



ST. HELENA

GOVERNMENT OF SAINT HELENA
PROCEEDINGS OF THE LEGISLATIVE COUNCIL
WEDNESDAY, 18TH MAY 2016
FIRST SITTING OF THE FOURTEENTH MEETING

Laid upon the Table 9th December 2016

PROCEEDINGS OF THE LEGISLATIVE COUNCIL

Wednesday, 18th May, 2016

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
(Vicar-General, Fr. Dale Bowers)

3. ADDRESS BY THE PRESIDENT

Honourable Members, ladies and gentlemen, good morning and welcome to the fourteenth meeting of this Legislative Council. I would first like to thank the Vicar-General, Father Dale, for leading this session of formal Legislative Council in prayer and thank all others who have made it possible for this meeting to be held here today.

Honourable Members will recall that there have been a number of important events since we last met in formal Legislative Council, one of which was the inauguration ceremony of our new Governor, Ms Lisa Phillips, who we welcome wholeheartedly into our community and wish her well during her term of office. Another was the successful certification of the St Helena Airport to which we express the greatest appreciation to Basil Read and all their employees for their fine workmanship.

Honourable Members will be aware that the absence from this meeting today of the Honourable Dr Corinda Essex is due to her attendance on behalf of St Helena at a British Islands and Mediterranean Region Conference in Jersey in the Channel Islands. The Honourable Member has recently reported that it was an interesting Conference with several topics of discussion relevant to St Helena and where great interest was being shown in our airport developments.

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 Acting Attorney General	-	Mr Angelo Berbotto

ELECTED MEMBERS

The Honourable Nigel Dollery
The Honourable Wilson Charles Duncan
The Honourable Gavin George Ellick
The Honourable Cyril Robert George
The Honourable Lawson Arthur Henry
The Honourable Brian William Isaac
The Honourable Christine Lilian Scipio O'Dean
The Honourable Bernice Alicia Olsson
The Honourable Mike Olsson
The Honourable Derek Franklin Thomas
The Honourable Pamela Ward Pearce

The Honourable Dr Corinda Sebastiana Stuart Essex
(On overseas Conference)

CLERK OF COUNCILS

Ms Gina Benjamin

We welcome back the Honourable Derek Thomas who has just returned from attending the mid-year Commonwealth Parliamentary Association Executive Committee meeting in London; we shall look forward to a report to the members shortly.

A new member to this Council is the Honourable Mike Olsson who we congratulate on a successful election outcome and welcome here today. We look forward to working with him throughout the remaining life of this Council.

Since our last formal meeting, the Honourable Angelo Berbotto, who has attended our previous meetings in the capacity of Acting Attorney General has now been appointed as our substantial Attorney General, I congratulate him on this appointment and look forward to his important support to this Council.

I am aware that over the past weeks Honourable Members have been holding a number of constituency meetings which appear to have been well attended by members of the public. This is encouraging and I am aware that Her Excellency has taken the opportunity to attend some of these meetings in order to meet members of the public. Reports from members of the public were, indeed, most positive.

This is most likely the last formal Legislative Council meeting that will be attended by the Honourable Nigel Dollery as he has given notice of his resignation from Council on 1st July this year. The Honourable Member has served this island well during his term of office and has placed the island's interests at the forefront, serving the community on various Committees, including Education, Social and Community Development, Finance, Public Accounts. He has also served on the Board of Enterprise St Helena and its governance and audit sub committees and also the Tax Working Group and Estates Strategy Panel. I would like to thank you Honourable Member for the services that you have given to this community in your capacity as a Councillor and for the contributions that you make, both here at formal Legislative Council and at informal Legislative Council meetings. I wish you well for the future and a very happy retirement on your seventieth birthday.

So on to the business before this House today, Honourable Members. There are ten Sessional Papers, five Government Bills, one of which is the Supplementary Appropriation Bill and two Motions. One of these was a late Motion which I shall approve, but which also requires the approval of this Council, which I shall invite at the appropriate time. There are no questions for oral reply today, but three questions have been submitted by the Honourable Dr Corinda Essex for a written reply and there is also the normal adjournment debate. I wish Honourable Members well in their deliberations today and without further delay I shall call on the Clerk to announce the next item of business. Thank you, Clerk?

4.

PAPERS

SP 25/2016

The Speaker –

Honourable Financial Secretary?

The Hon. Colin Owen –

Thank you. Mr Speaker, I beg to present Sessional Paper No. 25/2016, St Helena Audit Service - Managing Grants and Subsidies – Performance Audit – March 2016.

The Speaker –

Thank you, Honourable Member.

Ordered to lie on the table.

SP 26/2016

The Speaker –

Honourable Pamela Ward Pearce?

The Hon. Pamela Ward Pearce –

Thank you. Mr Speaker, I beg to present Sessional Paper No. 26/2016 entitled A Bill for an Ordinance – The Road Traffic (Amendment) Ordinance, 2016.

The Speaker –

Thank you, Honourable Member.

Ordered to lie on the table.

SP 27/2016

The Speaker –

Honourable Financial Secretary?

The Hon. Colin Owen –

Mr Speaker, I beg to present Sessional Paper No. 27/2016 entitled Government of St Helena – Supplementary Estimates 2016/17.

The Speaker –

Thank you, Sir.

Ordered to lie on the table.

SP 28/2016

The Speaker –

Honourable Brian Isaac?

The Hon. Brian Isaac –

Mr Speaker, I beg to present Sessional Paper No. 28/16, A Bill for an Ordinance – the Courts (Extension of Jurisdiction) Ordinance, 2016.

The Speaker –

Thank you, Honourable Member.

Ordered to lie on the table.

SP 29/2016

The Speaker –

Honourable Brian Isaac?

The Hon. Brian Isaac –

Mr Speaker, I beg to present Sessional Paper No. 29/16 – a Bill for an Ordinance – The Criminal Procedure (Amendment) Ordinance, 2016.

Ordered to lie on the table.

SP 30/2016

The Speaker –
Honourable Financial Secretary?

The Hon. Colin Owen –
Mr Speaker, I beg to present Sessional Paper No. 30/2016 – Government of St Helena – a Bill for an Ordinance – The Currency (Amendment) Ordinance, 2016.

Ordered to lie on the table.

SP 31/2016

The Speaker –
Honourable Financial Secretary?

The Hon. Colin Owen –
Mr Speaker, I beg to present Sessional Paper No. 31/2016 entitled Government of St Helena – a Bill for an Ordinance – the First Supplementary Appropriation 2016/17 Ordinance, 2016.

Ordered to lie on the table.

SP 32/2016

The Speaker –
Honourable Attorney General?

The Hon. Angelo Berbotto –
Mr Speaker, I beg to present Sessional Paper No. 32/2016 entitled Order to Rectify the Environmental Protection Ordinance, 2016.

The Speaker –
Thank you, Sir.

Ordered to lie on the table.

SP 33/2016

The Speaker –
The Honourable Financial Secretary?

The Hon. Colin Owen –
Mr Speaker, I beg to present Sessional Paper No. 33/2016 – Government of St Helena – Revised St Helena Government Guarantee to the Bank of St Helena – Hotel Development.

Ordered to lie on the table.

SP 34/2016

The Speaker –
Honourable Chief Secretary?

The Hon. Roy Burke –
Mr Speaker, I beg to present Sessional Paper No. 34/2016 entitled Government of St Helena – Proceedings of the Legislative Council February 12th 2016, First Sitting of the 12th Meeting.

The Speaker –
Thank you, Honourable Member.

Ordered to lie on the table.

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

5.

MOTIONS

Motion No. 1.

THE FIRST SUPPLEMENTARY APPROPRIATION 2016/17 BILL, 2016

The Speaker –
The Honourable Financial Secretary?

The Hon. Colin Owen –
Mr Speaker, I beg to move that the First Supplementary Appropriation 2016/17, 2016, 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. Angelo Berbotto –
I beg to second.

The Speaker –
Thank you, Honourable Member. I put the question that the First Supplementary Appropriation 2016/17 Bill, 2016, be approved in principle and referred to a Committee of the whole Council. Honourable Members, the Motion is now open to debate. Honourable Mover?

The Hon. Colin Owen –
Thank you, Mr Speaker. Could I present the Authority to proceed from the Governor?

The Speaker –

Yes, thank you very much indeed. It's something I had omitted. Right, I have received the Certificate from the Governor to approve the process of this Bill. Honourable Financial Secretary?

The Hon. Colin Owen –

Thank you, Mr Speaker. Mr Speaker, today LegCo is being asked not only to approve funding for the First Supplementary Appropriation 2016/17 for the Hotel Development at 1, 2 and 3 in Main Street, but also to endorse the terms and conditions of the guarantee for a loan with the Bank of St Helena, BOSH, and St Helena Hotel Development Limited, SHHD. Mr Speaker, both are interlinked and revolve around the funding to support economic development on the island in the form of a hotel development. Mr Speaker, the guarantee will be discussed later on so I'll focus on my main principle which is the Supplementary Appropriation.

Mr Speaker, some brief history of the hotel development at 1, 2 3 Main Street. In 2014, Executive Council gave approval for the St Helena Hotel Development Limited, which is a hundred percent owned by St Helena Government, to pursue the construction of a thirty bed, four-star hotel in Jamestown utilising 1, 2, 3 on Main Street. This was based on the detailed BFM studies carried out by Ernst & Young in 2013 showing clear economic benefits of a hotel development. Subsequently, SHHD sought expressions of interest for the design and build phase, Phase 1, of the Hotel Project and the outcome of the procurement was the engagement of Basil Read under a Letter of Intent to carry out the detailed designs for the hotel. These were produced and submitted for planning approval. Conditional planning approval was granted in August 2015. This phase of the Project has been funded by Enterprise St Helena under the current budget as a Project Enabling Works. In February 2015, Mantis Collection was announced as the preferred Hotel Operator following an open procurement by SHHD. Following contract negotiations, the Hotel Management Agreement was developed. Unfortunately no agreement could be made with Basil Read as to the cost of Phase 2, Refurbishment and Construction Phase of the project. SHHD terminated its engagement with Basil Read as a preferred contractor in late 2015. In February 2016, SHHD through Mantis Development sought Expressions of Interest from both local and international contractors for Phase 2 works. This was followed by issuing of Invitation to Tender, ITT, the preferred bidder being **AVIAN GLANKALTA CONSTRUCTION** who is now working with the Hotel Group and Mantis to finalise cost estimates and agree contractual terms. Mantis established a presence on the island through Mr Graham **Best**, the Development Director, who will be on island for at least a year to oversee the development and opening of the new hotel in 2017. With negotiations well in advance, it has now become necessary to secure the funding required to finance the construction, pre-opening and working capital budgets for the coming year.

Mr Speaker, I should like to touch on funding. The funding requirements of the building using the current detailed designs amounts to just under £3m. In addition, there is also a need for the pre-opening and working capital budgets, totalling £700k, making the overall project costs at £3.7m. One of the biggest challenges for the project is getting access to funding in a timely manner. Now that SHHD have received a compliant tender before they can do any conclusions of negotiations and signing of the contract to Phase 2 works, the funding must be secured. Mr Speaker, it has always been envisaged that SHG will contribute £1.5m from the Consolidated Fund Reserve, with £1.2m coming from secured loaning from the Bank of St Helena against the Hotel building and a further £1m from BOSH backed by SHG guarantee, which we will debate later. Approval in principle has been received from BOSH for the £1.2m commercial loan at 5% and the BOSH Board has also agreed in principle to a loan of further monies to SHGD, the additional funding to cover the shortfall, subject to receiving an SHG guarantee for the additional amount. With plans to start the preliminary works late May 2016, funding is now required to execute this work. Discussions with both contractor and Mantis suggest that

the main contract will start in the latter part of June 2016. Mr Speaker, this presents a number of challenges in lining up the different funding streams. The conditions set down by the Bank insist that the loan will only be approved on a basis of evidence that SHG funding will be available. In addition, consideration of the additional £1m BOSH funding will only be considered on approval of SHG guarantee. Therefore, access to BOSH funding will depend on access to SHG contribution and the SHG guarantee. In order for the hotel to conclude discussions with the preferred bidder funding must be approved. This Bill seeks authorisation of the payment of £1.5m from the Consolidated Fund, Head 19, Economic Development. This is the only way funding can be released from the Consolidated Fund in the year other than through a Special Warrant. It was originally proposed to include this in the 2016/17 annual budget estimates, however, at the time there was no certainty around the budget and whether the build cost will make the whole project financially viable. For this reason, it was decided it would be more prudent to approach Legislative Council and to include the funding in a more transparent way possible, as we are doing today. Members are also aware of the initial premise for SHG intervening in the hotel market was due to the lack of interest from investors investing in an untested market and the need for good quality hotel bedrooms on the island. It was also envisaged that once the hotel is established, SHG will look to exit the market as soon as practical, paving the way for local investors to benefit at the prospect of a tourism-led economy. SHG are committed to exiting the hotel industry at the earliest opportunity and hence it's likely that in the coming years that SHG will look to dispose of the shareholding and recognise significant receipts back into the Consolidated Fund. At this stage, receipts cannot be quantified. We will work closely with the Hotel Company to determine the best appropriate time to exit the market.

Financial Model of the Hotel, Mr Speaker. Based on assumptions used, SHHD expects the hotel to be profitable in year 3 of operations. However, SHHD's cash flow projections indicate the project will be cash positive throughout, assuming that the working capital loan is approved, which is included in the overall financing of the hotel of £3.7m.

Mr Speaker, the Consolidated Fund currently stands at £4.8m which takes into account the 2015/16 surplus of £673k. A withdrawal from the Consolidated Fund of £1.5m will bring the overall balance down to £3.3m which is well above the £1m threshold that we aim to maintain as a minimum holding.

Mr Speaker, I'd like to touch on the economic benefit of the hotel to the St Helena economy. The economic benefits of a new, quality hotel on the island have long been discussed as we have the funding models on how this can be achieved. It is difficult to comprehend how the full benefits of the airport can be realised by the island without the hotel offering. Analysis of the wider economic benefits, based on the generic thirty-bedroom hotel development in Jamestown, was carried out using and updating the version of **NEFLOGI** developed by **Ernst & Young** in their 2013 report. Details of the 1, 2 and 3 on Main Street development have been used where known, but otherwise EY's assumptions are being relied upon. Mr Speaker, it is estimated that such a development would deliver an additional £10.6m of wider benefits over a thirty-year period to the St Helena economy. This is made up of £7.4m of economic benefits in the form of direct and indirect employment, both during the construction and operational phases plus an additional taxation of £3.1m. These benefits are for the hotel itself and as such does not include the further tangible benefits of such a project, such as building confidence in the tourism sector and industry and pump prime future investments by proving that they can work.

Finally, Mr Speaker, the negative impacts of not going ahead and therefore not realising the benefits of the airport project would be detrimental to the island's reputation if cost is difficult to access, but the risk should not be underestimated. Thank you, Mr Speaker.

The Speaker –

Thank you, Honourable Member. I put the question that the First Supplementary Appropriation 2016/17 Bill, 2016, be approved in principle and referred to a Committee of the whole Council. The question now is open for debate. Any member wishes to speak? Honourable Lawson Henry?

The Hon. Lawson Henry –

Thank you, Mr Speaker. I would first of all like to declare my interest; it's not a personal one, but that I am the Chairman of the Economic Development Committee.

Mr Speaker, I rise in support of this Motion to provide funding of £1.5m from the Consolidated Fund for capital investment in the Government wholly-owned company St Helena Hotel Development Limited. In 2011, when Her Majesty's Government agreed to fund an airport for St Helena costing some £250m, St Helena Government at the time signed up to a Memorandum of Understanding, MOU, stating that they would do all in their power to ensure that the island and its people played their part to ensure that we do everything possible to make the island ready for a tourism-driven economy following air access. It was right and proper for our Government to have made this commitment given that Her Majesty's Government had made such a huge investment into the airport project. The hotel project is at a critical point where we have an international contractor interested in carrying out the project at a cost that is likely to be within the pre-determined budget. A representative from our preferred contractor visited the island in April and spoke with a number of local contractors with a view to employing a Saint workforce to carry out the required work. Mantis, our Project Managers and preferred Hotel Operator, have installed their representative on the island to oversee both the construction and the pre-opening phase of the hotel project. Through this project, we have an ideal opportunity to tell the world we are open for business and that we are a country that wants to launch into sustainable and ethical investment as well as a world class tourism. We need to instil confidence that we are ready, we are welcoming and we can deliver a world class experience through a pump prime investment that will act as a catalyst for growth. Should the project be delayed at this particular juncture, the impact of backing out of a flagshipped Government-led tourism development would have a significant, detrimental consequence on the reputation of the island both internationally and locally. Some of these risks and impacts are:

- International. Loss of the contractor. We are in a procurement process with a preferred contractor. Delays to the start of the contract would mean that the preferred operator will walk away.
- Increase in construction costs. The price submitted will be valid for a period of time. Should we delay the start of the project, a new budget will be submitted which could potentially be higher. We could lose our Project Managers as we will not have funding to pay project management costs which are being incurred at the moment. We could lose our Hotel Operator, Mantis, who has demonstrated commitment to this project. However, further delays could mean that we run the risk of losing an international brand for the hotel.
- Local. Loss of local construction contractors. There is already significant interest in the early work aspects of the project. Delays could be a loss of confidence on the part of these businesses. Loss of confidence on the part of the wider business community who would be planning to provide services to the hotel.
- Impact on tourism and air service. Loss of confidence on the part of tour operators. Most tour operators need at least a one year lead time and the

knowledge that the hotel will be operational by July 2017 will give them the confidence to set up tours to the island. Loss of confidence on the part of investors who will see the island as being risk at worse.

We must also remember the commitment of the UK Government who have funded at a time of great austerity the £250m project along with a commitment to continue to provide funding to the running costs of the airport and increase spend in key areas such as Health and Safeguarding. We have to show our desire, our willingness to embrace the opportunity and supporting the hotel development is a small but positive step that we are right behind the project and also that we are committed to taking advantage of every possible opportunity that air access will bring. It has been suggested that SHG should delay the decision on whether or not to fund the Jamestown hotel project until there is more certainty of a commercial air service to the island. It is important to note, even if funding is approved today, it will be another thirteen months before the hotel is completed and fully operational. To delay the funding at this point will mean we push the completion date beyond July 2017 and also run the risk of the project becoming far more costly than the draft budget, especially if the Rand strengthens against the Pound. With the airport recently gaining certification, this is the confidence we need to approve the funding and move forward with this key infrastructure project for St Helena and show our commitment to the MOU and the UK Government's investment in our island. With this project, SHG is taking the risk in the absence of a private investor. However, I would argue it is a calculated risk based on a sound business case. The development has attracted local interest; it will create jobs during and after construction and will have an RMS St Helena theme. I believe this project will change our destiny and instil national pride in us as a people. As a Government, we must consider how we are judged in the future. Will it be that we encouraged and led the development of the island or did we wait for someone else to do it for us? We have an opportunity to shape the future that starts by having a hotel in Jamestown for local and visitors alike that will keep the spirit of the RMS alive and will provide jobs in the construction, operational and supply chain of the project.

Finally, Mr Speaker, in giving my support to this Motion before the House today, I do so on the basis that our Government should develop an exit strategy to ensure that at an appropriate time in the future the business is put into the hands of the private sector of St Helena, where it is owned by St Helenians. I beg to move and fully support this Motion.

The Speaker –

Thank you, Honourable Member. The Honourable Brian Isaac?

The Hon. Brian Isaac –

Mr Speaker, Honourable Colleagues, I've given much thought to the Supplementary Appropriation Bill presented before this House today, having had the opportunity to raise concerns in respect of this Bill at Executive Council. Today at this sitting of formal LegCo, Council are requested to make a decision on the proposal for the withdrawal of funds totalling £1,500m from the Consolidated Fund to support the capital investment in the Government wholly owned Company, St Helena Hotel Development Limited, for the purpose to renovate and part construct a hotel at 1, 2 and 3 Main Street. I fully support the need for a hotel in relation to growing the tourism industry, air access and economic growth, but as I stand here today, there are concerns around the uncertainty of air access at the moment, but I'm confident that we will have aircraft landing at the airport, but the?..... will be determined by aerodrome technology. The timing of this Bill comes at a very controversial period in the future of the island's development. The renovation of the existing building mentioned here today raises concerns. One concern that is regularly asked of me by members of the public,

wouldn't it have been better value for money if Government had proposed to build a purpose-built hotel than to renovate an old building. The costs involved can vary in different projects, but the underlying problems are always met soon when plans and estimates are presented. On reflection when considering the risk of this investment, capacity comes to mind and weighing odds against the hotel project I'm becoming more concerned, especially when evaluating SHG's commitment and delivering on projects of larger scale within the capital programme. Some of these projects have been on the books for years with approved funding, but failure to deliver, despite the efforts of Council. I do not want to undermine the hard work of all those involved, but we must be honest with ourselves. SHG have a poor track record in many of these areas mentioned. Today this Honourable House is asked to make a major decision for the island and I'm not convinced that this is the best investment, but I respect the professional advice given and I also have a duty to the people of this island. We have been told that once the hotel becomes operational Government will sell the investment as shares to the public, but how many of us Saints will be able to invest in such an investment? I am concerned with SHG's current poor track record in these fields and the impact this could have, but if we do nothing now we will be in this situation for ten years down the road and that is the reality of this scenario. I've also been with the topic of hotels for St Helena was on everyone's lips, the main concerns were – why has Government not start the hotel, what is DfID support for the hotel. Some members of the public feel as the Haul route and Ruperts development were part of the Airport Project why was the hotel not included? Why are revenues raised locally through taxation used for the hotel and not used locally for improvements of Education and Health Service? An elderly person who has lived all of their life on the island, has never been offshore, said to me, I paid taxes on the island, I will never be able to afford to go to the hotel for a meal, but I'm sure I will require the Health Service. Again, I feel the public is not fully informed of all the hard work that is currently ongoing. I have been in meetings where I have been privileged to view the plans and the customised design. I understand the confidentiality in respect of some of these issues in respect of the tendering process, but I would say, including myself, we are very poor at times in communicating information to the public, I feel that if a lot more information around the hotel were in the public domain this would not be a controversy as it has been. In concluding, Mr Speaker, I will vote on this Motion, but with great reluctance on the many of the unknowns within this project. I beg to move, Sir.

The Speaker –

Thank you, Honourable Member. The Honourable Mike Olsson?

The Hon. Mike Olsson –

Mr Speaker, firstly I would say that I do not support this Motion, but I will say I, as much as previous speakers here, support that there is a need for a hotel development, there's a huge need for tourism development or relating to tourism on the island, but I am not convinced, Mr Speaker, that this is the right idea. If you start with the risks involved in this project, we are talking about in total £1.5+m, £1.5m in funds, £1m in guarantee. It's a substantial part of the reserves in Consolidated Fund. It would be a hard draw down on the Consolidated Fund with the £1.5m initially and the risks in this project. The Honourable Financial Secretary, he said before that Basil Read, could not reach an agreement with Basil Read to build the hotel, because he could not agree on the price, if I understood it right, but Basil Read is a company established on the island, they are already mobilised and no local circumstances and all of a sudden the company comes from South Africa with much less knowledge about the island and island circumstances, they had not already mobilised, but they say that they can do it cheaper than what Basil Read hoped to do. That, to me, raises concern in itself, because if we get the more expensive hotel than what we thought, if we overspend on the £3.7m we have to draw more on

our Consolidated Funds or we're pulling out of the project. Number 1, 2 and 3 is a old building, the security, can we say, in the price estimate is very low, you're easily gonna get a bigger build than what you think, Mr Speaker. And the location of this hotel, which has been controversial, there's no question about it, it went through the planning process without having access to any car parks, it's already put up in a congested area, is this the best way to use taxpayers hard-earned money? The biggest argument at the moment that I can hear for this Motion is that we have already walked so far into this route so we can't back out now and I think that is a poor argument, because what we are risking in the risk of doing is to throw good money after bad. I am saying that 1, 2, 3 is not the best location on the island by far for a hotel and the timing, when we are sitting now, we don't have an airline flying to the island, can we say that everything is up in the air, Mr Speaker, because we are not sure, at least, we as Members are not sure what is actually happening, I don't think anybody else know what's happening either. I do not doubt that aeroplanes will fly to this island, maybe even fairly soon, but which aeroplanes will fly to this island? They might be less luxurious aircraft than what have been envisaged before, attracting a different type of tourists, from different locations and also, I almost lost the thread there, Mr Speaker, I apologise, we had thought to attract inward investment, because I think I can say it is not an ideal position for Government to invest this kind of money, but the market they have not responded to our calls for investment in Number 1, 2 and 3. Why, Mr Speaker, have they not? No, because the risk was too big. When it comes to Government, it's my belief, Mr Speaker, we should listen enough to investment and the private sector. The private sector were not willing to put in the money to build 1, 2 and 3, presumably because the risks were too big. Haven't we got a responsibility to the taxpayers and the people of St Helena to look after their money as well as what big finance is looking after theirs? We have to be, Mr Speaker, extremely careful in what we are doing. To me, putting together the risk factors that we have, we only mentioned a few, and the fairly limited funds in the Consolidated Fund I think we should think once again on this investment and not as previously just focus all attention to 1, 2 and 3 Main Street. There are other places that are more suitable for a hotel; there are other places which would give much better tourism experience than staring into the back of St James Church or into a brown hillside. Thank you, Mr Speaker.

The Speaker –

Thank you, Honourable Member. Does any other Honourable Member wish to speak to the Motion? The Honourable Christine Scipio O'Dean?

The Hon. Christine Scipio O'Dean –

Thank you, Mr Speaker. Mr Speaker, I do not feel it is appropriate for St Helena Government to be involved in hotel development, but I have no option but to endorse Executive Council's decision of 23rd September 2014 to develop 1, 2, 3 Main Street into a 4-star, 30 bed boutique hotel with bar and restaurant facilities, because, Mr Speaker, there is no other source of funding currently available that I am aware of. I beg to move.

The Speaker –

Thank you, Honourable Member. Honourable Pamela Ward Pearce?

The Hon. Pamela Ward Pearce –

Thank you, Mr Speaker. This is a high risk commercial venture as the risk needs to be spread for it puts too long a risk. We're tying St Helena Government into a ten-year risk that is two and a half times of Government, so there's two and a half Governments that we need to be put through. I spent a lot of time speaking to officials and scrutinising this. As late as yesterday

afternoon I was speaking to the Deputy Financial Secretary, trying to clarify some of the issues to inform my decision, which, indeed, proved very useful. I looked at the total cost of the project and the design, build and fit out for ready, questioned how St Helena Government will mitigate the capital risk involved in this project and what the long-term strategy and exit plan was and also looking where other monies could have come from, what other options were explored, such as shares or bonds. It is, probably, it is not my intention to resist development or progress for St Helena, but I do need to ensure that the best decision I make is for St Helena Government and St Helena and that is with all the information and the mitigation of risk and with this in mind I cannot in all conscience say I can approve this. Thank you, Mr Speaker.

The Speaker –

Thank you, Honourable Member. Honourable Nigel Dollery?

The Hon. Nigel Dollery –

Mr Speaker, I do not normally speak to Motions, but this one I support. There is no-one outside who's gonna come to this island and give us a million pounds to build a hotel. There is no alternative and I hate saying that, but the Government's got to go for it, it's as simple as that. We need to have a hotel, we need it built through a reasonable deadline and we need it built through a good standard, there will be problems, and I know that a lot of our senior officials will have nailed their label to the mast on it, and quite rightly so. It has got to happen. No-one else is gonna come in and give us a million pounds to build this hotel and if we leave it to our market to sort itself out and deliver something of similar capacity you can forget it, it will not happen in my lifetime, knowing that I've only got about eighteen years left, yeah, it will not happen in my lifetime, no way will we raise that money in our private sector, so unfortunately, even though I do not like it, I will vote for it, because it has to be done. Thank you.

The Speaker –

Thank you, Honourable Member. The Honourable Derek Thomas?

The Hon. Derek Thomas –

Thank you, Mr Speaker, I first declare my interest, I'm in the rental business. Mr Speaker, I give my support to this Supplementary Appropriation Bill. This capital investment is to enable St Helena Government to pursue the construction of a 30-bed, 4-star hotel in Jamestown. I know there are concerns about the delay and the problems associated in the operational running of our airport, but we must do all we can to address these problems and ensuring our airport is operational as soon as possible. The fully serviced, 30-bed hotel is essential in strengthening our economic growth, it will provide benefits to the island in terms of employment and proper accommodation for our tourists. I give my full support to this Bill, Mr Speaker.

The Speaker –

Thank you, Honourable Member. Is there any other Honourable Member who wishes to speak to the Bill? No one else wishes to speak to the Motion? Honourable Mover, would you like to reply, please?

The Hon. Colin Owen –

Thank you, Mr Speaker. I'd just like to thank Members for their contribution there. A number of Members have raised similar sort of things, so Councillor Scipio O'Dean, Councillor Ward Pearce and Councillor Dollery all mentioned that we'd explored but there isn't much of a choice with the sources of funding. I can just confirm that extensive work has been done and that is the case, there was a extremely huge amount of work done over a two-year period really

to address those concerns and explore every source of funding and we didn't come to any success on that. It was mentioned by Councillor Olsson about the Consolidated Fund, I just wanted to reconfirm the balance that it currently stands is £4.8m, if we were to give £1.5m out of that obviously it would be £3.3m. When we look about what is the correct balance a Government should have, we believe that's been around £1m, that's a sort of an estimate of what it would be if we have to pay up all our liabilities, the main one would be our salaries, that's the sort of level of funding that we would expect the Government of our size to be holding, and that's had various discussions over the years. It was good to hear the extensive support provided by Councillor Henry and Councillor Thomas and I think that the key gist of that really focusing on economic growth. If the hotel wasn't to go ahead, the risks that we put into our economy are extreme, certainly there's been huge investment, and that was brought up around the airport, it's how we deliver the next phase of that, and as you've heard me say plenty of times in St Helena budget speeches, we've performed exceedingly well within the last three years, but we need continued growth to keep that going, we can't just rest on our laurels, it's absolutely clear the industry that will provide that is tourism, there is nothing else that St Helena can do, we have a good fishing industry, but it won't give us the returns that we look at and the economic moulding clearly shows that the tourism industry is the way to go. If we don't have a hotel, we will not be able to generate that additional funding, it's as clear as that. Another one was around the risks and risks on two sides really. If we're not to go ahead with it, there's no doubt in my mind when we come back to this, the costs will increase, as inevitably everything does, but more importantly is the loss of confidence if SHG are not going ahead and invest in the hotel, what sort of message does that send to any potential investors that are looking currently at St Helena? I think it would be extremely detrimental to the economy. We touched on various other reasons about, Mr Olsson did, and thank him, he absolutely clearly sees the need for some sort of hotel development and some sort of tourism on the island. We mentioned and touched on Basil Read not going forward. My understanding that was around costs in the discussion and there might be other reasons that Basil Read no longer wanted to go through, I can't really speak for Basil Read, but I think their focus certainly has been on building the airport and finally there's extensive work done by the EW report and that looked at what would be the value for money, what would be the economic output and looked at where the hotel should be positioned and it came out very strongly that a hotel should be in town and certainly around the building as well, so a lot of extensive has been done on that aspect too. So thank you, Members and I look forward to further discussion. Thank you, Mr Speaker.

The Speaker –

Thank you, Honourable Members. I will put the question. May I just explain that the voting at this stage just allows the Bill to go to the next stage, that's all. I put the question that the First Supplementary Appropriation 2016/17 Bill, 2016, be approved in principle and referred to a Committee of the whole Council.

Question put and agreed to.

The Speaker –

Is anybody declaring a Division? The Ayes have it, the Ayes have it. Council goes to Committee, please?

Council in Committee.

The Speaker –

Okay, so we're in Committee, so you can ask any questions that you want to make. In dealing with this Appropriation Bill we have to go through the Schedule first.

The Hon. Colin Owen –

Mr Speaker, just for clarity, usually the Mover says, Mr Speaker, I beg to move that Council do resolve itself into Committee to consider the detailed provisions of the Bill.

The Speaker –

Yes, can you move that now, please?

The Hon. Colin Owen –

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

The Speaker –

Thank you. Is there a seconder? Yes?

The Hon. Angelo Berbotto –

I beg to second.

The Speaker –

Beg to second.

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

Council in Committee.

The Speaker –

Because this is an Appropriation Bill, we have to take the Schedule first, so we turn to Schedule I. At the same time we read the Schedule against the Estimates for that particular?.....(inaudible).....supplementary estimates.

The Hon. Colin Owen –

Mr Speaker, as we're in Committee, I think it might be useful if Dax Richards comes to the table. Dax is a Director of the Hotel Company, he, I think, will..... I recommend that Dax answers questions that are directly around the Company if there is any; anything to do with financing and SHG I'll respond directly.

The Speaker –

There is only one Head of Expenditure here, Honourable Members, so if Members could dwell on Head 19, I'll put that question and then you can raise the....? Schedule I, Head of Expenditure, Head 19 – Economic Development, standing in the sum of £1,500,000m. Dax, would you like to explain what it's all about?

Mr Dax Richards –

Thank you. As the Financial Secretary has already said, as part of the funding mechanism for the hotel, it was agreed previously that £1.5m would be earmarked in the Consolidated Fund along with funding that would come from the Bank of St Helena for this project. Additionally there were discussions around other options for funding, but as the Financial Secretary has

mentioned previously, none of those came to fruition. So the £1.5m has been requested from the Consolidated Fund will be part contribution to the overall funding of this project.

The Speaker –

Any questions? No questions. Alright, thank you.

Head 19 – Economic Development - £1.5m.

Question put and agreed to.

The Speaker –

We now can return please to the Clauses of the Bill. I put the question that the Title, Enacting Clause and Clause 1 do stand part of the Bill.

Title, Enacting Clause and Clause 1.

Question put and agreed to.

The Hon. Brian Isaac –

.....Division, Mr Speaker?

The Speaker –

Pardon?

The Hon. Brian Isaac –

Could we have a Division at this stage, or later? Division on the votes?

The Speaker –

Division on the vote? What vote? I only heard Ayes at the moment, I haven't heard any Noes to it, there's no Division.

The Hon. Brian Isaac –

Okay, thank you.

The Speaker –

For clarity, I put the question again that the Title with the Clause 1 do stand part of the Bill.

The Hon. Brian Isaac –

Could we have a division, Mr Speaker? Had a No?

The Speaker –

Alright, you can have a Division. You realise you're voting on the Clauses, that's all.

Division Claimed.

AyesNoesAbstentions

The Hon. Lawson Henry
 The Hon. Christine Scipio O'Dean
 The Hon. Pamela Ward Pearce
 The Hon. Brian Isaac
 The Hon. Derek Thomas
 The Hon. Nigel Dollery
 The Hon. Wilson Duncan
 The Hon. Gavin Ellick
 The Hon. Cyril George

The Hon. Bernice Olsson
 The Hon. Mike Olsson

The Hon. Brian Isaac –
 Thank you, Mr Speaker.

The Speaker –
 The result is Ayes – 9, Noes – 2. The Ayes have it.

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

Clause 2.

Question put and agreed to.

The Speaker –
 Bill to be reported.

Council Resumed.

The Speaker –
 Financial Secretary?

The Hon. Colin Owen –
 Mr Speaker, I beg to report that the First Supplementary Appropriation 2016/17 Bill, 2016, 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 very much indeed. Is there a seconder?

The Hon. Angelo Berbotto –
 I beg to second.

The Speaker –
 Thank you very much indeed. You have the opportunity to speak to the Motion again if you want to, Financial Secretary?

The Hon. Colin Owen –

Thank you. Just to thank Members for their support in such an important decision. I think it's the right decision to do and certainly for the economic development of the island it's essential. Thank you.

The Speaker –

Thank you, Honourable Financial Secretary. I put the question that this Council approves the First Supplementary Appropriation 2016/17 Bill and recommends to the Governor that it should be enacted. Any member wishes to speak? Mover, there's no need for you to sum up anymore is there?

The Hon. Colin Owen –

No.

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

The Speaker –

Clerk?

Motion No. 2 – The Honourable Financial Secretary.

The Speaker –

Honourable Financial Secretary?

The Hon. Colin Owen –

Mr Speaker, I beg to move that this House approves the terms and conditions of the revised St Helena Government Guarantee to the Bank of St Helena, as laid before Legislative Council.

The Speaker –

Thank you, Honourable Member. Is there a seconder?

The Hon. Angelo Berbotto –

Yes, I beg to second.

The Speaker –

Thank you. Honourable Financial Secretary, would you like to speak?

The Hon. Colin Owen –

Thank you. Mr Speaker, the paper presented to Members today is a revised vision following discussion and commentary from the Bank of St Helena. It covers the main legal issues which the Attorney General will explain in due course. I must emphasize the initial terms of the guarantee have not changed, being £1m, but it now covers ten years. Mr Speaker, we've already discussed today at length the benefit of the hotel and Members approved the funding of £1.5m from the Consolidated Fund. As mentioned earlier, another element of the funding jigsaw is the guarantee for the Bank of St Helena to cover the additional £1m loan to SHHD. Under section 14 of the Public Finance Ordinance a guarantee can be provided by SHG under the following circumstances:

Guarantees The ...?... may issue guarantees or indemnities for purposes outlined in the Code of Management of Financial Regulations providing that such guarantees or

indemnities do not exceed £1m in any one case or £5m in aggregate at any time. The terms and conditions of the guarantee or indemnity shall be laid before Legislative Council and shall not come into operation unless they have been approved by resolution of the Council.

Therefore, this Motion is brought to the House today requesting the approval of the terms and conditions of the proposed guarantee to the Bank of St Helena. Further, I can give?... that SHG do not have any other substantial guarantees. The guarantee, in layman's terms, gives reassurance to the Bank of St Helena, but if the SHHD can no longer repay the loan to BOSH the SHG would step in and either repay the loan or service the debt. What that means, that SHG would cover the interest being charged on that debt and it currently stand, to the interest rates mentioned, this would be interest of around £40k based on the current interest rate.

Mr Speaker, I can confirm that all avenues for additional funding to support this project have been explored on several occasions since 2013. This included looking up private investment, selling shares to the public and looking to seek additional funding from the UK Government. This went up to ministerial level, but subsequently was not approved, but the UK Government did give a judgement on that that SHG could provide a guarantee if they so wished.

Mr Speaker, the guarantee is essential in order to allow the hotel to proceed. Without the guarantee, Bank of St Helena will not provide a loan to the Hotel Company and the Hotel Project would stop. It would simply not be allowed to go ahead. This would mean a loss of £10.6m economic benefits to the economy. Mr Speaker, I beg to move.

The Speaker –

Yes, I am conscious that this might cause expenditure, a tax on some of the monies in the Bank, has this been approved by the Governor to go forward?

The Hon. Colin Owen –

It would only incur expenditure if the loan was to default and then SHG would then become involved and would have to pay the interest. So as it currently stands, this is a guarantee, there is no financial impact as it currently stands.

The Speaker –

Okay. Thank you for that explanation. Right, the Motion is open to the House for debate then, that this House approves the terms and conditions of the St Helena Government Guarantee to the Bank of St Helena, as laid before Legislative Council. The Motion is now open to debate. Anybody would wish to speak? The Honourable Mike Olsson?

The Hon. Mike Olsson –

Yeah, Mr Speaker, just for record really. As the two Motions are so closely connected, obviously if the first Motion has passed, then it's not so much more to say really because they are, as I say, interconnected. I said everything I wanted to say in the previous Motion, but just for the record that I obviously don't support this one either. Mr Speaker.

The Speaker –

Thank you, Honourable Member. Honourable Brian Isaac?

The Hon. Brian Isaac –

Mr Speaker, I rise in support of this Motion. As previously, this Motion underpins the previous Motion and the both will work hand in glove. I support the Motion. Thank you, Mr Speaker.

The Speaker –

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

The Hon. Christine Scipio O'Dean –

Thank you, Mr Speaker. Mr Speaker, in a previous forum, I was advised that there is no need for a St Helena Government guarantee because the debt is less than 25% of the Bank's capital base. I must express my disappointment that the terms and conditions of this guarantee have been presented so late. The third version was received after 5 pm yesterday, hence there hasn't been, there has been inadequate time to consult with my fellow Councillors or even to try to understand the legal jargon. Mr Speaker, this Council has approximately one year remaining of its tenure. We, as a Council, must make the right decision for the people of the island bearing in mind that a yes decision will commit St Helena Government and Legislative Council for the next ten years. Mr Speaker, due to inadequate discussions, I am unable to support this Motion at this time.

The Speaker –

Thank you, Honourable Member. The Honourable Nigel Dollery?

The Hon. Nigel Dollery –

It strikes me, Mr Speaker, that this is a fairly standard commercial practice for such a large loan and to balk at it, having agreed, as my colleague has said, with the hotel itself it is a pointless exercise, so.

The Speaker –

Thank you, Honourable Member. Honourable Pamela Ward Pearce?

The Hon. Pamela Ward Pearce –

Thank you, Mr Speaker. As said before in the previous Bill, I did spend a lot of time looking at the Bill and so was quite disappointed to find, on returning from a constituency meeting last night, to find a different version in my Inbox that had been sent after five o'clock and while the principle may well be essentially the same, I have not had the time to scrutinize this as I should have wanted to, but I have to make a decision that I'm accountable for and I cannot support this because I haven't had the time to scrutinize this or to discuss with officials or my colleagues. Thank you, Sir.

The Speaker –

Thank you, Honourable Member. The Honourable Attorney General?

The Hon. Angelo Berbotto –

Thank you, Sir. The guarantee before the House today is a st...?.... guarantee. The principles that were discussed with this Honourable House are the same. What has changed is a negotiation with the Bank as to the nitty gritty of the guarantee. Even if you had had one full month to scrutinize this document I will be really surprised if, having not had specific training on financial and law, this would make much sense and I'm not being patronizing, I'm being realistic. The discussions and the expertise of officials has been put to the benefit of the House, nothing has changed. The negotiation with the Bank as to the different scenarios whereas the guarantee would be called for, that is what has taken place. When this guarantee, its first draft was presented to the Honourable House, it was discussed that it was going to be for £1m, that figure hasn't changed. It was discussed that it would be for a period of time, about ten years, now it has been confirmed that it is for ten years. That it is the to guarantee if the Bank could not pay the loan if the Hotel could not pay the loan that the Bank was going to make, that hasn't

changed. The identity of the Bank hasn't changed, and, of course, Mr Speaker, I am the drafter of this guarantee, if any of the Members have any questions I'm more than available to assist. Thank you.

The Speaker –

Thank you, Honourable Member. The Honourable Lawson Henry?

The Hon. Lawson Henry –

Thank you, Mr Speaker. Having just agreed the Supplementary Appropriation Bill, I could not, can't for the life of me see why I would object to the guarantee. I don't understand the legal jargon in this document, but what I'll be agreeing to is the principle of it, there has been much discussion around this area, that it was going to be a £1m guarantee over a ten-year period so nothing has changed for me. I don't require any further, and I'm making this on the basis that this is the best way in the limited circumstances that we find ourselves in on St Helena with no inward investment, to go, and I believe that is right for St Helena and all its people so I agree to this Bill, Mr Speaker.

The Speaker –

Thank you, Honourable Member. Is there any other Honourable Member who might wish to speak to the Motion? No other Members? Mover, would you like to wind up, please?

The Hon. Colin Owen –

Thank you, Mr Speaker. I must comment again, thank you for the support from Members and especially to the Attorney General for giving further explanation around the actual Motion and what we're trying to do here, an explanation on the terms and what has, and what hasn't changed and the principles still remain the same. Thank you.

The Speaker –

Thank you, Honourable Member.

Question on Motion put.

The Hon. Brian Isaac –

Could we have a Division, Mr Speaker?

The Speaker –

Alright, a Division has been called. Clerk, will you take the votes, please?

<u>Ayes</u>	<u>Noes</u>	<u>Abstentions</u>
The Hon. Lawson Henry	The Hon. Christine Scipio O'Dean	
	The Hon. Pamela Ward Pearce	
The Hon. Brian Isaac		
The Hon. Derek Thomas		
The Hon. Nigel Dollery		
The Hon. Wilson Duncan		
	The Hon. Gavin Ellick	
The Hon. Cyril George		
	The Hon. Bernice Olsson	
	The Hon. Mike Olsson	

The Speaker –

The results of the vote – Ayes 6, Noes 5, the Ayes have it.

The Hon. Brian Isaac –

Thank you, Mr Speaker.

The Speaker –

Clerk?

Motion No. 3 - The Honourable Brian Isaac.

The Speaker –

Honourable Brian Isaac?

The Hon. Brian Isaac –

Mr Speaker, I beg that the Courts (Extension of Jurisdiction) Bill, 2016, be approved in principle and referred to a Committee of the whole House.

The Speaker –

Is there a seconder, please?

The Hon. Derek Thomas –

Mr Speaker, I beg to second.

The Speaker –

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

The Hon. Brian Isaac –

Mr Speaker, the purpose of this Ordinance is to give effect to certain recommendations made by the WASS Inquiry to ensure that Orders and Sentencing, including all ancillary orders of the Court in St Helena, Ascension or Tristan da Cunha can be extended to and enforced in the other territories. The Ordinance also amends the Magistrates Court Ordinance 2011 to refer to the jurisdiction as extended under the Ordinance Cap 101 are amended to increase and align certain penalties. Similar amendments are being introduced to the local legislation of other territories. Mr Speaker, this draft legislation falls under the portfolio of the Social and Community Development Committee and has been presented at formal Legislative Council meetings with the Attorney General in attendance. It has been out for public consultation and at the meetings I attended at Ruperts, Harford, Longwood and Jamestown with Councillors Duncan, Ellick and Olsson constituents did not raise any major concerns. At Ruperts one member of the attendance of seven opted for the current procedure to remain as it is. Other meetings where there were no major concerns, but having said that I'm not aware of the public perception of other meetings held in Blue Hill, Sandy Bay, Kingshurst, Levelwood and Half Tree Hollow. With respect, I would ask my Honourable Colleagues who attended these meetings if they wish to pass any comments made by members of the public in connection with this Bill. Mr Speaker, I beg to move.

The Speaker –

Thank you, Honourable Member. I put the question that the Courts (Extension of Jurisdiction) Bill, 2016, be approved in principle and referred to a Committee of the whole Council. Honourable Members, the Motion is open to debate. Honourable Gavin Ellick?

The Hon. Gavin Ellick –

Thank you, Mr Speaker. I, too, attended some of those meetings and during my time a couple of people made these arguments why are we trying to change and I, too, because going back about ten, fifteen years ago, it would change to safeguard people leaving from here to Ascension and what was told by the Attorney General was that, or recommended, was that if you get a sentence of doing time on Ascension, it would follow through here, but if you were on Ascension and you did any crime or did anything you'd get fired. I know for myself because I am one of those people, so I can't see why your sentence should be carried over when you actually lose your job and that is what I got from some of the constituency meetings I attended, they're not for this here and I think the public, the wider public need this here Bill to be explained to them properly. Sir, thank you.

The Speaker –

Thank you, Honourable Member. Any other Honourable Member wish to speak to the Bill? Honourable Christine Scipio O'Dean?

The Hon. Christine Scipio O'Dean –

Thank you, Mr Speaker. Mr Speaker, acknowledge the work of the Chief Magistrate and the recommendations of the WASS Inquiry. I must express my concern about the consultation process, as highlighted by my Honourable Friend there, Ellick, as in my opinion it has not been widely consulted on. As with other pieces of legislation, they are not posted in convenient locations in the country districts for easy reference for constituents who do not have internet access and moreover when broadband data allocations have been used up. Also, Mr Speaker, could the Mover advise this House if there will be reciprocal arrangements for Court Orders and Sentences in St Helena to be applied in other jurisdictions? I beg to move, Mr Speaker.

The Speaker –

Thank you, Honourable Member. Is there any other Honourable Member who wishes to speak to the Motion? Honourable Attorney General?

The Hon. Angelo Berbotto –

Thank you, Mr Speaker. St Helena, Ascension and Tristan da Cunha are one British Overseas Territory. They share one Governor, they share one Chief Justice of the Supreme Court, but the Magistrates Court are a creature of Ordinance and we have a territory where the law, where St Helena has a Legislative Council, but the other islands don't. The situation that this Ordinance addresses is an anomaly because whereas the Orders made by the Chief Justice are valid in the entire territory, the Orders of the Chief Magistrate when he sits in St Helena are only valid in St Helena, but if the same Chief Magistrate who sits in Ascension those Orders have no validity over there, so this is what it should have been all along, so that is the first point I want to make. The second point I wish to make is that in response to Councillor Scipio O'Dean, yes, the other two islands are enacting and passing similar legislation, mirror legislation so that if the Chief Magistrate makes an order in St Helena and the person goes to Ascension the Court there may be able to deal with that and I leave the question of consultation to the elected members because they represent the community and consultation is in their hands. Thank you, Mr Speaker.

The Speaker –

Thank you, Honourable Member. Yes, Ma'am, have you spoken?

The Hon. Christine Scipio O'Dean –

Can I rise in the order of observation, permission to rise under the order of observation, Mr Speaker?

The Speaker –

Alright, point of order. Yes?

The Hon. Christine Scipio O'Dean –

Yes, point of order then. Mr Speaker, I've looked at the Road Traffic Ordinance on the Ascension Island website and I was unable to locate where it stipulates in that Ordinance where if someone has been given an Order or sentence on St Helena it's actually transferred to Ascension Island, so my observation is, I'm making a comment is the, don't know if I'm allowed to, Mr Speaker, I hope you give me the permission, pointing up on a comment that the Attorney General has mentioned, if he can direct me to the Ascension Island Road Traffic Ordinance where it stipulates that if a Order or sentence is made in the Courts in St Helena is transferred to Ascension Island.

The Speaker –

I think you've made your point.

The Hon. Christine Scipio O'Dean –

Thank you. Are you able to do that now, Attorney General?

The Hon. Angelo Berbotto –

I have explained that the other islands are passing legislation that mirrors it, I haven't said that they have passed legislation. The legislator of the other islands is the Governor, they do have island councils but they don't have the powers that this Honourable House has and there will be mirror legislation so that the Orders of the Court in St Helena will be executable in Ascension. Thank you.

The Speaker –

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

The Hon. Brian Isaac –

Thank you, Mr Speaker and I thank my Honourable Colleague, Christine Scipio O'Dean for her input into debate. I also thank the Attorney General for his explanation on some of the concerns raised. I would also, as a point of information, like, which I missed in my presenting this Bill, was that the consultation also extended to the media, the Attorney General and I explained the content of this Bill as well. The meetings were held around the island, some were well attended, some were poorly attended and I think the reason for that, Mr Speaker, is that we had two sets of constituency meetings almost within the one week and I'm sure that people probably felt I've been out tonight, I will not bother tomorrow night, but it was the opportunity to members of the public. Thank you, Mr Speaker.

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 –
Mover, Councillor?

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

The Speaker –
Thank you very much, Honourable Member. Is there a seconder?

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

The Speaker –
Thank you, Honourable Member.

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

Council in Committee.

The Speaker –
Council is now in Committee. The title, the enactment clause and Clause 1, I put the question that they stand part of the Bill. Any questions, please? Is there a date to be imposed in here? There's no date at the moment.

The Hon. Attorney General –
There will be a date,?..... I think by the Governor, so probably next week.

Title, Enacting Clause and Clause 1.

Question put and agreed to.

The Speaker –
Clause 2. Somebody wishes to explain that at all? Attorney General?

The Hon. Angelo Berbotto –
Section 2 provides a mini dictionary, what is meant by the words "courts" and "orders" and what is "substantial connection" because these are a concept that are dealt with in the remainder of the amendment ordinance.

The Speaker –
Thank you, Attorney General. Any questions on Clause 2?

Clause 2.

Question put and agreed to.

The Speaker –

Clause 3. Attorney General?

The Hon. Angelo Berbotto –

Yes, this clause is the substantial clause, it provides that all the orders made by the other courts of Ascension extend to St Helena unless the court at the time of making such an order orders otherwise, so there's a presumption that if there is a substantial connection the St Helena Court can deal with the substance of an order made by the Magistrate in Tristan or the Magistrate in Ascension.

The Speaker –

Can I ask a question then, does this apply only to criminal proceedings or civil proceedings as well?

The Hon. Angelo Berbotto –

To both.

The Speaker –

Any questions, please? No questions.

Clause 3.

Question put and agreed to.

The Speaker –

Clause 4. Attorney General?

The Hon. Angelo Berbotto –

This clause amends provisions of the Magistrates Court Ordinance and the Criminal Procedure Ordinance especially in relation to fines and updating those fines that were extremely low by today's standards.

The Speaker –

Increases to fines. Anybody has any other questions to ask on that? Councillor Ellick?

The Hon. Gavin Ellick –

I'm quite confused with this. Why is it that the fines have risen to £1,000?

The Speaker –

Honourable Brian Isaac?

The Hon. Brian Isaac –

Mr Speaker, this is the maximum amount in the Ordinance and I'm sure my colleague had some information on this at Committee. It's the maximum amount will be paying.

The Hon. Angelo Berbotto –

The fines in the Criminal Procedure Ordinance they have been maintained for a number, a period of time, they require to be updating because the deterrent element of a fine is in how much it hurts people who breach the law to pay for that crime. I cannot recall exactly what the

£50 was for, but it has now been substituted. The intention of this amendment is that the maximum will be £1,000.

The Hon. Gavin Ellick –

Can I ask one other question, Sir? I quite confused. If this Bill was supposed to give jurisdiction over people who's on Ascension and things and up here, why is the fines been raised because if you committed a crime on Ascension you will get fired, you come home, so I can't understand why is this here being in there and this was one of my problems we had throughout the consultation.

The Hon. Angelo Berbotto –

This doesn't affect.....

The Hon. Gavin Ellick –

I got everybody shaking their head at me like this here, I don't know, so that's why I asking. If I knew the law I guarantee I'd give a better argument than what I doing now.

The Hon. Angelo Berbotto –

That's fine, Councillor, it's a pity you haven't asked me before because this section, section 4, does not amend the provisions in relation to Ascension or Tristan. This amends our Magistrates Court Ordinance and only updates the maximum fines in relation to these provisions.

The Hon. Mike Olsson –

Mr Speaker, thank you, Mr Speaker. For me to sit here and approve fines to go up from £50 to £1,000 or from £10 to £1,000, I would appreciate to know what the offences were, otherwise I can't judge if, I can't just sit here and say yes to it, because what have these people done wrong to get these fines, otherwise I can't support that this is included here, because I don't know what it is for.

The Hon. Angelo Berbotto –

Mr Speaker, I'm happy to, after the adjournment, or at any time that you deem appropriate to go and get from my law books the Criminal Procedure Ordinance and the Magistrates Court Ordinance so I can enlighten elected members because I don't have it at hand and to go one by one through those provisions.

The Speaker –

Yes, it's going to be difficult for the Attorney General to respond to each one now, but Councillor Isaac, have you had consultation on this piece of legislation before bringing it to the House?

The Hon. Brian Isaac –

Yes, there has been consultation.

The Speaker –

And consulted with the elected members on how the....

The Hon. Brian Isaac –

And consulted with elected members.

The Speaker –

Were questions raised at the time?

The Hon. Brian Isaac –

I think, I can't recall exactly, but questions around the fines were raised, I'm not sure of precise questions, but questions around the £1,000 fine were raised.

The Speaker –

Any other questions, please?

The Hon. Gavin Ellick –

Well I can say, can I speak, Sir?

The Speaker –

Yes.

The Hon. Gavin Ellick –

It was raised, but nobody don't seem to give us no definite answers why it has been raised so hence the reason when you taking this piece of legislation out to consultation you can't really explain it because if you don't have nobody explaining it to you why and when you cannot portray that to the people and so at the end of the day we be passing the Bill what we don't really understand, so how can we betray that to our people? Is that a fair ...?....

The Speaker –

Chief Secretary?

The Hon. Roy Burke –

Mr Speaker, could I propose a short adjournment to allow the Attorney General to get the information that's required so that the House can be fully informed before making a decision?

The Speaker –

That's a very sensible suggestion. Okay, Members agree with that? Okay, the proposition is that the House will adjourn for a few minutes, what time, Attorney General?

The Hon. Angelo Berbotto –

A quarter to.

The Speaker –

A quarter to. Alright, fifteen minutes adjournment, please? Thank you.

Council adjourned.

Council resumed.

The Speaker –

Honourable Members, we will resume in Committee now. Honourable Attorney General, can we hear from you?

The Hon. Angelo Berbotto –

Thank you, Mr Speaker. The section 4 of Section 2. The Criminal Procedures Ordinance is amended by deleting the expression fifty pounds where it occurs in section 224 (g) subsection (3) and subsection (5), paragraph (a) and substituting for £1,000. That deals with the fine when a greater community service order. At the moment if a person who has been given a community service order breaches that order the penalty is fifty pounds. The amendment would make substitute the fifty pounds for one thousand pounds. Section 236 (5) is in relation to the misconduct by probationers so where a probation order is made and the probationer has failed to comply with the provision at the moment the fine cannot exceed ten pounds, Mr Speaker, so that is the amendment in relation to the Criminal Procedure Ordinance. In relation to the Road Traffic Ordinance, which amends section 24 (2), that section deals with provisions as to disqualifications and suspensions. Where a person who is disqualified by virtue of a conviction or order under this Ordinance is the holder of a licence the licence shall be suspended so long as the disqualification continues in force and the licence so suspended shall during the time of suspension be of no effect. A person who was disqualified from holding or obtaining a driver licence drives or attempts to drive at the moment the maximum fine is one thousand pounds and the amendment ordinance increases to two thousand five hundred and the term of imprisonment at the moment is not exceeding one year and it is increased to eighteen months.

The Speaker –

Thank you, Honourable Member for that, thank you very much. Any other questions? Honourable Christine Scipio O'Dean?

The Hon. Christine Scipio O'Dean –

Thank you, Mr Speaker. Can I ask the Attorney General for clarification? Mr Speaker, in the beginning of this Ordinance on page one it refers to extend certain orders and sentences made by the Court to St Helena, but within the Bill they're talking about amending fines, so the title at the beginning refers to extending certain orders and sentences, there's no mention of fines in that first paragraph of the Bill, but it is included in the Bill. Can I ask for clarification as to is the title at the beginning correct, I don't know, should have included the words.....

The Speaker –

We're not permitted to go back to the clauses, but you're not talking about the clauses you're talking about the fines?

The Hon. Christine Scipio O'Dean –

I'm talking about the fines, yes, so I'm asking should the fines be included.....

The Speaker –

It doesn't have to mention that at all, can I help you out? It doesn't have to mention that, the actual paragraphs or clauses will amend various clauses in the main Ordinance so you can just put amendments.

The Hon. Christine Scipio O'Dean –

Okay, thank you for the clarification.

The Speaker –

A general explanation in the Explanatory Note, that's at the bottom of the page. Clause 4, any other questions on Clause 4? Councillor Olsson?

The Hon. Mike Olsson –

Yes, just the Attorney General is thanked for the explanation first of all, but it is confusing to put, on purely practical terms, to put these amendments in a completely unrelated Ordinance. Wouldn't it be possible to put this in a separate Ordinance, because this is confusing for people that have got to work with this Ordinance and everything else to be able to find where it is, it seems a very confused way of doing drafting, which is not very helpful for the future, because I would propose that it's not in this Ordinance, because it's in the wrong Ordinance?

The Hon. Angelo Berbotto –

The Honourable Member will be pleased to hear that there is going to be a consolidation of the laws of St Helena by the end of the year. I dealt with that at the last sitting of this Honourable House, so that problem that the Honourable Olsson raises will be solved.

The Speaker –

Thank you, Honourable Attorney General. Any other further questions on Clause 4?

Clause 4.

Question put and agreed to.

The Speaker –

And finally, Clause 5? It's just a

The Hon. Angelo Berbotto –

A repeal.

The Speaker –

A repeal.

Clause 5.

Question put.

The Speaker –

Councillor Olsson, you want to ask.....

The Hon. Mike Olsson –

Can we get some information what are we repealing, Mr Attorney General, we can't just sit here and repeal laws without knowing what we are repealing?

The Speaker –

Yes, the clause itself says what you're repealing.

The Hon. Mike Olsson –

Yeah, but give a little bit further information both for us or for people that might be listening, Mr Speaker, if that's possible.

The Hon. Angelo Berbotto -

I am grateful, although I'm a little bit perplexed, because although Honourable Olsson has had at least a month to ask this question he decided now to ask it. The Supreme Court (Jurisdiction in the Dependencies) Ordinance is no valid Ordinance anymore because since the Constitution,

since the passing of the Constitution the position of the Supreme Court in the territory is dealt with there. Councillor Olsson and other members of this Honourable House have access to the entire collection of the Laws of St Helena because they are on the?.... of St Helena Government and is still available there for reading until it's repealed when it will be removed.

The Speaker –

Alright, okay, that's the normal way of repealing Ordinances, so just take that the whole Ordinance itself, Supreme Court jurisdiction in the Dependencies. Thank you.

Clause 5.

Question put and agreed to.

The Speaker –

Bill to be reported.

Council resumes.

The Speaker –

Honourable Mover?

The Hon. Brian Isaac –

Mr Speaker, I thank my Honourable Colleagues for their concerns raised and I beg to report that the Courts (Extension of Jurisdiction) Bill, 2016, 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. Derek Thomas –

Mr Speaker, I beg to second.

The Speaker –

Thank you, Honourable Member. Do you want to speak anymore to that Motion?

The Hon. Brian Isaac –

No, Mr Speaker. I put the question that this Council approves the Courts (Extension of Jurisdiction) Bill, 2016, and recommends to the Governor that it should be enacted. Any other member wish to speak at this stage? Honourable Mike Olsson?

The Hon. Mike Olsson –

Yes, thank you, Mr Speaker. I don't think, personally I don't have any big problems with the part of this Ordinance that is transferring the different offences and penalties between the islands in the South Atlantic, but I have problems with clauses 4 and 5 which I still feel have nothing to do in this Ordinance and causes confusion. It's nice that we're gonna have a Law Revision but why do we create extra work for the Law Revision? These two clauses could easily be put in a different legislation and be put forward next time so we clean up our laws slightly, that's just my view on this, that's my reason why I don't want it to go through as it is.

The Speaker –

Thank you, Honourable Member. Any other Honourable Member wishes to speak at this stage? Honourable Mover, do you wish to respond?

The Hon. Brian Isaac –

No, Mr Speaker.

Question that the House approves the Courts (Extension of Jurisdiction) Bill, 2016, and recommends to the Governor that it should be enacted, put and agreed to.

The Speaker –

Clerk?

Motion No. 4 – The Honourable Brian Isaac.

THE CRIMINAL PROCEDURE (AMENDMENT) BILL, 2016.

The Speaker –

Honourable Brian Isaac?

The Hon. Brian Isaac –

Mr Speaker, I beg to move that the Criminal Procedure (Amendment) Bill, 2016, be approved in principle and referred to a Committee of the whole House.

The Speaker –

Thank you. Is there a seconder?

The Hon. Derek Thomas –

Mr Speaker, I beg to second.

The Speaker –

Thank you, Honourable Member. Honourable Mover, would you like to speak to the Motion?

The Hon. Brian Isaac –

Mr Speaker, this Bill falls under the portfolio of the Social and Community Development Committee and amends the Criminal Procedure Ordinance Cap 23 to make provisions for the Prosecution to apply to a Judge alone where the selection of an impartial jury will be difficult and it is desirable in the interests of justice for the case to be tried by a Judge alone. Mr Speaker, this Bill has been out for public consultation but there's been some recommendations for certain sections to be amended. I've also received concerns from colleagues following presentation at informal LegCo who have had some concerns which they wish to raise today. At a meeting in Jamestown, concerns were raised in respect of a person's human rights and discrimination in finding an impartial jury for someone who is well known in a small community. The Honourable Attorney General is aware of the concerns and would wish to make some amendments here today. Members of the public who attended constituency meetings were in favour of the draft presented but in respect of the current drafts which were presented here there have been some amendments which the Attorney General will explain. Mr Speaker, I beg to move.

The Speaker –

Thank you, Honourable Member. First I'd better put the question. The question is then that the Criminal Procedure (Amendment) Bill, 2016, be approved in principle and referred to a Committee of the whole Council.

Question put and agreed to.

The Speaker –

The question is now open for debate. The Honourable Christine Scipio O'Dean.

The Hon. Christine Scipio O'Dean –

Thank you, Mr Speaker. Mr Speaker, having been privy to advice given by the Chief Justice and questions raised by the Public Solicitor I cannot support this piece of legislation and call on my fellow Councillors to support my request for it to be withdrawn until such time we can determine the necessity for any amendments.

The Speaker –

Thank you, Honourable Christine Scipio O'Dean. Honourable Mike Olsson?

The Hon. Mike Olsson –

I fully support Councillor Scipio O'Dean in this matter. Like her, I also done some extensive research about this piece of legislation or what it's called and there are serious concerns about it. First of all, if we are speaking about taking this into committee, we already know that we got the wrong piece of legislation in our green folder here and that is proposed that that should be amended in here today. It's a very strange way of doing legislation I have to say. But what it has to do with is that it is proposed that the prosecutor in some cases, especially when the defendant is maybe well known or infamous, but it is deemed by the prosecutor that he has problems or there will be problems to find an impartial jury and the problem with having that type of legislation is that we make one law for one person that might be well known and we make another law for another person, because the person that is well known it might be decided that he's not allowed to have a jury for exactly the same offence that somebody else has committed that is not that well known. This has to be looked at much deeper into the legality of this piece of legislation, so I shortly, I fully agree with Councillor Scipio O'Dean, because we are becoming into human rights issues, equality before the law, which UK signed in 1948, we are breaking it here, that's my view, we should not proceed and get us into trouble with this Ordinance. Thank you, Mr Speaker.

The Speaker –

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

The Hon. Angelo Berbotto –

Thank you, Mr Speaker. Last year, Sasha Wass, a very well known and respected QC in the UK was commissioned to carry out an inquiry into safeguarding. As part of that inquiry she met with members of the public, she leafed through mountains of documents and one of those persons that she interviewed was the Chief Justice of the Supreme Court of St Helena, an individual who is of, has extensive experience, a lawyer who is very well respected and for that reason he has been recommended to the appointment of Chief Justice, somebody who is learned in the law and who is even a former Attorney General of Montserrat; he's been in this post for nine years. Of course Ms Sasha Wass was interested in what the Chief Justice wanted to say.

He raised the issue of ...?... impartiality of juries. As part of the Government's implementations of the recommendations by Sasha Wass, the Government has had to look at how the jury system works on St Helena. This proposal, Honourable Members, it seeks to implement one of the recommendations. Why are we having so much money spent on an inquiry if those recommendations are not going to be implemented? That is not a question for you to answer now, but for you to think about. The amendment seeks to amend section 167 of the Criminal Procedure. The criminal procedures are those rules that are used in order to govern how criminal cases are heard by the Court. Section 167 says "when an accused person is committed for trial, one of the Magistrates or the Clerk of the Court shall explain to him that he has the right to elect whether to be tried by jury or by the Chief Justice or a Trial Judge sitting alone and he shall call on him to make his election. An election once made shall not be changed except for good reason and with the leave of the Chief Justice. If the accused person refuses to elect or remains silent, the trial shall be by jury. This is the law as it stands at the moment. What does the law of England say, and why I'm mentioning the law of England is because it is the experience of St Helena that we are catching up with the development in England and Wales and that is not a bad thing, that is an opportunity to see how things are changing and whether those changes are necessary for St Helena or not. In England and Wales since recently, and I don't remember whether it was 2010 or before then, there's a provision that says that trial by jury is a default position but if there are any risks of tampering with the jury the Trial Judge may order a trial by Judge alone. Tampering with the jury may not be the issue for St Helena but in the wise words of the Chief Justice impartiality of a jury is an issue and this is very simply because this is a small community and people know each other so the proposal before this Honourable House is for the prosecution to have an opportunity to put submissions to the Judge, submissions seeking to prove that the trial should be with a Judge alone on the grounds that the nature of the case or the character of the defendant renders improbable that an impartial jury could be selected. It doesn't mean, it doesn't say, Honourable Members, that the prosecution will choose, it only says that the prosecution can put a case to the Judge. Who decides? The Judge. When does the Judge decide? When the Judge hears both parties. Who is better placed to make that decision? You tell me? I think it's the Judge. For this reason, because this is a recommendation that comes from the Chief Justice through the Wass Report, because there is an expectation that we do something with the Wass Report's recommendation, I invite this House to recommend this piece of legislation for enactment. Thank you, Mr Speaker.

The Speaker –

Thank you, Honourable Attorney General. Is there any other Honourable Member who wishes to speak to the Motion, to the Bill? No other Member? Honourable Mover, you may reply at this stage.

The Hon. Brian Isaac –

Mr Speaker, I thank my two colleagues for raising their concerns and I also take the advice of the Attorney General at this stage. Thank you, Mr Speaker.

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

Divison Claimed.

Ayes

Noes

Abstentions

The Hon. Lawson Henry
 The Hon. Pamela Ward Pearce
 The Hon. Brian Isaac
 The Hon. Derek Thomas
 The Hon. Nigel Dollery
 The Hon. Wilson Duncan
 The Hon. Cyril George

The Hon. Christine Scipio O'Dean
 The Hon. Gavin Ellick
 The Hon. Bernice Olsson
 The Hon. Mike Olsson

The Speaker –

Thank you, Clerk. The results of the vote – Ayes 7, Noes 4, the Ayes have it.
 Honourable Mover?

The Hon. Brian Isaac –

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

The Speaker –

Thank you, Sir. Is there a seconder?

The Hon. Derek Thomas –

Mr Speaker, I beg to second.

The Speaker –

Thank you very much.

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

Council in Committee.

The Speaker –

Honourable Members, we're in Committee and you can ask any questions as we go along in the clauses, as you like. Is the Attorney General ...?.....

The Hon. Angelo Berbotto –

Thank you.

The Speaker –

Alright, I'll put the question first that the Title, Enacting Clause and Clause 1 do stand part of the Bill. Any questions?

Title, Enacting Clause and Clause 1.

Question put and agreed to.

The Speaker –

Clause 2. Attorney General, would you like to explain Clause 2?

The Hon. Angelo Berbotto –

Yes. This clause is to repeal the current section 167, which I've read before and to substitute it for the following text, the heading is – "Election for trial by jury or by judge alone". There is an amendment in the current version of the first paragraph 167 (1), it now reads "When a

defendant is committed for trial, one of the justices or the Clerk of the Court must explain to the defendant that he or she has the right to elect whether to be tried by jury or by the Trial Judge sitting alone and must call on the defendant to make an election. The words “Chief Justice or a” are deleted. The reason for this is that they’re not necessary; the Chief Justice is also the Judge.

The Speaker –

Right, the proposal is an amendment that the words in section 167 (1) by the “Chief Justice or a”, that’s right?

The Hon. Angelo Berbotto –

The words “Chief Justice or a”.

The Speaker –

“Chief Justice or a” are deleted.

The Hon. Angelo Berbotto –

That’s right.

The Speaker –

That’s all? Yes. Is there a seconder to the amendment, please?

The Hon. Brian Isaac –

Mr Speaker, I beg to second.

The Speaker –

So the proposal is to delete the words “the Chief Justice.....

The Hon. Angelo Berbotto –

No, “Chief Justice or a”.

The Speaker –

“Chief Justice or a”.

Question on amendment, put and agreed to.

The Speaker –

Is that the only amendment then?

The Hon. Angelo Berbotto –

There is also the same amendment in subsection (3) which reads now “An election under subsection (1) once made may not be changed except for good reason and with leave of the Trial Judge but may be set aside as provided by subsections (5) and (6). So the words “Chief Justice or a” are deleted.

The Speaker –

It’s “Chief Justice or a”?

The Hon. Angelo Berbotto –

Sorry, yeah, “Chief Justice or a”.

The Speaker –

So the words, it's proposed that the "Chief Justice or a" are deleted. Is there a seconder to that?

The Hon. Brian Isaac –

Mr Speaker, I beg to second.

Question on amendment, put and agreed to.

The Hon. Angelo Berbotto –

The text of subsection (5), the proposal is that the current text is disregarded, is deleted, and that subsection (5) now reads – "The prosecution may apply to the Judge for the trial to be conducted without a jury on the grounds that the nature of the case or the character of the defendant(s) render it improbable that an impartial jury could be selected."

The Speaker –

It's a complete new section.

The Hon. Angelo Berbotto –

It is, it replaces the current reading of section 5.

The Speaker –

Yes, it replaces. Do you have copies of the wording that I could put on to Members?

The Hon. Angelo Berbotto –

Yes, this new wording was made available at the last sitting of the informal LegCo.

The Speaker –

Okay. It's just that I have to repeat that wording.....

The Hon. Angelo Berbotto –

I can repeat it for you.....

The Speaker –

No, it's not right me repeating it to you. Do you have any wording there at all?

The Hon. Angelo Berbotto –

Yes.

The Speaker –

I'll try it. The proposal then, as I understand it, is that the words in the current section (5) are deleted in their entirety, yes, and it's replaced by these words – "The prosecution may apply to the Judge for the trial to be conducted without a jury on the grounds that the nature of the case or the character of the defendant(s) render it improbable that an impartial jury could be selected." Honourable Members, I understand that you have been circulated with that draft, yes?

Question on amendment, put and agreed to.

The Hon. Derek Thomas –

Just on a point of information, Mr Speaker, there wasn't a seconder.

The Speaker –

It wasn't seconded, nobody seconded it. Is there a seconder?

The Hon. Brian Isaac –

Mr Speaker, I beg to second.

The Speaker –

And I said that the replacement words are - "The prosecution may apply to the Judge for the trial to be conducted without a jury on the grounds that the nature of the case or the character of the defendant(s) render it improbable that an impartial jury could be selected."

Question on amendment, put and agreed to.

The Speaker –

Is there any other.....

The Hon. Angelo Berbotto –

Yes, there's a final one.

The Speaker –

A final one?

The Hon. Angelo Berbotto –

Yes, at section 6, the inclusion of the words "in his discretion" after the word "may" so that it now reads "Upon such an application and after hearing representations from each of the defendants the Judge may, in his discretion, order the trial to be by a Judge sitting alone.

The Speaker –

So?..... that you inserted the words after

The Hon. Angelo Berbotto –

After the word "may" we insert "in his discretion".

The Speaker –

In his discretion. Will you read it once again as it now stands, the amendment?

The Hon. Angelo Berbotto –

Yes. Upon such an application and after hearing representations from each of the defendants the Judge may in his discretion order the trial to be by a Judge sitting alone.

The Hon. Mike Olsson –

There's a question on that.

The Speaker –

Yes?

The Hon. Mike Olsson –

You question on the rewording. Discretion, does it mean that it's appealable or discretion means that it's non appealable?

The Hon. Angelo Berbotto –

Discretion means that after the Judge considers all the facts and the arguments put to him he has the ability to make a decision. If at any point there is an error of law in the conduct of the trial that is appealable.

The Hon. Mike Olsson –

But not in the mode of the trial is what I am asking?

The Hon. Angelo Berbotto –

Can you, I didn't understand what you're saying?

The Hon. Mike Olsson –

If you cannot challenge the Judge's decision to not hold a jury trial?

The Hon. Angelo Berbotto –

Of course you can appeal a decision of the Judge if you can prove that the Judge has made a mistake in law.

The Hon. Mike Olsson –

Okay.

The Speaker –

So the amendment to that section then as it has been proposed, can I have a seconder for the proposal that after the word "may" in paragraph six, clause 6, insert the words "in his discretion".

The Hon. Brian Isaac –

Mr Speaker, I second the amendment.

The Speaker –

You second the amendment, thank you very much for that.

Question on amendment, put and agreed to.

The Speaker –

Bill to be reported, has somebody been taking note of all the corrections?

Council resumed.

The Speaker –

Bill to be reported please, Honourable Member?

The Hon. Brian Isaac –

Mr Speaker, I beg to report that the Criminal Procedure (Amendment) Bill, 2016, passed the Committee with four 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?

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

The Speaker –
Thank you, Honourable Member. Mover, do you wish to speak to the Motion?

The Hon. Brian Isaac –
Mr Speaker, just to say I thank my Honourable Colleagues for raising such concerns and I hope that the answers given by the Attorney General have been appropriate in this case. Thank you, Mr Speaker.

The Speaker –
Thank you, Honourable Member. I put the question that this Council approves the Criminal Procedure (Amendment) Bill, 2016, and recommends to the Governor that it should be enacted. Any Member wishes to speak? No further debate? Mover needn't to respond then.

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

The Speaker –
Honourable Members, it's half past twelve and I wonder if it's a suitable time for an adjournment here now and we come back at half one. Yes, you agree? Council is adjourned.

Council adjourned.

Council resumed.

The Speaker –
Honourable Members, we are resumed. I think we'd got down to Motion No. 5. Would Clerk of the Councils call the next item, please?

Motion No. 5 – The Honourable Financial Secretary

THE CURRENCY (AMENDMENT) BILL, 2016

The Speaker –
Honourable Financial Secretary?

The Hon. Colin Owen –
Thank you, Mr Speaker. I beg to move that the Currency (Amendment) Bill, 2016, be approved in principle and referred to a Committee of the whole Council.

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

The Hon. Angelo Berbotto –
Thank you, Honourable Attorney General. Honourable Financial Secretary, would you like to speak to the Motion?

The Hon. Colin Owen –

Thank you, Mr Speaker, yes. Hopefully this amendment will be more straightforward than the previous ones we've had already today. It really comes from issues that are raised by the PAC and the main amendment was regarding laying of Currency Accounts on the table at LegCo. Since then we've looked at a couple of other minor amendments, we've changed the wording from the Auditor to Chief Auditor and we've repelled subsection (2). Subsection (2) related to producing six monthly financial statements and issuing those to the Secretary of State, we don't think that's appropriate, the normal process for financial statements is on a yearly basis and that's what we're doing, we're repelling that, so what will happen in the future, the financial statements will be laid on the table on a yearly basis and produced on a yearly basis.

The Speaker –

Thank you, Honourable Financial Secretary. I put the question that the Currency (Amendment) Bill, 2016, be approved in principle and referred to a Committee of the whole Council. The question is now open for debate. Honourable Christine Scipio O'Dean?

The Hon. Christine Scipio O'Dean –

Thank you, Mr Speaker. Mr Speaker, is amendment to this Ordinance is just a tidying up exercise and therefore has my support. I beg to move.

The Speaker –

Thank you, Honourable Member. Any other Honourable....Honourable Nigel Dollery?

The Hon. Nigel Dollery –

Mr Speaker, being a member of the PAC, I declare an interest, I'm absolutely delighted to see this. Thank you, Sir.

The Speaker –

Thank you, Sir. Honourable Brian Isaac?

The Hon. Brian Isaac –

Mr Speaker, I rise in support of this Motion. Previously being a member of the PAC this has been discussed and it's very appropriate and it has my full support. Thank you.

The Speaker –

Thank you, Honourable Member. The Honourable Mike Olsson?

The Hon. Mike Olsson –

Yeah, I rise in support of this Motion, it's like Councillor Christine Scipio O'Dean has said, it is pure tidy up work and make sure that they're running the operations in the Currency Fund legally or following the Ordinance as it stands, so no objections.....

The Speaker –

Thank you, Honourable Member. Honourable Cyril George?

The Hon. Cyril George –

Mr Speaker, I rise in support of the Motion, it's a tidying up exercise of the Ordinance and as a member of the PAC I support the Motion.

The Speaker –

Thank you, Honourable Member. Honourable Lawson Henry?

The Hon. Lawson Henry –

Thank you, Mr Speaker. I, too, rise in support of the Motion. As has already been said, a minor amendment to tidy up the Ordinance. Thank you.

The Speaker –

Thank you, Honourable Member. Anybody else wishes to speak to this Bill? Honourable Tony Duncan, er Wilson Duncan, let's get you right again, Wilson?

The Hon. Wilson Duncan –

That doesn't matter, Mr Speaker, so long as you don't call me late for my supper. As a temporary member of PAC, I support this.

The Speaker –

Thank you, Honourable Wilson Duncan. Any other Honourable Member wish to speak to the Motion? Honourable Mover, would you like to respond?

The Hon. Colin Owen –

Just to say thank you for hundred percent support which is very welcome.

The Speaker –

Thank you.

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

The Speaker –

Honourable Mover?

The Hon. Colin Owen –

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

The Speaker –

Is there a seconder, please?

The Hon. Angelo Berbotto –

I beg to second.

The Speaker –

Thank you, Honourable Member.

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

Council in Committee.

The Speaker –

The House is now in Committee. 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 –

First I invite debate on it, anybody has any comment to make on it? No, then I put the question again.

Title, Preamble and Clause 1.

Question put and agreed to.

The Speaker –

Can we take both Clauses 2 and that should be 3 there, I've got 2 and 2? Is that a 2 and a 3, sections 2 and 3, Annual Statement of Accounts. It should be 3?

The Hon. Angelo Berbotto –

It should be 3.

The Speaker –

Okay, so Clauses 2 and 3, Chief Auditor and Annual Statement of state of the Fund, I put the both of them together. Any debate or questions? Honourable Christine Scipio O'Dean?

The Hon. Christine Scipio O'Dean –

Thank you, Mr Speaker. You've amended to item number 3 so we've also got another 3 further on under (c), I'm not sure if that should be (4) or is it (3), but my question here is not related to that, I was just trying to distinguish what (3) I'm referring to. It states the annual accounts of the Commissioners shall be audited by the Chief Auditor. The word "Chief" is underscored, can I ask what is the rationale for the "Chief" to be underscored, underlined?

The Speaker –

Honourable Attorney General?

The Hon. Angelo Berbotto –

The underlining, that might respond to a requirement in the actual drafting, so it can be completely disregarded. My impression is that it has been highlighted just to mark where the new word is, that does not need to be underlined in the final version of the Bill.

The Hon. Christine Scipio O'Dean –

So can I perhaps be provided with clarity, Mr Speaker, if this needs to be an amendment to the Bill that is in front of me, because it's shown as underlined?

The Speaker –

I suppose it could be regarded as typographical?

The Hon. Angelo Berbotto –

It doesn't change the meaning of the provision. We only ascribe meaning to the word, not to how those words appear, whether in italics or in underlined, so I agree with Mr Speaker that this can be regarded as a typographical error, although it's not strictly so. It doesn't, I don't know if it helps in terms of clarity, it can be completely disregarded that highlighting.

The Speaker –
Chief Secretary?

The Hon. Roy Burke –

Mr Speaker, I was going to suggest that if the draft?..... it should be easily remedied by simply changing it?..... underlines an amendment in my view would be appropriate, but can I just also say that we haven't or you haven't taken a vote on the amendment to deletion of (2) as a mistake and replacing it with (3), so at the moment that hasn't been voted upon. Can I also suggest then that the "Chief" is no longer underscored?

The Speaker –

Okay, the proposal is that the (2) be changed to (3) and the underscore is deleted from the

Question on amendments put and agreed to.

The Speaker –

Anything else? No? Okay.

The Speaker –

Bill to be reported. Just for clarity, you have approved the amendment (2) and (3), yes?

The Hon. Roy Burke –

I approved the amendment, Sir, but I think the Clauses are

The Speaker –

Okay, the whole paragraph?

Clauses 2 and 3 (as amended).

Question put and agreed to.

The Speaker –

Okay, a lot of these could be dealt with just by typographical errors.

Council resumed.

The Speaker –

Bill to be reported?

The Hon. Colin Owen –

Mr Speaker, I beg to report that the Currency (Amendment) Bill, 2016, passed the Committee with two amendments and to move that this Council approves the said Bill and recommends to the Governor that it should be enacted.

The Speaker –

Okay, I'm losing my way now too. Right, yes, okay, is there a seconder to the Motion?

The Hon. Angelo Berbotto –
I second the Motion.

The Speaker –

Yes, thank you very much indeed. The Mover wishes to speak back to the Motion again? No? I put the question that this Council approves the Currency (Amendment) Bill, 2016 and recommends to the Governor that it should be enacted. The House may debate. Any further debate? No. Do I take it that the Mover doesn't have anything to respond to or you wish to respond? Nothing?

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

The Speaker –
Clerk?

Motion No. 6 – The Honourable Pamela Ward Pearce.

The Speaker –

Honourable Pamela Ward Pearce?

The Hon. Pamela Ward Pearce –

Mr Speaker, I beg to move that the Road Traffic (Amendment) Bill, 2016, be approved in principle and referred to a Committee of the whole Council.

The Speaker –

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

The Hon. Gavin Ellick –

I beg to second.

The Speaker –

Thank you, Honourable Member. Honourable Mover, would you like to speak?

The Hon. Pamela Ward Pearce –

Thank you, Mr Speaker. This Road Traffic (Amendment) Bill of 2016 seeks to amend the Road Traffic Ordinance Cap 101 to prohibit the use of the mobile telephones, hand held radios and any other hand held communication devices while driving. This Bill has been taken out to the community for consultation and has been met with approval by the constituents. It is welcomed by members of the public as, with the advent of modernization and the increased use of technology we need to ensure safety of other road users. Some constituents have commented that this has already become an issue with drivers using mobile phones while using vehicles while in motion, so I put this Bill forward for the House please.

The Speaker –

Thank you, Honourable Member. I put the question that the Road Traffic (Amendment) Bill, 2016, be approved in principle and referred to a Committee of the whole Council. The question now is open for debate. Honourable Christine Scipio O'Dean?

The Hon. Christine Scipio O'Dean –

Thank you, Mr Speaker. Mr Speaker, I rise in support of this amendment, but I wish to bring to your attention that once again we are dealing with legislation in a piecemeal fashion. A Working Group was set up approximately two years ago to review the Road Traffic Ordinance and I believe that they have only met a few times during this period. It will appear, Mr Speaker, that we are reacting to the introduction to the mobile phone service when in fact it was requested before the inception of the Working Group. Mr Speaker, I beg to move.

The Speaker –

Thank you, Honourable Member. Is there any other Member who wishes to speak? The Honourable Lawson Henry?

The Hon. Lawson Henry –

Thank you, Mr Speaker, I rise in support of this Motion to amend the Road Traffic Safety Ordinance. This is a necessary piece of legislation and whilst my Committee, the Economic Development Committee, has political responsibility for communications it was this Committee that recommended that this amendment should go forward and, yes, I can appreciate my Honourable Friend here about the review of the Road Traffic Ordinance, I would suggest that given the safety measures that need to be taken into account with the use of mobile phones while driving, it is prudent that this House approve this Bill today, so I stand in support of it. Thank you.

The Speaker –

Thank you, Honourable Member. The Honourable Derek Thomas?

The Hon. Derek Thomas –

Thank you, Mr Speaker. Mr Speaker, I rise in support of this Bill, the Road Traffic (Amendment) Ordinance, 2016. The Bill prohibits the use of mobile phones, hand held radios and any other hand held communication device whilst driving, these restrictions are necessary in the interest of public safety, I give my support to the Bill.

The Speaker –

Thank you, Honourable Member. The Honourable Nigel Dollery?

The Hon. Nigel Dollery –

Mr Speaker, I rise in support of this Bill. We do not need an accident to take place because we couldn't shift ourselves in getting this sorted.

The Speaker –

Thank you, Honourable Member. The Honourable Wilson Duncan?

The Hon. Wilson Duncan –

Mr Speaker, I rise in support of this Bill because I feel it is a sensible Bill.

The Speaker –

Thank you, Honourable Member. Is there any other Honourable Member who wishes to speak to the Bill? The Honourable Brian Isaac?

The Hon. Brian Isaac –

Mr Speaker, I rise in support of this Bill having been able, along with my colleague, to take this out to public consultation. The meetings that I attended received full support with no objections and in that light I support the Motion. Thank you, Mr Speaker.

The Speaker –

Thank you, Honourable Member. Is there any other Honourable Member who wishes to speak? Honourable Mover, would you like to reply? Sorry, we have another one here, it's the Honourable Gavin Ellick?

The Hon. Gavin Ellick –

I stand in support of the Motion, but like the Honourable Christine Scipio O'Dean we have other pressing issues in the Road Ordinance that have not been sorted out for the last twenty-three months so please can us have that sorted out as well? Thank you.

The Speaker –

Any other Member wishes to speak? The Honourable Mover, would you like to reply, please?

The Hon. Pamela Ward Pearce –

Thank you, Mr Speaker. I thank my Honourable Colleagues for their support. While I recognise that there is a larger piece of work that's ongoing with the main Road Traffic Ordinance and that the progress is, indeed, very slow, we still need to make sure that this necessary piece of legislation is enacted to ensure safety on our roads.?.....I beg to move this Bill, Sir.

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. Pamela Ward Pearce –

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, Honourable Member. Is there a seconder, please?

The Hon. Gavin Ellick –

I beg to second.

The Speaker –

Thank you.

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

Council in Committee.

The Speaker –

The House is now in Committee. The Title, Enacting Clause and Clause 1.

Title, the Enacting Clause and Clause 1.

Question put and agreed to.

The Speaker –

Clause 2. Yes, Honourable Member?

The Hon. Christine Scipio O'Dean –

Clause 2, Mr Speaker, you ...?.... to continue and I'll ask for an amendment or shall I propose an amendment at this stage?

The Speaker –

I leave it to you.

The Hon. Christine Scipio O'Dean –

Okay, Clause 2, the Title above the No. 2, the sub title is Mobile Phones and I'm proposing an amendment to read "Mobile Phone, hand held radio or any other hand held communication device".

The Speaker –

Chief Secretary?

The Hon. Roy Burke –

Thank you, Mr Speaker, I'm going back a clause, I'm afraid, because there's clearly a typographical error there as well in terms of the date.

The Speaker –

Can we just.....

The Hon. Roy Burke –

So it's Ordinance 2015, it should be sixteen?

The Speaker –

Yes, okay, that's very good, thank you.

The Hon. Roy Burke –

It wasn't me, Sir, it was the Honourable Deputy Speaker.

The Speaker –

Yes, thank you very much for that, typographical, 2016, do I need to put that? Yes, perhaps I'll put it, that the date should be amended as such Ordinance 2016.

Question on amendment, put and agreed to.

The Speaker –

Again, the mobile phones, your recommendation? Anybody got any other things to say?

The Hon. Mike Olsson –

Yes, just if we're making that change, Mr Speaker, change the 2015 in the heading as well, 2016 in the heading. St Helena, Number, the allocated number of the 15 should also then obviously be 16.

The Speaker –

Thanks for that, Councillor. You have proposed that, who will second that amendment?

The Hon. Roy Burke –

I'll second that, Mr Speaker.

The Hon. Gavin Ellick –

I beg to second.

The Speaker –

The amendment is that the title is changed to the number of 2016.

Question on amendment, put and agreed to.

The Speaker –

Sorry, now we've come to Councillor Christine Scipio O'Dean's recommended amendment. It's just a title, not a part of the?

The Hon. Christine Scipio O'Dean –

No, it was just the title, Mr Speaker, because if you look at the clause, 32(a) (1) it does make reference to hand held radio or any other hand held communication device whereas the title it's just mobile phones, so it needs to be consistent, in my opinion, Mr Speaker.

The Speaker –

Is there any seconder for your amendment?

The Hon. Gavin Ellick –

I beg to second.

The Speaker –

Anybody else got any comments on that?

The Hon. Mike Olsson –

Only that it appears in two places, both headings?

The Hon. Christine Scipio O'Dean –

Yes.

The Hon. Mike Olsson –

No, that was clear.

Question on amendment, put and agreed to.

The Speaker –

Right, okay, it's the titles that were moved in both places. Any other comments?

The Hon. Christine Scipio O'Dean –

Observation, Mr Speaker, if the title is amended in both places, does it mean two amendments or just one amendment, just for the help of my Honourable Friend here when she needs to count the amendments?

The Hon. Angelo Berbotto –

It is two amendments.

The Hon. Christine Scipio O'Dean –

Two amendments, thank you.

Clause 2 (as amended) –

Question put and agreed to.

The Speaker –

Bill to be reported.

Council resumed.

The Speaker –

Councillor, Bill to be reported.

The Hon. Pamela Ward Pearce –

Mr Speaker, I beg to report that the Road Traffic (Amendment) Bill, 2016, passed the Committee with four 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, Ma'am, is there a seconder?

The Hon. Gavin Ellick –

I beg to second.

The Speaker –

Thank you very much. Honourable Mover, would you like to speak to the Bill?

The Hon. Pamela Ward Pearce –

No, Sir.

The Speaker –

I put the question that this Council approves the Road Traffic (Amendment) Bill, 2016, and recommends to the Governor that it should be enacted. Members are entitled to speak at this stage if they wish to. Honourable Attorney General, thank you, Sir.

The Hon. Angelo Berbotto –

Thank you, Sir. These amendments makes it an offence to hold a mobile phone whilst driving. The population of St Helena needs to be aware that it doesn't matter whether they're using it, it doesn't matter what they're doing with it, as long as they're holding it in their hand when they're driving and they're stopped by the Police at that point, it will be committing an offence,

so I just wanted to flag this to the population of St Helena, because the justifications for the exceptions that these amendments identify are very limited, so it is not an offence if somebody holds a mobile phone and drives if that person is a member of the Police Service or Fire Service and they are executing their duties as such or if the person holding that mobile phone or radio using it to call the Police or the Fire Service and they're responding to a genuine emergency. Now, this new section, section 32 (a) is going to be inserted right after the section 32 of the Road Traffic Ordinance that deals with Careless Driving and it is fitting that it is going to be placed there because science shows that the effect of, the destructing effect upon drivers of a mobile phone is well documented. Thank you, Mr Speaker.

The Speaker –

Thank you, Honourable Member. Is there any other.....Honourable Wilson Duncan?

The Hon. Wilson Duncan –

Mr Speaker, I think this is worthy of a mention. About two Fridays ago on my way into Jamestown just past the Field Road junction there was a light green Peugeot parked in there, so normally when you see someone parked up you slow down to say, you know, are you okay and to my amazement he said, no, Sir, he say, I stop because I am using my mobile phone. I thought, how responsible, I thought that was worth a mention and the law is not even passed.

The Speaker –

Okay, thank you very much for that good news. Any other Member wishes to speak? Honourable Mover, would you like to reply?

The Hon. Pamela Ward Pearce –

I'd like to thank my Honourable Friend, the Attorney General for his explanation and clarity on the situation and, of course, people of St Helena should be now quite clear that even if they're not actually using the phone they are committing an offence if they are holding the phone while the car or vehicle is in motion and I, like my Honourable Friend, for drawing attention to the fact that there are people out there who are responsible and even though the law is about to be enacted that the behaviour has changed and I'm pleased to ask to move this Bill. Thank you.

The Speaker –

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

The Speaker –

Thank you, Honourable Member. Clerk, please, next item?

Motion No. 7 – The Honourable Mike Olsson.

The Speaker –

Thank you, Sir.

The Hon. Mike Olsson –

Mr Speaker, I beg to move that this House urges St Helena Government to immediately take tangible steps towards improving communication and information flows between different sections of the Administration and elected members.

The Speaker –

Thank you, Honourable Member. Now, before I call for a seconder on this one, it was a late Motion and to allow a late Motion to go before this House needs the approval of the President and the members of the House. I recommend that it should go forward, how do other members feel?

Question on whether Motion should go forward, put and agreed to.

The Speaker –

You may proceed, Sir. Is there a seconder to your Motion?

The Hon. Brian Isaac –

Mr Speaker, I beg to second.

The Speaker –

Thank you very much indeed. Honourable Mover?

The Hon. Mike Olsson –

Thank you, Mr Speaker. I'm going to speak very briefly to this Motion because I think most people reading the Motion and heard me reading the Motion it is self explanatory. I've only been a member of Legislative Council for not even two months I think but I can see things that I would like to see improved when it comes to communication and as I also have a background of working with most members and sometimes members have relayed to me some frustration as well, because what we want to achieve is more accountable Councillors, we all want to be accountable for what we are doing and other people expect us to be accountable, Mr Speaker, but it is difficult to be accountable if you don't know. It doesn't mean that you are ignorant but it is information that you might not have received in a timely manner or a timely manner like with all information is important. I know for a long time previously, for example, air access, there were some problems with information in a timely manner, I don't propose to use too many examples here, but I can also say that air access it really shaped up just over the last couple of weeks when the problems started we get more frequent updates, but it also is apparent that not every sections, if you read the Motion as it's meant to read, that there are also some concerns about communication between different parts of the Administration where the left hand doesn't know what the right hand is doing, which is a problem in all organisations, it's not just in St Helena Government. That's why I'm urging the House, urging St Helena Government to immediately take tangible steps. It can be discussed if all members here, elected members on part of Government or not, but there also a responsibility on us, and at least making us available because getting information across also takes time from both sides, which I think is well spent time in this case and with that, Mr Speaker.

The Speaker –

Thank you, Honourable Member. I put the Motion first, the Motion is that this House urges St Helena Government to immediately take tangible steps towards improving communication and information flows between different sections of the Administration and elected members. The Motion is now open to debate and I see the Honourable Nigel Dollery?

The Hon. Nigel Dollery –

Mr Speaker, it can be never bad to improve communication, but in this particular case I like examples, I like written examples where the system has failed. We can all talk and bitch about things that didn't go how we thought they ought to go, but I will be very happy to support this

Motion if I had five or six live examples of failure. I have found here that if I want to know something I can usually find it out and usually it just means going and asking somebody. Now, I do not like general criticism, I like specific criticism. Specific criticism merits attention and things can be addressed and put right, in general, I've had no trouble with the communications, there are things I missed, maybe my fault, maybe somebody else's fault, yeah? I'm not perfect, neither is anybody else in this room as far as I know, but more examples, not just a general one otherwise it's joining the same thing which we all like to do, which is bitch, rather than addressing particular failings. Thank you, Sir.

The Speaker –

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

The Hon. Christine Scipio O'Dean –

Thank you, Mr Speaker. Mr Speaker, whilst I understand the sentiments that the Mover is expressing, this is an issue that needs to be dealt with delicately. I strongly feel that this forum is not the appropriate place for debate and I do not wish to undo any good work that has already been achieved in this area. I beg to move.

The Speaker –

Thank you, Honourable Member. Honourable Lawson Henry?

The Hon. Lawson Henry –

Thank you, Mr Speaker. I rise to speak to this Motion but I regret that I will not support this Motion. Like my Honourable Friend, Councillor Nigel Dollery, I've not had any examples and there's been no specific information given to me that I could look at in relation to where any failings or perceived failings. I've been a Councillor now in this Government and I am a part of this Government, I consider myself to be for nearly three years I enjoy a very good working relationship with all the Directorates in our Government. If I feel that I am not getting information I go out and seek it out and that's my way of dealing with the issue and I think, you know, Mr Speaker, that in relation to this here there is ways you can deal with any particular failings if we know what those failings is but this Motion doesn't tell me that, so regrettably I cannot and will not support it.

The Speaker –

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

The Honourable Derek Thomas –

Mr Speaker, this is my second term on Council now and I have to say my first term some years back there was issues, in my view, with the flow of information and the level of communication, Council has on many occasions brought that to the attention of officials and I am pleased to say over the years it has got better, there has been much improvement and cases where information is not forthcoming then clearly I will go and request that information, but I find it difficult to support, unless there is clear evidence, I have to say the level of communication has improved tremendously within SHG, so as the Motion stands I will not be able to support it as it stands. Thank you.

The Speaker-

Thank you, Honourable Member. Any other Honourable Member wish to speak? The Honourable Brian Isaac?

The Hon. Brian Isaac –

Mr Speaker, I wish to thank my Honourable Colleague for placing this Motion before the House today as this has been a topic for many years amongst members and officials and has been spoken of in different forums. Officials and previous Governors during my term in office has recognised the weakness and has tried to address this problem but very often intentions are good but the process weakens and the process fails in some areas and there are reasons for this, people move out of office, people move into office and sometimes these issues are overlooked. There are examples which has been highlighted, but there still seems to be a weakness in the confidential process, the information is leaked and into the public arena before Council are made aware, this can be an embarrassment for SHG and all involved. Overall I support the Motion, Mr Speaker.

The Speaker –

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

The Hon. Pamela Ward Pearce –

Thank you, Mr Speaker, I rise to speak to the Motion. Communication in most areas of life could serve to be improved. I see this as a work in progress, this is something that has been previously discussed in Council and as I recall it was mentioned by your good self, Mr Speaker, in our first meeting with our new Governor. Communication is a two-way street and I myself may well be guilty of a failure to communicate effectively. I firmly believe that we should all strive for improved communications but not in this forum so I cannot support this Motion.

The Speaker –

Thank you, Honourable Member. Any other Honourable Member wish to speak? The Honourable Gavin Ellick?

The Hon. Gavin Ellick –

I stand in support of this Motion. I quite disappointed with the rest of my fellow Councillors. For weeks on end they be going to elected members meetings we find that we don't have information and now we saying that we go out and find this information? No, No, I support this Motion. We need a better communication. Thank you.

The Speaker –

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

The Hon. Mike Olsson –

Yes, Mr Speaker, we've got a mixed bag we can say this afternoon of support and the not support and I'm fully aware that when I put forward this Motion that I cannot give specific examples of quite obvious reasons, then you will cause friction between Council, maybe myself and certain individuals and that's not what we stand and do here in Council, I cannot talk about anything else than the general, where we generally should go. I have to say I was quite surprised that some Members do not want to improve communication, go and find out yourself, when, I am aware, Mr Speaker, that there have been, so there is great need for improving communication, both ways, within Government and to elected members.

The Speaker –

Can I take a point of order first, I'm supposed to take it while the point of order is raised. Councillor will you just be seated first, Councillor Olsson? Only a point of order.

The Hon. Lawson Henry –

Those who opposed the Motion said that the information couldn't be improved, I did not say that. What I wanted from the Mover is specific examples of where he thought information could be improved. Flow of information can always be improved, Mr Speaker, but I didn't say it couldn't be improved.

The Speaker –

Okay, your point of order. Thank you. Councillor, go back on your feet?

The Hon. Pamela Ward Pearce –

Point of order, Sir?

The Speaker –

Pardon? Point of order?

The Hon. Pamela Ward Pearce –

Yes. I also say, and I read here verbatim, I firmly believe that we should strive for improved communications but not in this forum. Thank you, Sir.

The Speaker –

Okay. Councillor?

The Hon. Mike Olsson –

Yes, I did not highlight, Mr Speaker, any specific comment to any specific Councillor, but I still insist that this is the right forum to talk about improved information because this is the forum for, the official forum for discussion, so I insist on that, but every member is up to himself with his own belief what should be done. Thank you, Mr Speaker.

The Speaker –

Thank you, Honourable Member. Are you making a point of order?

The Hon. Derek Thomas –

Yes, Mr Speaker, I rise on a point of order here, I did say that my time in Council the level of communication has improved, it has improved, so I find it difficult to support this Motion as it stands because I gave, I did indicate that when I first joined there was difficulty.....

The Speaker –

You can't go on, I can't allow.....

The Hon. Derek Thomas –

One of the point I raised, Mr Speaker, is that the level of communication within SHG has improved tremendously.

The Speaker –

Thank you, thank you. Okay. On points of order you have to make your point and the Speaker says sit down, sorry about that, you make your point and the Councillor can take it onboard. Okay, have you finished, Sir, or you wanted to respond to the last comment at all or not?

The Hon. Mike Olsson –
No, I don't think so.

The Speaker –

I put the question then that this House urges St Helena Government to immediately take tangible steps towards improving communication and information flows between different sections of the Administration and elected members.

Question put.

Division Claimed.

<u>Ayes</u>	<u>Noes</u>	<u>Abstentions</u>
	The Hon. Lawson Henry	
	The Hon. Christine Scipio O'Dean	
	The Hon. Pamela Ward Pearce	
The Hon. Brian Isaac		
	The Hon. Derek Thomas	
	The Hon. Nigel Dollery	
	The Hon. Wilson Duncan	
The Hon. Gavin Ellick		
	The Hon. Cyril George	
		The Hon. Bernice Olsson
The Hon. Mike Olsson		

The Speaker –

Results of the votes – 3 Ayes, 7 Noes, the Motion is therefore defeated.

6. ADJOURNMENT DEBATE

The Speaker –

Any Member wish to speak on the Adjournment Debate? Honourable Christine Scipio O'Dean?

The Hon. Christine Scipio O'Dean –

Thank you, Mr Speaker. Mr Speaker, you highlighted in your opening speech that potentially this is the Honourable Dollery's last formal LegCo, so, Mr Speaker, I'd like to take this opportunity to publicly thank Honourable Dollery for his support and dedication as Deputy Chair of the Education Committee and a special mention for the support that he has given me during a very difficult time. Thank you, Mr Speaker.

The Speaker –

Thank you, Honourable Member. Honourable Nigel Dollery?

The Hon. Nigel Dollery –

One of the nicest things that's been said to me in a very long time, thank you. And, Sir, is it alright if I continue with my adjournment debate?

The Speaker –
You carry on.

The Hon. Nigel Dollery –

Thank you. This is my final adjournment debate as I retire on 1st July and it will be quite a short one, one side of A4, 14. Font. Firstly I'd like to thank all those officials, Speaker and Deputy Speaker, fellow Councillors and Anita Legg, sorry she's not here, Secretary to Elected Members, who made my job doable and sometimes enjoyable, I've always felt that if I needed support it was there. Secondly I'd like to say, because there will be some form of election, to those who appear to lack the courage to stand for a position where you have to compete for a place or doubt their own ability, go for it. I have found officials of all levels helpful and pleasant. I can say the same about my fellow Councillors. Do not doubt your own ability or think you will not be able to do the job. In my experience, officials and fellow Councillors will give you help if you ask for it. Do not worry about making mistakes, there are plenty of people around you to help stop that happening. Also, more importantly, remember the only people who do not make mistakes are those who do nothing and are dead. Three interesting Saint points. My first interesting Saint point, the convex mirror is back on Ladder Hill road. It would be inappropriate to ask for three cheers so I did them silently a few moments ago. Thank you to whoever made that happen. My second interesting Saint point, can you be cool and still have manners? Have you noticed how some people no longer acknowledge a passing driver? Polite people wave a hand, raise their finger or something similar. Those who have no manners ignore everyone. In the UK on holiday as I was walking along the road and the car park I waved. I did the same when riding in a vehicle. I'm quite sure this worried the UK residents, but not my problem, I had manners. My third interesting Saint point and my last one you'll be glad to hear, I'm still not good with Saint shopping, I find any shopping a form of punishment, I want to go to the shop, get what I want and leave, job done. I do smile or nod to anyone and everyone I meet, however, I do not stop and talk to everybody I know. I have seen people stop in a shop and spend what seems to me ages talking to someone they met a couple of hours ago or even minutes ago. Edith my wife thinks I'm a miserable person and that is me being very polite as I do not seem to understand the social obligations of shopping on St Helena. I'm happy to keep it that way, when I nip over to the UK and go shopping I do not have to talk to anyone except the staff and that would be about the product, I'm an anonymous shopper and that is good, or is it? A final thanks again and heartfelt to all those who helped make my time as a Councillor pleasant, useful and at times enjoyable. To those who have never stood for the job, do so and show us all how it should be done. Mr Speaker, thank you.

The Speaker –

Thank you, Honourable Member. The Honourable Cyril George?

The Hon. Cyril George –

Thank you, Mr Speaker, I support the adjournment debate. Mr Speaker, Honourable Members, we have completed a number of constituency meetings around the island which was well attended, including Her Excellency the Governor, which was appreciated by the community. I wish to raise some of the concerns from constituents at our meetings. Some of the concerns were the condition of Solomon's bread, the new ambulances, gun licenses, immigration,?....., parking in Jamestown, not forgetting roads, rubbish collection and rats. I have a serious concern which was raised which is rats. It would appear that the rat population on the island is on the increase. It can be seen along the roads in the evening and during the day. In fact, I counted six on the way home from a constituency meeting at Longwood three weeks ago to my home in Sapper Way, six rats, live ones. Previously a rat programme was in place to set

rat poison throughout the island. Unfortunately four or five years ago it was abolished because of budget cuts where all departments were requested to cut their budget. The Health Directorate has prepared a business case seeking funding from the 2016/17 capital programme to reintroduce the rat eradication programme. I would therefore appreciate if all members would support this proposal. If this cannot be funded from the capital programme I have heard in the past phrases used such as refers to the FS Cocoa Tin, I've heard that in the past. If the funding cannot be provided from the capital programme, can the Financial Secretary provide some funding from his Cocoa Tin if it's available? If we cannot control the rat population on the island our community will be exposed to health risks, I therefore seek support from officials and elected members to provide some funding to control and eradicate the rat population on the island. Thank you, Mr Speaker.

The Speaker –

Thank you, Honourable Member. Is there any other Honourable Member wish to speak to the Adjournment Debate? Honourable Derek Thomas?

The Hon. Derek Thomas –

Thank you, Mr Speaker, I rise in support of the Adjournment Debate, but I'll first declare my interest, I'm in the rental business and what I gonna say is gonna be a bit surrounding businesses. Mr Speaker, Honourable Members, you will be aware of the sheer level of disappointment in our community in the fact we have an airport which cannot be used for the purpose it was intended for. Wind levels and the severity has been well known for many years, all of those well foreseen. Relevant data, technical analysis were collected before a decision was taken to build the airport at Prosperous Bay Plain. Before investing into such a major project, worth hundreds of millions, one would expect that DfID was satisfied that the airport would work and serve its purpose. This news was a real shock to Saints both here and overseas since they least expected after such major investment for the wind levels to be an issue. I am aware, Mr Speaker, that various options are being addressed and whatever option is taken we must ensure that it is commercially viable to the island and our ambition for economic growth. Many businesses have invested and taken high levels of risk expecting to see development in our tourism industry for the benefit of St Helena.

Mr Speaker, I will now turn to our Basic Island Pension Scheme. About two years ago, we had Professor Roy Sainsbury on island who was tasked with conducting a review of the Basic Island Pension and Income Related Benefits Scheme which was adopted following a major piece of work and recommendations from Alan Thompson and formed part of the Memorandum of Understanding review in 2011. At present those persons are able to claim the Basic Island Pension and to receive a full pension they must have worked thirty years on the island and to receive the reduced pension they must have worked twenty years. Therefore, those persons below twenty years as it stands will not qualify. Professor Sainsbury recommends the pension entitlement should be worked out on a pro rata basis, ten years, fifteen years and so on. Therefore, those persons who have made some meaningful contribution in work would have some entitlement to the Basic Island Pension. I am aware that some good progress has been made in implementing some of Professor Sainsbury's recommendations; the cut off year at sixty-five was abolished, therefore those persons working beyond these years the time would count towards their pension and as a result people have benefited from this. However, not everyone is able to work beyond sixty-five and as a result have fallen short of twenty years of work. I do feel in these instances it is not altogether fair, the pro rata system should come into play and perhaps be reduced to fifteen years at least; other people would benefit. One would say, well, the Income Related Benefits system is there to protect these people who don't have any means of income. This will only come into play, Mr Speaker, once those persons are

means tested. Do people really have to spend all of their hard-earned savings first to qualify for some benefit? Mr Speaker, as a member of the Social and Community Development Committee, I will be addressing this at Committee level with a view to seeing if some progress can be made for those people who have fallen short below the twenty years as it stands.

Mr Speaker, I recently returned from attending the mid-year review of the Executive Committee of the Commonwealth Parliamentary Association in London and I will say these meetings prove to be very successful and some principles and strategies have agreed upon which will further benefit branches of the Commonwealth Parliamentary Association. Full details and report will be made known to the Council and the community shortly.

Finally, Mr Speaker, I would like to as well join my colleagues by thanking Councillor Nigel Dollery for his support during the time he's been a Councillor and wish for him and his wife well on their trip to the UK and happy retirement on his return. Thank you.

The Speaker –

Thank you, Honourable Member. Any other Honourable Member wish to speak to the Adjournment Debate? No other Members wish to speak to the Adjournment Debate? Alright, just before I call on the Chief Secretary to wind up, I too would like to say Happy Travelling to those who are going to UK on the RMS, we'll miss you here, but travel well. Chief Secretary?

The Hon. Roy Burke –

Thank you, Mr Speaker. I will come back to the issues surrounding the Honourable Nigel Dollery, if I may. The Honourable Cyril George mentioned the constituency meetings, I think we're all looking forward to seeing the outcomes of all those issues that you raised so that we can put together the action plan which will enable us to deal with the concerns of the constituents. The Rat Eradication Programme, of course, has been mentioned in this House before. I can say with absolute certainty that the Financial Secretary does not have a Cocoa Tin or a tin of any description under his desk which is squirreling away funds and funding in this matter for rat eradication is primarily a matter for Accounting Officers, but I do know there is some bid being made for capital funding to assist with that process but as yet we have not, ExCo Councillors have not yet prioritized those issues and, of course there are environmental health issues arising from that, but it is on the radar and it's something that really needs to be dealt with and I think as I said last time when we discussed rats, I still haven't seen a rat on this island, certainly not a small furry one anyway.

The Honourable Derek Thomas mentioned the airport and I think we all share the disappointment about the airport. It's not true to say the airport cannot be used for the purpose for which it was intended, it just happens to be the case at the moment it can't be used, it will be used for the purposes for which it was intended and I'm absolutely convinced of that. There is some work to be done to get us to that point and as everybody knows in the interim we are desperately searching for a solution which enables a continued access to the island for everybody whether that be by air or to continue to use the RMS.

The Basic Island Pension Scheme, the fairness of the system is being considered through the Working Group I know and members here have the ability to address the issues that were raised and ultimately, as with all things, it comes down to affordability so any changes that the Committee and the Working Group make in that respect need to be fully costed.

And finally then, I would like to be associated with the comments of all members in respect of the Honourable Nigel Dollery. On a personal basis I've always found him to be to the point, when he stands up in this House he always gives us an indication of how long his speech will be and he's always good for his word in that respect, but always relevant and incisive. He regularly makes us smile, never flippant in that respect and I will long remember the points

made about litter and the frequent use of the T word. I'm delighted that the Honourable Nigel Dollery is a neighbor of mine and he will be able to deal with the litter in and around my front garden on everybody's behalf, but on behalf of all civil and public servants, Sir, we thank you for your contribution and you will be sorely missed.

The Hon. Nigel Dollery –

Thank you very much, I appreciate it.

The Hon. Roy Burke –

Mr Speaker, I beg to move.

The Speaker –

Thank you very much, Honourable Chief Secretary. The Motion, standing in the name of the Honourable Chief Secretary is that this Council do now adjourn sine die.

Question that Council do adjourn sine die, put and agreed to.

Council adjourned.