

ST. HELENA
LEGISLATIVE COUNCIL

THE PRESIDENT

The Honourable John Gilbert Cranfield

EX-OFFICIO MEMBERS

The Honourable Chief Secretary	-	Mrs Susan O'Bey
The Honourable Financial Secretary	-	Mr Dax Richards
The Honourable Attorney General	-	Mr Allen Cansick

ELECTED MEMBERS

The Honourable Clint Richard Beard
The Honourable Cruyff Gerard Buckley
The Honourable Gavin George Ellick
The Honourable Jeffrey Robert Ellick
The Honourable Corinda Sebastiana Stuart Essex
The Honourable Anthony Arthur Green
The Honourable Lawson Arthur Henry
The Honourable Cyril Kenneth Leo
The Honourable Christine Lilian Scipio
The Honourable Derek Franklin Thomas
The Honourable Russell Keith Yon

CLERK OF COUNCILS

Mrs Connie Johnson

PROCEEDINGS OF THE LEGISLATIVE COUNCIL

Friday, 18th June, 2021

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

(The Honourable Speaker in the Chair)

ORDER OF THE DAY

1. FORMAL ENTRY OF THE PRESIDENT

2. PRAYERS
(Fr. Alan Williams)

3. ADDRESS BY THE PRESIDENT

Good morning, Honourable Members, ladies and gentlemen and I bid you a very warm welcome to the first sitting of the twenty-fifth meeting of Legislative Council. As usual, I would like to extend my sincere thanks to Father Alan for giving us the benefit of prayer and to thank Mr Merlin George for his continued support as our Mace Bearer.

Honourable Members, I am sure that you all know that the main functions of any Legislative Council are to check and challenge the work of the Executive, make and change laws, debate important issues and check and approve Government spending. All this is done in the best interest of openness, transparency and democracy.

Honourable Members, for this session we have six Sessional Papers, two Questions, six Motions, followed by the traditional Adjournment Debate, all of which I suspect will take some time to debate, so, without further ado, I will call upon the Clerk of Council to announce the next item of business, please.

4.

PAPERS***SP 25/2021 – The Honourable Cruyff Buckley***

The Speaker –
The Honourable Cruyff Buckley?

The Hon. Cruyff Buckley –
Thank you, Mr Speaker. Mr Speaker, I beg to present Sessional Paper 25/2021 – Environmental Protection (Amendment) Bill, 2021. I also have in my possession a Certificate of Urgency from His Excellency Governor Rushbrook to enable the said Bill to be presented as Government business.

The Speaker –
Thank you very much indeed.

Ordered to lie on the table.

SP 26/2021 – The Honourable Anthony Green

The Speaker –
The Honourable Anthony Green?

The Hon. Anthony Green –
Mr Speaker, I beg to present Sessional Paper 26/2021 – St Helena Government – Public Access to Information Bill, 2021. I also confirm that I have in my possession a Certificate of Urgency signed by His Excellency the Governor.

The Speaker –
Thank you.

Ordered to lie on the table.

SP 27/2021 – The Honourable Derek Thomas

The Speaker –
The Honourable Derek Thomas?

The Hon. Derek Thomas –
Mr Speaker, I beg to present Sessional Paper 27/2021 – Control of Tobacco and Related Products (Amendment) Bill, 2021. Mr Speaker, I can confirm that I have in my possession a Certificate of Urgency signed by His Excellency the Governor.

The Speaker –
Thank you.

Ordered to lie on the table.

SP 28/2021 – The Honourable Anthony Green

The Speaker -
The Honourable Anthony Green?

The Hon. Anthony Green –
Mr Speaker, I beg to present Sessional Paper 28/2021 – St Helena Government – Elections (Amendment) Bill, 2021. I confirm also that I have in my possession a Certificate of Urgency signed by His Excellency the Governor.

The Speaker –
Thank you very much.

Ordered to lie on the table.

SP 29/2021 – The Honourable Clint Beard

The Speaker –
The Honourable Clint Beard?

The Hon. Clint Beard –
Mr Speaker, I beg to present Sessional Paper 29/2021 entitled St Helena Government – Employment Rights (Amendment) Bill, 2021. I confirm that I have in my possession a Certificate of Urgency signed by His Excellency the Governor.

The Speaker –
Thank you.

Ordered to lie on the table.

SP 30/2021 – The Honourable Dr Corinda Essex

The Speaker –
The Honourable Dr Corinda Essex?

The Hon. Dr Corinda Essex –
Mr Speaker, I beg to present Sessional Paper 30/2021 entitled Report to Legislative Council on the formal session of the Public Accounts Committee held on 8th June 2021 and with your permission I would like to make a short explanatory statement.

The Speaker –
Okay.

The Hon. Dr Corinda Essex –
This Sessional Paper covers the Public Accounts Committee scrutiny of the updated Expenditure in Excess incurred by St Helena Government in 2019/2020 and laid by the Financial Secretary as Sessional Paper 22/2021 on 4th June 2021. Section 106 of the Constitution requires the PAC to report back to this House on their scrutiny of the Statement of Expenditure in Excess and Legislative Council may by resolution allow these sums to stand

charged to public funds. It is expected that the Financial Secretary will present a Motion later today to Legislative Council in accordance with section 69(9) of the Constitution.

The Speaker –

Thank you very much indeed.

Ordered to lie on the table.

The Speaker –

Just before we announce the next item of business, Honourable Members, try to be careful with your microphones again, please, just a gentle reminder. Thank you.

5.

QUESTIONS

Question No. 1 – The Honourable Christine Scipio to ask the Honourable Financial Secretary.

The Speaker –

The Honourable Christine Scipio?

The Hon. Christine Scipio –

Thank you, Mr Speaker. Mr Speaker, will the Honourable Financial Secretary say what is the rationale for closing letter mail and packages by St Helena Government Post Office at least a week prior to the departure of an aircraft or ship?

The Speaker –

Financial Secretary?

The Hon. Dax Richards –

Thank you, Mr Speaker and I would like to thank the Honourable Member for her question, because I know this is a topic that is being asked about by a number of people in the public arena, so thank you for the opportunity to respond.

So, the closure times set by the Customer Services Centre for outgoing mail are dictated by the requirements of the Universal Postal Union or better known as the UPU, the requirements of the freight forwarding agents and shipping agents and also the availability of space on either the aircraft or the vessel. This will include the International Air Transport Association, or better known as IATA of dangerous goods, procedures and regulations. All outgoing mail must be processed in accordance with the UPU regulations and standards and must be checked and processed before being dispatched. Sufficient time must be given for these processes to be completed correctly and the time required depends on the volume of the mail. Since the curtailment of the Royal Mail Ship service which gave priority to the Island's mail, our mail no longer has the same level of priority, either on the aircraft or the ship serving the Island. This means that we now need to receive and process mail in order to determine the amount of mail so that we can give notice to our freight forwarding and shipping agents by the required closing time for them to secure the required amount of space on either the ship or the aircraft. For example, for the May 2021 flight, the documentation closing time for our agent was 1 pm on 7th May and the mail closed at 3 pm on the day before. This gave the Customer Service Centre five and a half hours to process the mail and the flight was scheduled to leave on 11th May. In the case of the MV Helena, the closing date for receiving documentation for freight

and small packages, including the mail, is three working days prior to the vessel's departure. It is a requirement for the Shipping Agent to provide a copy of the manifest to the South African authorities two working days prior to the departure of the vessel from St Helena. Therefore, the closing date for receiving mail is usually the afternoon of the preceding day of the three working days. It is important that we close the mail in sufficient time to ensure the processes are completed on time and to the correct standard. Thank you, Mr Speaker.

The Speaker –

Thank you very much indeed. The Honourable Christine Scipio?

The Hon. Christine Scipio –

Thank you, Mr Speaker and also thank you to the Financial Secretary. As he stated, this is a hot topic in the community in regards to the closing of letter and packages at the Post Office. Mr Speaker, can I ask, will the Honourable Financial Secretary say what is the average mail dispatch each voyage and flight if there has been analysis of any trends been carried out?

The Speaker –

The Honourable Financial Secretary?

The Hon. Dax Richards –

Mr Speaker, I will be able to get that information, but I don't have that level of detail here with me today, but I'm quite happy to get the team in the Postal Office to be able to do an analysis.

The Speaker –

Thank you. The Honourable Christine Scipio?

The Hon. Christine Scipio –

Just for a point of information, Mr Speaker?

The Speaker –

Okay.

The Hon. Christine Scipio –

Mr Speaker, I'm disappointed that the Honourable Financial Secretary is unable to provide information, because it will help the listening public about how much normally is sent so then you can determine if the closing time now is adequate. So, Mr Speaker, I'll follow up with another question, if I may?

The Speaker –

Yes.

The Hon. Dax Richards –

Mr Speaker, on a point of information, can I raise first before the Honourable Member comes back?

The Speaker –

Okay.

The Hon. Dax Richards –

So, the Honourable Member's question doesn't ask about the volume of mail that's outgoing so if.

The Speaker –

Sorry, yes.

The Hon. Dax Richards –

If we would have known then we would have been able to provide you with that information, but your question doesn't ask that.

The Speaker –

Okay. Go ahead, Honourable Christine Scipio?

The Hon. Christine Scipio –

Thank you, Mr Speaker, my question does relate to letter and mail and packages. I will follow up with my question, as you indicated, Mr Speaker that I may ask. Because there is so much concern from the members of the public in relation to this matter, will the Honourable Financial Secretary undertake to investigate the current process with a view to amending the mail closing time that would meet the needs of our community?

The Speaker –

The Honourable Financial Secretary?

The Hon. Dax Richards –

Thank you, Mr Speaker. As I clearly, I thought, put in my exposition, there are deadlines and times that are set by people other than SHG and particularly our freight forwarders, so whilst I can have a look at it, I can pretty much tell you now that there's going to be no change to those receiving times because of the requirements of the freight forwarding and also the UPU regulations as well.

The Speaker –

Thank you. The Honourable Christine Scipio?

The Hon. Christine Scipio –

A point of information again, Mr Speaker, if I may?

The Speaker –

Yes.

The Hon. Christine Scipio –

Thank you. Just to explain to the Financial Secretary the reason I asked for that is because maybe there's a possibility that only letter mail is closed late as possible whereas packages could be accepted earlier, so if there is a phased approach that packages must be in by a certain time and letter mail could be submitted at a different time, so hence the reason I asked if there is any possibility, just to review the current process.

The Speaker –

Thank you. The Honourable Financial Secretary?

The Hon. Dax Richards –

Thank you, Mr Speaker. I'm happy to review it, but just to give the Member some more information. For example, for the upcoming shipment that the ship is due to leave on Monday, for example, the documentation closing time from the Agent is 3 pm on that afternoon and the mail closes at 12 pm the same day, that's for all types of mail, including your packages and your small letters, so I don't think there's a significant level of room for manoeuvring within that three-hour period when every one of those letters and packages needs to be checked and documented and then forwarded to the Freight Agent so whilst I'd be happy to take a review the likelihood is that there will be no significant movement in the current processes as a result.

The Speaker –

Okay, thank you. The Honourable Christine Scipio?

The Honourable Christine Scipio –

Thank you, Mr Speaker. I thank the Honourable Financial Secretary for this and when I do get the information in regards to analysis or the trends then maybe that will help me to understand as well. Thank you.

The Speaker –

Thank you. The Honourable Lawson Henry?

The Hon. Lawson Henry –

Thank you, Mr Speaker. Could I ask the Financial Secretary, because in his response he intimated that previously with the RMS there was priority, can I ask then if the same priority could be applied in respect of the MV Helena and it might well be there is a way that we could apply for the MV Helena to have Royal Mail status, could I ask that that be explored? Thank you.

The Speaker –

Honourable Financial Secretary?

The Hon. Dax Richards –

Thank you, Mr Speaker. I would be happy to look to see whether the MV Helena can be given Royal Mail status, although I don't think that's something within our gift, but I'm quite happy to take onboard. As the Member quite rightly said, the difference with the RMS St Helena used to be that you could have as much mail as you possibly want and the ship would take absolutely everything, now, because we're having to do it through a freight forwarding Agent, we have to be able to give sufficient notification in time and that's why there's the lead-in times that we currently have, so quite happy to look if that's a possibility, but I will need to liaise obviously with the ship owners as well on that specific issue.

The Speaker –

Thank you very much indeed. The Honourable Dr Corinda Essex? Oh, sorry, the Honourable Lawson Henry again?

The Hon. Lawson Henry –

So, Mr Speaker, notwithstanding what you say about the freight agents, as the MV Helena is contracted by the St Helena Government is there not some scope that we can have better arrangements in relation to our mail given the importance of it? Thank you.

The Speaker –

Thank you. The Honourable Financial Secretary?

The Hon. Dax Richards –

Mr Speaker, as I said, I'd be happy to do a review with the ship owners, but even, because it doesn't have Royal Mail status any freight that goes has to be, as I mentioned in my exposition we need to be able to, with a freight forwarding agent, needs to be able to give that information to the South African authorities two days, two working days prior to the ship's departure from St Helena.

The Speaker –

Thank you. The Honourable Dr Corinda Essex?

The Hon. Dr Corinda Essex –

Thank you, Mr Speaker. Will, as part of the review, the Honourable Financial Secretary check why there is a requirement to give notice two days before the ship departs, because the ship takes approximately seven days from here to reach Cape Town, so that means that we're having to give nine days advance notice of how much mail we are despatching and I am sure other countries around the world do not supply South African authorities with nine days' notice of how much mail they are sending to South Africa, so can I ask the Honourable Financial Secretary if he will verify the actual rationale for that very long lead-in time as part of the review, please?

The Speaker –

Thank you. Honourable Financial Secretary?

The Hon. Dax Richards –

Thank you, Mr Speaker. I'll liaise with the freight forwarding and shipping agents who have advised of this requirement.

The Speaker –

Just on a point of information, Honourable Members, the time from St Helena to Cape Town under the new schedule is now ten days and not seven days, its seven days from Cape Town to St Helena, but it's ten days from St Helena to Cape Town under the new schedule.

Any other questions? Okay, thank you. Next question, please?

Question No. 2 – The Honourable Christine Scipio to ask the Honourable Financial Secretary.

The Speaker –

The Honourable Christine Scipio?

The Hon. Christine Scipio –

Thank you, Mr Speaker. Mr Speaker, will the Honourable Financial Secretary say what mechanism is in place to allow individuals or businesses on St Helena to receive international text messages?

The Speaker –

Honourable Financial Secretary?

The Hon. Dax Richards –

Thank you, Mr Speaker and I'd like to thank the Honourable Member for her question again. SURE South Atlantic Ltd currently provides an international text messaging service which includes the ability to receive international text messages. Where customers may encounter issues they should contact the Service Provider directly for assistance with investigating any such non-deliveries. I'm advised by the Service Provider they are more than willing to assist with trying to resolve these non-deliveries. It should be noted that in many cases and in particular for the banking systems for security reasons the Banks will not communicate with the Service Provider directly on customer issues of this nature. Therefore, for non deliveries of a banking nature it is imperative that clients also raise this problem with the respective off island banks. I would, however, reiterate, Mr Speaker, that anyone who is experiencing problems and non deliveries they should contact SURE directly for assistance.

The Speaker –

Thank you. The Honourable Christine Scipio?

The Hon. Christine Scipio –

Thank you, Mr Speaker. Mr Speaker, the Financial Secretary in his response talked about customer, customers, so will the Honourable Financial Secretary, that as there is a Service Level Agreement in place with St Helena Government, that St Helena Government is a customer?

The Speaker –

The Honourable Financial Secretary?

The Hon. Dax Richards –

Sorry, Mr Speaker, I didn't understand what the question was.

The Speaker –

The Honourable Christine Scipio?

The Hon. Christine Scipio –

Shall I try again then, Mr Speaker?

The Speaker –

Yes, go ahead.

The Hon. Christine Scipio –

Okay, so I will slow down this time, the Honourable Financial Secretary and hope I can make myself clear so that the listening public can understand what I'm trying to say as well. So, in your response you referred to a customer, customers, a customer, customers to contact SURE, so my understanding, Financial Secretary, is that Government has an agreement with SURE so they are a customer. My understanding, Mr Speaker, is that St Helena Government contacted SURE for information, but the information hasn't been provided.

The Speaker –

The Honourable Financial Secretary?

The Hon. Dax Richards –

Mr Speaker, St Helena Government, like any other customer on St Helena has its own agreement directly with the Service Provider, so, yes, we are a customer of the Service Provider. We did contact them as the Service Provider and this is the response that I've been able to provide for you today.

The Speaker –

The Honourable Christine Scipio?

The Hon. Christine Scipio –

Thank you, Mr Speaker, so I hope that Ray Charles can see my point is that as St Helena Government contacted SURE for information in respect of the question that I have asked today, as a customer, as the Financial Secretary said, yes, he knows St Helena Government is a customer-

The Speaker –

Do you have another supplementary question, instead of a statement?

The Hon. Christine Scipio –

I do, but which I'm going to follow it up with, because I'm trying to make it very clear to my listening public, because as the Financial Secretary mentioned, if I can continue, Mr Speaker?

The Speaker –

As a point of information? Okay.

The Hon. Christine Scipio –

What I was trying to say in response to the Financial Secretary.

The Speaker –

Okay.

The Hon. Christine Scipio –

But now that you've interrupted me my frame of thinking has gone by the wind shear. So, what I'm saying, Mr Speaker, is that, I'll try to rephrase my words, that because I put this question in the House for the Honourable Financial Secretary to answer, the Financial Secretary obviously contacted SURE because he mentioned that he had a response, so this is the customer, St Helena Government, contacting SURE for information, but SURE has advised the customer, St Helena Government, to contact them for information, so, sorry, this old lady down the hill probably hasn't explained herself properly, because the Honourable Financial Secretary is shaking his head.

The Hon. Dax Richards –

I'm not so sure if there's a question in that, Mr Speaker?

The Speaker –

It's not a question, it's just a statement, now, do you have a question, please?

The Hon. Christine Scipio –

Mr Speaker, you gave me permission to provide clarity with the statement, yeah, okay? So, you're shaking your head, Mr Financial Secretary, so, would in respect then, let's ask something different, okay? In relation to the question, international text messaging, Mr Speaker, if I may?

The Speaker –

Yes, go ahead.

The Hon. Christine Scipio –

Okay. So, I'll just mention something for information as well, just provide some clarity, especially for our listeners. So, a two-step verification. As you know, Mr Speaker, I mentioned this in my Adjournment Debate last month, yeah, as a concern. So, two-step verification checks are very much becoming standard within the online environment with one of these steps being the short-term access code sent to users by text message in order for them to be able to log in, so that's my information. Yes, Mr Speaker? I hope the public is with me as well. So, will the Honourable Financial Secretary, with respect to the island's economic growth potential, has St Helena Government, knowing that cable is going to be here very soon, carried out an investigation or studies before now to determine the financial impacts that not being able to receive international text messages is having and if so what has the findings been, so has an investigation been, a study been carried out on what are the financial impacts?

The Speaker –

Thank you. The Honourable Financial Secretary?

The Hon. Dax Richards –

Mr Speaker, no such investigation has been carried out.

The Speaker –

Okay. Thank you, Honourable Members. Our next item of business, please?

6.

MOTIONS

Motion No. 1 – The Honourable Financial Secretary

The Speaker -

The Hon Financial Secretary?

The Hon. Dax Richards –

Mr Speaker, I beg to move that this House resolves that the excess expenditure for the financial year 2019/20 in the Statement of Expenditure in Excess 2019/20 laid as SP 22/2021 now stand charged to public funds in accordance with section 106(3) of the Constitution.

The Speaker –

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

The Hon. Susan O'Bey –

Mr Speaker, I beg to second.

The Speaker –

Thank you, Honourable Chief Secretary. You may speak to the Motion, Financial Secretary.

The Hon. Dax Richards –

Thank you, Mr Speaker. Mr Speaker, at the October 2020 formal meeting of Legislative Council, a Statement of Expenditure in Excess for the financial year 2019/20 was presented as Sessional Paper 36/2020 in accordance with section 106(1) of the Constitution. The statement reported that Head 23 – Health had excess expenditure over their appropriated budget of £191,755 which related to additional costs of overseas medical referrals for the 2019/20 financial year and that Head 29 – Children and Adult Social Care had excess expenditure over their appropriated budget of £42,215 which related to additional unbudgeted employee costs, increased laundry service contract costs, increased food provisions for the various care services across the island and additional transport and telephone costs for the Directorate. The Statement of Expenditure in Excess for 2019/20 was subsequently scrutinised by the Public Accounts Committee under section 106(2) of the Constitution and they reported back to this House via Sessional Paper 13/2021 in March this year recommending to this House that the excess expenditure for the two Heads of Expenditure totalling £233,970 stand charged to the public funds. Since then, following procedures as part of the finalisation of the 2019/20 financial statement audit, a reclassification of recurrent expenditure to capital was made which resulted in excess expenditure under Head 17 – Corporate Finance capital budget of £41,363. This was for works completed as part of SHG’s response to the pandemic to establish a quarantine facility at Bradley’s Camp. These phase 1 costs were accounted for as recurrent expenditure but later reclassified as capital expenditure together with the phase 2 costs. In addition, there was a derecognition of expenditure under Head 23 – Health – Overseas Medical Referrals budget resulting in a reduction in the excess expenditure to £137,796. The excess expenditure for Head 29 – Social Care, remained unchanged. This was presented in a revised Statement of Expenditure in Excess to this House at the beginning of this month as Sessional Paper 22/2021. A revised Statement of Expenditure in Excess for the 2019/20 financial year has been subsequently scrutinised by the Public Accounts Committee under section 106(2) of the Constitution and the report has been presented back to this House today via Sessional Paper 30/2021. Their recommendation to this House is the excess expenditure for the three Heads of Expenditure totalling £224,374 stand charged to the public funds. Mr Speaker, I beg to move.

The Speaker –

Thank you very much indeed. Honourable Members, the Motion is that this House resolves that the excess expenditure for the financial year 2019/20 in the Statement of Expenditure in Excess 2019/20 laid as SP 22/2021 now stand charged to public funds in accordance with section 106(3) of the Constitution. Honourable Members, the Motion is now open for debate. Any Honourable Member wishes to speak? The Honourable Christine Scipio?

The Hon. Christine Scipio –

Thank you, Mr Speaker. Mr Speaker, it is disappointing that once again we’re being asked to appropriate funds where expenditure has been incurred without prior approval. One can appreciate that it is difficult at the beginning of a financial year to determine the exact number of people to be referred overseas for medical treatment, but surely, Mr Speaker, one should have included expenditure for transport, laundry service, telephone costs and printing within the budget. I struggle to understand why these overspends are unforeseen.

The Speaker –

Thank you. Any other Honourable Member, the Honourable Clint Beard?

The Hon. Clint Beard –

Mr Speaker, once again, another year has gone by, but I see that at the moment we, and as the Financial Secretary has put out in his exposition, that although those, some of those funds as mentioned by Councillor Scipio, I still believe that at the moment we have to agree to what has been done and I think we need to tighten up on going forward as how monies are appropriated, so I support. Thank you.

The Speaker –

Thank you, The Honourable Dr Corinda Essex?

The Hon. Dr Corinda Essex –

I support the Motion. The overspends were all scrutinised very closely by the Public Accounts Committee. The Honourable Financial Secretary and other officials gave evidence to the Public Accounts Committee which resulted in the recommendation being made for the funding to be appropriated today. With regard to the budget issues, I think it is also important to bear in mind that with the very tight budget constraints that we have Departments and Directorates are putting forward the lowest estimate, the lowest realistic estimate in order for that to be accommodated within the ceilings that are set and at times there are very good reasons why that very lowest realistic estimate proves to have been an under estimate. I think if we had more generous budget funding at our disposal which enabled us to be able to look at the top of the estimate rather than the bottom of the estimate it would be far more likely that we would be able to avoid expenditure in excess. I fully support this Motion.

The Speaker –

Thank you very much indeed. The Honourable Cruyff Buckley?

The Hon. Cruyff Buckley –

Thank you, Mr Speaker. I support this Motion knowing that in fact by doing so, if approved by the majority today, will result in the first unqualified opinion in terms of our Audit procedures in recent history and I think that is something for the Financial Secretary and his team to be extremely proud of. Thank you.

The Speaker –

Thank you. The Honourable Lawson Henry?

The Hon. Lawson Henry –

Thank you, Mr Speaker, I, too, rise in support of this Motion. This is a tidying up exercise and as my Honourable Member on the opposite side mentioned, this has been scrutinised by the Public Accounts Committee and has been so recommended as a way forward to tidying up this matter, so I fully support it. Thank you.

The Speaker –

Thank you. The Honourable Derek Thomas?

The Hon. Derek Thomas –

Mr Speaker, I rise in support of this Motion. The overspend on the medical referrals, it is difficult to have a exact amount because we have uncertainty with medical referrals, but I do know, I sit on the Social and Community Development Committee, and the overspends there,

the budget wasn't adequate in the first place, so I know in terms of going forward that has been identified and hopefully provisions will be made for the Social and Community Development Committee to have a adequate budget to accommodate their needs. Thank you.

The Speaker –

Thank you. The Honourable Cyril Leo?

The Hon. Cyril Leo –

Thank you, Mr Speaker. Just to reinforce what my Colleague who also serves on the SCDC Committee has political oversight of the Children and Adult Services, we have had regular updates on the various reasons for the over expenditure and there are very good reasons to justify the overspend and therefore I support.

The Speaker –

Thank you. Any other Member wishes to speak? The Honourable Mover, do you wish to respond to the debate?

The Hon. Dax Richards –

Thank you, Mr Speaker. I'd just like to thank those Members who rise in support and just for clarification for the Honourable Member across the room, the expenditure in relation to Adult and Children Social Care had already been approved by this House previously earlier this calendar year, so the real addition to this is the reclassification of recurrent expenditure to capital expenditure for Head 17 which was in relation to Bradleys, so I just want to give that additional point of information. So, once again, Mr Speaker, I'd like to thank the Honourable Members for their support.

The Speaker –

Thank you. Honourable Members, the Motion is that this House resolve that the excess expenditure for the financial year 2019/20 in the Statement of Expenditure in Excess 2019/20 laid as SP 22/2021 now stand charged to public funds in accordance with section 106(3) of the Constitution.

Question put and agreed to.

The Motion is carried.

The Speaker

Our next item, please?

Motion No. 2 – The Honourable Cruyff Buckley

THE ENVIRONMENTAL PROTECTION (AMENDMENT) BILL, 2021

The Speaker –

The Hon Cruyff Buckley?

The Hon. Cruyff Buckley –

Thank you, Mr Speaker. Mr Speaker, I beg to move that the Environmental Protection (Amendment) Bill, 2021 be approved in principle and referred to a Committee of the Whole Council.

The Speaker –

Do we have a seconder, please?

The Hon. Derek Thomas –

Mr Speaker, I beg to second.

The Speaker –

Thank you. The Honourable Mover, you may speak to the Motion?

The Hon. Cruyff Buckley –

Thank you, Mr Speaker. Mr Speaker, St Helena is in the process of seeking Dark Sky Community status with the International Dark Sky Association, IDA. This Environmental Protection (Amendment) Bill, 2021 will facilitate this application. St Helena is one of the most remote places in the world and over the years has hosted visits from famous Astronomers, including Sir Edmund Halley, Nevil Maskelyne and Henderson, whose work has contributed tremendously to the advancement of celestial knowledge worldwide. Dark Skies accreditation will add to the island's appeal as a tourist destination and subsequently support economic development. It would also have a positive impact from the environment in that it would protect the natural environment, conserve biodiversity, protect the night sky from light pollution and reduce energy waste and carbon emissions. To achieve dark skies community status, amendments will have to be made to the Environment Protection Ordinance, EPO, this will enable the regulation of the use of artificial light at night in order to preserve and sustain the natural environment of St Helena. The proposed amendments take into account the advice from Dark Sky Lighting Consultant, Mr James Paterson, who visited the island in 2018. During his visit, James attended public consultation meetings to provide an insight into dark skies accreditation requirements. James also met with the Land Planning and Development Control Authority and held training sessions with island stakeholders, including private sector electricians, SHG planning officers and importers of lighting fixtures. The proposed amendments to the EPO provide for: Protection of the natural environment and night sky from uncontrolled use of artificial light; reduction of energy waste and carbon emissions; the development of adoption of the Code of Practice to regulate use of artificial light and provide educational information; exemptions for certain types of lighting, such as lighthouse and navigation lighting; prohibition on importation and sale, installation and use of non-complying lighting; lighting zones to be specified in a development plan under the Land Planning and Development Control Ordinance with details about controls and levels of lighting for different zones; light reduction at prescribed times; exemptions from light reduction; the Chief Environmental Officer to grant permission for non-compliant temporary lighting will allow for light readings to be taken, will allow for the Chief Environmental Officer to issue abatement notices to rectify non-complying lighting; penalties for offences further to comply with abatement notices and also will allow for regulations to be made regarding the installation and operation of artificial lighting and for forms, fees and procedures to be adopted to give effect to the requirements within the Ordinance.

Mr Speaker, St Helena has a beautiful night sky in the Southern Hemisphere and one only has to look up to enjoy a heavenly view of the stars. The Environmental and Protection (Amendment) Bill, 2021 will enable this to happen. Mr Speaker, I beg to move.

The Speaker –

Thank you. The Honourable Dr Corinda Essex?

The Hon. Dr Corinda Essex –

Mr Speaker, may I rise on a point of clarification?

The Speaker –

Yes.

The Hon. Dr Corinda Essex –

Will the Honourable Attorney General clarify exactly where the regulations relating to zonings will be placed legislatively, please?

The Hon. Allen Cansick –

Yes, that will be part of the Environmental Protection Ordinance.

The Hon. Dr Corinda Essex –

Thank you. Just for clarification.

The Speaker –

Okay, thank you. Honourable Members, I put the question that the Environmental Protection (Amendment) Bill, 2021 be approved in principle and referred to a Committee of the whole Council. The question is now open for debate. The Honourable Derek Thomas?

The Hon. Derek Thomas –

Thank you, Mr Speaker. Mr Speaker, I rise in support of this Bill, the Environmental Protection (Amendment) Bill, 2021. Mr Speaker, I see this Bill will add value to our long-term strategic planning in our aim to develop economic growth. In discussions leading up to this Bill, I raised concerns about financial implications this would have on the general public and businesses, but I've been given assurance that this Bill will be implemented over a period of time, so there will be time for businesses and the general public to get the required lighting compliance in place, it won't be implemented immediately, so the public will be taken along, so I do see long-term values in our strive for economic growth and the offering we have here on our island, so I give my support to this Bill. Thank you.

The Speaker –

Thank you very much. Any other Member wishes to speak? The Honourable Gavin Ellick?

The Hon. Gavin Ellick –

I stand in support of the Motion, Sir. I first declare an interest, I'm also on the Astronomy Group. Having a dark skies policy will enable all astronomers throughout the world to come to this island to see ninety-five percent of the night sky. This is a very rare occasion because where our geographical position puts us we can do this here, so, for me, I done promise my Councillors, my fellow Councillors here today that I will take them out on one tour to let them see the splendour and all the constellations in the sky, so therefore, I will support this Motion. Thank you.

The Speaker –

Thank you very much indeed. The Honourable Christine Scipio?

The Hon. Christine Scipio –

Thank you, Mr Speaker. Mr Speaker, the proposed amendments to this Bill allows for the provision to regulate the use of artificial light at night in order to preserve and sustain the natural environment of St Helena. Mr Speaker, all lighting is supposed to comply with the 2012 Land Development Control Plan policies, so, Mr Speaker, I hope that the Mover in his closing will advise this House how will this be enforced.

The Speaker –

Thank you. The Honourable Dr Corinda Essex?

The Hon. Dr Corinda Essex –

Thank you, Mr Speaker. Although I am very keen on preserving our environment and saving energy and so on, I had very serious concerns about this Bill when it originally came to discussion in informal Legislative Council as at that point of time it was extremely over-restrictive, it had a 10 pm curfew and various other restrictions of that type which I believe would have had a detrimental impact upon social activity on the island. However, through months of discussion and negotiation, there have been changes made to the original proposal and therefore the Bill that is before us today is a much better balanced and more realistic version than that which was originally brought to elected members for discussion and therefore, I will support this version. That said, I would still like to flag a word of caution and that is that the regulations that are specific to the zones and the zoning is still to be determined and I think it is extremely important that those regulations are proportionate, realistic, and, as my Honourable Member's already mentioned, easily enforceable and I think we've also got to remember in our enthusiasm that too much good is bad, so we need to have a balanced approach to the all of this, not just within the Bill, but within the regulations as well. Thank you, Mr Speaker.

The Speaker –

Thank you. The Honourable Clint Beard?

The Hon. Clint Beard –

Mr Speaker, I support this Bill, I believe that this is another element of where we could possibly grow economically and have an attraction for everyone, but it's been a long process and I think the reason it's been a long process is that we've teased out lots of elements that whilst a little bit of might have been restrictive, it's trying to find an appropriate balance and making sure that to look at a very big picture for St Helena and this another part of the puzzle that will come in with lots of other elements which will inevitably enhance our economic vibrancy and our being another possible attribute to attraction for this island. Thank you, Mr Speaker.

The Speaker –

Thank you. The Honourable Lawson Henry?

The Hon. Lawson Henry –

Thank you, Mr Speaker, I, too, rise in support of this Bill, I think it is a very important Bill and it is part of what we're trying to achieve in terms of brand St Helena, particularly in relation to

our offering in terms of tourism, so I think it is quite significant and I fully support this Motion and the Bill. Thank you.

The Speaker –

Thank you. The Honourable Russell Yon?

The Hon. Russell Yon –

Thank you, Mr Speaker, I rise in support of the Bill. I don't believe that I will make a large exposition here, because all of the details with regards to its implementation have been provided by the Mover in his exposition. However, I also appreciate the request of our Deputy Chair of the Committee, ENRC, on requesting the clarity in which this Ordinance and all the amendments will be injected and I do appreciate that. We have been through several meetings in discussing this Bill together with the EDC members and also the other stakeholders and I do believe that a lot of hard work has gone into getting this Bill to where it is today with a lot of discussions and also I must say we actually had a video conference with the Dark Skies Coordinator and that was very much appreciated by the members of the ENRC because we hadn't been through the detailed information that was provided to this Committee by the EDC who first took this onboard, so, again, Mr Speaker, I rise in support. Thank you.

The Speaker –

Thank you. Any other Member wishes to speak? The Honourable Cyril Leo?

The Hon. Cyril Leo –

Mr Speaker, I would just like to repeat or echo how important it is to take a balanced approach and careful consideration as we reveal the night skies over St Helena, because, as an example, in pursuing this activity you saw what happened in the street lights in Jamestown, at considerable expense the lights were changed, but it put the local residents in the dark, so that has been corrected now, but it is just an example of how we should carefully move forward. Thank you, Mr Speaker.

The Speaker –

Thank you. The Honourable Mover, you may reply to the debate.

The Hon. Cruyff Buckley –

Thank you, Mr Speaker and thanks to my Honourable Friend, Dr Essex for once again correcting me, it is intended for the zoning to be placed within the Environmental Protection Ordinance as opposed to the Land Planning and Development Control Ordinance and I know that the Committee is in support of this. The issue of enforcement raised by Councillor Scipio, it is intended that the Chief Environmental Officer will take this role and the issue of abatement notices will be the mechanism to rectify non-compliant lighting. In relation to the issue raised by Councillor Thomas, this has been debated and it is intended for the public sector to be compliant within five years, non-domestic lighting within seven years and domestic lighting within ten years, so, I hope, Mr Speaker, that the public can come onboard and support elected members in their strategic quest to make St Helena an attractive place to visit and also for locals alike.

The Speaker –

Thank you. I put the question that the Environmental Protection (Amendment) Bill, 2021 be approved in principle and referred to a Committee of the whole Council.

Question put and agreed to.

The Speaker –
The Honourable Mover?

The Hon. Cruyff Buckley –
Uh nothing much to add Mr Speaker but I'd like to thank Members.

The Speaker –
You need to move now.

The Hon. Cruyff Buckley –
Oh Mr Speaker I beg to move, I put uh that the Environmental Protection (Amendment) Bill 2020 be approved in principle and referred to a Committee of the whole Council.

The Speaker –
No it's um it's further down, I beg to move that the Council do resolve.

The Hon. Cruyff Buckley –
Apologies 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 –
Do we have a seconder, please?

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

The Speaker –
Thank you.

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

Council in Committee.

The Chairman –
I put the question that the Title, Enacting Clause and Clause 1 do stand part of the Bill. Attorney General?

The Hon. Allen Cansick –
Mr Speaker, Clause 1 makes provision for the Bill's citation, commencement and interpretation.

The Chairman –
Honourable Members, I put the question that the Title, Enacting Clause and Clause 1 do stand part of the Bill and you may now speak to the Enacting Clause, Clause 1 and the Title. Any Member wishes to speak? The Honourable Christine Scipio?

The Hon. Christine Scipio –

Thank you, Mr Chairman. Mr Chairman, I'm just wondering if the Attorney General, just for clarity for our listening public, because, of course, they can't see what I can see, Clause 1(2) talks about different dates and I think this is what the Mover had alluded to in his exposition, if you could just provide a little more clarity on that so that the public is aware that it is in the law for that to happen..

The Speaker –
Attorney General?

The Hon. Allen Cansick –
Yes, Honourable Councillor, the commencement, interpretation clause in Clause 1 allows for the Order to come into effect by the Governor by Order and it also allows for different dates for different provisions to come in at different times, so it can be brought in at different points when it's time for a different provision to take effect.

The Chairman –
Okay? Any other Member wishes to speak?

Title, Enacting Clause and Clause 1.

Question put and agreed to.

The Chairman –
I put the question that Clause 2 do stand part of the Bill. Attorney General?

The Hon. Allen Cansick –
Yes, Mr Speaker, Clause 2 of the Bill makes provision for the amendment of the long title of the principal Ordinance so that Ordinance can properly provide for the regulation of the use of artificial light at night.

The Chairman –
Okay. I put the question, Honourable Members, that Clause 2 do stand part of the Bill. You may now speak to Clause 2.

Clause 2.

Question put and agreed to.

The Chairman –
I put the question then that Clause 3 do stand part of the Bill. Attorney General?

The Hon. Allen Cansick –
Mr Speaker, Clause 3 makes provision for the meaning of words and terms used in the Bill which relate to the regulation of artificial light.

The Chairman –
Any Honourable Member wishes to speak to Clause 3?

Clause 3.

Question put and agreed to.

The Chairman –

I put the question that Clause 4 do stand part of the Bill. Attorney General?

The Hon. Allen Cansick –

Mr Speaker, Clause 4 makes provisions for the objectives of the Bill to include the protection of the natural environment from the uncontrolled use of artificial light so as to ensure the reduction of energy waste and carbon emissions.

The Chairman –

Thank you. The Honourable Lawson Henry?

The Hon. Lawson Henry –

Oh, sorry.

The Chairman –

Okay. Any Honourable Member wishes to speak to Clause 4?

Clause 4.

Question put and agreed to.

The Chairman –

I put the question that Clause 5 do stand part of the Bill. Attorney General?

The Hon. Allen Cansick –

Mr Speaker, Clause 5 makes provision for an appeal to be made against a decision of the Chief Environment Officer following Clauses 28A and 28J of the Bill, which we'll come to in due course.

The Chairman –

Okay, thank you. Any Honourable Member wishes to speak to Clause 5?

Clause 5.

Question put and agreed to.

The Chairman –

I put the question that Clause 6 do stand part of the Bill. Attorney General?

The Hon. Allen Cansick –

Mr Speaker, Clause 6 makes provision for codes of practice made in accordance with the Ordinance to include provision for the standards by which artificial light is to be regulated and any educational component in respect of such regulation.

The Chairman –

Thank you. Any Honourable Member wishes to speak to Clause 6?

Clause 6.

Question put and agreed to.

The Chairman –

I put the question that Clause 7 do stand part of the Bill. Attorney General?

The Hon. Allen Cansick –

Mr Speaker, Clause 7 is where the real substantial amount of amendment is contained in this Bill and that inserts a new Part 6 (a) into the Ordinance entitled “Control of the use of artificial light at night” and it introduces a number of substantive clauses the first of which is subclause 28(a) which requires the Chief Environmental Officer to take, recommend or promote measures in respect of the regulation of the use of artificial light. Subclause 28 (b) exempts from the application of the Ordinance the following types of light – lighthouse and navigational lighting used for safety at sea, air navigation lights including runway lighting, exterior lighting and security lighting in respect of and surrounding the airport, sea navigation lighting and lighting used by a ship for safety at sea, interior lighting which does not shine outside of a property, temporary, festive Christmas exterior lighting in the lighting zones prescribed for a period of not more than eight weeks before and four weeks after the date on which Christmas Day falls, exterior lighting needed for emergency purposes, construction site exterior lighting, exterior lighting used for security in a number of specific circumstances, exterior lighting used for public safety purposes, exterior lighting necessary for the satisfaction in St Helena of any international obligations, exterior lighting for illumination of the national flag of a country or territory required for formal or ceremonial purpose and exterior lighting required by any other Ordinance.

Mr Speaker, Clause 28 (c) prohibits the importation and sale of exterior light fittings or sources which are not compliant with the requirements of this Bill. Clause 28 (d) prohibits the installation and use of specific exterior lighting. Clause 28 (e) makes provision for lighting zones to be prescribed in regulations. Clause 28 (f) creates an obligation for specified lighting to be either turned off or dimmed. Clause 28 (g) provides that security lighting which is controlled by motion sensors set to turn off at a specific time or that satisfies the requirements for the zone in which the lights are situated is to be exempt from the requirements to be manually turned off or dimmed. Clause 28 (h) makes provision for the application of exemptions from the requirement for lighting to conform with the requirements specified in the Bill temporarily. Clause 28 (i) specifies the manner in which light readings are to be taken. Clause 28 (j) makes provisions for abatement notices to be issued by the Chief Environmental Officer. Clause 28 (k) provides for the offences in respect of the regulation of the use of artificial light and Clause 28 (l) makes provision for regulations to be made in respect of the use of artificial light by the Governor in Council.

The Chairman –

Thank you. Any Honourable Member wishes to speak to Clause 7? The Honourable Gavin Ellick?

The Hon. Gavin Ellick –

Thank you, Sir. I’m just looking at the Friday and Saturday night in 28 (f) (2)(b) and it says on Friday and Saturday nights at 1 pm. What happens for extensions, because if you get an extension and it goes up to half past two will it be in compliance or will you be breaking the law. One of these things is that when we were doing something like this here we want it to be a smooth transaction, not no hiccups, so could that be amended there or we could write that in the regulations?

The Hon. Allen Cansick –

Mr Speaker, I'm just going to turn my back briefly and ask the Legislative Draughter.

The Chairman –

Okay.

The Hon. Allen Cansick –

Mr Speaker, 28 (f) (b) allows for this to be prescribed elsewhere, so exterior lighting port to be dimmed or turned off as prescribed which will allow for changes in regulations if it needs to be different to those particular times.

The Chairman –

The Honourable Dr Corinda Essex?

The Hon. Dr Corinda Essex –

Just on that same point, what procedure would have to be followed if an organisation, for example, wanted to have a function that was going to go up to 2 am?

The Hon. Allen Cansick –

Mr Speaker, there's two mechanisms, there's, of course, the change in the regulations by Governor in Council, but obviously for an applicant who is having a function that wouldn't be the suitable method, so the other method would be an application to the Chief Environmental Officer for an exemption from that particular provision for that purpose.

The Chairman –

The Honourable Dr Corinda Essex?

The Hon. Dr Corinda Essex –

Mr Chairman, I must confess I still have issues with the whole curfew element within this Bill. I'm prepared to accept it at 12 midnight whereas I certainly would not have accepted it at 10 pm, however, again, I would stress that it is extremely important when the regulations are developed that this curfew does not start to become overburdensome and overcomplicated and in fact restrict social interaction and gatherings and so on, so I still have concerns within that area and I would like to say a special thank you to the Legislative Draughter and my colleagues for ensuring that the amendment that I proposed last time we discussed this in relation to exemptions for public safety purposes has been included in this Bill today, because from my perspective public safety purposes have to take priority over any dark skies considerations or even environmental considerations. Thank you.

The Chairman –

Thank you. The Honourable Derek Thomas?

The Hon. Derek Thomas –

Thank you, Mr Chairman. The Honourable Councillor Ellick, Gavin Ellick, raised a good point here, because we all know that activities on a weekend, Friday and Saturdays, leaving out extensions, goes up until 1.30, that is the law, 1.30 and by the time people clear the vicinities you're looking at perhaps 2 am, so I hear what the Attorney General said that you can apply for an exemption, but you're putting a real burden on I see potential business, because almost every week they'll have to apply for an exemption and the regulations I hear it could be

accommodated in the regulations, because this is the Ordinance now, amendment to the Ordinance, so wouldn't it be, knowing what facility, what entertainment is the norm here, wouldn't it be a sensible move to on a Friday and Saturday night to extend it from 1 am to 2 am, because I do see it's going to be practically difficult to comply with the 1 am when we know businesses allow 1.30 am in any event, so wouldn't the sensible thing to be put is 2 am, because I do see problems arising from there and I think it is well spotted?

Mr Speaker, I propose an amendment.

The Chairman –

Okay.

The Hon. Derek Thomas –

From 1 am to 2 am, so we have a smoother passage.

The Chairman –

Okay, do we have a seconder to that proposal?

The Hon. Gavin Ellick –

I beg to second.

The Chairman –

Thank you.

The Hon. Gavin Ellick –

But also, Sir, one of the things is that sometimes when you go up to half past two, so you have a special exemption for that, but we also have here, what we do is a twenty-four hour show, sometimes to raise money for anything Cancer, whatever, so at High Knoll we have a twenty-four hour thing, so long as that in there so people can see it then I would be quite happy with that.

The Chairman –

Okay. Attorney General?

The Hon. Allen Cansick –

Mr Speaker, we seem to be, sort of, you know, going into policy territory again now, it was obviously decided for reasons that I'm sure the Committee would have debated, including Councillor Ellick, that 12 o'clock was the correct time for this. This requires lighting to be dimmed, it doesn't require it to be turned off and further this can be described later on.

The Hon. Derek Thomas –

Mr Chairman, I am concerned it require lighting to be dimmed, I am concerned about when you got large gatherings, you're putting the public at risk here, so I have an amendment on the table from 1 am to 2 am and the amendment, as far as I'm aware has been seconded, so it need to be put-

The Chairman –

Yeah, Attorney General?

The Hon. Allen Cansick –

I'm not sure, Mr Speaker, what we're amending, what are we actually amending in this case?

The Chairman –
Amending from 1 am to 2 am.

The Hon. Allen Cansick –
Where?

The Chairman –
Under (b), 2 (b), 28(f) (2) (b).

The Hon. Allen Cansick –
That is only in regard to exterior lighting at a port to be dimmed or turned off as prescribed. This is in regard to a port, it's not in regard to commercial lighting. Commercial lighting is covered in subclause (3) to 28(f) and you'll see there it has to be turned off at a time prescribed for the prescribed zone in which the commercial illuminated advertising it's located at the time at which the commercial premises associated with the commercial illuminated advertising closes or 12 am, whichever is earlier.

The Hon. Gavin Ellick –
So would that amendment be put for that there, because that is the one what we were talking about, I thought it was the top one because it mentioned 1 am on Saturday nights and most places on Friday and Saturday doesn't close until 1 o'clock anyway, so this isn't in there, so could that amendment stand for that?

The Hon. Allen Cansick –
You could consider it, but it seems very late in the day after this has been through a Committee and all of this has been debated in detail to be making amendments like this at this particular stage. If we have real concerns about this, my preference would be that this Bill is withdrawn today, looked at again in regard to its principle and brought back again. I wouldn't feel that it's the correct place now to be going into what are essentially important policy considerations in regard to lighting of premises in this Bill.

The Hon. Gavin Ellick –
Mr Speaker, I don't see it like that, because this is only a small amendment to extend the time, so I don't see why this here have to go away and come back when we can make a small amendment just to include that time, I don't think, in my opinion, I don't think that's called for, so a small amendment I think would suffice.

The Chairman –
Councillor Thomas?

The Hon. Derek Thomas –
Yeah, in light of the Attorney General's explanation here now, he talks about 28(f) (3) (c), so I'm now proposing the amendment then from 12 am to 2 am, because it's not appropriate for the previous amendment I made because he seemed to say that the (3) (c) is the appropriate er-

The Chairman –
The commercial use.

The Hon. Derek Thomas –

Yeah, for commercial use, so certainly 12 am, I'm proposing now that it goes to 2 am.

The Hon. Allen Cansick –

Mr Speaker that was the first part, the second part is in regard to subclause (4) that deals with the lighting in regard to the premises to be turned off at 12 am or at the time that the last member of staff of the commercial premises has left the commercial premises whichever is later. These provisions, as I have said already, have been debated and considered by the Committee. If we're going to make substantial changes, which these will be, I would suggest it goes back to the Committee to look at this with the recommendations and then comes back to this House on another day.

The Chairman -

Okay. Dr Corinda Essex and then Cyril.

The Hon. Dr Corinda Essex –

With respect to what the Honourable Attorney General has said, we are the policy makers, the members of the Committee are sat around this table now, so I am not quite sure why the Attorney General thinks it would be advisable to withdraw the Bill and bring it back to Committee when, if a proposal has been made in this House, we are the policy makers and if the Committee feel strongly that the proposed amendment is incorrect and the majority of other members feel that, then the proposed amendment would be voted down. If we do not, then the proposed amendment will be carried.

The Chairman –

The Honourable Jeffrey Ellick first?

The Hon. Jeffrey Ellick –

Thank you, Chair. I just want some clarification, probably from the Attorney General, because the subsection (3) is about commercial illuminated advertising. I think what we're talking about here is lighting for safety purposes at the premises and stuff like that, so lights outside so when people exit the buildings there must be lights on and so forth, so I not too sure if that covers that and subsection (4) is talking about interior light at that commercial premises, so I just want some clarification on that before we go any further. Thank you.

The Chairman –

Attorney General?

The Hon. Allen Cansick –

Councillor, it comes back to the point I'm making again. We have all of these different criteria's here, so, for example, we have public sector, then we have illuminated commercial lighting, then we have interior lighting on commercial premises, then we have the general rules for external lighting, we're now considering making amendments to what part, we're looking at this almost piecemeal rather than going through it in a detailed policy basis that would need to take place. Also returning to what Councillor Essex said, yes, we can table amendments here, yes, we can consider them, but Councillor Essex will be aware as other members will be that small changes can affect other parts of the Bill and my concern would be that starting to make these changes now it has a knock-on effect that at this forum we don't have time to properly consider, that's my concern, Councillor Essex.

The Chairman –

Councillor Derek Thomas?

The Hon. Derek Thomas –

Mr Chairman, the legal draughter, Mrs Catherine Williams, who is in the gallery, she draw my attention to 28 (g) which is seen to be covered and perhaps it would be worthwhile before we go ahead with this change to hear from her, because she seem to think it is covered. Attorney General, 28, she brought to my attention that it seems to be covered under 28 (g) (1)?

The Hon. Allen Cansick –

Councillor Thomas, with respect, as you're aware, but you may have forgotten, Kathryn Williams is not a member of Legislative Council, so she's unable to address the Council during proceedings here, she can outside of Council, but not during Council. In regard to 28 (g) which is another thing this provides in regard to security lighting now, which is another factor that's relevant and for security lighting if it's controlled by motion sensors and turns on only when triggered it's exempt, if it's set to turn off at a specific time at or within a specific time it's exempt, or if it meets requirements prescribed of the lighting zone where it's lighting is located is exempt. Of course, later on, if one of these establishments falls within one of those particular lighting zones then it might be well beyond 12 o'clock when it can turn its lights off or if there are motions they're exempt, but these are in particular circumstances which I would believe the Committee has given proper thought to already if these would apply in those circumstances.

The Chairman –

The Honourable Derek Thomas?

The Hon. Derek Thomas –

Yeah, I am really concerned about the times here, 12 am, I think, I'm concerned from a public safety point of view, Mr Chairman that is my concern, from a public safety point of view.

The Hon. Allen Cansick –

Mr Speaker, there's still the provision to make an application for an exemption under 28 (h) (1).

The Hon. Russell Yon –

Mr Speaker, can this be addressed through the regulations where an exemption can be applied for once a year and not for every event?

The Hon. Allen Cansick –

That can be considered by the exemption provision to the Chief Environment Officer, so it could be done on that basis there. In regard to public safety lighting, if it is lighting for public safety, that's also exempt already under the provisions, so there's something outside that which is there for the public safety, that would already be exempt.

The Chairman –

Honourable Christine Scipio?

The Hon. Christine Scipio –

Thank you, Mr Speaker. There seem to be a lot of going to, backwards and forwards here. I propose that we can adjourn for five minutes just to allow the Mover and the Attorney General and the legal draughters to have a quick chat, because there are different views around the table,

we need to, and I appreciate what the Attorney General is saying, if we're gonna make an amendment to a Bill we need to make sure that if you amend something it won't have impact on something else, so I propose just a five minute adjournment to allow those officials to meet with the Mover, just to bottom this out, because if not we will continue going backwards and forwards and backwards and forwards, Mr Speaker?

Question for a five-minute adjournment, put and agreed to.

Council Adjourned for five minutes.

Council Resumed.

The Chairman –

Okay, Honourable Members, we are back again and the Honourable Member Derek Thomas wishes to

The Hon. Derek Thomas –

Yes, thank you, Mr Speaker, I now did raise the, proposed the amendment, but I do think it is healthier as legislators that we have to pass law and we got to be absolutely sure that when we pass law, approve law, we're doing it for the common good of the island, so I see nothing wrong with raising concerns, but I did had a chance to have the discussion with the Attorney General and my concerns about public safety and events, it is covered under, he assured me it is covered under the exemptions, so it's already covered under 28 (b) under exemptions, so in light of that, I will withdraw my proposal for an amendment.

The Speaker –

Okay, thank you. Seconded?

The Hon. Gavin Ellick –

Yes, Sir.

The Chairman –

Thank you. Are there any other questions on Clause 7 Honourable Members wish to bring to the House?

Clause 7.

Question put and agreed to.

Council Resumed.

The Speaker –

The Honourable Mover?

The Hon. Cruyff Buckley –

Mr Speaker, I beg to report that the Environmental Protection (Amendment) Bill, 2021 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 –

Do we have a seconder, please?

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

The Speaker –
The Honourable Mover, you may speak to the Motion.

The Hon. Cruyff Buckley –
Mr Speaker, we finally got there in the end. I shall reiterate, this Ordinance allows for a lot of exemptions in order to work with the public in the interest of security lighting and public safety. Thank you very much.

The Speaker –
Thank you. Honourable Members, I put the question that this Council approves the Environmental Protection (Amendment) Bill, 2021 as amend, sorry, without amendments and recommends to the Governor that it should be enacted. Any Member wishes to speak further? Okay. Honourable Mover, do you wish to respond again to the debate?

The Hon. Cruyff Buckley –
Just to thank everybody for their support and I do take the Honourable Thomas's point that when we approve law, we need to be sure that we understand it and do it in the interests of the public. Thank you.

The Speaker –
I put the question that this Council approves the Environmental Protection (Amendment) Bill, 2021 and recommends to the Governor that it should be enacted.

Question put and agreed to.

The Bill is carried.

The Speaker –
Next item, please?

Motion No. 3 – The Honourable Anthony Green.

THE PUBLIC ACCESS TO GOVERNMENT INFORMATION BILL, 2021

The Speaker –
The Honourable Anthony Green?

The Hon. Anthony Green –
Mr Speaker, I beg to move that the Public Access to Government Information Bill, 2021 be approved in principle and referred to a Committee of the Whole Council.

The Speaker –
Do we have a seconder, please?

The Hon. Derek Thomas –

Mr Speaker, I beg to second.

The Speaker –

Thank you. The Honourable Mover?

The Hon. Anthony Green –

Thank you, Mr Speaker. The Public Access to Government Information Bill, 2021 provides for the disclosure of information held by the St Helena Government. The effect of this Bill is to put the present Public Access to SHG Information Code on a statutory basis. In doing so, it takes account of:

- (1) The difference in nature of legislation as compared to a policy or Code of Practice;
- (2) Changes that allow for the practical application of a Public Access to Government Information; and
- (3) Changes needed to make sure the Code as much as practical addresses the exemptions in the UK Freedom of Information Act 2000.

The Bill contains exemptions from the duty to disclose certain information. Various discussions on the Bill with either elected members, the Social and Community Development Committee and Executive Council have led to various changes to the original draft, including:

- (1) Allowing applications for information to be from those over 17 years of age rather than those over 18 years of age;
- (2) Those with St Helenian status being able to make an application for information without being on St Helena;
- (3) the inclusion of a deadline of twenty days for applicants to respond to requests for further information;
- (4) A requirement for SHG to not just record the number and type of request, but also to publish these details, however, allowing for the Information Officer to decide whether or not to publish the actual content of the request; and
- (5) Allowing refusal of accumulative requests requiring more than eight hours handling.

The Bill includes provisions for reviews and appeals. The appeals mechanism was included at the request of Executive Council and supported by elected members. If an applicant is dissatisfied with the response from the Information Officer a request can be made to the Chief Secretary for an internal review within twenty days. If an applicant is then still dissatisfied with the outcome of the review by the Chief Secretary, a written notice of appeal can be made to the Chief Magistrate as to whether the request for information was dealt with in accordance with the law. Details of the review and appeals will be covered during Committee stage.

A guidance booklet will need to be completed before the Bill comes into force. This Bill also enables Governor in Council to make regulations for carrying into effect the provisions of this legislation. Also, before the Ordinance comes into force, regulations will need to be drafted and approved.

I made reference earlier to an Information Officer. The Information Officer is the person appointed by the Governor to accept and respond to requests for information in accordance with this Bill.

In conclusion, I wish to emphasise that the purpose of this Bill is to put the current Access to SHG Information Code on to a statutory basis. The Bill only covers St Helena Government, it may be in future if resources and expertise is available it may be extended to public bodies and state-owned entities in certain circumstances. I commend the Bill to the House.

Mr Speaker, I beg to move.

The Speaker –

Thank you very much. Honourable Members, I put the question that the Public Access to Government Information Bill, 2021 be approved in principle and referred to a Committee of the Whole Council. The question is now open for debate. The Honourable Jeffrey Ellick?

The Hon. Jeffrey Ellick –

Mr Speaker, I do not support the Bill as it currently stands, primarily because of the appeals process. Also access to Government information is restricted to persons of 16 years of age; I'm not sure what type of information the Government would have that would not be suitable for a person aged 16 years and bearing in mind a 16-year-old can have a child, leave school, obtain a job and so forth. Yes, we should be doing more to encourage and empower our youth, after all, they are the future, or are these just a bunch of words used by politicians to give the impression that they have the youth of St Helena at heart. Well, today you have your opportunity to demonstrate if you really do have the youth at heart and want to empower, want them to be empowered. You, yes, you, my Honourable Members, can give them the right to make a request if they so wish for access to Government information or will we see the marginalisation of 16 year olds when it comes to access to Government information, because in reality there is only one thing to prevent 16 year olds from having this right and that is you, the voting members of this House. Today, we will see what members will welcome and embrace change, openness, transparency along with fear and equal justice and what members will allow authoritarianism where the Government has the upper hand and uses the law to gain advantage over the people, such as undermining of access to Government information. My Honourable Friend, the Attorney General, has briefed members that the appeals section in this Bill is controversial. I would also like to inform this House that the Social and Community Development Committee did not agree with the appeals process. However, ExCo took it upon themselves to bring the Bill before this House today. I would ask the Honourable Mover that changes be made to Part III of the Bill to reflect fear and equal processes to ensure justice for all whereby the process for the people is the same process for the Government and not a process whereby the Government uses draconian measures to suppress the people.

Honourable Mover, Mr Speaker, if the changes I have suggested are not made, I will not support a Bill that only allows access to Government information whereby the Government has the last say in whether the information should be given or not. This is morally wrong. Mr Speaker, I beg to move.

The Speaker –

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

The Hon. Gavin Ellick –

I, too, cannot support this Motion. While we were debating this in Social and Community Development, I pointed out that where is the freedoms for openness and transparency, where in this Bill it seems that we have to jump through hoops to get information which I thought that the Government would be able to give freely, because it is a first step for freedom of information, because we doesn't have anything. If this continues like this here, we won't have, we are better of not even looking at this here in this term, so, for me, I cannot support this Motion. Thank you.

The Speaker –

Thank you. Any other Member wishes to speak? The Honourable Christine Scipio?

The Hon. Christine Scipio –

Thank you, Mr Speaker. Mr Speaker, it appears that there is a need for public to have access to Government information, but I struggle to understand what is the point of having legislation relating to access to information when there are numerous exemptions to prevent disclosure of such information. I beg to move, Mr Speaker.

The Speaker –

Thank you. Any other Honourable Member? The Honourable Lawson Henry?

The Hon. Lawson Henry –

Mr Speaker, I rise in support of this Motion. In 2013, when I first joined this Council, freedom of information was a big issue with the electorate. Former Councillor, Ian Rummery and myself took this to the Administration shortly after being elected. The result of that in 2013, there was no policy or no legislation giving access to Government information, it was only what the Government decided that they were prepared to release. Those discussions resulted in the current policy to Government information, which, if my memory serves me right, was brought into force in September 2014. I can also recall during my tenure as a Councillor that the former SCDC had a mandate to bring forward a fully-fledged Freedom of Information Bill. There was a Working Group and a former Councillor was on that Working Group. I think they done a good job in bringing a draft Bill forward. What was clear, however, is that it was no way that that draft Bill could be brought before the House, because it simply would have not worked, the island simply do not have the resources. I think we need to be realistic here, I think the critics of this Bill will want the Government to be exposed and be able to give out all information, so long as it is not about them. No Government can do that and if you look throughout all our territories, you look at the UK Freedom of Information Act, the exemptions there is really not only to protect the Government, but to protect people. What I see in this Information Bill is a first step, it is putting on a statutory basis what we got in the policy, but it does go a step further, because it has an appeal system where the Government doesn't have the last say, it is the Appeal Court or the body that you got to appeal to who will have the last say. So, I see this as another step. We had the Information Policy, now we got that Information Policy put on a statutory basis, yeah, and I suspect as the years ago by that can be improved on when resources become more it can be improved on. I don't believe, in voting today, that I am denying any young person, nobody supports young people more than me, but I think here we have to strike a balance and we had discussions informally about this and the majority of members there agree that 17 would be a good starting point. There are other benefits that we have agreed as well, that people don't have to be on St Helena to apply for this information, so I think we have gone as far as we can go at this stage, importantly, it is putting this information on a statutory basis. The Government don't have a say now, the exemptions is in the law, if you don't like the response you get you got a first review by a Senior Government Officer and if you don't wish for that review then you go to the Appeals system. It's set up by a fully qualified Solicitor, so I think we have gone as far as we could and I really do recommend this Bill to the House, because I think it is another step in going towards those who, you know, look towards openness and transparency. So, thank you, and I support this Bill.

The Speaker –

Thank you. The Honourable Derek Thomas?

The Hon. Derek Thomas –

Mr Speaker, I also rise in support of this Bill, the Public Access to Government Information Bill, 2021. Like my colleague alluded to, this was the wishes of the public since 2013 and prior to that, so it has been long in the making here. Government has taken steps, they've introduced a Code, by associated, by having a Code in place this Bill now will put the Code on a statutory footing, so it is a step forward, which I feel will be appreciated and welcomed by the general public. The Bill, if passed, can always be reviewed, developed in future years. I don't see that we're denying the young people, restricting young people from obtaining potential information here, we discussed the age at length in various forums and have decided by majority 17, 17 is seen as you are a responsible adult, so, if, in the event that a younger person under 17 required information that information would not be denied, it can be achieved through responsible adult, that young person would have a responsible adult and the information can be obtained through that route, so we're not cutting sixteen years children off, not at all, we debated that. And also, so I don't see where that one stick, also the final say, it's not the Government who will have the final say here, if people are aggrieved by the outcome or the information not being provided, there is a duly appeal system set up so, you know, if they're not happy with the, it's not the Government who make the final decision here, there is a proper appeal system throughout the various processes, whether it is Government who makes the decision or whether it is the Chief Magistrate, so due processes are there, so I do give my support, it is something that I know that people up and around on Council since 2009 and it's always been concerns about people, about having information, Freedom of Information legislation, so I do see that as a huge step forward and I give my support to this Bill. Thank you.

The Speaker –

Thank you. The Honourable Dr Corinda Essex?

The Hon. Dr Corinda Essex –

Thank you, Mr Speaker. I agree with my colleagues that this is a step forward, because something that was just a Code of Practice is now going to be formally constituted and given the statutory powers which I think is a step forward, as I've said. However, I do not think it goes far enough, my Honourable Colleague opposite has explained the difficulties of actually bringing in something that is more far reaching. If you go for Freedom of Information, you then also have to look at data protection issues in depth, it is a challenge which is going to have to be addressed sooner than later anyway and I would suggest that at that point in time serious thought is given to extending the provisions of issues relating to Freedom of Information because what we have before us, to me, falls far short of what is ideal, although it is, as I said, an improvement. Having said that, there is one area within it, which the Honourable Attorney General is already aware is of deep concern to me and that is the veto power in the appeals process and I'm afraid I cannot support that, but with that exception, I fully support all the other elements of the Bill. Thank you.

The Speaker –

Thank you. The Honourable Cyril Leo?

The Hon. Cyril Leo –

Thank you, Mr Speaker. Can I just inform you that I voiced my concerns at Committee level on this Bill and mainly because I believe that the Bill can be better aligned to the Nolan Principles and I may have difficulty in supporting this Bill going forward.

The Speaker -

Thank you. The Honourable Christine Scipio?

The Hon. Christine Scipio -

Can I ask something for clarity, Mr Speaker?

The Speaker -

Yeah, go ahead.

The Hon. Christine Scipio -

Thank you. Mr Speaker, I've heard colleagues mention that the Government does not make the final say, but in what's proposed under Appeals, Clause 11, section 12, it states, and I'll read if the listeners would bear with me, "The Governor in Council may if the Governor in Council has reasonable grounds, form an opinion that information requested is exempt in accordance with section 8 (1) or (2) issue a certificate signed by the Governor in Council that such information requested is exempt". So, does that mean AG, for clarification, that Government does have the final say?

The Hon. Allen Cansick -

Yes, Honourable Councillor, this particular provision has been debated both in the Committee and in Executive Council, so it should be known to all members within this House, it's not something that's just come across now, so all Members have been well aware. The provision, in effect, is a veto provision which to some extent mirrors what is in the UK. In the UK, there is a procedure where the Secretary of State can, in fact, use a veto to stop information being used. I believe that's been used in the UK five times in the last twenty years, however, I can always look into that in more detail if needed. The provision here allows, following enforcement notice from the appellative authority, for the Government to do something, for the Government, being Governor in Council to form the opinion on reasonable grounds to issue a certificate that the information is exempt under one of those categories. If that happens, the enforcement notice does not take effect. In the same way that a decision of the appellative authority is subject to judicial review, this decision would also be subject to judicial review or can be subject to judicial review, I should say.

The Speaker -

Honourable Christine Scipio?

The Hon. Christine Scipio -

Thank you, Mr Speaker. Just for the benefit of the old lady down the hill, in layman's terms, what you're saying, what I asked, that Government does have the final say if you refer to that section if a certificate is issued?

The Hon. Allen Cansick -

Yes, but that would, of course, still be potentially subject to judicial review.

The Speaker -

Thank you. Any other Member wishes to speak? The Honourable Cruyff Buckley?

The Hon. Cruyff Buckley -

On that particular point, Mr Speaker, in regards to veto power, we hope that this provision will not be used unreasonably, but I think it is nice to have for instances and events such as national security, Mr Speaker, and after all, that is why we are elected.

The Speaker –

Thank you. Any other Member wishes to speak? The Honourable Clint Beard?

The Hon. Clint Beard –

Mr Speaker, I support this Motion, I believe we, as a Council, we need to use the Committee stages more effectively, we need to thrash things out as best as possible and coming to this House and do things for the benefit. When we're talking about 16-year-olds, I'm the Chair of Education, I would not want to disadvantage anyone, but there is ways and means of allowing a 16-year-old to get information and you could use, you could be the parent or the carer of that individual and that what you need to use as that way of getting that information was also want the best for that 16-year-old and want to get every appropriate information that can be given. I think we also have to look at, I think in context we tend to go overboard and follow, sometimes we go and want to follow the UK, realistically speaking we battle to make ends meet with just delivering our services and we stretch ourselves to do that and we have to be commendable because stretching the budget to make things work for this island is a hard, hard call to make, so for me this move is something that can be improved on and I think that is the way I'm thinking, I think we need to have something in place, which was never there, we need to use what we got and then use the platform that we have and make the adaptations as we go along, but, of course, all within our means that we can do, because if you want a full blown team I think we'd have to build another castle, so thank you, Mr Speaker.

The Speaker –

Thank you. The Honourable Russell Yon?

The Hon. Russell Yon –

Mr Speaker, I rise in support of the Bill. I do notice that there is a lot of exemptions, however, I believe this is a move in the right direction, the first steps, so to speak. St Helena Government must now take the initiative in this process that allows more information to be published and to avoid requests from the public for this information and by doing so dispel the public concerns around such openness and transparency. Much debate has been made around the age, I do not believe that 16-year-olds is an age issue at this moment in time as been echoed by a lot of my members here today, if those children of that age requires that information they can go through the right correct way I believe and that is through their parents or their carers. I do also believe that this should not be just a debate around individuals, it is an issue that has become a public concern that more information about SHG's works and ongoings should be placed in the public domain. Therefore, I support the Motion.

The Speaker –

Thank you. The Honourable Christine Scipio?

The Hon. Christine Scipio –

Can I rise on a point of information, Mr Speaker?

The Speaker –

Yes.

The Hon. Christine Scipio –

We're dealing with a hot seat here. Mr Speaker, just listening to what's been said so far, especially with Honourable Clint Beard talked about more should be dealt with in the Committee stage, but for information, I've heard today that three out of five of that Committee, Social and Community Development Committee, Honourable Gavin Ellick, Honourable Jeffrey Ellick and Honourable Cyril Leo said they don't support the Motion, so I just want to make that clarification.

The Speaker –

Okay, thank you. Any other Honourable Member wishes to speak? The Honourable Mover, you may respond.

The Hon. Anthony Green –

Thank you, Mr Speaker and I thank all those who made comments, I welcome those who spoke in support. As required under the Standing Orders, I shall refer to the principles of the Bill which is really the basic purposes of which I sent in my penultimate exposition sentence, that this Bill is simply for the Government Code into law, so it does nothing more. The reference has been made to Freedom of Information, that is still on our books and the Administration is currently looking at providing offshore perhaps advice depending on funding, so it's always been on the books, but that Freedom of Information comes with its complexities, implications and is a matter that hasn't gone away, it is in the process, but what has been decided is that the first stage, which has been mentioned earlier by one of my colleagues, is that, is to put the Government Code into law so's that once it's on the statutory basis it is not dealt with solely in house, you have appeals first to the Chief Secretary and then to the Chief Magistrate, so I do welcome the comments and the detail can be debated in the Committee stage, so I beg to move.

The Speaker –

Thank you. Honourable Members, I put the question then that the Public Access to Government Information Bill, 2021 be approved in principle and referred to a Committee of the whole Council.

Question put and agreed to.

The Speaker –

Honourable Mover?

The Hon. Anthony Green –

Mr Speaker, I beg to move that this Council resolves itself into a Committee to discuss the details of the Bill.

The Speaker –

Thank you. Do we have a seconder, please?

The Hon. Derek Thomas –

Mr Speaker, I beg to second.

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

Council in Committee.

The Chairman –

Thank you. Honourable Members, I put the question that the Title, Enacting Clause and Clause 1 do stand part of the Bill. Attorney General?

The Hon. Allen Cansick –

Mr Speaker, Clause 1 contains the citation for the Ordinance and makes provision for the Governor to fix the commencement date by notice in the Gazette.

The Chairman –

Honourable Members, you may speak to the Title, Enacting Clause and Clause 1.

Title, Enacting Clause and Clause 1.

Question put and agreed to.

The Chairman –

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

The Hon. Allen Cansick –

Mr Speaker, Clause 2 defines certain words and terms that are used in the Ordinance.

The Chairman –

Thank you. Honourable Members, any questions on Clause 2?

Clause 2.

Question put and agreed to.

The Chairman

I put the question that Clause 3 do stand part of the Bill. Attorney General?

The Hon. Allen Cansick –

Mr Speaker, Clause 3 of the Bill provides that the Bill applies to all information held by the Government, but excludes information that's not actually held or already in the possession of the Government or which the Government does not consider to be reliable.

The Chairman –

Honourable Members, you may wish to speak to Clause 3?

Clause 3.

Question put and agreed to.

The Chairman –

I put the question that Clause 4 do stand part of the Bill. Attorney General?

The Hon. Allen Cansick –

Mr Speaker, I need to propose a technical amendment to this Clause in regard to Clause 4, subclause (2). The reason for it is, as currently drafted, a mistake in the exempt applications

to information is it makes an exemption to 4 (1) and it needs to make clear that that's an exemption to access to information, so the proposed amendment to Clause 4 (2) is to delete what's there at present and instead replace it with "to a person who's not entitled to access information specified (a) in section 8 (1) and (b) in section 8 (2) if in all the circumstances of the case the public interest in not disclosing the information specified in section 8 (2) outweighs the public interest in disclosing the information specified in section 8 (2)." So I'd like to propose that technical amendment and after that speak to the Clause in detail, as amended.

The Chairman –

Okay. Do we have a seconder for the proposal?

The Hon. Anthony Green -

I propose to second.

The Chairman –

Thank you very much. Honourable Members, it's been proposed that Clause 4 (2) completely deleted, Honourable Attorney General, and substituted with 2 (a) a person is not entitled to access information specified in section 8 (1) and (b) in section 8 (2) if in all the circumstances of the case the public interest is not disclosing the information specified in section 8 (2) outweighs the public interest in disclosing the information specified in section 8 (2). Honourable Members, you may now speak to the amended Clause.

The Hon. Gavin Ellick –

Could the Attorney General explain this here to me, please?

The Hon. Allen Cansick –

Honourable Councillor, as currently drafted, it's drafted as if it's exempting applications, that's drafted wrong, it's a drafting error and it should be exempting access, so what this essentially does is correct it so that it exempts access rather than an application. It's a technical error that I'm asking for the House to allow to be corrected today.

The Chairman –

Any Honourable Member wishes to speak to the amended Clause, the Honourable Dr Corinda Essex?

The Hon. Dr Corinda Essex –

Can the Attorney General just explain what the consequence of the amendment will be?

The Chairman –

Attorney General?

The Hon. Allen Cansick –

As it currently stands, somebody would apply and then we'd be rejecting their right to apply on the basis that information is exempt, that's just the wrong way to do things, it should be they're entitled to apply and their access is rejected because it's exempt, but not their application itself.

The Chairman –

Thank you. Any other Member wishes to speak to the amended Clause 4?

Clause 4 (as amended) –

Question put and agreed to.

The Chairman –

Then we'll move on to Clause 5. I put the question that Clause 5 do stand part of the Bill
Attorney General-

The Hon. Allen Cansick –

I apologise, Mr Speaker, staying with Clause 4, as amended now, I'll address it, the Clause itself to explain what the Clause actually does and Members can debate that.

The Chairman –

Okay.

The Hon. Allen Cansick –

Clause 4, as amended, the first part, subclause (1) details who can make an application for access to information and it allows such application to be made by anybody, well, by somebody who is at least 17 years of age and is either having St Helena status or is resident and is physically present on St Helena, so an individual has St Helenian status can apply from anywhere, somebody who doesn't must be resident and physically present on St Helena. Subsection (2) deals with scenarios where individuals are not given or (a) not to be given access to information and those are, first of all, if information is in section 8 (1) and the exemptions detailed there, and when we get to Clause 8 prescribes in more detail, or, it falls in Clause 8 (2) and in all the circumstances of this case the public interest in not disclosing the information specified in section 8 (2) outweighs the public interest in disclosing the information specified in section 8 (2), so while one category is, in effect, an absolute exemption, the second category is subject to the public interest test.

The Chairman –

So, do I put the Clause again, Attorney General? Okay, Honourable Members, as explained by the Attorney General, I put the question then that Clause 4, as amended, do stand part of the Bill.

Clause 4 (as amended)

Question put and agreed to.

The Chairman –

I put the question that Clause 5 do stand part of the Bill. Attorney General?

The Hon. Allen Cansick –

Mr Speaker, Clause 5 simply details how a request to access information is made by an applicant.

The Chairman –

Honourable Members, you may wish to speak to Clause 5. No?

Clause 5.

Question put and agreed to.

The Chairman –

I put the question that Clause 6 do stand part of the Bill. Attorney General?

The Hon. Allen Cansick -

Mr Speaker, Clause 6 prescribes the procedures that the Information Officer must follow in dealing with the request for information. This includes, firstly, acknowledging the request in writing, responding within twenty days unless a request for further information or another exemption applies, detailing the information that can be part excluded or adapted where only part of it falls under an exemption, so this allows for non exempt parts of information to be disclosed when there's other parts that are exempt and would need to be redacted or excluded.

The Chairman –

Honourable Members, you may wish to speak to Clause 6. Honourable Derek Thomas?

The Hon. Derek Thomas –

I don't wish to speak to Clause 6, Mr Chairman, but I was just wondering whether it would be, just a suggestion, whether it would be a sensible thing to do a few clauses together, some of these clauses are very short, but this is a suggestion, it's a matter for you, it's suggestion.

The Chairman –

Okay, thank you. Okay. The Honourable Christine Scipio?

The Hon. Christine Scipio –

Thank you. Mr Chairman, just for clarity, Attorney General, Clause 6, 4 (b) makes reference to twenty days and my understanding, reference is made to seven, fourteen, twenty-one, but can you advise why in this particular case the period is twenty days and not twenty-one as the norm, is there any rationale for that?

The Hon. Allen Cansick –

I'm not sure if the norm is twenty-one days as I think the rationale would be looking at particular Bills, Ordinances and procedures and Members come to a decision then of how long that's gonna be, I mean, twenty days there would be four weeks.

The Hon. Christine Scipio –

Sorry, perhaps I didn't explain myself carefully, properly I should say. Say, for instance, you had a Bill, you get a Bill you say you must be paid within 7 days of receipt or 14 days or 21 days, so I'm using it in that terminology that I'm used to that in my opinion is my norm.

The Hon. Allen Cansick –

Well your norm might not be somebody else's

The Hon. Christine Scipio –

No, of course not, AG, I'm just asking why 20 days is proposed and not 21 days, because-

The Hon. Allen Cansick –

The Bill has been through its various stages and along the way Committees and Members have felt 20 days is the correct amount.

The Hon. Christine Scipio –

No, no, that's fine, just for the listening public now, isn't it, I'm asking the question, I'm not asking to change it, no intention of making an amendment to this, just for clarity, there is no reason, basically.

The Hon. Allen Cansick –

Was a.

The Hon. Christine Scipio –

That's fine, thank you.

The Chairman –

Okay. Just one question I have, is there an Information Officer in place?

The Hon. Allen Cansick –

Yes, there is a current Information Officer.

The Chairman –

There used to be, but I haven't heard of an Information Officer-

The Hon. Allen Cansick –

There is a current Information Officer in place, but following enactment of this Ordinance, if you have a look in the Interpretation section, the Information Officer would mean the person appointed by the Governor to accept and respond to requests for information under this Ordinance, so although there is an Information Officer already in post, they would need to also be appointed under this Ordinance once this Ordinance comes into effect.

The Chairman –

Thank you. Any other Member have any questions?

Clause 6.

Question put and agreed to.

The Chairman –

Attorney General, can we take Clauses 7 and 8?

The Hon. Allen Cansick –

Mr Speaker, we can't at this stage, because Clause 8 is quite a complex clause that will need to be itself.

The Chairman –

Oh, sorry, we'll do Clause 7 first.

The Hon. Allen Cansick –

Later on, perhaps, we can.

The Chairman –

I didn't turn the page, Attorney General.

The Hon. Allen Cansick –

Mr Speaker, Clause 7 deals with extensions of time, making clear the period of twenty working days commences either when the request is first received or the information further requested by the Information Officer is received or when payments required are made and it also makes clear that if a request is complicated or involves a high volume of information the Information Officer can go beyond twenty days as long as she details in writing or he or she details in writing to the applicant that they are going beyond those twenty days.

The Chairman –

Thank you. Any questions on Clause 7, Honourable Members?

Clause 7.

Question put and agreed to.

The Chairman –

I put the question that Clause 8 do stand part of the Bill. Attorney General?

The Hon. Allen Cansick –

Mr Speaker, Clause 8 deals with the exemptions from the duty to disclose information and there are some technical amendments that I apologise need to be requested in regard to this, but if I talk Members first through the provisions then suggest the technical amendments after debate has taken plant of the provisions as they currently stand because it doesn't really change the substance of it, but not to dilute the debate, to debate first of all the actual substance of what's here before proposing the technical amendments.

Clause 8, subclause (1) deals with the absolute exemptions which are all listed there.

Clause 8, subclause (2) deals with the exemptions that are subject to the public interest, so consideration of those exemptions must take place in the context of if the public interest in disclosing the information outweighs the public interest in not disclosing the information.

Subclause (3) details particular circumstances where the Government is not obliged to comply with a request for information, so these aren't exemptions, these are just circumstances where they don't have to comply and that's where handling of the request or multiple related requests will commutatively take more than eight hours of total staff time or the request is vexatious or the request repeats a previous identical or substantially similar request from the same or another applicant in which case section 6 (7) (b) applies.

Subclause (4) allows the Information Officer to deem multiple requests for information to be related for the purposes of subsection (3) if the Information Officer is of the opinion that a request was submitted separately whether by several different applicants with the purpose of avoiding subsection (3) (a), so if they make an assessment of how long it's gonna take and decide it was going to take more than eight hours an applicant can't submit lots of requests to get round that because there's a discretion for the Information Officer to consider it as one request that goes beyond eight hours. And before making or requesting technical amendments, that's how, that is the substance of Clause 8, the exemptions provisions.

The Chairman –

Honourable Members, you may wish to speak to Clause 8? No? Then I'll put the question then that Clause 8-

The Hon. Allen Cansick –

Some technical amendments, Mr Speaker, again, there is a number of drafting technical amendments that I apologise to the House for. The first one is in regard to Clause 8, subclause (1). As it currently stands, I propose that it's deleted as it currently stands and instead replaced with "in accordance with Section 4 (2) (a) the following information is exempt information". It should at the begin of that correctly refer back to the provision that makes that excludes it, which is 4 (2) (a). The second one is in regard to subclause (2) and it's similar again and that's to delete the words that are currently there and replace that with "in accordance with section 4 (2) (b)" so that it correctly relates back to the provision which creates the exclusion and then in subclause 3 by deleting what's currently there and instead putting in there "notwithstanding section 4, no obligations to comply with a request for information pursuant to this Ordinance obtains" and that's, again, to make that clear that that doesn't have to and it reflects back and then, finally, in subclause 4 there's a typing error which is better suited for rectification by this House which is after information there should be the word Officer and also it states deem, which is the incorrect word and it should be consider after there, so the suggested amendment in regard to subclause 4 is by inserting the words after the words Information "Officer" and by deleting the words "deem" and substituting the words "consider" and, Mr Speaker, you have this proposed amendment in front of you so it might be easier if you read it directly from there.

The Chairman –

Do we have a seconder, please?

The Hon. Anthony Green –

Mr Speaker, can I just ask the Attorney General before I second it, is whether this is going to be treated as one amendment or multiple.

The Hon. Allen Cansick –

It is one amendment, because it's one amendment to the clause.

The Hon. Anthony Green –

In that case, I second the amendment.

The Chairman –

Okay, thank you. Honourable Members, an amendment has been proposed and seconded and it reads as in Clause 8 as follows – in subclause (1) by deleting the words "the following information is exempt information and this subsection confers absolute exemption from the requirement to provide access to the information under Section 4 and substituting the words "in accordance with Section 4(2)(a) the following information is exempt information". In subclause 2 by inserting before the words "the following information is exempt information, the words "in accordance with section 4(2)(b)" and in subclause 3 by deleting the words "Section 4 does not oblige the Government to comply with a request for information" and substituting the words "notwithstanding Section 4 no obligation to comply with a request for information pursuant to this Ordinance obtains" and subclause 4 as follows – AA by inserting after the words "the Information" the word "Officer" and BB by deleting the word "deem" and substituting the word "consider" and in Clause 11(5)(a)-oh sorry.

The Hon. Allen Cansick –

(inaudible) time: 2:15:33

The Chairman –

Okay, sorry. Honourable Members, you may speak to the amended clause. The Honourable Dr Corinda Essex?

The Hon. Dr Corinda Essex –

Mr Chairman, I would just like to ask about the 8 hour limit, how rigidly would that be imposed, because there might be circumstances in which a considerable amount of information was requested which is key information which would be in the public interest to divulge, but it might legitimately take more than 8 hours to actually gather?

The Hon. Allan Cansick –

Honourable Councillor Essex, as currently drafted, the Government could choose to still look at it, but it wouldn't be obliged to do so if it was going to take more than 8 hours.

The Chairman –

The Honourable Dr Corinda Essex?

The Hon. Dr Corinda Essex –

I would like to propose an amendment then, please, to say that it should be increased to 12 hours because 8 hours is not even equivalent to two full working days. I would think something that needed a longer period than two working days probably wouldn't be feasible, so I would like to make a proposed amendment to change that to 12.

The Chairman –

Do we have a seconder, please?

The Hon. Cruyff Buckley –

Mr Speaker, I beg to second.

The Chairman –

Thank you. There's been a proposal, that's why I had to ask for a seconder.

The Hon. Christine Scipio –

And I put my light on.

The Chairman –

Oh, sorry. Okay, you wanted to second the proposal?

The Hon. Christine Scipio –

Never mind, Mr Speaker, because just for the listening public, I raised this same query when we debated it with all elected members, so I was happy to second it, but you didn't see my light, that's fine, Mr Speaker, because you know, you called the person whose light you saw.

The Chairman –

I saw your light because your light came on the same time Dr Essex's light came on and I thought you wanted to bring up another subject.

The Hon. Christine Scipio –

I did switch it off and I did switch it back on when you asked for a seconder, but that's no problem, Mr Speaker.

The Chairman –
Okay, thank you.

The Hon. Christine Scipio –
We just need to get our lunch.

The Chairman –
Where is this amendment, Attorney General?

The Hon. Allen Cansick –
Mr Speaker, I think it can probably be proposed as part of the same amendment if Members are supporting it.

The Chairman –
Okay, under?

The Hon. Allen Cansick –
In addition to what you've put forward already as an amendment under Clause 8, further on in subclause 3(a) to further be amended by changing where it states 8 to 12 hours of total staff time.

The Chairman –
Okay, it's been requested then under, been proposed and seconded that an amendment to Clause 3 (a) handling the requests on multiple related requests will accumulate take more than 8 hours and you want that to be amended to 12 hours.

The Hon. Allen Cansick –
And that could be voted on at the same time as the other parts of the amendment that you already read out, Mr Speaker.

The Chairman –
Okay. Any other Member wishes to speak to the proposed amendment? Okay. The Honourable Derek Thomas?

The Hon. Derek Thomas –
In terms of voting for this, I mean, it's been proposed 8 hours, it's now recommended 12, what is the consequences associated with this, if any?

The Chairman –
The Honourable Chief Secretary?

The Hon. Susan O'Bey –
Yes, that's just increased time for staff.

The Chairman –
Okay.

The Hon. Derek Thomas
Increased time for staff, but bear in mind it will be a charge for staff time?

The Hon. Susan O’Bey –
Yes, full cost recovery.

The Chairman –
Okay, Honourable Members, anyone else wishes to speak to the amendment?

Clause 8 (as amended)

Question put and agreed to.

The Chairman –
Can we move on to Clause 9, I put the question that Clause 9 do stand part of the Bill. Attorney General?

The Hon. Allen Cansick –
Mr Speaker, Clause 9 deals with the two matters, the form that information is provided and the ability to charge for time spent on that information. So the first subclause, subclause (1) makes clear that subject to the subclauses (2) and (3) information made available to an applicant under Clause 6 must be provided electronically, however, subclause (2) makes clear that if an applicant requests information in a form other than electronically the information must be provided in other form if it is reasonably practical having regard to cost and resource implications to provide the information in that form, so the expectation is that information will be provided electronically, but if requested and is reasonably practical and meets that criteria it can be provided in another form. Subclause (3) allows the Information Officer to impose a charge at prescribed rates and these will be prescribed by regulation to comply with a request for information having regard to the volume of information to be provided, the cost of photocopying or the time and resources required to collate the information and the applicant must be informed of this charge in advance.

The Chairman –
Honourable Members, you may wish to speak to Clause 9? The Honourable Cruyff Buckley?

The Hon. Cruyff Buckley –
In the event, Attorney General, the applicant is informed of the charge in advance and doesn’t like the fee that has accumulated, will there be a standing charge on the initial fee to cover this initial stage?

The Hon. Allen Cansick –
Councillor, from earlier on you’ll see the twenty days in Clause 7 doesn’t take effect until all payments under Clause 9 (3) have been made, so the Information Officer if request for payment, which is expected policy, will not start accumulating on working on that until the payment’s been received.

The Hon. Cruyff Buckley –
Thank you

Clause 9.

Question put and agreed to.

The Chairman –

I put the question that Clause 10 do stand part of the Bill. Attorney General?

The Hon. Allen Cansick –

Mr Speaker, Clause 10 makes provision that if the applicant is not satisfied with the response provided by the Information, the applicant may request an internal review by the Chief Secretary.

The Chairman –

Thank you. Any Member wishes to speak to Clause 10?

Clause 10.

Question put and agreed to.

The Chairman –

As Clause 11 is quite lengthy, we will take Clause 11, I put the question that Clause 11 do stand part of the Bill. Attorney General?

The Hon. Allen Cansick –

Clause 11 contains the appeal provisions. It begins by establishing an Appellant Authority and makes that Authority the Chief Magistrate, it then allows a person dissatisfied with an internal review to apply to the Authority to consider if the request for information has been made in accordance with the Ordinance. It details an appeal must be heard, must be considered within 14 days after receipt of the internal, must be made, I apologise Members, it states an appeal must be made within 14 days of the receipt of the internal review decision unless in exceptional circumstances the Authority allows a longer period. It allows the Authority to refuse to consider an appeal if it is vexatious or has been withdrawn or abandoned. It gives the Authority the power to issue Information Notices on the Information Officer for information to be provided to the Authority to assist them in making their determination. It requires the Authority if it dismisses an appeal to serve notice on the applicant and Information Officer. If it up holds the appeal, the Authority has the power to serve an enforcement notice on the Information Officer requiring the Information Officer to take required steps within 20 days. It allows the Governor in Council if it has reasonable grounds to issue a Certificate that it has formed the opinion that information requested is exempt in accordance with Sections 8(1) and Sections 8(2) and if such certificate is issued within 20 days of an enforcement notice the enforcement notice ceases to take effect. If such a certificate is issued a copy must be laid before LegCo as soon as is practical. It also creates provisions for failure of the Information Officer to comply with an information notice or an enforcement notice to be brought to the Supreme Court for consideration of contempt of court, it also makes clear that judicial review is, or clarifies for the avoidance of doubt that judicial review is available for both the decision of the Appellative Authority and if Governor in Council issues the certificate referred to in subclause (12) which was just detailed and it further makes provisions for in the absence, illness or other reason that the Appellative Authority is unable to perform its functions or the Office of Chief Magistrate is vacant it gives power to the Governor to appoint another person to perform that function, but in doing so, according to subclause (22) it must be in respect of a person who possesses qualifications required for the practice of a legal profession that are the same or significantly

similar to those required for the appointment of a person as a Chief Magistrates under the Magistrates Court Ordinance.

The Chairman –

Any Member wishes to speak? Councillor Jeffrey Ellick?

The Hon. Jeffrey Ellick –

Would the Attorney General just clarify, the point of the, sort of, what is aiming to achieve, so the public will know, because I know my Honourable Friend, Councillor Buckley said because it covers national security, but it doesn't, it is section 8(2)(c) covers national security, so what is this covering, is it just a basically a certificate because you don't want somebody to know something?

The Chairman –

That's alright, Attorney General, we're in Committee stage.

The Hon. Allen Cansick –

I think I've already addressed this earlier on when the question was put to me before we got to the Committee stage. You know, I can detail it again, it, in effect, allows Governor in Council to issue a Certificate if it forms reasonable grounds that it considers it falls under the exemptions in 8(1) or 8(2) and in issuing such a Certificate it means that enforcement notice does not have to take effect. It doesn't specify anything more than that Governor in Council must on reasonable grounds form the opinion that it falls under one of those exemptions.

The Hon. Jeffrey Ellick –

Thank you. It's just my worry that you've got one piece of law for the people and then you've got a law for the Government, so the Government are step up, there's no equal processes, so therefore you aint got legal justice here, because the Government has the right to ask for a Judicial Review as well, so why aren't they taking that route and they're just doing their own thing?

The Hon. Allen Cansick –

Councillor, I've explained the provision for you and what you're doing here is making a policy statement to me, but you need to make that to the rest of the House, I've explained legally how this provision operates.

The Hon. Jeffrey Ellick –

Thank you, I didn't make that point before, so for me, that's my issue is that there isn't fair processes and equal processes here, so it's more like, like I said before, authoritarianism.

The Chairman –

Thank you. Any other Member wishes to speak? The Honourable Cruyff Buckley?

The Hon. Cruyff Buckley –

Yeah, just to say, Mr Speaker, that for the listening public, that I don't see this provision of veto as one of a suppressive nature, rather than a mechanism that could be used, if, indeed, the need arises and we draw on circumstances from the UK and I know we had an informal discussion between Executive members around what areas did the UK, what reasons were used to make these decisions in the UK and it's been only used on a very few occasions and I know the Attorney General was able to go away on the informal basis to give an example in history

how this has been used and it's akin to having a gun, but not having to use it, Mr Speaker, but I will say also that there is a further step to be taken and that is, of course, Judicial Review, which is open to any decision this Government takes so I do see this as a fair provision. Thank you, Mr Speaker.

The Chairman –

The Honourable Dr Corinda Essex?

The Hon. Dr Corinda Essex –

Thank you. I was going to ask whether the Honourable Attorney General can shed some light on under what circumstances this has been used in the UK?

The Hon. Allen Cansick –

Councillor Essex, I'm happy to look over that at lunch and come back to you, after we take a lunch and give you a proper answer, because, Mr Speaker, may find that the House is feeling tired?

The Chairman –

Okay, Honourable Members, we will adjourn for lunch and we'll come back again at a quarter to two and we will resume our business then. Thank you, Honourable Members.

Council Adjourned.

Council Resumed.

Council in Committee – Resumed Debate.

The Chairman –

Good afternoon, Honourable Members and welcome back to the meeting. You were going to look at something for the Honourable Dr Corinda Essex?

The Hon. Allen Cansick –

Yeah, the information I've been able to find from searching in regard to this, is that it's been used five times in the last twenty years. The first time to stop publication of minutes of cabinet meetings relating to the invasion of Iraq, the second and third time by successive governments to stop publication of cabinet meetings relating to discussions regarding devolution, the fourth to stop publication of a risk register of the NHS and the fifth to stop publication of private letters of Prince Charles, Prince of Wales, sent to a number of Government Departments.

The Hon. Dr Corinda Essex –

Thank you, Honourable Attorney General.

The Chairman –

We're under 11 now, you've got another amendment, Attorney General or no, in Clause 11(5)(a)?

The Hon. Allen Cansick –

Yes, Mr Speaker, I wanted to propose a typographical amendment in subclause 5(a) it appears “frivolous or” and to delete the words “frivolous or”. The reason for this is that the Bill as already defined vexatious in the definitions section to this that’s again, a drafting error.

The Chairman –

Okay. Sorry. Do we have a seconder, please?

The Hon. Anthony Green –

I beg to second.

The Chairman –

Okay, Honourable Members, there’s been an amendment to Clause 11, subclause 5(a) and it’s been proposed to delete the words “frivolous or” and (a) would read, “the appeal is vexatious or”. Is that right, Attorney General?

The Hon. Allen Cansick –

Yes, Mr Speaker. Honourable Members, you may now speak to the amended Clause 11, subclause 11(5)(a) if you wish. Okay, anything else, Attorney General, under Clause 11?

The Hon. Allen Cansick –

Nothing further from me.

The Chairman –

Nothing further.

Clause 11 (as amended) –

Question put and agreed to.

The Chairman –

Honourable Members then, I put the question that Clause 12 and 13 do stand part of the Bill. Attorney General?

The Hon. Allen Cansick –

Mr Speaker, Clause 12 addresses records and publications. It requires the Information Officer to keep a record of the number and types of requests that have been made under the Ordinance and at least once every twelve months publish for public information the detail of the number and types of requests so made. Under subclause (2) the Information Officer may publish details of requests made, her response is provided under the Ordinance, which may, where the applicant requests and anywhere the applicant requests contain the identity of the applicant.

The Chairman –

Okay, and 13?

The Hon. Allen Cansick –

And Clause 13, Mr Speaker, is the provision allowing Governor in Council to make regulations for carrying into effect the provisions of this Ordinance.

The Chairman –

Thank you. Honourable Members, you can speak to Clauses 12 and 13.

Clauses 12 and 13.

Question put and agreed to.

Council Resumed.

The Speaker –

The Honourable Mover?

The Hon. Anthony Green –

Mr Speaker, I beg to report that the Public Access to Information Bill, 2021 passed the Committee with three 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. Do we have a seconder, please?

The Hon. Derek Thomas –

Mr Speaker, I beg to second.

The Speaker –

Thank you. The Mover, you may speak to the Motion?

The Hon. Anthony Green –

Thank you very much, Mr Speaker, I have nothing further.

The Speaker –

Thank you. Then I'll put the question that this Council approves the Public Access to Government Information Bill, 2021 with three amendments and recommends to the Governor that it should be enacted. Honourable Members, you are invited to speak? Okay. The Honourable Cyril Leo?

The Hon. Cyril Leo –

Thank you, Mr Speaker. I would like to, if I may, refer back to my colleague's statement in reference to Clause 4, subclause 1 relating to persons 17 years of age. I'm sure my Honourable Colleague would have some public motive or reason to use this opportunity to pass judgement on our ongoing commitment and dedication to the children of this island who we consider the future of St Helena and I would also like to draw attention to Clause 11, subclause (12). My Honourable Friend to the right said earlier that I oppose this Bill. I don't oppose this Bill, there is one element in this Bill that my conscience allow me to question and as I said earlier, Mr Speaker, I believe the Bill can be better aligned to the Nolan Principles and in particular with reference to Government openness and transparency and unless Clause 11, subclause (12) is considered for removal then I just cannot support this Bill.

The Speaker –

Okay, thank you. Any other Member wishes to speak? The Honourable Mover?

The Hon. Anthony Green –

Thank you, Mr Speaker. The Bill has been through its Committee stage and I thank Members for their support, so I've got nothing further to add. Thank you.

Question that Council approves the Public Access to Government Information Bill, 2021, as amended, and recommends to the Governor that it should be enacted, put and agreed to.

The Bill is carried.

The Speaker –

Thank you. Next item, please?

Motion No. 4 – The Honourable Derek Thomas

**THE CONTROL OF TOBACCO AND RELATED PRODUCTS
AMENDMENT) BILL, 2021.**

The Speaker –

The Honourable Derek Thomas?

The Hon. Derek Thomas –

Mr Speaker, I beg to move that the Control of Tobacco and Related Products (Amendment) Bill, 2021 be approved in principle and referred to a Committee of the Whole Council.

The Speaker –

Thank you. Do we have a seconder, please?

The Hon. Clint Beard –

Mr Speaker, I beg to second.

The Speaker –

Thank you. Honourable Mover, you may speak to the Motion.

The Hon. Derek Thomas –

Mr Speaker, I thank the Honourable Clint Beard for seconding the Control of Tobacco and Related Products (Amendment) Bill, 2021. Mr Speaker, Honourable Members, you will be aware that in June 2020 Legislative Council endorsed the Control of Tobacco and Related Products Ordinance 2020. This Ordinance was designed to help protect the public from harm tobacco causes and ensure the wellbeing of our population into the future. Since this Ordinance was passed last year, work has been underway to draft the associated regulations to support the implementation of the Ordinance. These regulations have now been written and were endorsed by Executive Council earlier this month. Mr Speaker, Honourable Members, smoking is the world's leading cause of premature death, disability and the loss of healthy life years, as England's Chief Medical Officer, Professor Chris Whitty pointed out recently. Smoking not only kills people prematurely, it also drives them into poverty and reduces healthy life expectancy with smokers needing help with everyday tasks years earlier than those who never smoke. All forms of tobacco are harmful and there is no safe level of exposure to tobacco. The number of smokers in our community is high. Provisional data from the 2021 Census indicates that smoking rates are increasing in our population with 22.2% of adults aged 18 years and over reported to be a smoker compared to 26.4% of the population in 2016. Although

the provisional data indicates positive overall trends in smoking rates, there are still groups with high or increasing rates of smoking, almost half, 47.5% of men aged 20 to 29 smoke, there has been an increase in the number of smokers in the 30 to 39 age group, 29.2% compared to 24.8% in 2016 which increases in both males and females. The World Health Organisation Framework Convention on Tobacco Control is an evidence-based treaty that reaffirms the right of people to the highest standard of health, provides legal dimensions for international health cooperation and sets high standards of compliance. The Control of Tobacco Bill presented today is built on the proven evidence-based practice in the World Health Organisation Framework Convention on Tobacco Control. Mr Speaker, Honourable Members, the proposed amendments to the Bill, being tabled today will further support and strengthen the endorsed Ordinance and Regulations. The key components of the Bill are – the requirements for the registration and inspection process to become a registered dealer to enable businesses to import and/or sell tobacco and related products; restrictions on importation and sale of tobacco products; supply of tobacco related products; prohibited public displays; requirements for tamper proof packaging and labelling. If passed, Mr Speaker, by Legislative Council today, the Bill will provide details from components of the Bill passed in 2020 enabling the legislation to be implemented. The Health Directorate has formed a Communication and Information Plan for both the public and businesses to support the community with the implementation of this legislation. The Health Directorate has a planned communication strategy to inform and support the public and businesses adopt the legislative changes. Plan components include – community-based information sessions for the public and businesses, information sessions on the radio, which has already commenced, weekly printed updates from November detailing the core components of the legislative changes, an overview of the registered dealer application requirements and process at the Licensing forum in partnership with the Police, also the re-launch of the Prove It Scheme which will not only support the sale of tobacco, but will also support other illegal activities as well. We have a plan, the Information Plan is to introduce various components of the Bill in phases and the first phase is recommended to be implemented in September of this year, that is for registration and inspection and that will allow registered dealers to be able to be registered and comply in the same manner that the Liquor Licensing holders carry out at the moment, so the plan is to be able to implement that in September to allow the Police to carry out their inspection on the dealers during October/November with the implementation being effective from January 2022, the majority of the provisions of the Ordinance. Also, Mr Speaker, Honourable Members, stopping the supply of flavoured type products, the Health Directorate has been working closely with the merchants, the importers who produce these type of flavoured type cigarettes and tobacco and, again, the Health Promotion Officer, who is here today, has been working, continued to work with the merchants so they will be able to have a lead-in time and a time to be able to get rid of their stocks that they currently hold, so, Mr Speaker, I leave it as that and look for Members support on this important Bill. Thank you.

The Speaker –

Thank you. Honourable Members, I put the question that the Control of Tobacco and Related Products (Amendment) Bill, 2021 be approved in principle and referred to a Committee of the whole Council. The Motion is now open for debate. The Honourable Clint Beard?

The Hon. Clint Beard –

Mr Speaker, I rise in support, I think we're looking at again, the Health Committee and I think they've been fast with doing, updating and scrutinising so that you can have appropriate criteria in place as well as being advised by the Health professionals. What is I think a good approach

is to have the phases leading up to full implementation and the strategies that are in place for the communication as well as support. I think Mr Speaker, I support.

The Speaker –

Thank you. The Honourable Lawson Henry?

The Hon. Lawson Henry –

Mr Speaker, Honourable Members, I rise in support of this amendment. I supported the principal Ordinance when it was brought before the House and I do so with these amendments. I think it is absolutely critical that we have this legislation in place given the state of the health of some of the population. What is also good is during this Bill's passage prior to coming to the House, is the proposals that the Health Directorate have to support those who wish to stop smoking, because the Bill will not achieve what it's set out to do if we don't have the support mechanisms, so I'm very pleased to see, to have heard what is planned, so I fully support this Bill and hope that other Members will too. Thank you.

The Speaker –

Thank you. The Honourable Anthony Green?

The Hon. Anthony Green –

Thank you, Mr Speaker. I sit on the Public Health Committee and I fully support this Bill which will make change to the principal Ordinance, it has my full support, it's based on advice from experts and it's also in the long-term health of everybody on the island, so I fully support. I beg to move.

The Speaker –

Thank you. The Honourable Russell Yon?

The Hon. Russell Yon –

Thank you, Mr Speaker, I rise in support of the Bill and likewise I'm also a member of the Public Health Committee so we have been through this proposed legislation on several occasions and I do believe that we do need this supporting legislation to support the principal legislation that was passed previously, therefore, I support the Bill.

The Speaker –

Thank you. The Honourable Gavin Ellick?

The Hon. Gavin Ellick –

Can I rise and ask for a point of information?

The Speaker –

Yes.

The Hon. Gavin Ellick –

In 2020, when the principal Ordinance was passed, the Public Health said they had plenty things in place for people to stop smoking and they was saying they had some numbers to say they had stopped smoking, so when I see this here come up now, some percent increase and nothing not happen with the programme, why people are expected to stop smoking.

The Speaker –

Honourable Derek Thomas?

The Hon. Derek Thomas –

Mr Speaker, I thank the Honourable Member for raising that concern. Unfortunately, when the legislation was approved, we needed to work in conjunction with other agencies for the regulations and also with the merchants themselves as well. Unfortunately, Covid hit us and our lead Health Promotion Officer when she arrived to take over from her predecessor, for the first six months she was held up with involvement with Covid preparedness and very little, or, indeed, nothing could be done in terms of moving this forward. We were able to convene meetings to try and get the regulation where it is, I am pleased to say now that we are better placed, the Health Promotion team is expanding and we have plans in place to be able to support those who wish to quit smoking. Like I say, we're working with all agencies, including the merchants, importers and the Police, we are on a pathway now to be hopefully with these regulations, these amendments to the Ordinance being supported, we are on a pathway that we hope the island can see some success. Thank you.

The Speaker –

Thank you. The Honourable Christine Scipio?

The Hon. Christine Scipio –

Thank you, Mr Speaker. Mr Speaker, in this House on 30th June 2020 when the principal Ordinance was presented, concerns were raised in respect of restricting the sale of individual cigarettes or offered for the supply of tobacco related products that are packaged and labelled in a prescribed manner. At that time, it was stated that we removing the opportunity for young people to purchase individual cigarettes would discourage them to smoke. I have been in contact with the Statistics Office and I have information in front of me and according to the 2021 Census and I know that the Health lady who was in the public gallery was also copied into the information that was shared with me. So, according to the 2021 Census, 10 males between the age of 18 and 19 declared that they smoke whilst in 2016 17 declared themselves as smokers, so there has been a drop by 7 and in 2021 2 females smoked whilst in 2016, 10 was recorded, so it's another drop in 8 females. Looking at the statistics that, I'm not sure what information that the Mover was referring to, also there was a drop in the ages 20 to 29, because in 2016, 110 males were recorded as smokers whereas in 2021, 84 were and for the ages 40 to 49, 96 was recorded as smokers whereas in 2021 it was 68, so I'm just giving the trend that there has been a decrease and that's the males and there's also been a decrease in females, like I alluded to before between the 18 and 19 and also in the 20 to 29 year old females in 2016, it was 56 and in 2021 it was 41, so overall, and like I say, I'm not sure where the Mover received his information from, maybe he had misinterpreted, I don't know, overall in, according to the Census, 851 in total stated yes to smoking, whereas in 2021 was a decrease of 730, so there has been a decrease according to the information that has been provided to me, Mr Speaker, and, Mr Speaker, it is my understanding that the substantive Ordinance hasn't been enacted although it was approved in June 2020, so my point, Mr Speaker, going back to the selling of single cigarettes which we had a concern in formal LegCo a year ago, although it has not yet been implemented, as I stated earlier, the statistics has shown that there has been a drop, hence I'm now pondering why there is a need to restrict the selling of individual cigarettes and I hope that the Mover will be able to provide some explanation for that. Thank you, Mr Speaker.

The Hon. Derek Thomas –

Can I raise on a point of clarification?

The Speaker –
Yes, go ahead.

The Hon. Derek Thomas –
I apologise, I did say increase where I should have said decrease and I do apologise for that, my adviser at the back kindly pointed that out, so there has been a decrease and the figures from the 2021 Census are provisional and may be revised. In terms of single stick cigarettes and the Ordinance, although the Ordinance was passed, the Member is absolutely right, it was passed, it has not been implemented, simply cannot be implemented until parts of the regulations are ready to implement, but in terms of single sticks, that was a provision that was not supported when the principal legislation was approved. Thank you, Mr Speaker.

The Speaker –
Thank you. Honourable Christine Scipio?

The Hon. Christine Scipio –
Sorry, Mr Speaker, can I ask for clarity, because I know that my understanding of the procedure of formal sittings is you're only allowed to speak once to a Motion, so I hope you will allow me to ask.

The Speaker –
Just for clarification.

The Hon. Christine Scipio –
for clarification.

The Speaker –
Okay.

The Hon. Christine Scipio –
especially with the comment that the Mover has made, because I'm a little confused now, because in the amendment Bill that is proposed today it talks about restrictions on importation and sale and it talks about individual cigarettes as well, so maybe that will be highlighted when we go through the Committee process.

The Speaker –
Thank you. The Honourable Gavin Ellick?

The Hon. Gavin Ellick –
Can I rise on another point of information, Sir?

The Speaker –
Hmm, hmm.

The Hon. Gavin Ellick –
If this here Bill passes and people starts to stop smoking again, will cigarettes be at a high price, because we depend on cigarette sales and alcohol sales as part of our revenue for the island, will this mean that the Mover has some plan in place how we will raise taxes to get it, please

The Speaker –

Okay, if you wish to respond.

The Hon. Derek Thomas –

I can respond. I don't have a plan in place in relation to the price of cigarettes, but what I will say if the Member will recall when the Ordinance was debated the heavy cost of, in the long term, of the medical referrals and medevacs which many is associated to illness associated to smoking, the Government will see long-term gains whereas they might lose out on a certain amount of revenue, that is yet to be seen, but the whole plan is to try and have a healthier population in the elder years. We have a serious problem here with non-communicable type diseases and we're trying to put in place a plan to try and reduce these types of diseases over a period of time and this is the major factor according to the professional advice given that is related to a lot of these illnesses.

The Speaker –

Thank you. Are there any other questions rather than information, because I think we can deal with that in Committee stage. Honourable Mover, you may reply to the debate.

The Hon. Derek Thomas –

Yes, thank you, Mr Speaker. I would just like to thank those Members who rise in support of this amended Bill. Thank you.

The Speaker –

Thank you.

Question that the Control of Tobacco and Related Products (Amendment) Bill, 2021 be approved in principle and referred to a Committee of the Whole Council, put and agreed to.

The Speaker –

Honourable Mover?

The Hon. Derek Thomas –

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

The Speaker –

Do we have a seconder, please?

The Hon. Clint Beard –

Mr Speaker, I beg to second.

The Speaker –

Thank you.

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

Council in Committee.

The Chairman –

I put the question that the Title, Enacting Clause and Clause 1 do stand part of the Bill.
Attorney General?

The Hon. Allen Cansick –

Mr Speaker, Clause 1 provides the short title and the commencement provisions. Commencement provisions are ordered by the Governor, but they also include provisions for different provisions to come at different times.

The Chairman –

Thank you. Honourable Members, you may speak to the Title, Enacting Clause and Clause 1.

Title, Enacting Clause and Clause 1.

Question put and agreed to.

The Chairman –

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

The Hon. Allen Cansick –

Clause 2 amends the Interpretation section of the principal Ordinance and inserts new terms into the Ordinance used in the Bill.

The Chairman –

Okay. Honourable Members, you may wish to speak to Clause 2?

Clause 2.

Question put and agreed to.

The Chairman –

I put the question that Clause 3 do stand part of the Bill. Attorney General?

The Hon. Allen Cansick –

Mr Speaker, Clause 3 inserts a new Part 2 (a) into the principal Ordinance and this deals with requirements for registration and inspection. Subclause 8(a) provides for the application process and inspection of premises for a person applying to be a registered dealer. Subclause 8 (d) provides for the Certificate of Registration to be issued to a registered dealer by the Licensing Officer. Subclause 8 (c) makes provision for a person to object to an application for registration under the Ordinance and subclause 8 (d) provides that the Licensing Officer may refuse to register a person who applies for registration. This clause also makes provision for the revocation of a certificate of registration and for the resulting effects of revocation. Subclause 8 (e) makes provision for reasons to be given if registration under the Ordinance is refused or if a certificate of registration is revoked and the clause also details the appeals process in respect of such.

The Chairman –

Honourable Members, you may speak to Clause 3. The Honourable Gavin Ellick?

The Hon. Gavin Ellick –

In 3 (a), No, 11, the fine of £500, is that bit high or that is, like, in line with what we trying to achieve?

The Hon. Allen Cansick –

I think we're referring to 8 (a), subclause 11 and it's a fine of up to £500 rather than £500 specifically. It's a matter for members, but I believe it was considered consistent with the other fines in the principal Ordinance, but it's a matter for members.

The Chairman –

Any other questions?

Clause 3.

Question put and agreed to.

The Chairman –

Right, then I put the question that Clauses 4, 5 and 6 do stand part of the Bill. Attorney General?

The Hon. Allen Cansick –

Mr Speaker, Clause 4 inserts a new Clause 9 (a) into the Ordinance that prohibits the sale of tobacco and related products from a wholesaler to a person who is not a registered dealer. This clause also prohibits the sale of individual cigarettes. Clause 5 amends section 10 of the Ordinance, so the supply of flavoured tobacco and related products is now prohibited. Clause 6 amends section 14 of the Ordinance and makes provision for the manner in which the price for tobacco and related products are to be displayed.

The Chairman –

Okay. Honourable Members, you have any questions on Clauses 4, 5 and 6? The Honourable Christine Scipio?

The Hon. Christine Scipio –

Thank you, Mr Chairman. I weren't absolutely certain earlier if the Mover said that the single sticks had been removed or not, so if he can just confirm what he said, because it's in this amendment, so just, because it was debated last time, Honourable Mover and I thought, I might have misheard you, because it's been a long day, that it had been removed, the restriction to sell individual cigarettes had been removed, so can you just advise exactly what you had said earlier, because maybe it's just my hearing?

The Hon. Derek Thomas –

So, my understanding is, Mr Chairman, that the single sticks last time we debated and it was felt that it should go in the regulations, but then following advice from the Attorney General it was felt that it was better placed in the principal Ordinance.

The Chairman –

Attorney General?

The Hon. Allen Cansick –

Mr Speaker, the first time the principal Ordinance, the Bill came to this House, it put a prohibition on the supply of cigarettes other than in their packages, subject to regulations detailing what the conformity is there. What this particular regulation does is make it an offence to sell individual cigarettes or to import, so it makes it an offence to acquire, offer for sale or supply tobacco related products in individual cigarettes, so beforehand I know there was a prohibition meaning you can sell them, there was no offence of doing so, so this creates that.

The Hon. Christine Scipio –
Thank you for the clarity.

The Chairman –
Thank you. Any other questions on Clauses 4, 5 and 6?

Clauses 4, 5 and 6.

Question put and agreed to.

The Chairman –
I put the question that Clause 7 do stand part of the Bill. Attorney General?

The Hon. Allen Cansick –
Mr Speaker, Clause 7 amends section 19 of the principal Ordinance, it removes references to exporters and manufacturers of tobacco and related products which are not relevant in St Helena.

The Chairman –
Thank you. Honourable Members, you may speak to Clause 7. The Honourable Cruyff Buckley?

The Hon. Cruyff Buckley –
Sorry, Mr Speaker, can I just go back to Clause 5, if I may, Mr Speaker?

The Chairman –
You can't go back, it's already been approved.

The Hon. Cruyff Buckley –
That's okay, I'll raise it later with the AG. Thank you.

Clause 7.

Question put and agreed to.

Council Resumed.

The Speaker –
Honourable Mover?

The Hon. Derek Thomas –
Mr Speaker, I beg to report that the Control of Tobacco and Related Products (Amendment) Bill, 2021 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 –
Do you have a seconder, please?

The Hon. Clint Beard –
Mr Speaker, I beg to second.

The Speaker –
Thank you. Honourable Mover, you may speak to the Motion.

The Hon. Derek Thomas –
Nothing further to add, just to thank the Honourable Members for their support, who did support the Bill. Thank you.

The Speaker –
Thank you, then I'll put the question that this Council approves the Control of Tobacco and Related Products (Amendment) Bill, 2021 and recommends to the Governor that it should be enacted. Honourable Members, you may now speak to the Motion. Honourable Cruyff Buckley?

The Hon. Cruyff Buckley –
Thank you, Mr Speaker. The question I asked before in relation to subsection 5, I was gonna ask if the vaping issue that has caused a lot of problems worldwide, would be covered under this section by virtue of a technical feature which allows a person to modify the taste, smell or smoke intensity of tobacco or a related product, so I just imagine that it would be covered under that section, because I know that that is an issue that has arisen. Thank you, Mr Speaker.

The Speaker –
Thank you. Any other Member wishes to speak? The Honourable Mover, you may respond to the debate?

The Hon. Derek Thomas –
Nothing further to add, but just to answer Councillor Buckley's concern there, that the E-cigarettes is already covered in the principal Ordinance, so it will cover that, the issue he raised. Thank you.

The Speaker –
Thank you.

Question that Council approves the Control of Tobacco and Related Products (Amendment) Bill, 2021 and recommends to the Governor that it should be enacted, put and agreed to.

The Bill is carried.

The Speaker –
Right, next item of business, please?

Motion No 5 – The Honourable Anthony Green.

THE ELECTIONS (AMENDMENT) BILL, 2021

The Speaker –

The Honourable Anthony Green?

The Hon. Anthony Green –

Mr Speaker, I beg to move that the Elections (Amendment) Bill, 2021 be approved in principle and referred to a Committee of the whole Council.

The Speaker –

Do we have a seconder, please?

The Hon. Derek Thomas –

Mr Speaker, I beg to second.

The Speaker –

Thank you. Honourable Mover, you may speak to the Motion.

The Hon. Anthony Green –

Mr Speaker, the Elections (Amendment) Bill is to clarify an anomaly regarding the interpretation and application of Section 4 of the principal Ordinance to the Elections Ordinance 2009. Part 2 of the Elections Ordinance 2009 provides for the eligibility of individuals to have their names included in the Register of Electors if (a) they have St Helenian status as defined in the Immigration Ordinance 2011; (b) has attained the age of 17 years; and (c) on the date application is made is both present in St Helena and ordinarily resident in the constituency for which the person applies to be registered. Part 2 of the Ordinance further provides that a person who is not, in fact, present in St Helena, must be treated as being both present and ordinarily resident in St Helena if the person makes a declaration in the prescribed form to the effect that he or she (a) has St Helenian status; and (b) is ordinarily resident in St Helena but is absent from St Helena in connection with employment, education or training in respect of him or herself or their spouse or life partner or for the purpose of medical treatment in respect of him or herself, spouse or life partner or a dependent. It goes on to say that those provisions do not apply to a person who has been absent from St Helena for a continuous period of thirty months or for periods exceeding in aggregate 625 days in the preceding thirty months. During the recent exercise to update the Register of Electors, an anomaly was highlighted with regard to persons that fall into Section 4 the provisions of which are at risk of misinterpretation in that it could be interpreted that a person must be present in St Helena at the time of making an application to be included in the Register of Electors. This could contradict the requirement for a person to declare that they are ordinarily resident in St Helena when making an application, but temporarily absent at the time of making an application. This Elections (Amendment) Bill, 2021 seeks to remove the anomaly and clarify the law. I commend the Bill to the House. Mr Speaker, I beg to move.

The Speaker –

Thank you very much. Honourable Members, I put the question that the Elections (Amendment) Bill, 2021 be approved in principle and referred to a Committee of the whole Council. The question is now open for debate. Honourable Members? The Honourable Derek Thomas?

The Hon. Derek Thomas –

Yes, since I seconded it, I feel I need to rise, so I do support this amendment, Mr Speaker, it's a tidying up exercise, it clears up the anomaly the Mover referred to, it is clearly a tidying up exercise and I do recommend that this small amendment be enacted. Thank you.

The Speaker –

Thank you. The Honourable Lawson Henry?

The Hon. Lawson Henry –

Mr Speaker, Honourable Members, I, too, rise in support of this Bill. The law should be clear, it should not be ambiguous and the amendment before the House today is to make it clear. Thank you.

The Speaker –

Thank you. Any other Member wishes to speak? The Honourable Mover, you may reply to the debate?

The Hon. Anthony Green –

Only, Mr Speaker, to thank Members who obviously fully support the Bill. Thank you.

The Speaker –

Thank you.

Question that the Elections (Amendment) Bill, 2021 be approved in principle and referred to a Committee of the whole Council, put and agreed to.

The Speaker –

The Honourable Mover?

The Hon. Anthony Green –

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 –

Do we have a seconder, please?

The Hon. Derek Thomas –

Mr Speaker, I beg to second.

The Speaker –

Thank you.

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

Council in Committee.

The Chairman –

Honourable Members, I put the question that the Title, Enacting Clause and Clause 1 do stand part of the Bill. Attorney General?

The Hon. Allen Cansick –

Mr Speaker, Clause 1 contains just the short title for the Bill, there's no commencement clause, so this Bill will come into effect on enactment.

The Chairman –

Thank you. Honourable Members, you may speak to the Title, Enacting Clause and Clause 1.

Title, Enacting Clause and Clause 1.

Question put and agreed to.

The Chairman –

Then I put the question that Clause 2 do stand part of the Bill. Attorney General?

The Hon. Allen Cansick –

Mr Speaker, Clause 2 amends Section 4 of the Elections Ordinance. It repeals the current subsection (2) and substitutes it with a new subsection (2). What it essentially does is by deleting it gets rid of the nonsense where we are in the law deeming somebody to be present when they're not present and instead make them deem to have met the conditions when they're not present.

The Chairman –

Okay. Honourable Members, you may speak to Clause 2. The Honourable Jeffrey Ellick?

The Hon. Jeffrey Ellick –

Just for clarity, what that does means now that people on Ascension, the Falkland Islands, like Ascension people don't have a place of abode, so if they've left St Helena and gone to Ascension and they're there within, I think it is 30 months, they then have the right to be on the Register of Electors and the right to vote?

The Hon. Allen Cansick –

Yes, Councillor, it clarifies that situation, gets rid of the anomaly. It remains the case that those who are outside of St Helena as long as they meet the other conditions of the thirty months and not exceeding 625 days from St Helena in the thirty months are entitled to vote, even if they're not on St Helena at the time.

The Hon. Jeffrey Ellick –

Thank you, Attorney General.

The Chairman –

Thank you. Any other Member have any questions on Clause 2? The Honourable Cyril Leo?

The Hon. Cyril Leo –

Attorney General, I probably, I, sorry, it's my age.

The Chairman –

Okay.

The Hon. Cyril Leo –

Mr Speaker, don't mislead me.

The Speaker –

I do beg your pardon.

The Hon. Cyril Leo –

Attorney General, I probably should have asked you this earlier, but this will apply to, say, children born to St Helenians but born on Ascension and has come of age to register in St Helena to vote, this will, or somewhere else in the Ordinance?

The Hon. Allen Cansick –

You're asking, more so an interpretation question in regard to the law as it currently stands, rather than this amendment to fix an anomaly, but the overall provision of the Section 4 of the principal Ordinance details when you can register as an elector, sets out the criteria, has St Helena status as defined in the Immigration Ordinance, has attained the age of 17 and is on the date on which the person applies to be registered both present in St Helena and ordinarily resident in the constituency for which the person applies to be registered, so this is normally the case, but what that section already does, and we've fixed the, sort of, situation there, is given exemption to that category in (c) so the islanders still have to apply where if you have, obviously, the other conditions and you're away from St Helena for the purposes of employment, educational training or for medical treatment you are deemed to have met that provision of (c) where you have to be here at the time, so that's what that does, but there's a subsection (2) which means that doesn't apply to somebody who is absent from St Helena for a period of 30 months or for a period exceeding 625 days in the preceding 30 months, so you still have to meet that to be there, so somebody born on Ascension wouldn't necessarily have the right to vote if not meeting those conditions.

The Hon. Cyril Leo –

Thank you, Mr Speaker, Attorney General.

The Speaker –

Anybody else wishes to speak?

Clause 2.

Question put and agreed to.

Council Resumed.

The Speaker -

The Honourable Mover?

The Hon. Anthony Green –

Mr Speaker, I beg to report that the Elections (Amendment) Bill, 2021 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 –

Do we have a seconder, please?

The Hon. Derek Thomas –

Mr Speaker, I beg to second.

The Speaker –

Honourable Mover, you may speak to the Motion.

The Hon. Anthony Green –

Thank you, Mr Speaker. The only point I'd like to make the importance of this piece of legislation if passed is to make sure that this clarification is done now ahead of the impending General Election, it's very important. Thank you, Mr Speaker.

The Speaker –

Thank you. Then I'll put the question that this Council approves the Elections (Amendment) Bill, 2021, without amendments, and recommends to the Governor that it should be enacted. Honourable Members, you may now speak. No? Honourable Mover?

The Hon. Anthony Green –

Thank you, Mr Speaker, no further comments.

Question that Council approves the Elections (Amendment) Bill, 2021, without amendments, and recommends to the Governor that it should be enacted, put and agreed to.

The Bill is carried.

The Speaker –

Next item of business, please?

Motion No. 6 – The Honourable Clint Beard.

THE EMPLOYMENT RIGHTS (AMENDMENT) BILL, 2021

The Speaker –

The Honourable Clint Beard?

The Hon. Clint Beard –

Mr Speaker, I beg to move that the Employment Rights (Amendment) Bill, 2021 be approved in principle and referred to a Committee of the whole Council.

The Speaker –

Do we have a seconder, please? The Honourable Christine Scipio?

The Hon. Christine Scipio –

Thank you, Mr Speaker, I beg to second.

The Speaker –

Thank you. The Honourable Mover, you may speak to the Motion?

The Hon. Clint Beard –

Thank you, Mr Speaker. Mr Speaker, Members, the purpose of this Bill is to make further provisions with respect to the Labour Regulating Authority. The Employment Rights (Amendment) Bill, 2021 has come about after some urgent matters were raised with me by the Chairman of the LRA. A meeting was held with Education and Employment Committee where the Chairman detailed proposed amendments to the Employment Rights Ordinance. At the meeting, he was also informed, we also informed the Committee of the progress he was making on draft guidelines, best practice and codes of practice for employers, employees and workers and the importance of having political recognition of these in law. The LRA came into being in 2010 and at present has a number of statutory responsibilities which are – to promote and protect the rights of employers, employees granted under the Ordinance, to advise the Governor in Council at any relevant Council Committee on Labour Protection issues, to investigate and determine claims made by employees under the Ordinance, to prepare and publish guidelines and best practice and Codes of Practice in employment protection for employers, employees and workers. In light of the Private Sector being an important economic conduit for St Helena, it would seem that this is more creating a platform that will benefit and be the initial steps to which to build and conform, working together is all what we seek and allowing better grasp of availability of all guidelines allows for this to kick off, but the Motion of this work will allow for the ability to be exercising of one's rights, to exercising of one's rights. The Employment Rights (Amendment) Bill, makes a number of changes to the Employment Rights Ordinance, namely – the first of these changes is in regard to the responsibility of the Labour Regulating Authority to prepare and issue guidelines and Codes of Practice on employment matters. The Authority raise concerns that there should be some sort of political endorsement of the guidelines. It was considered without such there is a potential conflict with their responsibility to determine claims. To address this, the law is amended so that the Authority has to first consult with Executive Council on guidelines before they are published in the Gazette. The second change is to remove the function of protection and promotion of rights of employees from the Labour Regulating Authority. The Authority considered that this was inconsistent with their function of determining employment claims. A responsibility for promoting rights has now been given to the Employment Rights Committee. The protection function has not been given to them as they do not have such expertise. The Bill also makes changes to creating a Clerk to the Authority and a Deputy Chairman who must be a Justice of the Peace. In summing up, I hope I will receive support for the Employment Rights (Amendment) Bill, 2021 and will thank Members in advance for their views on this important item presented. Thank you, Mr Speaker. I beg to move.

The Speaker –

Thank you. I put the question that the Employment Rights (Amendment) Bill, 2021 be approved in principle and referred to a Committee of the whole Council. The Motion, Honourable Members, is now open for debate. The Honourable Christine Scipio?

The Hon. Christine Scipio –

Thank you, Mr Speaker. Mr Speaker, this amendment to the Bill it improves the legislation as been highlighted by the Mover, so I have no intention of going through what he, repeat what he has just said, but, Mr Speaker, I would like to take the opportunity to convey appreciation to the Chief Magistrate, Duncan Cook, who has carried out an excellent presentation on the draft guidelines for best practices that the Mover has alluded to and, Mr Speaker, I can say that the feedback from the private sector has been positive, so I'd like to put it on record that really appreciate the excellent work that he has done in promoting the guidelines, and, of course, Mr Speaker, I do support the Motion.

The Speaker –

Thank you. The Honourable Lawson Henry?

The Hon. Lawson Henry –

Thank you, Mr Speaker. Mr Speaker, Honourable Members, as a member of the sponsoring Committee of this amendment, I rise in support of it and I'd like to echo what my colleague opposite me said about the guidelines and the sheer amount of work put in by the Chief Magistrate and I, too, have received favourable comments, you know, as a result of the consultation, so I fully support this Bill. Thank you.

The Speaker –

Thank you. The Honourable Dr Corinda Essex?

The Hon. Dr Corinda Essex –

Thank you, Mr Speaker, I seem to be pressing my button at the same time as other people in the House today. I think we're all more or less on the same page, certainly on this issue, because I would also like to commend the work that's been done in terms of drawing up the guidance. As President of the St Helena Chamber of Commerce, I would like to put on record that the presentation that was made by the Chief Magistrate to the Chamber was extremely well received and a number of employers indicated that it provided the sort of information that they wish they'd had months ago, which was very encouraging. I would also like to emphasise that with rights come responsibilities as well, both on the part of the employers and employees and I think at times those get overlooked and I hope very much that as a result of being generally better informed and made more aware of what is acceptable or not acceptable, some of the issues that are currently arising will become a thing of the past. Thank you, Mr Speaker.

The Speaker –

Thank you. The Honourable Russell Yon?

The Hon. Russell Yon –

Thank you, Mr Speaker, I rise in support of this Bill. As Chairman of the Employment Rights Committee, we will welcome this as the work of the Labour Regulating Authority will also assist with the processes that is undertaken within that small committee, but a very, very important one to the population of this island. Thank you, Mr Speaker, I support the Motion.

The Speaker –

Thank you. The Honourable Derek Thomas?

The Hon. Derek Thomas –

Thank you, Mr Speaker, I do rise in support of this Employment Rights (Amendment) Bill, 2021. I do see it as strengthening the Employment Rights Ordinance 2010. I didn't attend any of the workshops, but I've heard favourable comments from the businesses and private sector on the good presentations that the Chief Magistrate, the Chairman, Duncan Cook carried out in promoting the rights. I know, because in 2010 when I was around when the principal Ordinance came into play, there was then huge engagement through the Chamber, with which I am part of and all business, it was clearly explained to businesses, private sector business, what would be expected of them and I am aware that some of them has lived up to their word and have complied when it come to employment rights of their employees. I'm also aware that

it's unfortunate that some of these private sector businesses doesn't have these rights in place albeit the Ordinance has been in place now for eleven years, so, you know, when it comes to leave, sick pay and all of this kind of thing, contract of work, you know, some of those I understand doesn't exist and employees are afraid to, in a small community, are afraid to shout out in fear that they will be penalised, so I hope that with this Bill and this awareness that this will strengthen the Employment Ordinance, but I would say that it should be closely monitored because I know my colleague sitting on the right here, Councillor Green, we've raised that in our Committee and he's taken efforts to try and raise awareness, he's done his bit there, so it need to be monitored because there isn't a policing element to see that, you know, these requirements are in place and maybe that is something that perhaps need to be looked at in the near future in terms of going forward if we are to empower and grow our private sector, so I support the Bill and I beg to move.

The Speaker –

Thank you. The Honourable Anthony Green?

The Hon. Anthony Green –

Thank you, Mr Speaker, I, therefore, simply wish to rise and say I support the Bill. Thank you.

The Speaker –

Thank you. The Honourable Cruyff Buckley?

The Hon. Cruyff Buckley –

Thank you, Mr Speaker, I rise in full support of this Bill. As the previous Chairman of the Employment Rights Committee, I think it has come on on leaps and bounds, Mr Speaker, and as my Honourable Colleague pointed out, although the Ordinance has been in force now for a number of years, I think enforcement is the real issue and it's all well and good putting things on paper, Mr Speaker, but in reality what does it mean and I think there's a lot of work that could be done now going forward by this Government in terms of enforcement. There has been suggestion of an Ombudsman and as my colleague alluded to, it will come at a cost and the question would be what it is worth, but I think there's other mechanisms that can be employed, for instance, procurement contracts offered from this Government, Mr Speaker, lucrative, large procurement contracts and at the very least I think these contractors could provide contracts of employment for their employees for their protection. I'm also pleased that maternity and paternity provisions also now exist, so I think it's gaining momentum, Mr Speaker, and we look to the future. Thank you.

The Speaker –

Thank you. Any other Member wishes to speak? The Honourable Mover, you may reply to the debate.

The Hon. Clint Beard –

Thank you, Mr Speaker. All I can say is thank you very much for the support, thank you to Councillor Scipio for seconding and I think for me this is where we will build. I think we talk about the private sector, I think here is where we put it and we say this is what needs to happen, this is how the island needs to move forward, the emphasis on private sector moving ahead, so thanks everyone for the support, I think it's important that the work around this, and as was mentioned, the work that the Chairman has done to proceed with guidelines which is being taken and been, people have been using it and, sort of, they look at it as a way that this, as was

mentioned before, should have been in place quite some time back and so I would see this as a real way forward and it's been a helpful document, so thank you very much.

The Speaker –

Thank you.

Question that the Employment Rights (Amendment) Bill, 2021 be approved in principle and referred to a Committee of the whole Council, put and agreed to.

The Speaker –

The Honourable Mover?

The Hon. Clint Beard –

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 –

Do we have a seconder, please?

The Hon. Christine Scipio –

I beg to second.

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

Council in Committee.

The Chairman –

I put the question that the Title, Enacting Clause and Clause 1 do stand part of the Bill. Attorney General?

The Hon. Allen Cansick –

Mr Speaker, Clause 1 has the short title and the interpretation of the principal Ordinance. Again, there's no commencement provision, so this will come into effect on enactment.

The Chairman –

Thank you. Are there any questions on the Title, Enacting Clause and Clause 1, Honourable Members?

Title, Enacting Clause and Clause 1.

Question put and agreed to.

The Chairman –

I put the question that Clauses 2 and 3 do stand part of the Bill. Attorney General?

The Hon. Allen Cansick –

Mr Speaker, Clause 2 amends the interpretation section of the principal Ordinance. It puts in a new definition of regulator to reflect the changes of the composition in Clause 3 and then Clause 3 makes provision for the appointment of a Deputy Chairman who must be a Justice of

the Peace to perform the function of the Chair when the Chair is absent or otherwise unavailable to perform those functions and it further allows for the creation of a position of a Clerk to the Labour Regulating Authority.

The Chairman –

Thank you. Honourable Members, do you have any questions on Clauses 2 and 3? The Honourable Cruyff Buckley?

The Hon. Cruyff Buckley –

The clerk, Mr Speaker, will that be a new post within Government or is it expected to be absorbed into another job role?

The Hon. Allen Cansick –

No, it will be the current Court Manager who already carries out the function as it is, it just puts it on to a statutory basis.

The Hon. Cruyff Buckley –

Thank you.

The Chairman –

Any other questions on Clauses 2 and 3?

Clauses 2 and 3.

Question put and agreed to.

The Chairman –

I put the question that Clauses 4 and 5 do stand part of the Bill. Attorney General?

The Hon. Allen Cansick –

Clause 4 makes amendments to the duties of the Labour Regulating Authority. The first amendment it makes is to mean that when it prepares and publishes its guidelines they need to be published in the Gazette and it further makes clear that in doing so they can't be published in the Gazette until the Labour Regulating Authority has consulted with Executive Council. It also makes a further change which is to remove from the Labour Regulating Authority the responsibility to promote and protect rights of employees under the Ordinance. Clause 5 adds to the duties or the functions of the Employment Rights Committee and it adds to the function of promoting the rights of employees under the Ordinance.

The Chairman –

Thank you. Honourable Members, any questions on Clauses 4 and 5? The Honourable Cruyff Buckley?

The Hon. Cruyff Buckley –

Just for clarity, Mr Speaker, amendment of section 8, Functions of Committee, the Committee in question, is that the Employment Rights Committee?

The Hon. Allen Cansick –

That's right, Councillor Buckley, it's the Employment Rights Committee.

The Hon. Cruyff Buckley –
Thank you.

The Chairman –
Are there any other questions, Members?

Clauses 4 and 5.

Question put and agreed to.

Council Resumed.

The Speaker –
The Honourable Mover?

The Hon. Clint Beard –
Mr Speaker, I beg to report that the Employment Rights (Amendment) Bill, 2021 passed the Committee with no amendments and to move that the Council approves the said Bill and recommends to the Governor that it should be enacted.

The Speaker –
Do we have a seconder, please?

The Hon. Christine Scipio –
I beg to second.

The Speaker –
Thank you. The Honourable Mover, you may speak to the Motion.

The Hon. Clint Beard –
Mr Speaker, nothing much to add.

The Speaker –
Thank you. Then I'll put the question that this Council approves the Employment Rights (Amendment) Bill, 2021, without amendments, and recommends to the Governor that it should be enacted. Honourable Members, you may now speak? The Honourable Mover?

The Hon. Clint Beard –
I never intervened before, but, Mr Speaker, I'll say that I'm very, very happy that everybody supported this and seen the necessity for this to happen, so thank you very much.

The Speaker –
Thank you.

Question that the Council approves the Employment Rights (Amendment) Bill, 2021, without amendments, and recommends to the Governor that it should be enacted, put and agreed to.

The Bill is carried.

The Speaker –
Next item of business, please?

7. ADJOURNMENT DEBATE

The Speaker –
The Honourable Chief Secretary?

The Hon. Susan O’Bey –
Mr Speaker, I beg to move that this House do now adjourn until 2nd July 2021.

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

The Hon. Dax Richards –
Mr Speaker, I beg to second.

The Speaker –
Thank you. The Motion is that this House do now adjourn until Friday, 2nd July, 2021. Honourable Members, the Motion is now open for debate and just to remind Members that you have ten minutes, please. The Honourable Lawson Henry?

The Hon. Lawson Henry –
Thank you, Mr Speaker, I rise in support of the Adjournment Debate and I just wish to reflect on two matters. Firstly, to say a few words about the recently issued flight schedule from September to 31st March, 2022. This is a good news story for the island and whilst it may not be what everyone wants, what it does, however, and, importantly, is to provide certainty within the travel sector to the island for the next nine months or so even though there will still be some prioritisation criteria. It is hoped that if conditions are right in the UK, the restrictions for travelling to the island can be further reduced, in particular, the need to quarantine, but as always, this needs to be considered based on all the circumstances that prevail at the time. I hope, therefore, that the travelling public will find they can now have certainty and plan their travel in the months ahead. I would like to thank our team in the Treasury, Infrastructure and Sustainable Development for the work undertaken to be about this much needed flight schedule and particularly Mark Souter, the Head of Civil Aviation.
And my next point is that I would like to place on record in this House the additional funding announced by His Excellency the Governor last week donated to the island by Her Majesty’s Government for environmental projects amounting to just over £1m. This is great news for the island and more importantly for our environment and it is right to make mention of it here today and once again to thank Her Majesty’s Government and all those involved in making this happen. Mr Speaker, I beg to move and support this Adjournment Debate. Thank you.

The Speaker –
Thank you very much indeed. Any other Member have anything for the Adjournment Debate?
Dr Corinda Essex?

The Hon. Dr Corinda Essex –

Thank you, Mr Speaker. Mr Speaker, I declare my interest as President of the St Helena Chamber of Commerce.

Mr Speaker, there's currently some lack of clarity regarding St Helena Government's policy position in relation to private sector development and in some instances there's an apparent incongruity between private sector expectations based on what is aspired to be key policy priorities and how these are applied in practice. Prior to the closure of Enterprise St Helena, much of the interaction between St Helena Government and the private sector was undertaken through this intermediary body. This had both advantages and disadvantages and one of the latter is arguably that this distanced SHG from direct engagement regarding key private sector views and concerns, although the Chamber did assist to bridge the gap and I would like to take this opportunity to thank officials and fellow elected members who have met with the Chamber very willingly, provided useful information and crucial updates and sought and accepted policy advice. Now that the private sector development functions subsume within SHG, it's very pleasing that the Head of Sustainable Development is proactively liaising with the private sector and providing timely feedback. However, such interaction, although aligned with current cross-cutting policy documents, such as the Ten-Year Plan and the Sustainable Economic Development Plan, is not predicated upon a specific overarching private sector development policy and associated strategy. Mr Speaker, I wish to give notice that it is my intention to bring a formal Motion to this Honourable House before dissolution of this Council with the aim of getting this deficiency addressed. Thank you, Mr Speaker.

The Speaker –

Thank you. The Honourable Christine Scipio?

The Hon. Christine Scipio –

Thank you, Mr Speaker. Earlier on this week, Mr Speaker, I became very excited to attend this session today because I had thought that by the end of this session or early next week after approximately eighteen months of waiting to be able to walk up and down the steps to the entrance of our unique building, because I had a correspondence to say that the steps leading to the Castle reception area will be closed due to the installation of the handrail. I see there are heads moving while I'm talking, Mr Speaker, so I'm not sure what's going on, but Mr Speaker you probably noticed a few moments ago I left the meeting because I wanted to see what progress had been made with installing this handrail, because for the listening public there has been some progress and thank you, Chief Secretary, for, I don't know who got the whip out, Chief Secretary, but after all this time waiting, but today it doesn't seem to be much progress and I've been told that the installation of the handrail has now been put on hold, I haven't been told officially, Mr Speaker, that the installation of this handrail is now being put on hold and there are red cones going down the middle, so I was excited and now I am deflated, so I hope that the Chief Secretary will be able to in her response just give an explanation as to why the handrail, if it is correct, is on hold and that after this session I'm unable to walk up and down the steps or early next week.

So, Mr Speaker, today, in this House today, reference was made to the critics and words to the effect were mentioned if it was about them they wouldn't want information to be released, so, Mr Speaker, in my opinion, it is my role to be objectively scrutinise the legislation, hence, in my humble opinion, the word referred to, or critics, is inappropriate.

In my response to my question earlier in respect of receiving international text messages, it appears in St Helena individuals and businesses are likely to be isolated and denied access to everyday lifestyle tool, such as social media, accounts and banking, which the rest of the world see as the norm.

Mr Speaker, in this House on 28th May 2021, I had called for an update on the social, environmental and economic impact assessment on the recommended changes to the method of fuel delivery to the island and to the design of the Bulk Fuel Installation project. We were advised by the Financial Secretary that this assessment will not be received until mid-June 2021 and will be presented to Executive Council for comment. Five working days later, I learnt that the voyage of the MV Helena was slightly delayed due to the loading of eight tanktainers of diesel, so, Mr Speaker, is this a different method of fuel delivery for the island and has the assessment been received?

Once again, I express concern about the lack of information about the disposal of St Helena Government shareholding in Solomon and Company Plc. It has been seven months since the publication of expressions of interest to purchase shares held by St Helena Government in Solomon and Company Plc, but now, Mr Speaker, there is silence.

I have also previously asked if it is St Helena Government's intention to reopen Mantis St Helena. I now note that the application for Liquor Licence for this premises is being heard in Court on 1st July 2021. What does this tell us? Don't know. On second thought, it may have been that Mantis St Helena had a licence that was valid for six months only or Mantis St Helena did not feel there was a need to submit an application earlier, hence only doing so now. Mr Speaker, at a meeting in this House on 4th June 2021 by majority vote amendments to the Constitution of St Helena, Ascension and Tristan da Cunha was agreed by an important factor, but an important factor was omitted. There was very limited consultation with the public. I have stated limited as it appears that these amendments were not published on St Helena Government website prior to our formal meeting or whilst we were in session, which I alluded to the Mover.

According to St Helena Government's publication in respect of governance reforms, it states that to align with the seven legislators of the ministerial system, the eight districts should be reduced to seven. It is hoped that adequate public consultation will be arranged to gain views from the people of St Helena.

Mr Speaker, a senior official publicly talked about shrinking St Helena Government and have the private sector driving the economy to generate income. Is this the global model which most governments and experts as a result of Covid-19 have demonstrated does not work? In my humble opinion, it creates a huge gap between the rich and the poor in the developed countries, so, no hope for St Helena. How can we have a private sector driven economy when throughout our history we never had an economy to finance services on the island and have heavily relied on grant-in-aid. When the private sector does motivate themselves and introduce innovative ideas or invest heavily into their businesses, sometimes they're unable to progress due to inconsistencies, competitiveness or barriers within St Helena Government.

Mr Speaker, I hope that you didn't have to interrupt me this time, so I hope that I was in my timeline.

The Speaker –

No, you are well within your timeline.

The Hon. Christine Scipio –

I beg to move.

The Speaker –

Thank you. The Honourable Clint Beard?

The Hon. Clint Beard –

Thank you, Mr Speaker. I think, looking at the time, I think the schools will close for a bit of a break and just to say that I hope that the Teachers and the students will have a good break and I also want to talk about a Public Accounts Committee meeting that happened on Tuesday where Education Directorate was brought in just to clarify some issues and I must say that walking, I was attending the meeting, but walking away you can really see the benefit of having local knowledge in the Directorate, it's amazing to see that the drive that people know and they know what is happening within the schools, the answers that were given was, I think PAC was well shocked, because they didn't just get very brief answers and they could see where Education is heading to, so for that, I think the Directorate needs to be commended and the Director.

On another issue, I think, I've noticed that the sustainable team has actually been very proactive, they are starting to attend the Chamber of Commerce meeting, I know it's not easy because you do have the private sector that will be asking you questions and the team has gone, I think last week they had attended another meeting, it can't be easy, but at the end of the day if you want the private sector to work you're gonna have to take the good with the bad and you're gonna have to listen to the active private sector that is available and that is in the Chamber of Commerce as well as others that, we should be having an open door policy if we want St Helena to move forward.

When it comes down to access, I'm glad that people can start planning their trips and hopefully loved ones can come back and spend some time with family. I think one thing about where I would see Government heading is the provision of quality information and that has started to filter through, but presenting diluted information people will always throw down and ask questions. If we can produce a high level of quality information, I think it will be a clear demonstration to the public that we are heading to an open and transparent Government.

Thank you, Mr Speaker.

The Speaker –

Thank you. Any other Honourable Member wishes to speak?

The Hon. Christine Scipio –

Mr Speaker, I forgot to mention a thank you in my adjournment, can you grant me permission to say thank you?

The Speaker

Okay, yes, I'll allow it.

The Hon. Christine Scipio –

Thank you, Mr Speaker, for allowing, breaking the rules I guess, allowing me to speak again. So, Mr Speaker, I do have my notes here which I overlooked and perhaps I should put my glasses on. Mr Speaker, I'd like to thank the Director of Education, Skills and Employment Portfolio for her presence here today, the only Director present. I had thought that all Directors are invited to these most important sessions of Government. Thank you.

The Speaker –

Thank you. Any other Member wishes to speak? The Honourable Jeffrey Ellick?

The Hon. Jeffrey Ellick –

Thank you, Mr Speaker, I rise in support of the adjournment. I only have a few points, well, one point to make, Mr Speaker and it's, I'm a bit disappointed that the Access to Information Bill was approved today, especially the veto in the appeals process, but that's the way it goes.

I'd just like to give a bit of information as there is an organisation called The Campaign for Freedom of Information. There is a particular case the AG made reference to in respect of the UK veto provision. It might be useful if the AG could furnish this Council with the judgement by the Supreme Court as I have an excerpt which reads as follows: "The Campaign have intervened in the case in support of disclosure, it's director, Morris Frankel, said. This is a critical decision which, for instance, the Freedom of Information Act. It says, the Courts, not Ministers, normally have the last word. If the Government disagrees with a ruling on good grounds, it should appeal. The veto is not a trump card to be slipped out of a Minister's sleeve to block and embarrassing disclosure. Ministers will now have to argue their case, not impose it. It would be nice going forward for Councillors to have all the information before making decisions. I look forward to a stated case from the Attorney General if he can get it for the Council.

The Hon. Allen Cansick –

Councillor, please may I ask what case that is?

The Hon. Jeffrey Ellick –

I understand under Standing Orders we can't say.

The Hon. Allen Cansick –

Under Standing Orders we can't refer to it.

The Hon. Allen Cansick –

No, it's a done case, it's not something that's still being decided, it's finished.

The Hon. Jeffrey Ellick –

No, I know that, but under Standing Orders you can't refer to certain people.

The Hon. Allen Cansick –

Oh, so you're referring to the case of Evans, I believe it is, which, it is in regard to the challenge in regard to the disclosure of the Prince of Wales, his letters, and that was a case that went up through the Appeals process and found that the Government was entitled to use the veto in those circumstances. The Government's use of the veto was upheld.

The Speaker –

Thank you.

The Hon. Jeffrey Ellick –

Like I said, Mr Speaker, it would be nice if we saw the judgement. Thank you.

The Speaker –

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

The Hon. Gavin Ellick –

Yeah, I stand in support of the Adjournment Debate. I got something to say. A few weeks ago, I went to the hospital to have an operation, I couldn't get it because my blood pressure was 227/132, a walking corpse. I thought at first it was the Council job and so I was gonna quit, come to find out it's just my eating habits. If I don't have high low in my plate when I sit down to eat I don't feel content, but I'd like to thank everybody for supporting me and as a

result of this here I have my blood pressure under control. Thank you very much and I beg to move.

The Speaker –

Good. The Honourable Chief Secretary, you may wish to respond?

The Hon. Susan O’Bey –

Thank you, Mr Speaker and I’d like to thank all Members who made a contribution to the Adjournment Debate. I’d like to start perhaps with Councillor Scipio. Councillor Scipio, I had hoped today that you would have had the privilege of being able to walk up the steps with the handrail, unfortunately work was halted due to a misunderstanding I believe of being able to, whether the rail could be removed to allow large pieces of furniture to be moved if necessary. We didn’t realise that that work had been halted, because it wasn’t something that we’d authorised, but anyway, just to say to you that I sincerely hope that before the end of next week you will be walking up those steps with the support of the handrail.

Mr Speaker, there’s been a very good theme that I’ve, sort of, picked up through those members who elected to contribute to the Adjournment Debate and I will say that that theme is one of private sector development, so first of all, what I will say is that I agree it has been really heart-warming to see the flight schedule published. I know that that in addition to giving greater certainty and confidence, if you like, to the travelling public, it also offers some form of hope for the future for our fledgling private sector, particularly in the tourist sector, so really, really pleased about that. Similarly, very, very pleased to also acknowledge the support of the additional funding just shy or just over £1m for our environmental projects. Members and the listening public will be aware that we’re very proud of the work that has been achieved through these projects, the Cloud Forest and the Recycling in particular, are two of our, sort of, flagship projects in this field and will benefit from the additional funding to take their work to the next level.

Councillor Essex, thank you very much for your comments about the, and other members who’ve also commented about the work of the Treasury and Sustainable Development Team. Of course, they are a very small team, much, much smaller than the team that existed prior to closure of Enterprise St Helena. However, they are a very dedicated team, very forward looking and I know that they do wish to take seriously the engagement with the private sector and I know that that is certainly something that they will continue to do.

You make reference Councillor to the developing of private sector development policy. That’s something that we haven’t had in existence even with Enterprise St Helena, but to be quite frank it actually sounds like a very good idea and it’s more about how we engage and where the private sector is actually going, because, of course, we recognise that we do have the Ten-Year Plan, we do have the Sustainable Economic Development Policy and various other policies that feed into our SHG strategy and those of you will be familiar with this document and you will also be aware of the plans within here to be able to grow the private sector.

There was a comment made earlier about using the private sector to develop our economy and I think it was Councillor Scipio who made that comment. It’s actually not something new, this has always been the intention. When I came back into SHG in 2007, and we launched the outsourcing policy at that time, the prime aim of that policy was to actually rebalance the work of the private sector and the public sector so that we have more people moving into the private sector. SHG has always had a very large workforce by necessity because SHG carries out a number of activities which we all recognise can equally be done within the private sector, but we also recognise that the private sector needs to have appropriate resources, particularly human resource, to be able to do that. So, it’s not a surprise, it is the long-term aspiration, but St Helena’s economy will be driven by the private sector and not by the Government, it is the

long-term aspiration though we will be able to, over time, reduce our reliance on grant-in-aid and generate more of our own revenues, because it is only with that that we will be able to have more control over our destiny in terms of saying what we want to do with that funding. As you know, he who pays the piper often calls the tune and the funding that we have does come with strings attached.

So, I'm not going to prolong this, because it has been a long day, it is very warm in here, but it was really encouraging to hear your support of the work that's being done within the public sector, I also totally agree on the sterling work that's being done in Education and also thank the Director of Education for her staying power in terms of sitting through the whole session. It is normal that all Directors are invited, we did have more Directors in here this morning, of course we do have fewer directors now, we no longer have the number eight that we started with, we're now down to just five portfolio directors, one of them is actually sitting here next to me, but some of the Directors who were here earlier moved out following the questions and during the time of the debating the Bills. Unfortunately the reason for this and the reason for the non attendance from Directors is because there is quite pressing work that's being done at the moment, particularly in relation to the budget, so that was one of the reasons why some Directors asked to be excused, and, of course, Members will be aware of the very sad occasion in Health yesterday where a member of staff was lost and I know that Health at the moment is strongly feeling the impact of that loss, so I think there's nothing further I can say, Mr Speaker, at this point, except to say, thank you very much for your contribution to the debate, as always and also it was very encouraging to see the five pieces of legislation this morning that went through the House, very, very useful legislation that will enable work to be taken forward and all that remains for me to say, Mr Speaker, is that I wish everybody a very good weekend and look forward to the next Legislative Council session on 2nd July. Thank you.

The Speaker –

Thank you very much indeed. Honourable Members that concludes our business for this session and I thank you all for your contributions and participation and I now put the question that this Council do adjourn until Friday, 2nd July, 2021.

Question put and agreed to.

The Speaker –

And Chief Secretary, I certainly hope that you will have a nice weekend. Thank you very much indeed.

Council adjourned until Friday, 2nd July, 2021.

Honourable Speaker

Date