



**RECORD OF THE MEETING  
OF THE  
LEGISLATIVE ASSEMBLY**

**HELD IN STANLEY  
ON 26 JANUARY 2017**

**RECORD OF THE MEETING OF THE LEGISLATIVE ASSEMBLY  
HELD IN STANLEY ON THURSDAY 26 JANUARY 2017**

Speaker of the House  
(Mr Keith Biles JP)

**MEMBERS** (Ex-Officio)

The Honourable Chief Executive  
(Mr Barry Rowland)

The Honourable Financial Secretary  
(Mrs Lydia Morrison)

Elected

The Honourable Janet (Jan) Lynda Cheek  
(Elected Member for Stanley Constituency)

The Honourable Roger Edwards  
(Elected Member for Camp Constituency)

The Honourable Dr Barry Elsby  
(Elected Member for Stanley Constituency)

The Honourable Michael James Poole  
(Elected Member for Stanley Constituency)

The Honourable Phyllis (Phyl) Mary Rendell MBE  
(Elected Member for Stanley Constituency)

The Honourable Gavin Phillip Short  
(Elected Member for Stanley Constituency)

The Honourable Michael Summers OBE  
(Elected Member for Stanley Constituency)

**PERSONS ENTITLED TO ATTEND**

The Attorney General  
(Peter Judge MBE)

Chief of Staff, British Forces South Atlantic Islands  
(Group Captain James Frampton MBE)

**DEPUTY CLERK OF THE ASSEMBLY:** Cherie Clifford

**PRAYERS:** Reverend Kathy Biles

**APOLOGIES – OVERSEAS**

The Honourable Ian Hansen  
(Elected Member for Camp Constituency)

Commander British Forces, South Atlantic Islands.  
(Commodore Darren Bone, Royal Navy)

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**The Record of the meeting of Legislative Assembly  
held on Thursday 26 January 2017**

**Prayers**

**Mr Speaker**

Honourable Members, I bid you good morning again, and my usual reminder about mobile phones to be turned off please.

**Deputy Clerk of the Assembly**

Confirmation of the Record of Legislative Assembly held on 15 December 2016.

**Mr Speaker**

Honourable Members, I have before me the record of that last meeting of the Legislative Assembly. Is it your wish that I sign this as a true record?

**Honourable Members**

Aye

**Deputy Clerk of the Assembly**

Statement by the Honourable Michael Poole (SRO 5(2) (xi))

**The Honourable Michael Poole**

Thank you Mr Speaker, Honourable Members.

**Response to supplementary questions raised by the Honourable Mike Summers in November 2016, about the formation and operation of the Skills Assessment Council.**

The Skills Assessment Council has met three times since it was formed around September 2016. The primary task of the Council is to conduct a skills survey amongst employers in order to assess the current skills gaps and future employment needs of the Islands. This work will inform Immigration with relation to the PRP points system and also Falkland Island Status applications and it will continue to underpin the Community Development Scheme operation as well.

That survey will launch very shortly and it will assist the ongoing work of the Council.

**Response to supplementary questions raised by the Honourable Jan Cheek in December 2016 about the Government Archives Website and whether it includes family history, and particularly births and deaths records.**

I can confirm that it does to a point – some family trees are available on the website currently. However, lists of births and deaths are currently not available and there is no immediate intention to upload them to the website. This is partly due to the workload involved, but also due to potential privacy concerns and the ability for people to be able to use these dates and numbers to facilitate identity theft.

Thank you Mr Speaker.

## **Deputy Clerk of the Assembly**

### **Papers to be laid on the Table by the Honourable Chief Executive.**

Copies of Subsidiary Legislation published in the Falkland Islands Gazette since the last sitting of the Legislative Assembly and Laid on the Table pursuant to section 35(1) of the Interpretation and General Clauses Ordinance 1977.

Taxes and Duties (Defence Contractors' Employees Exemption) Order 2016

In accordance with section 57 (1) of the Finance and Audit Ordinance 1988

- Falkland Islands Government Financial Statements
- Appendix 1 – Annual Governance Statement
- Retirement Pensions Equalisation Fund Financial Statements
- Insurance Fund Financial Statements
- Currency Fund Financial Statements
- Pensions (Old Scheme) Fund Financial Statements
- Capital Equalisation Fund Financial Statements

### **The Honourable Chief Executive**

Mr Speaker, I hereby lay the aforementioned Papers on the Table.

### **The Honourable Roger Edwards**

Mr Speaker, Honourable Members. This paper provides for the extension to the defence contractors employees tax exemption to the 31<sup>st</sup> December 2017 and for the addition of VolkerStevin Services Ltd to the list of designated Employers.

The Exemption applies only to defence related contractors, MOD Suppliers and businesses that support this supply.

The Exemption is closely scrutinised by the Tax Office to ensure it is not abused. Should the designator employer or any of the employees of that company take a contract, or work, for instance in Stanley (that is outside the MOD jurisdiction), then the exemptions do not apply.

The MOD would welcome the continuation of the Exemption on the basis that it reduces the cost paid by the MOD for works and supplies supporting the defence and security of the Islands. The short term nature of the Order - being only for twelve months - allows the Government to keep the public interest considerations under review.

Mr Speaker, under Section 41 (3) I move that the Taxes and Duties (Defence Contractors' Employees Exemption) Order 2016, be noted.

**Mr Speaker**

Please could we have a seconder?

**The Honourable Mike Summers**

Mr Speaker I second the Motion

**Mr Speaker**

Is there any objection to passing that Motion?

There is no objection. The Taxes and Duties (Defence Contractors' Employees Exemption) Order 2016 is noted.

**The Honourable Roger Edwards**

Mr Speaker, Honourable Members, Section 57 (1) of the Finance and Audit Ordinance 1998 requires that, within a period of 6 months after the end of each year that financial statements be prepared showing fully the financial position of the Falkland Islands Government.

The Ordinance also requires independent Auditors to report to the Financial Secretary on the examination and audit of the financial statement, and that these documents be laid before the Legislative Assembly at the next meeting of the Legislative Assembly.

The principle aim of these statements is to demonstrate the stewardship of public funds. As I reported to Honourable Members within my December portfolio update, the external auditors, on completion of their on-site work reported to Standing Finance Committee that they will be issuing once again an unqualified audit report, effectively giving a clean bill of health to last years' finances.

I would like to take this opportunity to thank all the team in the Treasury for their continued dedication to ensuring public funds are applied to the purposes intended.

Mr Speaker, under Section 41 (3) I move that the Falkland Islands Government Financial Statements, be noted

**Mr Speaker**

Please could we have a seconder? The Honourable Mike Summers to second.

**The Honourable Mike Summers**

Mr Speaker I second the Motion

**Mr Speaker**

Does any Member wish to speak to that Motion?

**The Honourable Phyl Rendell**

Thank you Mr Speaker. I welcome the papers laid on the table today with the reference to the Financial Statements of the Falkland Islands Government ending 30<sup>th</sup> June 2016.

I'd like to draw attention to the revenue. I've had quite a lot of comment from the public about this. The estimated revenue figures have been superseded by over £11 million. This is very welcome, it's always welcome to have more funds than we expected, (particularly in a year when the Illex Fishery failed). We do appreciate that due to changes in the stock market with Brexit, that our funds have done very well (our realised funds) therefore, that was not possible to anticipate.

I do think that we continue to have concern that accurate estimate estimation of income is just as important as accurate estimation of any overspend. It does prevent us from looking at a more aggressive, if you like, or a more optimistic budget in the first place. I do think that this is stifling our ability to proceed more quickly with some of our Capital projects.

I know that Capital Projects are restrained by the people that we have on the ground to do some of these works, but, on the other hand we could look are more resource if we needed to, to complete some of these projects.

We are an underdeveloped country in many areas. Our infrastructure has a lot of weaknesses and we really do have to address that. We have a duty to our constituents to try and improve our infrastructure, wherever possible.

I don't know if there is not a mechanism possible in the mid-year that we could revise figures. I don't know if the Treasury could report on that later. I just hope that in the future we could do more accurate forecasting, particularly when we have so called windfalls from oil activity. That might not be for several years, but I do hope that we would be better placed to anticipate income. Therefore, we can have a better outrun on our budget. I think our constituents deserve that.

Mr Speaker, I just wanted to note that. I know there is good work done in the Treasury, but I think we need to sharpen our pencil in this area.

Thank you Mr Speaker.

## **The Honourable Roger Edwards**

Mr Speaker, Honourable Members. I thank the Honourable Phyl Rendell for her comments.

I would like to point out however, that unfortunately when we are in Budget Select Committee we have a very fuzzy crystal ball. The crystal ball we were using in the Budget Select Committee did not forecast Brexit, it did not forecast the resignation of David Cameron and the appointment of Teresa May as the UK Prime Minister, or in fact Donald Trump.

We do the very best we can, and we will continue to do the very best we can in both estimating the revenue and the expenditure, but this has been an exceptional year.

Thank you Mr Speaker.

## **Mr Speaker.**

Does any other Member wish to comment? No.

The Motion then is that the contents of the Falkland Islands Government Financial Statements are noted.

Is there any objection to passing that Motion? There is no objection, those statements are therefore noted.

## **Deputy Clerk of the Assembly**

### **Questions for Oral Response**

Question Number 1 of 2017 by the Honourable Michael Poole

### **The Honourable Michael Poole**

Thank you Mr Speaker, Honourable Members.

Can the Honourable Chief Executive please provide to this House the percentage of total Executive Council papers which have been published by calendar year since 2010.

### **The Honourable Chief Executive**

Can I thank the Honourable Michael Poole for that question.

I have researched the response.

2010 35% of the reports were published.

In 2011 30%

2012 37%

2013 46%

2014 50%

2015 68%

2016 61%

**The Honourable Michael Poole**

Thank you Mr Speaker. I'd like to thank the Honourable Chief Executive for that answer.

Just to comment on it and then to follow up with a further question if you don't mind Mr Speaker.

It's positive that there is an upward trend in the percentage of papers that are being published (on average). I hope that will continue in the future.

I would note that, from my understanding the rules and guidelines around publication of papers have been pretty stable throughout that period that we have covered there. We are still seeing quite large fluctuations in the percentage, which seems to suggest to me that, to some extent, the makeup of Executive Council Members influences the percentage of papers that are published. It shouldn't work that way. It should be consistent, the guidelines should be followed and we should be looking at a pretty average figure year on year. I hope now that we are up towards 65/70% that will continue in the future.

In terms of a supplementary question:

Can the Honourable Chief Executive please provide to this House the percentage of Executive Council papers in 2016 which were published either in full or with redactions against the advice of the author?

**The Honourable Chief Executive**

Thank you Honourable Michael Poole.

There was one report that was redacted in 2016, that was ultimately published. The reason for that was because of Commercial Confidentiality.

There were three other reports that were published at some later point, but after going through to the Standing Finance Committee in the normal way, as part of the process.

So, only 1 report so, less than 1%.

**The Honourable Michael Poole**

Thank you Mr Speaker, I thank the Honourable Chief Executive for that answer.

The number is actually smaller than I expected, which is reassuring and clearly nobody wants to reduce the fullness or the objectivity of papers coming to Executive Council, they need to make a proper case and Directors and Authors of papers need to feel they can put in the information that is required for proper and full decision making.

I would urge Directors to continue to look at this issue and when writing papers to think about suitable redactions that would allow publication of a greater proportion of papers that are submitted to Executive Council.

Thank you.

**Mr Speaker**

Any supplementary questions?

**The Honourable Dr Barry Elsby**

Mr Speaker, Honourable Members.

I think what the Honourable Michael Poole has said is very important. I think as a Government we follow the Nolan principles, which is that all information, where at all possible, should be open to the public. The Author has to justify why openness cannot happen. I think we need to make sure that the balance is clearly on that way, that all papers should be open unless you can convince people they should not be.

I know there is a very clear process of Executive Council papers being scrutinised by Senior Members of the Civil Service before they arrive at Executive Council. It's not just Executive Council papers, I think the same principle applies to all Committees of Government. It's not at all unusual to see that some papers have been placed in the closed section of a Committee for very easily remedied situations. If a paper can be written in a slightly different form, a little bit of detail taken out, then that paper can become a public paper and seen in the open section of that Committee.

I think it's just a question of reinforcing to everyone in Government that we follow the Nolan principles and openness is the default position.

**Mr Speaker**

Any other Member wish to speak?

**The Honourable Jan Cheek**

Thank you Mr Speaker, Honourable Members.

The basis on which we decide to publish papers is, as others have said, they would be open unless there is a good reason for them not to be. Part of this, as others have alluded to, is in the way that papers are written. It is important to remember that Executive Council is the nearest equivalent we have to a Cabinet and Cabinet papers do not get published on a regular basis. That said, I welcome openness and the Honourable Michael Poole was alluding to the

fluctuations. I'm glad to say in the year and a bit I've been on Executive Council we seem to have published most papers.

Thank you.

**The Honourable Phyl Rendell**

Thank you Mr Speaker.

I would just like to support the Honourable Michael Pool in his drive for transparency across Government in the time that he has been on the Assembly and I support his work in this area.

The Honourable Jan Cheek has mentioned already, but I was going to say, we do have to remember that Executive Council is somewhat equivalent to the Cabinet, there are always papers that refer to people and confidential matters that we can't publish, and also those matters of national security. We have to bear that in mind sometimes there may be more of those papers than there are in other years.

I do welcome the review and the drive and perhaps too that Officers look to see whether we can push down more decision making at Officer level, and that papers don't come to Executive Council unnecessarily. I think we still have work to do in that area.

Thank you Mr Speaker

**The Honourable Gavin Short**

Mr Speaker. I would just generally like to associate myself, especially, with the comments by the Honourable Phyl Rendell.

Yes, we should strive for openness as much as we possibly can, but, of course you do have to remember (as has been said) that there are papers with personal information.

I believe there is a lot of papers going to Budget Select, which of course stays closed, at least in the initial stages.

I would like to remind the Honourable Gentleman that while percentages are a fine thing, they can be the devil themselves because if we only had two papers in the first Executive Council of this year and one of them contained personal information and could not be open your percentage would say that 50% of all papers, so far, have not been published.

I presume as you can start weeding out the papers that really shouldn't go near Executive Council because they can be dealt with a much lower level.

If the number of papers with personal information stays the same, the non-published paper ratio or % will actually rise. We have to be a little careful with percentages.

Thank you.

## **Mr Speaker**

Any other comments or questions?

## **Deputy Clerk of the Assembly**

Question Number 2 of 2017 by the Honourable Gavin Short

## **The Honourable Gavin Short**

Mr Speaker, Honourable Members.

Given that the UK is about to introduce new style one pound coins, could the Honourable Roger Edwards please tell the House will the Falklands be following suit and introducing the same style of coins.

## **The Honourable Roger Edwards**

Mr Speaker, Honourable Members, I thank the Honourable Gavin Short for his question because it also gives me the opportunity to cover other bits and pieces.

The UK will begin issuing the new 12 sided pound coin the 28<sup>th</sup> of March 2017.

Initially, we do not expect this to have any major effect on the Falklands, as it could take some time for the new coin to filter down to the islands in peoples change.

The Commissioners of Currency for the Falklands are not planning on changing our £1 coin immediately, as discussions are still being held with HM Treasury regarding Overseas Territories, their coins, and the new advance security features incorporated into the 12 sided coins.

Over the following weeks the Treasury will be working with the Royal Mint to look at the options available to the Falklands.

Further to this, the Treasury and Standard Chartered Bank will be finalising a plan with regards to any new UK £1 coins which may circulate through the Falklands.

More information on the new UK £1, progress with Falkland coins and the withdrawal procedures for the UK round coin will be released to local media as soon as it is available.

During 2016 the UK issued a new polymer £5 note. As this has been in circulation since September 2016 the old paper £5 notes will cease to be legal tender on the 5<sup>th</sup> of May 2017.

Here I would like to ask the Public and everyone else in the Falklands to take note that May is not too far away and the UK paper £5 notes will not be able to be used after that date. They become illegal tender in the UK and become illegal tender down here. In due course it will be the same with the UK £1 coin (although we don't yet have a date for that)

Until this date the older UK £5 notes can be spent as normal. Closer to this date the Treasury will issue information to local media regarding the withdrawal of old UK £5 notes in the Falklands.

Later this year the UK will also be issuing a polymer £10 note which will eventually replace the current UK £10 notes.

The Treasury does not have any plans to change any of our Falkland notes. The Falklands have sufficient stocks of FI notes for the foreseeable future.

If anyone would like to discuss Falklands' currency or the change in UK currency further, please contact the Commissioners of Currency at the Treasury.

Mr Speaker, if I may, in anticipation of some follow up questions. Some folks may believe that when the UK £1 coin goes out of circulation - it will still be viable and valid here - it will not, the UK £1 coin will not be legal tender here nor will the paper £5 note.

We have enough £50 notes I believe to last for about 70 years' (because we don't use very many of them). At the other end of the scale, pennies (our little round penny coin) the Island must be awash with them because we are continually stamping new penny coins and they cost nearly tuppence to produce, and yet they disappear out of circulation. I have asked before in the House if people could go home and look for their pennies, there must be thousands and thousands of them out there. Please bring them back into circulation.

Finally, as I have mentioned before, the round UK coin and the paper £5 note will be going out of circulation they will become invalid currency here so I encourage everyone listening across the islands to please, have a look, see if you have got any of these coins and get them into the bank before those dates when they will be no longer valid.

Thank you Mr Speaker.

The Honourable Gavin Short

Mr Speaker, I would like to thank the Honourable Roger Edwards for the full and actually very fascinating reply that he gave, which contained a lot of public service information.

What drove my question was the thought that once these UK coins start to come in, how it might affect our slot machines here in the Falklands. I did actually Google it and wished I hadn't in the end, it seems like some companies in the UK have done tweaks already so their machines can use both.

I was also fascinated by some of the other information you gave about currencies which are going out of circulation. I certainly (being married) will not be affected by £5 notes going out of circulation. I'm not allowed that much pocket money.

Thank you.

### **The Honourable Phyl Rendell**

Thank you Mr Speaker. I am really disappointed to hear that no decision has been made yet about producing a new pound coin similar to that that is going to be produced from May this year in the United Kingdom. I hope a decision is made soon for the Overseas Territories. If that is a positive outcome I would like to ask the Honourable Roger Edwards and all of my colleagues that could we consider, (if that is a positive outcome and we are to produce another £1 coin) that we celebrate the Fisheries 30<sup>th</sup> Anniversary by having one of our species imprinted on the reverse of that coin. It doesn't have to be there indefinitely, but it would be a great way to celebrate our Fishery by having a squid or something else on the reverse of that coin – then revert back to the traditional crest thereafter. I'd like to hear what colleagues have to say about that.

Thank you Mr Speaker.

### **The Honourable Dr Barry Elsby**

Mr Speaker, Honourable Members. I think the reply there by the Honourable Roger Edwards was quite detailed, I would just like clarification.

Once the £5 notes become no longer tender in March (the UK note) if somebody finds one in April can they take things down to the bank and have things changed at the bank?

Similarly the UK £1 coins will cease to be legal tender here (I think you said) In May. There must be hundreds if not thousands of UK £1 coins. How are we going to spot the difference? It's very easy to be given £1 coins that aren't printed for the Falkland Islands. I think people will be somewhat disturbed to find they might have a handful of £1 coins given to them at a shop. Is there any process of handing those in, and again getting new currency in its stead?

### **The Honourable Roger Edwards**

I thank them both for their notes. Certainly we have actually, as I did say we have been in touch with the Treasury, with the Mint, and we have been looking at how we could go about producing a coin here, but the decision is not yet been made. I'm sure in due course the House will be invited to make a decision whether or not we go down the line and produce 12 sided coins or not. It could well be that our new £1 coin (because they are not being stamped on the same press, as the UK coin) might become more expensive.

Regarding the legal tender, it's the 5<sup>th</sup> of May that the £5 paper note no longer becomes legal tender.

Normally in the UK it becomes not legal tender to go into a shop and spend it, but there has always been a period of amnesty in the bank where you can take your notes along and change them in the bank (the old paper note for the new polymer note etc). I don't know what the period of amnesty normally is, perhaps the Speaker could even tell us what is normal. There is normally an amnesty period when you can get rid of these coins.

Regarding the UK round coins. Well, we know what the Falkland Island £1 coin looks like on the back with its little shield and the like and then we should be able to identify them. All

others will be illegal tender and I hope people won't resort to using them in some of our local slot machines, like they currently use the St Helenian £1 coin. The Saint Helenian £1 coin is not legal tender in the Falkland Islands so people who find them in their pockets tend to go and use them in local slot machines, like car washes and so on. I hope people don't resort to that because that would be wrong.

I am hoping that in due course, once we know exactly what is happening with the UK £1 coin and the paper £5 notes, then we will be able to inform the folks more about how we are going to handle that through the bank. I would hope that the bank also has an amnesty after they are no longer are legal tender.

Thank you.

### **Mr Speaker**

For the information of the House – UK or English notes never ever lose their value. They cease to be legal tender, but you can obtain current value by returning the notes yourself to the Bank of England.

I know there is a process for doing that, the forms are available on a web-site. It doesn't cost you anything other than the postage to get your out of date notes back to the Bank of England. They will then reimburse.

### **The Honourable Jan Cheek**

Mr Speaker, Honourable Members.

First I'd like to whole heartedly support the Honourable Phyllis Rendell's suggestion that we should be looking – quite urgently- at the celebration of 30 years of the Fishery by a coin bearing a symbol of the Fishery, and why not the squid, which after all has bolstered our economy for the greater part of the last 30 years.

Moving on to the £1 coins, of course, the reason they are being replaced in the UK is because they are so easy to fake. So it's a security issue. Just a glance in my purse this morning I had a large number of UK £1. There are not so many of the local ones (apparently) in circulation as there are UK ones here now.

Thirdly a confession for the Honourable Roger Edwards – I know where quite a lot of those pennies are. I cleaned them carefully by soaking them for several hours in a well-known brand of Cola which brings them up like mint coins. I then use them on top of grease proof paper in blind baking flans, they are far more effective than the traditional beans or rice.

Thank you.

### **Mr Speaker**

Any other Member wish to comment or give us cookery tips?

Thank you – let's move on.

**Deputy Clerk of the Assembly**

Question Number 3 of 2017 by the Honourable Gavin Short

**The Honourable Gavin Short**

Mr Speaker, Honourable Members.

Can the Honourable Jan Cheek please inform the House whether FIDC has taken a decision on future of the “Old Dairy House at Beckside Farm”?

**The Honourable Jan Cheek**

Mr Speaker, Honourable Members, since Beckside Farm House became vacant in September 2016, FIDC has commissioned a building condition survey to help inform any future decisions regarding the property.

A paper was presented to the FIDC Board in December 2016 and this included recommendations based on the findings of the survey.

Board Members considered a number of potential uses for both the building and the site itself, and asked FIDC to provide more information before making a decision.

A second paper will be presented to the FIDC Board at an Extraordinary Board meeting which took place on the 23<sup>rd</sup> January this year. It was agreed that subject to funding a significant back log of maintenance and work would be done before it was let again.

**The Honourable Gavin Short**

I would like to thank the Honourable Jan Cheek for her answer and I am actually happy that we shall see a property coming back into use again. It has over its life sat unused for quite long periods of time, many houses left will just degrade, so it is nice to see something coming back in stream again.

Thank you .

**Mr Speaker**

Any other Member wish to raise a supplementary question or make a comment?

**Deputy Clerk of the Assembly**

Question Number 4 of 2017 by the Honourable Roger Edwards

**The Honourable Roger Edwards**

Mr Speaker, Honourable Members.

Could the Honourable Gavin Short tell this House if the newly built road to Cape Pembroke is finished, or are there going to be further works to tidy the verges, put up road signs and other signs of a tourist nature to enhance the tourist experience, furthermore, how do we intend to stop vehicles using the older ‘centre track’ or any other track, to the Lighthouse.

**The Honourable Gavin Short**

Mr Speaker, I would like to thank the Honourable Roger Edwards for his question. I am afraid my answer is going to be a lot more boring than the one he gave to me.

I am indebted to DPW for the answer. The construction of the Road is completed. We have a small amount of ditching to complete which needs to be agreed with the Environmental Planning folk. Signs are being ordered and will be installed once they arrive. We have also agreed to install a new pedestrian gate to improve access from the car parking area into the East end of Cape Pembroke.

There are currently no plans to restrict access to the old “centre track” to the Lighthouse. It is assumed that this will be picked up by others when looking at the Cape Pembroke Peninsular and any proposals for its status as a nature reserve.

**The Honourable Roger Edwards**

Mr Speaker, I thank the Honourable Gavin Short for his answer.

I did go down this very expensive track, very uncomfortable track this weekend and I must say that when I got to the other end I was a bit disappointed to see several Landrovers, Motorbikes etc covered in mud that obviously hadn’t followed me or preceded me down this track. They had obviously gone down the old tracks, so they are still rattling down there, so, despite building this very expensive track along the North Coast, Cape Pembroke is still being torn up by silly young people on their motorbikes.

Thank you Mr Speaker.

**The Honourable Michael Summers**

Mr Speaker, Honourable Members.

I was one of the people responsible for making a decision some years ago to build a proper track to Gypsy Cove. There were warnings from all sorts of people of dire consequences as a result and the sky would probably fall in. It didn’t and in fact that area down towards Gypsy Cove is much the better for it, particularly the area behind the Lady Elizabeth. A very small amount of work was done there to put up a barrier to prevent people turning off the road behind the Lady Elizabeth and going across the green grass. Consequently it is healed and it’s a very much nicer place for it.

The Friends of Cape Pembroke who did an amount of work on Cape Pembroke area, made recommendations to the Government, which included the building of a road to the Lighthouse so that the great proliferation of tracks that exist in that area (largely because of the ground conditions) might be left to heal, so, it seems to me that we might go back, either to the

Environment Committee or to the Friends of Cape Pembroke for some further deliberation on actually putting a barrier across the centre track so that people are discouraged from going down that way. It doesn't make it illegal to go that way, and if you want to drive over land to get down to the other piece of coast there are other ways to go and it can be done without tearing up the ground.

I, too, have been down the track to the Lighthouse, I didn't find it that uncomfortable frankly, it's not much different to any other relatively easily constructed Camp road. It gets you to the Lighthouse quite easily, it also gives you access to all that beautiful area of coastline on the North side of Cape Pembroke. Once the de-mining is completed in that area I think it will make a huge contribution to recreational capability in that area.

I would just remind folks that actually the large majority of the track went through old clay patches that were of no recreational value to anybody and made no real contribution to the eco-system in Cape Pembroke.

I would perhaps ask the Honourable Michael Poole to lead a little bit more work in what might be done next as a second phase to keep preserving Cape Pembroke for future generations.

### **The Honourable Michael Poole**

Thank you Mr Speaker, Honourable Members.

Thanks to the Honourable Gavin Short for his update on this project and thanks to the Public Works Department for having overseen it all. I think it's a positive step, we need to recognise it was only completed a few weeks ago, so we need to take a breath and we will sort this out in due course, once things settle down.

The Environment Committee/Environmental Planning Department absolutely have the intention at the end of the season to have a discussion around how the road has impacted use of the Cape, and talks about measures we might need to take to make sure it's protected and used appropriately.

We also hope to establish in the coming months some part time Stanley Common or a part time Stanley Common role that can help oversee this work as well.

Thank you Mr Speaker.

### **The Honourable Phyl Rendell**

Thank you Mr Speaker.

I am pleased that the track is finished. I think that we all regret the over budget, but we were where we were. We have a road half way to Cape Pembroke and the majority of this House supported the completion of that road.

I have spoken to quite a few people and their comments are that they actually quite like the track down the North coast, contrary to some of the comments in the Penguin News. There is

a view as you drive down. It is, as the Honourable Mike Summers says, going through and traversing a lot of what one Member of the Public quoted to me – it was rather a lunar landscape that you drive through. It will now enable people and the Environmental Planning Department and the Committee to consider a restoration of the centre area of the Cape.

I think some people have wanted to treat Cape Pembroke as their own private domain that they could go down, if they were fit enough, to walk. I know a number of the elderly members of the community are really welcoming being able to drive down there. I too don't find it that rough. In fact, the Honourable Michael Poole and I went down it last week for a look. There were quite a number of people down there enjoying the afternoon, visiting the Lighthouse and viewing that whole area.

I do also recall the comments when Gypsy Cove track was installed, and I also remember the comments when we considered a ferry across to West Falkland and the building of New Haven, and the outrage about the overspend on that.

I think over time it will be a great asset to the population of Stanley, I think again that it shows too that we have lots of Development projects to do in the Falkland Islands. Sometime, some projects come to the top of the pile sooner than others and that's I think where our constituents get a bit concerned. There is so much to do, I am just glad the road is finished and being used.

Thank you Mr Speaker

### **The Honourable Gavin Short**

Mr Speaker I just wanted to come back and comment on a couple of comments that have been made.

I too have been down the road a couple of times, I am not much given to off-road driving these days. I didn't actually find it all that rough. I have been down quite a few that is a lot worse. However, the road was built as it was designed – with secondary material- hence the surface that it has. We probably will start capping bits and pieces over time as money becomes available.

To move on to a comment that was first made by the Honourable Mike Summers, and echoed by others. I was a member of the public when the decision was made to put the road down to Gypsy Cove, and like the Honourable gentleman I can remember the almighty hoo-ha about that, and as he said, the world as we knew it was coming to an end. It didn't, it got better.

I certainly think PWD can take some of the credit for the greens down by the Lady Liz getting better with our rather (shall I say) enthusiastic ditch building down that way, which stopped things in its tracks very nicely.

The cost of the road, it was high, it is very regrettable, but of course it was made with crushed material as opposed to borrow material as we do when we are out in other parts of the Camp. That would drive the cost up quite a lot.

Finally before sitting down this is of course, one of those peculiar projects that came under the auspices of the PWD, hence me answering the question today, but a lot of the actual

decision-making on where it went and such like, was actually taken in other Committees which, of course, I have no input into, other than as an ordinary member of the public. So I find myself sometimes carrying the can for decisions that are made elsewhere and not by my department.

Thank you.

## **Deputy Clerk of the Assembly**

### **Motions**

Motion Number 1 of 2017 by the Honourable Dr Barry Elsby

This House believes that high quality affordable nursery provision is essential if our children are to reach their true potential in life.

Proposed: The Honourable Dr Barry Elsby

### **The Honourable Dr Barry Elsby**

Mr Speaker, Honourable Members.

The Honourable Michael Poole and I decided to hold this debate today as there is a clear demand from parents in our community to have access to high quality yet affordable nursery care for their children.

Members of the Legislative Assembly held a public meeting on nursery provision earlier this month and the Chamber of Commerce building was packed, clearly reflecting the importance of this subject.

Before going on, I think it's perhaps worth clearing up what we call this provision between birth and when a child starts compulsory school education at about the age of 5 years, depending on when their birthday is.

Some call it nursery, preschool, others early year's provision or, in the case of FIG, we refer to it as Foundation Stage 1 or FS1.

For clarity, I will refer to it as nursery care throughout.

There was a time when most mothers stayed at home and provided full care for their children until they entered school, but that's rare now.

Some countries such as the Scandinavians, Russia and the eastern Europeans as well as the Kibbutz movement in Israel have a long history of providing day long nursery places for the very young.

I remember in the 1960's in the UK we had a rather dismissive attitude to this approach, claiming it wasn't natural and not good for children.

There is now evidence I will talk about today clearly shows that HIGH QUALITY nurseries are as good as, and in many cases, better than the child staying with parents.

In reality, in the Falklands as in many other countries, parents do not have the luxury of opting to stay at home with their children.

Countries need workers to develop their economy and both parents feel they need to work either for financial reasons or to pursue careers.

There can be few families in the Islands where both parents do not work, indeed FIG offers single parents subsidised places in nurseries to enable them to work more.

Some people will say nurseries are a private matter and government should not get involved; “it’s not broke so don’t fix it” attitude.

We used to have that approach to sexual abuse, we used to believe we knew everyone in the Falkland Islands and that wasn’t a problem here – and how wrong we were.

As a country we took appropriate steps once we finally recognised the problem. We asked for help from the Lucy Faithful Foundation, published their report in full and implemented all their recommendations.

That same organisation returned to the Islands last year and their report showed that we were now the leader in the Overseas Territories in our approach to preventing sexual abuse.

The biggest concern in their latest report was our unregulated, uninspected nurseries.

We have 4 private nurseries in town at the moment and one Government nursery, namely FS1

Mr Speaker, anyone could set up a nursery in the Falklands regardless of their criminal past. There is no requirement to undertake police checks on employees, although all the nurseries do.

There are no standards as to how many children can be looked after in a nursery at any one time, or how many staff are needed.

Having said that, all nurseries are desperate to improve and have worked enthusiastically with the Early Years co-ordinator and the Education Department in trying to follow good standards and take up training opportunities.

However, a salary often in the region of only £6 per hour, with no sick or annual leave, means there is a high turnover of staff with the result that many of the people working in our nurseries remain untrained.

Compare that situation to FS1 the Government nursery in the Hostel grounds. When that was set that up the Government rightly insisted that we have quality teachers and highly trained assistants and that we would follow all recommended UK standards, be inspected by the visiting Ofsted inspector and, of course, pay the same as those teachers and Learning Support Assistants (LSAs) get in the Junior School and indeed in the Community School.

I can hear some people muttering that nurseries are not schools and are really just places where children can be looked after whilst their parents are at work.

Mr Speaker, had you been at the recent public meeting on nurseries, you will have heard Alana Arculus present the results of her consultation exercise.

I'm sure you will have been as horrified as I was to hear that 47% of parents believe they are sending their children to an unsafe nursery.

One single parent mother who has just arrived in the Islands from the UK spoke of her horror when she took her child to a nursery here for the first time and realised that it was not a learning environment. But, as with the parents who felt their nursery was unsafe, she had no alternative.

Alana Arculus also presented evidence that a quarter of parents are paying 30% of their income on childcare, and almost 10% are paying over 50% of their income - and this is for basic nursery care.

But what IS education in the Falkland Islands?

If we look back at our education system pre `82, compulsory school was from 5 – 15years, and standards and expectations were far lower than they are now.

Many students took only a couple of 'O' levels. Access to overseas schools for 'A' levels or University was limited to those students who won the 1 or 2 scholarships available each year. However, some took up good apprenticeships in the Islands.

Compare that to the present situation where compulsory education is from 5- 16yrs and ALL students have a right to be funded to go overseas for 'A' levels, vocational courses and University studies if they get the required grades and have PRP or Status.

We now have CDS funding to enable people to apply to take another degree later in life to enable them to change career or study for a Masters or a PhD if there is a need for that qualification in the Islands.

It is totally arbitrary to say that access to state funded education should only start at age 5, but could continue, theoretically, until the day you die.

We must recognise the absolute importance of high quality nursery provision if people are to reach their true potential and this community thrive.

Mr Speaker, at the recent public meeting on nursery provision you would have heard a discussion on Scandinavian countries such as Norway, whose children don't start school until they are 6, and yet their students do very well, so what's all the fuss about these nurseries?

However, what wasn't said was that Norway and other Scandinavian countries offer fixed price high quality nursery place to all children from birth to 6 and the take up is over 90%.

Many of their nurseries are privately run, but have to have qualified teachers and assistants, just as we do in FS1.

Norway has a formal national framework for all nurseries so as to enable children to learn. They, like most early learning teachers, believe learning and development at this age takes place in everyday interactions between children and staff and is closely related to play. Qualified teachers in nurseries are equipped to identify children who are struggling and use play to help them develop.

Norwegian nurseries must provide children with opportunities for play, self-expression and meaningful experiences and activities in safe yet challenging surroundings.

That phrase “in safe and yet challenging surroundings” is something echoed by Australia, Canada and other progressive countries.

At a time when children are spending more and more time in front of a television screen or a computer screen or a phone, these countries have taken a clear decision NOT to try and take out all risk from play in a nursery setting.

They recognise that children learn by taking risks, daring themselves to do something. They accept that accidents will happen, but understand that does not mean anyone is at fault and that the benefits far outweigh any grazed knees or bruises.

That’s the warm and cuddly view of high quality nursery provision. A more hardnosed rationale for quality care comes from the World Bank when they say:

“Healthy cognitive and emotional development in the nursery years translates into tangible economic returns for a country. High quality early years provision reduces a range of problems in later life.

Policies that try to remedy these deficits later in life are much more costly than initial investment in early years and are rarely fully successful

Evidence from both developed and developing countries shows that an additional £1 invested in high quality nursery care will yield a return of up to £17 to that country”.

Some will say the Falklands cannot possibly afford high quality nursery care, just as people used to say we should not fund University places for all, or Masters Degrees or for PhDs, but this World Bank statement and the evidence that lies behind it means that we would be crazy NOT to invest in high quality care.

So what is the evidence that the World Bank used to make this statement?

Well, there’s lots of it out there, ranging from short term studies looking at changes over a couple of years, to more important trials following children for 40 years of their lives to see the effect of high quality nursery provision.

One of the most quoted trials is the Perry Preschool Study which took place in America, it started in 1962 and ran for 40 years.

Perry took 2 groups of children from under-privileged backgrounds in the same area. All children were the same age and both groups backgrounds were from the same as parental status, they had the same housing, had the same unemployment record in their families, the family income was roughly the same as was the health of the family. All things being equal, two identical groups.

One group was allowed to follow the usual practice for raising children in that area, but the other group of children had 2 years of high quality nursery care between the ages of 3 and 5. Just two years. After the age of 5 all support was removed and both groups went on to the same schools, and whatever future held for them.

These children were then followed for 40 years looking at their educational attainment, qualifications, earnings, health, level of crime, housing etc.

After 40yrs the group who had those 2 years of high quality nursery care outperformed the other group in ALL measurements:

I would just like to quote a few of the highlights from that study:

- 88% of the nursery group completed high school versus only 46% of the other group and performed better in all tests throughout their school career compared to the non-nursery group.
- 70% of the nursery group were employed at the age of 40 compared with only 55% of the other group
- Average earnings were 30% more in the nursery group
- Home ownership was 27% in the nursery group versus 5%
- Having a bank savings account was 76% versus 5%
- Crimes committed in adolescence were 7% in the nursery group versus 29% in the other group
- Drug crimes were 9% in the nursery group versus 25% in the other

The latest paper to be published just a few months ago was based on the Dunedin Longitudinal Study in New Zealand in conjunction with experts in McGill University in Canada.

They recruited 1037 children born in the same hospital in Dunedin between 1972 and 1973.

At the age of 3 the children's development was assessed by an educational psychologist and an educational paediatrician. They were looking at such things as vocabulary, word recognition, social skills, to try to come up with an idea of where they were, how developed they were. This group of children then had no more support at all. The trial simply watched them after this assessment year on year, with the aim of seeing which children did best and

then to look backwards and try to determine whether this is a link between that assessment at the age of 3.

The trial finished when they reached the age of 38yrs and their lives to date were then analysed using their own accounts, education record and other qualifications, wealth etc. National computers were used to look at all sorts of things, including the tax they had paid, earning, welfare support, criminal convictions, cost of medication used, to name just a few.

Their analysis showed that a sub group representing 22% of the original children significantly under achieved and were a very large cost to society.

This 22% subgroup accounted for:

- 36% of all injury insurance claims
- 40% of obesity
- 54% of all cigarettes smoked
- 57% of all nights in hospital
- 66% of welfare benefits
- 77% of single parent families
- 78% of all prescription medication
- 81% of all criminal convictions.

They then went back and found that this sub group was the same 22% of the children who had the lowest scores when assessed at age 3.

These low scores are found in children who have not received good stimulation in those crucial early years.

The final paper I will touch on refers to a completed study by the Save the Children Fund in the UK in 2016.

They looked at children who had attended either no nursery care, low quality nursery care, or high quality nursery.

Researchers from the Office of National Statistics then drilled down into this data in a similar way to the New Zealand study.

The highlights of the research shows:

- Attending any type of childcare increases the probability of obtaining 5 or more GCSEs A\* to C by 8.5%

- Attending high quality childcare increases the probability of obtaining 5 or more GCSEs A\* to C by just under 20%

As I said earlier, the World Bank were convinced by this type of evidence and recommend high-quality nursery provision on economic grounds, saying that for every one pound invested it saves the community £17.

So what is going on in these first few years of life that makes it such a crucial time?

A professor of neuroscience at the Child Health department at University College London's Institute of Child Health offers perhaps the best comments on these 3 studies when he said:

“We know that in these first few years of life we see explosive brain growth, where most of the vital connections within the brain are formed.

We know that if these connections do not form properly due to insufficient stimulation, the child will suffer long term consequences to their physical, intellectual and emotional development.

That's perhaps the most important lesson we have learned from these studies that these early years are absolutely critical and determine a child's future.”

Mr Speaker, I hope I have given this House an insight into just how important high quality nursery provision is both for the individual and our country as a whole.

Lifelong learning, something our Government strongly supports, clearly starts at birth.

Our Government already accepts the importance of high quality nursery provision - we see it in the standards we have set for FS1.

If we believe this is how nurseries should run, then we owe it to our children and the country to commit to raising the standards of all nurseries in the Islands to the level seen in FS1, ideally over the next 5 years.

This will mean our government meeting a significant portion of the cost, but we must view it as an investment.

Yes, it will cost money, as does sending students to college and university. Last year we spent almost £1 million on sending students to college and university, but we see that as an investment.

And remember that World Bank figure: for every £1 invested in high quality nursery care the country saves up to £17.

I am aware that some people will have difficulty in accepting the truth of this research, that high quality nursery provision is so fundamental to a person's adult life.

I will finish with a quote from Arthur Schopenhauer, the 19<sup>th</sup> Century German Philosopher when talking of truth:

He said, “All truth passes through three stages. First, it is ridiculed. Second it is violently opposed. Third it is accepted as self-evident.”

Mr Speaker, it’s that third step that is always the most difficult and we need to take it NOW.

I support the Motion.

### **Mr Speaker**

The Honourable Michael Poole to second.

### **The Honourable Michael Poole**

Thank you Mr Speaker, Honourable Members.

This is not an issue that I have had a great deal to do with within my portfolio, and clearly its complex and a politically charged area where it’s all too easy to cause offence, and I will try not to do that.

The contentious question of the respective pros and cons of Nursery attendance versus family member care is not something the Government needs to concern ourselves with. The fact is that due to economic reality the vast majority of parents have to return to work shortly after their child is born, and for many, for most, this means that their children currently attend nurseries within Stanley.

The questions in my mind are then relatively simple ones. Firstly, does high quality early years care in nurseries positively impact on people later in life as the Honourable Dr Barry Elsbey has described. The wealth of evidence suggests that it very much does. A wealth of studies suggest that investment in these early years can pay back many times over, as we have heard.

The second question is then what roles does the Falkland Islands Government have ensuring that nurseries are up to an acceptable standard. I personally struggled with this early on, but over time (as we have seen more detail on this in recent weeks) I have very much come to the decision where I agree that the Government do have a responsibility and a duty to support nurseries and to support parents.

Due to demographic and lifestyle changes this issue has become increasingly urgent and we do need to agree an action plan in the coming weeks.

I am sure that many around the table here will share a similar vision, in terms of first steps being some basic regulation of the sector, which sets and monitors basic standards, but is not too onerous, and does not look to overly restrict the freedoms and adventure of childhood.

Secondly, I think looking at partnership investment between the Falkland Islands Government and the private sector, existing nurseries infrastructure to ensure that it meets those agreed basic standards.

Finally, there is the much more difficult question of – how can the Government support families in affording this high quality nursery care, also ensuring that work in the field of nursery provision is a viable and attractive career choice. Those are slightly more difficult, but I think there are answers to those questions which shouldn't cost the Government massive sums of money.

I'd also note that there are other bits of policy, whilst not the focus of this Motion today, that we can be thinking about to support families. I am thinking particularly about the planned review of employment law and looking at maternity and paternity provision (which I think increasing that is a step). We can also look at building in greater ability for flexible working within the Government as an employer, but also within Employment Law itself, and encourage the private sector to consider that as well, to help families care for their children.

This conversation can also form part of our social budgeting policy. I think we've accepted for some time that there are a group of families in the Falklands which are quite low earners, and we haven't really come up with a clear answer as to how we can help them. From what I have heard from people over recent weeks this is very much one of the mechanisms we could potentially use in terms of assisting with the cost of nursery provision.

I am conscious of the point that was very well made at the recent public meeting by Gordon from FIDC. We should aspire for excellence in nursery service, but we need to be realistic about it. We are a small community having world class nursery provision is frankly just not realistic. We need minimum standards, but we do need to keep in the back of our minds – we are not going to get the level of care that you might get in some places elsewhere in the world with larger populations. We are always likely to need to draw on specialised and highly technical care from elsewhere, as we do currently sending people away, or bringing specialists in.

Mr Speaker, I believe that only with proper public/private partnership can we achieve the dual goals of affordable and quality nursery provision, I think we should be making it a priority over the coming weeks. For that reason, I second the Motion.

### **The Honourable Jan Cheek**

Mr Speaker, Honourable Members.

This is not such a new issue, some of us were working mothers 48 years ago, it is by no means a new problem. I've discussed nurseries in detail over the last 15 years. We don't need a lot of facts and figures, it's self-evident that nurseries are needed. Nursery provision is vital for children, for families and for the Islands' economy.

If children whose parents do not both work benefit from sometimes socialising and learning, and without being unkind, the quality of parenting varies and that can have a huge influence on outcomes for children.

Some parents have insights into what their children need when they are young, what kind of encouragement and help they need. Others, perhaps because they didn't have good parenting themselves, don't have those insights. Nurseries can to a large degree compensate for that by providing stimulus that children otherwise wouldn't get.

Quality nursery provision doesn't require elaborate premises, but it does require for each nursery, a group of manageable spaces that are warm, clean and safe. More importantly than any of the physical surroundings it needs motivated energetic staff with a knowledge of how to provide stimulating activities that allow little ones to learn (mainly through play at this age). I don't think there is any evidence that a lot of formal teaching at that ages does any good.

Unless nurseries are assisted to pay enough to keep their good staff when they have trained them, they will be unable to raise and having raised them to maintain reasonable standards. The existing nurseries do their best in often difficult circumstances, but I believe assistance is needed across the board.

There is, as the Honourable Barry Elsby has listed at great length, a lot of evidence that all children can benefit from some time in nurseries. As I said earlier, those who benefit most are those who would otherwise be disadvantaged and perhaps not even ready for pre-school.

I have in the past suggested a nursery voucher system, which would have a cost, but would be another investment as - the Honourable Michael Poole has said- in ensuring good care and learning opportunities for our children. Vouchers could also be the lever for regulation and improvement, in that they perhaps could only be used for nurseries that reached certain standards.

Having said that, I support the Motion.

### **Mr Speaker**

Does any other Member wish to speak?

### **The Honourable Phyl Rendell**

Thank you Mr Speaker. I think no one could disagree with the sentiments of the Motion put forward today. I am pleased to see that the issue is being gripped now by the Director of Education, and we should be receiving a report soon, work done by Mrs Arculus.

I did find the public meeting that we attended a couple of weeks ago extremely informative. It clarified for me the various needs of parents. I don't think I'd really quite understood that the needs that parents have, not only for nursery care for young babies through to those rising 3 that can then attend the Government run pre-school, but also that parents are seeking support for what they call, or I understand it is referred to, as "wrap around care", for children as old as 8 or 9 years old who after school their parents are still working and they need some sort of provision or some safe place for them to go until their parents are able to collect them. It really clarified that for me at the public meeting.

It's quite a complex issue, I think, as the Honourable Michael Poole has mentioned, (and I think there is some work being done at FIDC), that there is an opportunity for some private initiatives in this area, perhaps in the "wrap around care" area. For the fundamental nursery care, that is something that the Falkland Island Government needs to grip. I am sure, and I hope, that the paper that is coming to Members for consideration will have recommendations in it for just that and we can review those. I would re-emphasise it is complex and because of

the tiny nature of our community, if you take away some of those children from some of the nurseries, the nurseries will not be economically viable. We could do much damage if we are not careful. I believe that is why we have asked for more work and asked for this consultation and review, so we can consider the whole issue in the round rather than rushing in and upsetting the balance of what provision is there already.

I would just like to take this opportunity to commend all those people who do work in the nurseries. I think it's a very difficult time for them, we have been debating and making lots of comments at the public meeting and here about that nursery provision and these people are in good faith running those nurseries, and I wish to thank them for the work that they do, whilst sticking with that work whilst this debate is underway. I hope that in due course we will see some recommendations coming that we can make decisions about and make some changes and improve the situation a lot for parents and for those carers in that area.

Mr Speaker, it's a complex issue, not to be rushed into. I welcome the work that is being done by the Department of Education on this matter and I look forward to seeing those recommendations and then for this Government to be able to take some action in the future.

Thank you Mr Speaker.

### **The Honourable Mike Summers**

Mr Speaker, Honourable Members. I'll be quite brief. I can't imagine anybody is going to oppose this Motion, it's self-evident. When I first saw it I thought, well, maybe if you had asked small children whether they would like Christmas next year.

Of course, the issue is about the practicalities as my Honourable colleague has just said. Its many months ago now, when the Lucy Faithful report was delivered and indeed it did make some comments about nursery provision. I'm not sure if they were the principal comments or principal concerns, but they were clearly there.

It also acknowledged that this was quite a complex area and had quite substantial financial implications for a lot of people, and therefore, a lot of work needed to be done. We can sit and debate the rights and wrongs and talk about studies all over the world for as long as we like, but nothing is going to happen until we get some proposals on the table. If the Director of Education was invited many, many months ago to put some proposals on the table that we could begin to look at and begin to discuss and I think that is where we need to be.

When the proposers of the Motion sum up, perhaps they could give us some indication when we might see some proposals, as to ways that we can approach this and enable ourselves to make some decisions, perhaps in this budget round, it doesn't leave very much time, so unless we get on with it it's not going to be in this budget round it'll have to be in the next one. Let's get on with it and let's see something.

### **The Honourable Roger Edwards**

Mr Speaker, Honourable Members. The Motion is that this House believes that high quality affordable nursery provision. I fully support that. High quality and affordable. Essential? I think this goes back to the same sort of wording as was used when they were building a track

around past the Lady Liz and so on. The sky was going to fall in and everything if it doesn't happen. I think Michael Poole gave a very reasoned argument and I fully support his attitude towards it. It does give a positive impact onto the child's future education and ability, but I wouldn't say that it is essential.

We do have a problem here with training and the staff. I, too, would like to say well done to the nurseries. I think they provide a very good service in very good faith. We do have a problem with training, every time anyone goes off to the Training Centre and trains in nursery care, they are gobbled up by the Education System and go away and become LSA's where they can earn more money. My colleague Barry Elsby did mention that they are working at a minimum wage. We have already made the decision within this term in the Assembly that we are going to merge, minimum wage will become the living wage, there will be no difference, so that will put up those wages at the bottom end of the scales. That doesn't go all the way, of course.

We provide some tax credits for children attending nursery. That was very heavily criticised at the public meeting held in the Chamber of Commerce recently. They don't go far enough, we were told. You must remember that people paying for nursery are paying with taxed money, they don't get tax relief on their payments. Most people don't get tax relief on their payments. I quoted at that public meeting a nursery close to where my mother lived in the U.K that was £8.50 per hour per child to go to that school. People were driving for miles around to get their kids there because it was high quality, but, what a cost it was. £8.50 of taxed money is nearer £12 per hour that's an awful lot of money. That's what they were paying on top of the UK assistance that they were getting. Parents themselves would pay in hard cash to get their kids there. Now I don't think we will ever look at doing anything on that sort of level.

There is a process going through at the moment and hopefully we will get some proposals out of that, of how to take the nurseries forward. I think my colleague Mike Summers is absolutely right. Until we actually see everything listed down on a piece of paper in front of us then, only then, can we make positive decisions.

I support high quality, affordable nursery provision, whether it is essential or not, I am not totally convinced. Change that word to "it makes a positive impact on their future" then I would fully support the Motion.

Thank you Mr Speaker.

### **The Honourable Gavin Short**

Mr Speaker, Honourable Members. I am going to be even briefer than the Honourable Mike Summers.

I would like to join myself in completely agreeing with the comments made by the Honourable Mike Summers.

The way my brain is wired and it maybe because I never went to pre-school, nursery or anything. A wonderful speech, fine, but I want to know the practicalities. How are we going

to make this work? That is the bit that has been missing. Present that to me, I want to know how we are going to afford it? How are we going to go about it? Nothing more than that.

I think it's a foregone conclusion. We probably do want to do the best for our children, but as I say, it's the practicalities I want to know about and how I'm going to make this work, nothing more, nothing less. If we find we can do it, we can afford it I'm all for it.

Thank you

**The Honourable Dr Barry Elsbey**

Mr Speaker, Honourable Members.

Thank you for your comments in replying to the Motion. Some interesting points were made. I take issue with my Honourable Colleague Roger Edwards when he said "probably not essential" It's not essential to go to high quality nursery care. It's not essential Roger that you go to University or College you could just go and work on a farm. We chose to make it an option, we chose to make the money available because we believe it's in the best interest of people. Why? Because we have looked at the evidence and we know that people that come back with their University Degree or training in some area are going to help this economy.

I think you are wrong to say that it's not essential. I think you must ask yourself – if people are paying £8 of taxed money to attend that nursery provision near your house in the UK and they were driving from "miles around" I think it tells you how much people value high quality care.

You are absolutely right that this is a process. It's a process that we are on now to make people in the public, make my honourable colleagues aware of the evidence that surrounds the need for high quality care. Yes, there is an Executive Council paper coming in February with recommendations. There isn't a magic bullet here, it's a step wise process. This is one step in that. It's discussing amongst ourselves in public what we view as important.

My colleague Mike Poole questioned whether we can ever have world class nursery care here. I am not expecting world class nursery care here. All I am asking is to perhaps work towards a standard that we the Government have already set for FS1. That's a Government nursery. We have accepted it needs a qualified teacher and it needs qualified assistants. Yet, for some reason we think that doesn't apply in the private sector.

I think really it's a question of recognising that we are on this process, we are on this road towards decisions. Various people said "are there going to be decisions ready for this budget"? No, it's not going to be clearly sketched out exactly what we want, but we know that we are going to develop this over the years, over this coming financial year. We know we are going to ask people to improve their quality. We know we are going to introduce legislation. We must start the process of identifying what we are going to do. Are we going to provide better accommodation? Is the Government going to help fund better quality accommodation, which they can then perhaps rent out to nursery providers? We can put within the budget a chunk of money that we think we might need as we develop these ideas over the years.

Members should listen to what the people want. The people, particularly parents, want high quality care. If you read the evidence it's not only good for the people it's good for the country. I hope Members will support this, I hope Members will support a chunk of money going into the budget this year so we are able to progress to the next step in developing high quality care in the Islands.

Thank you.

### **Mr Speaker**

Honourable Members, the Motion before the House is that this House believes that high quality affordable nursery provision is essential if our children are to reach their true potential in life.

Is there any objection to passing this Motion?

There is no objection. That Motion is carried.

Honourable Members, I suggest that we have reached a point where it may be advantageous if we recess for a short while - (a) to get some fresh air and (b) to allow for a comfort break or indeed, any indulgence in any other pastime.

I suggest we reconvene in ten minutes.

The House is in recess.

### **Deputy Clerk of the Assembly**

Motion Number 2 of 2017 by the Honourable Financial Secretary

That this House refers the on-going deliberations on the 2017/18 budget to a Select Committee on the Estimates for presentation to the Assembly in May 2017 and therefore, for the Select Committee on the Estimates to be established at this time.

Proposed by: The Honourable Financial Secretary

### **The Honourable Financial Secretary**

Mr Speaker, Honourable Members, I propose this Motion today in order to commence the budget setting process for the 2017/18 financial year.

I therefore recommend to the House that the Select Committee on the Estimates is opened at this time to enable early discussions to commence on the budget with a final report being presented to the May 2017 Assembly alongside the resultant Finance Bill and Appropriation Bills.

The Standing Orders provide that membership of the Select Committee is all elected Members, the Chief Executive and the Financial Secretary, and it is proposed that the Committee be Chaired by the Honourable MLA Edwards. The purpose of the Select

Committee on the Estimates will be to review the budget submissions from Government Officers, related fees and charges and capital requests in order to provide advice on the Finance Bill to be presented to Executive Council in May 2017.

Mr Speaker, I beg to move that the Select Committee on the Estimates is established.

**Mr Speaker**

Thank you, and seconded by the Honourable Roger Edwards

**The Honourable Roger Edwards**

I second the Motion.

**Mr Speaker**

The Motion before the House is that the Select Committee on the Estimates be established and it will be Chaired by the Honourable Roger Edwards. Is there any objection to that Motion?

There is no Objection. That Select Committee is therefore established.

**Deputy Clerk of the Assembly**

**Portfolio Reports**

The Honourable Mike Summers OBE

**The Honourable Mike Summers OBE**

Mr Speaker, Honourable Members.

I have little to say about Housing, other than to reiterate that comments made in the House previously that we are looking forward to the new batch of houses coming online on Sappers Hill. That will significantly benefit the allocation particularly in Social Housing. I will make some comments about sport in the Motion for Adjournment later on.

I would like thank the Director of Health and Medical Services for some brief notes on the areas to be covered in Health and Medical Services.

Firstly, the Old People Service Development (OPSD) multi-disciplinary team members will have the opportunity to hear tomorrow in a workshop at some length about the development of the Old Peoples Service in the Falklands, but for the benefit of members of the public, there is quite a lot going on. The community team made up of a range of professional disciplines, including Occupational Therapy, Physio, District Nursing and Community Care workers is now operational and is providing services to support people in the Community on a much wider scale than previously happened.

Rehabilitation after a crisis is now much more possible, and the vision of keeping people away from the option of having to be cared for long term in hospital is beginning to have real substance. The project is already working well.

Whilst resources are still not at 100%, we have been able to start to support people with home visits on a 24/7 basis, which is revolutionising the sort of care plan that can be offered. We do have a number of people who are receiving care at that level.

This is half of the whole Old People Services development model that still needs a built facility large enough to meet the needs of the community. There has been major progress with the design and costing of options for the building that makes up the other half of the programme. Architects have delivered on schedule the concept design and supplied us with realistic build costs.

We have assessed the operational cost needed to run the facility, and checked and re-checked that the size of the proposed establishment is right for the level of need here in the Falklands. Members will now need to review the size, design and costs and are starting in the workshop tomorrow and then subsequently formally in Executive Council.

The project does need to progress in a timely way so as to get the position as soon as possible where the warden schemes are not being over stretched, and to avoid undermining the early success of the extended community care. We would be aiming to start the procurement process for the new facility within months/perhaps weeks.

Members have discussed a fair charging policy for the Old People Service Development and this will be part of the Executive Council Paper coming to Members in February.

There is a collective view amongst Members that some form of charge needs to be made and it is taken into account in the nett operating costs for the project.

In terms of the hospital generally, the plans for how additional space release from the ward and from the day centre should be used at the hospital have been developed. There are priorities that will be possible in the near future as the programme of capital investment has been aligned to do two things at once. To continue the necessary rolling programme of service and renewal of equipment and facilities at the hospital, so that it's kept safe and up to date, and to align with it with moving to better and more efficient use of space and layout of clinical and non-clinical areas in line with the hospital review. I did mention last time I reported on this issue in the House that the potential for the introduction of something like a CT scanner into the Falklands now is a much more realistic possibility, and there is a real chance that it will improve our diagnostic capability for everybody's benefit, and see perhaps consequential improvements on the Medical treatment overseas budget, which incidentally is being well managed at the present time.

The recent tendering process for Theatre Services has led to the award of a new contract for operating theatre services with the current providers – Templars won the tender process. We are pleased to be able to continue to work with the professionals and management that we know of into the future, and they too are providing some useful input into the employment of other professionals, in particular Doctors.

The Safeguarding Board, which is the responsibility of the Director of Health Services, has just submitted its annual report, received, which will go to the next Legislative Assembly agenda. It demonstrates an overview of safeguarding issues that brings together all our services. It's true to say that safeguarding is everybody's business and must not be left to any one discipline of the professionals. There has been a lot of work in this area to ensure that we are responding to needs in a good way, and also being thoughtful about how to prevent mishap and abuse.

Schools are working closely with Health and Social Services to promote preventative strategies wherever possible. It is however, important that all members of the community take their responsibility seriously to support and protect children and never to ignore worries or serious concerns that they may have.

The Lucy Faithfull review left us with an action plan and work still to do on a few points, but much has been achieved by that action plan, and we continue to work on.

I will just say a brief word about operation Cinnamon. As part of the continuing commitment by the Falkland Islands Government to child safeguarding the Government announced in December that a review of historic case files is currently being undertaken as part of the wider scope recommended by the Lucy Faithfull foundation. The aim of this work is to ensure that all relevant information was properly identified, recorded and accessible to those professionals who are asked to help individuals in the community.

Additional temporary staff have been recruited and are being recruited as appropriate to assist local agencies conduct a thorough and skilled investigation, whilst still carrying out their regular duties. This is a significant task as Members will know and the review is expected to take several months. If any member of the community wish to discuss any issues relating to safeguarding of either children or adults they should contact the social care team.

On Public Health, there has been nothing happening in the public at least on Public Health recently. I can only apologise for that. After starting off the process of discussion last year we had a visit from a specialist from Public Health England who had some very useful discussions here. We are still awaiting that report which was designed to form the basis of our strategy going forward for Public Health. I have said to the Director that we need to have that report now and if we don't receive it shortly we might have to start putting together our own strategy, that wouldn't necessarily be the best way to go, but we do need to push that forward.

Just a mention finally in Health and Social Services, there is a changeover in the leadership at Health and Social Services, Derek Muhl will be coming back shortly as interim Director and we will say goodbye to Ian Bainbridge after he completes his contract with the Falkland Islands Government.

Ian has done a very good job in a number of areas in the Health Service and I would like to pay tribute to his work and his enthusiasm particularly in the Old Peoples Service Development project. He has worked very hard, very long hours on making sure that what we have to offer to Members tomorrow is a competent and comprehensive project for looking after older people. I would like to thank Ian for the work that he has done.

Just on recruitment of Doctors- very briefly. We seem to be in a good position at the moment, we are fully staffed for Doctors and we are fully staffed going forward, so the concern that I had expressed in this House previously about not being able to fill those positions is currently not there. We are okay, so the population can be assured on that point.

Moving from Health and Social Services, to Emergency Services I will deal first with:

### **Fire and Rescue Service.**

#### **Positive highlights:**

The Fire behaviour training units have arrived in the Islands and are due to be commissioned at the end of January 17. These units will be located in the secure compound within the Fire ground South of Stanley Airport. It is intended that once the tar machine moves from Megabid out to the Quarry that the Fire behaviour units will then go into Megabid into a secure area. That will be a great benefit. These units will provide essential training in various conditions for all of the Fire Service.

A number of training courses have been held, as always for fire staff to extend our capability into a range of areas, and we know that Vicky Collier did very well to complete her career progression training in the UK relatively recently. Ben Hoyles has also done some very good work.

#### **On the Negative side:**

The facilities for the Fire Service remain a serious concern. The facilities and location were again flooded quite recently with heavy rain, actually, on numerous occasions. This has been an ongoing issue now for several years. A survey was carried out in January 2013 of the three “pack-aways” and was found that a number of brackets securing the columns had corroded substantially. Replacement brackets have been made, but due to staff shortages within Public Works they have not yet been installed. There are also serious issues with the roof sheeting and guttering.

I raise this once again, because there is serious concern for the people who work in the Fire Service, the welfare facilities there are completely inadequate and inappropriate for modern times with both sexes sharing facilities, not how we would normally expect to operate.

Moving on to

### **Customs & Immigration**

#### **Positive Highlights**

By and large they carry on doing their job in a quiet and efficient manner.

Machine readable passport reading equipment which will also have the capability to detect fraudulent documents has arrived in the Islands. The software is currently being aligned to the existing database. Once completed it's planned to commence familiarisation with the staff and a trial system in Feb 2017. That is moving forward well. Further introduction of this equipment will be that it will significantly reduce the amount of post flight manual

movements data entry that Immigration staff will need to do. That will be a great benefit to efficiency.

Work is also progressing in respect to the amendment of Immigration legislation. I mentioned to Members in the last day or two that, I chaired a meeting before Christmas to bring together Law and Regulation Department, Policy and the Immigration Service to make sure that that was moving forward. I know that they have had a number of joint meetings to sort out the Policy issues that were required by the Drafters, so I'm confident that is moving forward.

The ongoing trial for Electronic Vessel clearance is progressing well. There have been a number of changes resulting in consultations with FIFCA members. They have been implemented and will continue to move that forward.

The one negative issue on Customs and Immigration continues to be staff shortages. We haven't had a full complement of staff in Customs and Immigration for a considerable period of time. That puts quite a lot of pressure on a number of people, and has the consequent effect sometimes of delaying work that we would be better of having done.

### **Falkland Islands Defence Force**

Business as usual, although they did as we know, participate very successfully in a ten person team at the 2016 Defence Operational Shooting Competition in June/July and demonstrated the ability of the Defence Force to adapt to the demanding environment of top level marksmanship, they did extremely well there and they are to be congratulated on that.

There is work ongoing on the role of the Falkland Islands Defence Force. I reminded the Governor last week that we needed to meet again to discuss the role of the Falkland Islands Defence Force going forward, to agree with HQBFSAI the role of the Defence Force in the defence of the Falklands, and also to agree and clarify both the Command and Control structures and their other responsibilities in terms of search and rescue and emergency services. We hope that work will recommence shortly.

**Prison** Happily there have been no reportable incidents in recent times. Prison legislation is in its final approval stages and should be back with us, and to this House relatively soon.

There have been significant performance improvements in regards to purposeful activity for offenders in the Prison. It was one of the key objectives of the new construction and the employment of a full time Probation Officer that we responded positively to the need for more purposeful activity for prisoners. I am happy to say that that is now moving forward.

The Final Comments in this report are to do with the:

### **Royal Falkland Island Police**

One issue just to recall that the new radio system is now pretty much in place. Phase 1 is to be completed by the end of January and, of course, this links up all the Emergency Services, not just the Police. There have been some slight delays due to shipping and technical issues. That procurement process is on track and should be in place.

I want to finish by just reflecting on the responsibility of the Police for the episode of vandalism that's been reported at the Darwin Cemetery just recently, and thanks to Colleague MLA Gavin Short for bringing this to people's attention.

I have discussed in the last few hours with the Chief of Police, their observations and what they think may or may not be happening. Obviously that's a matter for the Police to deal with. The time line for this vandalism may not be entirely clear. The Royal Falkland Islands Police is asking anybody who may have taken photographs at the Darwin Cemetery over the last 4 months if they have any images that might be of use to them in trying to identify when the vandalism occurred. That would be very helpful, so, any members of the public who have been to the Darwin Cemetery in the last 4 months who have useful images, if they wouldn't mind providing those to the Royal Falkland Islands Police that would be very helpful.

I think it would just be appropriate for me in the House to say, that all Members, I'm sure, absolutely deplore the vandalism that appears to have taken place in a place of rest for soldiers. It's not acceptable and it is deplored, as indeed was indicated in the release put out by the current Chair of the Assembly in the last few days. We should all roundly condemn what appears to have happened at Darwin Cemetery and let's hope that the Police can somehow get to the bottom of what may have happened and identify some perpetrators.

Mr Speaker that concludes my report.

**Mr Speaker**

Are there any comments or any questions?

**The Honourable Gavin Short**

Mr Speaker, Honourable Members. I would like to thank the Honourable Mike Summers for the report on those areas that he has portfolio responsibility for. I would just like to completely agree with him on one point, and perhaps add a little bit more information. The buildings that the Fire and Rescue Service inhabit are in an appalling state. I am still of the belief, as I was in the last Assembly, that something should have been done, even at that stage, rather than trying to patch them up and keep them going.

Just to advise that a survey is being undertaken by Public Works, and it was hoped that we would have that finished in time to start informing this years' budget on just what needs doing and the sequencing of the works that we think need doing. We have a lot of those "pack-away" buildings, quite a lot of them are still inhabited and they are all of the same age and they are all getting extremely decrepit and do need replacing. I am hoping that we will get something in this years' budget to start the ball rolling on that.

**Mr Speaker**

Are there any other comments or questions on that portfolio report?

I thank the Honourable Mike Summers for his report.

## **Deputy Clerk of the Assembly**

The Honourable Dr Barry Elsby

## **The Honourable Dr Barry Elsby**

Mr Speaker, Honourable Members, I am conscious of the amount of time I have taken up of the House on the Motion today, and I am conscious of the amount of time we still have to spend on the Bill. I would like to ask that I defer my report until the next meeting of the Assembly.

## **Mr Speaker**

Thank you very much.

## **Deputy Clerk of the Assembly**

### **Order of the Day: Bills**

Communications Bill 2017, remaining stages

## **Mr Speaker**

I invite the Honourable Roger Edwards to report on the proceedings of the Select Committee on the Communications Bill 2017.

## **The Honourable Roger Edwards**

Mr Speaker, Honourable Members, the Communications Bill was introduced into this House on the 24<sup>th</sup> November. It was referred to a Select Committee for scrutiny.

Communication is a matter that affects every member of the public and the business sector. Electronic communications is a vital part of modern life.

The Legislative Assembly took the unusual step of opening the Select Committee to hear evidence. 10 people, representing business and personal interests, presented oral evidence to the Select Committee at the Select Committee's first meeting on 24 November 2016. There were also 5 written submissions. The Select Committee took into account all the presentations in its deliberations.

The Select Committee sat on 5 days for over 15 hours to extensively interrogate the Bill to ensure they were satisfied that it set up a clear and appropriate regulatory framework to meet the needs of the Falkland Islands. In its deliberations the Committee was conscious of the need to balance the various competing interests of consumers (business and ordinary people), licensees and the Regulator.

I'd like to make the point here that it must be stressed that this Communications Bill covers the whole spectrum of both users and suppliers and is not specific to any one supplier.

Matters were debated candidly, and these included independence of the Regulator, enforcement and penalties for breach of a licence, consumer rights, confidentiality of information and fees and charges for service. Honourable Members have before them a full report on the Committee and a composite draft of the Bill showing the Select Committee amendments, and both of these are available to Honourable Members and the public from Gilbert House.

Forty amendments were proposed by the Select Committee as contained in the Select Committee report and these will shortly be debated in the Committee of the Whole.

The guidance and advice given by the Attorney General and the Director of Central Services was of great assistance to the deliberation of the Select Committee. I would like to thank Honourable Members for their work, and I should also thank the legislative drafting team that drafted the amendments to meet the needs of the Select Committee, and to the staff at Gilbert House who typed up all 370 pages of the record of the Select Committee.

Mr Speaker, I beg to move that the report of the Select Committee be received by the House.

### **Mr Speaker**

Honourable Members, the Motion before you is that the report of the Select Committee be received by the House. Is there any objection to that? There is no objection the report of the Select Committee is received.

The Assembly is now in the Committee of the Whole. For your guidance I would remind you that you can sit whilst addressing the Chair and also that the numbering that we will use for the Clauses is taken from the Bill as originally gazetted.

### **Attorney General**

Mr Speaker, I beg to move that, in accordance with standing order 72, standing orders 55(7), and 55(11) are suspended. Those provisions, respectively:

- prevent movement of an amendment inconsistent with any clause already agreed on or any decision already come to by the Committee; and
- require that new clauses to have a second reading.

The report of the Select Committee has been circulated to all Honourable Members and received.

### **Mr Speaker**

The Motion is that standing orders 55(7) and 55(11) are suspended – any objection to that Motion? There is no objection – standing orders 55(7) and 55(11) are suspended for the purposes proposed.

**Deputy Clerk of the Assembly**

**Part 1 – Preliminary**

Clauses 1 and 2

**Attorney General**

I beg to move that Clauses 1 and 2 stand part of the Bill.

**Mr Speaker**

The Motion is that clauses 1 and 2 stand part of the Bill – does any Member wish to speak to that Motion? Is there any objection to passing this Motion? Clauses 1 and 2 stand part of the Bill.

**Deputy Clerk of the Assembly**

Clause 3

**Attorney General**

I beg to move that Clause 3 be deleted and that the subsequent clauses and all relevant cross references in the Bill, be re-numbered accordingly and stand part of the Bill.

**Mr Speaker**

Honourable Members you have heard that Motion - does any Member wish to speak to it? There is no debate. The Motion is that Clause 3 be deleted and that subsequent Clauses and all relevant cross references in the Bill be renumbered accordingly and stand part of the Bill. Is there any objection to passing that Motion?

There is no objection.

Clause 3 is deleted from the Bill.

**Deputy Clerk of the Assembly**

Clause 4.

**Attorney General**

Mr Speaker, I beg to move that clause 4 stands part of the Bill.

**Mr Speaker**

The Motion is that clause 4 stands part of the Bill - does any Member wish to speak to that Motion? Is there any objection to passing this Motion? – Clause 4 stands part of the Bill.

**Deputy Clerk of the Assembly**

**Part 2 – Objectives and Principles**

Clause 5

**Attorney General**

I beg to move that clause 5 is amended as follows:

(a) in paragraph (b), after “communication”, insert “in the Falkland Islands and”

(b) add after paragraph (r) the following paragraph:

“(s) to promote and support the use of up to date technologies in providing electronic telecommunication services.”

**Mr Speaker**

The Motion is that the amended clause 5 stands part of the Bill - does any Member wish to speak to that Motion? Is there any objection to passing this Motion? Clause 5 stands part of the Bill.

**Deputy Clerk of the Assembly**

Clauses 6

**Attorney General**

I beg to move that clause 6 stands part of the Bill.

**Mr Speaker**

The Motion is that clause 6 stands part of the Bill - does any Member wish to speak to that Motion? Is there any objection to passing this Motion? Clause 6 stands part of the Bill

**Deputy Clerk of the Assembly**

**Part 3 — The Telecommunications Regulator**

Clause 7

**Attorney General**

I beg to move that clause 7 be amended by replacing sub-clause (2) with the following:

“(2) In the event that—

(a) the office of the Regulator is vacant; or

(b) the Regulator is incapacitated;

The functions of the Regulator under this Ordinance will be performed by the Attorney General or another officer designated by the Governor.”

## **Mr Speaker**

The Motion is that the amended clause 7 stands part of the Bill - Does any Member wish to speak to that Motion? Is there any objection to passing this Motion? Clause 7 stands part of the Bill

## **Deputy Clerk of the Assembly**

Clause 8

## **Attorney General**

I beg to move that clause 8 be replaced with the following and that the new clause stands part of the Bill:

### **“8. (Independence renamed) Exercise of certain powers and annual report**

(1) Except as provided in subsections (2) and (3), the Regulator, in the exercise of the powers conferred on it under this Ordinance must not be subject to the direction or control of any person or authority.

(2) The Regulator must have regard to the electronic communications objectives, the regulatory principles and any other policy objectives set by the Falkland Islands Government.

(3) The Governor may give policy directions to the Regulator in the exercise by the Regulator of the functions under section 11(b), (d) and (f).

(4) The Regulator must submit an annual written report to the Governor and to the Legislative Assembly about the exercise of the Regulator’s functions during each calendar year.

(5) An annual report must be made as soon as reasonably practicable and in any case not later than 3 months after the end of the calendar year to which it relates.

(6) The Regulator must include in the report information of any attempts by any person or authority to improperly direct or control the Regulator in the exercise of the powers specified in subsection (1).”

## **Mr Speaker**

Does any Member wish to speak to that Motion?

## **The Honourable Mike Summers**

Mr Speaker, Honourable Members, I thank the Attorney General for all the work that he has done on this section, and colleagues for discussion on it. It has been quite a difficult area, getting the balance right between the independence of the Regulator and the clear authority of

the Government of the day to make sure that what is happening in Telecommunications is right and in the interests of the people, is quite difficult.

I have to say that I haven't been able to convince myself that the balance is correct, but I have no better suggestions to make at the moment so I am content with the proposition as it currently stands. I would say that after there is a Regulator in place and the office of the Regulator has been operating for some time, I would urge the next Government to take a bit of time to review whether it's working properly and, if it's not, to have the courage to come back and revisit this and put in place other arrangements. That could be working either way. We might find that the Regulator is being lent upon improperly in some way, and, if that happens that has to be dealt with. It may be, and this is our biggest concern, certainly my biggest concern, is that the objectives of the Regulator, in terms of how the service is delivered in the Falklands is not being met and that would be a poor outcome.

Just to make those comments and to urge our successor Government to review this at some point and if necessary come back to the issue.

**Mr Speaker**

Any other Member wish to speak?

**The Honourable Mike Poole**

Thank you Mr Speaker. I just echo the comments of Mike Summers and have the same kind of uncertainty and uncomfortableness with this element of the Bill, but as you say, I don't have any better ideas either, so we will live with it for now.

It's not just about the next Government reviewing this. We have already recognised that it is beholden on us to make sure that we regularly monitor this on an ongoing basis and that we don't lose sight of the fact that we need a properly funded and staffed Regulator, and that we need to keep reminding that regulatory function –once established- that their key objective as defined within this amended Bill is to run communications in the public interest, and that is their overall concern. I think we need to make sure that we have a mechanism for continually assessing that on a quarterly basis.

Thank you.

**Mr Speaker**

Any other Member wish to speak?

**The Honourable Roger Edwards**

Mr Speaker, this was referred to quite considerably and at length during the course of the Select Committee. In the Telecommunications Bill that was revamped in 2010 there should have been regulation that followed that to give the Regulator powers, they were never brought into being. I can only emphasise here, and it applies to this particular section of the Bill, but also the rest of the Bill as well. This is the basic Bill, in support of this there is considerable regulation to be brought into being. I am sure that if that is brought in, in a

timely and just manner, then, the Regulator will be able to carry out all these functions correctly and have the proper backing of Government when he does these things. It does depend on not only the passing of this Bill but subsidiary regulation that will come into being with it.

**Mr Speaker**

The Motion is that new Clause 8 stands part of the Bill – is there any objection to passing that Motion? There is no objection.

Clause 8 stands part of the Bill.

**Deputy Clerk of the Assembly**

Clauses 9 and 10

**Attorney General**

I beg to move that clauses 9 and 10 stand part of the Bill.

**Mr Speaker**

The Motion is that clauses 9 and 10 stand part of the Bill - does any Member wish to speak to that Motion? No debate, is there any objection to passing this Motion? There is no objection, Clauses 9 and 10 stand part of the Bill.

**Deputy Clerk of the Assembly**

Clause 11

**Attorney General**

I beg to move that clause 11 be amended as follows:

(a) in paragraph (d) delete “or the Government”;

(b) in paragraph (f) replace “the Government” with “the Governor” and after “Governor” delete “(but this paragraph is subject to section 8(1))”

**Mr Speaker**

The Motion is that amended clause 11 stands part of the Bill - does any Member wish to speak to that Motion? Is there any objection to passing this Motion? - Clause 11 stands part of the Bill.

**Deputy Clerk of the Assembly**

Clause 12

### **Attorney General**

I beg to move that clause 12 is amended as follows and that the amended clause stands part of the Bill:

- (a) in sub-clause (2)(d) delete “or criminal”;
- (b) delete sub-clauses (4), (5) and (6);
- (c) after sub-clause (3) add—

“(4) The Governor may make regulations regarding the exercise of powers by the Regulator under this section.”

### **Mr Speaker**

The Motion is that amended clause 12 stands part of the Bill - does any Member wish to speak to that Motion? Is there any objection to passing this Motion? Clause 12 stands part of the Bill.

### **Deputy Clerk of the Assembly**

Clause 13

### **Attorney General**

I beg to move that clause 13 stands part of the Bill

### **Mr Speaker**

The Motion is that clause 13 stands part of the Bill, does any Member wish to speak to that Motion? Is there any objection to passing this Motion? Clause 13 stands part of the Bill.

### **Deputy Clerk of the Assembly**

Clause 14

### **Attorney General**

I beg to move that clause 14 be amended as follows and stands part of the Bill:

- (a) Replace sub-clause (1) with the following—

“(1) This section applies where the Regulator considers that a person (whether a licensee or not) has failed to comply with —

- (a) the provisions of this Ordinance;
- (b) the provisions of a licence or other instrument issued under this Ordinance; or

(c) in the case of a licensee, fails to comply with the terms and conditions of the licence.”;

(b) Replace sub-clause (3) with the following—

“(3) The Regulator may by order in writing require the person to pay a penalty or compensation awarded under the powers in section 12(2)(i).”;

(c) In sub-clause (4)—

(i) after penalties, insert “or compensation awards”;

(ii) in paragraphs (a) and (b) after “penalty” insert “or compensation award”

(iii) in paragraph (d), at the beginning insert “subject to subsections (5) and (6),”;

(iii) in paragraph (e), at the beginning, insert “subject to subsections (5) and (6),”;

(d) Insert the following new sub-clause after sub-clause (4) and renumber (current sub-clause (5) becoming sub-clause (7)—

“(5) In the case of a licensee other than an exclusive licensee referred to in Part 7, the amount of the penalty may not exceed an amount equivalent to level 10 on the standard scale.

(6) In the case of an exclusive licensee, the amount of the penalty may not exceed level 12 on the standard scale or 10% of the licensee’s annual turnover, whichever is the lower, and annual turnover is calculated as the licensee’s annual turnover—

(a) for the year preceding that in which the penalty is imposed, and

(b) in respect of the licensee’s business carried on in reliance on the licence.”

*Current subsection (5) becomes subsection (7)*

(e) Insert following new sub-clause

“(8) The Regulator must publish criteria to be applied in determining the amount of a penalty or compensation award.”

(f) Delete sub-clause (6) and renumber.

*Current subsection (7) becomes (9).*

(g) Insert the following new sub-clause after sub-clause (7) and renumber—

(10) A penalty imposed under this section is enforceable as a debt due to the Regulator.

(11) A compensation award imposed under this section is a debt due to the person in whose favour it was made.

(12) A penalty and a compensation award carry interest at such rate as the Governor may specify by notice in the Gazette.”

(h) replace the heading with “**Enforcement orders, penalties and compensation awards**”

## **The Honourable Barry Elsbey**

Mr Speaker, I have some concerns with sub clause 6 when it talks about the fine that the Regulator can impose upon an exclusive licensee. The clause reads at the moment that the level of fine shall not exceed level 12 (which at the moment stands at £625,000) on the standard scale, or 10% of the Licensees annual turnover, whichever is the lower. I am concerned with that number, but the word lower confuses me. As a company enlarges, and once their annual turnover is in excess of £6.25 million pounds, the maximum fine that can be imposed will lessen as a percentage.

In the situation where we have an exclusive licensee I think a deterrent, a meaningful deterrent, needs to be available to the Regulator if we are to prevent abuse. I am sure my colleagues, and I know the Attorney General is aware in OFFCOM in the United Kingdom, the Regulator, they have reviewed the amount of fines they have imposed over the last years and they have found that the average fine was about 1% of turnover, which they believed was not a deterrent to people. They have now introduced a new maximum fine level in the UK which is £2million or 10% of the turnover of the company, whichever is the greatest. I think whichever is the greatest is important because, we are trying to deter. Crimes in the ordinary court have a series of penalties to try to persuade people not to carry out those crimes in the first place.

Mr Speaker, I have two things. I believe that we should increase the level from 10% to 15% and I think we should change the word from lower to higher so as a company's business turnover increases so the fine will keep pace with their business profile.

Mr Speaker, I propose an amendment to clause 14 (6), such that it would read "In the case of an exclusive licensee, the amount of the penalty may not exceed level 12 on the standard scale or 15% of the licensee's annual turnover, whichever is the higher, and annual turnover is calculated as the licensee's annual turnover"

## **Mr Speaker**

Does any Member wish to speak to that Motion?

## **The Honourable Jan Cheek**

Mr Speaker, Honourable Members, when the standard scale was introduced in relatively recent memory to ensure that specific penalties across the board did not seem to be appropriate and defective deterrents to wrong doing, and it has been highlighted again as we look at some of our old Ordinances where the fines are in the region of £5 or £10, which probably doesn't deter anything.

These were put in so that the scale as a whole at every level could be uplifted when required by inflation or other issues. My instinct is to leave this as is and trust to the Courts, and if the scale doesn't go high enough in this case to be a deterrent then it may not be a sufficient deterrent in other areas – for example – Fisheries offences. Perhaps what should be looked at separately is uplifting the scales as a whole or even putting in another step, rather than doing something specific to this Bill.

I don't support the amendment.

**The Honourable Roger Edwards**

Mr Speaker, Honourable Members. My Colleague Jan Cheek has just taken my fire away from me because I was about to say exactly the same. If we feel unhappy about level 12 in its current form then I would suggest that we look again at the various levels of fine that can be imposed and not try and use this Bill as how much we can actually impose as a fine on this company or individual. I would, therefore, not support this proposed amendment.

**Mr Speaker**

Any other Member wish to speak? The Honourable Barry Elsby, do you wish to return to that or are you happy?

**The Honourable Dr Barry Elsby**

I am not happy Mr Speaker, I think there is a problem here and I think the Attorney General recognises that we can't rely just on the standard levels and that's why he has introduced this concept of a % of annual turnover. As I say, that's something that the Regulator in the UK has introduced and not relied on standard fines, because, they have found the standard fines do not deter and so a higher level. I think the fact that we have this % in here – and I know it's lower before- I think that shows to me that we need to give the Regulator that power, such that they can impose higher fines if they so feel necessary.

**Attorney General**

Mr Speaker, Honourable Members, I wouldn't wish my position to be misrepresented. The purpose of the clause is to effectively strangle the sentencing powers down to 10%. The amendment would remove that and therefore, increase beyond the maximum financial penalty imposed for any crime or any wrong doing in the Falkland Islands beyond that. To give you an idea a penalty you impose would be greater from people who undertake Fishing as pirates, things of that nature, as the Honourable Members mentioned.

My advice to the House would be that we should be seeking to keep the maximum penalty in line and not have a special case for this. As I pointed out to Select Committee the effectively strangulation down, so the time it would only arise is in circumstances where Sure – if they were the Exclusive provider or indeed another Exclusive provider, argued their turnover from regulatory activities was lesser than the £6.25million in the relevant financial year.

**Mr Speaker**

Honourable Members, I think we will go to a formal vote on this.

**Deputy Clerk of the Assembly**

The Honourable Jan Cheek –against  
The Honourable Roger Edwards – against  
The Honourable Mike Summers – against

The Honourable Barry Elsby – for  
The Honourable Michael Poole – for  
The Honourable Phyl Rendell – against  
The Honourable Gavin Short – against

**Mr Speaker**

The amendment of the amendment fails on that vote. We are back to the substantive Motion before the House is that the amended Clause 14 stands part of the Bill as amended by the Attorney General.

Is there any objection to passing that Motion? There is no objection the amended Clause 14 stands part of the Bill.

**Deputy Clerk of the Assembly**

Clauses 15 and 16

**Attorney General**

I beg to move that clauses 15 and 16 stand part of the Bill.

**Mr Speaker**

Does any Member wish to speak to that Motion? Is there any objection to passing this Motion? No objection. Clauses 15 and 16 stand part of the Bill.

**Deputy Clerk of the Assembly**

Clause 17

**Attorney General**

I beg to move that clause 17 be amended in sub-clause (2)(d) by replacing “nsure” with “ensure” and the amended clause stands part of the Bill.

**Mr Speaker**

The Motion is that amended clause 17 stands part of the Bill – does any Member wish to speak to that Motion? Is there any objection to passing this Motion? There is no objection. Amended Clause 17 stands part of the Bill.

**Deputy Clerk of the Assembly**

Clause 18

## Attorney General

I beg to move that clause 18 be replaced with the following and the new clause stands part of the Bill:

“18. Confidentiality - renamed (**Confidentiality and personal data security**)

(1) A licensee must not produce any information that contains personal data to the Regulator or to any other person except —

(a) in accordance with an order or warrant issued under this Ordinance;

(b) in accordance with any other order of court; or

(c) with the consent of the person to whom the data relates.

(2) The Regulator must not publish or disclose information held under subsection (1) that identifies or could be used to identify the individual that it is about.

(3) Subject to this section, the Regulator must not publish or disclose information—

(a) acquired in the course of the exercise of the Regulator’s functions which it considers to be commercially confidential;

(b) provided to the Regulator on the express understanding that it is to be treated as commercially confidential.

(4) Subsection (3) does not apply to disclosure—

(a) to, or in accordance with an order of, a court; or

(b) where the information is provided to a person or class of persons designated under subsection (5).

(5) The Governor, by notice in the Gazette, may designate persons or a class of persons whom he or she considers reasonably necessary to receive the information referred to in subsection (4) —

(a) for regulatory or other Government functions in connection with duties under this Ordinance; or

(b) to assist the Regulator or the Governor with the discharge of regulatory duties under this Ordinance.

(6) Before the Regulator provides information to a person designated under subsection (5) —

(a) the Regulator must be satisfied that the designated person requires the information for the proper performance of their functions or that they need the information to assist the Regulator in the proper performance of its functions under this Ordinance;

(b) the designated person signs a declaration that they will hold the information in accordance with the conditions imposed by the Regulator.

(7) The Governor may make regulations in relation to the confidentiality of information supplied to the Regulator, the security of data held by the Regulator, conditions for designation of a person under subsection (5) and the term of the designation.”

**Mr Speaker**

Does any Member wish to speak to that Motion?

**The Honourable Michael Poole**

Thank you Mr Speaker Honourable Members.

I do not support Clause 3 (b) of this amended section as read by the Attorney General, I wish to see it deleted in its entirety. From my understanding there is no consequential amendments arising from that.

I did describe my thinking for this during Select Committee and I'm conscious not everybody was present, so just to quickly summarise.

Removal of this subsection avoids the –admittedly quite small- risk that a regulated body chooses to designate all information they share with the Regulator as being commercially confidential, making it impossible for the Regulator to publish this information in the form they may wish to. I believe that this assessment should be left to the Regulator themselves and they would naturally take account of the view of any licensee and as they will take account of the other clauses in this section as well.

I don't think the Regulator should be restricted in any way, in publishing information they feel to be in the public interest. For that reason I would suggest it's best removed.

**Mr Speaker**

You are formally proposing an amendment to the amendment that sub clause 3 is deleted in its entirety.

**The Honourable Michael Poole**

Sub Clause 3 (b)

**Mr Speaker**

3 (b)

Does any Member wish to speak to that?

**The Honourable Roger Edwards**

Mr Speaker, Honourable Members.

The Honourable Michael Poole, earlier on today asked the Chief Executive how many Executive Council papers were not published, and was given an answer.

During the course of the discussion on that it was accepted that some of those Executive Council papers are not published because they contain commercially confidential information. Once again, I fail to see why this should be treated as an open book, as the Honourable Michael Poole suggests that 3 (b) is deleted so that they can publish this detail. I disagree with that.

The Regulator has access to that commercially confidential information, it is part of his work and his duty to be able to get hold of that, and I do wonder if there may be a reluctance on behalf of the licensee to give the Regulator all that detail if indeed he knows the Regulator is then going outside and publishing it.

I would not support this amendment and suggest that clause 3 (b) remains part of the Bill as is suggested in the amendment.

### **The Honourable Mike Summers**

Mr Speaker, although I was not present at the last meeting of the Select Committee when the Honourable Michael Poole raised this issue, I did in fact raise it in a previous discussion. I too have concerns about the effects of this sub clause.

The issue at hand is that the Regulator needs certain information to be able to make judgements about whether the licensee is performing in accordance with the stipulations of both the Law and the Licence. Other parts of the Government too, will at certain times require to see some of that information, either in full or in summary, it doesn't matter. The difficulty with a clause like this is that it potentially gives a licensee the opportunity to restrict the legitimate disclosure of information from the Regulator to other parts of the Government. I am not talking about publishing here to every man and his dog. I am talking about providing information to other parts of the Government who would legitimately need to see that information to be able to make proper judgements. This goes to the core of the ability of the government collectively to satisfy itself that the Regulation that is has in place is correct and proportionate.

I have a concern about the licensee having the ability to declare something is confidential and therefore, cannot be disclosed to other parts of the Government. I therefore support the view of the Honourable Michael Poole that (subject to perhaps hearing something from the Attorney General it doesn't cause difficult consequential issues) this sub clause should be deleted.

### **Attorney General**

Thank you Chair. Obviously if this amendment is accepted then we would seek to combine 3 and 3(a) into a single clause, but that would just be a consequential amendment.

The Clause does not prevent someone that needs to see the information from seeing it. It just defines the class of information that falls into a category over which the other controls in this clause apply.

The purpose of the clause was one commercially negotiated – I think I need to point that out to Members that it went to Select Committee. It is a matter that the exclusive licence holder or proposed exclusive licence holder is keen to see. What it says is that in defining whether or not something should be treated in a special manner, because it is believed to have a character of commercial confidentiality both sides are able to make that designation, whether it be licensee or licenced individual.

Without the Clause, in effect, the conversation is most likely to begin with the words, “ I can give it to you but only if you Regulator agree to me that you will treat it as confidential” Effectively you get to no different position if the words are not there, in my view, in practise. Therefore, I still argue in favour of it.

I defer to Members preference on the matter. As expressed at Select Committee I do believe that misuse of this right under 3 (b) can be sufficiently sanctioned by making the fact of its abuse clear in the annual report, which will result as a consequence of the earlier amendment proposed. That would be the appropriate way of maintaining an effective relationship between regulator and regulated.

I thought it would be helpful to advise Members of previous discussion on this matter for those that were not present.

### **The Honourable Phyl Rendell**

Thank you Mr Speaker, Honourable Members.

I, too, wasn't present at the Select Committee, but I welcome the amendment that the Honourable Michael Poole has brought to us today.

My understanding of it – reading it as a lay person- is that this will fetter the Regulator's position because you are already allowing the Licensee to dictate what is commercially confidential. I think this is not where we want to be, I think we want to ensure that the Regulator has got the powers. That's been the weakness that we've got currently.

- (a) We haven't got a Regulator
- (b) Where we have tried to regulate we haven't had the powers.

I think we do want the Regulator to be in a position to interpret the data that they receive, and to them be able to share that with whichever sections of the Government needs to see that data in whatever form that he needs to share it with. That's my understanding of it as a lay person.

In essence I support the amendment by the Honourable Michael Poole.

### **The Honourable Dr Barry Elsbey**

I, too, support my colleague's amendment. Its again another point of trying to give the Regulator the power they need to be effective and that's why I wanted to raise the maximum fines to try to deter and again I think that clause (b) would give them the opportunity to try to refuse to give documentation. A good licensee would not, but we are not dealing with that,

we are dealing with the possibility of a licensee not wishing to work closely with the Regulator.

The information once given to the Regulator, we have to trust the Regulator then to decide which of that information can be either published or disclosed. I think that is covered by subsection 3 (a) where it says “the information acquired in the course of the exercise of the Regulator’s function which it considers is commercially confidential”

The power remains for the Regulator to refuse to give out information that he/she believes is confidential so I think we are just moving that emphasis away from the licensee to determine what is confidential to a Regulator. That’s where I would be happier to see it sit.

**The Honourable Jan Cheek**

I was going to ask the Attorney General the question of whether this clause would prevent those who needed to see the information from seeing it. He has already given the assurance that it won’t so, I see no need to delete it.

**The Honourable Gavin Short**

Just having listened to the Honourable Mike Poole’s arguments in the Select Committee and again today, I have heard nothing since to make me alter my opinion, that is, I shall support his amendment.

**Mr Speaker**

Attorney General do you wish to come back?

**Attorney General**

If I may briefly Mr Speaker, just to say that as previously expressed, there is some concern that if they cannot guarantee that the information will be treated in confidence, (therefore, using the mechanics set out in the clause) I do have some concern but, I think it is appropriate to respect that, that might be a mechanism by which the Regulated suggested that they were unable to provide the information to us. I think it gets us to a practically similar place as because, it would mean that the Regulator would have to give assurances that it would fall within the mechanism before providing it, in this case without seeing it in the first place. I underline that point only to ensure it has been heard.

**The Honourable Roger Edwards**

Mr Speaker if I may before we presumably go to a final vote. I understood from discussions earlier that it was not only the licensee that declared that the detail was commercially confidential, It would also be the Regulator had to agree that it was of that nature. So in fact the Regulator does have a part to play in this particular clause.

We see it regularly in other fields where anything of a commercially confidential nature is not published and I still believe that that is the case here.

## **Mr Speaker**

The Motion before the House is that “clause 18 3(b) is deleted from the amendment as proposed by the Attorney General earlier.

Can we go to a formal vote on that please?

The Honourable Jan Cheek – Against  
The Honourable Roger Edwards – Against  
The Honourable Mike Summers – Agree  
The Honourable Barry Elsbey – Agree  
The Honourable Michael Poole – Agree  
The Honourable Phyl Rendell – Agree  
The Honourable Gavin Short - Agree

As a result of that Clause 18 3 (b) as on the original amendment is now deleted and we go to the substantive Motion which is

## **Attorney General**

As a consequence it would need to be Clause 3 and 3 (a) would be united into a single clause.

## **Mr Speaker**

Another amendment to an amendment that clause 3 (a) is united together is there any objection to passing that? There is no objection.

Within your original amendment clause 3 (a) is now united and back to the substantive Motion “the new clause 18 stands part of the Bill” Does any Member have any objection to that? There is no objection.

The new clause 18 stands part of the Bill.

## **Deputy Clerk of the Assembly**

New Clause after clause 18

## **Attorney General**

I beg to move that the following new clause be inserted after clause 18 and that the subsequent clauses and all relevant cross references in the Bill, be re-numbered accordingly and stands part of the Bill

### **“Divulging information and use of information for gain**

(1) A person who contravenes section 18 is guilty of an offence and is liable on conviction to a fine not exceeding level 4 on the standard scale.

(2) A person who uses for gain (whether by that person or another) information that is held by the Regulator but that is not available to the public is guilty of an offence and is liable on conviction to one or more of the following penalties —

- (a) forfeiture of the amount gained;
- (b) a fine not exceeding level 6 on the standard scale;
- (c) imprisonment for up to 1 year.”

**Mr Speaker**

The Motion is that a new clause after clause 18 stands part of the Bill - does any Member wish to speak to that Motion? Is there any objection to passing this Motion? A New clause after clause 18 stands part of the Bill

**Deputy Clerk of the Assembly**

Clauses 19 and 20

**Attorney General**

I beg to move that clauses 19 and 20 stand part of the Bill.

**Mr Speaker**

The Motion is that clauses 19 and 20 stand part of the Bill - does any Member wish to speak to that Motion? Is there any objection to passing this Motion? Clauses 19 and 20 stand part of the Bill.

**Deputy Clerk of the Assembly**

Part 4 — Electronic Communications licences  
Clauses 21 to 23

**Attorney General**

I beg to move that clauses 21 to 23 stand part of the Bill.

**Mr Speaker**

Does any Member wish to speak to that Motion? Is there any objection to passing this Motion? Clauses 21 to 23 stand part of the Bill.

**Deputy Clerk of the Assembly**

Clause 24

### **Attorney General**

I beg to move that clause 24 is amended in sub-clauses (1) and (2) as follows, and that the amended clause stands part of the Bill:

(a) in sub-clause (1), delete paragraph (b);

(b) in sub-clause (2)(d) delete “the British Antarctic Survey” and replace with “the Government of South Georgia and the South Sandwich Islands”.

### **Mr Speaker**

Does any Member wish to speak to that Motion? The Motion is that amended Clause 24 stands part of the Bill – is there any objection to passing this Motion? Clause 24 stands part of the Bill

### **Deputy Clerk of the Assembly**

Clauses 25 to 27

### **Attorney General**

I beg to move that clauses 25 to 27 stand part of the Bill.

### **Mr Speaker**

Does any Member wish to speak to that Motion? The Motion is that clauses 25 to 27 stand part of the Bill -Is there any objection to passing this Motion? Clauses 25 to 27 stand part of the Bill.

### **Deputy Clerk of the Assembly**

Clause 28

### **Attorney General**

I beg to move that clause 28 be amended in sub-clause (1) by adding after paragraph (e) the following paragraph and stands part of the Bill

“(f) emergency and or other services provided by the Falkland Islands Defence Force”

### **Mr Speaker**

Honourable Members, does anyone wish to speak to that Motion?

The Motion is that the amended clause 28 stands part of the Bill –Is there any objection to passing this Motion? The amended clause 28 stands part of the Bill.

### **Deputy Clerk of the Assembly**

Clauses 29 to 32

**Attorney General**

I beg to move that clauses 29 to 32 stand part of the Bill.

**Mr Speaker**

The Motion is that clauses 29 to 32 stand part of the Bill does any Member wish to speak to that Motion? Is there any objection to passing this Motion? - Clauses 29 to 32 stand part of the Bill.

**Deputy Clerk of the Assembly**

Clause 33

**Attorney General**

Mr Speaker, Honourable Members, I beg to move that clause 33 be amended as follows and stands part of the Bill

(a) in sub-clause (2),

- (i) after “licence” insert “issued by the Regulator”;
- (ii) in paragraph (b) delete “exclusive or”;

(b) in sub-clause (3), after “licence” add “granted by the Regulator”;

(c) after subsection (5), add—

“(6) An exclusive licence for any of the matters listed in subsection (1) other than the exclusive licence referred to in Part 7, may be granted by the Governor and the Governor shall have the powers of the Regulator under this section, with the necessary changes.”

**Mr Speaker**

The Motion is that the amended clause 33 stands part of the Bill does any Member wish to speak to that Motion? Is there any objection to passing this Motion? – Amended Clause 33 stands part of the Bill

**Deputy Clerk of the Assembly**

Clauses 34 to 41

**Attorney General**

I beg to move that clauses 34 to 41 stand part of the Bill

**Mr Speaker**

The Motion is that clauses 34 to 41 stand part of the Bill, does any Member wish to speak to that Motion? Is there any objection to passing this Motion? - Clauses 34 to 41 stand part of the Bill

**Deputy Clerk of the Assembly**

Clause 42

**Attorney General**

I beg to move that clause 42 be amended in paragraph (a) by replacing “2 years” with “1 year” and by deleting paragraph (c) and stands part of the Bill.

**Mr Speaker**

The Motion is that amended clause 42 stands part of the Bill - does any Member wish to speak to that Motion? Is there any objection to passing that Motion? – amended Clause 42 stands part of the Bill

**Deputy Clerk of the Assembly**

Clause 43

**Attorney General**

I beg to move that clause 43 is amended by replacing “Regulator” with “Governor” and that the amended clause stands part of the Bill

**Mr Speaker**

The Motion is that amended clause 43 stands part of the Bill - does any Member wish to speak to that Motion? Is there any objection to passing this Motion? – Amended clause 43 stands part of the Bill

**Deputy Clerk of the Assembly**

Clause 44

**Attorney General**

I beg to move that clause 44 be deleted and that the subsequent clauses and all relevant cross references in the Bill, be re-numbered accordingly and stand part of the Bill.

**Mr Speaker**

The Motion is that clause 44 be deleted and that the subsequent clauses and all relevant cross references in the Bill, be re-numbered accordingly and stand part of the Bill - does any Member wish to speak to that Motion? Is there any objection to passing this Motion? - Clause 44 is deleted from the Bill

**Deputy Clerk of the Assembly**

Clause 45

**Attorney General**

I beg to move that clause 45 stands part of the Bill.

**Mr Speaker**

Does any Member wish to speak to that Motion? The Motion is that clause 45 stands part of the Bill - Is there any objection to passing this Motion? – Clause 45 stands part of the Bill.

**Mr Speaker**

Honourable Members we have come to the end of the section I suggest that we take a break now. The House is in recess.

**Deputy Clerk of the Assembly**

**Part 5 – Broadcasting station licences**

Clauses 46 and 47

**Attorney General**

I beg to move that clauses 46 and 47 stand part of the Bill.

**Mr Speaker**

Does any Member wish to speak to that Motion? The Motion is that clauses 46 and 47 stand part of the Bill - Is there any objection to passing this Motion? - Clauses 46 and 47 stand part of the Bill.

**Deputy Clerk of the Assembly**

Clause 48

**Attorney General**

I beg to move that clause 48 is replaced with the following and that the new clause stands part of the Bill.

**“48. Exemption of Crown and Government**

The Crown and the Government are exempted from the requirements of the provisions of this Part.”

**Mr Speaker**

Does any Member wish to speak to that Motion?

**The Honourable Roger Edwards**

Mr Speaker, I am sorry I am a little slow because I am referring to three different bits of paper.

In the amended version that we have we do actually have renumbered clauses that are not referred to in the amendments. They are referred by what you said at the start of the Assembly, when we said that they will be renumbered.

**Attorney General**

Yes.

**The Honourable Roger Edwards**

Yes, alright, sorry. I have confused myself. All is well.

**Attorney General**

If I may Mr Speaker just for clarity.

Each time we move an amendment, amending the relevant clause I do seek the House's permission to renumber accordingly, but, for clarity, if Members would prefer I can move a Motion at the end of this authorising appropriate renumbering, so that Members are absolutely clear that authority has been given.

If that is the preference then that will be easier for everybody to do that I suspect.

I will come up with some wording.

Thank you Mr Speaker

**Mr Speaker**

The Motion is that the new clause 48 stands part of the Bill. Is there any objection to passing that Motion? There is no objection. The new Clause 48 stands part of the Bill.

**Deputy Clerk of the Assembly**

Clause 49

**Attorney General**

I beg to move that clause 49 is amended by replacing sub-clause (2) with the following and that the amended clause stands part of the Bill

“(2) In this section “amateur” means a person who is interested in radio techniques solely for a personal aim, without any commercial or financial interest or motive.”

**Mr Speaker**

Does any Member wish to speak to that Motion? The Motion is that the amended clause 49 stands part of the Bill - Is there any objection to passing this Motion? - Clause 49 as amended stands part of the Bill

**Deputy Clerk of the Assembly**

Clauses 50 to 53

**Attorney General**

I beg to move that clauses 50 to 53 stand part of the Bill

**Mr Speaker**

The Motion is that clauses 50 to 53 stand part of the Bill - does any Member wish to speak to that Motion? No - Is there any objection to passing this Motion? – no objection - Clauses 50 to 53 stand part of the Bill

**Deputy Clerk of the Assembly**

**Part 6 — Radio Spectrum Management**

Clauses 54 to 60

**Attorney General**

I beg to move that clauses 54 to 60 stand as part of the Bill

**Mr Speaker**

The Motion is that clauses 54 to 60 stand part of the Bill - does any Member wish to speak to that Motion? Is there any objection to passing this Motion? – There is no objection - Clauses 54 to 60 stand part of the Bill

**Deputy Clerk of the Assembly**

Clause 61

**Attorney General**

I beg to move that clause 61 be amended by replacing sub-clause (1) (a) as follows and that the amended clause stands part of the Bill

“(a) the person discharging maritime regulatory responsibilities in the Falkland Islands, or”

**Mr Speaker**

Does any Member wish to speak to that Motion? The Motion is that amended clause 61 stands part of the Bill - Is there any objection to passing this Motion? –The amended clause 61 stands part of the Bill

**Deputy Clerk of the Assembly**

Clause 62

**Attorney General**

I beg to move that clause 62 stands as part of the Bill.

**Mr Speaker**

The Motion is that clause 62 stands part of the Bill - does any Member wish to speak to that Motion? Is there any objection to passing this Motion? – Clause 62 stands part of the Bill.

**Deputy Clerk of the Assembly**

**Part 7 – Exclusive Telecommunications licence**

Clause 63

**Attorney General**

Mr Speaker, if I may highlight that the Motion we are about to move has two additional words. The words “after that” which were not discussed at the Select Committee and which are included simply for clarity.

I beg to move that clause 63 be amended by adding after sub-clause (6) the following sub-clause and stands part of the Bill

“(7) A licence under this section may be issued for an initial fixed term of not more than 10 years and may continue after that until the Governor gives at least 2 years written notice of termination provided that the licence does not continue beyond 20 years from the date that it was issued.”

**Mr Speaker**

Does any Member wish to speak to that Motion? The Motion is that clause 63 be amended by adding after sub-clause (6) a new sub-clause (7) and the amended clause stands part of the Bill - Is there any objection to passing this Motion? – amended clause 63 stands part of the Bill

**Deputy Clerk of the Assembly**

Clause 64

**Attorney General**

I beg to move clause 64 be amended in sub-clause (1)(b) by inserting before “for” “subject to section 63(7)”, and deletion of “revenue” in sub-clause (2)(b) and stands part of the Bill

**Mr Speaker**

Does any Member wish to speak to that Motion? The Motion is that amended clause 64 stands part of the Bill - Is there any objection to passing this Motion? – Clause 64 stands part of the Bill

**Deputy Clerk of the Assembly**

Clause 65

**Attorney General**

I beg to move clause 65 stands part of the Bill.

**Mr Speaker**

The Motion is that clause 65 stands part of the Bill - does any Member wish to speak to that Motion? Is there any objection to passing this Motion? – Clause 65 stands part of the Bill

**Deputy Clerk of the Assembly**

Clause 66

**Attorney General**

I beg to move clause 66(2)(s) be amended by replacing “lability” with “liability” and stands part of the Bill

**Mr Speaker**

Does any Member wish to speak to that Motion? The Motion is that amended clause 66 stands part of the Bill - Is there any objection to passing this Motion? – amended Clause 66 stands part of the Bill

**Deputy Clerk of the Assembly**

Clauses 67 to 70

**Attorney General**

I beg to move that clauses 67 to 70 stand part of the Bill

**Mr Speaker**

The Motion is that clauses 67 to 70 stand part of the Bill - does any Member wish to speak to that Motion? Is there any objection to passing this Motion? – Clauses 67 to 70 stand part of the Bill

**Deputy Clerk of the Assembly**

Clause 71

**Attorney General**

I beg to move clause 71 be amended in sub-clause (5) by replacing “Magistrates Court” with “Supreme Court” and stands part of the Bill

**Mr Speaker**

Does any Member wish to speak to that Motion?

**The Honourable Jan Cheek**

Wasn't it the other way around where we were replacing “Supreme Court” with “Magistrates Court”

**Attorney General**

I'd like to re-present the Motion.

I beg to move clause 71 be amended in sub-clause (5) by replacing “Supreme Court” with “Magistrates Court” and stands part of the Bill

**Mr Speaker**

Does any Member wish to speak to that Motion? The Motion is that amended clause 71 stands part of the Bill – is there any objection to passing that Motion – Clause 71 as amended stands part of the Bill.

**Deputy Clerk of the Assembly**

Clauses 72 to 74

## **Attorney General**

I beg to move clauses 72 to 74 stand part of the Bill

## **Mr Speaker**

The Motion is that clauses 72 to 74 stand part of the Bill - does any Member wish to speak to that Motion? Is there any objection to passing this Motion? – Clauses 72 to 74 stand part of the Bill

## **Deputy Clerk of the Assembly**

### **Part 8 — Fees**

Clause 75

## **Attorney General**

I beg to move that clause 75 be amended as follows and that the amended clause stands part of the Bill

New Clause:

(a) Replace sub-clause (1) with the following—

“(1) The Governor may by regulations (Fees Regulations)—

(a) require the payment of fees in respect of—

(i) the application for, or the issue, renewal or maintenance of, or otherwise in connection with, a licence under this Ordinance;

(ii) the performance of a function under this Ordinance or under a licence issued under this Ordinance; and

(iii) the performance of any service offered by the Regulator, including the supply of information or of documents.”

(b) In sub-clause (2), replace “6” with “7”

(c) Replace sub-clause (4) with the following—

“(4) Fees to be charged by the Regulator in accordance with the Fees Regulations together with any criteria for determining their amounts and any rules as to timing of payment, must be published—

(a) on the Regulator’s website, and

(b) in other ways that the Regulator considers appropriate.”.

**Mr Speaker**

Does any Member wish to speak to that Motion? The Motion is that amended clause 75 stands part of the Bill - Is there any objection to passing this Motion? – amended Clause 75 stands part of the Bill

**The Honourable Mike Summers**

Can I take you back to Clause 64? Sorry to take so long, but it didn't look quite right to me. It is suggested that sub clause 1 (b) be amended, by inserting before for. There is no "for" in 1 (b) there is a "for" in 1 (c). I suspect the reference to 1 (b) is incorrect.

**Attorney General**

64 1(b) is for the duration of the licence.

**Mr Speaker**

Are we okay?

**The Honourable Mike Summers**

Yes, okay.

**Attorney General**

The affect would be that the new clause we have just inserted prior to that 7 would be the duration would be subject to the notice provisions. I believe it is correct.

**The Honourable Mike Summers**

Yes, I just have a version that hadn't been amended.

**Deputy Clerk of the Assembly**

Clauses 76 and 77

**Attorney General**

I beg to move that clause 76 and its related schedule and clause 77 be deleted and that the subsequent clauses and all relevant cross references in the Bill, be renumbered accordingly and stand part of the Bill

**Mr Speaker**

Does any Member wish to speak to that Motion. The Motion is that clause 76 and its related schedule and clause 77 be deleted and that the subsequent clauses and all relevant cross references in the Bill, be renumbered accordingly and stand part of the Bill -? Is there any

objection to passing this Motion? - Clause 76 and its related schedule and clause 77 are deleted from the Bill

**Deputy Clerk of the Assembly**

Clauses 78 to 81

**Attorney General**

I beg to move clauses 78 to 81 stand part of the Bill.

**Mr Speaker**

Does any Member wish to speak to that Motion? The Motion is that clauses 78 to 81 stand part of the Bill - Is there any objection to passing this Motion? – Clauses 78 to 81 stand part of the Bill

**Deputy Clerk of the Assembly**

**Part 9 — Consumer Standards and Protection**

Clauses 82 to 89

**Attorney General**

I beg to move that clauses 82 to 89 stand part of the Bill.

**Mr Speaker**

Does any Member wish to speak to the Motion? The Motion is that clauses 82 to 89 stand part of the Bill - Is there any objection to passing this Motion? – Clauses 82 to 89 stand part of the Bill

**Deputy Clerk of the Assembly**

**Part 10 — Public control of services**

Clause 90

**Attorney General**

I beg to move that clause 90 stands part of the Bill

**Mr Speaker**

The Motion is that clause 90 stands part of the Bill - does any Member wish to speak to that Motion? Is there any objection to passing this Motion? – Clause 90 stands part of the Bill

**Deputy Clerk of the Assembly**

Clause 91

**Attorney General**

I beg to move that clause 91 be amended by inserting after “Governor” “in his or her discretion” and stands part of the Bill

**Mr Speaker**

The Motion is that amended clause 91 stands part of the Bill - does any Member wish to speak to that Motion? Is there any objection to passing this Motion? – Clause 91 as amended stands part of the Bill

**Deputy Clerk of the Assembly**

Clause 92

**Attorney General**

I beg to move that clause 92 sub-clause (4) is deleted and that the subsequent sub-clauses and all relevant cross references in the clause be re-numbered accordingly stands part of the Bill

**Mr Speaker**

The Motion is that amended clause 92 stands part of the Bill - does any Member wish to speak to that Motion? Is there any objection to passing this Motion? – amended Clause 92 stands part of the Bill

**Deputy Clerk of the Assembly**

**Part 11 — Offences**

Clauses 93 to 95

**Attorney General**

I beg to move clauses 93 to 95 stand part of the Bill

**Mr Speaker**

The Motion is that clauses 93 to 95 stand part of the Bill - does any Member wish to speak to that Motion? Is there any objection to passing this Motion? – Clauses 93 to 95 stand part of the Bill

**Deputy Clerk of the Assembly**

Clause 96

**Attorney General**

I beg to move that clause 96 is deleted and that the subsequent clauses and all relevant cross references in the Bill, be re-numbered accordingly, stand part of the Bill

**Mr Speaker**

Does any Member wish to speak to that Motion? The Motion is that clause 96 is deleted and that the subsequent clauses and all relevant cross references in the Bill, be re-numbered accordingly and stand part of the Bill - Is there any objection to passing this Motion? - Clause 96 is deleted from the Bill

**Deputy Clerk of the Assembly**

Clause 97

**Attorney General**

I beg to move that clause 97 be amended in sub-clause (5) by inserting after “Attorney General” “or Governor acting in his or her discretion” and by renaming the section heading to “Improperly obtaining and disclosing information and interfering with communications” and stands part of the Bill

**Mr Speaker**

Does any Member wish to speak to that Motion? The Motion is that amended clause 97 stands part of the Bill, and the section heading is changed - Is there any objection to passing this Motion? – Clause 97 as amended stands part of the Bill

**Deputy Clerk of the Assembly**

Clauses 98 to 101

**Attorney General**

I beg to move clauses 98 to 101 stand part of the Bill

**Mr Speaker**

Does any Member wish to speak to that Motion? The Motion is that clauses 98 to 101 stand part of the Bill - Is there any objection to passing this Motion? – Clauses 98 to 101 stand part of the Bill

**Deputy Clerk of the Assembly**

Clause 102

### **Attorney General**

I beg to move that clause 102 be amended in sub-clause (1) by replacing “this Ordinance” with “this Part”; and that the amended clause stands part of the Bill

### **Mr Speaker**

Does any Member wish to speak to that Motion? The Motion is that the amended clause 102 stands part of the Bill - Is there any objection to passing this Motion? – Clause 102 as amended stands part of the Bill

### **Deputy Clerk of the Assembly**

#### **Part 12 — Land**

Clause 103

### **Attorney General**

I beg to move that clause 103 be amended in paragraph (b) by replacing “the licensee or the Governor may” with “the licensee may request the Governor to” and by replacing the heading with “Compulsory acquisition of land” and stands part of the Bill

### **Mr Speaker**

Does any Member wish to speak to that Motion? The Motion is that amended clause 103 and the heading of that section stands part of the Bill - Is there any objection to passing that Motion?– Clause 103 as amended stands part of the Bill

### **Deputy Clerk of the Assembly**

Clauses 104

### **Attorney General**

I beg to move that clause 104 stands part of the Bill

### **Mr Speaker**

Does any Member wish to speak to that Motion? The Motion is that clause 104 stands part of the Bill - Is there any objection to passing this Motion? - Clause 104 stands part of the Bill

### **Deputy Clerk of the Assembly**

#### **Part 13 — Data**

Clause 105

**Attorney General**

I beg to move that clause 105 stands part of the Bill

**Mr Speaker**

Does any Member wish to speak to that Motion? The Motion is that clause 105 stands part of the Bill - Is there any objection to passing this Motion? - Clause 105 stands part of the Bill

**Deputy Clerk of the Assembly**

Clause 106

**Attorney General**

I beg to move that clause 106 is amended in sub-clauses (1), (2) and (4)(h) by replacing “Governor in discretion” with “Governor acting in his or her discretion” and the amended clause stands part of the Bill

**Mr Speaker**

Does any Member wish to speak to that Motion? The Motion is that amended clause 106 stands part of the Bill - Is there any objection to passing this Motion? – Clause 106 as amended stands part of the Bill

**Deputy Clerk of the Assembly**

Clause 107

**Attorney General**

I beg to move that clause 107 be amended in sub-clauses (1), (2) and (3) by replacing “Governor in discretion” with “Governor acting in his or her discretion”, and the amended clause stands part of the Bill

**Mr Speaker**

The Motion is that amended clause 107 stands part of the Bill - does any Member wish to speak to that Motion? Is there any objection to passing this Motion? – The amended Clause 107 stands part of the Bill.

**Deputy Clerk of the Assembly**

Clauses 108

## **Attorney General**

I beg to move that clause 108 be amended in sub-clauses (1) and (2) by replacing “Governor in discretion” with “Governor acting in his or her discretion”, and the amended clause stands part of the Bill.

## **Mr Speaker**

Does any Member wish to speak to that Motion?

## **The Honourable Dr Barry Elsby**

Mr Speaker, I welcome the introduction of interception warrants . I think the system we have at the moment is ad hoc and is unsatisfactory so I do welcome the introduction of search warrants. Unfortunately, I feel we do need to have some form of basic oversight of the number of warrants that are issued each year. Many societies and the UK being one of them, issue many warrants each year, and for want of a better word – to eaves-drop or to snoop on people. I think the warrants will become a part of Police activity here.

They have already been used in the way that we have looked at people who have committed sex offences, by accessing their data.

I would like to see some basic form of regulation and I would propose the following amendment to Clause 108(3) (of Bill incorporating Select Committee amendments) :  
Interception warrants

Insert after paragraph (e) the following paragraph and renumber the current paragraph (f) as (g):

“(f) require a record to be kept, specify the information to be contained in the record in respect of the warrants granted or refused by the court under this section and that this information be reported to the Police Committee by the Chief of Police every 6 months;”

I think by inserting that clause it will bring the issuing of warrants into line with the sort of information that the Chief of Police brings to the Police Committee on a regular basis. How many crimes have been committed, how many crimes have been detected, what type of crimes. I think this is the basic sort of oversight we should have on this matter.

## **Mr Speaker**

Does any Member wish to speak to that?

## **The Honourable Roger Edwards**

Mr Speaker, I am confused why this needs to be brought in? These warrants are issued through the Court in the normal way. 99.9% of warrants are issued through the Court and the point 1 would be the exceptions issued by the Governor in extremis. The court already issues a huge number of warrants; for arrest, for searches, for other things. I don't believe any of these are reported to the Police Committee. Yes, the number of crimes that have been

reported and the number of arrests made and so on is reported. As far as I am aware we have never actually reported on the number of warrants issued by the court. I don't really see why we would want to start reporting on this particular incident, it would make this an exception rather than the norm. Also, if we start demanding that they report these warrants – many of which never come to anything – could we not be accused of interfering with the court process/legal process as MLAs.

**Mr Speaker**

Does any other Member wish to speak?

**The Honourable Michael Poole**

Thank you Mr Speaker, Honourable Members, I was just going to say that I agree entirely with the sentiment of the Honourable Dr Barry Elsby and I think it is important that there is some form of oversight in terms of the numbers, so that there is a political understanding of the average use of warrants of this type. Then you can start to sense whether it is a potential problem. Privacy is a right and we need to protect that, so we just need to understand their use in any given year.

Today it's not a problem but, in ten years' time you don't know where we might be and we need to make sure we futureproof the Legislation.

I would support this amendment.

**Mr Speaker**

Does any other Member wish to speak?

**The Attorney General**

Thank you Chair, again, for the benefit of the House. The matter which Honourable Members will be concerned about is not wishing there to be any avenue by which political interference can be accused of being exercised over the discretion and oversight of the judiciary. I appreciate the Honourable Members amendment is likely to require only the requirement of bare figures and if that were the case that is fine, but, it is a long held tradition of this House that we would not seek in any circumstances to interfere or appear to interfere with the independence of the investigating functions of the Police. My only hesitation is that this might evolve into something which could allow that accusation to be levelled.

Thank you Mr Speaker

**Mr Speaker**

Does any other Member wish to speak?

**The Honourable Mike Summers**

Can I seek some further information from the Attorney General? Is there any other public reporting of warrants issued by the Court for any purpose?

**The Attorney General**

I am not aware of any, Mr Speaker

**The Honourable Mike Summers**

So this would be rather unique in terms of the court reporting of warrants issued.

**The Attorney General**

Yes. The Police Committee I am aware, did discuss whether the Police Committee was the correct forum to comment upon disposals by the court in relation to the crimes that were reported to it. I believe in earlier session the Police Committee decided it wasn't within the remit of the Police Committee at that time to consider things like; the length of time it took from a case to be prosecuted or the outcomes of those cases, because, it was felt outside the scope of that committee - which, is something which Members may wish to consider.

**The Honourable Mike Summers**

I understand entirely the sentiment of the Honourable Members who have spoken previously and I am just wondering whether there is any other mechanism for the government collectively to understand whether there has been a substantial use of these provisions that might go beyond what one have reasonably expected. I presume that is the reason that Member have proposed this? If the odd warrant is issued here and there then that probably doesn't matter, but if we got into a position where warrants were being issued just about every week for more investigation we would want to be sure that that was proper.

**The Honourable Dr Barry Elsby**

Yes, that is my purpose in proposing this amendment. That we have some way of looking.... we are introducing a new law here and we are introducing warrants in collecting of surveillance and interception for the first time. I appreciate what my colleague and the Attorney General says that we don't hear about all the other things that go on for the court. It might be that we need to approach that. We are dealing with this aspect at the moment, I think we should confine ourselves to looking at how we might future proof (as my Honourable Colleague on the right here says) to make sure that we haven't got a rise year on year in the numbers. A rise might not be wrong, it might be normal, but I think it is a way of alerting the Police Committee to just purely knowing how many are going on. I would be happy to choose another Committee, the Police Committee was my suggestion as I think it fits there with the other information that the Police supply. I will be guided by my Attorney General if there is another avenue that would be better to report it to.

## **Attorney General**

Thank you Mr Speaker and thank you Honourable Members.

I have two points. The first is; in this section you are providing to the public of the Falkland Islands better protection than is available to their equivalent citizens in the United Kingdom, where a warrant of this nature can be obtained with a simple certificate from the Chief of Police. You are already strengthening the oversight of this provision by requiring a warrant in every single case and putting it under the superintendence therefore, of the courts.

I happily concede that there may be further things that could usefully be dealt with either through the Police Committee or as previously discussed a judicial improvement board.

I would encourage Members to consider doing some work on that outside this Ordinance and actually consider across the entire functioning of your court service and investigative powers what information you think is appropriate. That would, therefore, allow the judiciary to comment. Because I wouldn't want to pass something and then find that it received negative judicial comment when we came to rely upon it. That would be my concern, of course, it is entirely a matter for Members, who have the power to do so if they wish.

## **Mr Speaker**

Does any other Member wish to speak?

## **The Honourable Michael Poole**

Thank you Mr Speaker, just in response to that, I can absolutely see the sense at looking at its whole and I think the power to make regulations through Executive Council does give us that back stop in terms of addressing this issue in the future. My concern is, we just never get around to it. Why not write legislation we are content with upfront, then if we don't get around to it, it's not such a big issue.

## **The Honourable Phyl Rendell**

Mr Speaker, Honourable Members, I am listening to the arguments on both sides and I really don't see the harm in having this information reported to such a body as the Police Committee, it certainly isn't political interference, it's just numbers. In general it will reflect trends so, in general I am sympathetic with the amendment.

## **Mr Speaker**

Any other Comments?

## **The Honourable Roger Edwards**

Mr Speaker, I just refer back to my first comment on it. If we want these warrants reported then surely in another place we are going to be asking for all the other warrants issued by the police, child safeguarding, searches and everything else, why don't we ask for them to be done? I don't see the issuing of this warrant any different to any other warrant, I'm afraid.

**The Honourable Mike Summers**

Mr Speaker, I am grateful to the Attorney General for mentioning the justice improvement board – whether that comes into being or not, in the short term is a matter for a different discussion. There is another body, the Criminal Justice Council that was created under the Crimes Bill, or the Criminal Procedure and Evidence Bill that might be a more appropriate route.

There is perhaps a halfway house, because this has to be done under regulation and we haven't yet discussed. The regulations will need to come to Executive Council, when the Regulations are drafted, presumably Executive Council would have the opportunity at that point of having better advice on whether it would be better for it to go to the Police Committee or a different body. There might be a way of tweaking the wording slightly which deals with the sentiment expressed, but, without being specific about the Police Committee.

**The Honourable Dr Barry Elsby**

I think my Honourable Colleague is quite right there and that is why I included it under 108, sub clause 3, because it says the Governor “may” make regulation and it may be that with consideration and time we may chose not to make it the Police Committee. I am putting it in here because I think it is primary legislation and I think we need marker to say we are interested in looking at the trends. Again, regulation may or may not follow, but it is there.

**Attorney General**

The wording would mean that if the Regulations were passed they would have to contain this provision. It would prevent any regulations on the subject that didn't contain this provision. If Members and indeed the Honourable Member were to agree to amend it to say “may” require that records will be kept (or something similar) then that would give discretion in relation to secondary legislation, although I am clearly not proposing that because it is not an amendment presented by me. To point out that as drafted any regulations would have to contain this clause, so if Members wish to amend it then it would have to come forward in that way.

**Mr Speaker**

Do you wish to amend your.....

**The Honourable Barry Elsby**

In light of the Attorney Generals advice, as I say, my point is to try to work out a process and that process might not be arrived at today. Could I suggest a form of words that might suite and be guided by the Attorney General (if I slip)

Insert after paragraph (e) the following paragraph and renumber the current paragraphs (f) as (g)

(f) require a record to be kept specifically the information to be contained in the record in respect of the warrants granted or refused by the Courts under this section and that this information be reported to the Police Committee or a similar body by the Chief of Police every 6 months’

Similar or suitable, I’m happy either way.

**Mr Speaker**

Attorney General – would you like to advise on that wording?

**Attorney General**

Again – my point is more that I would encourage us to give Executive Council discretion around the form of the secondary legislation and therefore, I’d add the word “may” at the beginning of (f) in addition. That way should they want to do everything else but something slightly different then it would still allow that discretion to Executive Council.

Executive Council could chose to leave it out altogether which is the other disadvantage to adding the word “may”. To try and provide balance Mr Speaker.

**The Honourable Barry Elsby**

For clarity your suggestion is; introduce the word “may” after my proposed “this information”

**Attorney General**

It “may” require a record to be kept.

**The Honourable Barry Elsby**

I will be content with that, and to leave the Chief of Police reporting to the Police Committee or is it better to say an alternative body?

**The Honourable Mike Summers**

An appropriate body

**Attorney General**

To keep it consistent Mr Speaker, I prefer a form of words that are along the lines of; “the form of any record keeping in respect of the warrants granted or refused by the courts and onward reporting to a suitable committee”

You may decide the Chief of Police is the right person and you may decide someone else is the right person, you may decide that ..... The most important thing is that if Members are minded to support it, the regulations must have the ability to require that a record be kept and then that information is transmitted to a suitable body. I would encourage that level of granularity in case, for example, you believe it is the CJC.

I would resist in those regulations any suggestion the court staff would be required to keep it, it would have to be another attendee at court, such as the Chief of Police and that would be something I would favour. I wouldn't wish Executive Council to be purporting the Government..... the Executive branch be purporting to require anything of the judiciary, but nonetheless by using a mechanism such as the one recommended by the Honourable Member. The police force or some other body in attendance, so for example it could be prosecution authorities, then that would give suitable discretion.

Drafting on the hoof is always difficult.

**The Honourable Barry Elsby**

Yes, it is, and if you can assure me the hoof;  
“may require a record to be kept specifically.....

**Attorney General**

“Specifying the information to be contained in the record in respect of the warrants granted and refused by the courts under this section and that the information be reported to an appropriate committee”

**The Honourable Barry Elsby**

Every six months?

**Attorney General**

As you wish

**The Honourable Barry Elsby**

Do you wish me to read that out again Mr Speaker?

**Mr Speaker**

I think it would be a good idea.

**The Honourable Barry Elsby**

My proposal is to amend clause 108 (3)

Insert after paragraph (e) the following paragraph and renumber the current paragraph (f) as (g).

(f) “may require a record to be kept specify the information to be contained in the record in respect of the warrants granted or refused by the Courts under this section, and that this information be reported to an appropriate committee every 6 months”

## **Attorney General**

It is being suggested to me that you might want to consider, rather than committee, person or committee. Which would then allow flexibility that it could be a body, it could be to Executive Council for example rather than to the Police Committee.

## **The Honourable Barry Elsbey**

My proposal is to amend clause 108 (3)

Insert after paragraph (e) the following paragraph and renumber the current paragraph (f) as (g).

(f) “may require a record to be kept specify the information to be contained in the record in respect of the warrants granted or refused by the Courts under this section, and that this information be reported to an appropriate person or body every 6 months”

## **Mr Speaker**

Any further comments on this amendment to an amendment? No further comment.

The extant Motion amending Clause 108 should also include this amendment;

Insert after paragraph (e) the following paragraph and renumber the current paragraph (f) as (g).

(f) “may require a record to be kept specify the information to be contained in the record in respect of the warrants granted or refused by the Courts under this section, and that this information be reported to an appropriate person or body every 6 months”

## **Attorney General**

I am required still to object to the amendment in my advice to the House, but, it is a matter for the House. On behalf of the judiciary I have to suggest that the Executives should not be seeking to monitor the activities of the judiciary in this manner. Having done so I think I know where we are.

## **Mr Speaker**

I think we will now move to a formal vote on this

The Honourable Jan Cheek – Given the Attorney Generals advice I chose to abstain on this one.

The Honourable Roger Edwards – I would not support the additional amendment to the amendment already proposed.

The Honourable Mike Summers - I agree to the amendment

The Honourable Barry Elsby - Agree  
The Honourable Michael Poole – Agree  
The Honourable Phyl Rendell – Agree with the amendment  
The Honourable Gavin Short – Agree with the amendment

That Motion is therefore carried.

The Clause 108 3 (b) will now be amended and stand part of the Bill.

If we go back to our substantive amendment on that clause so the Motion is that Clause 108 as originally amended by the Attorney General including this addition stands part of the Bill.

Is there any objection to passing that Motion?

There is no objection. Clause 108 as amended now stands part of the Bill.

**Deputy Clerk of the Assembly**

Clause 109

**Attorney General**

I beg to move clause 109 be amended in sub-clauses (2) and (3) by replacing the words “Governor in discretion” with “Governor acting in his or her discretion”, and the amended clause stands part of the Bill

**Mr Speaker**

Does any Member wish to speak to that Motion? The Motion is that the amended clause 109 stands part of the Bill - Is there any objection to passing this Motion? – Clause 109 stands part of the Bill

**Deputy Clerk of the Assembly**

Clauses 110

**Attorney General**

I beg to move that clause 110 be amended in sub-clauses (2) and (3) by replacing “Governor in discretion” with “Governor acting in his or her discretion”, and the amended clause stands part of the Bill

**Mr Speaker**

Does any Member wish to speak to that Motion?  
The Motion is that amended clause 110 stands part of the Bill - Is there any objection to passing this Motion? – Clause 110 as amended stands part of the Bill

**Deputy Clerk of the Assembly**

Clause 111

**Attorney General**

I beg to move clause 111 be amended as follows and that the amended clause stands part of the Bill

(a) in sub-clause (1), replace the introductory words with—

“(1) This section applies where data is encrypted or protected by a password or other secure means and the data has come into the possession of a public body—“

(b) in sub-clause (2), after “key to the encryption” where it appears for the first time, insert “(“key to the encryption” includes a password or other access code).”

**Mr Speaker**

Does any Member wish to speak to that Motion? The Motion is that the amended clause 111 stands part of the Bill - Is there any objection to passing this Motion? – Clause 111 as amended stands part of the Bill

**Deputy Clerk of the Assembly**

Clauses 112

**Attorney General**

I beg to move that clause 112 stands part of the Bill

**Mr Speaker**

Does any Member wish to speak to that Motion? The Motion is that clause 112 stands part of the Bill - Is there any objection to passing this Motion? – Clause 112 stands part of the Bill

**Deputy Clerk of the Assembly**

**Part 14 — Telecommunications Appeals Panel**

Clauses 113 and 114

**Attorney General**

I beg to move that clauses 113 and 114 stand part of the Bill.

**Mr Speaker**

Does any Member wish to speak to that Motion? The Motion is that clauses 113 and 114 stand part of the Bill - Is there any objection to passing this Motion? – Clauses 113 and 114 stand part of the Bill

**Deputy Clerk of the Assembly**

Clause 115

**Attorney General**

I beg to move that clause 115 be amended by replacing “or criminal proceedings” with “proceedings or any decision to commence criminal proceedings” and that the amended clause stands part of the Bill

**Mr Speaker**

Does any Member wish to speak to that Motion? The Motion is that the amended clause 115 stands part of the Bill - Is there any objection to passing this Motion? – Clause 115 as amended stands part of the Bill

**Deputy Clerk of the Assembly**

Clause 116

**Attorney General**

I beg to move clause 116 stands part of the Bill

**Mr Speaker**

Does any Member wish to speak to that Motion?

**The Honourable Barry Elsby**

We have given the Regulator a time limit of three months to present their annual report. Do you, Members feel that we should include the time frame on the panels reporting as well?

**Mr Speaker**

Is this Clause 116 you are referring to?

**The Honourable Barry Elsby**

Yes. I wonder if we should include a clause as such as we did with the Regulators report that it must be presented within three months of the end of each year.

**Mr Speaker**

Do you wish to propose that as a formal amendment?

**The Honourable Barry Elsby**

This is the hoof again I'm afraid, I only just spotted it. I would propose something along the lines but again would be very guided by the Attorney General.

Report should be.... The report presented within three months of the end of the year.

Each calendar year.

Can I suggest an amendment? Clause 116 sub clause 1 " The Chair of the panel must make a written report to the Governor about the exercise of the panel's functions during each calendar year and that the report should be presented within three months of the end of each calendar year"

**Mr Speaker**

That conflicts with sub paragraph 2, I would suggest.

**The Honourable Barry Elsby**

I think then we could perhaps also delete sub clause 2. We are specifying a time limit then we don't need clause 2

**Attorney General**

Or Mr Speaker you could add the words "or in any event within three months"  
At the end of the paragraph 2

If I may Mr Speaker the only point to make is that I am aware in a number of parts of Falklands Legislation we require annual reporting which is I hope frequently, but not always honoured and I'm a bit nervous about adding something which may find the reports aren't produced in the time limit - but leaving that aside I have no further comment.

**Mr Speaker**

So your formal amendment might I suggest; is the addition to 116 sub paragraph 2 is that the words "in any event" within .....

**Attorney General**

"As soon as reasonably practicable at the end of the year which it relates and in any event within three months of the end of that year"

**Mr Speaker**

Within three months

**The Honourable Barry Elsby**

Mr Speaker, I would like to propose an amendment to Clause 116 sub clause 2 to read “ a report must be made as soon as reasonably practicable after the end of the year to which it relates and in any event within three months of the end of that year”

**Mr Speaker**

Does any Member wish to speak to that?

**The Honourable Mike Summers**

Mr Speaker. Section 114 (2) (j) deals with the making of regulations under this section and (j) includes setting time limits within specified action – including commencement of appeals- must be taken.

Can't we deal with this under regulation? Rather than trying to draft something on the hoof, which maybe superfluous.

**The Honourable Barry Elsby**

My only concern with that Mr Speaker is we come back to the question, as my colleague the Honourable Michael Poole says – we tend to forget this and it will go by default, it won't happen.

**The Honourable Mike Summers**

Given that it's possible under 114 Regulations to deal with this issue I don't think it is necessary to redraft the text.

**Mr Speaker**

We have a Motion that requires that amendment to be put, so, we will move to a formal vote upon it.

The Motion is that in 116 (2) the words “and in any event within three months of the end of the year or end of that year” are added

Can I ask you to vote for or against that amendment please?

The Honourable Jan Cheek – I don't think it's required to as referred to by the Honourable Mike Summers. It is covered in the previous one and if we let that slip it's down to us.

The Honourable Roger Edwards – I am against the suggested amendment.

The Honourable Mike Summers – Against

The Honourable Barry Elsby – Agree to the amendment

The Honourable Michael Poole – I'm for the amendment

The Honourable Phyl Rendell – Against the amendment

The Honourable Gavin Short – for the amendment.

That is 4:3 I'm afraid the amendment is not carried.

We are back to the substantive Motion that Clause 116 stands part of the Bill. Is there any objection to passing that Motion? Clause 116 stands part of the Bill.

### **Deputy Clerk of the Assembly**

### **New Part 15 — Repeal, Savings, Transitional and Consequential Provisions**

Clauses 117 to 119

### **Attorney General**

I beg to move that clauses 117 to 119 be inserted as follows under the heading **Part 15 — Repeal, Savings, Transitional and Consequential Provisions**

Members have it in their pack but I am required to read it for the benefit of the record

117 Repeal of Telecommunications Ordinance (1) Subject to this part, The Telecommunications Ordinance 1988 (in this part referred to as the Repeals Ordinance) is repealed.

(2) Section 61 of the repealed Ordinance continues to apply until a date determined by the Governor by order in the Gazette.

(3) The Governor must provide for the disapplication in the Falkland Islands of the Marine Etc, Broadcasting Offences Act 1967 and the Mobile Telephones Reprogramming Act 2002 in the order under subsection 2.

(4) The Regulator and the Telecommunications Appeal Panel referred to in the repealed Ordinance cease to exist with effect from the date of the commencement of this Ordinance.

(18) Saving of licence. A licence issued in terms of part 2 of the repealed Ordinance continues to exist on the same terms and conditions as provided in the repealed Ordinance until the date of expiry of the licence or until a new licence is issued under this Ordinance.

(119) Amendments to the Wireless Telegraphy Ordinance: Section 3 of the Wireless Telegraphy Ordinance 1994 is amended;

(a) in subsection 1a by replacing the Telecommunications Ordinance 1988 with Communications Ordinance 2017

(b) by replacing the heading “With saving for the Communications Ordinance 2017”

**Mr Speaker**

Does any Member wish to speak to that Motion? The Motion is that clauses 117 to 119 be inserted and stand part of the Bill - Is there any objection to passing this Motion? – Clauses 117 to 119 now stand part of the Bill

Attorney General, do you wish to add any?

**Attorney General**

I would beg to move that consequential amendments be made to the Bill which include; Renumbering of Clauses and cross referencing as necessary to give effect to this Houses amendments to this Bill.

**Mr Speaker**

Honourable Members, you have heard that Motion is there any objection to passing it? There is no objection. That Motion is therefore carried and you have that authority.

**Attorney General**

Thank you Mr Speaker

**Mr Speaker**

The Assembly resumes.

**Attorney General**

Mr Speaker, Honourable Members, I beg to move that the Bill is read a third time and do pass.

**The Honourable Roger Edwards**

I second that Motion

**Mr Speaker**

Honourable Members, the Motion is that the Bill be read a third time and do pass. Is there any objection to that? There is no objection, the Bill will be read a third time and do pass.

**Deputy Clerk of the Assembly**

Communications Bill 2017

**Deputy Clerk of the Assembly**

Motion for Adjournment

### **The Honourable Chief Executive**

Mr Speaker, I beg to move that House stands adjourned *sine die*.

### **Mr Speaker**

Honourable Members may speak to the Motion.

### **The Honourable Michael Poole**

Thank you Mr Speaker, Honourable Members, just a couple of quick things. To begin by encouraging people to come along to the mini-sports this weekend at the Racecourse. Two full days, hopefully the weather will be okay, but even if it's a bit poor there is still a range of activities planned for all ages, so I hope to see people there.

There was also a reception held at Government House earlier in the week for the Falkland Islands Association, I'm sure many have heard the coverage of that event, but I'm sure colleagues will join me in encouraging people to join the Association. It has done very important work for a number of decades now and we are grateful to everybody who has been part of this drive to increase their membership and the new local committee that they have got formed here as well.

Finally from me Mr Speaker, we have opened the formal budget session today. I join a number of colleagues in wishing to see the budget process opened up to the community, even more than we have in the last couple of years. I welcome the work that the current Chair, Dr Barry Elsby is doing to achieve that.

In terms of outcomes from the budget deliberations, continuity is that the order of the day. I do join the Honourable Jan Cheek in wishing to see the minimum wage increase further and potentially at a faster rate than previously. I am sure we will have that policy discussion as we get into it.

I also hope that we can find some appropriate mechanisms to speed up the Capital programme, we continue to spend only about 50% of our annual capital allocation that is not really good enough. There are a range of solutions to this, and I think we need to seriously grip it and talk about it as we get into the budget session over the next couple of months.

Thank you Mr Speaker, I support the Motion

### **The Honourable Gavin Short**

Mr Speaker, Honourable Members, A lot of what I have to say today is rather sombre and mainly covers international relations, however, I would start with PWD, and in particular the flywheels that were purchased in conjunction with the wind turbines many years ago.

In this House in December, I said that representatives of Enercon would be in the Falklands in January to commission the flywheels. This statement was made on the best information available at the time. Enercon have advised that other than the FIG flywheel project they are no longer continuing to develop this kind of technology, and are instead investing in battery

technology for the future. Enercon are due to visit the islands early in the year to discuss and review the options with the Power and Electrical team. FIG are also taking the opportunity to look what others are doing in relation to flywheel and battery technology. Once this visit and review has been completed a decision will be made on how to proceed with our system.

The damage to the statue of the Virgin of Lujan at the Argentine Cemetery at Darwin has cast a shadow over these last couple of days, and comes at a time when relations between the Falklands and its South American neighbour is at quite a delicate phase, and if I may allow myself to speculate for a moment, I do wonder whether this may have been the intention of whoever did this – to try and derail any moves towards any cooperation on matters of mutual interest. What I will say is this. Whilst I have strong disagreements with Argentina and quite a few of its inhabitants, and I will never take a step back when it comes to combating the propaganda that comes from that country or its desire to do a land grab, as robust as I may be in my responses, (and I will offer an apology to no one for that), I completely and utterly condemn what has been reported to have happened at the cemetery at Darwin. Desecrating cemeteries is about as low as you can get and I sincerely hope that the police investigation will reach a conclusion and the apprehension of whoever was responsible, no matter what their nationality may be.

I was going to raise a question for oral answer on the issue of the second flight that is being worked on. I was persuaded by my colleagues not to do so as we are at a delicate stage, and also they are right when they point out that we don't have all the facts at our disposal to lay before the people.

It is the laying before the people of all the facts that concerns me. Whilst we answered a criticism in the letters page of the Penguin News regarding the flights, and we have said that there will be full consultation once we have something concrete to put before people, we shied away from answering one question that was contained in that letter. Would we take the second flight to a referendum? I have pondered this.

Going back to the '99 agreement, I think what folks got so uptight about was the fact that it was presented to the Falklands as what seemed like a fait accompli and people felt that they had no input into it.

Looking back and, of course, hindsight is a wonderful thing, I think the LAN flight that was part of that agreement (and was probably about the only bit of it to survive the Kirchner regimen) was a good thing. It has proved itself over the years and has led to the growth of our economy, and hasn't led us to become an Argentine colony, far from it. However, as I said, it was the perceived lack of consultation with the people that caused the problems.

The Falklands have had and will continue to have many bitter pills to swallow, and at times you have to go along with a decision that you really do not like for the greater good of our country. After all the future and prosperity of the Falklands and making sure that we leave a country for those that follow us that is under the political system chosen by the people of the Falklands and not dependant on any third country close to us, and also in better economic shape than it was handed to us, is what it is all about. The future of the Falklands is bigger than any one of us.

That said, there sometimes comes a pill that is too bitter to be swallowed. The refusing of this “pill” may lead to the economy stalling and to us spurning the chance to fortify and expand our economy, but we have to remember that it is the people’s economy and the people’s country, and it is they who must make the call.

I guess what I have been meandering towards is the call for us to put the second flight to a referendum. Given views expressed in this House only months ago when we debated the importance of referenda, I am surprised that at this stage at least, I seem to be the only person who would be content to put the decision on the second flight to the people of the Falklands in the form of a referendum. There would be obvious dangers that it could tear the community apart and also, as witnessed with Brexit, lurid scare stories, innuendo and plain untruths can sometimes trump boring facts, but should this stop us going down the referenda track ? Maybe once everything is known and can, as has been promised, be put to the people of the Falklands for open debate, we may find that a very clear consensus is reached. However, if there seems to be a pretty even split, then I would urge members not to rule out going down the route of a referendum.

After listening to some of the debate and answers to oral questions today you could be forgiven for thinking that the Falklands are doomed, or at least not in very good shape, but far from it. Yes, we have our problems and this isn’t Utopia, but by golly, we are lucky to be living in such a wonderful country where what seems like huge problems pale into insignificance when compared to other parts of the world, and I am sure this House will join me in expressing our solidarity with the people in Chile who are being affected by the wildfires that are raging in parts of that country. They have consumed many, many acres of land, destroying all in their paths including houses and businesses etc. Thought too must go to the animals that have been caught in the fires and I am sure that we all join together in expressing our sympathies to the colleagues and families of those already killed by the fires whom include both *Caribineros* and firefighters. In fact, at mid-day I was looking through my twitter feed at home and there is a town, or I should say, there was a town called Santa Olga, that has been completely wiped off the map with the loss of about 1000 houses. That just goes to show what we think are problems here, probably pales into insignificance compared to that.

Parking flywheels to one side for a moment, the wonderful world of PWD is actually fairly boring, in a nice way, at the moment. Works to the rural roads on both East and West Falklands through both contracted and direct labour is, in general, going quite well.

Thanks to the intervention of a well-known and much loved sheep farmer on West Falklands, a potential hose pipe ban has been averted, the emergency power supply units and associated items are progressing well, as is the work on proposals for the new power station. The next loop on Sapper Hill is now underway and perhaps the only slight disappointment is that the final tranche of houses that are being built for FIG on Sapper Hill are going to be late being delivered.

Recruitment to the more senior positions within the Department at last seem to be coming good.

The dear old asphalt plant has been fired up for what is probably the last time, (with my grateful thanks to the clergy for their continued supply of divine intervention on that front),

and we are hoping to start patchwork jobs around town about now. We are still waiting for the main asphalt laying crew to arrive. Their late arrival has been down to the non-availability of seats both on the air bridge and also LAN (which of course, could be all the more reason for that second flight, as it is affecting even our ability to black-top our roads). We were hoping that they would be arriving on Friday, but with the delay in the first air bridge of the week we are not sure whether this has translated into folk not being able to get seats on this incoming flight. At the time of writing I am still unsure as to whether they have made it. We do not have a fixed term contract so we can, if needs be, extend the season out. This does, of course, have the inherent risk that if the weather turns nasty we may lose some days, but we will see how the season goes.

I would like to say thanks to our staff and indeed contractors. Nowadays we don't really slow down much in winter, but it's the summer when the hammer goes to the metal and people start putting in longer hours etc. So, thank you one and all. Amazingly we are almost doing more with less or at the very worst, holding our own and that can only be because of the calibre and dedication of the people that we have working for and with the PWD.

Finally, (and returning to international matters again), we had the rather silly story that emerged around New Year that the so called governor of the Falklands who resides in the deepest, darkest bit of Southern Argentina had sent her loyal people in the Falklands a message promising to make our wishes come true. Clearly, quite bonkers, but it does go to show the levels of delusion to which they have sank.

Cut to a gathering of Biggs and Yates descendants that happened on the football field very recently. We were there celebrating 175 years of the voluntary settlement in the Falklands of just two families. There are, of course, other families who have been here even longer. However, as I stood and listened to the speech made by Colin Roberts (who is another Governor and is rather better known to the people of the Falklands than the so called governor from a country that wishes to turn us back into a colony), I found myself pondering whether she would have used the words that "our" Governor did.

The more I thought on those words, the more profound that they became. Governors, who are diplomats and the representatives of Her Majesty the Queen and her Government do not whizz around making statements willy nilly without being 100% sure that they think through the ramifications of what they say, and whether it clashes or goes against the thinking and policies of the United Kingdom.

Before sitting down I will leave you with this is part of what he said, and I quote: "A final point that I want to make is that it is always very important to remember something that you all know very well, that the country belongs to the people who made it, and the history of this country shows very clearly who made the Falklands, who built everything here and it is your country".

I support the Motion for adjournment.

### **The Honourable Mike Summers**

Mr Speaker, Honourable Members. I don't have a great deal to talk about in the Motion for Adjournment. I would like to comment on the recommencement of work on the Economic

Development Strategy. It is an important piece of work for all those who will be involved in it, led by the Policy Department to an extent, but I hope strongly led by different sections of the private sector economy here.

The success of our country that the Honourable Gavin Short talked about is due to no small extent to the quality of work that's been done in the past to improve the economy, and effort and commitment that different people have put in to developing the economy. Developing the economy is the key building block to continuing to develop our country in social, economic and political terms. The three things always run together. That work on the economy is absolutely crucial. If there seriously is anybody in the Falklands who thinks that closing in and looking inward is going to improve the economic outlook for the Falklands, I am not sure where they have been for all these years.

The development of shipping to other parts of the world, the development of flights to other parts of the world is absolute key the development of the economy and therefore, the development of our social and political well-being. To look inwards when we have opportunities to look outwards is to deny future generations the opportunity and the opportunities I think that they will be looking forward to, to live in a go ahead, progressive and successful country.

I was off overseas before Christmas as folks will know, at discussions in Geneva with the ICRC, UK and Argentine Governments and later on in London, joined by my colleague Phyl Rendell to discuss other issues, including, air links. Those discussions were held in a relatively positive atmosphere, all things considered, and we are in the sort of odd position of almost schizophrenia across the water where there is a willingness at high level to try and move forward with relations with the Falkland Islands, but an absolute resistance to doing anything when you get back home, that actually benefits the Falkland Islands. How that Government and those people are going to pull those two things together I think remains to be seen. There are reasons to be optimistic in the same way that there are reasons to be sceptical sometimes.

I very much look forward to carrying on pushing for development of better external air links, and again, for those who are imbued in conspiracy theory and can't quite see past the possibility that somebody is working some massive conspiracy here, I for one have been talking about the need for additional air links for at least a decade. It's taken us until this time to get an opportunity to be able to push it forward, but this is a Falkland Island Government policy, we are all invested in it as Members, we know it's the right thing to do and therefore, as Members it is our responsibility to take it forward. I appreciate the sentiments of my colleague about referenda and consultation. There clearly needs to be consultation and discussion when we have a proposition on the table to discuss, at the moment there isn't one. Do I think that we should go to a referendum? No I don't. When the issue of referenda as a form of Government was discussed here under a Motion some months ago, I made the same points that I will make now. That we have a system of representative democracy and the way that it works is that certain people put themselves forward and are selected with a duty to understand all the issues surrounding these important issues, to understand what's right for the country. You can't always share all of that information and if you can't share all of that information you are not necessarily going to get a right result in a plebiscite. So I don't for one moment believe that a referendum or some other form of popular vote would be the right way to go in terms of expanding our economy and expanding our air links. I think it is our

responsibility to make the right judgements and to take those decisions. That's where I come from on that issue.

The only other thing I wanted to just mention is, we are now into 2017. 2017 is an Island Games year. We will be taking a team of 60 odd to Gotland in June. Gotland is just off Sweden, it is a pretty expensive trip yet again. Going to those parts of the world is never cheap, and we are all these days in huge competition for money from the public and from businesses. We will do it, we will get there, we will find a way. If there are any businesses out there who haven't responded to my begging letters so far, I'd be grateful if they would. That'll help us get forward, particularly to fund the student members of the team. We have I think, 7 or 8 people who are in full time education in one form or another, and we certainly would like to have those all fully funded. They don't have the same sort of abilities that adults have to go out and raise their own money.

Finally, just in closing, another nice piece of news really. The 35<sup>th</sup> Anniversary this year of the Liberation of the Falklands and many other important anniversaries. I managed to use my limited contacts and position in the Government to get a place in the London Marathon for Richard Short, so the Falkland Islands will have an official representative this year in the London Marathon representing the Falkland Islands. I think that's a great story and we will work on getting some publicity out of that and getting news about the 35<sup>th</sup> anniversary and other anniversaries spread on the back of that.

Mr Speaker, I support the Motion for Adjournment.

### **The Honourable Jan Cheek**

Mr Speaker, Honourable Members. I would like to support a couple of the things said by the Honourable Michael Poole.

Firstly, on the Falklands Association, it's good to see efforts being made to revive something that has been there as our insurance policy for years. They are there when we need them, they can be mobilised, whether politically or whether otherwise, when needed. One or two of us at this table probably cut our political teeth as members of that committee in the 1970's. I would urge people to support them if possible.

I'd also like to agree with him that I'd like to see Capital projects accelerating, but accepting that we can't divert the limited number of available staff we have got to manage those projects from keeping the general services going. We hit this wall frequently in terms of our ability to staff out things. We could certainly bring projects on faster if we were able to devote more time and more man hours, woman hours to finalising what form those projects are going to take.

Moving on to the air links. Considering the sensitive discussions that have been going on, I thought we had been pretty open on the flights, both at public meetings when anyone has come and asked us things at public meetings we have answered to the very best of our ability. We can be, if possible even more open to people who approach us individually and I'm certainly glad to talk to people and have done. Interestingly, of those who have approached me on the subject, of the three, I think, who have firmly objected to an additional flight, I recognised that, that individual was in a tiny minority, they said, most people they knew

wanted to see that development. Some of those who accuse us of not being open might be well advised to undertake a little self-examination. Please don't focus your problems on us. I won't repeat most of what I said last time about radio and its importance as a source of information. I am still awaiting a reply to a letter I sent to the Media Trust on the 21<sup>st</sup> December 2016 (I think it was). However, so that there can be no misunderstanding I was not being critical of those who have the unenviable task of nursing along the elderly medium wave transmitter, but of the seeming problem that those at the radio station have in knowing when transmitters are off. Because, apparently they sometimes talk to no one without even knowing that they are off air. My question was how do they propose to consistently monitor the output. I would certainly not be trying to meddle with editorial content or anything similar.

Thank you.

### **The Honourable Phyl Rendell MBE**

Thank you Mr Speaker. We have had a long day and I was going to be very brief. I just had two items on my list for the Motion.

First to say that by this time next month when we meet in the House I believe we will be into the full swing with celebrating the 30<sup>th</sup> Anniversary of the Fishery, and I know FIFCA are leading on that and we will be hearing from FIFCA of the events that they have planned to hold. I think that will be a jolly time and I think it will highlight just the value of the Fishery and what it's done for the Islands over the last 30 years.

I also want to associate myself with the comments from my colleague on my Left here, Michael Poole. I do hope that the weather is good on Saturday, the sun shines and everybody has a good time when we have the horse racing that was missing at Christmas. It's a really good tradition, and I do hope it's a good day and as many people can get out and enjoy it as possible.

I know the Motions of Adjournment are not a time for debate and it is an issue when someone has gone before you and made some statements, but, in this case I do have to respond to the Honourable Gavin Short who raised issues about the second flight. As there isn't anything to put on the table apparently, I wasn't going to mention it, but, as he has, I will. I think what we have to understand is that we are working under the framework of the '99 agreement. There is nothing that we have suggested outside of that, and therefore, I have no views at all that we should be requiring a referendum on this matter. We are working within that framework; we are working within something that we know already. We have seen and witnessed how the LAN flight has operated, and I think we are comfortable with that. We are not looking at anything beyond that, and that is a remit that my Honourable Colleague Mike Summers and I went with to London for the talks in December. I, too, agree that as elected Members, we are elected to represent our constituents to represent all in the Islands, to listen to their concerns, to make judgements and then to make decisions. I think it is for us, as elected Members to do that. I certainly don't support the thoughts of having a referendum on this matter. We have to make difficult choices, that is what we are here to do, and that is what I intend to do.

Thank you Mr Speaker.

## **The Honourable Roger Edwards**

Mr Speaker, Honourable Members, I too will be very brief. I have two main points. Firstly, today we have passed the Communications Bill and I would personally like to thank all the MLAs, the members of the Select Committee and the supporting staff, and above all, all those who came and gave evidence, both oral and written. I'd like to point out here that copies of the record, as I held up this morning at the start of this session is 370 pages long and it is not intended to be produced as paper copies. Any members who want electronic copies of both the record of the Select Committee and of the clean Communications Bill can get those from Gilbert House.

Secondly, I'd like to reiterate my comments this morning about UK money, both the round pound coins and the paper £5 note. Shortly, both these will become non-legal tender and I would urge you to look in your pockets and your wallets and your cupboards and the suit hanging up in the wardrobe that you put there last year, and suddenly you might find a few £5 notes in the pocket. Have a look, because they will not be legal tender. As was pointed out by the Speaker, the notes do contain the words "I promise to pay the bearer on demand", but you do actually have to go to the Bank of England to get that money. It would be much easier if you dig them out now and get them swapped early.

I support the Motion of Adjournment.

### **Chief of Staff**

Thank you once again for what is always a forward looking Assembly. It has been interesting for me to attend – on the odd occasion that I get the chance to – there has been a lot of talk today about economic regeneration and the role that private business might have to play in that. If I could just add to that, that I would hope that MPC will have a role to play in that as well. There has been some discussion about the opportunity maybe to do more with your capital works programme. We have a capital works programme that is sometimes underfunded and over ambitious, but again there are opportunities there to bring those together, I hope. Clearly MPC we will work in the first place always through the Chief Executive, but what I hope that we are able to do as we go forward is to plot just the near term opportunities, but to the far horizon, maybe looking ten or twenty years out and when there is coherence across the piste. That approach has support at the very highest level and our Commander will be here in about 5 weeks – our four star Commander, and I know he will say exactly the same sort of thing.

There is all a real enthusiasm and appetite for this at MPC at the moment, so you certainly have that.

In the MOD as in every organisation there is an ebb and a flow and right now the tide is running with us, and in a years' time we will be starting to think about the next defence review and the opportunities may start closing, so I just urge you please to engage with us as much as you feel able to, and take forward the opportunities for collaboration in every respect.

Thank you very much.

**Mr Speaker**

Honourable Members that concludes the business of the Assembly for today.

The House stands adjourned accordingly.