

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 Acting Attorney General	-	Ms Aine Hurley

ELECTED MEMBERS

The Honourable Clint Richard Beard
 The Honourable Cruyff Gerard Buckley
 The Honourable Gavin George Ellick
 The Honourable Jeffrey Robert Ellick
 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

The Honourable Corinda Sebastiana Stuart Essex	-	Overseas
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CLERK OF COUNCILS

Mrs Connie Johnson

PROCEEDINGS OF THE LEGISLATIVE COUNCIL

Friday, 30th July, 2021

The Council met at 9.00 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

Honourable Members, ladies and gentlemen and our radio audience, I bid you all a very good morning and welcome to this first sitting of the 27th meeting of Legislative Council. I am grateful once again that Father Alan has once again agreed to open our meeting with Prayer and I thank him for his willingness to do so. Starting with prayer, Honourable Members, assists us to focus us on why we are here and we need no further reminder that we are here to serve others, and, in particular, our community. It also reminds us that the power which is given to this Honourable Council should continue to be exercised with care and understanding as the decisions that we make here will affect the lives of others. It is also pleasing that Mr Merlin George has responded so willingly once again to perform the ceremonial duties of Mace Bearer and I thank him for his services. I also express my thanks to the staff members of SAMS radio for providing support to our listening audience at our meetings.

Honourable Members, I anticipate this sitting to be quite long as we've agreed to start early this morning as we have eight Sessional Papers to be presented, one Question for oral answer, four Bills and two Motions for debate and then our meeting will conclude with the traditional Adjournment Debate. In our deliberations today, Honourable Members will, I am sure, be mindful of the rules as are set out in our Standing Orders and in which I shall give guidance only if necessary. I wish Honourable Members well in your deliberations and will now call on the Clerk to announce the next item of business, please.

4.

PAPERS***SP 36/2021 – The Honourable Anthony Green***

The Speaker –
The Honourable Anthony Green?

The Hon. Anthony Green –
Mr Speaker, I beg to present Sessional Paper 36/2021 – St Helena Government – Social Security (Amendment) Bill, 2021. I confirm, Mr Speaker that I have in my possession a Certificate of Urgency from His Excellency the Governor to enable this Bill to be presented as Government business at this morning's meeting.

Ordered to lie on the table.

The Hon. Anthony Green –
Mr Speaker, I also have in my possession a Certificate from the Governor to be able to proceed with this Social Security (Amendment) Bill at this session today.

The Speaker –
Thank you.

Ordered to lie on the table.

SP 37/2021 – The Hon. Lawson Henry

The Speaker –
The Honourable Lawson Henry?

The Hon. Lawson Henry –
Thank you, Mr Speaker. Mr Speaker, I beg to present Sessional Paper 38/2021

The Speaker –
37?

The Hon. Lawson Henry –
My copy is 38, okay, 37/2021 – Protection of Animals (Amendment) Bill, 2021.

The Speaker –
Oh.

The Hon. Lawson Henry –
Mr Speaker, I have with me also a Certificate of Urgency signed by His Excellency the Governor.

Ordered to lie on the table.

SP 38/2021 – The Honourable Lawson Henry.

The Speaker –
The Honourable Lawson Henry?

The Hon. Lawson Henry –
Thank you, Mr Speaker. Mr Speaker, I beg to present Sessional Paper 38/2021 – Fisheries Bill, 2021. I have here a Certificate of Urgency signed by His Excellency the Governor for the Bill to be presented in today's sitting.

Ordered to lie on the table.

SP 39/2021 – The Honourable Anthony Green

The Speaker –
The Honourable Anthony Green?

The Hon. Anthony Green –
Mr Speaker, I beg to present Sessional Paper 39/2021 – St Helena Government – Report of the Independent body on the Review of Remuneration and Allowances for the Elected Members of Legislative Council, the Speaker and the Deputy Speaker.

Ordered to lie on the table.

SP 40/2021 – The Honourable Anthony Green

The Speaker –
The Honourable Anthony Green?

The Hon. Anthony Green –
Mr Speaker, I beg to present Sessional Paper 40/2021 – St Helena Government – Legislative Council Remuneration and Allowances (Amendment) Bill, 2021. Mr Speaker, I have in my possession a Certificate of Urgency from His Excellency the Governor to enable the said Bill to be presented as Government business at the meeting of the Legislative Council 30th July 2021, which is today. I also have, Mr Speaker, an authority to proceed with the Legislative Council Remuneration and Allowances (Amendment) Bill, 2021 signed by His Excellency the Governor so that Legislative Council can proceed on the Remuneration and Allowances (Amendment) Bill, 2021 today.

The Speaker –
Thank you very much indeed.

Ordered to lie on the table.

SP 41/2021 – The Honourable Financial Secretary.

The Speaker –
The Honourable Financial Secretary?

The Hon. Dax Richards (Financial Secretary) –

Mr Speaker, I beg to present Sessional Paper 41/2021 entitled St Helena Government – Loan Balances recoverable by the St Helena Government as at 30th June 2021.

Ordered to lie on the table.

SP 42/2021 – The Honourable Jeffrey Ellick

The Speaker –

The Honourable Jeffrey Ellick?

The Hon. Jeffrey Ellick –

Mr Speaker, I beg to present Sessional Paper 42/2021 - Report to Legislative Council on the Formal Session of the Public Accounts Committee held on the 9th November 2020.

Ordered to lie on the table.

SP 43/2021 – The Honourable Jeffrey Ellick

The Speaker –

The Honourable Jeffrey Ellick?

The Hon Jeffrey Ellick –

Mr Speaker, I beg to present Sessional Paper 43/2021 entitled Report to Legislative Council on the Formal Session of the Public Accounts Committee held on the 31 May and 15 June 2021. Mr Speaker, with your permission, I'll make a short statement?

The Speaker –

Okay.

The Hon. Jeffrey Ellick –

As a member of the Public Accounts Committee, I am pleased to present Sessional Paper 43/2021 which covers the PAC scrutiny of Performance Audit Reports on Education benchmarking and the Bulk Fuel Installation along with recommendations. Earlier Sessional Paper 42/21 was also laid, being the Report on the PAC Formal Session held during November last year. The report is long overdue, the reason being that PAC was involved in training during the latter part of 2020 plus other competing priorities. The report covers the PAC scrutiny of the Financial Statements of Enterprise St Helena and the St Helena National Trust for 2018/19 together with the scrutiny of the Annual Report and the Financial Statements of the Equality and Human Rights Commission for the same year. This wraps up the cycle of accountability for this term of office. In due course, it is expected the Financial Secretary will convey a response to the new Legislative Council in accordance with section 69 (9) of the Constitution.

The Speaker –

Thank you.

Ordered to lie on the table.

The Speaker –

The Honourable Christine Scipio?

The Hon. Christine Scipio –

Thank you, Mr Speaker. May I ask a question for clarification, please? Thank you, Mr Speaker.

Mr Speaker, I note that on my Order Paper in front of me is Sessional Paper No. 37 which is stated the Fisheries Bill, but I know that when the Sessional Papers were asked to be laid on the table the Honourable Lawson Henry called a completely different title for the Sessional Papers, so I'm just wondering why the information that is on my Paper is different to what was laid on the table?

The Speaker –

I have the same on mine as yours, but I think, sorry the Clerk of Councils said she made a typographical error.

The Hon. Christine Scipio –

That's fine. It's just that I know that there are constituents out there who does look at the Government website and probably are listening and see that there's a different Sessional Paper reference the title, so I just want to make sure that we are on the right, doing the right Sessional Papers, especially when the Sessional Papers are Bills for consideration later. Thank you, it's just a human error, thank you.

The Speaker –

Thank you. Next item of business, please?

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 provide this House with the outcome of the review of St Helena Government postal service?

The Speaker –

The Honourable Financial Secretary?

The Hon. Dax Richards –

Thank you, Mr Speaker and I thank the Honourable Member for her question. Mr Speaker, I am assuming that the Honourable Member is referring to the undertakings given on 18th June 2021 session where we looked to do an analysis of the outgoing Post Office mail trends as well as to review the mail closing times. Unfortunately, Mr Speaker, I have to report that due to other competing priorities we haven't been able to complete this piece of work at this point in time, but it is our intention to have this work completed by the end of August.

The Speaker –

The Honourable Christine Scipio?

The Hon. Christine Scipio –

Thank you, Mr Speaker. Mr Speaker, I would like to thank the Honourable Financial Secretary for his response and I do recognise that we've been pulled from pillar to post over the last few weeks, but, Mr Speaker, I will ask if the Financial Secretary could provide an undertaking to publish the results during the ministerial system when the review is completed?

The Speaker –

The Honourable Financial Secretary?

The Hon. Dax Richards –

Thank you, Mr Speaker, I would be happy to do that.

The Speaker –

Thank you. Okay, our next item of business, please?

6. MOTIONS

Motion No. 1 – The Honourable Anthony Green.

THE SOCIAL SECURITY (AMENDMENT) BILL, 2021

The Speaker –

The Honourable Anthony Green?

The Hon. Anthony Green –

Mr Speaker, I beg to move that the Social Security (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. Cyril Leo –

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 Social Security Ordinance of 2010, the present Ordinance, changed the recipient unit of Income Related Benefit, IRB, from 'family' to the 'household'. This happened because of financial constraints at the time. However, it is not the responsibility of a person to have to provide financial support for non-immediate relatives and non-relatives living in a household which currently happens using the household as an IRB recipient unit. Under this Bill, the Social Security (Amendment) Bill, 2021, the recipient unit of IRB will change from 'household' to 'family'. A family is defined as a single adult, an adult and their spouse, co-habiting partner or life partner and their dependent children under the age of sixteen or under eighteen years if in full-time education. Current legislation includes allowing those in part-time employment to apply for IRB. The new Bill will allow persons in full-time as well as part-time employment to apply for IRB because being in full-time employment does not mean

that a family is not living in poverty; for example, families with many children. The Bill will mean for those on unemployment allowance, UA, will be discounted and they will be transferred to IRB. The Bill will also apply to households currently receiving IRB under the transitional protection payments. Transitional protection payments were brought in in 2011 to protect those who were thought to be worse off by efficiency savings undertaken at that time. Ten years later, these are no longer timely. Lastly, the Bill will introduce four categories of job readiness by which each adult on IRB will be categorised as job ready. Not ready, for example, for health reasons and be undertaking an appropriate measure to be job ready, permanently unable to work and, lastly, where the claimant if employed but family income is below the family IRB rate. Those job ready will be required to actively seek work as a condition of their benefit. Regulations will be developed with respect to the fixing of the IRB rate as a percentage of the minimum wage. A shared household deduction whereby all shared household costs will be equally apportioned between all adults in a household and the family income level, the disregard to be taken into account when setting a family's IRB. This proposed legislation could significantly improve the situation with families in receipt of IRB. Approximately 33% of IRB families have at least one person with a disability and therefore the benefit is important for their wellbeing. In summary, Mr Speaker, if this Bill is passed, St Helena will have a much fairer Social Security System which will go further to protect those genuinely unable to work and support those who are job ready to get into work through the Careers Access St Helena Scheme, which we generally refer to as CASH. This Social Security (Amendment) Bill, 2021 is the culmination of extensive work over the past three and a half years. Mr Speaker, I beg to move.

The Speaker –

Thank you. Then I'll put the question that the Social Security (Amendment) Bill, 2021 be approved in principle and referred to a Committee of the whole Council. Honourable Members, the Motion is now open for debate. The Honourable Cruyff Buckley?

The Hon. Cruyff Buckley –

Thank you, Mr Speaker. I'd just like to commend the Honourable Tony Green for his efforts over the past four and a half years and this Bill has indeed been a long, long time coming and we must be so wary of the protection of our vulnerable people, Mr Speaker, and it just worries me that it takes so, so long, so, so long to get such an important amendment to this Bill made to protect those vulnerable people and no doubt it's been a lot of suffering in the past four and a half years and what is such a small amendment for this Council has wider ramifications for the whole island, so I'm so pleased that the Honourable Tony Green has placed all his efforts and has brought his Committee on-board and has pushed and pushed and pushed and finally before he walks out of the door on Monday on dissolution we have a Bill that is finally fit to protect our vulnerable people on the island. Thank you, Mr Speaker.

The Speaker –

Thank you. The Honourable Derek Thomas?

The Hon. Derek Thomas –

Mr Speaker, I rise in support of this Bill, the Social Security (Amendment) Bill. Like the Mover alluded to, this has been around for some time, it's caused many people real hardship where people who, living in the household, workers, were expected to keep those who had no form of income and we've had many cases where people have had to face hardship because of this, so this Bill will correct that and people who really qualify for income related benefits will be able to quite properly, once they are properly assessed, will be able to claim the benefit. My

colleague said this has been around for some while, he is correct, but don't forget this is has been down to, this is a substantial amount of funding to do this and I do give credit to this Council for finding over £200k from the recurrent budget to be able to fund this, which will have to be sustainable for future years and so I give my full support to the passing of this Bill. Thank you.

The Speaker –

Thank you. The Honourable Gavin Ellick?

The Hon. Gavin Ellick –

I stand in support of this Bill, but I would like to thank Honourable Cyril Leo for actually kick-starting this, him and his team and I think Nicole, she's not here, but all their hard work has paid off, I know we put a lot of pressure on them, but I'd like to thank my Honourable Cyril Leo for this here. Thank you.

The Speaker –

Thank you. The Honourable Clint Beard?

The Hon. Clint Beard –

Mr Speaker, I wholeheartedly support this, I think also we need to be mindful that when we got, when we were on Council in the beginning stages, we did do a slight change to allow for those that were 21 year old for their income not to be taken into account, so we have tried to adapt ourselves, but I think this is a culmination of putting all the aspects together, so well done to the Committee and to the sub group led by Cyril. Thank you.

The Speaker –

Thank you. The Honourable Christine Scipio?

The Hon. Christine Scipio –

Thank you, Mr Speaker. Mr Speaker, it is my understanding that one of St Helena Government's strategic goals is to provide adequate and appropriate assistance for the vulnerable within the community. In a nutshell, Mr Speaker, it is protecting vulnerable groups of people from living in poverty. When I speak about vulnerable groups, I am referring to individuals who have disabilities or medical conditions which prevent them from working, individuals of pensionable age, the unemployed, spouses and partners of recently deceased people. No doubt, Mr Speaker, it is expected that couples, married, co-habiting and life partners should financially support each other and that parents will financially support the children in compulsory education. It is proposed today to replace the definition of 'household' to 'family' which will then include an adult and their spouse, co-habiting partner or life partner and children of a certain age. It is hoped that costs for rent, loan repayments and utilities is taken into consideration in a proportionate manner when calculating Income Related Benefits for a family. Thank you, Mr Speaker.

The Speaker –

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

The Hon. Anthony Green –

Thank you, Mr Speaker. Reference has been made to the length of time, but this was very, very necessary as it involved a lot of people all in different jobs and their availability was really

dependent on how they managed it around their own work requirements. I think we must remember that the time taken was offset by the fact that the initial view was that we would have had to bring in a consultant for overseas which would have come at great expense, but I think that Members have appreciated that the fact that we had the information and knowledge and experience to be able to look at the issues which were locally generated and therefore the outcome, although taken a bit of time, I think is much more likely to be embedded into our system. I know, Mr Speaker, that I've just deviated from the principles of the Bill, but I'm sure you'll forgive me because this is a final opportunity really to also pay tribute to my deputy, Cyril Leo, who headed the Working Group and all the officials, including the Social Policy Planner, all who have put a great effort into being able to get this Bill today and not least we must remember each Member of this Council who finally gave support for the funding which was the last hold up point. The other thing referred to, Mr Speaker, was an early amendment when in 2017 we were bombarded with issues relating to young persons living at home and we did immediately take steps to be able to pass some regulations, so thank you, Mr Speaker, I thank everybody and I commend the Bill to the House. I beg to move.

The Speaker –

Thank you very much indeed.

Question that the Social Security (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. 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. Cyril Leo –

Mr Speaker, I beg to second.

The Speaker –

Thank you, Councillor Leo.

Question that the 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. Aine Hurley –

Mr Speaker, that is quite self-explanatory in that it simply sets out the title of the Bill.

The Chairman –

Okay. Honourable Members, you may wish to 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, 3 and 4 do stand part of the Bill. Attorney General?

The Hon. Aine Hurley –

Thank you. Clause 2 amends section 2 of the Ordinance and provides the meanings for terms used in the Bill. Clause 3 repeals and replaces section 3 and makes provision for the appointment of an Adjudication Officer. Clause 4 amends section 8 and substitutes the use of the word “household” with the use of the word “family” and facilitates the consequential changes required for their substitution.

The Chairman –

Thank you. Honourable Members, you may speak to Clauses 2, 3 and 4.

Clauses 2, 3 and 4.

Question put and agreed to.

The Chairman –

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

The Hon. Aine Hurley –

Thank you, Mr Speaker. Clause 5 repeals and replaces section 9 of the Ordinance and makes provision for the application and determination of an income related benefit as prescribed. Clause 6 inserts section 9 (a) into the Ordinance which makes provision for the determination of job readiness.

The Chairman –

Thank you. Honourable Members, you may now speak to Clauses 5 and 6.

Clauses 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. Aine Hurley –

Thank you, Mr Speaker. Clause 7 inserts the Schedule into the Ordinance which details the categories of job readiness.

The Chairman –

Honourable Members, you may now speak to Clause 7. Councillor Beard?

The Hon. Clint Beard –

Yes, can I just get clarity on when it says no significant barriers to employment, is the barriers just referred to as health, what barriers are being referred to?

The Chairman –

Attorney General?

The Hon. Aine Hurley –

Because the Honourable Member's question gets into details of policy, I think it may be more helpful if one of the Officers present would answer that question if possible.

The Chairman –

Okay.

The Hon. Anthony Green –

Mr Speaker, may we invite the Social Policy Planner on her designation?

The Chairman –

Okay.

Ms Ann Muir (Social Policy Planner) –

For the job readiness categories, Category 1 has to be seen in relation to Categories 2, 3 and 4, so I'll start with Category 2, which means a person is not job ready probably because of a major health reason so they can't work. Category 3 is where the person is permanently unable to work probably because of a serious disability, so these are barriers to work, for example. Category 4 doesn't refer to barriers to work, that's if somebody is employed but the family income is below IRB family rate, so Category 1 needs to be seen in relation to Category 2 and Category 3, i.e. there's no health reason, disability reason or anything like that that the person is fit for work.

The Chairman –

Councillor Beard?

The Hon. Clint Beard –

Yes, thank you very much. So, just checking, if it is a Category 2 and 3 and 4, when you're referring to health then basically the Health would do an assessment?

Ms Ann Muir -

Yes, a medical assessment would be needed.

The Hon. Clint Beard –

Thank you.

The Chairman –

Thank you. Any other questions, Honourable Members?

Clause 7.

Question put and agreed to.

Council Resumed.

The Speaker –
The Honourable Mover?

The Hon. Anthony Green –
Mr Speaker, I beg to report that the Social Security (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. Cyril Leo –
Mr Speaker, I beg to second.

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

The Hon. Anthony Green –
Mr Speaker, only to reiterate what I said earlier is to thank everybody involved who in any small way played a part in bringing this piece of legislation to where it is, both elected members, the Committee and officials, so I do sincerely thank them all. Thank you, Mr Speaker, I beg to move.

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

The Hon. Cyril Leo –
Thank you, Mr Speaker. At the very first formal Legislative Council meeting of this Council, elected members actually undertook to do our utmost to review the Social Security Ordinance, if you remember and, in particular, address the negative impacts of the household definition. Mr Speaker, today, during what is an exceptional period of budgetary constraints and this our last formal LegCo, it is with much relief and satisfaction that this piece of legislation will soon be over the line, and I say that with some confidence. Individually and collectively, all elected members have remained determined to work for a successful outcome as a result of the review of the Social Security Ordinance and I will take this opportunity to acknowledge, commend and thank the Working Group, the many people who were specifically asked to input into the deliberations of the Working Group, SHG staff who provided support to the Working Group on request and not least the Social Policy Coordinator, Ann Muir, for her excellent input. I will support the Bill. Thank you, Mr Speaker.

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

The Hon. Anthony Green –

Thank you, Mr Speaker, I have nothing further to add.

The Speaker –

Thank you.

Question that Council approves the Social Security (Amendment) Bill, 2021 and recommends to the Governor that it should be enacted, put and agreed to.

The Speaker –

Next item of business, please?

Motion No. 2 – The Honourable Lawson Henry.

THE PROTECTION OF ANIMALS (AMENDMENT) BILL, 2021

The Speaker –

The Honourable Lawson Henry?

The Hon. Lawson Henry –

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

The Speaker –

Do we have a seconder, please?

The Hon. Gavin Ellick –

Mr Speaker, I beg to second.

The Speaker –

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

The Hon. Lawson Henry –

Mr Speaker, Honourable Members, this Motion, the Protection of Animals (Amendment) Bill, 2021 seeks to amend the Protection of Animals Ordinance 1969. The purpose of the Bill is to reform the law in respect of the protection of animals and the statutory authority which may be exercised in respect of the humane protection of animals. Except for minor amendments in 1972 and 2001, the principal Ordinance is considered to be out of date and is in need of thorough revision as some practices allowed under the Ordinance are no longer considered humane, such as ages for castration without anaesthetic and other activities which affect animal welfare are completely absent from the Ordinance, including animals fit to travel. Furthermore, it focuses mainly on acts of cruelty and omits certain acts of neglect which can cause significant suffering in their own right. The following amendments addresses these major issues and modernises the language, but democratically also includes the right of appeal, certain actions by the authorities. A summary of the principal amendments are as follows:

Section 2 – Definitions. These are updated and enlarged. Animals deliberately exclude fish, which are covered by the Fisheries Ordinance. They are further defined as captive and domestic. Unless stated therefore, reference to animals include wild animals. Definitions go on to define members of animal welfare organisations, currently the SPCA and Donkey Home

and SHG Veterinary Services. The latter are referred to as Public Officers. This is important for the later references relating to legal powers to take action if an animal is seen to be suffering. Slaughter and euthanasia have been separately defined as the Animal Welfare of Animals at Slaughter for Consumption is covered by the Food Safety Ordinance.

Section 3 – Offences of cruelty in the Bill. This section essentially is a modernisation of legal language used in the existing section of the Ordinance which is therefore deleted with some additions. It is part of the existing Ordinance that is useful as it covers a wide range of causes of welfare issues; deliberate cruelty, neglect, ignorance, poisoning, overdosing etc. Added in are certain outlawed procedures which in the past have been carried out by lay persons, but which only be carried out now by a qualified person.

Paragraph 2 has a new section called The Five Freedoms used extensively in Welfare legislation and by Welfare Organisations since the 1970s. In summary, these freedoms are –

- (1) Freedom from Hunger and Thirst
- (2) Freedom from Discomfort
- (3) Freedom from Pain, Injury and Disease plus access to appropriate and timely treatment
- (4) Freedom to express normal behaviour; and
- (5) Freedom from Fear and Anxiety

These five freedoms encapsulate the essential needs of all animals.

Paragraph 3 covers the humane handling for transport of animals to slaughter and slaughter itself by making cross reference to the Food Safety Ordinance 2016.

Section 4 covers the power of the Court to make an Order in respect of an animal. This whole section is an addition to correct an important omission in the existing Ordinance that an animal could only be removed subsequent to a successful prosecution. The last welfare case took five months to come to Court and gain a successful prosecution. To allow an animal to continue to suffer under the owner's care during the period is clearly unacceptable. Now it will be possible to apply to have the animal removed prior to prosecution. This action is open to Police Officers, members of the Veterinary Section and the Animal Welfare Charities. It also covers costs and how the animal may be dealt with plus guidance for the Court. There is, of course, a right of appeal in a later section.

Paragraph 7 to 10 add an extra tool often known as an Improvement Order rather than full-scale prosecution and confiscation of an animal. A middle road approach is made available of instructing an animal owner to improve aspects of the animal care. This is especially useful where ignorance rather than deliberate cruelty has been caused and avoids the need to be heavy handed if the problem can otherwise be resolved.

Section 4 (a) creates a new, emergency power to remove an animal that is considered at risk over a 72-hour period prior to applying for a Court Order. By notice, Police acting alone or with a Public Officer, member of the Veterinary Services, there can be occasions when urgent and immediate action needs to be taken which will not endure the delay of a Court Order application. There is, again, a right of appeal covering this process.

Section 5 gives the Court power to make an Order in respect of the ownership of an animal. There is also a list of powers for the Court in relation to the removal of an animal subsequent to conviction. It also covers other animals that the person may have.

Section 6 creates the power to make an Order for disqualification in relation to future ownership of other animals specified by the Court. This might be species specific or all animals and the time limited are indefinite.

Section 6 (a) deals with the effects of disqualification and is updated to include cats, as they are now licensed under the amended Dogs and Cats Ordinance.

Section 6 (b) deals with Appeals and uphold the right to appeal, make provision for an appeals process for Section 4 and removal of animal by the Court Order.

Section 4 (a) makes provision for emergency removal of an animal by a Police Officer or a Public Officer.

Mr Speaker, Honourable Members, those are the main points that the Bill makes provision for, the other clauses will be covered during Committee. I commend the Bill to the House, the Protection of Animals (Amendment) Bill, 2021 and look forward to Members support. I would like to thank the Officers and staff in the Attorney General's Chambers involved in the work that enabled the Bill to be presented to the House today. Mr Speaker, I beg to move and support this Motion. Thank you.

The Speaker –

Thank you very much indeed. Then I'll put the question that the Protection of Animals (Amendment) Bill, 2021 be approved in principle and referred to a Committee of the whole Council. Honourable Members, the Motion is now open for debate. The Honourable Christine Scipio?

The Hon. Christine Scipio –

Thank you, Mr Speaker. Mr Speaker, the Protection of Animals legislation is dated 1969, as the Honourable Mover has stated in his exposition, which, Mr Speaker, in my humble opinion, is distressingly out of date the language is not clear and concise, it has no teeth. The current law allows certain operations to be carried out by lay persons, which should only be carried out by qualified or trained individuals that has resulted in professional, surgical interventions. Mr Speaker, the proposed amendments allow the authorities to permit certain operations to be performed by farmers up to certain ages, for certain species, such as castration of lambs and piglets and ear marking. As the Honourable Mover mentioned, the proposed legislation has now included the essential needs of all animals, which is referred to as the Five Freedoms. I have no intention in repeating what the five freedoms are, Mr Speaker.

Mr Speaker, I think I need to take the opportunity to thank the farmers, the St Helena National Trust and the SPCA for the valuable contributions during the consultation process for this revised legislation as we all do need to ensure that the welfare of animals is respected and prevent undue suffering, cruelty and acts of neglect. Thank you, Mr Speaker.

The Speaker –

Thank you, Honourable Member. The Honourable Gavin Ellick?

The Hon. Gavin Ellick –

I stand in support of this Bill, Sir. I always believe that everybody likes to have a little pet, a little cat, a little puppy, but when it becomes big nobody wants it, so, for me, this here Protection of Animals (Amendment) Bill will help us to help those people see the light. Thank you, I beg to move.

The Speaker –

Thank you. The Honourable Derek Thomas?

The Hon. Derek Thomas –

Thank you, Mr Speaker, I rise in support of this Bill, the Protection of Animals (Amendment) Bill, 2021. It's another piece of legislation which needs to be amended and brought up to date, the current Ordinance is dating back to 1969. It is a relevant piece of legislation in terms of the treatment, welfare and protection of animals, so I'll give my full support to this legislation. Thank you.

The Speaker –

Thank you. The Honourable Clint Beard?

The Hon. Clint Beard –

Mr Speaker, I support this Bill, I think it's been around in EDC and I think also the input from farmers, SPCA, the Veterinary side, it just culminates into a Bill that is very much updated, I'm not gonna go and say 69 again, 1969, but it's quite modern and it allows for the protection and the humane treatment, so I support.

The Speaker –

Thank you. The Honourable Anthony Green?

The Hon. Anthony Green –

Mr Speaker, I simply rise to support the Bill. Thank you.

The Speaker –

Thank you. Honourable Mover, you may respond to the debate.

The Hon. Lawson Henry –

Thank you, Mr Speaker. I would just like to say thank you to all those members who spoke on the Bill and to thank them for that and for that support. Thank you.

The Speaker –

Thank you.

Question that the Protection of Animals (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. Lawson Henry –

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

The Speaker –

Do we have a seconder, please?

The Hon. Gavin Ellick –

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. Aine Hurley –
Thank you, Mr Speaker. The title in respect of this Bill is self-explanatory, it's the Protection of Animals (Amendment) Bill, 2021.

The Chairman –
Thank you. Honourable Members, you may now speak to the Title, Enacting Clause and Clause 1.

Title, Enacting Clause and Clause 1.

Question put and agreed to.

The Chairman –
Then I'll put the question that Clauses 2 and 3 do stand part of the Bill. Attorney General?

The Hon. Aine Hurley –
Thank you, Mr Speaker. Clause 2 would amend the definition of the word "animal" and insert definitions for the words "director", "euthanasia", "person concerned with the welfare of an animal", "public officer", "slaughter" and "Veterinary Officer". Clause 3 amends section 3 of the Ordinance to revise the offence of cruelty in relation to an animal. This clause includes a cross reference to the Food and Safety Ordinance 2016 to ensure that an animal is slaughtered and transported for slaughter in a way that is consistent with that provided in the Food and Safety Ordinance 2016. This clause also enables the Director to publish guidelines to deal with the deliberate breeding or inbreeding of animals.

The Chairman –
Thank you. Honourable Members, you may now speak to Clauses 2 and 3.

Clauses 2 and 3.

Question put and agreed to.

The Chairman –
Then I'll put the question that Clause 4 do stand part of the Bill. Attorney General?

The Hon. Aine Hurley –
Thank you, Mr Speaker. Clause 4 repeals and replaces section 4 of the Ordinance so as to provide the Court with a wider discretion to make an Order to prevent the endangering of the life of an animal and to prevent the neglect and unnecessary suffering of an animal. This clause

enables the Court to make an Order for the removal of an animal from the custody of the owner of the animal or from the custody of a person in possession of an animal. Provision is also made for the Court to make an Order in respect of the manner in which an animal is to be treated, including the removal of an animal from the care of the owner of the animal or the care of a person in possession of the animal and to transfer the responsibility for the care of the animal to a person who is better able to provide suitable care for the animal.

The Chairman –

Honourable Members, you may speak to Clause 4.

Clause 4.

Question put and agreed to.

The Chairman –

Then I put the question that Clauses 5 and 6 do stand part of the Bill. Attorney General?

The Hon. Aine Hurley –

Thank you, Mr Speaker. Clause 5 inserts Clause 4A into the Ordinance and makes provision for the emergency removal of an animal which is suffering or which would continue to suffer or be caused significant harm from wherever the animal is located without the consent of the owner of the animal or the consent of a person in possession of the animal or the consent of the person who owns or is in possession of the premises where the animal is located. Under such circumstances, a Police Officer with or without the assistance of a Public Officer, may affect the removal of the animal, but must within 72 hours cause an application to be made to the Court to facilitate the removal of the animal.

Clause 6 amends section 5 of the Ordinance and provides for the Court to make an Order to confiscate an animal from a person convicted of an offence under the Ordinance and revises the penalty in respect of the breach of an Order made pursuant to this section.

The Chairman –

Honourable Members, you may speak now to Clauses 5 and 6.

Clauses 5 and 6.

Question put and agreed to.

The Chairman –

I put the question that Clauses 7 and 8 do stand part of the Bill. Attorney General?

The Hon. Aine Hurley –

Clause 7 would repeal and replace section 6 of the Ordinance so as to make provision for a person with a history or tendency for being cruel to or causing the unnecessary suffering of an animal to be disqualified from owning or being in possession of an animal.

Clause 8 inserts section 6A into the Ordinance so as to provide that a person disqualified from owning an animal under the Ordinance is prevented from being licensed to own a cat or dog in accordance with the Dogs and Cats Ordinance 2011. This clause also inserts Clause 6B into the Ordinance which makes provision for a person to appeal any Order made pursuant to the Ordinance.

The Chairman –
Honourable Members, you may speak to Clauses 7 and 8.

Clauses 7 and 8.

Question put and agreed to.

The Chairman –
I put the question that Clauses 9 and 10 do stand part of the Bill. Attorney General?

The Hon. Aine Hurley –
Thank you, Mr Speaker. Clause 9 repeals and replaces section 7 of the Ordinance and makes provision for the Director to publish instructions regarding the safe use of poisons.
Clause 10 repeals and replaces section 8 of the Ordinance and makes provision for an animal which is severely suffering to be euthanized.

The Chairman –
Okay. Honourable Members, you may speak to Clauses 9 and 10.

Clauses 9 and 10.

Question put and agreed to.

The Chairman –
Then I'll put the question that Clauses 11, 12 and 13 do stand part of the Bill. Attorney General?

The Hon. Aine Hurley –
Thank you, Mr Speaker. Clause 11 repeals and replaces section 9 of the Ordinance and makes provision in respect of medical procedures to be performed on an animal.
Clause 12 inserts section 9A into the Ordinance which makes provision for the use of traps and snares. This clause also inserts section 9B into the Ordinance which provides that a person properly permitted to hunt animals in St Helena would not be in breach of the Ordinance.
Clause 13 repeals the Schedule to the Ordinance.

The Chairman –
Thank you very much indeed. Honourable Members, you may speak to Clauses 11, 12 and 13 if you so wish.

Clauses 11, 12 and 13.

Question put and agreed to.

Council Resumed.

The Speaker –
The Honourable Mover?

The Hon. Lawson Henry –

Mr Speaker, I beg to report that the Protection of Animals (Amendment) Bill, 2021 passed the Committee 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. Gavin Ellick

I beg to second.

The Speaker –

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

The Hon. Lawson Henry –

Just to say, Mr Speaker, once again, to thank all the Members and to also say for the listening public that it might seem that we went through this Bill very quickly, but I just want the public to know that all elected members had the opportunity prior to this morning's formal sitting to go through this Bill section by section with officers and the Legal team. Thank you.

The Speaker –

Thank you. Then I'll put the question that this Council approves the Protection of Animals (Amendment) Bill, 2021, without amendments, and recommends to the Governor that it should be enacted. Honourable Members, you may now speak to the Motion.

Honourable Mover, you may speak to the debate?

The Hon. Lawson Henry –

I have nothing further to add, Mr Speaker.

The Speaker –

Thank you.

Question that the Council approves the Protection of Animals (Amendment) Bill, 2020 and recommends to the Governor that it should be enacted, put and agreed to.

The Speaker –

Thank you. Next item of business.

Motion No. 3 – The Honourable Anthony Green

**THE LEGISLATIVE COUNCIL
(REMUNERATION AND ALLOWANCES) (AMENDMENT) BILL, 2021**

The Speaker –

The Honourable Anthony Green?

The Hon. Anthony Green –

Mr Speaker, I beg to move that the Legislative Council (Remuneration and Allowances) (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, Councillor Thomas. The Honourable Mover, you may now speak to the Motion.

The Hon. Anthony Green –

Thank you, Mr Speaker. The Legislative Council (Remuneration and Allowances) (Amendment) Bill, 2021 seeks to amend the Legislative Council Remuneration and Allowances Ordinance 2010 in line with the recommendations of an Independent body duly set up under Clause 72(2) of the St Helena, Ascension and Tristan da Cunha Constitution Order 2009. The purpose of the Bill is to put in place a revised schedule of remunerations and allowances for elected members and Speakers Office operating under a future ministerial system of government. This Bill will replace a previous amendment to the 2010 Ordinance that came into effect in 2018. The Bill translates the recommendation in the final report of the independent body into legislation. The Attorney General has confirmed that neither the Governor nor any other party has the authority to change or add to the report of the independent body. To reflect the increased scrutiny committee and constituent representation responsibilities for non-ministerial elected members, the salary uplift from the present Legislative Council rate of £14k per annum is to £20k per annum, a 42% increase. The remuneration levels set by the independent body for the new roles of Ministers and Chief Ministers are £35k and £50k per annum respectively. These salaries are a 94% and a 177% increase over the present Executive Council elected member rate. The independent body indicated in its report that the new ministerial system of government needs to attract and retain the best people available to achieve the improvement in political responsibility for decision taking and accountability sought by the public. The independent body also felt that realistically this means salaries for future political leaders need to bear some similarity to those of representative senior/management levels in the private and public sectors. Only limited changes are proposed to allowances and benefits. Weekday home to office journeys will not be eligible for travel allowance. Internet provision has been factored into the increased remuneration. Legislative Council has the authority to pass this Bill for levels of remuneration, allowances or benefits that are less than that recommended in the report of the independent body, but do not have the authority to pass a Bill that provides for allowances or benefits that exceed the levels recommended in the report financial provision for the recommended changes is included in the recently approved budget. This Bill is a constitutional requirement in order to establish the payment of independently set salaries, allowances and benefits to elected members, the Speaker and the Deputy Speaker. The independent body which was set up by the Governor under Clause 72(2) of the Constitution in May of 2021 held information gathering exercises and meetings with stakeholders across the island, including Councillors.

Mr Speaker, I beg to move.

The Speaker –

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

The Hon. Derek Thomas –

Mr Speaker, I rise in support of the Remuneration and Allowance Amendment Bill, 2021. Mr Speaker, I am aware that elected members have concerns of the various level of remuneration, especially that of the Chief Minister who will be seen as the leader of the country, together with his Ministers. Mr Speaker, in accordance with our Constitution 2009, the Governor appointed an independent body to carry out the review. My understanding is that they consulted heavily with the community, they also had a session with elected members. Mr Speaker, I have decided that I will give my support to this Bill, I do not see where I have any grounds to undermine the work carried out by the independent body. We have been informed, as elected members, by the Governor, that it will not be his intention to repeat the independent body process, which will mean the incoming Council will have to approve their own levels of remuneration. For me, it is far better for an outgoing Council to approve the levels of remuneration for the incoming Council. It is often said in this Council that we want to encourage good people into politics. This is an opportunity where the levels of remunerations are approved and potential candidates can clearly see what levels of remuneration they are up against. If we vote the report down, what are the alternatives? The Governor has already said he is not appointing another body, so the incoming Council will have no choice but to accept the report. That is the way I see it. In accepting the report, the incoming Council will have a much better chance, say, perhaps in a year or two, once the ministerial system is up and running to ask the Governor for a further review. The circumstances might be the right time, the ministerial system will be working from experience. I feel we should try and avoid the perception, in my view, of Legislative Council trying to create a veto. Mr Speaker, for the reasons, as outlined, I will give my support to this Bill. Members who were in Council previously will be aware that there was, the last time this exercise was carried out, there were concerns about the levels of remuneration carried out by independent body, so we had a situation either to accept the report or leave it. The Governor at that time clearly indicated that she would not appoint another body, so we had a situation to accept what was on the table or support what was moderate improvements to the situation at that time, so I don't see, for myself, any choice in this matter, but to support the Bill. Thank you.

The Speaker –

Thank you. The Honourable Cruyff Buckley?

The Hon. Cruyff Buckley –

Thank you, Mr Speaker. Mr Speaker, I've read the report compiled by the independent body and I was somewhat perplexed by their conclusions within it. Mr Speaker, the public is saying, wow, the Councillors again won a pay raise; £50k for the Chief Minister. Mr Speaker, let me place things into context. I've received information, Mr Speaker, from the Public Service, after much prodding from my Honourable Friend across the table, Councillor Leo and it seems we now have this information to hand. Service Director remuneration for the Public Service - £44k. Portfolio Director A - £51k. Portfolio Director B - £59k. Financial Secretary - £70k plus. Chief Secretary - £80k plus. Minister proposed within the independent body report - £35k and for the leader of St Helena Island in the South Atlantic Ocean - £50k. I will leave it to the public to form their own opinion on this, Mr Speaker. Mr Speaker, the leader of this

Island is not only responsible for on island affairs, he is responsible or she is responsible for the international representation of St Helena and attendance at international events. The weight of St Helena is on their shoulders, they are the figurehead of this island. If it goes right, everyone takes the credit, if it goes wrong, the Chief Minister is to blame. This individual needs to be of a high calibre and should be remunerated accordingly. Mr Speaker, the independent body perhaps, given their perhaps limited knowledge, shall I say, of the political arena, nevertheless they had a job to perform within the best of their ability and I believe that they did so. However, some of the methodology within the report I think is flawed. Some allowances have been combined with salary, Mr Speaker, which will now be subject to taxation, they were not provided with any public sector pay scales to make comparisons to high level senior officials within the Public Service. They were seemingly restricted by a set budget, only in my opinion. Their justifications around public officials having qualifications, and I quote from the report “Portfolio Directors would still provide the ground work and background checks for policy and legislation and in terms of volume of work would still be accountable and responsible for all operations within the Portfolio. As a prerequisite they would also need to have the required professional qualifications, knowledge, skills and experience. It is for these reasons that the level of salary pitched for Ministers was set at a level below Portfolio Directors i.e. Head of Service level within SHG and Assistant CEOs within the Private Sector. Mr Speaker, an Honourable Colleague of mine who is not present today, namely Dr Corinda Essex, is fully qualified to a degree level, Mr Speaker, but it seems this report is suggesting because she is in a political role her qualifications would become second best. She should be remunerated twice according to this report for her qualifications and for her political responsibility. It simply does not stack up, it’s flawed. I feel the body, like I said, was working within a set budget and not looking at a fair assessment of what the position is worth and it comes down to, Mr Speaker, political responsibility. It seems to be a large increase and I agree with the Honourable Green when he says there’s a 94% and 177%, but I would remind the public that this Council has been historically underpaid. Mr Speaker, I walked through the door in 2017 unaware of what I would be paid, I didn’t join this Council for the money, believe it or not, to find out that the Legislative members were paid £10k, some £800 per month, lower than that of an entry level Police Officer, I was quite shocked. Here we are making the law and there are others carrying out the law being paid more than the legislators. Mr Speaker, I feel that if we are to attract high calibre individuals, as the report points out that it is imperative that we get this right for now and more importantly for the future. Politics is a cut throat business, only for the bold and the brave. Let us attract those who have the courage to stand up and speak out loud for what they believe in is in the best interests of St Helena. Thank you, Mr Speaker.

The Speaker –

Thank you. The Honourable Lawson Henry?

The Hon. Lawson Henry –

Thank you, Mr Speaker. Mr Speaker, I rise undecided on how I should vote in this case, nevertheless I shall put forward my views in relation to this very important matter and I would like to start with the Constitution, section 72 which makes provision for this matter that is under debate today and one very important matter in section 72 is the Governor acting in his or her discretion. What I find very sad about this whole matter, there is no process. There is no process that is open and transparent. These matters were raised in 2017 that the whole issue of the appointment of an independent body to determine levels of remuneration and allowances for Legislative Council. Mr Speaker, the elected members met with the independent body

once. Shortly after that meeting begin, a statement was made that we have to work within a ceiling and level. That information was not available to us and for me the fact that the Governor alone can speak to the independent body, no representation from the Council, the Administration, the HR professionals, it is all closed. I'm not suggesting that these bodies act out of turn, but a matter as important as this, there has to be a process and one that the parties can see or feel that they are being properly represented. I don't know what information was provided to the independent body by those bodies, I only have to rely on the judgement of the independent body, but when that statement was made, I think anybody, the normal person would become suspicious, as I have. Now, when in 2010 our founding fathers, when this legislation was first made, they decided that the rates of remuneration should be separate from allowances. On the section 3 of the principal legislation they said, for the avoidance of doubt, the remuneration mentioned in subsection (1) is taxable under section 12 of the Income Tax Ordinance, but allowances and benefits mentioned in subsection (2) are compensatory in nature and are not taxable income for the purpose of this Ordinance and here is where I have a great deal of difficulty. This was set out in 2010, it was never touched in 2017, but now we are told that Schedule I, the internet allowance has been rolled into salary, contrary to what our forefathers said in 2010. How can this happen? If I have to agree to this legislation, I would like an amendment that removes the £500 from the salaries and place it back as our forefathers thought proper in 2010 that they are not taxable. I don't know how this came about. That is why, Mr Speaker, there needs to be a process, so that we as elected members are properly represented within that. In 2017, there was a previous elected member on the independent body and let me make myself clear here, I am in no way criticising the independent body, my comments here today is based on the process and the fact that what our forefathers fought for in 2010 is being taken away and it's been done by somebody without any consultation with us, that goes against all the rules of fairness and for me I have given this island and this Government a whole lot over an eight-year period. I am not going to benefit from this because I will not be putting myself forward for re-election, but why should those people who are going to be put in this position. And I go back to the Constitution, the Governor has a discretion that he can set up a proper process for this method in going forward. These points that were raised in 2017 has clearly been ignored. Why? Now, it's come back to happen again. Why should this Council allow it to happen again? Mr Speaker, I move.

The Speaker –

Thank you. Any other Member wishes to speak? The Honourable Russell Yon?

The Hon. Russell Yon –

Mr Speaker, I commend the members of the independent body who undertook the work into reviewing the remuneration and allowances and to make recommendations on the remuneration, allowances and benefits for the Legislative Council, the Speaker and the Deputy Speaker, however I personally feel that the recommendations they provided have somehow been influenced from other sources that they were privy to whilst undertaking this work.

Mr Speaker, I strongly believe that whenever any public member has decided to stand as a politician and is consequently elected to do so they will undertake their duties with the goodness of their heart and for the betterment of the Island and its people. Money should not be the root of them making that decision, however, Mr Speaker, the work and responsibilities required of this Council and the future Legislative Council is fast becoming an everyday, every night job. It consumes so much of your time, not just with the meetings collectively in portfolios, but with other stakeholders across the island, constituents of course and with Government Officials and advisers, plus all the research, reading of documents and

preparations for meetings. Ultimately the change in governance will eliminate some of this work, however the, responsibilities of everyone will become greater.

Mr Speaker, the roles of the Chief Minister, Portfolio Ministers and the Legislators or back benchers, as they will be recognised, will bring added pressures and more accountability. The Chief Minister will be in fact overseeing the whole operations of SHG with the assistance of their Ministers and should be remunerated accordingly, likewise the backbenchers will need to scrutinize their undertakings comprehensively to ensure that the Chief Minister and their Ministers is undertaking their duties and spending the public purse correctly.

The Chief Secretary and Financial Secretary will be relieved of their duties as members of the cabinet, and as a vital role, the Financial Secretary will no longer present the budget speech. Will a reduction of pay be made to the Financial Secretary's remuneration? Mr Speaker, this is nothing personal here on our two standing officials across the table, but it is highlighting the changes that will be made and the responsibilities that will increase on the elected members taking up these respective new roles.

Mr Speaker, I also understand that as a member of the Fit for the Future Programme Board, St Helena Government officials have gone through extreme accounts to secure additional funding for this change in government and up until our meeting last month was still hopeful of finding additional money to support the new remuneration package for Legislative members. Mr Speaker, we also need to be minded of the current financial status of the UK government let alone our own government and in some sense this remuneration and allowances for the incoming council should be approved as is and not fall to the incoming council to approve as we did and then once in office they can then debate with SHG officials and the chief minister next year during budget discussions for an increase if need be, but again, Mr Speaker, it would be unwise for this current council to approve knowing the dire consequences that we experience also.

Mr Speaker, I have no alternative now than to not support the Legislative Council Remuneration and allowance amendment bill in its current context.

Mr Speaker, I beg to move.

The Speaker –

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

The Hon. Jeffrey Ellick –

Mr Speaker, I rise in opposition to this Bill, there are a number of issues I have with this Bill. As many of you will be aware, I did not support a ministerial form of government, based on the low voter turnout. However, I still have to look at and give an objective view on the proposed Bill. So, first of all, prior to the remuneration group meeting with members, I asked the question as to how much money was there in the budget for remuneration in respect of the ministerial system and was told £150k. I then worked out what would be the likely maximum figure of remuneration for Chief Ministers, Ministers, Legislative Members, Speaker, and Deputy Speaker. I, along with two other Councillors, came up with the same maximum figures as set out in the report and that was before a report had been produced. If one has a ceiling to work to, then the chances of various people coming up with the same outcome is very likely, therefore, I am not convinced that such report was totally independent in that one has to assume there were set parameters in respect of remuneration which would have compounded any review. I find that the review of remuneration is not commensurate in terms of the responsibility of the various roles. The disparity between a legislator who receive remuneration of £20k per annum and a Service Director who can receive between £38,859 and £44,040 is 28 to 31 pay levels and a difference of £18,859 to £24,044 per annum. A Minister who will be

responsible for a Ministry, which will include a Public Service Portfolio, will be paid £35k and whilst a Portfolio Director will be paid between £46,631 and £59,584 which is a difference of 7 to 11 levels and £11,631 and £24,584. A Chief Minister, who will have ultimate responsibility for Ministers and the political direction of the island, and, in essence, the Governor's main adviser will be paid £50k, which is 4 to 9 levels below the Head of the Public Service, the Chief Secretary post, which is £62,174 to £72,537, a difference of £12,174 and £22,537 per annum. To exacerbate the matter even more, expenses have been included in the remuneration as part of the salary and therefore increasing tax on the salary which, in essence, is not really a true salary. Currently, if you receive expenses for mileage, for example, there is no tax. I just see this as another shrewd piece of Public Sector accounting, to reap more tax and penalise a particular group. The politicians of St Helena albeit the future politicians of St Helena. Or is it suppression to limit the full potential of politics on St Helena. For me, to support the Bill, would be to sell out our people and our future politicians. Remuneration has to be commensurate with the level of responsibilities attached to the role or post in question. I do not believe that this has been done in the report and the reason I stated at the beginning. Remuneration, in my view, was not decided on roles and responsibilities, risks and social impacts associated with the roles, but appeared to be decided based primarily on a ceiling figure. The salary I would like to see is one that is fair in view of all the circumstances and proportionate to the role responsibilities, risks and social impacts that might be incurred, but would also take into account the figure is stationary and therefore will not have year on year increments, so, no, Mr Speaker, I will not support the Bill. I beg to move.

The Speaker –

Thank you. The Honourable Christine Scipio?

The Hon. Christine Scipio –

Thank you, Mr Speaker. Mr Speaker, having read the independent review of Councillors remuneration, which was laid on the table at the beginning of this sitting, it is my opinion that it does not or does little to attract strong, dynamic, strategic thinking candidates who would like to make a career in politics. There has been a number of comments about the salary of the Chief Minister and Ministers in comparison with other staff within St Helena Government from people in the community. I would ask, Mr Speaker, do these staff that the community has referred to have direct contact with the public 24/7, do they have to deal with any topic regardless what it is, are they obligated to engage with the public outside of the working hours, for example, twenty to one in the morning? Mr Speaker, listeners, colleagues and officials are fully aware that I have continuously voiced concerns if the correct process is not followed. In 2017, I did not support the remuneration package as I felt that the correct process was not followed and it appears that a lesson hadn't been learnt from 2017, but what I will ask, Mr Speaker, can the Honourable Mover in his response or his summing up, however he choose, say what proportion of the proposed annual salaries for the elected member, the Minister, the Deputy Speaker, the Speaker, the Chief Minister, what proportion of the salary does the allowances equates to, so the listening public will understand that when Councillors are taxed what proportion of tax that they will be taxed on because of an expense. Thank you, Mr Speaker.

The Speaker –

Thank you. The Honourable Clint Beard?

The Hon. Clint Beard –

Mr Speaker, I didn't, I feel that this is not something that I can support, I never supported it in Executive Council and I felt that when we're looking at a new system of governance, we should iron out everything before we get to the House. That is ultimately what needs to happen. We are sitting around the table blasting out figures, who's getting what, these are individuals that we have to work with, I declare my interest, I'll be standing and putting up my name for Council, these are individuals that we have to work with, have good relationship with and we have to partner to improve what we have on this island, but right now we're going from one side to the next. The independent report says they based their figures around the Head of Service, but the figure does not compare. When asking for clarity in ExCo it was said, the answers were yes and no, that's not good enough, that is not good enough and it's not about the financial stake at this point. If we wanted to go down and encourage this island to have talks about a new system of governance that will be more accountable, who will have more responsibility, you're looking at Ministers, Chief Minister, whoever that might be, male or female, that, for me, should not be a scapegoat, that is not the aim of what we're looking at, we're looking at a dynamic government system that will work, we're gonna have limited funding year on year, people might say we're having flatline now, flatline is a minus budget. When you have an independent body, I think they did the job that was put out, but they needed to have a blank sheet of paper. One of my reservations about ministerial government is that I felt at the beginning stages that we were looking at an affordable system of governance that is not what you want. If you want to entice people to hold and to take office you cannot have that system. The system we have can work if we put and we use the procedures that are there. For me it is very disappointing today not to agree with a forward looking governance system and individuals and candidates and talking to constituents, people in the street, they asked why won't you agree to that kind of salary, but when giving them insight into what other salary levels are they were shocked, so if we want to have a governance system that works, that we talk about that's open, transparent, we need to start doing that, we need to put it into practice, put it onto paper, show people what is happening, because I can tell you that although there's talk of a review in a year or two, when you sit around the table and you look at the budget and the constraints on delivering service to this community you take a step back and you put yourself and anything else last on the list, you look at delivering services for this island. Some of the services are heavily subsidised and the commitment around the table, even at stages there was a kickback around salary. If we want to entice individuals of high calibre, pay them a salary and let them then challenge and put real challenge ahead. What we're doing now, for me, is a way of stumbling that kind of challenge. People will have to sacrifice and lose from the private sector jobs, come over and if you don't fully understand the whole system, to be honest I am a bit phased at some areas, you know, you come in here, you could be the Chief Minister one week, but the next week you could be right back as a legislator. Now, how do you expect that calibre or that risk in anyone? People don't realise that when you also become a Councillor that you do lose friends, you continually argue and you continually have to put a case upfront why this is and why is that, so the sacrifices are great, your family life changes, so I think when you're looking at the independent body they did a piece of work, I see it, when you ask for clarity and you get answers of yes and no, then, for me, I cannot understand. Coming here today, one of my colleagues asked me where do I stand on this one and I said, I need to be convinced, but reading through a few more of the documents, nothing is convincing me to take the step and to say I support this Bill, nothing is pushing me in that line. We need to have and we need strong partnership values that is important. It's set out in the Constitution, but it doesn't seem to be flowing in the paperwork that we receive. Thank you, Mr Speaker. Oh sorry, just to add on, when we're talking about Councillors, we're also talking about the role of the Speaker, the Deputy Speaker, very major roles here, everybody's forgetting about

that. You set the pace and the tone going ahead, whoever will be sitting as Speaker, even that figure to me, is that the right figure to have, that's another question and when it comes down to people saying you're getting 46% increase 96% increase, when you take it and you compare it to something else you could say you're getting less by 50% by somebody else that you're sitting right opposite, so you can swing around percentages as you want, but we want the justification and the paperwork to show that we will progress. To not have a system in place that is gonna be the same, but only a scapegoat. Thank you.

The Speaker –

Thank you. The Honourable Gavin Ellick?

The Hon. Gavin Ellick –

I stand and I won't support this Motion, I won't be saying everything what everybody else say because they've said it all, but I'd like to ask my friend over there about choices. Everybody needs to have a choice, I can't believe that he say he got no choice, because the Governor said this here, I thought the Governor takes direction from ExCo so I quite perplexed, you know what I mean, so I can understand why he's gonna settle for the status quo. Sir, I beg to move.

The Speaker –

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

The Hon. Cyril Leo –

Mr Speaker, with reference to the remuneration for elected members, section 72 of the Constitution provides the process whereby an independent body is appointed by the Governor to independently decide the levels of remuneration for elected members. However, in reality and in practice, the process is somewhat contradictory and there are conflicts of interest. Elected members are required to decide and vote on what could turn out to be their own salaries, we are expected to fathom out the pros, the cons and the consequences of accepting or rejecting the final decision of the independent body. Elected members are required to participate in this decision making and voting exercise even though the independent body is the constitutional binding authority and this decision is already deemed as final by the Governor. Amidst the contradictions and conflicts of interest, ultimately elected members have three options, accept, reject or abstain, so then,

(1) I will reject the recommendation of the independent body, because I believe that the remuneration levels arrived at do not equate to the level of responsibility and accountability that the ministerial system of governance will demand;

(2) I will accept the recommendation of the independent body because I believe that SHG's current budgetary constraints and affordability considerations will not justify any further increase in the remuneration; and

(3) I will abstain because I believe section 72 of the Constitution, along with the implementation process is currently dominated with distinct conflicts of interest and contradictions.

So, Mr Speaker, when the time comes to vote, I will decide.

The Speaker –

Thank you. I think all Members had the opportunity to respond, so I'll ask the Honourable Mover to respond to the debate?

The Hon. Anthony Green –

Thank you, Mr Speaker and I wish to thank all elected members for speaking frankly. I do somewhat feel like a Postman arriving at a housing estate with “Beware” written on the gate. I do wish to perhaps pick on one or two points and do thank Councillor Thomas for his support and he was also aware and actually predicted that there would be reservations today and he was proved once to be correct. Councillor Buckley was somewhat perplexed and made comparisons with the Public Service allowance rates and also felt strongly about the allowances being consolidated into the pay and he also referred to the level of political responsibility.

Councillor Lawson Henry is at this moment is undecided because of concerns regarding transparency regarding the process and with regard to the limited engagement, particularly with serving Councillors, which I fully understand, and I think you also mentioned about the possibility of being able to remove the allowances from the remuneration because as they are now set they would be taxable and maybe that a point raised by Councillor Scipio, it’s probably that can be given advice on during the Committee stage.

Councillor Yon, his comments, in my opinion, translate to concerns regarding the process, but ultimately seems to come down in support.

Councillor Jeffrey Ellick, he opposes it and had some anticipation very early about the levels that would ultimately come to light and he’s also concerned really about the expenses being taxed. Councillor Scipio, as I mentioned before, was concerned about the process, also that the package really is not sufficiently attractive, and as I mentioned before, the issue that she asked me to advise on what proportion of the allowances represents the percentage of the package of remuneration then I do not have that at my fingertips and regrettably I can’t do now, but it’s again something that we’ll probably examine in detail perhaps a little later.

Councillor Beard, he didn’t support and he was inferring about unfair comparisons.

Councillor Gavin Ellick, he does not support and really can’t appreciate why ExCo cannot give directions, but I would have to refer him to part of my exposition where we’ve had confirmation from the Attorney General that neither the Governor nor any other party has the authority to change or add to the report of the independent body and Councillor Cyril Leo felt that the process was somewhat contradictory and will in a moment be tossing the coin to decide which way he will vote, so, Mr Speaker, I’m not in a position to be able to respond and give an assurances or anything, I’m merely doing my utmost today to present an issue that falls to my Committee’s responsibility and hereby therefore continue to present this Bill to Legislative Council. So, thank you, I beg to move.

The Speaker –

Thank you.

The Speaker –

The Noes have it, the Noes have it.

Division Called.

<u>Ayes</u>	<u>Noes</u>	<u>Abstentions</u>
	Hon. Lawson Henry	
	Hon. Clint Beard	
	Hon. Cruyff Buckley	
Hon. Derek Thomas		
Hon. Anthony Green		
	Hon. Gavin Ellick	
	Hon. Jeffrey Ellick	

The Hon. Cyril Leo –
Mr Speaker, can I make a point of information, or

The Speaker –
We're just going around the table and asking for your vote.

The Hon. Cyril Leo –
Okay, so Yes, I support going forward.

Ayes

Noes

Abstentions

Hon. Cyril Leo

Hon. Christine Scipio
Hon. Russell Yon

The Speaker –
Honourable Members, the result of the Division, Ayes – 3, Noes – 7, therefore the Noes have it and the Motion falls away. Thank you.

Can we move on to our next item of business, please?

Motion No. 4 – The Honourable Lawson Henry

The Speaker –
The Honourable Lawson Henry?

The Hon. Lawson Henry –
Mr Speaker, may I suggest, we've been going now for over two hours that we have some form of adjournment, we did start earlier than we would normally do, so I would like.

The Speaker –
Is it too early for lunch? You want to have a tea break?

The Hon. Lawson Henry –
Fifteen minutes.

The Speaker –
Fifteen minutes for tea break. Okay, Honourable Members, we'll adjourn for fifteen minutes for a tea break. Thank you.

Council Adjourned.

Council Resumed.

The Speaker –

Okay, welcome back, Honourable Members, after that short tea break and we'll continue now with the next item of business, please.

Motions Resumed

Motion No. 4 – The Honourable Lawson Henry

THE FISHERIES BILL, 2021

The Speaker –

The Honourable Lawson Henry?

The Hon. Lawson Henry –

Mr Speaker, I beg to move that the Fisheries 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. Gavin Ellick –

Mr Speaker, I beg to second.

The Speaker –

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

The Hon. Lawson Henry –

Thank you, Mr Speaker. Mr Speaker, Honourable Members, this Motion, the Fisheries Bill, 2021 is a significant review of our fisheries management priorities and dates back to 2017. The setting of the fisheries management priorities at the start of the Blue Belt Project identified St Helena's Fishery law was in need of reform in a number of areas in order to improve the regulation of fishing and related activities within St Helena's fisheries limit. As a result, this key action was carried in St Helena's 2017 to 2025 Fisheries Sector Strategy for implementation. A subcommittee was appointed under the Economic Development Committee to lead the vision of St Helena's fisheries legislation. The Group was represented by the members and officers from the EDC and ENRP, stakeholders from the Fisheries sector and a representative from the Attorney General's Chambers. Fisheries management and fishing licence policy used to inform the development of the Bill was adopted by the Economic Development Committee in January 2020. The Bill seeks to replace the Fisheries Limits Ordinance 1977 rather than simply making changes to it as originally envisaged in 2017. The purpose of the Bill is to provide a framework for modern regulation of fishing and related activities within St Helena's fisheries limits. The Bill legislates in the following areas:

Fisheries limits and fishing zones. This section established the fisheries limit as up to 200 nautical miles in our EEZ, being the geographical extent of our sovereign rights in fisheries law. An inshore fishing zone is created from 0 to 30 nautical miles out from the baseline and an offshore fishing zone 30 nautical miles to 200 nautical miles out from the baseline is also established for ease of reference and with a view to allowing appropriately segregated management controls over the fisheries. The Bill makes provision for an Advisory Board

whose functions are intended to be a technical forum for review of fisheries data, management and controls and is empowered to give advisory advice on request.

Fisheries Officers and Responsibilities. The Governor is to appoint a Chief Fisheries Officer who may then appoint subordinate Fisheries Protection Officers and may delegate to them any of his powers and duties under the Ordinance.

Fishing Licences. The starting point for licensed fishing is that all fishing within the fisheries limits requires a licence except for traditional rock fishing and for spear fishing to or from the shore that does not involve the use of a vessel. This section provides for the various types of licences that will be operational, the conditions attached to licences, the period of time they may be issued for, who may vary, amend or revoke a licence and licensing of a foreign fishing vessel.

Restrictions on fishing and related operations. This section provides for prohibited methods of fishing, establishing total, allowable catch limits for specified species in a specified period, implementing fishing control notices and licensing development of fish aggregating devices.

Restrictions relating to spear fishing and fishing with scuba equipment. This section of the Bill incorporates provisions of the Spear Gun (Control) Ordinance, 2014 with a view in keeping our main fisheries law under a single Ordinance.

Transshipment. This section prohibits transshipment at sea within the fisheries limit as St Helena's Fisheries comprise a number of international commission for Atlantic, for conservation of Atlantic Tuna or ICAT managed species and falls within the ICAT Convention area. This provision is aligned with their 2017 transshipment recommendation. This is a Fisheries Enforcement Control to ensure that fish found on a vessel is actually fish caught by that vessel.

Enforcement. This section provides powers available to the Chief Fisheries Officer and Fisheries Protection Officers for enforcement of the fisheries offences by investigation, inspection, collection of evidence and submission to judicial process.

Appeals. This section provides for appeals against refusal of licence permission or conditions, allows a person to appeal to the Magistrates Court against a licence decision, revocation, variation or condition of licence.

IUU Fishing, that's Unstowed Fishing gear, discarding of plastic fishing gear or other materials, false information and falsifying documents and offences in relation to Enforcement Officers.

Miscellaneous. This section grants powers to the Governor in Council to make regulations and without limiting that power sets out certain regulations that can be made. This section also makes provision for various repeal, amendment and transitional provisions for associated Ordinances. The law applying to St Helena ships on the high seas is a separate matter dealt with by the High Seas Fishing Ordinance 2001.

Enactment of a new Fisheries Ordinance will repeal the Fisheries Limits Ordinance 1977, the Conservation and Management of Fisheries Resources Ordinance 2003 and the Spear Gun

Control Ordinance 2014. It will also result in amendment to the High Seas Fishing Ordinance 2001 and the Environmental Protection Ordinance 2016.

Mr Speaker, there is one final point, that is, the draft Bill you have does not contain the usual explanatory note to the back of the Bill. You will have received a hard copy from the Clerk during Committee stage. I would like to introduce this to the Bill. Although not part of the Bill, it does serve a useful purpose and it's a snapshot overview of the Bill.

Finally, Mr Speaker, if this Bill is passed in the House today, St Helena will be better able to use and protect the natural and local marine resources that support its people and livelihoods. The Bill also creates one by one methods that as the only method for Tuna fishing which is considered internationally to be the only environmentally responsible and sustainable method and is based on generations of tradition. By approving this Bill today, we will be sending a message that St Helena can lead by example. We will be the only Atlantic Island and ICAT member that explicitly does not allow the use of destructive Tuna fishing gears and methods in its waters. I believe the support that the Island can gain internationally is huge and can bring many benefits for the long term future of our Island. This is your opportunity, Members, to be the Council that legislate for sustainable fishing.

In closing, whilst this Bill has been some time in the making in getting to where we are today, it has taken a lot of painstaking work by a number of people. We owe them all a huge debt of gratitude and I would personally like to thank them on your behalf. They are – the Chair of the Sub Committee, Councillor Beard, to my right, the Portfolio Director of ENRP, Mr Darren Duncan, the Senior Fisheries Officer, Mr Gerald Benjamin and Marine Officer, Mr Rhys Hobbs, Mr Sparks, the Fisheries Protection Officer and those members of the fishing sector who contributed to the work that led to this Bill before the House today. Also, Mr Aldhelm Garner and other staff from the AG's Chambers, from the Governor's Office and anyone else who may have contributed in any way. I would also like to thank the on island Rep from International Pole and Line Foundation, IP&LF, Miss Cherie Dillon and to Mr Roy Bearley, Fisheries Director, IPLF, for their support and encouragement.

Mr Speaker, Honourable Members, I commend this Bill, the Fisheries Bill, 2021 to the House and beg to move.

The Speaker –

Thank you. Honourable Members, I put the question that the Fisheries Bill, 2021 be approved in principle and referred to a Committee of the whole Council. Honourable Members, you may now speak to the Motion. The Honourable Cyril Leo?

The Hon. Cyril Leo –

Thank you, Mr Speaker. On 20th July, elected members received a letter of support relating to this Bill from the International Pole and Line Foundation or IPLF. The letter from the International Foundation is full of high praise for St Helena on progressing the legislation and I will quote a few extracts from the letter. "Through implementation of the Bill, St Helena will be able to better use and protect the natural and local marine resources that support its inhabitant's nutrition and livelihoods. Approving the Fisheries Bill sends a positive, appropriate and timely message that shows your responsible Tuna fishing methods within St Helena's waters now and for generations to come. Approval of this Bill provides an international opportunity for St Helena to lead by example. Overall, the new Fisheries Bill aims to greatly benefit St Helena in the long-term." The IP&LF wrote, "Also we see many great opportunities the updated Fisheries Bill will bring to St Helena." Mr Speaker, I will take

this opportunity to thank the SHG staff who contributed to the good work that went into producing this legislation. Thank you, I beg to move.

The Speaker –

Thank you. The Honourable Gavin Ellick?

The Hon. Gavin Ellick –

I stand in support of this Bill. I know that some people will be against it for.

The Speaker –

Can you declare your interest first?

The Hon. Gavin Ellick –

Oh, first of all, I declare my interest, I own, no, I don't own the fishery business at the moment, so I can't.

The Speaker –

Oh.

The Hon. Gavin Ellick –

But I will still. I know some people will be disappointed because, you know, people don't like to see change, but I think, hand on heart, this is a good Bill and this will protect and safeguard us for years to come and one of the things is that we still looking after our rock fishing, so for that I'm very grateful and humble and thank you to all you'll for all your help and for that I support the Bill. Thank you.

The Speaker –

Thank you. Honourable Clint Beard?

The Hon. Clint Beard –

Mr Speaker, before you say it, I declare my interest, I was Chair of the Sub Group, but I think that the work and the input that was given from everybody was very important. I think the separation between this Fisheries Bill and other Fisheries issues need to be taken into account, you know, it's long overdue that we had that separation and this is a piece of work that has taken some time, but I think the results are going to be really benefit for the island for the future that will show, I think, when we talk about this blue exemplar, there we go, this is where we're on the road, as my Councillor on the right would always mention blue exemplar, although we did the work on land, but, for me, I think the promotion of the St Helena management and the protection of this valuable resources is what this Bill sort of encompasses and the other elements of enforcement and making sure that we've got all the measures in place. We used extensively local stakeholders, you know, this Bill is, I think it's a bespoke piece of work where we had lots of input, but we also used the external resources from overseas, so I think comprehensively we've had a, this Bill is quite extensive, it's been looked at and the support from everybody, the staff, Darren, the AG's Chambers, we had, all that's mentioned, Elizabeth, Jason, Kelly, Rhys over there, so everybody, I think it was really good and when we engaged with our local stakeholders I think they've also given us, sort of, very much pertinent input into how we look at certain wording to make sure that it doesn't have fast implications to all or hamper our local industry as well, so a really good piece of work. Thank you, I support the Bill.

The Speaker –

Thank you. The Honourable Cruyff Buckley?

The Hon. Cruyff Buckley –

Thank you, Mr Speaker, and, yes, I am that colleague on the right that Councillor Beard was referring to and St Helena is set to be a green and blue exemplar on the world stage. This is another piece in the puzzle, Mr Speaker, and I wish for the public to view this not as restrictions, but rather as preservation, preservation of our national environment and our marine resources and I give thanks to all involved, in particular, Councillor Lawson Henry, whose leadership through all of this has been something to be commended. Thank you, Mr Speaker.

The Speaker –

Thank you. The Honourable Derek Thomas?

The Hon. Derek Thomas –

Mr Speaker, I rise in support of this Bill as well, the Fisheries Bill 2021, again, we've heard from the Mover that the current Bill is dating back to the 1970s, so it's clearly in need of revising and, you know, over the years St Helena has been successful in achieving donor type funding and in introducing this Bill for the management and protection of our territorial waters can only international front can only add value to St Helena in our drive towards economic growth, so it is a good Bill and it also provides powers for the Fisheries Protection Officer and that is also very necessary, so I see this as a good Bill and likewise it is quite a comprehensive Bill, I do give credit to the Officers and all involved who actually brought this Bill to this House today, so I will give my full support. Thank you.

The Speaker –

Thank you. The Honourable Christine Scipio?

The Hon. Christine Scipio –

Thank you, Mr Speaker. Mr Speaker, it is my understanding that the St Helena's Fisheries Sector Strategy was presented to the Economic Development Committee prior to the life of this Council, but still yet to be approved by Executive Council. During my short term as Chairperson of the St Helena Fisheries Corporation Board, as Executive Council made the decision to cease the operations of the Corporation with effect from 31st January 2020, I was able to gain some knowledge about the sector. To enable me to have a better understanding of the fishing industry, I arranged a joint meeting with various fishers that included commercial, recreational, spear fishing and sports fishing. I was questioned by my colleagues why they were excluded from such a meeting and stated that I was undermining officers. I was baffled, Mr Speaker. As a representative of the community in which they had elected me to serve to enable me to represent the interests diligently it was absolutely necessary for me to engage with the local experts. My knowledge of green waters was questionable. Is it when green food colouring is added to water or when you soak a paint brush after painting a room green? Mr Speaker, green waters for fishers has a completely different meaning. You are probably wondering where I am going with this, Mr Speaker. With the patience and assistance from the local fishers, I was able to understand the terminology commonly used by officers within the proposed Fisheries Ordinance. Mr Speaker, I have raised concern about the lack of 100% observer coverage for offshore activities. Blue Belt, who has provided a substantive amount of funding to St Helena, has also raised the same concern. There needs to be a requirement for compulsory observer coverage for exploratory fishing. It appears that Blue Belt advice is being ignored. They have also stated that it's unclear as to the purpose of the exploratory licence.

Will vessels operating under this licence be conducting commercial operations whilst undertaking scientific stock assessment work? They have suggested that maybe it is easier to issue the commercial licence and just provide dispensations against aspects of the work or scientific work is captured under a research licence. I mentioned I raised my concern, Mr Speaker, and the response that I have been given is that there is no absolute requirement for an observer, it is not feasible in either capacity or logistical terms, this will be monitored electronically. Mr Speaker, I would ask what detail will be available electronically. Is this just an answer for answer's sake?

Concern has been raised about the composition of the Advisory Board. It does not include representation with fisheries science knowledge. Potential decisions of the Advisory Board could be overruled by Governor in Council where economic gain could be placed about sustainability of our fishery. This will be included in the terms of reference of the Advisory Board, I'm told.

Mr Speaker, it is pleasing to note that all at sea transshipment of Tuna and Tuna like species is prohibited in this proposed legislation. However, I will ask if the Honourable Mover could tell this House how will this be policed? Thank you, Mr Speaker.

The Speaker –

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

The Hon. Lawson Henry –

Thank you, Mr Speaker and I thank all those Members who raised to support the Bill. In response to my Honourable Member's question about observer coverage, we will not be able to provide a hundred percent of observer coverage all of the time. However, very shortly the Department will be piloting an electronic observation system. The observer coverage in relation to the transshipment will be the same. Could I also say that even ICAT at their standard only provide 25% of observer coverage. It is our intention to provide much more in going forward, Mr Speaker, so, again, I commend this Bill to the House and it's the starting point.

Question that the Fisheries 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. Lawson Henry –

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. Gavin Ellick –
I beg to second, Sir.

The Speaker –
Thank you.

The Hon. Lawson Henry –

Mr Speaker, just to say also that all Members have had a section by section discussion within the Bill so you might wish during the Committee stage to extend the number of sections you want to deal with at any one time if Members do not object.

The Speaker –

Thank you.

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

Council in Committee.

The Chairman –

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

The Hon. Aine Hurley –

Yes, Mr Speaker, the Title of this Bill is self-explanatory, the Fisheries Bill 2021.

The Chairman –

Thank you. Honourable Members, you may wish to speak to the Title, Enacting Clause and Clause 1? The Honourable Christine Scipio?

The Hon. Christine Scipio –

Sorry, my mic must have been on when I agreed for it to go into Committee stage, Mr Speaker, I'd forgotten to switch it off, my apology, but I do not wish to speak to Clause 1, but, just as I got my mic on, if I may, is that in the introductory there is a typo under Part 12, but it's not important for the actual Bill, okay?

The Chairman –

Okay, thank you.

Title, Enacting Clause and Clause 1.

Question put and agreed to.

The Chairman –

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

The Hon. Aine Hurley –

Yes, Mr Speaker, Clause 2 defines the terms used in the Bill. It may be helpful at this stage as well, before we go through the rest of the clauses in detail, with your permission, I think it would be helpful if the Officers involved came to the table in case there are more detailed questions.

The Chairman –

Yes, sure, absolutely. Are you finished with Clause 2, yes?

The Hon. Aine Hurley –
Yes, Mr Speaker.

The Chairman –
Honourable Members, you may now speak to Clause 2.

Clause 2.

Question put and agreed to.

The Chairman –
Then I put the question that Clauses 3, 4 and 5 do stand part of the Bill. Attorney General?

The Hon. Aine Hurley –
Thank you, Mr Speaker. Clause 3 establishes the fisheries limits to extent of the EEZ and establish within those limits inshore and offshore fishing zones.
Clause 4 establishes a Fisheries Advisory Board to be chaired by the Chief Fisheries Officer tasked to provide technical advice as may be requested in fisheries science matters.
Clause 5 establishes the posts of the Chief Fisheries Officer and Fisheries Protection Officers.

The Chairman –
Thank you. Honourable Members, you may now speak to Clauses 3, 4 and 5. The Honourable Gavin Ellick?

The Hon. Gavin Ellick –
I just ask one little question because I forgot to ask it in the meeting was how far are boats allowed to fish from the shore, I mean from the rocks, because it used to be a law, I think it used to be one law or maybe just common knowledge that you shouldn't be 200 yards from the rocks when you're fishing in the boat? I'm not sure, I kind of forgot about that in our last meeting, because it was always a written law that if you got a boat you shouldn't be inside the rocks fishing, no?

The Chairman –
Attorney General?

The Hon. Aine Hurley –
Thank you. In response to the Honourable Member's question, the Officers inform me that they're not aware of that limit that you refer to. It is something we would be happy to look into if you could provide more information, but certainly the Officers inform me that it's not a limit that they are aware of.

The Hon. Gavin Ellick –
Well, all my life I've been fishing, from the time I was five years old and it was always a rule that if you got a boat that you weren't allowed to be fishing right inside the rocks and I forgot to ask that in my last thing, so I sorry for bringing it here, but that used to be one of the things. but if not, if you don't have an answer for it, that's alright, I just querying it.

The Hon. Aine Hurley –
In response to your question, we would be happy to check if there are provisions in other Ordinances such as the Harbour or the Ports Ordinance, but it does not immediately occur to

us this particular prohibition that you refer to, but if you wish we would be happy to check the other Ordinances to see if we can find reference to this provision.

The Hon. Gavin Ellick –

Thank you. Like I say, it slipped my mind in the first meeting we had, sorry about that.

The Chairman –

Okay, any other Member have any questions on 3, 4 and 5? The Honourable Christine Scipio?

The Hon. Christine Scipio –

Thank you, Mr Chairman. I just thought if the Acting AG could just explain about the Advisory Board, just for the listening public, because I raised it in my exposition as to say what is the composition of, in 4, the Fisheries Advisory Board, just for the listening public?

The Hon. Aine Hurley –

Certainly, would the Honourable Member wish for me to read Clause 4 as it is in the Bill?

The Hon. Christine Scipio –

Yes, please.

The Hon. Aine Hurley –

Clause 4, I'll now read from the Bill in detail. There is established a Fisheries Advisory Board which consists of a) the Chief Fisheries Officer as Chairperson, and, b) such other members as the Governor may appoint. The Fisheries Advisory Board must upon request and insofar as it is able provide technical advice on matters relating to (a) fisheries science relevant to species, surveys, catch and effect data and forecasting for the effective management of the fisheries resources and stock; (b) catch data and projections material to the setting of total allowable catch limits and (c) other controls on fishing. The expenses of the Board are to be paid from the Consolidated Fund. The Board may determine its own rules and procedures and may consider any matter referred to it by the Chief Fisheries Officer or Governor in Council. The advice or recommendations by the Board are made in an advisory capacity only and do not bind the Governor in Council, Legislative Council, any relevant Council Committee, the Chief Fisheries Officer or the St Helena Government to act on those recommendations.

The Hon. Christine Scipio –

Thank you, Acting Attorney General. I hope now the listeners understand why I raised my concern in my exposition. Thank you for that.

The Chairman –

Thank you. The Honourable Jeffrey Ellick?

The Hon. Jeffrey Ellick –

Just for clarification. It has in subsection (5) Council Committee, is that relevant anymore?

Mr Aldhelm Garner

Mr Speaker, thank you for the time to discuss the question. It may be if, when, and that may be very imminently, it may already have happened, I'm not sure, the Constitution is changed, the relevance of Council Committee would fall away. It might be that in changing the Constitution that change itself carries transitional provisions that correct this as it would then be, but I appreciate that reference if it's valid now it might not be valid in the near future.

The Hon. Jeffrey Ellick –

Thank you. I was just thinking that knowing that we're going to move towards a ministerial government we could make the change now.

The Hon. Aine Hurley –

I think in response to the Honourable Member's question, as Mr Garner said, the new system will, of course, have an impact on the wording of all of the Ordinances and as Mr Garner said they will be reviewed and it may be that transitional provisions provide for them or it may be that we have to go through each Ordinance, but I think the view is that this Ordinance would be treated in the same way as all the other Ordinances and we would not endeavour at present, if Members are minded, to move the terms at this point. That would be the approach that we would suggest taking unless the Honourable Members are minded otherwise.

The Hon. Jeffrey Ellick –

Thank you. I just thought I'd raise it, because if we could move it now then better still because it's not in place yet.

The Hon. Aine Hurley –

If Members would wish to raise an amendment we would, of course, that would be a matter for Members and, of course, if you would wish to propose an amendment that would, of course be a matter for you.

The Chairman –

The way I see it, Attorney General, please correct me if I'm wrong, but the ministerial government hasn't been approved yet, so you can only approve this Ordinance in accordance with what is in place at this moment in time.

The Hon. Aine Hurley –

Yes, Mr Speaker, that is correct. It has been, this Ordinance has been worded in accordance with the current system and as I stated all of the Ordinances will, of course, the terms used in the Ordinances will, of course, have to be updated. However, if Members felt strongly about removing Council Committee from this particular section that would be a matter for them, but I think the proposal of allowing this to stand as it is worded in accordance with the current system would be preferable, that would be our advice at this time.

The Chairman –

Okay. Any other questions, Honourable Members?

Clauses 3, 4 and 5.

Question put and agreed to.

The Chairman –

I'll put the question then that Clauses 6, 7 and 8 do stand part of the Bill. Attorney General?

The Hon. Aine Hurley –

Thank you, Mr Speaker. Clause 7 sets out the prohibition on fishing without licence and the exception to that rule for traditional rock fishing and spearfishing to or from shore that does not involve the use of a vessel.

Clause 8 establishes that the Chief Fisheries Officer may issue the five types of licence listed, namely – recreational, sports, commercial, exploratory and research fishing licences and such shall be subject to conditions prescribed by Governor in Council or otherwise imposed as the Chief Fisheries Officer considers appropriate. Mr Speaker, did you ask me.

The Chairman –

6, 7 and 8.

The Hon. Aine Hurley –

6, 7 and 8, thank you. I think in the circumstances, I apologise, but I'll start again at 6, otherwise it will just cause confusion.

Clause 6 sets out the responsibilities of the Chief Fisheries Officer in respect of the administration of licensing, the management of the fishery and reporting or FMO compliance to Governor in Council.

Clause 7 sets out the prohibition on fishing without licence and the exception to that rule for traditional rock fishing and spearfishing to or from the shore that does not involve the use of a vessel.

Clause 8 establishes that the Chief Fisheries Officer may issue the five types of licence listed, namely – recreational, sports, commercial, exploratory and research fishing licences and such shall be subject to conditions prescribed by Governor in Council or otherwise imposed as the Chief Fisheries Officer considers appropriate.

The Chairman –

Thank you. Honourable Members, you may speak to Clauses 6, 7 and 8. Honourable Gavin Ellick?

The Hon. Gavin Ellick –

Just to ask if we done come up with a fee for licences?

The Chairman –

Can you repeat the question?

The Hon. Gavin Ellick –

I say I just asking if we have done come up with a fee for the licences, because everything here seems to have a licence and it says here charging fees may be prescribed in respect of fishing licences and fish aggregating devices, so I was wanna know if you have come up with a fee?

The Chairman –

Oh, fee, okay, sorry. Okay.

The Hon. Aine Hurley –

To answer the Honourable Member's question, the fees will be provided for in the regulations so it will be through the regulations that that will be specified.

The Chairman –

Thank you.

The Hon. Gavin Ellick –

Thank you, Madam.

The Chairman –
The Honourable Cruyff Buckley?

The Hon. Cruyff Buckley –
Just for clarification, Mr Speaker, it refers here to the Chief Fisheries Officer and I know we have a post Senior Fisheries Officer, so does this mean that this is the same post, one and the same?

The Hon. Aine Hurley –
To answer the Honourable Member's question, the term Senior Fisheries Officer is used as a job title, it's the phrase and the term that's used internally within St Helena Government as a job title, but in law the title Chief Fisheries Officer is used and that's the reason why there is a difference between those two terms.

The Hon. Cruyff Buckley –
Wouldn't it make it easier, Mr Speaker, to have one title as it would avoid confusion?

The Hon. Aine Hurley –
But, in response to the Honourable Member's question, the Ordinance uses the term Chief Fisheries Officer whether or not St Helena Government would decide to change the job title that's colloquially used to Senior Fisheries Officer would be a matter that would not be provided for by the Ordinance, that would be an internal matter whether or not internally they would start to use a different job title.

The Hon. Cruyff Buckley –
Yeah, with appreciation for what the AG has just said, Mr Speaker, I would suggest that the Government change the title to Chief Fisheries Officer for the avoidance of doubt and to clarify the issue. Thank you.

The Chairman –
Thank you.

The Hon. Aine Hurley –
To provide further information to the Honourable Member, I've been informed that there is currently a review taking place in ENRP and as part of that review a person will then be found to occupy that position and it's not clear at this time from the point of view of within the department the job title that will be used, therefore, my response to you would be that in law the term Chief Fisheries Officer is used and is defined, but I cannot give you a conclusive answer at this time as to what internal job title will be used within the relevant department.

The Hon. Cruyff Buckley –
Just a suggestion, thank you.

The Chairman –
Thank you.

Clauses 6, 7 and 8.

Question put and agreed to.

The Chairman –

I'll put the question then that Clauses 9, 10, 11, 12 and 13, they're only short. Attorney General?

The Hon. Aine Hurley –

Thank you, Mr Speaker.

Clause 9 deals with recreational fishing licences and that such licence may authorise fishing from a vessel by the licence holder, master and passenger on the vessel.

Clause 10 deals with sports fishing licences and provides that such, I'll begin that again as I think the cadence was confusing. Clause 10 deals with sports fishing licences and provides that such authorised fishing from a vessel by the master, crew and paying clients of the licence holder.

Clause 11 provides for commercial fishing licences by which the licence holder, master and crew of the vessel may fish for the sale of the catch gain or award of the catch.

Clause 12 provides for exploratory fishing licences so to permit fishing for the purpose of determining if commercially viable and environmentally sustainable catch quantities thought to be present exist and/or to identify the multi species and habitat impacts of such fishing.

Clause 13 provides for research fishing relevant to species of fish not otherwise provided by the Environmental Protection Ordinance. In granting a research fishing licence the Chief Fisheries Officer must consult with the Chief Environmental Officer and must be satisfied that nothing authorised by the licence will be detrimental to the survival of the species population or overall management of the fishery.

The Chairman –

Thank you. Any questions on Clauses 9, 10, 11, 12 and 13, Honourable Members?

Clauses 9, 10, 11, 12 and 13.

Question put and agreed to.

The Chairman –

Then I'll put the question that Clauses 14, 15 and 16 do stand part of the Bill. Attorney General?

The Hon. Aine Hurley –

Yes, Mr Speaker. Clause 14 provides that a licence must specify the vessel in respect of which it applies and the names of Master or Masters of the vessel. The clause provides also that where a person owns more than one vessel they may together be included on a single sports fishing licence and further provides that in the case of licences, sorry, and further provides that in the case of licences held.

Clause 15 provides that the Chief Fisheries Officer has the power to vary, amend or revoke either a licence or conditions attached to a licence as he or she considers necessary or expedient through the management of fisheries resources.

Clause 16 establishes that foreign fishing vessels may apply for the licences described, but that such applicants may be required to demonstrate they have or will offer employment opportunities in St Helena.

The Chairman –

Just one observation, Attorney General, on 14, the top line over to the far right, it says 'specifythe', I think there should be a space between specify the.

The Hon. Aine Hurley –
Yes, Mr Speaker.

The Chairman –
That don't need an amendment anyway, does it; that can be done in house?

The Hon. Aine Hurley –
No, Mr Speaker, that does not require a formal amendment, but thank you for bringing it to my attention.

The Chairman –
Thank you. Honourable Members, you may speak now to Clauses 14, 15 and 16.

Clauses 14, 15 and 16.

Question put and agreed to.

The Chairman –
I put the question that Clauses 17, 18, 19 and 20 do stand part of the Bill. Attorney General?

The Hon. Aine Hurley –
Thank you, Mr Speaker. Clause 17 provides that fishing methods other than those described are prohibited. Those which are not prohibited are substantially one by one methods that reflect local fishing traditions and practices in law.
Clause 18 permits that the Chief Fisheries Officer may set total allowable catch limits being an upper limit of fish species that may be fished within a given time and may set such limit for the purposes of managing fish resources and stocks. The clause ensures that in setting such limits the Chief Fisheries Officer must take into account the best available information including more reasonably available from a variety of sources that include Atlantic stock data, observer reports and anecdotal reports from the local fishing sector.
Clause 19 provides for the issue of fishing control notices that allow for timely and reactive management measures on both licensed fishing and traditional rock fishing to restrict fishing if necessary for the management of the fisher. Such restriction may apply to certain species, certain times, places or fishing methods.
Clause 20 requires that fish aggregating devices may only be kept or deployed in the fishery limits in accordance with the licence from the Chief Fisheries Officer. Such licences are available for anchorage fish aggregating devices and may be subject to conditions as may be considered necessary or expedient for the management of the fishery. The Chief Fisheries Officer has power and discretion to vary, amend or revoke such licence or conditions accordingly.

The Chairman –
And 20?

The Hon. Aine Hurley –
Clause 20 requires that fish aggregating devices may only be kept or deployed in the fishery limits in accordance with the licence from the Chief Fisheries Officer. Such licences are available for anchorage fish aggregating devices and may be subject to conditions as may be considered necessary or expedient for the management of the fishery. The Chief Fisheries

Officer has power and discretion to vary, amend or revoke such licence or conditions accordingly.

The Chairman –

Thank you. Just another observation, Attorney General. On Clause 19, subclause (2) the last line on subclause (2) it says ‘ofsuch’, there should be a space between of such again?

The Hon. Aine Hurley –

Yes, thank you, Mr Speaker.

The Chairman –

Honourable Members, you may speak now to Clauses 17, 18, 19 and 20. The Honourable Cruyff Buckley?

The Hon. Cruyff Buckley –

Yes, thank you, Mr Speaker. Prohibited methods of fishing, 17, outlines pretty much every way you can drag a fish out of the water except it omits the use of a spear or lance. (g) mentions a speargun, but we also used in my younger days a lance, Mr Speaker, or a spear, whatever we want to call it by method of an elastic on the end, so we might want to put a provision in there to allow that or is it covered under the other listings there?

The Hon. Aine Hurley –

Thank you to the Honourable Member. If I could just clarify the question. Are you suggesting that it be included?

The Hon. Cruyff Buckley –

Yes.

The Hon. Lawson Henry –

And to include a definition of speargun and lance

The Hon. Cruyff Buckley –

I appreciate what my Honourable Member is saying, but technically a lance is not a speargun, but if it is included under the definition

The Chairman –

If it’s in the definition, yes.

The Hon. Cruyff Buckley –

I have no issues with that.

The Chairman –

Okay, thank you. Any other questions, Honourable Members? Oh, the Attorney General? No?

Clauses 17, 18, 19 and 20.

Question put and agreed to.

The Chairman –

Then I put the question that Clauses 21, 22, 23 and 24 do stand part of the Bill. Attorney General?

The Hon. Aine Hurley –

Thank you, Mr Speaker. Clause 21 provides certain definitions relevant to this part of the Ordinance, in particular, closed season, prescribed area and scuba equipment relevant to the provisions that follow.

Clause 22 provides that Governor in Council may by order determine prohibited areas for the purposes of spear gun possession.

Clause 23 prohibits, except where approved for research purposes, hand or spearfishing with scuba equipment as well as the possession of a spear gun in a prohibited area or on or during a closed season or in tidal water.

Clause 24 provides that fishing by hand or spear gun may be permitted if desirable for scientific purposes and such permission may require as a condition a report of specimens if relevant that are collected.

The Chairman –

Honourable Members, you may speak to Clauses 21, 22, 23 and 24.

Clauses 21, 22, 23 and 24.

Question put and agreed to.

The Chairman –

Then I'll put the question that Clauses 25, 26, 27 and 28 do stand part of the Bill. Attorney General?

The Hon. Aine Hurley –

Thank you, Mr Speaker. Clause 25 prohibits transshipment within the fishery limits save in respect of bait fish and by reference to the definition of transshipment this prohibition will not apply to vessel to vessel transfer of catch incidental to landing that catch at James's Bay or Ruperts Bay.

Clause 26 is a short definition section setting out definitions of enforcement officer, item, marine installation premises, relevant activity, relevant defences and relevant premises as well as references to vessel and introductory matters relevant to Part 9.

Clause 27, this gives power of inspection to enforcement officers of vessels, marine installations and vehicles, including power to stop vessels or vehicles to require the assistance of persons present.

The Chairman –

Thank you. Honourable Members, you may speak to Clauses 25, 26, 27 and 28.

Clauses 25, 26, 27 and 28.

Question put and agreed to.

The Chairman –

Then I'll put the question that Clauses 29, 30 and 31 do stand part of the Bill. Attorney General?

The Hon. Aine Hurley –

Thank you, Mr Speaker. Did you ask me to refer as far as Clause 31?

The Chairman –

Yes, 29, 30 and 31.

The Hon. Aine Hurley –

Thank you. Clause 29 is the power to enter and inspect vehicles. Clause 30 deals with powers of inspection in relation to dwellings and requires issues of a Magistrate warrant available where there are reasonable grounds for believing that there is a requirement to be inspected, seized or examined and is available where it is impracticable to communicate with those entitled to grant entry.

Clause 31 describes powers of an enforcement officer to search and examine anything on the premises, stop any person, take measurements and samples when making inspections under powers at sections 26, 27 and 28.

The Chairman –

Thank you. Honourable Members, you may speak to Clauses 29, 30 and 31.

Clauses 29, 30 and 31.

Question put and agreed to.

The Chairman –

Then I'll put the question that Clauses 32, 33 and 34 do stand part of the Bill. Attorney General?

The Hon. Aine Hurley –

Yes, Mr Speaker. Clause 32, this clause gives Enforcement Officers the power to require the production of documents during such inspection.

Clause 33 gives the power of seizure and detention of any matter or item except those of legal privilege attached or which are required on premises by law and in the case of documents or records gives the right to take copies of the same in all cases if relevant to reasonable suspicion of an offence or determining whether an offence has been committed.

Clause 34 refers to further provision on seizure including allowing items being seized, to be taken out of any container or put in a container and for the container also to be seized or alternatively gives powers to require that items to be seized to be secured.

The Chairman –

Thank you. Honourable Members, any questions on 29, 30 and 31? Sorry, sorry, 32, 33 and 34, I do beg your pardon, any questions on 32, 33 and 34?

Clauses 32, 33 and 34.

Question put and agreed to.

The Chairman –

Then I'll put the question that Clauses 35, 36 and 37 do stand part of the Bill. Attorney General?

The Hon. Aine Hurley –

Thank you, Mr Speaker. Clause 35 gives powers for seized items to be retained for examination, investigation or evidential purpose at trial.

Clause 36 enables Enforcement Officers to record visual images of anything believed to be evidence of a commission of an offence to require assistance in doing so and relates to anything unattached or controlled from a vessel, marine installation, premises or vehicle.

Clause 37 are powers for an Enforcement Officer to require name and address or to require name or address.

The Chairman –

Thank you. Honourable Members, you may speak now to Clauses 35, 36 and 37. The Honourable Gavin Ellick?

The Hon. Gavin Ellick –

Just one question. Where an Enforcement Officer reasonably believes that a person

The Chairman –

Which clause?

The Hon. Gavin Ellick –

37, first line. I was wondering if they should have proof and not reasonably, because you can say I may think that happen, but it may not happen because sometimes you that can leave yourself open for somebody else to sue you. I just ask the question, not saying that it go be good or bad, just asking the question, because we wondering, you know what I mean, I going down arresting Tony now because I reasonably think he done something, but he never done something so that leaves me open for him to sue me, I just checking it out.

The Hon. Aine Hurley –

In response to the Honourable Member's question, this is based on the general principle of reasonable suspicion, so Police Officers or Enforcement Officers would use reasonable suspicion as a threshold and that's based on that principle.

The Hon. Gavin Ellick –

Thank you, Madam.

The Chairman –

Yeah, thank you. Anything further on 35, 36 and 37, Honourable Members?

Clauses 35, 36 and 37.

Question put and agreed to.

The Chairman –

Then I'll put the question that Clauses 38, 39 and 40 do stand part of the Bill. Attorney General?

The Hon. Aine Hurley –

Thank you, Mr Speaker. Clause 38 requires production of documents or licences from a person who an Enforcement Officer believes to have committed an offence.

Clause 39 gives an Enforcement Officer power to require the attendance of any person on-board a vessel or at a premises being boarded or entered or to require the attendance of other people at that time.

Clause 40 in respect of vessels boarded, Clause 40 provides that an Enforcement Officer may take, arrange or require the vessel to be taken to port and detained or kept there and in the case of formal detention requires notice to be served.

The Chairman –

Honourable Members, you may speak to Clauses 38, 39 and 40.

Clauses 38, 39 and 40.

Question put and agreed to.

The Chairman –

Then I'll put the question that Clauses 41, 42, 43 and 44 do stand part of the Bill. Attorney General?

The Hon. Attorney General –

Thank you, Mr Speaker. Clause 41 empowers an Enforcement Officer to bring any person, equipment or materials with them to assist in the purpose of their functions.

Clause 42 gives power for an Enforcement Officer to use reasonable force if necessary for the discharge of their functions.

Clause 43 is a power for an Enforcement Officer to require a person to give details or information as to substances or objects on-board a vessel or in a premises or vehicle and ensures responses made will not be held against a person in criminal proceedings except for when those proceedings relate to perjury or false information relative to the information given.

Clause 44 gives power to an Enforcement Officer to inspect objects found at sea and if suspecting an offence to seize an object and anything attached to it or contained in it and if not seized requires such objects to be replaced as found.

The Chairman –

Thank you. Any Honourable Member wishes to speak to Clauses 42, 42, 43 and 44?

Clauses 41, 42, 43 and 44.

Question put and agreed to.

The Chairman –

Honourable Members, we are halfway through the Bill and I think this would be an opportune time now to adjourn for lunch and we'll come back again at 1.30, we will resume business at 1.30. Thank you.

Council Adjourned.

Council Resumed.

Resumed Debate.

THE FISHERIES BILL, 2021

The Hon. Lawson Henry –

Mr Speaker, can we indulge you and remove our jackets, please?

The Speaker –

Yes, Honourable Members, you may remove your jackets.

Council in Committee.

The Chairman –

Welcome back, Honourable Members to our resumed debate on the Fisheries Bill and we left off at Clauses 41, 32, 43 and 44.

So, Honourable Members, we'll take now Clauses 45 and 46. Attorney General?

The Hon. Aine Hurley –

Yes, Mr Speaker. Clause 45 ensures where objects at sea are inspected or seized the Enforcement Officer prepares a report of that inspection and if reasonably practicable that report be attached to the object or served upon any person concerned or likely to be concerned with the object.

Clause 46 sets out that objects seized after inspection at Clause 44, subsection (2) may be retained until the conclusion of any proceedings for an offence or a decision is taken not to bring such proceedings.

The Chairman –

Thank you. Honourable Members, you may speak to Clauses 45 to 46.

Clauses 45 and 46.

Question put and agreed to.

The Chairman –

I put the question that Clauses 47 and 48 do stand part of the Bill. Attorney General?

The Hon. Aine Hurley –

Thank you, Mr Speaker. Clause 47 makes provision for the disposal or collection of objects seized after inspection at sea including serving notice of collection on persons who appear to be the owners and if owners cannot be found or identified for the same to be publicised to those likely to be interested in it.

Clause 48 is a power of forfeiture for fish relevant to suspected offence to make such catch available for forfeiture by a Court and if in a container to seize the container, if not in a container to be put into a container and then seized with the container. If not practicable to seize there and then, the Officer may arrange for the fish to be secured, not removed. The last subclause requires facilities and assistance to be provided in the course of an inspection or when dealing with the suspected offence.

The Chairman –

Honourable Members, you may speak now to Clauses 47 and 48.

Clauses 47 and 48.

Question put and agreed to.

The Chairman –

Then I put the question that Clauses 49 and 50 do stand part of the Bill. Attorney General?

The Hon. Aine Hurley –

Yes, Mr Speaker. Clause 49 similarly provides powers of seizure of fishing gear as, similar to the previous clause provided for seizure of fish and this is for the purposes of forfeiture in dealing with the suspected offence or to require the same to be kept or secured until seizure. Again, the purpose of seizure will be to make the gear available to a port.

Clause 50 deals with procedure in relation to matters seized under Clauses 48 and 49 of the Bill requiring notice of seizure to be served on various persons as the case may be. Such notice to convey what was seized, why, the offence thought to have been committed, further action to be taken and, if relevant, that the property is to be detained by the Court. At subclause (5) provision is made for reasonable steps to be taken in respect of notice when owner's property cannot be identified.

The Chairman –

Okay, Honourable Members, you may speak to Clauses 49 and 50.

Clauses 49 and 50.

Question put and agreed to.

The Chairman –

Then I put the question that Clauses 51 and 52 do stand part of the Bill. Attorney General?

The Hon. Aine Hurley –

Thank you, Mr Speaker. Clause 51 provides that property seized by Clauses 48 and 49 may be retained by the Chief Fisheries Officer until the grounds for release are met, namely, a decision to take no proceedings or the conclusion of proceedings resulting in no order for forfeiture.

Clause 52 provides that in respect of seized fish or gear seized by Clause 51 may upon agreement with the Chief Fisheries Officer the seized matter may be returned in exchange for a bond allowing that such bond be likewise be returned at the conclusion of proceedings or a decision not to bring proceedings or otherwise subject to Court forfeiture.

The Chairman –

Thank you. Honourable Members, you may speak to Clauses 51 and 52. The Honourable Clint Beard?

The Hon. Clint Beard –

Oh, sorry.

The Chairman –

Okay. The Honourable Gavin Ellick?

The Hon. Gavin Ellick –

So, again, I will ask the same question I've asked in the meeting. If a fishing ship was seized because it was doing illegal fishing in our waters, could we confiscate that vessel and keep it for ourselves?

The Hon. Aine Hurley –

Thank you. If the Honourable Member could confirm which clause is the question in respect of, please?

The Hon. Gavin Ellick –

In Clause 52 (2) (3) (b) in the case of prosecution of a vessel or any other parents of the vessel. I want to know if the vessel itself would be ceased and if we could keep it. in case we don't have much on the island so we could then have another vessel.

The Hon. Aine Hurley –

Section, in response to the Honourable Member's question, Clause 52 provides specifically for bonds for release of seized fishery gear, therefore, the seizure of the vessel would not be provided for under that section as that section specifically provides for bonds for release of seized fish or gear, it does not relate to vessels.

The Hon. Gavin Ellick –

Okay. But in the case of that there, could we do it?

The Hon. Aine Hurley –

There are provisions, to answer the Honourable Member's question, which would be more, I think, applicable to the questions or perhaps when we go further through the clauses it may be best if, I think it may be better to discuss them at that time if you would prefer that approach, because there are clauses further on which would be more relevant to the topic that you are speaking about at this time.

The Hon. Gavin Ellick –

Okay, Madam.

The Chairman –

Thank you.

Clauses 51 and 52.

Question put and agreed to.

The Chairman –

Then I'll put the question that Clauses 53, 54 and 55 do stand part of the Bill. Attorney General?

The Hon. Aine Hurley –

Thank you, Mr Speaker. Clause 53 provides that the Chief Fisheries Officer may sell fish seized and in his possession retaining the proceeds instead of the seized fish and retaining until the end of proceedings or a decision to bring no proceedings or at the expiration of a period of

six months. Where selling fish, the Chief Fisheries Officer gives the owner or owners a reasonable opportunity to make representation as to the sale.

Clause 54 sets procedure for the Chief Fisheries Officer in releasing seized property. Such procedure requires service of a notice of collection on any person who is or appears to be the owner and if no owner can be identified to publicise the notice to the vessel, premises owner or a person from whom such was seized and if so complying with this process but without result the Chief Fisheries Officer may make disposal that he or she thinks fit. Mr Speaker, did you request that I address Clause 55 at this time?

The Chairman –
Yes, 53, 54 and 55.

The Hon. Aine Hurley –
Thank you. Clause 55 grants powers, summary or automatic grants powers or automatic forfeiture of fishing gear, the use of which would be an offence.

The Chairman –
Thank you. Honourable Members, you may now speak to Clauses 53, 54 and 55. The Honourable Cyril Leo?

The Hon. Cyril Leo –
Clause 53, subclause (5) need correction there.

The Chairman –
Yeah, okay. The third line in subsection (5) you got the owners again without a space.

The Hon. Cyril Leo –
Thank you, Sir.

The Hon. Aine Hurley –
Thank you for bringing that to our attention.

The Chairman –
Okay, any other observations? The Honourable Cruyff Buckley?

The Hon. Cruyff Buckley –
Yes, Mr Speaker, is there any legal reason why the person who has committed the offence has to be given an opportunity to make representations, after all they have committed an offence?

The Hon. Aine Hurley –
Which clause is

The Hon. Cruyff Buckley –
53, subsection (7). Before selling the fish, the Chief Fisheries Officer must give the owner of the fish a reasonable opportunity to make representations as to the manner in which the fish are sold. I'm asking what is the reason for the leniency, after all, this individual has committed an offence?

The Hon. Aine Hurley –

To answer the Honourable Member's question, this provision applies before the proceedings would have been taken, therefore, the conclusion of the proceedings would not be known at that time, so the person would have to be given the presumption of innocence at that time as the proceedings would not yet be concluded.

The Hon. Cruyff Buckley –

Thank you for that explanation.

The Chairman –

Thank you.

The Hon. Aine Hurley –

Just to, sorry, just to clarify further, as the relevant Officer has properly pointed out, because of that presumption of innocence, if the person was found to be innocent or if the proceedings were discontinued for any reason, then the money would have to be returned to that person in those circumstances.

The Chairman –

Thank you.

Clause 53, 54 and 55 –

Question put and agreed to.

The Chairman –

Then I'll put the question that Clauses 56, 57 and 58 do stand part of the Bill. Attorney General?

The Hon. Aine Hurley –

Thank you, Mr Speaker. Clause 56 grants powers of summary or automatic, I'm sorry, I'll start that again as I think I garbled it. Clause 56 grants powers of summary or automatic forfeiture of fish catch in breach of any minimum size requirements.

Clause 57 additionally specifies that regulations may be made for disposing of property liable to forfeiture under Clauses 55 or 56.

Clause 58 requires that property forfeited upon conviction may be received into the possession of the prosecutors and disposed of.

The Chairman –

Any observations, Honourable Members on Clauses 56, 57 and 58?

The Hon. Gavin Ellick –

Under 58, the section (1), the section applies where for, why or before which a person is convicted and.

The Chairman –

Yes, of and again, yeah, you need separation.

The Hon. Gavin Ellick –

And ofand and then they got offence, what that supposed to read?

The Chairman –

Of and, yes, you need a space between of and.

The Hon. Aine Hurley –

Yes, thank you for bringing that to our attention, I believe it may be some form of formatting error, but thank you.

The Chairman –

Thank you.

Clauses 56, 57 and 58.

Question put and agreed to.

The Chairman –

Then I'll put the question that Clauses 59, 60 and 61 do stand part of the Bill. Attorney General?

The Hon. Aine Hurley –

Yes, Mr Speaker. Clause 59 is a power of an Enforcement Officer to detain vessels on suspicion of an offence and if believing that without such detention a defendant may not attend Court or believing that upon conviction may not attend or a Court or believing that upon conviction an Order for a fine the Court may wish to detain the vessel, where so detaining a vessel an Enforcement Officer will serve notice if reasonably practicable on the owners, charterer and person in charge of the vessel as the case may be.

Clause 60 provides that in respect of such detained vessels, detention may cease if notice of it is withdrawn if the Court so orders or if proceedings have concluded.

Clause 61 gives procedure for a Court to order refusal of a detained vessel.

The Chairman –

Any Members have any observations?

The Hon. Aine Hurley –

I'm sorry, Mr Speaker, but I've just realised that I said order refusal of a detained vessel, but of course it says order release of a detained vessel, so I'll just clarify Clause 61 gives procedure for a Court to order release of a detained vessel.

The Chairman –

Yeah. Just one observation on my part, I know it's a minor observation, but you see you've got power of Court to order release of vessels, it seems like it's divorced from 61 when it should really, that should be on top of 61 on top of the other page rather than being all on its own down the bottom of the previous page, it just don't look right.

The Hon. Aine Hurley –

Yes, Mr Speaker, I think that is a very fair and helpful observation and we will take a note of that as it would make more sense to put it on the other page.

The Chairman –

Yes, it looks more professional that way, yes.

The Hon. Aine Hurley –
Yes, I agree.

The Chairman –
Thank you.

Clauses 59, 60 and 61.

Question put and agreed to.

The Chairman –
Then I'll put the question that Clauses 62, 63 and 64 do stand part of the Bill. Attorney General?

The Hon. Aine Hurley –
Thank you, Mr Speaker. Clause 62 provides that in exchange for a detained vessel and by agreement or upon determination by a Court an owner may exchange a bond for release of the vessel and this makes provision for the return or retention of the bond as the case may require. Clause 63 grants that a Court may order return of a bond taken for a detained vessel. Clause 64 gives an Enforcement Officer power to require persons on a vessel to produce automatic recording or equipment used in connection with a licence.

The Chairman –
Thank you. Honourable Members, you may speak to Clauses 62, 63 and 64. The Honourable Gavin Ellick?

The Hon. Gavin Ellick –
So this is the one that I was talking about, about keeping the vessel, I don't seen nothing here that they can keep the vessel, so even if somebody is found guilty we don't seen nothing here to keep the vessel.

The Chairman –
What clause are you referring to?

The Hon. Gavin Ellick –
Section 62.

The Chairman –
62, any subsection or.

The Hon. Gavin Ellick –
No, just like, because that was my general question before.

The Chairman –
Okay.

The Hon. Gavin Ellick –
Is that I don't see nothing in here that if they couldn't make the bond or what we receive the vessel for ourselves or otherwise or something like that there, because like for me to go right

out hundred miles out, grab up and bring it in here and then don't keep it for ourselves, I think that would be defeating the purpose, because if we want to be hard-line you need to show them that at least we mean business, just a thought.

The Hon. Aine Hurley –

Just in response to the Honourable Member's question, in section 59, clause 59, there is a power to detain vessels in connection with Court proceedings, so that means that an Enforcement Officer, if an Enforcement Officer has reasonable grounds for suspecting that a relevant offence has been committed by the Master, Owner or Charterer of a vessel and the Officer reasonably believes that if proceedings were taken that there is a real risk that the person would not attend Court, or if the person is convicted of an offence and the Court imposes a fine on that person, in those circumstances, as set out in Clause 59, a vessel could be detained. I'm not sure if that addresses your concerns or if your query was perhaps in a different matter?

The Hon. Gavin Ellick –

No, I mean that is a reason an acceptable reason but I want to know if we can keep the vessel, because after all this here it goes to Court whatever and so and so, but it doesn't say here that we can keep the vessel.

The Chairman –

If you look under 59, (b) (ii) if the person is convicted of the offence and the Court by or before which the person is convicted imposes a fine on that person it is likely that the Court will order the vessel to be detained.

The Hon. Gavin Ellick –

Detained? Alright.

The Hon. Aine Hurley –

Thank you to the Honourable Member for your question. I'm just confirming with the other officials if you could just give me a moment, thank you, just to, I didn't want there just to be a silence in that your question is being considered.

Councillor Ellick, the Honourable Member, if you, maybe I'm misunderstanding your query, so please correct me if I am, but I understand your question to be that you would wish there to be provision for a vessel to be kept as a punishment, as a punitive measure, is that correct?

That's not specifically provided for, so a vessel being kept as a punitive measure is not specifically provided for as part of this legislation to answer your specific question.

The Hon. Gavin Ellick –

Thank you, Ma'am.

The Chairman –

The Honourable Cruyff Buckley?

The Hon. Cruyff Buckley –

Yeah, I fully concur with my Honourable Friend here across the table, Gavin Ellick, I feel that there should be a provision in here in extreme circumstances where our marine sources have been seriously depleted, especially with regard to foreign vessels, Mr Speaker, so I can feel an amendment coming on here. I'm not quite sure of the wording or, indeed, which section it would go under, but I think that we have to take this seriously and, indeed, seize and claim vessels that enter our waters to perform excessive fishing.

Mr Aldhelm Garner –

Mr Speaker, if it assists, I'll supplement only what the Acting Attorney General has said. As it stands at present, the penalty for an offence is likely to be a fine, there's not an automatic alternative for taking a vessel instead of a fine or doing it as well as, it may well be that if a fine is imposed on somebody who owns a vessel and the vessel is here that until that fine is paid the Court will use other powers to impound or prevent the departure of the vessel and may ultimately move against the owner's property in the vessel to get the fine paid. However, I hear what the Members say and we do have a later provision at section 80, subsection (2), that's the power of forfeiture, particularly to catch, so, what would otherwise be the profits after an offence, forfeiture is to the Crown. A Court may order that fish caught during or in consequence of the commission of an offence may be forfeited to the Crown. If Members are considering an amendment, it might be that in addition to fish caught, the vessel used might also be subject to that same provision and that might be what you wish to reflect on.

The Hon. Aine Hurley –

Yes, in respect, as Mr Garner says and in answer to the Honourable Member's question, based on the comments that have been expressed by the two Honourable Members who have spoken you would need to make an amendment if you wanted to specifically provide for a vessel to be detained as a punitive measure in the circumstances that you have outlined and as Mr Garner says there are sections which that amendment could probably fit quite well into, so if that is perhaps an amendment based on your comments that you would wish to make.

The Hon. Cruyff Buckley –

I will leave it to Councillor Ellick to make the amendment, if he so wishes, I think it is appropriate given that fishing is a extremely lucrative business, Mr Speaker, and one can easily pay a fine, jump back in the boat and do the same thing, so I'm just very aware about not so much for inshore vessels, but foreign vessels in our exclusive economic zone.

The Hon. Aine Hurley –

Perhaps you would be minded then in order to ensure that the amendment would be made correctly in accordance with your instructions and also that it would be inserted into the proper part of the legislation, perhaps you would be minded to give us a few minutes of the conclusion that that could be discussed and considered to ensure that it would be done appropriately.

The Hon. Cruyff Buckley –

Thank you, Mr Speaker for our legal consultation and I approve of the way forward.

The Chairman –

Would you want us to adjourn, Attorney General?

The Hon. Aine Hurley –

It's a matter for you, Mr Speaker, whether you would wish to have an adjournment now or whether you would wish to wait until the end in case other matters were to arise.

The Chairman –

Hold on, the Honourable Christine Scipio, you wanted to come in?

The Hon. Christine Scipio –

Yes, thank you, Mr Chairman. I was gonna ask the Acting Attorney General for clarity. The purpose of this Bill, as stipulated in the beginning, is to regulate fishing and related activities for the purpose of management and protection. We're now going to be talking about detaining a vessel, isn't that a matter for Court and not a matter for this Bill? I mean, if an offence is committed, then wouldn't that be discussed in a Magistrates Court or whatever Court proceedings as to what the fine would be or, you know, I don't know, that's why I'm asking for clarity because the purpose of this Bill, and there are offences in this Bill like the Acting AG has and Aldhelm has mentioned, about if they commits an offence as in relation to the sections within this Ordinance. This Ordinance is about the Fisheries limits and regulating the fish and related activities, now we're getting into detaining a vessel, I thought that would be a matter for the Court, but could you just provide clarity before we agree to adjourn for a few minutes for you to have deliberations. I'm a little confused, are we looking at something that doesn't really relate to this Bill?

The Chairman –

Can I refer the Honourable Member to Clause 60, subsection (2)(d). Is that what you were asking?

The Hon. Christine Scipio –

Mr Chairman, yeah, then it refers to 59, so I'm a little confused as why we want to include.

The Chairman –

I thought that was there already, yes.

The Hon. Christine Scipio –

Additional information, er.

The Hon. Jeffrey Ellick -

Excuse me.

The Hon. Christine Scipio –

So maybe I've asked the Acting AG for clarity and hope that she can provide the clarity before you allow another Member to speak, Mr Chairman.

The Chairman –

Okay, can you clarify and then we'll ask.

The Hon. Jeffrey Ellick –

Can I just interject, Mr Speaker?

The Chairman –

Is it on the same.

The Hon. Jeffrey Ellick –

Same thing, Mr Speaker. Do we have Proceeds of Crimes Act or anything else within our legislation that deals with forfeiture and seizure so the Courts can deal with that?

The Hon. Aine Hurley –

There are certain powers before the Court in respect of forfeiture, but I would have to check because they depend on the offences and on specific information. That is a matter I would

have to check in respect of fishing related offences specifically as it would be wrong for me to give a general answer as it may be incorrect, so I would have to check that specifically in respect of the type of offences that are set out by this Act. Therefore, I'm happy to do that during the recess if you would wish me to do so. I think that possibly is interlinked to the question that the Honourable Member Scipio asked. This piece of legislation does deal with matters relevant to fishing, as you properly point out, however, in order to ensure that matters are enforced it creates a number of offences and once offences are created it then gives guidance, for example, as to the penalties for those offences. It's not an attempt to tie the Court's hands in any way or to fetter the authority of the Court, however, it is common practice in many pieces of legislation to set out offences, so, for example, as an example, the Welfare of Children Ordinance is, of course, a Bill that is, an Ordinance which is concerned with the welfare of children, but it does also set out criminal offences such as cruelty against children, so even though this is an Ordinance which is concerned with fishing and fish related activities, because of the enforcement issues and the ability to be able to enforce it, it does also set out offences linked to fishing and fish related activities and that is why there are a number of offences set out in this piece of legislation.

The Chairman –

Thank you. The Honourable Cyril Leo?

The Hon. Cyril Leo –

Thank you, Mr Speaker. Just based on what my two colleagues had to say, detained, yes, but I would also wonder if the options of confiscate or seize could be included?

The Hon. Aine Hurley –

Just to answer the Honourable Member's question, a few moments ago when there was a discussion where a number of the other Honourable Members made the point that they would wish to see further provisions re the detention of vessels, Mr Garner was making the point that he thought later on in the Bill, and I think section 80, 80, Mr Garner was suggesting that section 80 might be the most appropriate section in which to insert those changes, but as I stated, in order to ensure that we are properly understanding the instructions as to the amendment and in order to make sure it would be done in the best possible manner, it's for that reason that we would request a short recess to consider that matter in more detail, but it's a matter for Mr Speaker as to whether that recess would be now or whether he would wish us to continue with the Bill and to have the recess at a later stage?

The Chairman –

Can we just let Councillor Ellick come in?

The Hon. Gavin Ellick –

I think that's uh can we recess when we get to 80, because then we can carry on with the Bill until we get to 80 and just for a point of information, at least I hear we go for protection of our fisheries and everything else, I always believe that fishing is done in a boat, so the boat is part of the fishing thing, so that's why I brought it up.

The Chairman –

Honourable Members, you want to leave the adjournment until we get to 80 or you want to do it now?

The Hon. Lawson Henry –
I am not sure why we are adjourning.

The Chairman –
No, No, exactly, yeah.

The Hon. Cruyff Buckley –
Mr Speaker, I propose an amendment that.

The Chairman –
To?

The Hon. Cruyff Buckley –
To allow the detention of foreign.

The Hon. Lawson Henry –
What section?

The Chairman –
What clause?

The Hon. Cruyff Buckley –
Section, well, we not got to 80 yet, if the legal advice it would better fit under 80 then I would suggest that we put it in 80.

The Chairman –
And we will leave the adjournment until we get to Clause 80?

The Hon. Cruyff Buckley -
Yes.

The Chairman –
Okay. Alright.

The Hon. Aine Hurley –
Sorry, Mr Speaker, but I would just wish to clarify that my legal advice is that 80 might be the appropriate, but the purpose of the recess would be to consider which is the most appropriate part of the Bill, I would not wish to commit to 80 at this point.

The Chairman –
Oh, I see. Okay, thank you. Then, Honourable Members, we'll adjourn for ten or fifteen minutes, Attorney General?

The Hon. Aine Hurley –
I think that should be sufficient, thank you, Mr Speaker.

The Chairman –
Fifteen minutes?

The Hon. Aine Hurley –

Fifteen, thank you.

The Chairman –

Okay, alright. Honourable Members, we will adjourn for fifteen minutes.

Council Adjourned.

Council Resumed.

The Chairman –

Okay, Attorney General, have we reached a conclusion?

The Hon. Aine Hurley –

Thank you, Mr Speaker and thank you for the time that was provided. Based on discussions with my colleagues and based on the instructions of the elected members being discussed in greater detail it appears that the, it appears that the relevant, that the amendment being proposed would most properly be made in respect of section 80, Clause 80, which will become section 80. It appears that based on the comments that have been made, our understanding is that even though there may be different provisions under other Ordinances, both local Ordinances and legislation from England and Wales which applies to St Helena, that in the interest of clarity, the amendment is that it will be specifically written into this Ordinance so that instead of having to rely on the provisions of other Ordinances or take into account the facts and circumstances of individual cases, which, of course, the facts and circumstances of individual cases will always be taken into account, but for the purpose of providing advice here today rather than advising hypothetical, it appears, in the interest of clarity that a specific amendment will be made which will make clear that as a punitive measure a vessel can be seized and if it used in the commission of offences under these Ordinances. Mr Garner is working on the wording of that amendment and it will be made in respect of Clause 80 and I believe, based on the instructions that the forfeiture and the, as a punitive, again, as a punitive measure, that it will also be extended to fishing gear, that is my understanding from the discussions that were had during the recess. I don't know if I might be of further assistance at this time.

The Chairman –

Okay. Honourable Members, any questions? The Honourable Cruyff Buckley?

The Hon. Cruyff Buckley –

Just to say, Mr Speaker, I will propose the amendment at the appropriate section, which seems to be section 80.

The Chairman –

Yes.

The Hon. Cruyff Buckley –

Thank you.

The Chairman –

Thank you.

Clauses 62, 63 and 64.

Question put and agreed to.

The Chairman –

Then I'll put the question that Clauses 65, 66 and 67 do stand part of the Bill. Attorney General?

The Hon. Aine Hurley –

Yes, Mr Speaker. Clause 65 carries provisions for the service of notices personally at an address by post or by e-mail addresses provided to the Chief Fisheries Officers for such service. Clause 66 sets out when legal proceedings may be considered to have concluded for purposes of this part, allowing time for the appeal of any decision; and Clause 67 requires Enforcement Officers to provide evidence of their authority before exercising their powers of enforcement or as soon as same is considered practicable.

The Chairman –

Thank you. Any observations, oh, Gavin Ellick? Oh. Any observations on Clauses 65, 66 and 67?

Clauses 65, 66 and 67.

Question put and agreed to.

The Chairman –

Then we'll move on to Clauses 68 and 69, that they stand part of the Bill. Attorney General?

The Hon. Aine Hurley –

Yes, Mr Speaker. Clause 68 similarly provides that an Enforcement Officer must, if requested, upon exercise of enforcement powers, provide their name, the power to be exercised and the grounds proposed for such exercise or must do so as soon as reasonably practicable. Clause 69 provides that Enforcement Officers or persons assisting them in accordance with the provisions of the Bill will not be liable to civil or criminal liability in the absence of any bad faith or any act of commission was not reasonable.

The Chairman –

Thank you. Any Honourable Members have any questions on 68 and 69?

Clauses 68 and 69.

Question put and agreed to.

The Chairman –

Now we're moving on to Part 10 – Appeals and I'll put the question that Clauses 70, 71 and 72 do stand part of the Bill. Attorney General?

The Hon. Aine Hurley –

Thank you, Mr Speaker. Part 10 – Appeals. Clause 70 provides that a person aggrieved by the decision of the Chief Fisheries Officer or Enforcement Officer acting with duly delegated powers whether to grant a licence or permission, refuse a licence or permission or imposing

conditions on the same may appeal to the Magistrates Court if such decision made erred in law or based the decision on incorrect understanding of the facts.

Part 11 – Census. Clause 71 sets out the offence and penalty provisions for fishing without a licence or in breach of licence conditions and where such offence concerns a vessel causes an offence to be committed by the Master, Owner and Charterer.

Clause 72 sets out offences and penalties for breach of fishing restrictions, namely, fishing by prohibited methods by placing or keeping a fish aggregating device in the fishery limits without a licence and fishing in contravention of a fishing control notice albeit that in respect of a fishing control notice and on targeted catching and return of a species prohibited by a fishing control notice no offence is committed.

The Chairman –

Thank you. Honourable Members, we're dealing now with Parts 10 and 11, Appeals and Offences and we're on Clauses 70, 71 and 72. Any observations, Members?

Clauses 70, 71 and 72.

Question put and agreed to.

The Chairman -

I put the question that Clauses 73, 74 and 75 do stand part of the Bill. Attorney General?

The Hon. Aine Hurley –

Yes, Mr Speaker. Clause 73 provides penalties for spear gun offences and for spearfishing or hand fishing with Scuba equipment. Clause 74 carries the offence and penalty for breach of the prohibition on transshipment. Clause 75 carries the offence for persons conducting business directly related to illegal, unreported or unregulated fishing and carries definitions in that regard.

The Chairman –

Thank you. Honourable Members, you may now speak to Clauses 73, 74 and 75.

Clauses 73, 74 and 75.

Question put and agreed to.

The Chairman –

Then I'll now put the question that Clauses 76, 77 and 78 do stand part of the Bill. Attorney General?

The Hon. Aine Hurley –

Yes, thank you, Mr Speaker. Clause 76 carries the offence and penalty for unlicensed vessels in a specified area to carry unstowed fishing gear or if licensed to carry unstowed fishing gear that would not any way be lawful and grants that where occurring the Master, Owner and Charterer if any of the vessel each commit an offence.

Clause 77 presents an offence for the discarding of inorganic fishing material, including plastics, except that no offence is committed where discarding of such material, line or gear is reasonably necessary to release fish, gear or vessels fouled at sea.

Clause 78 provides offences for knowingly providing false information or recklessly furnishing information in connection with licensing matters. Offences for falsifying documents or using false documents are also included.

The Chairman –

Thank you. Honourable Members, any observations on 76, 77 and 78?

Clauses 76, 77 and 78.

Question put and agreed to.

The Chairman -

I now put the question that Clauses 79, 80 and 81 do stand part of the Bill. Attorney General?

The Hon. Aine Hurley –

Clause 79 carries various offences in relation to Enforcement Officers. These include failing to comply with reasonable requirements of such Officer or preventing another person from so complying, providing false or materially incorrect information to an Officer, obstructing or assaulting an Officer or obstructing or assaulting an Officer are also offences as is impersonation of an Officer.

Clause 80 carries the general penalty of £10,000 for offences for which no separate penalty is elsewhere specified.

Clause 81 conveys criminal liability to the Director, Manager, Secretary or similar person who consents or connives in a corporate body committing an offence under this Ordinance.

The Chairman -

I believe, Attorney General, that there's going to be an amendment made to Clause 80. The Honourable Cruyff Buckley?

The Honourable Cruyff Buckley –

Thank you, Mr Speaker. Just before I get to that, Mr Speaker, on Clause 79 it said that proceedings for, subsection (7), proceedings for an offence under this section may be taken and the offence may for all incidental purposes be treated as having been committed in St Helena. I just want to highlight that because I'm asking if does the law apply at sea?

The Chairman –

With 200, is it within 200 miles?

The Hon. Aine Hurley –

In response to the Honourable Member's question, the reason for section 79, subsection (7) is that if an offence is committed within 200 miles off St Helena, for the purpose of dealing with it before the Courts that will be considered to be within the jurisdiction of the St Helenian Courts and it's for that reason that is specified.

The Chairman –

Yeah.

The Hon. Cruyff Buckley –

I thank the Honourable Attorney General for that clarification.

The Chairman –

Thank you.

The Hon. Cruyff Buckley –

Mr Speaker, I now would like to propose an amendment under Section 80 and I move to amend Section 80, subsection (2). The purpose is to expand a Court's power, forfeiture, on conviction, so to apply to fish caught, but also to fishing gear and/or the vessel used in the commission of an offence.

The Chairman –

Can we have the wording for the amendment, please?

The Hon. Cruyff Buckley –

Yes, Mr Speaker, I am coming to that. I move that after the word "offence" where it last occurs in that subsection, which is subsection (2) that there be inserted the words "and, or, fishing gear and, or vessel used in the commission of an offence.

The Chairman –

Sorry, that's a bit quick for me.

The Hon. Cruyff Buckley –

I will say it again, Mr Speaker.

The Chairman –

Can you slow it down a little, please?

The Hon. Cruyff Buckley –

I move that after the word "offence".

The Chairman –

That's after "if a person is convicted of an offence"?

The Hon. Cruyff Buckley –

Actually, no, it's the second time "offence".

The Chairman –

Other penalty in respect of the offence, is that, oh, line 3, okay, sorry, I do beg your pardon, okay, and, or,.

The Hon. Cruyff Buckley –

Yes, so, the wording, Mr Speaker, is – and, or, fishing gear and, or vessel used in the commission of an offence.

The Chairman –

In the commission of an offence. So, you're taking out all the words from "offence" to be forfeited to the Crown, that's coming out is it?

The Hon. Cruyff Buckley –

Yes. Oh, hold on, no, no, hold on. No, I'm simply adding in, Mr Speaker, inserting.

The Chairman –

Okay. So the, let's be clear. The amendment reads – during or in consequence of the commission of an offence and, or, fishing gear or vessel used in the commission of an offence to be forfeited to the Crown, is that the way it's reading?

The Hon. Christine Scipio –

May I suggest the proposer read from the top, starting with the words “If a person”, so we all know what you're talking about?

The Chairman -

Okay.

The Hon. Christine Scipio –

So we know what that subsection will read if the amendment is agreed.

The Chairman –

Honourable Cruyff Buckley, can you take us through the entire clause 80, subclause (2) please, with the amendment?

The Hon. Cruyff Buckley –

Mr Speaker, I read from the top. If a person is convicted of an offence under this part, the convicting Court in addition to imposing any other penalty in respect of the offence, may order that the fish caught during or in consequence of the commission of an offence and, or, fishing gear and, or vessel used in the commission of an offence be forfeited to the Crown.

The Chairman –

Okay. Okay, Honourable Members, there's been an amendment proposed. Is there a seconder for that amendment, please?

The Hon. Gavin Ellick-

I beg to second.

The Chairman –

So the Clause 80, subclause (2) now reads – If a person is convicted of an offence under this part, the convicting Court in addition to imposing any other penalty in respect of the offence, may order that the fish caught during or in consequence of the commission of an offence and, or, fishing gear and, or, vessel used in the commission of an offence be forfeited to the Crown. Is that correct?

The Hon. Cruyff Buckley –

I just think you had an extra comma in there, Mr Speaker. I look to some legal advice here, Mr Speaker, if these commas are as significant as they are made out to be.

The Hon. Aine Hurley –

I think, to answer the Honourable Member, I think that perhaps, a comma is being used, but I think it's probably what we would be more colloquially used to refer to as a dash, but for the purpose of the drafting it is a comma that is being used, but it has the same effect as we would

often in more informal documents write and dash or if, if that makes, I hope, I don't know if maybe I'm confusing the issue further, but does that perhaps make sense to the Honourable Member is that for the purpose of the formality of the legislation, commas are being used, but if this was a more informal document it's probably a situation where we would write and – or. I hope that assists.

The Hon. Cruyff Buckley –

Okay, Mr Speaker, let's not worry over too much semantics, I think it gets the gist of it.

The Chairman –

Alright. Then, Honourable Members, you can speak to Clauses 79, 80, as amended, and 81. The Honourable Cruyff Buckley?.

The Hon. Cruyff Buckley –

Just to say, Mr Speaker, I thank the Honourable Gavin Ellick for highlighting this amendment and although it's taken the best part of twenty minutes to bottle it out I think it is absolutely essential that the Court's have this power and that they have the flexibility to be able to ascertain the gravity of the offence and give directions accordingly. Thank you.

The Chairman –

Thank you. The Honourable Gavin Ellick?

The Hon. Gavin Ellick –

Yes, Sir, now we know that it would act as a deterrent for people fishing in our waters, so that's what I really wanted to be put in there. Thank you.

The Chairman –

Okay. Thank you.

Clauses 79, 80 (as amended) and 81.

Question put and agreed to.

The Chairman –

Then I'll put the question that Clauses 82, 83 and 84 do stand part of the Bill. Attorney General?

The Hon. Aine Hurley –

Yes, Mr Speaker. Clause 82 is a regulation making provision empowering Governor in Council to make regulations for the better execution of the Ordinance, including by prescribing matters to be taken into account in issuing licences to foreign fishing vessels, in determining catch limits, prescribing regional fisheries management organisations as to which obligation the Chief Fisheries Officer is to report, establishing licence application deadlines, preconditions, mandatory conditions of licences and when licences may be transferred. Other matters that may be prescribed include matters that may preclude the award of a licence as well as forms and fees to be used.

Clause 83 makes repeal and amending provisions and related legislation and includes the repeal of the Fisheries Limits Ordinance 1977, the Spear Guns (Control) Ordinance 2014 and amends cross references previously made to the Fishery Limits Ordinance.

Clause 84 provides transitional provisions allowing existing fish licences in force and which would otherwise remain in force to continue as if made under the corresponding provision of this Bill. At subclause (3) provision has the same effect in respect of permits, licences, certificates or orders made under the Spear Guns (Control) Ordinance, those too are preserved or carried across to this law.

The Chairman –

Thank you. Honourable Members, you may speak to Clauses 82, 83 and 84.

Clauses 82, 83 and 84.

Question put and agreed to.

The Chairman –

Do we do the Schedule, Attorney General, No?

The Hon. Aine Hurley –

Yes, it should be mentioned.

The Chairman –

Okay, we'll continue then with Schedule I.

The Hon. Aine Hurley –

Thank you, Mr Speaker. This Schedule specifies regional fisheries management organisation as to our compliance that the Chief Fisheries Officer is to report annually the single origination stipulated is ICAT which is the International Commission for the Conservation of Atlantic Tuna, to use its full title.

The Chairman –

Thank you. Honourable Members, any observations on Schedule I?

Schedule I.

Question put and agreed to.

Council Resumed.

The Speaker –

Honourable Mover?

The Hon. Lawson Henry –

Mr Speaker, I beg to report that the Fisheries Bill 2021 passed the Committee with one amendment and 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. Gavin Ellick –

I beg to second, Sir.

The Speaker –

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

The Hon. Lawson Henry –

Mr Speaker, I'd just like to say thank you to the Members for their support for this very important piece of legislation and also to name Mrs Elizabeth Clingham and Mr Anthony Thomas who I omit in names to mention in my thanks for the support and the work they did to support this Bill that enabled it to come to the House today and, finally, to note the explanatory note that should be included at the end of the Bill that I provided a copy of earlier. Thank you, Mr Speaker.

The Speaker –

I put the question that this Council approves the Fisheries Bill 2021 with one amendment and recommends to the Governor that it should be enacted. Honourable Members, you may now speak to the Motion. The Honourable Mover?

The Hon. Lawson Henry –

Yes, I'd just like to say something else, I see the on island rep of IPNLF is in the Chamber, Mr Speaker, so I would just like to pay tribute to her, as I said in my original exposition, and to Mr Roy Bearley, the Director of Fisheries of IPLNF.

The Speaker

Thank you.

Question that the Council approves the Fisheries Bill 2021, with one amendment, and recommends to the Governor that it should be enacted, put and agreed to.

The Speaker –

Our next item of business, please?

Motion No. 5 – The Honourable Cruyff Buckley.

The Speaker –

The Honourable Cruyff Buckley?

The Hon. Cruyff Buckley –

Thank you, Mr Speaker. Mr Speaker, I beg to move that the Legislative Council resolves that the St Helena Government considers, for openness and transparency, to publish all Public Sector pay scales.

The Speaker –

Thank you. Do we have a seconder, please?

The Hon. Gavin Ellick –

I beg to second.

The Speaker –

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

The Hon. Cruyff Buckley –

Thank you. Mr Speaker, this Motion is simply asking for an action that should have been carried out a long time ago. This Government preaches openness and transparency, yet the salaries of top Government officials seem to be a mystery to most on the island. Mr Speaker, Public Sector salaries are funded by the taxpayer so there should be a transparent publication that distinguishes the different job roles along with the remuneration attached to it. The proposed remuneration for Ministers has now been tabled and published in the newspapers. If this Motion is carried today, then the public can form their own opinion with all the relevant information and figures provided. They can also gauge for themselves if the levels of remuneration for both senior officials in SHG and those holding Legislative positions are equitable and are commensurate for their levels of responsibility.

Mr Speaker, I would suggest that this information be published on the SHG website, however, not all on St Helena have access to the website, so I would suggest that they also be published in the local newspapers. I feel the local population need to know where their hard-earned tax money is going and whether or not they are getting good value for it.

Mr Speaker, I have now become aware that this has been carried out to a certain extent, but I still wish to bring this Motion to the House today to inform the public that they can now access it on the website and if so also through the newspapers. However, I've found that on the website it is not so easily found. My colleagues today have searched for it and can't seem to find the link; it is placed in an obscure location. I would much rather see this placed under the Public Service or in a location which the public can easily access.

Mr Speaker, this Motion seeks only to practice openness and transparency which is in the best interests of all on St Helena. Mr Speaker, I beg to move.

The Speaker –

Thank you. Honourable Members, the Motion is that the Legislative Council resolves that the St Helena Government considers, for openness and transparency, to publish all Public Sector pay scales. The Motion is now open for debate. The Honourable Jeffrey Ellick?

The Hon. Jeffrey Ellick –

Thank you, Mr Speaker. I rise in support of openness and transparency, therefore I support the Motion and just to say I'd like to see all levels, from top to bottom, TC and local, should be there for all to access and see. I'm not sure if that takes it into account, my Honourable Friend over there, Mr Cruyff Buckley, but that's what I would like to see and that will be openness and transparency. Thank you, Mr Speaker.

The Speaker –

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

The Hon. Gavin Ellick –

I, too, stand in support of this Motion, I just think that for far long we keep saying about openness and transparency, this is another good way of showing that we have nothing to hide from anybody, so I, too, agree with what the Honourable Buckley has just said. Thank you.

The Speaker –

Thank you. Any other Member wishes to speak? The Honourable Chief Secretary?

The Hon. Susan O'Bey –

Thank you, Mr Speaker. Perhaps it would be helpful if I could just confirm that as part of the Fit for the Future Programme and also in our quest to ensure openness and transparency all

Public Sector pay scales are published on the web. The Honourable Member will have received the link, which is why I'm a little surprised to say that you couldn't find it, because I did send you also the link to that particular document, which is published under Information, Public Information on the website. Also, just to confirm that it contains SHG pay scales, Members will be aware that all TC posts, the salary is advertised when the post is advertised. Thank you.

The Speaker –

Thank you. The Honourable Clint Beard?

The Hon. Clint Beard –

Mr Speaker, I think this Motion I will support, it's no use us going on for close to four years and carrying on into a new governance system whereby we want to be more open and transparent and this will just show and lead the way to let us do that. Thank you.

The Speaker –

Thank you. The Honourable Mover may wish to respond?

The Hon. Cruyff Buckley

Thank you, Mr Speaker and I thank my Honourable Colleagues for their support in this Motion. With regards to the comment made by Councillor Ellick, Jeffrey Elick, although the Motion doesn't ask for TC posts to be listed, I feel that it could be a consideration in the openness of transparency and I hear what the Chief Secretary say about when the jobs are advertised, however, we must link these salaries to the job role. She is right, I did receive the link, however, I asked for my colleagues to look at it, just by bringing up the website and they couldn't find it, so although I had the link sent to me by e-mail, which I simply clicked on, when one visits the website it doesn't exactly jump out at you, but now, as I say, the public can access the website, they can see the levels for service directors, portfolio holders, A and B, Financial Secretary, Chief Secretary, but the Governor remains unknown, Mr Speaker and I'm aware that the Governor is paid through the FCDO, but, again, I can access the website and see what Mr Boris Johnson is being paid, likewise in any other jurisdiction in the world, but here it seems to be a secret, Mr Speaker, but hopefully now this will be rectified and we all can move on. Thank you.

The Speaker –

Thank you. Honourable Members, the Motion is that the Legislative Council resolves that the St Helena Government considers, for openness and transparency, to publish all Public Sector pay scales.

Question on Motion, put and agreed to.

The Motion is carried.

The Speaker –

Next item, please?

Motion No. 6 – The Honourable Cyril Leo.

The Speaker –

The Honourable Cyril Leo?

The Hon. Cyril Leo –

Thank you, Mr Speaker. I move that the Legislative Council resolves that the St Helena Government urgently considers reviewing the current St Helena Government's Terms of Reference for the Public Solicitor:-

- a) for the purpose of establishing professional separation from the St Helena Government for the Public Solicitor to independently exercise legal representation for justice on behalf of members of the public; and,
- b) for the purpose of satisfying and maintaining public confidence in the independence of the legal representation provided to the public by the Public Solicitor's Office. I beg to move.

The Speaker –

Thank you. Do we have a seconder, please?

The Hon. Jeffrey Ellick –

Mr Speaker, I beg to second.

The Speaker –

Thank you, Councillor Ellick. The Honourable Mover, you may now speak to the Motion.

The Hon. Cyril Leo –

Thank you, Mr Speaker. The position of Public Solicitor in St Helena was established in 1997, twenty-four years ago. Extracts from the St Helena Government's Terms of Reference for the Public Solicitor states –

- (a) The Public Solicitor provides the public with independent legal advice and support.
- (b) Criminal issues and disputes with St Helena Government feature prominently.
- (c) The Governor is the Public Solicitor's Line Manager; and
- (d) The Public Solicitor must report to both the Governor and the Attorney General.

Those four points represent serious conflict of interest and they were highlighted here because they were particularly relevant to the Motion. To elaborate on the four points selected to justify the Motion, I will use an example that could be based on facts. We could have a situation whereby a resident young family received unwarranted treatment from careless and overzealous Police Officers. Accordingly the family provided the compelling evidence of their unwarranted treatment to the Public Solicitor and thereby requested legal advice and support. One would hope that that evidence provided by the victim relating to the unwarranted Police treatment would be professionally managed, protected and used only in the very best interests of the victim by the Public Solicitor. However, according to the current terms of reference, such a victim would have very good reason to be sceptical and question the integrity of their legal representation. The instructions drawn up by the St Helena Government and established in the terms of reference for seemingly collaborative working between the Public Solicitor, the Governor and the Attorney General do not altogether inspire public confidence in the application of professional administration of justice within St Helena's legal system. Accordingly, local residents reserve the right to ask what influence is the apparent collaboration having in the legal outcomes of disputes between members of the public and the St Helena Government. Mr Speaker, the example I provided earlier is a pertinent one whereby a young

family received unwarranted treatment from careless and overzealous Police Officers and therefore it is very likely that the St Helena Government is seriously at fault. In such a case, the Attorney General will be SHG's defence representative, according to the Constitution the Governor's special responsibilities include the Police and the Public Solicitor has yet to provide clear evidence of progressing almost twelve months after requesting assistance for my constituents. Currently, the St Helena Government's terms of reference for the Public Solicitor seems to insist on combined working between the Governor, Attorney General and the Public Solicitor. In my opinion, the current terms of reference designed by the St Helena Government for the Public Solicitor are unethical and therefore do not serve the best interests of the public. The local residents must be reassured that the public services provided by the Public Solicitor's Office are efficient and the legal representation is, indeed, independent and therefore absolutely free of competing influence. Therefore, I call for a fit for purpose review of the St Helena Government's terms of reference for the Public Solicitor and the Public Solicitor's Office to identify possible deficiencies for urgent address. Thank you, Mr Speaker, I beg to move.

The Speaker –

Thank you. Honourable Members, the Motion is that the Legislative Council resolves that the St Helena Government urgently considers reviewing the current St Helena Government's Terms of Reference for the Public Solicitor:-

- (a) for the purpose of establishing professional separation from the St Helena Government for the Public Solicitor to independently exercise legal representation for justice on behalf of members of the public; and,
- (b) for the purpose of satisfying and maintaining public confidence in the independence of the legal representation provided to the public by the Public Solicitor's Office.

Honourable Members, the Motion is now open for debate. The Honourable Jeffrey Ellick?

The Hon. Jeffrey Ellick –

Thank you, Mr Speaker. I'll just stick to the words of the Motion, Mr Speaker, I rise in support of the Motion and it's my view, Mr Speaker, that if we want people to have confidence in the Public Solicitor's Office then there needs to be a separation so that the Public Solicitor is not responsible to the Governor and Attorney General. Clearly, for me, having such aforementioned arrangement in place causes a negative perception which tends to diminish confidence. Mr Speaker, I support the Motion.

The Speaker –

Thank you. The Honourable Anthony Green?

The Hon. Anthony Green –

Thank you, Mr Speaker, I will support the Motion and the sentiments of the Honourable Mover, but I was just trying to cast my mind back to being a Lay Advocate, but I think what the explanation what the Honourable Mover gives is already covered in the Administration of Justice Ordinance which, as far as I recall, allows the Governor to appoint a Public Solicitor, but that in exercising all their duties they have to do that independent of any authority or person, so I just wonder if I can draw attention to that or if the Honourable Mover was cognisant of that, but that particular piece of legislation, Administration of Justice, actually falls under the remit of our current Committee, SCDC and I would have thought that what I've heard it might already be covered, but I stand corrected, but I would support the Motion anyway because it asks for it to be considered. Thank you.

The Speaker –

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

The Hon. Gavin Ellick –

I stand in support of the Motion. I didn't know that the Public Solicitor had to report to the AG and the Governor, so, for me, to have an independent body I thought that it would be free from there, it would be a separation, so therefore I will consider and support Cyril's Motion. Thank you.

The Speaker –

Thank you. Okay, does the Honourable Mover wish to respond to the debate?

The Hon. Cyril Leo –

Thank you, Mr Speaker. No, I don't wish to say anything more, I just hope that my colleagues will see the merit in supporting the Motion.

The Speaker –

Thank you. The Attorney General?

The Hon. Aine Hurley –

If I might just say on a point of information that certainly in my knowledge the Public Solicitor does not report to the Attorney General and in practice I have no knowledge of awareness of any Public Solicitor reporting to the Attorney General. I can only base that on my own knowledge and experience, but certainly in my knowledge and experience in St Helena I have not known the Public Solicitor to report to the Attorney General.

The Speaker –

Thank you. Honourable Members, the Motion is that the Legislative Council resolves that the St Helena Government urgently considers reviewing the current St Helena Government's Terms of Reference for the Public Solicitor:-

- (a) for the purpose of establishing professional separation from the St Helena Government for the Public Solicitor to independently exercise legal representation for justice on behalf of members of the public; and,
- (b) for the purpose of satisfying and maintaining public confidence in the independence of the legal representation provided to the public by the Public Solicitor's Office.

Question on Motion, put and agreed to.

The Motion is carried.

The Speaker –

Before we go into the Adjournment Debate, Acting Attorney General, is there anything further on the Merchant Shipping?

The Hon. Aine Hurley –

Thank you, Mr Speaker. I'm just reviewing correspondence that has been passed to me in respect of same and based on my initial review of the correspondence I think there would be some time needed in order for that matter to progress.

The Speaker –

Okay. Thank you. So, Honourable Members, the next item on the Agenda is the Adjournment Debate, but in view of the Merchant Shipping, the importance of having the Merchant Shipping Bill passed before the dissolution of Council I'm going to adjourn the meeting today until Monday morning at 10 o'clock.

Question put that the Meeting be adjourned until Monday morning.

The Hon. Derek Thomas –

Mr Speaker, I think there might be ExCo on Monday, you couldn't do it at 9 o'clock?

The Hon. Gavin Ellick –

Mr Speaker, I've already sanctioned caucus for 9 o'clock on Monday morning for the ExCo, so I would.

The Speaker –

I believe that ExCo is now at 11.30.

The Hon. Derek Thomas –

Sorry.

Question that meeting be adjourned until 10 o'clock on Monday morning, put and agreed to.

The Speaker –

Okay, then we will adjourn the meeting today until 10 o'clock on Monday morning and we will have the Adjournment Debate after the Merchant Shipping Bill.

Thank you, Honourable Members.

Council Adjourned until 10 o'clock on Monday, 2nd August 2021.

Honourable Speaker

Date

