilson Duncan –

Mr Speaker, the Honourable Brian Isaac, that has not been considered, but certainly something that we could take onboard.

The Speaker –

Are there any further supplementaries? Honourable Brian Isaac?

The Hon. Brian Isaac –

Mr Speaker, does the Honourable Chairman know what would be the financial cost for purchasing of new security lighting throughout the island?

The Hon. Wilson Duncan –

Mr Speaker, the Honourable Brian Isaac, at this time I am unable to say.

The Speaker –

Thank you, Honourable Member.

The Hon. Brian Isaac –

Mr Speaker, as we are going through the budget process, I am disappointed that.....

The Speaker –

You're making a statement, Councillor; you can only ask questions at this time, you'll have a later time to be able to make statements.

The Hon. Brian Isaac –

Mr Speaker, would the Honourable Member say that this would be an appropriate time for a submission during the budget process for this lighting?

The Hon. Wilson Duncan –

Mr Speaker, the Honourable Brian Isaac, I feel that it would be a good time, but as you know we are under financial restraints and that, but what I can say is that I will certainly follow this up and see if any funding can become available.

The Speaker –

Thank you, Honourable Member. Are there any further supplementaries? Clerk, call the next item, please?

Question No. 3 – The Honourable Dr Corinda Essex to ask the Honourable Chairman, Public Health Committee.

The Speaker –

Yes, Honourable Corinda Essex?

The Hon. Dr Corinda Essex –

Mr Speaker, will the Honourable Chairman of the Public Health Committee tell this Council what actions are being taken to address the continuing capacity constraints that are impacting significantly on the delivery of health care?

The Speaker –

Honourable Chairman of the Public Health Committee?

The Hon. Ian Rummery –

Mr Speaker, I thank the Honourable Dr Corinda Essex for her question and I first must add at the outset that I would agree that we are, within Public Health, suffering from continuing capacity constraints.

There are a number of capacity constraints and these include –

the on island availability of clinical diagnostics;

the on island availability of treatment options - patients in the hospital who would not normally need to be there, in the sense that their medical treatment has finished, but due to other circumstances, such as lack of housing or not enough beds in the Nursing Home, a group of patients that are commonly known as bed blockers;

the lack of breadth and depth of clinical staff competencies; and,

the lack of staff and continuing difficulties in staff recruitment.

So how are we addressing these?

Regarding the on island availability of clinical diagnostics and treatment options, the agreed hospital refurbishment will provide a significant enhancement in the number and quality of diagnostic capacities. Obviously this project is behind schedule and we are hoping soon to be able to sign a contract, but that has certainly had a knock-on effect. But the new hospital refurbishment will include a wider range of operational procedures, especially orthopedic surgery, the on island ability to manage patients that are undergoing chemotherapy, the ability to use computerised tomography, otherwise known as a CT scanner. All of this will reduce the need to send a number of patients for medical treatment overseas and will also result in cost savings estimated at around £350,000 per year.

To try to address the capacity concerns related to people in hospital awaiting placement elsewhere, there are current refurbishment plans in the planned commensurate increase in staff numbers for the CCC that should help reduce this capacity issue by extending the bed capacity of the CCC.

Regarding the lack of breadth and depth of clinical staff competencies, the Director has undertaken a phenomenal amount of work to address this issue. There has been a comprehensive Nursing Cadre review that has resulted in two significant outcomes; the clear delineation of clinical competencies required by all nursing staff from Nursing Assistants to Nursing Officer level and this will result in significant improvement of clinical skills, better documentation of care planning delivery and the use of evidence-based research supported tools. In this fashion, any skill gaps can be seen, assessed and addressed through training, included blended or e-learning. Once the nursing staff consistently demonstrate that they have reached the competency level, then their pay will also rise significantly. It is hoped that the increase in pay will attract more Saints into nursing and we are aware that there are a

number of qualified nurses on island as well as encouraging school leavers to take up nursing as a career.

Regarding the lack of staff and continued difficulties in staff recruitment, we have, it is fair to say, suffered from significant recruitment problems in healthcare staff which outcomes of the cadre review will hopefully go some way to address. Staffing bids have been made and approval given for additional Technical Cooperation staff which include – a Senior Ward Sister on a six-month contract with effect from 11th January 2015 to 3rd July 2015; a Theatre Sister who will arrive in June 2015; a Nursing Officer for the Hospital; she is due to arrive 11th January 2015 and will be here on a two-year contract. Unfortunately, the Sister/Charge Nurse post is being re-advertised internationally and the Staff Nurse international post the Nurse has been identified and we're still awaiting clearances for this person so that they can come and start work.

With regards to local staffing, we have a Senior Nursing Assistant vacancy, but we have one temporary Nursing Assistant held against it; and some of the staffing problems also relate to staff being off sick or having to be off island supporting a sick family member.

These measures are all about increasing our capacity in the Health Service. They are much needed and they are addressing current gaps.

Moving forward, we need to look at other options as well. Some areas that we are working on as exploring service level agreements with our healthcare provider in Cape Town to improve efficiencies, both financial and clinical. We're also discussing with our healthcare provider in Cape Town the options of sending students to their School of Nursing for pre registration training. We're also looking at the possibility of sending our qualified Nurses to the Hospital for further training and experience in Cape Town.

We also must look at ways to improve capacity through reducing demand on the health service. Unfortunately we've not been able to recruit a Health Promotion Coordinator for some time, but we know we need one. We are a community with high rates of diabetes, heart disease, obesity, smoking-related illnesses, alcohol-related illnesses. Preliminary analysis of cancer statistics also show a worrying incidence of cancers. While not all of these conditions can be attributed to lifestyle, there is no doubt that the adoption of more healthy behaviours could have a significant positive effect on the rates of illness. Sadly, like much of the rest of the world, the epidemic of non communicable lifestyle diseases is wreaking havoc in our small community as well. The promotion of healthy lifestyles is not just a role for Public Health and we will work closely with our other Directorates, the private sector and Civil Society to reduce the demand on our Hospital and Health Services.

The issues of capacity building are complex, **multifactorial** and expensive. As demands on the Public Health Directorate increase as the expectations of the public are raised and as medical care becomes increasingly reliant on ever more sophisticated technology, we are committed to improving the capacity of the Directorate and I trust you will see that significant actions are being taken to meet the challenges. Thank you.

The Speaker –

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

The Hon. Dr Corinda Essex –

Thank you for that comprehensive answer. However, I have some supplementary questions. When is it hoped that a full complement of Doctors will be in post once again?

The Hon. Ian Rummery –

We are in the process of recruiting Doctors; we're not able to provide a comprehensive answer to that at the moment but once the recruitment process is finished I'll certainly forward you the details.

The Hon. Dr Corinda Essex –

Thank you. Mr Speaker, when is it hoped that the normal programme of Outpatient Clinics will be restored?

The Speaker –

Honourable Chairman?

The Hon. Ian Rummery –

At present, because due to the staffing constraints, until we have our full complement of doctors and nursing staff we are unable to provide a definitive date to that, but I will certainly provide you with a response as soon as we know that.

The Speaker –

The Honourable Dr Corinda Essex?

The Hon. Dr Corinda Essex –

Mr Speaker, will the Technical Cooperation staff recruited be passing on their knowledge and skills to local staff as a formal part of their terms of reference?

The Hon. Ian Rummery –

Absolutely. Mr Speaker, sorry, absolutely, I mean, it's very much part of the Technical Cooperation nursing terms of reference that these nurses who come out and other clinical staff who come out do pass on staff because clearly we want to improve the skills and capacity of our local staff, so absolutely.

The Speaker –

The Honourable Dr Corinda Essex?

The Hon. Dr Corinda Essex –

Mr Speaker, what is the target date for the installation of the CT Scanner and other diagnostic equipment?

The Hon. Ian Rummery –

Until the contract negotiations are concluded, and as I said, unfortunately they have been delayed due to differences in determining specifications of equipment, it's not possible to provide a definitive answer to that, but once the contract has been signed and we have the scope of works then we will be able to give a date as to when the CT Scanner should be operational.

The Hon. Dr Corinda Essex –

Mr Speaker, does the Chairman accept that at least indicative dates should be able to be provided - if not definitive ones - on the issues that I have raised in this House this morning?

The Hon. Ian Rummery –

Mr Speaker, yes, I mean, an indicative date would be within a year, we would expect that the Hospital refurbishment would be completed within a year and that we would then be able to address some of these significant capacity constraints.

The Speaker –

Yes, Honourable Christine Scipio O'Dean?

The Hon. Christine Scipio O'Dean –

Thank you, Mr Speaker. Will the Honourable Chairman of the Public Health Committee advise this House how far behind schedule is the Hospital Refurbishment?

The Hon. Ian Rummery –

At present, as the contract hasn't been signed, we're around six months behind schedule.

The Speaker –

Honourable Christine Scipio O'Dean?

The Hon. Christine Scipio O'Dean –

Thank you, Mr Speaker. Mr Speaker, I'm going to ask if the Honourable Chairman will make his report, his response to the Honourable Dr Corinda Essex response to her question be made public and also the answers to the questions that Honourable Corinda Essex also asked about the Outpatients and the full complement of Doctors are also made in the public domain because there are always been the outcry from the public. Thank you.

The Hon. Ian Rummery –

Thank you, Mr Speaker, we have no problem in making that public and certainly once the contract has been signed I think we will certainly provide the community with more information, but sadly, at the moment, as they say, it's still under commercial in confidence, as we say, but once this has been signed off and we have the details we will certainly endeavour to inform the public. Thank you.

The Speaker –

Thank you, Honourable Member. Are there any further supplementaries? Thank you. Clerk, the next item of business, please?

Question No. 4 – The Honourable Brian Isaac to ask the Honourable Chairman, Environment and Natural Resources Committee.

The Hon. Brian Isaac –

Thank you, Mr Speaker. Will the Honourable Chairman of the Environment and Natural Resources Committee tell this Council what is being proposed to improve the open gutters along the street in Upper Jamestown following the commitment given in this House?

The Speaker –

Honourable Chairman?

The Hon. Wilson Duncan –

Mr Speaker, the Honourable Brian Isaac. There are no current plans for major works to the roads in Upper Jamestown. Improvements in the footpaths in Lower Jamestown have

demonstrated the potential of improved pedestrian access. Pedestrian access in other parts of Jamestown and across the island is, however, still a major challenge. Improving safe access for pedestrians should be seen as a priority. There is an ongoing review of Transport, Pedestrian Access and Car Parking issues in Jamestown and recommendations may be made to improve the situation in Upper Jamestown. A solution with concrete slabs bridging the deep gutters and providing a raised pavement has been considered, but at the moment has not been prioritised for funding. Any pedestrian improvement works would currently need to be funded from the Roads Maintenance Programme unless additional funding is made available.

The Speaker –

Thank you, Honourable Chairman. Honourable Brian Isaac?

The Hon. Brian Isaac –

Thank you, Mr Speaker. Will the Honourable Chairman say if these gutters are a safety hazard to disabled and babies in prams?

The Speaker –

You are asking him to express an opinion I think here and I can't allow that question.

The Hon. Brian Isaac –

May I rephrase this question, Mr Speaker? Mr Speaker, will the Honourable Chairman say that these gutters are a hazard to road users?

The Hon. Nicola Moore (Attorney General) –

Mr Speaker, as a point of order here, it seems to me that the Honourable Brian Isaac is inviting the Chairman to express an opinion or express something which is opinion on a matter of inference.

The Speaker –

I think you're close to the question you said earlier, you're asking for an expression of opinion and that's not allowed, Councillor. Will the Clerk call the next item of business, please?

Question No. 5 – The Honourable Derek Thomas to ask the Honourable Chairman, Public Health Committee.

The Hon. Derek Thomas –

Thank you, Mr Speaker. Will the Chairman of the Public Health Committee tell this Council how is the success of the triage system, designed at the General Hospital, to assess the level of a patient's clinical needs, measured, and what are the results?

The Speaker –

Honourable Chair?

The Hon. Ian Rummery –

Thank you, Mr Speaker and thank you Honourable Derek Thomas for asking this question. If I may, I'd just like to first spend a few moments talking about the triage system in general and I would say that triage systems, though the question refers to designed at the General

Hospital, I would say that it's a triage system that is universally recognised, but one that has been modified for the use of St Helena.

Triage is an evidence-based system of clinical risk management employed by hospitals throughout the world to manage patient flow safely when clinical needs exceed capacity and in our **concept** that generally means when a doctor is not available or when an appointment cannot be made and the triage is conducted by a registered nurse. Although there are only five doctors on island at the moment, the hospital establishment allows for the employ of six doctors on island. These medical officers provide Outpatient Clinics, Surgery, Anaesthetics, Minor Operations as well as specialist clinics such as Diabetes, Cardiac and Gynaecology. They also provide Obstetric care to all of the island expectant mums and newborn babies and are available twenty-four hours a day, three hundred and sixty-five days of the year for all emergencies. I would also say that improvements in clinical governance and other forms of clinical assessment meant that our doctors are also having to do a fair amount of background work as well, which doesn't rely on patient contact, but does certainly improve the level of service and the quality of medical care provided, but it's not possible to offer a twenty-four hour General Practitioner service for non-urgent cases without sacrificing many of these other services they already provide. Therefore, outside of normal working hours, the Medical Officers only provide emergency medical care. The Hospital has qualified, professional Nurses who are fully capable of managing minor illnesses and injuries. As part of our strategy for the future the trained nursing staff must be given the opportunity to further develop and maintain their clinical skills under the supervision of senior nursing staff and medical officers. The Hospital therefore introduced a nursing triage system for all patients who attend the Hospital without an appointment. The system has been designed to differentiate between patients who need to be seen urgently by a Medical Officer if they have life threatening conditions and patients who do not have life threatening conditions and can be treated by the Nurse. The triage system assessment is completed by a trained Nurse and it includes – gaining a history of the presenting medical problem, measuring clinical observations such as blood pressure and temperature, assessing level of consciousness, assessing whether the patient has any particular symptoms included in an evidence-based risk list; effectively they have a checklist that they go through. The Nurses have been given clear guidelines with this assessment and frequently it is not just one symptom that can indicate a problem, but the combination of symptoms and slight or subtle changes in observations. The Nursing Triage protocol, all patients attending the Hospital to be seen by a Doctor without a clinic appointment will be assessed using this protocol. The aim of the assessment is to triage the patients, prioritising their care depending on their medical risks and needs. In this way, the Hospital can target its scarce medical resources in a timely manner towards the patients in the most need. The Nurse will use the Nursing Triage Assessment Form to record the patient details and vital signs. They will then score the patient according to the early warning score chart, the Nurse will then record a brief history, directed by the main complaint and calculate the Triage Colour Code using the discriminator list. The Triage System identifies patients who need to be seen by a Doctor immediately, which patients need to be seen urgently within two hours and non urgent patients that can be seen at the next available Clinic. Effective Nursing Triage is a basic competency that all qualified Nurses must gain and is included in the competencies that have to be consistently demonstrated as described under the recent Nursing Cadre Review. The clinical competencies and the Cadre Review documentation ensure staff are properly trained so that they are equipped with the knowledge and skills to better meet the needs of the service user. The success of the Triage System is measured by the Staff member assessing themselves against the competency that their then immediate Line Manager assessing them and finally the overall Senior Line Manager who will assess and quiz the staff member to ensure that they are consistent in correctly assessing patients

according to the criteria and appropriately referring patients to a Medical Officer prior to them being deemed competent in this skill.

As an aside, it may be of interest for us all to know that for November, for the Hospital alone, there were thirty-five males, twenty-six females and thirteen children, that is seventy-five people in total, attending the Hospital out of hours. Numerous other patients presented at the Outpatient Clinic without an appointment and these were also triaged by the Nurse. I have every confidence in the Triage System, but I would say that the new Nursing Officer, who is due to arrive in January and who has extensive accident and emergency experience in busy London hospitals, will, as part of her management responsibilities, be evaluating the current system to see if there are any ways that it can be improved.

The Speaker –

Thank you, Honourable Member. Honourable Derek Thomas?

The Hon. Derek Thomas –

Thank you, Mr Speaker. I thank the Honourable Member for his comprehensive response to the question. Is the Honourable Chairman aware that there have been cases whereby patients who have been triaged as not necessary to see a Doctor only to find that their condition had worsened which resulted in emergency, panic and stress on behalf of the patients and family members?

The Speaker –

Honourable Chair?

The Hon. Ian Rummery –

Thank you, Mr Speaker. Yes, I have been told informally, not aware of any specific incidences, but I would say that if there is an incidence, such example has occurred as you say, that they would certainly be audited. I mean, no system is perfect and there will always be instances where symptoms may well be missed much the same as when one sees a doctor in an Outpatients Clinic as well. However, if there are specific instances of these then one would wish that those who did unfortunately suffer the stress and distress, as you say, lodge it through the formal complaints system, it will be audited and lessons will be learned, because I think, as I said, no system is perfect and if there are, my assurance would be that if there are problems and issues such as you've highlighted do occur that they would certainly be put back through the Clinical Governance system, be audited, the Director would also be part of that process to ensure or to certainly to minimise the chance of that happening again.

The Speaker –

Thank you, Honourable Chairman. The Honourable Derek Thomas?

The Hon. Derek Thomas –

Yes, Mr Speaker, I thank the Honourable Member for his response to the question, but will the Chairman take steps to investigate the accuracy of the system?

The Hon. Ian Rummery –

The existing Clinical Governance System within the Health Directorate does internal audits of the system and certainly, as I said, in January when our new Nursing Officer arrives, it will certainly be part of her remit, her terms of reference, to conduct effectively an external audit of the system. She, as I said before, this Nurse has extensive accident and emergency

experience, will have knowledge of triage systems elsewhere, so I think, yes, in January, we will certainly be doing a thorough review of our Triage System.

The Speaker –

Thank you, Honourable Chairman. Honourable Derek Thomas?

The Hon. Derek Thomas –

Thank you, Mr Speaker and I thank the Honourable Member for his response and I have no further supplementaries.

The Speaker –

Are there any further supplementary questions? Clerk, call the next item of business, please?

Question No. 6 – The Honourable Dr Corinda Essex to ask the Honourable Chief Secretary.

The Speaker –

Yes, Honourable Corinda Essex?

The Hon. Dr Corinda Essex –

Mr Speaker, will the Honourable Chief Secretary tell this Council what action has been taken by St Helena Government in collaboration with Enterprise St Helena to ensure that all potential opportunities for local commercial involvement at the airport are identified and advertised at an early stage in the lead up to full airport operation?

I now wish to declare my interest as President of the Chamber of Commerce and also as a Retailer. Thank you, Mr Speaker.

The Speaker –

Honourable Chief Secretary

The Hon. Mr Roy Burke (Chief Secretary) –

Mr Speaker, I would like to thank the Honourable Member for her question. As all Honourable Members will be aware, economic development issues of this nature are being dealt with by our colleagues in Enterprise St Helena with whom we meet and work on a daily basis. A number of potential opportunities have been identified at St Helena Airport and others are under discussion. These are, for example, the land side restaurant and retail units, air site café, duty free shops; the usual commercial opportunities at an airport, but there will be others and other opportunities for private sector involvement, such as, perhaps, car park operations, car hire, others associated with tourism-related offerings which can be developed with the assistance of Enterprise St Helena officials. Discussions continue with the airport operator on resourcing for airport air side operations, baggage handling, freight, cargo, etc. Enterprise St Helena have been in discussions with the Air Access Office to compile information on each of these available opportunities and it is planned there will be a campaign to launch these opportunities in March 2015. At this point in time, work continues to finalise some of the detail with the airport operator. We need to be clear, for example, on security issues as well as some of the more practical matters relating to operating the business within an airport facility, which, of course, St Helena, to date, has not had experience of and this level of detail must be provided in the interests of all parties and to ensure compliance with airport certification protocol.

The Speaker –

Thank you, Honourable Chief Secretary. Honourable Corinda Essex?

The Hon. Dr Corinda Essex –

I thank the Chief Secretary for his response. Thank you.

The Speaker –

Thank you. Are there any further supplementaries? I call on the Clerk to call the next item of business.

Question No. 7 – The Honourable Gavin Ellick to ask the Honourable Chief Secretary.

The Hon. Gavin Ellick –

Mr Speaker, will the Honourable Chief Secretary tell this Council how will St Helena Government officers be held accountable in cases such as unfair dismissals or similar incidences?

The Speaker –

Thank you, Honourable Member. Honourable Chief Secretary?

The Hon. Roy Burke –

Mr Speaker, I thank the Honourable Member for his question. St Helena Government operates in accordance with a Code of Management which includes detailed guidance on employment-related matters, such as dismissal or redundancy. Decisions to dismiss or make an employee redundant are never taken lightly and are, as a matter of course, guided by the Code of Management and the policies/procedures therein. Similarly, officers who have been involved in decision-making process are also held accountable for their actions in accordance with the Code of Management so if there is a proven case of negligence or deliberate non compliance with the relevant policies and procedures then the officers concerned will be subject to the same standard management processes.

The Hon. Gavin Ellick –

Thank you.

The Speaker –

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

The Hon. Christine Scipio O'Dean –

Thank you, Mr Speaker. Will the Honourable Chief Secretary tell this House if the Code of Management is a public document?

The Speaker –

Honourable Chief Secretary?

The Hon. Roy Burke –

Thank you, Mr Speaker. The Code of Management is an internal document for management issues relating to St Helena Government staff so it's not published.

The Speaker –
Honourable Derek Thomas?

The Hon. Derek Thomas –
Thank you, Mr Speaker. Can the Honourable Chief Secretary say whether there are any plans to review the Code of Management?

The Hon. Roy Burke –
Mr Speaker, I thank the Honourable Member for his question. The Code of Management is, in fact continually reviewed. Depending on the particular cases that come through the system. No system is perfect and we are guided in some respects by decisions of Courts. For example, the Employment Rights Ordinance, 2010, establishes a process such that the Labour Regulating Authority might make judgement, those judgments are scrutinised and if there is cause to change the Code of Management then it is changed accordingly.

The Speaker –
Thank you, Honourable Chief Secretary. Honourable Derek Thomas?

The Hon. Derek Thomas –
Thank you, Mr Speaker. Can the Honourable Chief Secretary say whether any measures will be taken to allow officers who are facing investigation proper legal representations?

The Hon. Roy Burke –
The Public Solicitor is available for all citizens of St Helena so I think the answer to your question, Honourable Member, is that those facilities already exist.

The Speaker –
Thank you, Honourable Chief Secretary. Honourable Derek Thomas?

The Hon. Derek Thomas –
Thank you, Mr Speaker. Is the Honourable Chief Secretary aware that officers facing investigations are not allowed legal representations, are not allowed to have legal representations?

The Hon. Roy Burke –
Mr Speaker, I think the Honourable Member might be referring to cases where legal representation is not permitted at a disciplinary hearing. The Code of Management is quite clear in that respect in that the alleged perpetrator is entitled to representation but not legal representation. He or she may be accompanied to a hearing at each stage of the process by a fellow employee who represents them in those circumstances.

The Speaker –
Thank you, Honourable Chief Secretary. Honourable Derek Thomas?

The Hon. Derek Thomas –
Thank you, Mr Speaker. Can I ask the Honourable Chief Secretary why is it not permissible for officers to receive legal representation when being investigated?

The Speaker –
Honourable Chief Secretary?

The Hon. Roy Burke –

Thank you, Mr Speaker. Sorry.

The Hon. Nicola Moore (Attorney General) –

Mr Speaker, a point of order arises. The Honourable Derek Thomas is inviting Chief Secretary to express an opinion as to the provision of legal services in relation to Code of Management issues.

The Speaker –

What was your question again, please?

The Hon. Derek Thomas –

Thank you, Mr Speaker. My question is to the Honourable Chief Secretary why is it not possible for officers who are being investigated to receive legal representations?

The Speaker –

Yes, it does pose a question about opinion. Maybe you could rephrase the question and you can get an answer, but as asked at the present time it's not allowed.

The Hon. Derek Thomas –

I will leave it as that then.

The Speaker –

Any further supplementary questions? Thank you, I'll ask the Clerk to call the next item of business.

Question No. 8 – The Honourable Christine Scipio O'Dean to ask the Honourable Chief Secretary.

The Hon. Christine Scipio O'Dean –

Thank you, Mr Speaker. Will the Honourable Chief Secretary explain to this Council the process for recruiting Technical Cooperation officers?

The Speaker –

Honourable Chief Secretary?

The Hon. Roy Burke –

Mr Speaker, I would like to thank the Honourable Member for her question, which I know deals with a matter of some public interest. There is an agreed protocol between DfID and the St Helena Government for the recruitment of Technical Cooperation Officers whether they are designated a short-term or long-term it doesn't matter. TC appointments will normally be made where no readily identifiable local individual has the appropriate competencies and skills for the position. The normal process for identifying and appointing candidates is that Directorates will have identified in their workforce plan and operational plan requirements for their workforce for the coming year. Requests for these posts are submitted by Directors to Corporate Human Resources and the Chief Secretary as well during the budget and strategic planning process. These requests are considered and prioritised by the business delivery group, which is the group of Directors, Senior Managers who meet with

me, the Chief Secretary, and if that request is agreed and included in the draft budget it goes through the budget aid mission process and draft departmental budgets are aligned accordingly and as agreed by Committees. Terms of reference for each post are agreed, confirmed and sent to the Department for International Development for approval. Approved posts are advertised in a variety of media, depending on the posts, and candidates are interviewed and appointments made in the usual way. There may be variations to this process, of course, for example, where a person is in mid contract and the needs of the Directorate change for whatever reason. The process remains much the same with the obvious submission of the need to interview. There are significant savings on recruitment costs which sometimes run into three figures for any particular post.

The Speaker –

Thank you, Honourable Chief Secretary. Any other supplementary questions? I call on the Clerk to call the next item of business.

Question No. 9 – The Honourable Brian Isaac to ask the Honourable Chief Secretary.

The Hon. Brian Isaac –

Thank you, Mr Speaker. Will the Honourable Chief Secretary tell this Council whether priority can be given to conduct a feasibility study into covering a section of The Run at Narra Backs to improve parking in Jamestown? Thank you.

The Speaker –

Honourable Chief Secretary?

The Hon. Chief Secretary –

Mr Speaker, I would like to thank the Honourable Member for this question, which is both timely and helpful in the interest of public information. Honourable Members may be aware that there is a review currently underway in relation to access, traffic and parking issues in Jamestown to dovetail with both plans to improve public transport provision and the possibility of introducing car parking charges. It would be inappropriate at this point in time to prioritise Narra Backs over any other part of the review. This work will seek to balance the needs of various users, all of whom would like to see change to the current systems. This process needs to be both measured in its approach and consultative in its application. Narra Backs area is one area being looked at and it will be included in the review. As Honourable Members will be only too well aware, the Run is a unique feature of the streetscape of Jamestown and while covering the Run in this part of town will not be ruled out, it will inevitably be expensive and provide only a small number of additional spaces. It is expected that the initial findings of the review will be taken to Committee after the Christmas holiday period.

The Hon. Brian Isaac –

Mr Speaker, I thank the Honourable Chief Secretary for his reply.

The Speaker –

Are there any supplementaries? Will the Clerk call the next item of business, please?

Question No. 10 – The Honourable Gavin Ellick to ask the Honourable Chief Secretary.

The Hon. Gavin Ellick –

Mr Speaker, will the Honourable Chief Secretary tell this Council what action is being taken by St Helena Government to provide a better service to the public in order to avoid congestion through improved use of flexi time?

The Speaker –

Honourable Chief Secretary?

The Hon. Roy Burke –

Mr Speaker, again, I thank the Honourable Member for his question. Flexi time and the existing flexible working hours scheme is designed primarily as a tool for staff to improve the quality of their working life and is an aid to accommodate personal needs in tandem with fulfilling service delivery, the service delivery needs of the Directorate and of the public. It's not compulsory nor, indeed, suitable for all professions, such as Nursing, Teaching, Policing and Emergency Service and with this in mind it cannot be categorically used to avoid congestion. Having said this, however, it is St Helena Government's responsibility to provide an optimum service to the public and Directorates will ensure that appropriate arrangements are put in place to avoid congestion, subject, of course, to resource availability and approved employee terms and conditions of service.

The Speaker –

Thank you, Honourable Chief Secretary. Any supplementaries? I'll ask the Clerk to call the next item of business.

Question No. 11 – The Honourable Cyril George to ask the Honourable Deputy Chairman, Economic and Development Committee.

The Hon. Cyril George –

Thank you, Mr Speaker. Will the Honourable Deputy Chairman of the Economic and Development Committee tell this Council what is the holding capacity of the MV Extractor and what benefits have been gained by the fishing industry?

The Speaker –

Honourable Deputy Chairman?

The Hon. Derek Thomas –

Thank you, Mr Speaker; I thank the Honourable Member for his question. As Honourable Members will be aware, that when the St Helena Fisheries Corporation and Enterprise St Helena agreed to jointly fund the purchase of the MFV Extractor in November 2013 it was on the basis that this vessel would be utilised to support development of the island's offshore fisheries in three key areas, namely, (1) increase landings; (2) fisheries management; (3) provision of training opportunities. Whilst in reality this joint funding initiative is still within very early stages of development, having commenced operations just over six months ago, on 25th May 2014, the benefits to be gained by the island have already been positively demonstrated to a limited extent in respect of these three key areas. In relation to increased landings, over the twelve voyages undertaken by the MFV Extractor within a period of only five months, a total catch of sixty metric tonnes has been achieved. During the same time period, a total of four exploratory fishing exercises have been undertaken by the vessel, two

young fishermen have been attracted to the crew and an existing Grade 4 Watchkeeper has been able to gain valuable sea time towards upgrading his existing qualification to that of a Skipper. Turning to the question regarding the holding capacity of the MFV Extractor, this is a somewhat difficult question to answer at this point in time as the refrigeration sea water systems has not yet been fully utilised as intended. However, the holding capacity as a result of an exercise carried out is envisaged at 25 to 30 tonnes of Tuna on ice. During the first five months of fishing operations, the highest landing achieved has been around eight metric tonnes. However, a number of reasons, aside from the physical holding capacity have been cited for lower than anticipated achievements. In particular, those highlighting the need to have onboard ice making facilities. This matter is in the process of being addressed by the Company created to manage the operations of the MFV Extractor, namely, Saint Marine Resources Limited, and a multi-function ice machine has been produced with further funding support from Enterprise St Helena. I am pleased to say that the ice making machine is now on island awaiting to be fitted. Thank you, Mr Speaker.

The Speaker –

Thank you, Honourable Member. Honourable Cyril George?

The Hon. Cyril George –

Thank you, Mr Speaker. Mr Speaker, my supplementary question, I'm gonna ask why are we only landing seven or eight tonne, I think that's been answered already, but can I ask when will the equipment be installed, the ice making equipment?

The Hon. Derek Thomas –

Thank you, Mr Speaker, I thank the Honourable Member for his question. I have been made to understand that the ice making machine will be fitted shortly together with other general maintenance that will be carried out on the vessel.

The Hon. Cyril George –

Mr Speaker, can I ask, once the equipment has been installed, can I ask when is the Extractor likely to go to the Seamounds again?

The Hon. Derek Thomas –

Mr Speaker, once the equipment, the ice machine has been installed and the maintenance work carried out then the vessel will be ready to fish offshore again.

The Speaker –

Are there any other supplementaries? Honourable Gavin Ellick?

The Hon. Gavin Ellick –

Could the Deputy Chairman say why hasn't the Extractor left the harbour in the last few weeks?

The Hon. Nicola Moore –

Mr Speaker, a point of order arises; the Honourable Gavin Ellick invites the Honourable Derek Thomas to express an opinion. He could rephrase his question to ask for facts.

The Speaker –

Well, I think the Honourable Member can get up and say, I can't say or I can't answer, because he asked could you answer that.

The Hon. Nicola Moore –
...?.....

The Speaker –
The question is, can you say, can you say when it will go out to sea again, yes or no.

The Hon. Derek Thomas –
No, I can't, Mr Speaker. I've said that the ice machine refitted and maintenance work carried out.

The Speaker –
But then you have answered the question.....

The Hon. Derek Thomas –
Thank you.

The Speaker –
..... you can't say. Honourable Christine Scipio O'Dean?

The Hon. Christine Scipio O'Dean –
Thank you, Mr Speaker. Will the Honourable Deputy Chairperson of Economic and Development Committee advise this House what impact has it had on the industry that the MFV Extractor has been sat at its moorings?

The Hon. Derek Thomas –
Thank you, Mr Speaker; I thank the Honourable Member for her question. The three key areas as mentioned are currently on hold.

The Hon. Christine Scipio O'Dean –
Thank you, Mr Speaker. Can I ask the Deputy Chairperson if he can, again, remind me what these three areas are, because I am a little baffled? Thank you.

The Speaker –
We're going over the same question again and looking for the same answers, the answers have already been given, it's unfortunate that you didn't understand or hear it.

The Hon. Christine Scipio O'Dean –
Just a point of information, Mr Speaker. I'm really confused, hence the reason I asked the question.

The Speaker –
Yes, but you're not allowed to ask the same question.

The Hon. Christine Scipio O'Dean –
Okay, that's fine. Thank you, Mr Speaker.

The Speaker –
Yes, Honourable Les Baldwin?

The Hon. Leslie Baldwin –

Thank you, Mr Speaker, may I ask the Honourable Deputy Chairman of Economic Development, he referred to lower capacity and anticipated, could he tell me what the anticipated capacity was?

The Speaker –

Honourable Deputy Chair?

The Hon. Derek Thomas –

Thank you, Mr Speaker, I thank the Honourable Member for his question. Eighteen metric tonnes and that is provided the ice machine facility is operational.

The Hon. Leslie Baldwin –

Thank you.

The Speaker –

Thank you very much. Any further supplementaries. Then I call on the Clerk to call the next item of business.

Question No. 12 – The Honourable Dr Corinda Essex to ask the Honourable Chairman, Social and Community Development Committee.

The Speaker –

The Honourable Dr Corinda Essex?

The Hon. Dr Corinda Essex –

Thank you, Mr Speaker. Will the Honourable Chairman of the Social and Community Development Committee tell this Council what further action is planned within what timeframe in order to fully implement the recommendations of the Social Welfare Review?

The Speaker –

Honourable Chair of Social and Community Development?

The Hon. Leslie Baldwin –

Thank you, Mr Speaker. Firstly, may I thank the Honourable Member for her question. As this House is aware, Professor Roy Sainsbury conducted a review of Social Welfare arrangements on the island and subsequently a report was produced with a number of recommendations, twenty-six in total. A Working Group containing elected members and officers have worked together to analyse the recommendations as well as to understand the social and financial implications with a view to prioritising recommendations to ensure that the limited resources that we have are targeted at supporting vulnerable people effectively. As a direct result of this review, the island introduced the Minimum Income Standard, which I will later refer to as the MIS, and this resulted in an increase in Basic Island Pension and Income Related Benefits. This is a significant policy commitment and will see the MIS reviewed on an annual basis to ensure that the level being paid is in line with the principles of MIS. The Committee have worked with officials to review MIS during September of this year and proposals are being developed as part of this year's budget process. The introduction of MIS and an annual commitment to reviewing and uplifting MIS, ensure that benefits are moving forward in line with the island, the increased costs of some items and

also new items that will be available in time. The Committee has also considered other recommendations such as child allowance and these recommendations are, again, part of the budget process. In terms of timescales, we have to be clear that to implement all of the recommendations at this current time is just not affordable. That is why, as a Committee, we are prioritising specific areas while also honouring the commitment to MIS which is one of the first to be introduced globally. In total, as I've mentioned previously, there were twenty-six recommendations, seven have been fully implemented, four have been partially implemented or are ongoing, four are not deemed relevant or clash with other policies and eleven have not yet started but will in the most have approximate costs and possible implementation dates. The implementation of all of these recommendations is reliant on a number of factors, such as, is the recommendation practicable, what positive impact will it have and is the recommendation affordable. The last point is one that we all have to consider as until our economy further develops we have to be open about how difficult any additional spending will be in the short term. By implementing and honouring our commitment to MIS, it is our intention to protect as many people as possible. We are also working with officials to improve the system to stop a small number of people falling through the cracks as well as reviewing disability allowance. To conclude, the Sainsbury Report made a number of recommendations for the island, the Committee are working through those recommendations based on the benefit they will have, how they could be implemented and how they could be afforded. Thank you.

The Speaker –

Thank you, Honourable Member. Honourable Dr Corinda Essex?

The Hon. Dr Corinda Essex –

Does the Chairman accept that the Report was received a substantially long time ago and it appears to have taken a very long time to have worked through these recommendations?

The Speaker –

Honourable Chair?

The Hon. Leslie Baldwin –

Thank you, Mr Speaker. I thank you again for your question. The Report, I believe, was received in early 2013, we are now in late 2014, so, yes, I am aware.

The Speaker –

Councillor Essex?

The Hon. Dr Corinda Essex –

Is the Chairman also aware that as a result of this delay there are vulnerable people who are currently not probably receiving the benefits of the Report or, indeed, of the recommendations that are going to be implemented who could have been receiving those benefits for over a year now had the issue been dealt with in a more timely fashion?

The Speaker –

Honourable Chairman?

The Hon. Leslie Baldwin –

Mr Speaker, yes, I am totally aware of that as well. As I've mentioned in my previous answer, we have implemented seven of the recommendations, those are specifically the

introduction of MIS, the Minimum Income Standard, that clearly would have benefited most of our vulnerable people; we've changed the basis of IRB awards from households to families, I think that was a very significant move, but an interpretative one as opposed to a change in policy; we've had shared household deductions reviewed, we've introduced a Basic Island Pension decision-making protocol, adopted the principle of the balance of probability for Social Security decision making, we've considered the feasibility of a review of all Basic Island Pension cases and we've given Claims Office staff comprehensive and up to date administration instructions. There are four that are ongoing, complaints and appeals procedures that are more widely understood, we've commenced the computerization of the service, which should be a significant move in the right direction, we've reviewed disability allowance and just to prove how pertinent and very live the question is, we approved in principle yesterday a better life policy and it was highly prioritised by the S&CDC, so I would like to see some positive movement with disability allowance in the not too distant future and we're about to mount an education campaign to explain the changes. Thank you.

The Speaker –

Thank you, Honourable Member. Honourable Corinda Essex?

The Hon. Dr Corinda Essex –

What level of urgency is being given to actually concluding this exercise?

The Hon. Leslie Baldwin –

Mr Speaker, it's been given a very urgent level of being dealt with but unfortunately, as has been the answer on many occasions today, a lack of resources is the major hindrance.

The Hon. Dr Corinda Essex –

Mr Speaker, what is the Chairman and his Committee, and, indeed, other relevant officials doing to try and address the issue of lack of resources?

The Speaker –

Honourable Chair?

The Hon. Leslie Baldwin –

I form a part of the Tax Reform Group, we are looking at ways of increasing local revenues, other than that I plead with DfID not to knock our budget so severely.

The Speaker –

Thank you, Honourable Chair. If there are no further supplementaries, I call on the Clerk to call the next item of business.

Question No. 13 – The Honourable Christine Scipio O'Dean to ask the Honourable Chief Secretary.

The Hon. Christine Scipio O'Dean –

Thank you, Mr Speaker. Will the Honourable Chief Secretary give this House, this Council, an update on both air and sea access?

The Speaker –

Thank you, Honourable Member. Honourable Chief Secretary?

The Hon. Roy Burke –

Thank you, Mr Speaker. I would like to thank the Honourable Member for her question, which, I know, is of a considerable public interest. Both Contracts, air service provider and shipping, are still as yet undetermined; the procurement therefore still continues. It is accordingly not possible to make public detailed information on either of these Contracts at this stage as to do so would potentially jeopardise the award of a contract. We are, of course, seeking operators who operate on a world stage and so our processes need to be world class and robust. I can, however, give some general information on progress. The procurement process for the provision of ocean freight services to St Helena is on schedule. I can confirm that earlier this week St Helena Government issued an invitation to tender for the ocean freight services to St Helena to those providers who qualified under the Expressions of Interest process earlier this year. I cannot tell you how many potential tenderers are still involved in this process, however, I can say that the level of interest gives some considerable confidence that we will find a suitable company to provide a reliable service. Completed tenders are expected at the end of January 2015 and these will be evaluated on island with a further negotiation stage envisaged before best and final offer stage. We envisage a period of contract negotiations and this should conclude with the signing of a contract around June 2015 which gives the service provider a year to mobilise in readiness to commence the new shipping service in around June 2016.

As for air access, again it would not be proper for me to divulge information which might jeopardise negotiations, but again I can say that a reasonable number of proposals were received. As members will be aware, the political decisions in this respect were taken back in 2011 when St Helena Government via the Governor in Council signed the airport Design, Build and Operate Contract and we're now at a stage where we're following the process mandated under St Helena Government Procurement Regulations and to that end negotiations are expected to be concluded in March 2015. I would like to pay tribute to those who've been involved in these processes so far and thank them for their efforts – the Chamber of Commerce, the Tourism Association, St Helena Line, Enterprise St Helena and, of course, colleagues in St Helena Government. The Air Service Provider Working Group comprises representatives from the Air Access Office, Enterprise St Helena, Department for International Development and Avia Solutions who are our contracted advisers to the procurement process.

The Speaker –

Thank you, Honourable Chief Secretary. Honourable Christine Scipio O'Dean?

The Hon. Christine Scipio O'Dean –

Thank you, Mr Speaker. Will the Honourable Secretary advise this Council if any work has been carried out where service for both air and sea access will be provided to Ascension Island as an add-on to the St Helena service?

The Speaker –

Honourable Chief Secretary?

The Hon. Roy Burke –

Thank you, Mr Speaker. As far as sea access is concerned, the discussions, again, are continuing. The invitation to tender process identified for both sea access and air access the possibility for provision for Ascension. However, this will be discussed during the contract negotiations in the coming months and the service to Ascension, of course, must pay for itself

during those processes, so for both sea access and air access Ascension services are included, it will be a contractual and ultimately a business solution which will determine whether or not those services can be provided.

The Speaker –

Thank you, Chief Secretary.

The Hon. Christine Scipio O'Dean –

Mr Speaker, I'd just like to thank the Honourable Secretary for his answer. Thank you.

The Speaker –

Honourable Les Baldwin?

The Hon. Leslie Baldwin –

Thank you, Mr Speaker. Could the Chief Secretary advise the public whether there will be any provision or emphasis for air freight away from the island?

The Speaker –

Honourable Chief Secretary?

The Hon. Roy Burke –

Mr Speaker, air freight is very clearly part of the contract negotiations, whether or not that's emphasised will be a matter of payload capacity for each aircraft so as the negotiations continue the type of aircraft are part of those negotiations and that will determine whether and how much freight/cargo is available on each flight and it will also be dependent on how many passengers travel on each flight.

The Speaker –

Thank you, Honourable Chief Secretary. Honourable Corinda Essex?

The Hon. Dr Corinda Essex –

Is the Honourable Chief Secretary aware of the number of St Helenians employed on Ascension who do not have permanent homes on Ascension and, in fact, there is no right of abode on the island and what a catastrophe it would be for St Helena's economy and St Helena as a whole if there were not some link established and maintained after the current access arrangements change?

The Speaker –

Are you aware, Sir?

The Hon. Roy Burke –

Mr Speaker, well, yes, I am aware of that and the views of members have been fed into the process, we were aware of all issues that the Honourable Member has just expressed.

The Speaker –

Honourable Les Baldwin?

The Hon. Leslie Baldwin –

Thank you, Mr Speaker. Could I ask the Honourable Chief Secretary whether he is aware as to how negatively the lack of air freight provision would affect the potential for fish exportation?

The Speaker –
Honourable Chief Secretary?

The Hon. Roy Burke –
Thank you, Mr Speaker. Yes, I am aware of the difficulties that the fish business would face if there is limited export capacity both by sea and by air, recognising of course that air freight will get the product off the island much quicker, so, yes, we are aware of that.

The Hon. Leslie Baldwin –
Thank you.

The Speaker –
Honourable Corinda Essex?

The Hon. Dr Corinda Essex –
I'm afraid that the questions are coming out of sync now, but I'm returning to my original question regarding the importance of the link with Ascension Island and I would like to ask the Chief Secretary what level of priority is being given to actually identifying a solution to this issue?

The Hon. Roy Burke –
Thank you, Mr Speaker. The contracts in this respect are a competitive process, the issue of Ascension was included in the pre tender documents, each of the potential providers is conscious of the desire for a link to Ascension, it would very much depend on the bids that each tenderer makes in this respect and we cannot and should not prescribe Ascension as a mandatory point of call for the air service provider.

The Speaker –
Thank you, Honourable Chief Secretary. Honourable Corinda Essex?

The Hon. Dr Corinda Essex –
Mr Speaker, will there be a Plan B put in place if, indeed, suitable responses are not obtained from the tender process?

The Hon. Roy Burke –
Mr Speaker, thank you for your supplementary question. The matters in terms of a connection with Ascension are under discussion at Council level, both in Ascension and also accounted for in the tender process, so we are in discussions about those issues.

The Speaker –
Thank you, Chief Secretary. If there are no further supplementaries then we ask the Clerk to call the next item of business, please.

Question No. 14 – the Honourable Cyril George to ask the Honourable Deputy Chairman, Economic and Development Committee.

The Hon. Cyril George –

Thank you, Mr Speaker. Will the Honourable Deputy Chairman of the Economic Development Committee tell this Council with the recent divestment of poultry production from the Environment and Natural Resources Directorate to the private sector what controls and systems are place with regards to the price and availability of young chickens to the public?

The Speaker –

Thank you, Honourable Member. The Honourable Deputy Chairman?

The Hon. Derek Thomas –

Thank you, Mr Speaker, I thank the Honourable Member for his question. The poultry service for the provision of three-week-old pullets is currently operated under a public/private agricultural partnership project since 1st August 2014. The partnership agreement between A&NRD and the service provider makes provision for both availability of young pullets and an element of control of the price charged for them. The service provider is expected within a reasonable time of receiving orders for the purchase of **Loman** brown pullets to meet the reasonable local demand in St Helena by the general public. At any time during the partnership the service provider may apply to A&NRD by notice in writing to alter the agreed price and A&NRD shall not unreasonably withhold the granting of the request. A&NRD will make all reasonable efforts to expedite the consideration of the application and shall take the reasonable commercial needs of the service provider as an important consideration in determining the application. In doing so, A&NRD may consult with officers or bodies of the St Helena Government as they see fit, reasonably refuse the application, agree to the application unconditionally, agree to the application with reasonable conditions, agree to a lower price than applied for, agree to the request price or a lower price but making available a subsidy payable by A&NRD to the service provider to satisfy the reasonable commercial needs of the business. At the commencement of the partnership, it was agreed between the service provider and A&NRD that the price of three-week-old pullets would be £2.70 each. Prior to the er.....this would make a.....taking into account the hatching period for newborn pullets the total period would be six weeks. However, members will be aware, with the recent identification of the Newcastle disease affecting our poultry it has been decided not to sell young pullets until five weeks to enable them to have proper testing, so we're looking at a total of eight weeks. Thank you, Mr Speaker.

The Speaker –

Thank you, Honourable Member.

The Hon. Cyril George –

Mr Speaker, I am aware that the price has definitely increased by approximately 100%.

The Speaker –

I am sorry, Councillor, you are making a statement, could you ask a question instead?

The Hon. Cyril George –

Thank you. Can I ask.....no, I'll have to think about that, sorry.

The Speaker –

Sorry about that. Councillor Scipio O'Dean?

The Hon. Christine Scipio O'Dean –

Thank you, Mr Speaker, can I ask the Honourable Deputy Chairman of Economic Development Committee as to why there has been an increase in the poultry?

The Speaker –

Yes, Deputy Chairman?

The Hon. Derek Thomas –

Thank you, Mr Speaker, I thank the Honourable Member for her question. This price of £2.70 does not reflect full cost recovery for the service and it still remains heavily subsidised.

The Speaker –

Any other Honourable Members? Honourable Christine Scipio O'Dean?

The Hon. Christine Scipio O'Dean –

Thank you, Mr Speaker, can I also ask the Honourable Deputy Chairman of Economic Development Committee if he can advise this House what happens after the partnership agreement expires?

The Speaker –

Deputy Chair?

The Hon. Derek Thomas –

Thank you, Mr Speaker, I thank the Honourable Member. The partnership agreement was entered into in 2014, it is valid for a period of three years, beyond that I don't know what will happen, but I can find out and let the Honourable Member know.

The Speaker –

Thank you, Honourable Member. Honourable Les Baldwin?

The Hon. Leslie Baldwin –

Could I ask the Honourable Deputy Chairman of Economic and Development Committee if £2.70 is not full cost recovery what it would be?

The Hon. Derek Thomas –

Thank you, Mr Speaker, I thank the Honourable Member for his question. I don't know what the full cost of the pullet will be, but I can find out and let the Honourable Member know.

The Speaker –

.....Honourable Les Baldwin?

The Hon. Leslie Baldwin –

Are you aware that I can buy a edible chicken for about £5.00 in the shops, not babies?

The Hon. Derek Thomas –

Mr Speaker, yes, I am aware.

The Hon. Leslie Baldwin –

I look forward to your response to my first question, thank you.

The Speaker –
Honourable?

The Hon. Cyril George –
Mr Speaker, can I ask what is the likely subsidy at this moment in time, present subsidy, sorry?

The Hon. Derek Thomas –
Mr Speaker, I thank the Honourable Member for his question. I don't know the level of subsidy at this time that is being provided to the private sector, but again, I can find out and let him know.

The Speaker –
Thank you, Honourable Member. Any further supplementaries? I'll ask the Clerk to call the next item of business.

Question No. 15 – The Honourable Derek Thomas to ask the Honourable Financial Secretary.

The Speaker –
Honourable Derek Thomas?

The Hon. Derek Thomas –
Thank you, Mr Speaker. Will the Honourable Financial Secretary tell this Council what measures are being taken to reduce delays in the issuing of passenger baggage and merchants cargo following the arrival of the RMS St Helena?

The Speaker –
Financial Secretary?

The Hon. Colin Owen (Financial Secretary) –
Mr Speaker, I thank the Honourable Member for his question. In my response I'll deal with the passenger baggage and merchants cargo separately as they are dealt with in different ways. The arrival of passenger baggage is dealt with by H M Customs and Excise and Port Control. On arrival of the RMS St Helena, baggage is made available to passengers normally two to four hours after the arrival of the RMS in port. The time depends on the number of passengers, the amount of baggage and which port the RMS has arrived from. The time of collection is decided by Customs as part of the regular briefing meeting before the RMS arrives in port. Passengers are informed of the time to come and collect their baggage as they come through the Arrivals Hall. This is further shown on boards in the Arrivals Hall. For example, on 8th December, the first passengers arrived at Arrivals Hall at 9.30 am, they were informed that the baggage would be released at 11.30 as they passed through and the baggage was released at 11.30 that day. Passenger baggage is no longer obtained from the Customs Shed, but the Arrivals Hall. Trolleys are provided to members of the public to roll out the baggage over the bridge to waiting vehicles. This then allows the simultaneous processing of passengers and the collection of their cabin baggage while still allowing cargo operations to continue unhindered. The result has been a far safer system of operation for passenger baggage and wharf operations.

Passenger hold baggage, this includes passenger freezer packages, are made available normally on the day of arrival of the RMS, but, again, this depends on the arrival time. Passengers are informed of the estimated time to collect their hold baggage and are asked to phone Customs before coming down to the wharf. For example, on 8th December passengers were informed that hold baggage will be released at 2.30 and this was the case.

The focus of Customs is to release passenger baggage as a priority, therefore hold freight is released the day after the arrival of the RMS from the Customs Shed. Access to the Shed is controlled by the Gate Officer to ensure that numbers entering the Shed are managed and this limits the number of people on the wharf while operations are continuing.

Merchant cargo is dealt with in order of priority. This is split into perishables, lower wharf and upper wharf. Perishables, such as fruit and veg, are treated as a priority and normally released the day after the arrival of the RMS once bio security clearance is given. Lower wharf cargo operations covering the main break bulk normally start the day after the RMS arrives. Upper wharf merchants' cargo normally starts once the RMS has left port. All the operations depend on the number of containers received, which does vary considerably, depending on the time of year. Thank you, Mr Speaker.

The Speaker –

Thank you, Honourable Financial Secretary. The Honourable Derek Thomas?

The Hon. Derek Thomas –

Yes, thank you, Mr Speaker, I thank the Honourable Financial Secretary for his comprehensive response, but can the Honourable Financial Secretary say that when the cruise vessel MV Astor recently visited, which was some time after 11.00 am on Friday, 21st November, why was it not possible for merchants to receive cargo from 8.00 am that morning or earlier up until the arrival of the cruise vessel?

The Speaker –

Honourable Financial Secretary?

The Hon. Colin Owen –

Thank you, Mr Speaker and Honourable Member. That's a very detailed question, I'm afraid I don't have the response for that specific question; I'll be able to give you a written response on that if you wish. Mr Speaker.

The Speaker –

Thank you, Honourable Financial Secretary. Honourable Derek Thomas?

The Hon. Derek Thomas –

Thank you, Mr Speaker, I thank the Honourable Financial Secretary, I look forward to the written response in relation to my question. Can the Honourable Financial Secretary say why was it necessary to prevent passengers who arrived on the RMS from clearing their baggage on Tuesday, 25th November during the visit of the small cruise vessel, "Ernest Shackleton", which only had 25 passengers onboard?

The Speaker –

Honourable Financial Secretary?

The Hon. Colin Owen –

Thank you, Mr Speaker, thank you Honourable Member. As in the previous response, it's a very detailed question relating to a specific arrival of a vessel. I don't have that detailed information with me, I wasn't aware of the question that was going to be given, so can I give a written response to the Honourable Member on that question, please. Mr Speaker.

The Speaker –

Thank you, Honourable Financial Secretary.

The Hon. Derek Thomas –

Mr Speaker, I again thank the Honourable Financial Secretary, I look forward to seeing written answers to both these questions. It is pointless I continuing with supplementaries since it would appear the Financial Secretary is not able to answer, but I look forward to the written response and follow it up from there, Mr Speaker.

The Speaker –

.....Any other supplementary questions? Will the Clerk of Councils call the next item of business, please?

6.

MOTIONS

Motion No. 1

THE THIRD SUPPLEMENTARY APPROPRIATION BILL, 2014.

The Hon. Colin Owen (Financial Secretary) –

Mr Speaker, before I move the Bill I beg to move that the Standing Order 13, Rule 1(3) be suspended so that all stages of this Bill can be completed today.

The Hon. Nicola Moore –

Mr Speaker, I second that.

Question that Standing Order 13, Rule 1 (3) be suspended, put and agreed to.

The Hon. Colin Owen –

Mr Speaker, I beg to move that the Third Supplementary Appropriation Ordinance, 2014, be approved in principle and referred to a Committee of the whole Council. I formally confirm that this Bill is presented on the recommendation of the Governor in accordance with Section 73 (2) (a) of the Constitution.

The Hon. Nicola Moore –

Mr Speaker, I second that.

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

The Speaker –

Honourable Member?

The Hon. Financial Secretary –

Thank you, Mr Speaker. This Bill, the Third Supplementary Appropriation Bill, 2014, seeks to increase Directorate budget heads previously approved by Legislative Council in March 2014. Budgets are set at the start of the year and it's inevitable that certain budgets will either overspend or underspend. This is due to a number of reasons, unpredicted expenditure, downturn in service delivery, change of direction and policy. This results in some overspending and under spending. What the supplementary appropriation does is bring together all those unders and overs firstly for each budget head and then second for the whole of Government. It's a control mechanism to ensure that all expenditure is approved by Legislative Council so allowing Accounting Officers the powers to spend. The figures that are used are based on the latest available forecasting from the Accounting Officers. As in previous years, we have a high number of minor unders and overs, which is expected on such a large budget. What we have done in the papers for discussion is highlight the significant movements for Honourable Members. You'll see the overspends in 2014/15 are covered by unexpected reduction in the shipping subsidy payments, which reflects the ongoing increase in the use of the RMS St Helena. Passengers and freight revenue have increased and for the second year running we have received a favourable decrease in the price of fuel for the RMS. This project is planned to be underspent by £1m. Further, you'll see a withdrawal of £600k for capital funding. This is SHG's contribution to fund the capital fund as previously agreed with DfID. Taking into account the £600k capital funding, the total withdrawal from the Consolidated Fund is £4,229. Thank you, Mr Speaker.

The Speaker –

I put the question that the Third Supplementary Appropriation Bill, 2014, be approved in principle and referred to a Committee of the whole Council. The question is now open for debate. Any Member would like to speak? No-one wishes to speak? Okay, there's no need for you to reply, Sir.

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

The Hon. Colin Owen –

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?

The Hon. Nicola Moore –

Mr Speaker, I beg to second.

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

Council in Committee.

The Speaker –

Thank you, Honourable Members. You may be able to consider this also with the Supplementary Appropriation estimates that have been laid on the table.

The Hon. Colin Owen –

Mr Speaker, before we begin, could I ask Dax Richards, the Assistant Financial Secretary, to join us at the table, please, to respond to any detailed questions? Thank you.

The Speaker –
By all means.

The Hon. Colin Owen –
By all means.

The Speaker –
Right, Honourable Members, this is an Appropriation Bill so this one is a little different to the other Bills, we have to proceed by considering the Schedules. If you turn to your schedules in the Bill, Schedule I – Head of Expenditure, Corporate Services – Governor, the sum of £6k. Yes, questions?

The Hon. Christine Scipio O'Dean –
Thank you, Mr Speaker. Can I ask the Honourable Financial Secretary why there is an over spend, forecasted overspend in Corporate Services of £6,000 for the Governor, please?

The Hon. Colin Owen –
Thank you. It's for the Governor's Department, not for specifically the Governor. It relates basically to salary provisions. Money is held essentially by Corporate Finance and as part of the supplementary any movements in salaries in the year would be reallocated out as part of this process, so it relates mainly to salary revisions.

The Hon. Christine Scipio O'Dean –
Thank you.

Head 11.

Question put and agreed to.

The Speaker –
Head 12 – Corporate Services – Support Planning and Policy in the sum of £93k. Honourable Derek Thomas?

The Hon. Derek Thomas –
Thank you, Mr Speaker. Can I ask the Financial Secretary why there is an over spend of £93k in Corporate Services, Support, Planning and Policy?

The Hon. Colin Owen –
Thank you. An element of that, again, is salary revisions. There is an element there of market forces supplements approved in the year which was £36k and as in the same way of the salary revisions that is allocated out as part of the Supplementary Appropriation. There's also an increase to the UK Representative's Office in there of £57k.

The Speaker –
Thank you, Honourable Member. Honourable Corinda Essex?

The Hon. Dr Corinda Essex –

Can the Financial Secretary please provide a little more information regarding the increased costs to the UK Representative's Office, is this actual rental costs for the new premises or additional staff or what?

Mr Dax Richards (Assistant Financial Secretary) –

The outfitting of the new UK Government Rep's Office is going to cost around £30k and there will be increases in salaries. As you mentioned before staff to put in that section over £10k and then additional rental charges for the accommodation and additional service charge of around £17k.

Head 12 – Corporate Services, Support, Planning and Policy.

Question put and agreed to.

The Speaker –

Head 13 – Corporate Services – Human Resources in the sum of £438k.

Mr Dax Richards –

Mr Speaker, would it help if I could just give an overview right down to the Appendix?

The Speaker –

That's a good idea.

Mr Dax Richards –

Head 13 – Human Resources, an element of the salary revision for staff within the Section relating to additional market forces and salary revisions of £28k and then increased expenditure as a result of the over programming on the TC budget of £410k.

The Speaker –

Any questions? Honourable....?

The Hon. Ian Rummery –

Mr Speaker, could we have just a little bit more detail on what over programming means, please?

The Hon. Colin Owen –

Yes, I can answer that one, Councillor. When we plan for TC funding in previous years we've never really reached our spending on that Head, so what we do to ensure that we do we over program against the budget head. It's very difficult to plan and budget for long-term TC throughout the year because you may have various appointments that are delayed, you can have further requests in the year that could arrive and so you, basically to ensure that we cover the budget, we tend to over program and this follows after lengthy discussions over the years and especially concerns being raised by DfID when we haven't covered our long-term expenditure and traditionally that has certainly been the case, so there's an element of over programming in there to ensure that we come in on budget and this year we over programmed.

The Speaker –

Honourable Christine Scipio O'Dean?

The Hon. Christine Scipio O'Dean –

Thank you, Mr Speaker. Can I ask Honourable Financial Secretary to confirm that if the program isn't met, you said over programming, if you didn't, all the £410k that is forecasted to be an increase in expenditure, will be then transferred back into Consolidated Fund if approved today?

The Hon. Colin Owen –

Yes.

The Speaker –

Any further questions?

Head 13 – Corporate Services – Human Resources - £438k.

Question put and agreed to.

The Speaker –

Head 14 – Corporate Services – Attorney General, standing in the sum of £1k do stand part of the Bill.....

Mr Dax Richards –

Again, the Financial Secretary mentioned at the start of the section, it's due to salary revisions for local staff in the Directorate.

The Speaker –

Yes, Honourable Les Baldwin?

The Hon. Leslie Baldwin –

Thank you, Mr Speaker. Dax, this clearly reflects some clear head savings elsewhere, because I'm sure there wasn't just an increase of £1k.

Mr Dax Richards –

That's right, so this represents all overs and unders within the

The Hon. Leslie Baldwin –

Thank you.

Head 14 – Corporate Services - Attorney General - £1k.

Question put and agreed to.

The Speaker –

Head 15 – Police.

Mr Dax Richards –

The increased allocations for the Police again is due to reallocation of the salary revision that was approved earlier in the year and additional market forces supplements that were approved for Police Service and in addition to that there's been increased money ...?.... associated with the running of the Prison as a result of a significant increase in the number of prisoners currently held in H M Prison, that sum totals to £46k.

The Speaker –

Any questions? Councillor Essex?

The Hon. Dr Corinda Essex –

Thank you, Mr Speaker. What is the approximate per capita expenditure required per prisoner?

The Hon. Colin Owen –

I'm sorry I don't know, have that required information. We can certainly provide it to you in due course unless we have a response. Thank you, the Chief of Police kindly provided me some additional information there. Most of the cost really relates to the running of food, providing food for prisoners and the Chief of Police has informed me that's £4.50, but we don't have the details to hand on per capita, but we will be able to provide that to you in due course.

The Hon. Dr Corinda Essex –

Thank you very much, I appreciate that.

Head 15 – Police, £78k.

Question put and agreed to.

The Speaker –

Head 18 – ENRD – Programme Management Unit, in the sum of £3k.

Mr Dax Richards –

Again, this is a reflection of the reallocation of the central part of the funding for staff salary increases. This is taken from the central payments held under Payments on behalf of the Crown.

Head 18 – ENRD, Programme Management Unit, £3k.

The Hon. Dr Corinda Essex –

Excuse me, Mr Speaker, there's not a line showing on this item.

Mr Dax Richards –

We'll come on to that after.

The Hon. Dr Corinda Essex –

Corporate Services.

The Speaker –

Is there some problem?

The Hon. Colin Owen –

Yes, I think there's some clarity required. We're going through the Schedule at the present time and the Schedule at the bottom there, Schedule II will pick up the Corporate Services.

The Hon. Dr Corinda Essex –

Oh, it's at the bottom.....

The Hon. Colin Owen –
Yes, so if Members could use that.

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

Head 18 – ENRD – Programme Management Unit, £3k.

Question put and agreed to.

The Speaker –
Head 22 – Education and Employment in the sum of £92k.

Mr Dax Richards –
Again, a large proportion of this is to do with the salary revisions implemented after 1st April and that amounted to £77k, including some additional market forces supplements that were approved and in addition the Education Directorate was unable to recognise the 3% vacancy saving so there's the additional acquirement of £15k on salaries there.

Head 22 – Education and Employment, £92k.

Question put and agreed to.

The Speaker –
Head 23 – Health and Social Welfare, £506k.

Mr Dax Richards –
Salary revisions for the Health Service £71k and with the largest chunk of the increase there comes on the back of increased expenditure on overseas medical referrals, mainly due to the increase in the number of patients receiving chemotherapy; that amounts to £435k.

Head 23 – Health and Social Welfare, £506k.

Question put and agreed to.

The Speaker –
Head 25 – ENRD, Agriculture and Natural Resources, the sum of £3k.

Mr Dax Richards –
This, again, is due to salary revisions that took place from 1st April.

Head 25 – ENRD, Agriculture and Natural Resources, £3k.

Question put and agreed to.

The Speaker –
Head 26 – ENRD – Infrastructure and Property Management, £61k.

Mr Dax Richards –

Again, a large proportion of the £61k is due to salary revisions as of 1st April, that amounted to £33k and then some expenditure that had been originally classified to come out of the R1 Project was deemed not able to be eligible for R1 funding so it had to be taken out of the Recurrent Budget, that amounts to £21k and then overspending street lighting of £7k.

The Speaker –

Honourable Christine Scipio O'Dean?

The Hon. Christine Scipio O'Dean –

Thank you, Mr Speaker. Can I ask what road works didn't qualify for the R1 Project?

Mr Dax Richards –

That's the road from Hutts Gate down to Longwood Gate.

The Hon. Christine Scipio O'Dean –

Thank you.

The Speaker –

The Honourable Ian Rummery?

The Hon. Ian Rummery –

Thank you, Mr Speaker. Could I ask, purchase of scaffolding, how does this wind up in supplementary appropriation and not through a procurement process?

The Hon. Colin Owen –

Just to clarify that we're looking at the expenditure heads at the moment, we'll come to that in due course on lines 26 refers to capital items there. It might be more appropriate to answer it at that time.

The Speaker –

Honourable Christine Scipio O'Dean?

The Hon. Christine Scipio O'Dean –

Thank you, Mr Speaker. Sorry that I had to wave my hand a little bit viciously that time to get your attention.

The Speaker –

I was looking at the lines, reading between them.

The Hon. Christine Scipio O'Dean –

Could I ask why is there an overspend to projected electricity costs knowing that the island has been in darkness?

The Hon. Colin Owen –

We don't have that level of detail, I don't know if the Chair of that Committee would like to provide a response?

The Hon. Wilson Duncan –

This was due to a result that there was under budget earlier in the year and which resulted in £7k overspend.

The Speaker –
Any further questions?

The Hon. Christine Scipio O'Dean –
Thank you, Mr Speaker.

Head 26 – ENRD – Infrastructure and Property Management, £61k.

Question put and agreed to.

The Speaker –
Head 28 – ENRD – Environmental Management, in the sum of £26k.

Mr Dax Richards –
Half of that £26k is related to salary revisions, so that's £13k and the other increases is increased costs associated with the LEMP activity and you will note in the explanation note that those additional LEMP activities are being covered by additional revenues that have been raised.

The Speaker –
Any questions?

Head 28 – ENRD – Environmental Management, £26k.

Question put and agreed to.

Schedule I, £1,307.

Question put and agreed to.

The Speaker –
Schedule II, Capital Expenditure. Head 17 – Corporate Services, Corporate Finance, £600k.

Mr Dax Richards –
This, as the Financial Secretary mentioned earlier in introduction, this relates to SHG's contribution to the SHG Capital Programme. We've been doing this now for three years, this is the final element of our contribution to the Capital Programme and it's, when we have a better understanding of what the spending on the Capital Programme will likely be for the year, that's why we do this as part of the supplementary appropriation.

Head 17 – Corporate Services – Corporate Finance, £600k.

Question put and agreed to.

Head 26 – ENRD – Infrastructure and Property Management, £69k.

Mr Dax Richards –

The £69k relates to the purchase of scaffolding to allow more to be undertaken within the Public Works team and that amounts to £22k and the under budgeted road maintenance.

The Hon. Colin Owen –

And just to add to the Councillor's previous question that this is capital expenditure, that is not part of the capital programme hence why it's coming out at the end.

Head 26 – ENRD – Infrastructure and Property Management, £69k.

Question put and agreed to.

Schedule II, £669k, Capital Expenditure.

Question put and agreed to.

The Speaker –

Thank you very much. Alright then, let's have a look at the, turn to the front of the Ordinance, I put the question that the Title, Preamble and Clause 1 do stand part of the Bill.

Title, Preamble and Clause 1.

Question put and agreed to.

The Speaker –

Head 2.

Clause 2.

Question put and agreed to.

Council resumed.

The Speaker –

Bill to be reported.

The Hon. Colin Owen –

Mr Speaker, I beg to report that the Third Supplementary Appropriation Ordinance, 2014, passed the Committee with no amendments and to move that this Council approves the said Bill and recommends to the Governor that it should be enacted.

The Speaker –

Thank you. I put the question that this Council approves the Third Supplementary Appropriation Bill, 2014, and recommends to the Governor that it should be enacted.

Question put and agreed to.

The Speaker –

Next item of business, please?

Motion No. 2 – The Honourable Derek Thomas.

The Speaker –

I'm just wondering whether we should continue here or make a break at this stage because it will disrupt the continuance of the discussions and debate on the Motion. Honourable Christine Scipio O'Dean?

The Hon. Christine Scipio O'Dean –

Thank you, Mr Speaker. Can I propose that we do break for lunch. I'm not a known diabetic, but I do feel I need to eat and I'm sure that other Members will appreciate as well that we do stop now for a lunch break and then come back.

The Speaker –

Yes, I take your point, I think it is very convenient here also; it won't disrupt debate, so Council is suspended until half past one.

Council suspended.

Council resumed.

The Speaker –

Will the Clerk call the next item of business, please?

Motion No. 2 – The Honourable Derek Thomas.

THE AVIATION, BILL, 2014.

The Hon. Derek Thomas –

Thank you, Mr Speaker. Mr Speaker, I beg to move that the Aviation Bill, 2014, be approved in principle and referred to a Committee of the whole Council.

The Speaker –

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

The Hon. Dr Corinda Essex –

Mr Speaker, I beg to second.

The Speaker –

Thank you.

The Hon. Derek Thomas –

Mr Speaker, Honourable Members, the purpose of this Bill is to enact provisions to deal with civil aviation and to give effect to international requirements for civil aviation under the Chicago Convention Act, 1944. Prior to the establishment and opening of our airport, there is a requirement to meet and address a number of obligations imposed by international aviation laws. This Ordinance makes provision for the control land in the interest of civil aviation, power to question and search persons entering the aerodrome, which means our airport area at Prosperous Bay Plain. The Ordinance provides for powers of arrest and the general

protection of aircraft. This Ordinance allows for regulations to be made in support of investigations of air accidents and incidents.

Mr Speaker, Honourable Members, this Ordinance is necessary in order for our airport to become operational and meet certification requirements. Mr Speaker, I beg to move.

The Speaker –

Thank you, Honourable Member. I put the question that the Aviation Bill, 2014, be approved in principle and referred to a Committee of the whole Council. The Bill is now open for debate. Any Honourable Member wishes to speak to the Bill? Honourable Corinda Essex?

The Hon. Dr Corinda Essex –

Mr Speaker, as there was not extensive public consultation regarding this Bill, I think it would be helpful if the Attorney General or someone else actually gave a brief explanation of some of the key provisions within this Bill for the listening public.

The Speaker –

Yes, at Committee stage we should be going through quite carefully, but now we're speaking to the principles of the Bill. The House is open for debate.

The Hon. Christine Scipio O'Dean –

Thank you, Mr Speaker. I fully support this Bill because although a lot of it is in jargon for the old lady who lives down the hill, I don't understand everything in the jargon, but it's a necessity to enable our new airport to become operational in 2016, so, like I said, it's a necessity and I fully support this Bill.

The Speaker –

Thank you Honourable Member. No other Honourable Members wish to speak to the Bill? Does the Honourable Mover want to reply at this stage?

The Hon. Derek Thomas –

Thank you, Mr Speaker, only to thank the Honourable Corinda Essex and Scipio O'Dean for their support to the Bill.

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

The Hon. Derek Thomas –

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 –

Thank you very much. Is there a seconder?

The Hon. Dr Corinda Essex –

I beg to second, Mr Speaker.

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

Council in Committee.

The Hon. Nicola Moore –

Mr Speaker,Solicitor General may sit at the table to deal with matters of detail.

The Speaker –

Yes, of course.

The Hon. Nicola Moore –

She's had a great, most to deal with the, in relation to these Bills.

The Speaker –

Thank you very much. Of course, Solicitor General? Alright Members, you have your Bill before you. I put the Title, Preamble and Clause 1 that it stands part of the Bill. Anybody wishes to speak on the Title, Preamble and Clause 1? No?

Title, Preamble and Clause 1.

Question put and agreed to.

The Speaker –

Clause 2. Would you like to

The Hon. Nicola Moore –

Mr Speaker, thank you. Clause 2 deals with Interpretation, it makes reference to international legislation, international conventions, other Ordinances and Conventions. The Honourable Dr Corinda Essex previously made reference to whether there have been any explanation as to the international obligations, the interpretation section also makes reference to the fact that under International Convention on Civil Aviation which was signed on 7th December 1944 on behalf of the United Kingdom and to which all of its Overseas Territories are required to comply it also makes reference to definitions that appear within that and also Air Safety Support International Limited which is the international organisation regulating international air safety worldwide. There are other definitions, I can speak to each of them if you so wish, the Honourable Scipio O'Dean made reference to the inaccessibility of certain terms which have been used, obviously aerodrome is defined in relation to the area at Prosperous Bay Plain which will include the areas used for take-off/landing and the ancillary services. Aerodrome operator will, of course, be the person who is contracted by the Government of St Helena in due course as part of the tendering process to manage and operate it. Aerodrome Security Officer is defined in relation to a person who is authorised in relation to security operations and in due course enforcement of by-laws which I'll make reference to later in clauses as we get to it. I've already made reference to the Air Safety Support International Limited, that is in respect of International Air Safety Regulations which the Government of St Helena are required to comply with. Authority is self evident unless any further questions are required in relation to definition of Authority. Chicago Convention I've made reference to, Fuel Facilities, there are security obligations within this Bill and they include the parts of the operation which provide fuel to the aerodrome and those are defined as the Bulk Fuel facilities in Ruperts Valley. The Order, a Fuel Management Contractor has, in fact, already been appointed and it's in relation, it makes reference to those who are from time to time appointed, which means there will be no requirement to name an operator nor that it will be defined as a group who come from time to time. Order means the Air Navigation (Overseas

Territories) Order, 2013, which is a UK piece of legislation and it is incorporated in certain respects as required for safety purposes. Owner, of course, is self evident, but in relation to the airport refers to the registered owner of the aircraft. Restricted area is defined in relation to the aerodrome or fuel facilities and is used specifically in relation to parts of the Bill which deal with security operations. Territory, of course, means St Helena. Any questions in relation to those items?

The Speaker –

Thank you, Honourable Attorney General. Are there any questions on that?

Clause 2.

Question put and agreed to.

The Speaker –

Clause 3.

The Hon. Nicola Moore –

Thank you. Clause 3 relates to safety matters and permits the Governor in Council to do such things as are necessary to secure the safe and efficient use of land for civil aviation. It makes provision, which is in addition to any provisions which are in other Ordinance, for example, Planning Ordinances, for the partial demolition, for example, if a breach of planning had occurred which allowed for a structure to be erected which interfered with air safety it makes provision for demolition, to restrict heights of trees which may affect landing safety, private rights of way restricting the installation of main structure, structures including the curtailment of rights to install and maintain those structures, any exercise of the powers that can be by direction of the Governor to any person who he nominates or authorises to carry them out. All appeals in relation to the exercise of the Governor in Council are specified in section 3(1) are to be dealt with under the provisions which are set out in the Land and Planning Development Control Ordinance, 2013. Therefore, any exercise of the Governor in Council are subject to appeal to a full tribunal in that regard and the procedures which apply thereto. For this purpose the tribunal is as established under the Land Planning and Development Control Ordinance thereby establishing the right of appeal.

The Speaker –

Are there any questions? Councillor Essex?

The Hon. Dr Corinda Essex –

In the event that this clause were activated, particularly in relation to, for example, a building that has been in existence for a large number of years or a right of way, would there be any provision for compensation for the landowner or owners?

The Hon. Nicola Moore –

There is a power for the Governor in Council to make regulations and to operate by laws later in the Bill, Clause 12, those are matters which may be taken into consideration in the exercise of those regulations.

The Hon. Dr Corinda Essex –

Thank you.

The Speaker –

Any further questions?

Clause 3.

Question put and agreed to.

The Speaker –

Clause 4, Hours of detention.

The Hon. Nicola Moore –

This section provides for the sequestration or seizure of aircraft to ensure that charges are paid and permits the aircraft, if necessary, to be sold in satisfaction of such outstanding charges. This, essentially, deals with the situation where the operator has failed to pay landing charges for a period of time and in certain circumstances and in accordance with the Chicago Convention these can be enforced as against the aircraft. The Governor could be requested to sequester in relation to non compliance, also in the circumstances of a failure to comply with international safety standards. This ensures that the St Helena Government can regulate the use of aircraft within this territory that are not complying with international safety regulations. It also permits the Governor to enforce such charges as have been outstanding in any other contracting state, for example, if an air operator owes charges and in another contracting state and the St Helena Government was asked to exercise its powers this section, Section 4(3) makes provision for that.

The Speaker –

Thank you, Honourable Attorney General. Are there any questions? No questions?

Clause 4.

Question put and agreed to.

The Speaker –

Clause 5 – Exemption of aircraft and parts thereof from seizure on patent claims.

The Hon. Nicola Moore –

This section essentially means that any powers of detention which are exercised in accordance with Section 4 cannot be exercised in the event that the charges which are suggested or the action which is contemplated is due to an allegation of a breach of patent, design or model. It simply prevents the enforcement by a compulsory process of what is essentially a civil dispute.

The Speaker –

Thank you. Are there any questions on Clause 5?

Clause 5.

Question put and agreed to.

The Speaker –

Clause 6 - Trespass.

The Hon. Nicola Moore –

Yes, this section introduces a criminal penalty to what is traditionally known as a civil concept, that of trespass. It is essential and necessary in relation to the unlawful presence in restricted areas because it permits the lawful and, if necessary, forceable removal to enforce an act of trespass on aerodrome property, it's necessary for safety and thereby that is the purpose of criminalising trespass but only in relation to aerodrome property.

The Speaker –

Any questions on Clause 6, please, Trespass?

Clause 6.

Question put and agreed to.

The Speaker –

Clause 7 – Unauthorised presence onboard aircraft.

The Hon. Nicola Moore –

Yes, similarly to Section 6, makes it an offence to board or remain on an aircraft without consent, criminalising the behaviour which might otherwise be simply civil trespass. It's enforcement by compulsory process; this is for reasons of safety and is necessary to ensure the safety and efficiency of the running of the aircraft and the aerodrome.

The Speaker –

Any questions on Clause 7?

Clause 7.

Question put and agreed to.

The Speaker –

Clause 8 – Power to question and search.

The Hon. Nicola Moore –

There's no general common law power to stop and search and as such this section enables Airport Security staff who may not be Police Officers to require individuals to be stopped, questioned concerning their baggage and searches to be carried out as necessary for the purposes of safety. This complies with the International Airport Security requirements, the purpose of it is safety, it also makes it an offence to make false statements in respect of information which is required by the Security Officer.

The Speaker –

Any questions?

Clause 8.

Question put and agreed to.

The Speaker –

Clause 9 – Penalties and power of arrest.

The Hon. Nicola Moore –

The aerodrome Security Officer underline (2) is given a power of arrest without warrant in respect of any offence which he or she suspects an individual is either guilty or attempting to commit and which he would not already have and it also sets out the penalties for any offence. These are in line with international penalties in respect of offences in relation to air safety.

The Speaker –
Any questions?

Clause 9.

Question put and agreed to.

The Speaker –
Clause 10 – Public Health and Environment.

The Hon. Nicola Moore –

This is the section which is required in relation to a compliance with the Chicago Convention in respect of international disinfection and disinsection which deals with the removal or extermination of insects, either within or that are carried in an aircraft. It also permits the Governor in Council to make regulations in relation to safe disposal of waste from aircraft, to prevent the importation of any hazardous products almost of any nature and to control the effluent from aviation activities. This is clearly a matter which takes onboard any environmental issues which could arise in St Helena.

The Speaker –
Any questions?

Clause 10.

Question put and agreed to.

The Speaker –
Clause 11 – Application of law of wreck and salvage to aircraft.

The Hon. Nicola Moore –

Well, at the risk of seeing me try it, the title of the section says it all. It simply carries across the known laws of wreck and salvage which are applicable to sea vessels to aircraft.

The Speaker –
Any questions?

Clause 11.

Question put and agreed to.

The Speaker –

Clause 12 – Power to make regulations.

The Hon. Nicola Moore –

Yes, there's a power of the Governor in Council to make regulations in respect of the matters mentioned in the Ordinance. There is also a power of the Governor in Council to make regulations or to authorise the operator to issue by laws. This relates to offences which may occur within the area of the aerodrome and covers a much wider areas of activity that would not normally be regulated on private property. That's a matter for the operator bearing in mind the need for safety at the aerodrome. It also specifies a penalty for breach of those by laws of a £2,000 fine and/or six months imprisonment.

The Speaker –

Thank you, Attorney General.

Clause 12.

Question put and agreed to.

Council resumed.

The Speaker –

Bill to be reported, please?

The Hon. Derek Thomas –

Mr Speaker, I beg to report that the Aviation Bill, 2014, passed the Committee with no amendments and to move that this Council approves the said Bill and recommends to the Governor that it should be enacted.

The Speaker –

Thank you, Honourable Member. Is there a seconder?

The Hon. Dr Corinda Essex –

I beg to second, Mr Speaker.

The Speaker –

Thank you, Honourable Councillor. Mover, would you like to wind up the Bill, do you want to make any further comments?

The Hon. Derek Thomas –

Mr Speaker, no, just to say, I thank the Members for their support to the Bill. It is an important piece of legislation when it comes to the operational running and certification requirements of our airport. Thank you.

The Speaker –

Thank you. I put the question that this Council approves the Aviation Bill, 2014, and recommends to the Governor that it should be enacted. Still open for any Member who wishes to speak to this Bill. Honourable Councillor Essex?

The Hon. Dr Corinda Essex –

Mr Speaker, I would like to make two comments; one relates to the point that I raised earlier and the assurance that I was given that regulations will be developed to cover points such as those relating to seizure of land. As this piece of legislation needs to go into operation very speedily in order to be fully in place before the advent of air access I ask that the necessary regulations are also drafted as a matter of urgency so that they can be published very shortly after the actual passing of this Bill today. Also, I am slightly perturbed, although I accept the Attorney General's explanation about the fact that the Governor and Council may authorise the aerodrome operator to issue by laws. As far as I'm aware, there are no other bodies on St Helena at this point in time who have the power to issue by laws; I stand to be corrected, and it does raise issues about accountability and overall control, which I'm sure the Attorney General's Chambers will make sure are taken fully into account and addressed when and if by laws are, in fact, enacted. Thank you, Mr Speaker.

The Speaker –

Thank you, Honourable Member. Is there any other Honourable Member who wishes to speak to the Bill? Honourable Ian Rummery?

The Hon. Ian Rummery –

Thank you, Mr Speaker, I guess, just as you know Christmas is coming when the decorations come up, we know the airport's coming as we're now moving on to aviation legislation. I would just say, I suppose as a lay person and like my Honourable Friend's old lady down the hill, a lot of this stuff is quite technical, but I suppose what it leaves one with is an impression of how we're now actually joining the rest of the world and we're now, you know, no longer in our own splendid isolation and things like Chicago Conventions are now going to impact on our daily lives, the fact that we're gonna have authorities that can create by laws, so it's really just to say that, you know, I suppose it's just another one of those many small milestones on the way to getting an airport, but I certainly support this Motion and we're in for an exciting time ahead. Thank you, Sir.

The Speaker –

Thank you, Honourable Member. Is there any other Honourable Member who wishes to speak? Would the Mover like to respond? The Mover doesn't like to respond, okay.

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

The Speaker –

The next item of business, please? Sorry?

The Hon. Gavin Ellick –

Would it be possible for us to remove our jackets?

The Speaker –

Alright, are you all feeling hot? It's alright, you may remove your jackets if you wish to.

The Hon. Gavin Ellick –

Thank you.

The Speaker –

I think one of the air conditioners is stopped, because it hampers the microphones.

Motion No. 3

THE ELIZA MARY LLOYD TRUST (AMENDMENT) BILL, 2014.

The Hon. Derek Thomas –

Mr Speaker, I beg to move that the Eliza Mary Lloyd Trust (Amendment) Bill, 2014, be approved in principle and referred to a Committee of the whole Council.

The Speaker –

Thank you, Honourable Member. Is there a seconder?

The Hon. Dr Corinda Essex –

Mr Speaker, I beg to second.

The Speaker –

Honourable Mover?

The Hon. Derek Thomas –

Thank you, Mr Speaker. Mr Speaker, Honourable Members, the purpose of this Bill is to amend the Eliza Mary Lloyd Trust Ordinance to provide that the Governor may appoint Trustees to administer and manage the Trust. The Ordinance currently provides that the Trust shall be administered by a Council Committee. The Eliza Mary Lloyd Trust is a charity set up by Eliza Mary Lloyd in the form of a small agricultural estate at Harpers, St Paul's for the purpose of agricultural training and production under the Eliza Mary Lloyd Trust Ordinance, 1961. Since the new Economic Development Committee, which has political oversight over agriculture, was formed, there has not been any important Eliza Mary Lloyd Trust business to be brought before the Committee and it is proposed that the membership of this Committee be relieved of trustee responsibilities and a new process for trustee appointments be implemented. The new process for trustee appointments will involve appointments from time to time to be made by the Governor. This change in process would enable the appointment of Eliza Mary Lloyd Trust trustees to be brought in line with other Trusts that are currently in operation on the island. Mr Speaker, I beg to move.

The Speaker –

Thank you, Honourable Member. I put the question that the Eliza Mary Lloyd Trust (Amendment) Bill, 2014, be approved in principle and referred to a Committee of the whole Council. The question is now open for debate. Any Member wish to speak to the Motion? No-one wishes to speak to the Motion? There's no need for you to reply then, Honourable Mover.

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. Derek Thomas –

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?

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

The Speaker –
Thank you.

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

Council in Committee.

The Speaker –
I put the question that the Title, the Enacting Clause and Clause 1 do stand part of the Bill. Honourable Christine Scipio O'Dean?

The Hon. Christine Scipio O'Dean –
Thank you, Mr Speaker. I propose an amendment to the Title, because the Title as stated in front of me states the Eliza Mary Lloyd Trust (Amendment) Ordinance, 2013, I'm proposing an amendment to state Eliza Mary Lloyd Trust (Amendment) Ordinance, 2014.

The Hon. Nicola Moore (Attorney General) –
Mr Speaker, I beg to second.

The Speaker –
Thank you. That's in Clause 1, is it?

The Hon. Nicola Moore –
Yes.

The Speaker –
Okay, so a proposal for an amendment, is there a seconder to that? You have already seconded it. Okay. So the proposal is that the Clause be amended from 2013 to 2014, that's it.

Question on amendment, put and agreed to.

Clause 1 (as amended).

Question put and agreed to.

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

Question put and agreed to.

The Speaker –

Clause 2.

The Hon. Nicola Moore –

This speaks to itself, it permits the amendment to the principle Ordinance which reads as present, the Trust shall be administered and managed by the members of the time being the Advisory Committee on Agriculture who shall be the Trustees and it makes provision for the Governor from time to time to appoint Trustees to administer the Trust in accordance with all Trust law that would be not a mandatory appointment it would be an invitation and the trustee would accept his or her duties.

The Speaker –

No questions?

Clause 2.

Question put and agreed to.

Council resumed.

The Speaker –

Bill to be reported. Honourable Mover?

The Hon. Derek Thomas –

Mr Speaker, I beg to report that the Eliza Mary Lloyd Trust (Amendment) Bill, 2014, passed the Committee with one amendment and to move that this Council approves the said Bill and recommends to the Governor that it should be enacted.

The Speaker –

Is there a seconder?

The Hon. Dr Corinda Essex –

I beg to second, Mr Speaker.

The Speaker –

I put the question that this Council approves the Eliza Mary Lloyd Trust (Amendment) Bill, 2014, as amended, and recommends to the Governor that it should be enacted. Anyone wishes to speak to the Bill? Honourable Les Baldwin?

The Honourable Leslie Baldwin –

Thank you, Mr Speaker. I had no objection to supporting the Bill, but I have a couple of questions and just for a point of interest more than anything else, is there anybody that can tell us the current value of the Trust and whether trustees actually cost money. I mean, I understand Committees would do the job for free, but if trustees cost money then presumably we would reduce the value of the Trust by that cost. Thank you.

The Speaker –

Is there anyone else wishes to speak to the Bill. This is not time for question time now, you're debating the principles. Hopefully the Mover will wind up and give you an answer. Any other Member wishes to speak? Okay then, the Mover, would you like to reply, please?

The Hon. Derek Thomas –

Thank you, Mr Speaker. The Honourable Les Baldwin wanted to know the value of the Trust and whether trustees would be paid. Under the original Ordinance, the trustees, Section 9(1), the Trustees shall first defray out of the income of the Trust or with the approval of the Governor out of the proceeds of sale of any part of the property the cost of repairs and insurance and any other charges and outgoings payable in respect of the property and the property costs, charges and expenses of and incidental to the administration and management of the Trust. Thank you, Mr Speaker, I have nothing else to say.

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

The Speaker –

Just so that it can help the Honourable Members in their discussions, the question time comes when you are in Committee of the whole Council, so if you want to ask any questions about any details of the Bill that's the time to ask, the principles are debated before and the Mover will wind up, okay? Thank you. Thank you, Clerk.

Motion No. 4.

THE MINERALS VESTING (AMENDMENT) BILL, 2014.

The Hon. Derek Thomas –

Mr Speaker, I beg to move that the Minerals Vesting (Amendment) Bill, 2014, be approved in principle and referred to a Committee of the whole Council.

The Speaker –

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

The Hon. Dr Corinda Essex –

Mr Speaker, I beg to second.

The Speaker –

Thank you, Honourable Member. Honourable Mover?

The Hon. Derek Thomas –

Thank you, Mr Speaker. Mr Speaker, Honourable Members, this Bill amends the Minerals Vesting Ordinance, Cap.70, by extending the area within which all minerals in means our land, on or under the ocean waters, extending up to 200 nautical miles are invested in and are subject to the control of the Crown. At present the limit is only 12 nautical miles. The Minerals Vesting Ordinance, Cap. 70 currently applies to Ascension, this Bill also extends its application to include Tristan da Cunha.

Mr Speaker, Honourable Members, this is a sensible amendment and in the interest of all three islands, St Helena, Ascension and Tristan da Cunha,?....adds protection of minerals on their land and extends up to 200 nautical miles of their waters.

Mr Speaker, Honourable Members, I beg to move.

The Speaker –

Thank you, Honourable Member. I put the question that the Minerals Vesting (Amendment) Bill, 2014, be approved in principle and referred to a Committee of the whole Council.

Honourable Members, the question is now open for debate. Anybody wish to speak? Sorry, Councillor?

The Hon. Gavin Ellick –

I remember in the Committee stage we were saying that the land one would come under a different way and we hadn't discussed anything on the land, so I was wondering why we got the land in here.

The Speaker –

No, okay, you can do that as the details in the Committee of Supply in a minute, a Committee of the whole House. At this time now you're just talking about the principles, you're debating the Motion, on the principles of the Bill, question time comes later. Anyone like to speak to the Bill? No? Okay, Mover, there is nothing for you to reply to.

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. Derek Thomas –

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?

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

The Speaker –
Thank you, Honourable Member.

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

Council in Committee.

The Speaker –
Okay the, as before, I put the Title, Enacting Clause and Clause 1, I propose that it do stand part of the Bill.

Question put and agreed to.

The Speaker –
I should have invited you to speak on that, but I assume that there's nobody speaking on that. Clause 2. Attorney General, do you wish to.....?

The Hon. Nicola Moore –

Yes, this is the Definition section. It assists with the definition of nautical miles, for those who have not served in the Navy, also assists with the definition of Crown Land, no, forgive

me, that's the next section, so it just deals with the definition of nautical miles, which is not covered in our Interpretation?.....

The Speaker –

Any questions on Clause 2? No questions?

Clause 2.

Question put and agreed to.

The Speaker –

Clause 3 – Minerals vested in Crown.

The Hon. Nicola Moore –

Yes, it repeals Section 3 of the principal Ordinance and which vested all minerals in the Crown and substitutes for that repeal a declaration in relation to minerals being in or under land or water, river, inland sea or ocean waters extending up to 200 nautical miles and that is measured by baselines as established under a UK Order, St Helena and Dependencies (Territorial Sea) Order, or such greater distances determined by the UN Convention on the Law of the Sea and the relevance being that this amendment to the Minerals Vesting has been brought about by United Nations Conventions in relation to the declaration of the territorial waters being up to 200 nautical miles from St Helena and its territories.

The Speaker –

Any questions on that? Yes, Sir?

The Hon. Gavin Ellick –

When we was in discussion we didn't discuss nothing on land, we only did it on the sea, so that's why I was wondering why land was in this clause?

The Speaker –

Attorney General?

The Hon. Nicola Moore –

Because there are times during tidal movements where minerals may be apparently under land and then later under sea, it simply takes into account the movement of the shoreline at high water mark.

The Hon. Gavin Ellick –

Seriously.

The Speaker –

Are you happy?

The Hon. Nicola Moore –

Yes.

The Speaker –

Any other questions?

Clause 3.

Question put and agreed to.

The Speaker –

Clause 4 – Regulations.

The Hon. Nicola Moore –

Mr Speaker, I have Royalties. Mr Speaker, I must be working from a different version of the Bill. Section 6 of the principal Ordinance is amended which permits the.....and renumbers the existing text to subsection (1) and adds an additional subsection, which allows that the regulations which may be passed by the Governor in Council may make provision for the issue of licenses and the procedures for the conditions for such licenses. This envisages, no doubt, international fishing in wider waters.

The Speaker –

Thank you, Honourable Attorney General. Any questions on that?

Clause 4.

Question put and agreed to.

The Speaker –

Clause 5 – Application to Ascension and Tristan da Cunha.

The Hon. Nicola Moore –

Yes, it was stated by Councillor Thomas that the original Ordinance applied to Ascension and to Tristan da Cunha, sorry, the original Ordinance applied only to Ascension and now it is to apply to Tristan da Cunha as well.

The Speaker –

No further questions on that, no questions?

Clause 5.

Question put and agreed to.

The Speaker –

Clause 6 – Amendment of Schedule.

The Hon. Nicola Moore –

Well, this deals with the fact that the principal Ordinance deals with the Minerals Vesting, including Ascension, but should minerals in St Helena and its dependencies and it should include Tristan da Cunha.

The Speaker –

Any questions?

Clause 6.

Question put and agreed to.

The Speaker –
Bill to be reported.

Council resumed.

The Hon. Derek Thomas –
Mr Speaker, I beg to report that the Minerals Vesting (Amendment) Bill, 2014, passed the Council with no amendments and to move that this Council approves the said Bill and recommends to the Governor that it should be enacted.

The Speaker –
Is there a seconder, please?

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

The Speaker –
Thank you. Mover, do you wish to speak further? No. I put the question that Council approves the Minerals Vesting (Amendment) Bill, 2014, and recommends to the Governor that it should be enacted. Any other member wish to speak before I put the final question? Honourable Ian Rummery?

The Hon. Ian Rummery –
Thank you, Mr Speaker. No, just to say that I think this is a sensible amendment and it is only right that we extend our rights to minerals to 200 nautical miles. It's just a shame that as far as I know there is no oil or anything out there within the 200 nautical miles for us to grow an economy on, but I certainly support this Motion.

The Speaker –
Thank you, Honourable Member. Anybody else wish to speak on the Motion?

The Hon. Gavin Ellick –
Just to say that we don't know that.

The Speaker –
Do you wish to speak, Councillor? Mover, you wish to wind up? You don't wish to wind up.

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

The Speaker –
Clerk, call the next item of business, please?

Motion No. 5

THE CORONERS AND PRESUMPTION OF DEATH BILL, 2014.

The Hon. Ian Rummery –

Thank you, Mr Speaker, I beg to move that the Coroners and Presumption of Death Bill, 2014, be approved in principle and referred to a Committee of the whole Council.

The Speaker –

Thank you, Honourable Member. Is there a seconder?

The Hon. Gavin Ellick –

I beg to second.

The Speaker –

Mover, you may make.....

The Hon. Ian Rummery –

Thank you, Mr Speaker. Mr Speaker, I wish to present a Bill for an Ordinance to make provision for the appointment and duties of Chief Coroner and Coroners and for matters relating to Coroners investigations and in relation to the presumed death of missing persons and for purposes connected therewith or incidental thereto. I am very pleased to be introducing the Coroners and Presumption of Death Bill, 2014, and I would say at the outset that this Bill is based on UK legislation or certainly on English and Welsh legislation.

St Helena already has a Coroners Ordinance and our present one has been in force since 1987, but what we're doing here today is updating certain aspects of the Ordinance as well as introducing new safeguards. Just for information, the definition of a Coroner is a public official whose chief function is to investigate by inquest any death not clearly resulting from natural causes. On St Helena, our Chief Magistrate is the Chief Coroner and the Governor can appoint other persons to the role of Coroner subject to the provisions of the Constitution. There are a number of changes within this Bill and I'm aware that with the Attorney General we shall go through that in some detail, but I would just wish to make reference to what I believe is the most fundamental change and one that I think will be of most interest to the public. And the most fundamental change introduced by this new Ordinance is the provision for all deaths on St Helena to be notified to a Coroner. The Coroner can then refer the case to a Medical Examiner for independent scrutiny and confirmation. Again, to explain, a Medical Examiner is a Doctor who has undergone additional training in determining the cause of death through examination of documents, but it is important to stress that the appointment of a Medical Examiner for St Helena does not require a Doctor to be on island or to physically examine a body. What the Medical Examiner will do is receive any relevant medical documents from St Helena, including what will be called a Practitioner's Certificate that is similar to what we now refer to as a Death Certificate. Having looked at all of the relevant information, the Medical Examiner will either confirm the cause of death stated on the Certificate or where the Examiner is unable to confirm the cause of death to refer a case to the Coroner or may add supplementary information. In effect, what this means is that any death on St Helena will be subject to a second specialist medical opinion. And the public may well ask why is that necessary. Well, we are following best practice and modifying legislation for St Helena that's in force in England and Wales and I'd just, if I may, quote from the Government Information page explaining why the law was introduced in the UK. Under the title 'Why do we need the Reforms?' "The process of death certification is being reformed to address weakness with the current system and the recommendations of the Shipman Inquiries Third Report. The main aims of the reforms are to strengthen safeguards for the public, make the process simpler and more open for the bereaved and increase the quality of certification and data about causes of death. Currently, setting aside Coroners

cases, only deaths followed by cremation are subject to formal checks for any untoward signs, the new system will provide safeguards for all deaths which do not need to go to a Coroner.”

And again, I’m quoting from the UK, but they say “We know that at present death certificates are not all completed accurately.” The UK Office for National Statistics has completed a study of the potential impact of Medical Examiners’ scrutiny of cause of death on mortality statistics using data from the death certification pilots and part of that study showed, and I’ll just quote again, “Analysis of this study showed that following scrutiny Medical Examiners were more likely to add supplementary information to the death certificate. This often led to more conditions being mentioned and to the order in which they were presented on the cause of death certificate being altered. As a result, there was a change to the underlying cause of death in 22% of cases.” For St Helena, what this means is that we’ll improve record keeping, we’ll have more accurate diagnosis, better statistics on which to base our Public Health policy. The actual logistics of how deaths will be reviewed by an off island Medical Examiner are currently being discussed, they will be finalised when the regulations supporting this Ordinance are passed, but I must say that it is a positive move for St Helena.

The Speaker –

Thank you, Honourable Member. I put the question that the Coroners and Presumption of Death Bill, 2014, be approved in principle and referred to a Committee of the whole Council. Honourable Members, the question is now open for debate. Honourable Derek Thomas?

The Hon. Derek Thomas –

Mr Speaker, I rise in support of this Bill and as my Honourable Colleague, Ian Rummery, said, that this Bill will mean that all deaths will be reported to the Coroner, and, equally, every death will be considered by an independent Medical Examiner, so that provides the public in St Helena with the assurance that the St Helena Government is fulfilling its positive obligation to take steps to prevent avoidable losses of life. It will no longer be up to a Doctor or the Police to determine which cases are reported, all cases of death will be reported to the Coroner. Mr Speaker, the second part of the Ordinance is in relation to presumption of death. This will assist those who are left behind in managing affairs, as has happened in St Helena in recent times. Mr Speaker, I support the Bill.

The Speaker –

Thank you, Honourable Member. The House is still open for debate. Honourable Corinda Essex?

The Hon. Dr Corinda Essex –

Mr Speaker, I support the Bill, but I have a serious over-riding concern. At the moment, we’re in the privileged position of having a Chief Magistrate who has the necessary training, skills and expertise to perform the roles of Coroner as required by this piece of legislation. My question is what will happen at times when he is off island, ill or for any other reason unable to fulfil his duties. Does this mean that we are going to need to have locum Coroners imported in which case that is likely to have considerable expense associated with it for which budgetary provision will need to be made. Thank you, Mr Speaker.

The Speaker –

Thank you, Honourable Member. Okay, is there any other person wishing to speak first, please? No other speakers? Yes, Sir?

The Hon. Ian Rummery –

Thank you, Mr Speaker and if I may first just respond to the Honourable Dr Corinda Essex point. The actual Coroner on island would merely be the person who refers the documents on, the Medical Examiner will be based in England, I understand from our Chief Magistrate that he has been in consultation with a highly respected Medical Examiner in the UK who has agreed to take on effectively the contract of examining death certification on St Helena, so it will be an automatic process for the Coroner, so you're absolutely right, our Chief, you know, we're very fortunate here on St Helena that our Chief Magistrate is also very experienced in forensic matters, but actually as the provision for the actual detailed examination of death certification is done overseas by a UK Medical Examiner who's actually in the post as Coroner here it doesn't really matter because it's simply a case of collating information. Sorry? Local Coroner, but in terms of actually examining things, but also we then have additional Coroners as well. If I may also refer to the Honourable Derek Thomas's comments, I fully support and I thank him for his statement of support. It's absolutely right that this is a very important safeguard for the island. Without wishing to be alarmist, clearly this came out of the Shipman Inquiry in the UK where you had a Medical Practitioner who was effectively killing patients and then signing their death certificates, you know, it's not a judgement on our medical staff here, but obviously there is always that danger that if you're both the person involved and the person who does the certification that there can be problems, so you're absolutely right, it's an important safeguard for the public. I think the other thing it does is that it provides us with better quality data on which to base our Public Health policy and Councillor Thomas again brought up another point which is that the presumption of death if a person does go missing that the Coroner can actually, under certain prescribed circumstances, make an announcement that a person has died and clearly that is in the interests of the family and those who are bereaved at this time. So, thank you.

The Speaker –

Thank you, Honourable Member.

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

The Speaker –

Honourable Mover?

The Hon. Ian Rummery –

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 –

Okay, I was detracted by the time. It seems as if we'll stop at about 4 o'clock this afternoon and continue into the next day rather than working right through until 6 o'clock, so I thought probably you might need a break at some time before we continue up to 4 o'clock, is that what is needed, required and is this a suitable time now to have that break, maybe?

The Hon. Bernice Olsson –

Yes, please.

The Speaker –

Okay, and then we come back I'll put the question to you so that we will go into Committee of the whole Council, yes? Thank you, we'll adjourn, ten minutes, please.

Council suspended.

Council resumed.

The Speaker –

Honourable Members, I put the question that the Council do now resolve itself into a Committee to consider the detailed provisions of the Bill.

Question put and agreed to.

Council in Committee.

The Speaker –

Right, Honourable Members, we're now in Committee of the whole Council. I put the question that the Title, Enacting Clause and Clause 1 do stand part of the Bill. Any Member wish to speak on that?

Title, Enacting Clause and Clause 1.

Question put and agreed to.

The Speaker –

Clause 2.

The Hon. Nicola Moore –

Thank you, Mr Speaker. I wonder if I might just deal with the way in which the number of clauses that may be dealt with, this is quite a long Bill. May I suggest that, given the timescales, Mr Speaker, that you've set out, can we get to the point of the Schedules and then perhaps deal with the Schedules tomorrow, I don't anticipate, despite being the model of brevity, being able to deal with the matter, with all of the matters in the clauses before 4 pm, if that's convenient. Thank you.

So we deal with Clause 2. I will, in the interest of brevity, not go through each and every one of the definitions; I shall go through those which might seem to be new or novel for this jurisdiction. Chief Coroner essentially is defined as the person appointed under Section 15, but to all intents and purposes will be the Chief Magistrate. There will also, in answer perhaps to the Honourable Corinda Essex's question earlier on, will be other Coroners and they are Coroners who are appointed under Section 15, which I will get to you later, but they are persons who are approved by the Governor and, if a public servant, by the Judicial Appointments Commission. Coroners Regulations are those which are specified under regulations under Section 20, but also in the Schedules part of the Ordinance. There will be Coroners Rules and they are dealt with in some detail, again in Schedule 2. A Court of Trial essentially makes reference to deaths which are the subject of criminal proceedings, being either Magistrates Court or Supreme Court. There can also be a Deputy Chief Coroner who is appointed by the Chief Coroner pro tem if necessary, for example, if the Chief Coroner is off island. A document includes, for purposes of modernity, documents stored in electronic form, which complies with modernisation of storage processes. Homicide offence deals with

offences which may be, have been committed with the death, commonly known as murder/manslaughter or infanticide, which is the death of a child within a year and a day. Confinement. Registrar is relevant insofar as the certificates of death and also declarations of presumed death and it is cross referred with the Births and Deaths Ordinance. Related offence means any offence which is related to a homicide offence in connection with the death, which is subject to investigation. Sibling has the usual meaning, but excludes siblings of adopted nature, mainly full blood or half blood only. State detention, which, to all intents and purposes here, are those who are resident in Her Majesty's Prison at the sum price of, I think, £4.50 a day, we were referred to earlier on today. A variation order is specified as having the meaning assigned in section 27, which we will get to, but it's a variation of an Order of?..... death.

The Speaker –

Are there any questions?

The Hon. Ian Rummery –

If I could, just one question. State detention, would that also be somebody who is detained under the ...as well?

The Hon. Nicola Moore –

It's detained by a Public Authority, which will include that, although, at the risk of being controversial, there are no formalities for detention, for formal detention by a Public Authority except that which is specified in the **inherent** jurisdiction, Supreme Court. That will be addressed, perhaps at the next sitting of this Committee, but, yes, it would include those within Prison cells within Her Majesty's Prison and within certain assisted care where there lacks capacity.

The Speaker –

Any other questions on that section, clause?

The Hon. Nicola Moore –

Sorry, Mr Speaker, I should address my answer through you.

The Speaker –

That's alright.

Clause 2.

Question put and agreed to.

The Speaker –

Clause 3 – Duty to investigate certain deaths.

The Hon. Nicola Moore –

Well, I'm afraid this is really where the swimming through treacle startsCommittee, this is the beginning of Sections 3 through to 20 which define the duties of a Coroner, the obligations, the powers and the various regulations which permit for either suspension or investigations or recommencing. There is a subject, in Section 3, subject to sections 4 and 5 where there is a direction for another Coroner to investigate or discontinue an investigation into the cause of death revealed by a post mortem. There is a duty on Coroners to investigate

a person's death as soon as practicable and if the Coroner is made aware of the body of a deceased person in St Helena. The location of the body of the deceased will determine which Coroner, in some respects, which Coroner has the duty to investigate and subsection (2) sets out the types of death that the Coroner must investigate. The Coroner must investigate a death that he or she suspects was violent or unnatural, for example, if the deceased may have been murdered or taken his own life. Where I make reference to the masculine, it should be deemed that I include the feminine. Or if the cause of death is unknown or if a deceased, as has been pointed out, died in the custody of or otherwise in state detention, so, as has been pointed out, if in assisted care, in the custody of by reason of an order of the Supreme Court, the Coroner shall report the matter to the Chief Coroner if he has reason to believe that a death has occurred in or near St Helena that there are circumstances which were previously referred to that there should be investigation into it and that there's a duty to investigate that death, but it doesn't arise because, for example, the body has been destroyed, lost or some way is absent. This would, for example, cover circumstances where a body had been lost, swept away at sea or perhaps someone lost their life in a fire and there were no remains, that in those circumstances, under subsection (3) the Coroner reports the matter to the Chief Coroner and the investigation will take place. On receiving the report, the Chief Coroner may, for example, direct another Coroner to conduct the investigation, that's subsection (4) and subsection (5) requires that Coroner todirection is given to make an appropriate investigation, essentially this is a delegation section and the Coroner may make whatever investigations as seem necessary to establish whether or not he needs to conduct an investigation into the death.

The Speaker –

Any questions thereon?

Clause 3.

Question put and agreed to.

The Speaker –

Clause 4 – Directions for other Coroner to conduct investigation.

The Hon. Nicola Moore –

This section gives the Chief Coroner the power to transfer responsibility for the investigation of a death to another Coroner. For example, if one Coroner has to leave the island who has conducted an investigation, the Chief Coroner may direct another Coroner who has conduct to take the matter up. So under subsection (2) the Coroner so directed to conduct an investigation on behalf of another Coroner must carry out that investigation as soon as possible. No other Coroner can conduct the investigation and the Coroner who agrees to deal with the investigation will have the powers that have previously been given to the other Coroner. The investigation, the word investigation, includes continue an investigation that might already have commenced.

The Speaker –

Thank you. Any questions?

Clause 4.

Question put and agreed to.

The Speaker –

Clause 5 – Discontinuance where cause of death revealed by post mortem examination.

The Hon. Nicola Moore –

Thank you, Mr Speaker. This is a section which allows a Coroner to discontinue an investigation which was started, for an example, because the cause of death is unknown. The Coroner may discontinue such an investigation if the post mortem examination, under Section 14, reveals the cause of death and the Coroner thinks that it's therefore not necessary to continue that investigation. Essentially a Coroner's duties, in due course we'll see, are the matters to be ascertained under Section 6. So, for example, this might occur where death is shown to be of natural causes and that there are no circumstances associated with the death that will require further investigation, but the Coroner may not discontinue the investigation if he should suspect the deceased died a violent or unnatural death or died whilst in state detention and that is important because of a state's duties to ensure that they do not cause the death of their citizens, which is enshrined within the Constitution and will be dealt with later in the statute. Where a Coroner discontinues an investigation there is no need to hold an inquest and no determination or finding under section 8, which is the finding section, need be made. The Coroner who discontinues an investigation shall give, if requested to an interested party, which is defined in, interested persons are defined in section 22, but in essence they include those who one might usually expect to be included, spouse, life partner, parent, guardian, personal representative, if it's important for the purposes of succession and also if it appears that a person may have committed a homicide or been involved or a related offence the interested person would be the Chief of Police.

The Speaker –

Thank you, Attorney General. Any questions? Sorry, Councillor Essex?

The Hon. Dr Corinda Essex –

The clause, in the ultimate clause of the section, after the part of the clause that we're dealing with at the moment, it says the Coroner who conducts the investigation into a person's death may, but need not hold an inquest into the death as part of the investigation. Who actually makes that decision?

The Hon. Nicola Moore –

In relation to Section 5, Councillor Essex, thank you for the question. In relation to Section 5, subsection (3), it refers to where a Coroner has discontinued an investigation under Section 5, namely because the cause of death has been revealed by a post mortem. In circumstances where the Coroner need not investigate further, then the Coroner need not hold an inquest into the death and therefore no determination need be found, but the Coroner may only discontinue that investigation if the examination which is made under Section 10 reveals the cause of death and the Coroner exercises his discretion because he thinks it's not necessary, but because he has a positive duty under Section 2 to investigate he can only exercise that discretion under Section 5 (2) if the grounds for investigation are not fulfilled. So, essentially, he has to go through that thought process along with the findings of the Medical Examiner before he can come to the conclusion that he doesn't have to further investigate and can therefore discontinue.

Clause 5.

Question put and agreed to.

The Speaker –

Clause 6 – Matters to be ascertained.

The Hon. Nicola Moore –

Yes, this is the, perhaps the real niche of the duty of the Coroner. The Coroner, in his investigation has a requirement to establish or ascertain who the deceased was, how and when the deceased came by his or her death, what particulars are required in relation to, I'll use the term death certificate as a neater abbreviation, and then subsection (2) is a section which requires the investigation to be widened to include the broad circumstances of death, including the events leading up to the death in question. Where this wider investigation is necessary to comply with the UK duties under the European Convention on Human Rights which are by Article 57 of the Treaty of Rome is extended to its dependencies, this is, in fact, enshrined in the Constitution. In Section 6 it relates to the State's responsibility to ensure its actions do not cause the death of its citizens and where that may have arisen, there is a duty of the Coroner to make findings under Section 6(2) in relation to ensuring that the Constitutional rights of its citizens have not been, citizens I say, citizens to include the deceased, have not been breached. The Ordinance doesn't define the precise circumstances where a Coroner should conduct a Section 6 investigation, but this does allow for some flexibility. It's fair to say that Section 6 of the Constitutional Article 2 of the European Convention on Human Rights doesn't currently make it mandatory for Coroners to make findings in that regard where they arise, because this permits, for example, the Chief Coroner to give guidance as necessary as it becomes a matter of the common law of England, Wales and as a crossover to this jurisdiction. Additionally, subject to paragraph 7 of Schedule II, which deals with matters Coroners find contributed to the cause of death which persist he must report, although no opinion shall be expressed as to matters, save as ...?...the deceased was, how and when the deceased came by his death, but there must be a report on matters which, where, for example, there may be a persisting risk of death to others and in those circumstances the Coroner must give particulars in relation to that. And finally, in subsection (4), 6(4) a Coroner who conducts an investigation into a person's death may, but need not hold an inquest.

The Speaker –

Any questions?

Clause 6.

Question put and agreed to.

The Speaker –

And can I take Clauses 7, 8 and 9 together.

The Hon. Nicola Moore –

Yes, Mr Speaker. Well, 9, dealing with them in together, there needs to be no jury for an inquest and at the conclusion of the, after concluding the investigation the Coroner shall make the determination in relation to Section 6, which I previously described, give the particulars required for the death certificate, but may not make any findings that appeared to determine any issue of criminal liability or civil liability and there are duties in Schedule I, which are quite detailed, as to the provision of suspension and resumption of the

investigations, particularly, and I'll deal with these perhaps tomorrow, but these deal with suspension and resumption in circumstances where there are actual contemplated criminal litigation in connection with the death.

The Speaker –

7, 8 and 9 concluded. Any questions? Councillor Corinda Essex?

The Hon. Dr Corinda Essex –

May I ask why a jury cannot participate in an inquest, is this common international practice now?

The Hon. Nicola Moore –

Thank you, Mr Speaker. Councillor Essex, it's not a question I can answer, there are juries, but not in all cases in the United Kingdom, Section 7 specifically dispenses with the need for a jury, I would venture an opinion as to the availability of juries in relation to matters, but not all inquests in the United Kingdom are now held with a jury, but generally only in relation to deaths which may appear to be likely to lead to alternative proceedings.

The Hon. Dr Corinda Essex –

Thank you for that explanation, but that is a point of concern to me because the wording actually specifies that there shall not be a jury.

The Hon. Nicola Moore –

No, there shall not be a jury, sorry, Mr Speaker, there shall be no inquests into a death with any jury in this jurisdiction, it will be Coroner alone.

The Hon. Dr Corinda Essex –

It's a matter of concern to me.

The Speaker –

Any other questions?

Clauses 7, 8 and 9.

Question put.

The Hon. Dr Corinda Essex –

No. In relation to Clause 7.

The Speaker –

Right, just one no, then the Ayes have it, the Ayes have it.

The Speaker –

Clause 10 – Post Mortem examinations.

The Hon. Nicola Moore –

Yes, in brief, I can deal with this I hope in brief. Essentially, this permits a Coroner to require a suitable practitioner to make a post mortem examination. The post mortem can be carried out by a suitable practitioner who is specified within subsection (3) but it makes specific provision under subsection (4) where the Coroner has reasonable grounds to suspect

that the death was caused by the improper or negligent treatment of a registered medical practitioner that practitioner shall not take any part in the post mortem but is entitled to be represented at such an examination, that means that there would be no need for a second post mortem which can be quite upsetting for the next of kin, but this section has no effect if there has already been a post mortem which has been carried out and there is a requirement under subsection (5) that once the post mortem is carried out that the report is prepared and conveyed to the Coroner as soon as reasonably practicable.

The Speaker –
Any questions?

Clause 10.

Question put and agreed to.

The Speaker –
Power to remove the body –

The Hon. Nicola Moore –
Yes, this simply.....

The Speaker –
Clause 11.

The Hon. Nicola Moore –
I'm sorry, Mr Speaker, I'm premature, though perhaps it's my desire to assist the Committee with not going through it at too much length. The power to remove the body, this is simply so that the Coroner can make appropriate arrangements for either conducting a post mortem or for in due course burial arrangements, but it can be, the body can be removed without consent to a place which is provided for by the St Helena Government, essentially a hospital or appropriate place in that regard, but may not be moved to any other private place without the permission of the person who would be in receipt of the deceased.

The Speaker –
Alright, I put the question that Clause 11 do stand part of the Bill, sorry, there's a question being asked.

The Hon. Derek Thomas –
Thank you, Mr Speaker, can I ask in relation to post mortem, how does someone question the findings of post mortem if there has been one?

The Hon. Nicola Moore –
Sorry, Councillor Thomas, Mr Speaker, I wonder if I could ask the Councillor to repeat his question, I didn't quite hear?

The Hon. Derek Thomas –
Yes, I apologise for that. In relation to post mortems, how does someone question the findings of post mortems?

The Hon. Nicola Moore –

Well, there are provisions within this Bill for interested parties to make representations, there are provisions for the Coroner to receive such information as is necessary to conduct his investigations as regard....I'm not sure I'm quite following the question as to whether or not there's any way to appeal a post mortem, but certainly the findings of the Medical Examiner will be provided to the Coroner and any interested parties in due course can provide information to either an inquest or the Coroner's investigation.

The Speaker –

Alright Councillor? Any further questions?

Clause 11.

Question put and agreed to.

The Speaker –

Can we take Clauses 12 and 13 together?

The Hon. Nicola Moore –

If it's convenient, Mr Speaker.

The Speaker –

Is it, Clauses 12 and 13?

The Hon. Nicola Moore –

Yes, there's a requirement that all medical practitioners or police officers notify all deaths to Coroners and the Governor may, in consultation with the Chief Coroner, who, for this purpose is the Chief Magistrate as well, to appoint suitably qualified persons, as was made reference to in the speech by Councillor Rummery and also the Governor can make regulations in relation to the remuneration of those medical examiners payment of any expenses or fees and to confer functions upon that medical examiner.

The Speaker –

Yes, Councillor? Okay, sorry, I thought you wanted to ask a question. Anybody else want to ask a question?

Clauses 12 and 13.

Question put and agreed to.

The Speaker –

Clause 14, this is quite a long one – Medical Certificate of cause of death.

The Hon. Nicola Moore –

Thank you, Mr Speaker. The Governor in Council can make regulations for the provision to require a Medical Practitioner, that's to all intents and purposes a General Practitioner, to state the cause of death and transmit that to the Coroner. Regulations made under subsection (1) (c) will allow a Medical Practitioner if invited to do so to amend that certificate, for example, where there has been a finding in relation to a post mortem or further information which has come forward which invalidates the cause of death which has previously been specified in the Medical Practitioner's certificate. There can also be regulations which allow

the Coroner, as previously specified by Councillor Rummery, to refer the case to a Medical Examiner and to require the Medical Examiner to essentially conduct such inquiries, review such paperwork as necessary and to issue a certificate of the cause of death. It also allows the Medical Examiner to issue a fresh Medical Examiner's certificate, for example, if new matters come to light that had not previously been available; it also permits a Medical Examiner to discuss his findings with either another Medical Examiner or such person as might be able to give appropriate information. It also deals with matters relating to the forms, certificates and any periods of time which need to be complied with in the exercise of those functions.

The Speaker –
Any questions?

Clause 14.

Question put and agreed to.

The Speaker –
15 and 16 can go together, Clause 15 – Appointment of Coroners and powers of Coroners.

The Hon. Nicola Moore –

Thank you, Mr Speaker, I'll try to be brief since I seem to be having a remarkable affect on the rate of exit of this Committee. The appointment of Coroners, the Chief Magistrate shall be the Chief Coroner or who is specified pro tem by the Governor in his absence the Governor can appoint Coroners in accordance with the Judicial Services Commission if they are public servants and the Chief Coroner can appoint somebody as a Deputy Coroner, as previously indicated, for example, if he or she is off island and they have such powers as are specified in Schedule II, which are lengthy, convoluted and pretty much all encompassing.

The Hon. Brian Isaac –

Can I ask a question, Mr Speaker, do Coroners, I know the Governor can appoint Coroners, but do Coroners have some training, qualification or just, you know, because it's very technical in a lot of these cases, this is new legislation going through.....

The Hon. Nicola Moore –

Yes, thank you, Councillor Isaac, thank you Mr Speaker for that question. There are provisions within the Regulations which allow the Coroner to make rules as to effective functioning of his Deputy Coroners or his Coroners, as they are known here, in England there are training courses, it may be that those regulations specify and the rules specify there is further training and I understand that this is anticipated that if this is brought in to force that those facilities will be made available to anybody who is appointed as a Coroner under section 15.

The Hon. Brian Isaac –
Thank you.

Clauses 15 and 16.

Question put and agreed to.

The Speaker –

Clauses 17 and 18 refer to Schedules, so if you'd like to explain?

The Hon. Nicola Moore –

Yes, Mr Speaker, I don't know whether it might be more convenient to make a swift gallop through the Bill itself and deal with the regulations tomorrow as a separate item. I'm content or I'm in the hands of the Committee how they wish to

The Speaker –

The only provision for it at the back is with me, which

The Hon. Nicola Moore –

So, in essence, Schedule II and Schedule III make provisions about the offences and the powers of Coroners and they could be the subject of individual amendments because they are quite lengthy.

The Speaker –

Yes, okay. But as far as this is concerned, Sections 17 and 18 do stand part of the Bill.

Clauses 17 and 18.

Question put and agreed to.

The Speaker –

Clause 19 – Investigation by the Coroner.

The Hon. Nicola Moore –

Yes, essentially, this permits the Chief Coroner to conduct any investigation that a Coroner might be able to conduct, so essentially the Chief Coroner can exercise any of the powers or functions of which I've previously articulated in Sections 1 through to 18.

Clause 19.

Question put and agreed to.

The Speaker –

Clause 20 – Coroner's Regulations.

The Hon. Nicola Moore –

Yes, there's an element of over belting and bracing in relation to Section 20 and the regulations themselves. The Governor in Council can make regulations, which essentially regulate the exercise, discharge of the functions and investigations which are specified, it permits the Governor to make provision for resumption and suspension of investigations, which is, in fact, articulated in some detail the regulations in any event, provision for delegation of functions which Councillor Essex dealt with earlier, but importantly, of course, for absence that they can be delegated to anybody as appropriate within the regulations, for example, somebody on island, and makes provision for the Chief Coroner to require information from his own Coroners to preserve, retain or dispose of the deceased's remains and powers of seizures, authorisation of entry and search, these are all articulated in fact in

any event within the schedule and can be, if necessary, amended to either make them more effective or to remove powers in due course.

The Speaker –

Thank you. Any questions?

Clause 20.

Question put and agreed to.

The Speaker –

Clause 21 – Coroner’s Rules.

The Hon. Nicola Moore –

Again, there’s, the Governor in Council can make regulations and by the same token the Chief Coroner can make rules regulating the practice and procedure at or in connection with inquests. This is important in relation to offences and penalties which occur later in Schedule IV. This makes provision for the provision of evidence, the discharge of an inquest, the adjournment or resumption of inquests, the requirement to provide information, the exercise of judicial functions by the Coroner, the provisional disclosure of information and whether or not, for example, there is a provision to hold inquests outside St Helena only if every party is able to proceed and participate in person or through a legal representative and that, more importantly, that no injustice will result, that the course proposed is in the public interest, so those are quite limited terms, it also provides for the modernisation, or modern....depending on the pronouncement of receipt of evidence either by electronic or written communication and it also allows for the exclusion of persons from inquests during the time when young persons who are sixteen or under give evidence.

The Speaker –

Any questions? Councillor Essex?

The Hon. Dr Corinda Essex –

Mr Speaker, it appears that the Chief Coroner or his designate has unilateral power for making rules. Where are the checks and balances and accountability, what would happen if, in fact, one of the rules was inappropriate, how could it be challenged?

The Hon. Nicola Moore –

Thank you, Mr Speaker, the matters upon which the Coroner’s rules can be made are articulated in Schedule II and therefore all of his, I say his, his powers, well the Coroner’s powers, must be exercised in accordance with those, but the Coroner can only exercise his judicial functions, and these are the functions which essentially are of a, for example, of a compulsory nature, the ones that persons might be concerned about the exercise of, can only exercise those in accordance with a delegation by the Supreme Court, which is a provision under the Constitution, if I might have a moment if I can.....because all of the functions of the Magistrate are subject to the oversight of the Judges of the Supreme Court. I wonder if it may be a suitable time for an adjournment if Councillor Essex requires a more detailed articulation of the....of course the rules cannot override the primary legislation, so if the rules were inconsistent with the powers which are articulated in the primary legislation they would not be vires or lawful to exercise, so if they’re anyway inconsistent with the powers which are articulated in the first twenty sections of the rules, but I can provide a written

response in relation to the manner in which the Coroner's rules must be exercised and, of course, they would be overridden if necessary by any regulations.

The Hon. Dr Corinda Essex –
Right, thank you very much.

The Speaker –
Thank you.

Clause 21 –

Question put and agreed to.

The Speaker –
Clause 22 – Meaning of interested person.

The Hon. Nicola Moore –
Yes, this is important, both in relation to the first twenty-one sections which relate to Coroners and the subsequent sections which relate to presumption of death and property adjustment and so forth, essentially the interested persons include that which one would normally expect, but it also includes, for example, where the death may have been caused by an injury or disease received in the course of an employment then the representative of a Trade Union, although I'm not sure whether that necessarily applies here presently, but if there were to be a Trade Union that person would be an interested person for the purposes of inquiry into the death. Also, of course, the Chief of Police and any other person the Coroner thinks has sufficient interest.

The Speaker –
Councillor?

The Hon. Brian Isaac –
Just a general question, I don't see under 22 (a) a mention of an adopted child or adopted parent, is it necessary?

The Hon. Nicola Moore –
Thank you, Mr Speaker, that's an excellent question that Councillor Isaac's.....I'll just check the Interpretation clause. Arguably the expression child now includes, in conjunction with the Constitution itself, includes, in relation to private life, includes an adopted child. It doesn't say child of full blood, it says child and so arguably it would include adopted child.

The Hon. Brian Isaac –
Adopted parent, meaning?

The Hon. Nicola Moore –
Thank you, Mr Speaker, the same analogy would apply.

The Hon. Brian Isaac –
Thank you.

The Hon. Nicola Moore –

Thank you, Mr Speaker, I wonder if I might just add something to my previous observation. It would also come within 22(i) any other person who the Coroner thinks has sufficient interest and it will be difficult to argue that an adopted child or parent would not come within that section.

The Hon. Brian Isaac –

Thank you.

The Speaker –

Any further questions?

Clause 22.

Question put and agreed to.

The Speaker –

Applying for declaration of presumed death – Clause 23.

The Speaker –

Thank you, Mr Speaker. This is where it starts to get really interesting so far as the lawyers are concerned and perhaps a little dull for the committee. This is a section which sets out when the Supreme Court rather than the Coroner can make a declaration that a missing person is presumed to be dead. The term ‘missing person’ is defined in Section 2(1) as a person who is or would be the subject of the declaration and the grounds for making a declaration is that a missing person is thought to have died or has not been alive and known to be alive for at least seven years. This follows a common law presumption which has been applied in Courts for many years but has not permitted the disbursement of that person’s estate. Anyone could apply to the Court for a declaration of presumed death under Section 23, but the Court must consider the applicant has sufficient interest in the determination of the application and such interest to have sufficient connection with St Helena, that’s subsections (2) and (4). It’s for the Court to decide whether any interest is sufficient for the purposes of this section and that would be the for the exercise of judicial discretion. The Court can only hear and determine the application if one of the conditions specified in subsections (3) and (4) it is satisfied. These conditions require a certain connection with St Helena. Either the missing person was domiciled in St Helena at the date on which he or she was last known to be alive, or, had been habitually resident in St Helena for the whole of the year ending the date on which he or she was last known to be alive. Domicile is a legal concept used to connect a person to a particular legal jurisdiction. It defines where a person is deemed to have his or her permanent home.

The Speaker –

Any questions on Clause 23? Yes, Sir?

The Hon. Leslie Baldwin –

Thank you, Mr Speaker. If a declaration of presumed death is made and then the person is apparently alive, shows up, what happens?

The Hon. Nicola Moore –

Thank you, Mr Speaker, Councillor Baldwin makes an excellent question which we'll get to in one of the next twenty sections, but in brief, there's an adjustment process which takes place.

The Hon. Leslie Baldwin –
Thank you.

The Speaker –
Yes, okay Councillor, we'll wait until we get there.

Clause 23.

Question put and agreed to.

The Speaker –
Making declarations, Clause 24 and can you deal with 25 at the same time, the effect of the declaration or is.....?

The Hon. Nicola Moore –
Mr Speaker, I'd rather not, at the risk of seeming obstructive, these are quite complex sections.

The Speaker –
Alright, let's do 24.

The Hon. Nicola Moore –
Thank you. So section 24 provides the Court must make a declaration **sought** if it's satisfied that the ground for the making of the application has been made out, namely one of the previous sections. The two bases for the declaration are distinct. The missing person does not have to have been missing for seven years if the Court is satisfied the person has died. Every declaration must state when the missing person is deemed to have died and this is important because the sections which later deal with property interests, for example, may be different according to when a person is determined to have died. I'll come to an illustration of this because really that's the only way for it to make any sense. If the Court is satisfied that the missing person has died but it's uncertain as to when it must deem the person had to have died at the end of the period in which the Court thinks he or she may have died. I'm gonna pause there to allow that to settle in. That's subsection (3). If, on the other hand, the Court is satisfied that the missing person has not been known to be alive for a period of seven years, at least seven years, but is not satisfied that the person has died the time and date of the deemed date will be the end of the period of seven years beginning on the day after the day on which he or she was last known to be alive. So, for an example, the working provision is illustrated as follows: Example A, which is subsection (3). If the Court finds that a person must have died between the 1st January and 31st March, but is uncertain during that period the missing person is presumed to have died, the declaration will state that he or she died on 31st March. In subsection (4) if a Court is not satisfied that a person is dead, has died, but is satisfied that he or she was last known to be alive, for example, on 1st May 2004, the declaration will state that the person died on 1st May 2011 being the last day of the seventh year from and including the 2nd May 2004 and I make no apologies for the difficulty of that explanation because that's the way it's drafted.

The Speaker –

Honourable Members satisfied? Any other questions on that?

Clause 24.

Question put and agreed to.

The Speaker –

Clause 25 – Effect of the declaration.

The Hon. Nicola Moore –

Thank you, Mr Speaker. This is where it gets really interesting. Section 25 is about the effect of a declaration of presumed death made under the Act, so a declaration is, for the purposes of law, to be conclusive proof of the missing person's presumed death and the time and date of that presumed death, that's subsection (1). Subsection (2) confirms that the declaration is effective for all purposes and against all person and the effect of that is that it extends to matters of property ownership, that's subsection (2) (a) and the ending of a person's marriage or civil partnership, 2(b). However, the declaration is conclusive and effective, as described in subsection (1) and (2) if it is final in the sense that it's no longer subject to any appeal, either the period for making an appeal against the decision of the Court in relation to the declaration must have expired, the period for appealing without an appeal being made or if an appeal has been made the appeal and any further appeal must have been dismissed or withdrawn and any period for further appeal has expired. That period currently is not specified in law, but can be the subject of regulations and rules of Court.

The Speaker –

Any further questions?

Clause 25.

Question put and agreed to.

The Speaker –

Clause 26 – Other powers of Court making declaration.

The Hon. Nicola Moore –

Yes, this is an important section so that when the Supreme Court makes a declaration of presumed death they, the Court, when doing so goes on to decide the domicile of the missing person; this may be relevant in relation to rules of succession, in other words, inheritance of property, it also goes on in relation to the time of presumed death to deal with any question relating to an interest in property arising as a result of the declaration, for example, an interest under a will, an interest under intestacy. It's also able to make an order, such order as it considers reasonable in relation to any interest in property acquired as a result of the declaration, so, for example, Mr Yon dies, his son under intestacy receives everything, but the Court can make an Order in relation to the property that would thereby be inherited by his son. The Court may specify, subject to conditions or generally that subsection (4) the value of an asset acquired as a result of the declaration that it cannot in due course be recovered under any Order of the Court when varying or revoking that, it's under 27 and not 29, so essentially it makes the declaration, the Court then makes an Order saying if this Court subsequently has to vary the Order of presumed death this is the value of the item and it will

not be varied. So the term interest in property is defined in section (2) to be an interest in property of any estate in land and right over property. The term interest is not specifically defined but refers to a right of ownership of some kind over the whole or part of property, so essentially it covers moveable chattels and land and buildings.

Clause 26.

Question put and agreed to.

The Speaker –

Varying and revoking declaration, Clause 27.

The Hon. Nicola Moore –

Well, as any contractual lawyer knows, the effect of a variation leads to all sorts of difficulties which are subsequently dealt with in the Act. Section 27 provides the Supreme Court can order the variation or revocation of a declaration of presumed death so an example of this would be in circumstances where a person returns, as Councillor Baldwin previously referred to or where there's clear evidence that the missing person, although he was thought to not be alive at the time of the declaration has subsequently, for example, been seen by somebody alive at a time later than the declared time of death in the original declaration. One might ask why on earth might somebody go through this process, because it has an effect on property interests, but such an order can be made on the application of any person, but the Court must, it's mandatory, refuse to consider the application if it considers the applicant does not have a sufficient interest in the outcome. So, for example, the Court refused to hear, it would grant an application to hear the matter if, for example, if somebody who had a sufficient interest in the property but not because somebody had seen, was aggrieved by the decision generally and decided that they were going to intervene. In relation to subsection (2) it's for the Court to define what amounts to sufficient interest but, as I say, an example would be as I previously gave. Orders under section 27 are referred to in the Act as variation orders as are they are cross defined under Section 2 which we previously dealt with.

The Speaker –

Councillor Ian Rummery?

The Hon. Ian Rummery –

Thank you, Mr Speaker. Just a very general question regarding the Supreme Court. When we talk about Supreme Court we're not just talking about Supreme Court when it actually comes to St Helena, so could you make these applications to the Supreme Court if they're not ...?...or do you have to wait for the Supreme Court coming to St Helena?

The Hon. Nicola Moore –

Thank you, Mr Speaker, thank you Councillor Rummery. The Supreme Court, for the purpose of the Constitution, can sit anywhere if it considers that it's expeditious to do so and so the Supreme Court can hear matters or deal with matters of a non substantive nature from off island, it would be up to the parties to agree whether it was appropriate and in the public interest to deal with the matter by, for example, video link, but the Supreme Court can, of course, delegate its powers as appropriate to the Magistrate in certain circumstances, the Chief Magistrate.

The Speaker –

Any further questions?

Clause 27.

Question put and agreed to.

The Speaker –

Clause 28 – Effect of variation order.

The Hon. Nicola Moore –

Yes, Section 28 is about the effect of the variation order. The variation order itself doesn't of itself affect the property acquired, in other words, just because there's a variation order doesn't mean that all of the subsequent changes in property interest occur, so that's subsection (1). This protects those coming into possession of property in good faith, so, for example, purchasing it for value or for another without knowing any more, that's section 7(2) and 7(6), subsection 7(2) and 7(6), forgive me, the resignation on everybody's face is about, well, I got to that stage when I was reading the Bill, it certainly doesn't, for example, vary any order to revive a marriage or civil partnership ended by the declaration, that's subsection (2), this ensures that subsequent marriages of civil partnership of the missing person's spouse are not invalidated or, for example, considered bigamous. These matters apart, the result of making a variation order is set out in subsection (3) it provides that where a variation order varies a declaration the declaration is varied or will be conclusive that the missing person's presumed death and the date and time of that presumed death and it will be effective for all purposes and against all persons. So, where, on the other hand, the variation order revokes the declaration the declaration will cease to be conclusive and effective. So, for example, there was an order of presumed death, somebody reappears live and well and the declaration is therefore invalid in respect of all orders which follow from it. So the consequences specified in subsection (3) only take effect if either the period from making an appeal against the decision of the Court to make the variation order has expired without an appeal being made or if an appeal was made the appeal and any further appeal was dismissed or withdrawn and any further period for which an appeal could be made has acquired, that's subsections (4) and (5).

The Speaker –

Any questions, any other questions? Yes, Councillor? You may be seated.

The Hon. Leslie Baldwin –

I'm sorry to say and ask again, but I'm none the clearer with regard my question. If you make an assumption of death and I return, my inheritor would continue to own my property, would I have no claim on it?

The Hon. Nicola Moore –

Thank you, Mr Speaker, I'm grateful to Councillor Baldwin for anticipating section 29.

Clause 28.

Question put and agreed to.

The Speaker –

Clause 29 – Other functions of the Supreme Court making variation orders.

The Hon. Nicola Moore –

Thank you, Mr Speaker, this is really the most interesting part, so far as I'm concerned and I make no apologies for my lack of brevity and I know that Councillor Baldwin will be hanging on to my every word at this section because it will answer the question he's had since the very beginning.

The Hon. Leslie Baldwin –

Thank you.

The Hon. Nicola Moore –

Section 29 enables the Court when making a variation order to decide when doing so the domicile of the missing person at the time of presumed death, that's the domicile I refer to my earlier observations, and any question relating to an interest in property and arising as a result of the order, namely, the variation order. In other words, it requires the Court, enables the Court to look at those interests. Subsection (2) provides that when making a variation order, in other words, revoking or varying, so if somebody turns up and is alive, in answer to the earlier question, or, has been found to be alive at a later date than they had previously been thought to be alive, the Court must, mandatory, make such further order as is considered reasonable in relation to any interest in property acquired as a result of the declaration. So I hope I'm now getting, Mr Speaker, to the answer to the question and I apologise for having gone three times round the village green to get to the pub. In doing so, the Court must have regard, as far as practicable, to the principles in section 30, that's subsection (4). However, where the Court considers there are exceptional circumstances, the Court can only make an order under subsection (2) if the application for the variation order was made during the period of five years, so essentially five years is the stop date, so it would be an entire period of twelve years, not taking into account the time that would be required for the process of making the order of presumed death and then the variation, because, of course, all litigation has a period of time, so it's at least twelve years from the last time you were seen that you can pop up, if you forgive the colloquialism, and say, no, I'd like my property back. So that's a reasonable period of time. If the application for the variation order was made during the period of five years beginning the day on which the declaration that the application seeks to amend or revoke was made. So let me give you an example, because I think that's how it's going to make the most sense. Mr Speaker, I may be longer than four o'clock.

The Speaker –

Continue, please continue.

The Hon. Nicola Moore –

Thank you. If a declaration was made on 1st May 2015 and an application for a variation order was made in respect of that declaration on 1st May 2020, being the day after the day on which the five-year period beginning on 1st May 2015 will expire, an order under section 29 can only be made if there are exceptional circumstances. In other words, the Court can only interfere with what happened to the property in exceptional circumstances. In addition to any direction contained in an order made in reliance of section 26, which was the other powers of the Court on making a declaration, so in addition to any declaration, direction contained in an order made in reliance of section 26(3), so when they make the order they can make an order in connection with the original declaration. Orders under subsection (2) are subject to the following limitations: it doesn't affect income accrued for the period from and including the date on which the declaration being revoked or varied was made to and including the date on

which the variation was made. For example, an order made under 29(2) directs on 1st May 2016 that property subject to a lease acquired by X as a result of the original declaration made on 1st May 2015 should be transferred from X to Y. Y is entitled to the rent that accrued from 1 May 2015 to 1 May 2016 but he is, by reason of the direction of the Court, entitled to the property itself. They also don't affect the form of the basis of a challenge to a, what's called, related good faith transaction and there's really no easy way of explaining this, that's defined in subsection (7) it's an interest acquired under such transaction. So, for example, a transaction is a related good faith transaction for the purposes of the Ordinance. If it's a transaction under which person A acquired an interest in property in good faith and for value, essentially sold to an unrelated party for full value from another person, or somebody who acquired their interest under that chain of events so A sells to B for value, B sells to C, so it's a related good faith transaction so anybody who derives title from that person would not be affected by a variation. Subsections (8) and (9) relate to the situation where a person, let's call him D, is a beneficiary under a Trust as a result of a variation under subsection (2). In this situation, subsection (8) states that the Trustee is liable to D for any loss he or she suffers because of any breach of trust relating to the property that is the subject of the variation order. Mr Speaker, I think Councillor Baldwin may well regret having asked this question.

The Hon. Les Baldwin –
I'm beginning to.

The Hon. Nicola Moore –

Subsection (9) ensures that the liability is subject to any exemptions in legislation or the underlying trust document which, of course, would be not interfering with the private rights of the trustee and beneficiaries. Legislation for these purposes include subordinate legislation by instrument enactment under any Act or Ordinance. A trustee is defined in Section 2 as an executor, administrator or personal representative. So, I'll draw breath momentarily and give you an example of how section 29 would work. On 1st May 2016, Z was declared to have, presumed to have died on 1st May 2015. This was the last day in the period of seven years beginning with the day after Z was last seen to be alive, i.e. 1st May 2008. Evidence emerges in 2017, the year after declaration, that Z was in fact alive on 1st June 2008, so about a month after he had last previously been seen to be alive, but otherwise nothing else has changed. The Court then makes a variation order deeming Z to have presumed to have died on 1st June 2015. Well, what on earth is the point of that, is the law truly an ass, you ask yourself? It's relevant because of this. Z's will contained a gift of leased property. Forgive the English example of Whiteacre, sorry but habits from law school die hard, but the gift was Whiteacre to B or if B died before Z, the person that was presumed to have died, to C. B died on 15th May 2015, fifteen days after Z was originally presumed to have died. The Court makes an order Section 29(2) that Whiteacre should be transferred from D, who inherited from B back to C. Unfortunately the example doesn't end there. D can be obliged, D who inherited from B, D can be obliged to transfer of Whiteacre to C, but doesn't have to account for any income he received up to that date, so any rental income, anything else that came. If, however, D had sold Y taker to E, who had acted in good faith, for value, E's title cannot be challenged by C. Z also left property in trust for B's children, if B predeceased Z, but C's children if he did not. B, as a result of the declaration as varied is deemed to have died before Z because of the change, therefore B's children are ordered to be substituted as beneficiaries of the trust in place of C's children, because of the terms of the will and the trustees are liable to B's children for any breach of trust subject to any trustee exemption clause in the trust instrument.

The Hon. Leslie Baldwin –

Yes, so my advice is don't be presumed dead.

The Hon. Nicola Moore –

And that is the end of Section 29. Mr Speaker, it may be a convenient moment.....

The Speaker –

Yes, alright, I'll put the question and then.....

Clause 29.

Question put and agreed to.

The Speaker –

Now, what I can expect at the end of this debate is some lively winding up of the Bill, it looks to me, but right now I think it might be convenient for us to take an adjournment here and come back fresh again tomorrow morning continuing with the thing.

Council resumed.

The Speaker –

Right, I understand there's going to be a Motion proposed for the adjournment of Council to tomorrow morning?

The Hon. Roy Burke (Chief Secretary) –

Mr Speaker, I beg to move that this House do now adjourn until 10 am tomorrow, Friday, 12th December 2014.

The Speaker –

Thank you Chief Secretary. Is there a seconder?

The Hon. Leslie Baldwin –

Mr Speaker, I beg to second.

Question that Council adjourns until tomorrow at 10 o'clock, put and agreed to.

Council adjourned.

