



**RECORD OF THE MEETING
OF THE LEGISLATIVE COUNCIL
HELD IN STANLEY
ON 24TH FEBRUARY 2006**

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HELD IN STANLEY ON FRIDAY 24TH FEBRUARY 2006**

THE SPEAKER OF THE HOUSE
(Mr Darwin Lewis Clifton OBE)

MEMBERS (Ex-Officio)

The Honourable Chief Executive
(Mr Christopher John Simpkins)

The Honourable the Financial Secretary
(Mr Derek Frank Howatt)

Elected

The Honourable Dr Andrea Patricia Clausen
(Elected Member for Stanley Constituency)

The Honourable John Richard Cockwell
(Elected Member for Stanley Constituency)

The Honourable Dr Richard Andrew Davies
(Elected Member for Stanley Constituency)

The Honourable Ian Hansen
(Elected Member for Camp Constituency)

The Honourable Mike Rendell
(Elected Member for Camp Constituency)

The Honourable Janet Robertson
(Elected Member for Stanley Constituency)

The Honourable Richard James Stevens
(Elected Member for Camp Constituency)

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

PERSONS ENTITLED TO ATTEND

The Attorney General
(Mr David Geoffrey Lang CBE, QC)

The Commander British Forces South Atlantic Islands
(Commodore Ian Moncrieff BA, RN)

CLERK OF COUNCILS: Claudette Anderson MBE

PRAYERS: Reverend Paul Sweeting

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The Record of the meeting of Legislative Council
held on Friday 24th February 2006

PRAYERS

Mr Speaker

Honourable Members I bid you good morning.

Honourable Members may be assured that no more mobile phones will ring during the course of this session.

The Honourable Janet Robertson

I apologise Mr Speaker.

Mr Speaker

Thank you very much. Honourable Members may we proceed to signing of the minutes. Are there any amendments to the minutes of the last meeting? May I sign them as a true record of the meeting?

Agreed

Clerk of Councils

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 Legislative Council and laid on the table pursuant to (Section 34(1)) of the Interpretation and General Clauses Ordinance 1977.

- Fisheries (Conservation and Management) Ordinance 2005 (Correction) Order 2005
- Fishery Products (Hygiene) (Designated Vessel) (No. 2) Order 2005
- Coins (No. 5) Order 2005
- Fisheries (Conservation Management) Ordinance 2005 (Replacement of Schedule 2) Order 2005
- Stone Cottage Goose Green (Building Preservation) Order 2005
- Fisheries (Aggregation Limits) Regulations 2005

- Criminal Justice Act 2003 (sections 29 and 30 Disapplication) Order 2006
- Falkland Islands Pensions Scheme (General Provisions) (Amendment) Regulations 2006

The Honourable Chief Executive

Mr Speaker, Honourable Members I hereby lay the aforementioned papers on the table.

Clerk of Councils

Questions for Oral Answer

Question number 1 of 2006 by the Honourable Dr Andrea Clausen

The Honourable Dr Andrea Clausen

Could the Honourable Janet Robertson please advise this House as to why the Post Office takes up to 10 days to open and deliver sea mail when regular shipping freight can be collected immediately after cargo landing? Furthermore, can the Honourable Member also advise this House of any action that may be taken to address the issue of opening Hours?

The Honourable Janet Robertson

I would like to thank the Post Office for providing the answers. The only delay that can be occasioned when mail has arrived is the delay in getting the mail off the ship. Once the mail arrives at the Post Office, it's usually only two to three hours before that mail is actually delivered to the recipients. The delay can be occasioned by the placing of the mail in the ship and what container has the mail within it. On some occasions the mail can be received prior to freight or the other way around. I would like to assure everyone that the delay is not occasioned in the Post Office itself.

With regard to opening hours, it is not usual practice for the Post Office to be open on Public Holidays, simply because there is less administrative business on those days, but it does open to coincide with the arrival and departure of overseas flights. It's also the case that for staff employed on a public holiday it will actually cause more cost, as the staff would have to be on overtime rate. So, in order to maximise the efficiency of the Post Office, it is only open to coincide with planes coming in and out of the Islands.

The Honourable Dr Andrea Clausen

Thank you, Honourable Janet Robertson

The Honourable Mike Summers OBE

Mr Speaker, the explanation given by the Honourable Lady did not explain the delay of 10 days from the Post Office. Ships are never in that long and freight would never take that long to come. Can she assure us that there haven't been any delays of up to 10 days?

The Honourable Janet Robertson

I understand that there was, indeed, in the early part of this year a delay for 10 days but I understand that this was due to the consolidation of containers and, as far as the Post Office is concerned, the delay was not occasioned by them. I can certainly enquire as to why it might have taken 10 days to actually reach the Post Office. The delay was not in the Post Office itself.

Clerk of Councils

Question number 2 of 2006 by the Honourable Dr Andrea Clausen

The Honourable Dr Andrea Clausen

Would the Honourable Mike Rendell please advise this House as to why the re-introduction of the Medical Services Levy is not deemed as a satisfactory way to assist in fulfilling the "user pays" principle in respect of the Medical and Health Services?

The Honourable Mike Rendell

There is apparently a widespread view that the Medical Services Levy (MSL) should be re-introduced. This follows the well known fact that the nation's health bill is rising rapidly and, what better way to help pay for it than the tried and tested "good old MSL"? Let us be clear that the former MSL was an employment tax. It was another layer of direct tax, like income tax but on employed and self-employed earnings only. The amount of the levy was determined by reference to earnings, regardless of whether or not the taxpayer used Medical Services. The levy was raised against all wage earners (full time or part time) and it did not differentiate in any way. One percent of gross earnings were contributed by the employee and a further 1.5% by employers. However, the "user pays principle" involves a charge for the use of a particular service as and when it is used. The "user pay" charge is normally calculated on a cost recovery basis. Individuals who do not use the service do not pay any charge. "User pay" charges can be means tested where the income of the user is taken into account in determining the ability to pay. Therefore, as the Medical Services Levy was a tax, it is apparent that it does not meet the "user pay" principle. If it was deemed necessary to raise additional taxes to cover the rising health bill, particularly the cost of medical treatment overseas, as we have seen earlier today, then it would surely be more equitable to do this by raising the rate of income tax, so as to ensure that only those who are already paying for tax would contribute. To put this in context, however, the Taxation Office takes about £2million in personal taxation per

annum. If it was felt necessary to raise an additional £600,000 say to cover most of the cost of medical treatment overseas this would require an increase of income tax of about 30%.

The Honourable Dr Andrea Clausen

I thank the Honourable Member for that.

The Honourable Janet Robertson

Would Councillor Mike Rendell not agree that even if we would not wish to cover the entire cost of any particular aspect of Medical Service, that some contribution towards it by the public, could be considered a good thing and, that simply by adding the tax to the income tax will upset many people, whereas they might understand that a contribution in terms of a Medical Services Levy directly towards the Health Service would be more acceptable?

The Honourable Mike Rendell

I think the issue really is the cost of collection and whether the amount that you collect on that basis would have any real meaningful contribution to the costs of Medical Services. Maybe the Financial Secretary would like to elucidate a bit more on that particular issue.

The Honourable Financial Secretary

Mr Speaker, Honourable Members, I support what the Honourable Mike Rendell said there about the amount that you could raise by a simple percentage that was in force previously. You might raise something like three quarters of a million pounds today. The Medical Services Levy was not paid to the Medical Department. It came into the Government and had to be paid into the Consolidated Fund, as there is not a hypothecation of revenue, it was just another layer of tax. Certainly looking to raise more money by taxation then the easiest way would be to adjust the rates of income tax, which, taking into account our ability to pay, because there are thresholds under income tax. A personal allowance of £12,000 anybody earning below £12,000 doesn't pay, whereas with Medical Services Levy it was a flat rate tax on all income.

The Honourable Janet Robertson

Could you clarify, Financial Secretary that it is not possible to allocate money received from a particular levy to go into a particular department that it can only go to the Consolidated Fund?

The Honourable Financial Secretary

I can confirm that.

Clerk of Councils

Question number 3 of 2006 by the Honourable Dr Andrea Clausen

The Honourable Dr Andrea Clausen

Could the Honourable Richard Cockwell please advise this House as to when the Green Space adjacent to Anderson Drive, which was set aside for play provision for children in the East Stanley residential area, is to be developed and the play facility completed?

The Honourable Richard Cockwell

Mr Speaker, Honourable Members, it was not actually originally set aside but because the planning policy then being applied deemed the area not suitable for housing due to the restricted plot depth, rather than leaving it as blank space, the area was marked on plans as possible children's playground. A report that was produced on playgrounds in 2003, which was aimed at setting out a time-scale for completing existing and developing new children's play areas based on funding projections included in that capital budget. The Toddler's Area in St. Mary's Walk has taken all of the 2005/2006 funding, despite fundraising efforts. Funding of £25,000 is currently projected for 2007/2008. This is anticipated as being sufficient only to complete McKay Close, which currently is the next on the list. Anderson Drive, which follows Beaver Road on the current priority list (and I do admit that it is on the list but it wasn't actually formally accepted) would be unlikely to commence before 2112/13, unless funding increased and/or brought forward. So, I am sorry I can't be more help than that.

The Honourable Dr Andrea Clausen

But you can, at least confirm that that area will be used, in any event, as a play area, if members of the community felt that they could assist Government in fundraising to carry that out, as has been the case in St. Mary's Walk. That the Government actually does have that area set aside as play area now, as it's on the list.

The Honourable Richard Cockwell

As I said, it isn't formally set aside though it has been pencilled in. However, this area is also being identified under a survey carried out by PWD and the EPO as offering real potential for housing in-fill. Given the savings that can be affected by utilising this land for housing compared with servicing green-filled areas but mindful of the perceived need for public recreational space for children in the East Stanley area, consideration is also being given for other locations for recreational space. One such large area to the south of Hansen Hill, which is effectively sterilised by the leading lights but which is near to Anderson Drive site cannot be used for housing but it may be very suitable for a playground area. This site could actually offer increased space, being less topographically constrained it's a much better area to do it and set back further from the road, which could be a safety issue. So, that should be considered.

The Honourable Dr Andrea Clausen

I thank the Honourable Richard Cockwell for that answer but just to add that there was a contradiction in there. Originally, the Anderson Drive plot was deemed unsuitable for housing and now it suddenly is.

The Honourable Richard Cockwell

That is correct but there is a reason for that. The guidelines for housing plots have been changed so it is actually deemed suitable now when it wasn't before. But I do take your point.

The Honourable Mike Summers OBE

Could the Honourable Member please confirm that topographically constrained means flat.

The Honourable Richard Cockwell

I believe so. This is the advice I got from PWD so I had to use the technical term.

Clerk of Councils

Question number 4 of 2006 by the Honourable Janet Robertson

The Honourable Janet Robertson

Could the Honourable Mike Summers please explain to this House how the operations of Stanley Services, as holders of a monopoly licence for the supply of fuel, are properly scrutinised and how they will be scrutinised in the event that FIG Shareholdings will be sold through HoldCo?

The Honourable Mike Summers OBE

I am grateful to the Chief Executive for collaboration on this response. There have been a number of occasions in recent months when the effectiveness and value for money of Stanley Services monopoly and supply of fuels to Non-MOD customers has been called into question. I am pleased to have the opportunity, which this question provides, to set out some facts and one or two opinions. In doing so I should make it clear that I am responding as a Legislative Councillor and not as a director and indeed the current Chairman of Stanley Services.

As a major shareholder the Government has two seats on the Board. The other is presently occupied by the Chief Executive. We sit in Board Meetings and are required by law to act in the best interests of the Company. But you can be absolutely certain that our knowledge of the Community and its needs are uppermost in our minds.

There is a distinction to be made between the Government's powers as a major shareholder and its powers under the exclusive licence, which it granted to Stanley Services for the supply of fuel. In terms of formal powers, as opposed to the influence one can exert as a shareholder, the Government derives its power from the fuel supply agreement. Those powers would not be diluted if Government divested itself of its shareholding or any proportion of it. The Fuel Supply Agreement contains a detailed formula, which controls the retail price of fuel to civilian customers. This formula controls what costs and expenses can be charged against fuel prices and what cannot.

Additionally, the Government is empowered to audit how the formula, as applied and prices fixed by Stanley Services to ensure that the operating costs of the Company are reasonable and excessive profits are not made. This has been done as a matter of routine for a number of years.

Of course, we all know Stanley Services is also engaged in many other businesses activities. The operation of the Fuel Price Formula and the audit of it ensures that costs attributable to the non-fuel supply activities of the Company are not charged to the fuel sector of the business, which would have the affect of raising fuel prices and subsidising non-fuel activities. That cannot and should not happen. The purpose of the audit is to prevent it.

The latest, very detailed audit of the operation, of what is called the "domestic fuel formula," is drawing to a conclusion. I fully expect the statement on the outcome of that audit will be made in the very near future. Indeed, the Chief Executive advised Executive Council last week that it should be out next week.

At the request of the Government, the Board of Stanley Services has also agreed that the publication of the formula and an explanation of it should be done at this time. It is likely to coincide with the announcement regarding the outcome of the audit.

Finally, I just want to say that I am personally convinced that the monopoly supply arrangement provided by Stanley Services has served the Islands well and continues to do so. It provides certain obligations on the Company that couldn't be provided by a competitive environment, for instance the requirement to hold at least three months and in some occasions 4 months stock in particular fuels to provide security for the Falklands. That wouldn't happen in a competitive environment. There are also obligations to supply petroleum products, which may not happen in a competitive environment.

We do have special circumstances here, which cannot be easily overcome and, which as we know as consumers can give rise to costs, which appear high compared to some other economies. Stanley Services is not the only company which has the benefit of a monopoly and it's inevitable, bearing in mind the tiny size of the Falklands economy, that there are benefits, too.

The fuel supply business is complex and the logistics are far from easy. The relationship between Government and Stanley Services is far from cosy, as some people seem to imagine. I am satisfied that the audit processes are robust and will not change when this Government sells any of its shares.

The Honourable Janet Robertson

I would just like to ask if the Honourable Mike Summers considers that the internal audit in the presence of two members of Government on the Board provides sufficient regulation for the activities of Stanley Services and, in the event of HoldCo, would there still be Members of Government on the Board of Stanley Services to provide any form of regulation in its activities?

The Honourable Mike Summers OBE

The Honourable Member is now asking a very much wider question. She asked a question about the scrutiny and control of fuel prices. Control over other activities of Stanley Services would not be covered by the fuel supply agreement. Any agreement to sell Government shares would possibly take away the presence of Government Directors in the Boardroom. However, the mechanisms of how the shares are to be sold through a holding company have only been set out in broad terms. There are a number of detailed possibilities that can and should be considered, including the holding of a "golden share" in HoldCo, which might give the Government the opportunity to retain a director. It might give the Government the opportunity of retaining the Chairman if we thought in the longer term that that was the right thing to do. But there are a number of detailed issues, control issues, and how shares to be sold and what consequent regulation would be on the activities of Stanley Services outside the provision of fuel, which are yet to be determined.

The Honourable Janet Robertson

I apologise for having gone slightly off track but to go a bit closer back to the point, could the Honourable Mike Summers please confirm that the audit that you mentioned in your first reply will be made public?

The Honourable Mike Summers OBE

I believe I did say that but I can re-confirm again that the results of the audit will be made public in a statement from the Chief Executive next week.

Clerk of Councils

Question number 5 of 2006 by the Honourable Janet Robertson

The Honourable Janet Robertson

Following the recent curtailment of Ports being supplied directly as a result of the implementation of a ferry service, could the Honourable Richard Cockwell please

advise what works programmes will be undertaken to improve Camp Roads on West Falkland to allow for the increased heavy traffic on the roads?

The Honourable Richard Cockwell

Mr Speaker, Honourable Members, I am very pleased to get up and reply to this. However, this question really crosses two different portfolios. It is the Transport Advisory Committee that deals with transport issues and the Public Works only carry out the policies created by the Transport Advisory Committee. Public Works Department has a programme of grading on both East and West Falkland, which is on-going the year around. Grading has recently been completed on the roads between Fox Bay and Port Howard and is ongoing in the Northwest. This maintenance is similar to that afforded to much of the East Falkland Network. Grading operations are weighted to favour those areas carrying the greater level of traffic. Substantial sums of money have been invested in the capping programme and this is currently being concentrated on the MPA Road. But this programme is scheduled to continue in future years on the highest priority areas. This financial year it is budgeted for £100,000.

In order to facilitate the long-term operation of the ferry, Executive Council approved in their January meeting the construction of a road from Port Howard to Second Creek the proposed location of the West Falkland ferry terminal, commencing in April 2006, which represents a further investment by £150,000.

This financial year, £150,000 was voted for the construction of the new bridge over the Chartres River, which was opened on 13 February 2006. This will allow vehicles of up to 32 tonnes to cross the river without having to use the ford or wait for floods to subside, thus allowing easy access from North to South. This was primarily aimed at addressing concerns over the movement of freight.

No other expenditure is proposed for the further improvement of existing roads on West Falkland, as all the available funds and resources are fully committed for the new road construction programme.

Total expenditure on the roads from West Falkland in financial year 2005/06 is expected to be £850,000 and, I have to repeat that Public Works is working from the policy laid down by the Transport Advisory Committee. If that policy changes, then hopefully Public Works will be able to respond to those changes.

The Honourable Janet Robertson

I was just wondering if the Honourable Richard Cockwell could confirm at what stage, will all roads in West Falkland be able to take the weight of any trucks required for carrying fuel and heavy loads of wool?

The Honourable Richard Cockwell

That is a very technical question, which I personally am not qualified to answer. However, I understand that it is the policy to make the roads capable of carrying the freight, which it is required to carry. Obviously, working with the policies laid down by the Transport Advisory Committee, Public Works will respond to those policies as I say.

The Honourable Mike Rendell

I would just like to come in here just to elucidate a bit more on the Transport Advisory Committee's role in all this and to make it absolutely clear we are well aware of the problems that exist on the roads on the West and we intend to have a meeting of the TAC within the next three weeks at which these matters will be addressed. On conclusion, of which we will be able to pass it back to Public Works for more money to be put into next year's budget. It is well in hand.

The Honourable Janet Robertson

I thank the Honourable Members for their answers.

The Honourable Mike Summers OBE

Does the Honourable Member recall after a brief prompt that the roads on the West are built to a weight limit of 4 tonnes and that that is considered to be adequate for most purposes? Would he agree that in a particular circumstance, if that were not adequate, then the coastal vessel could be diverted to one of the ports that is not in regular use?

The Honourable Richard Cockwell

Mr Speaker that is a policy issue. However, is it a total of 4 tonnes or 4 tonnes per axel? I am not quite clear on that issue but that has been laid down. That is really a transport issue, not a Public Works issue but I do accept the point that he makes.

The Honourable Mike Rendell

I would like to say a bit more on that. It may be the case that the specification currently is fairly low, as some people would put it. It may not be capable in the long term of dealing with heavier traffic that will come along as a result of the Ferry service and reduced services to other ports. That will be taken into account.

Clerk of Councils

Question number 6 of 2006 by the Honourable Janet Robertson

The Honourable Janet Robertson

Could the Honourable Dr Richard Davies please explain to the House how damage by vehicular access, specifically mud tracking, in the Murrell area and Cape Pembroke Peninsula can be actively discouraged and, if there is any current Legislation in place to cover environmental Damage by irresponsible use of vehicles on common land?

The Honourable Dr Richard Davies

Thank you for raising this and I would like to thank the Environmental Planning Officer for providing me with some information. We are aware of the problem of mud tracking, to use its polite term. Increased access and increased numbers of vehicles over recent years mean that driving off road is causing considerable damage to Stanley Common, particularly in the area of Cape Pembroke. Anyone who has flown over it, and FIGAS planes will be well aware of this, that deep marks in the peat cause considerable environmental damage and it takes a considerable time to recover.

A number of ways have been considered to deal with the problem. It is felt that many people just do not realise the extent of the damage caused when driving off road and that the damage they cause is not done maliciously. The initial thrust is to educate people to take more care when driving off road and by means of good publicity and signs.

There is a management plan for the Murrell, which has been drafted and is in its last stages of consultation. It will be discussed at the next Stanley Lands and Environmental Committee Meetings and then should be adopted. A further management plan will be drafted for Cape Pembroke, probably within the next year.

As I said, the initial idea is to erect signs asking drivers not to drive over the Camp unless necessary and to take care when they do drive over Camp. This may sound very "softly, softly" but, in fact, recent "No Smoking" signs at Gypsy Cove have proven to be quite effective.

The state of the Camp will be monitored by aerial photographs and ground surveys and, if the situation gets worse, it would be possible to impose more draconian measures. You asked about the legislation. I can confirm that under the Criminal Damage Act 1971, someone who drives on someone else's land without their permission and causes damage, malicious or not, can be found guilty of carrying out a criminal offence. It is not currently FIG's intention to prosecute mud trackers. But it is an option.

I would point out that driving off road is done with great skill in the Falklands and it's only in recent years that there have been any roads to drive on at all. Many people enjoy off road driving and enjoy practicing their skills. It is quite legitimate. We are

also looking at the possibility of allowing certain areas of the Common to be set aside specifically for mud tracking and practicing off road driving.

Any views about this should be sent to the Environmental Planning Office because we do want to take public views into account.

The Honourable Janet Robertson

Thank you for the Honourable Member's answer. I appreciate that signs will be put up in those areas, but ask whether the Honourable Member might not agree that to implement the process of public education through leaflets or advertisements, to publicise the restrictions that do apply might be of benefit?

The Honourable Dr Richard Davies

I entirely agree that we need a publicity campaign as well to drive this home and it is intended that leaflets will be produced regarding the Common and certainly alluding to mud tracking and driving in Camp. Publicity and education are the key elements of this programme.

The Honourable Ian Hansen

Could the Honourable Member inform this House what actually specifies or defines mud tracking as opposed to driving at speed between one location and another?

The Honourable Dr Richard Davies

The definition of mud tracking, under the Criminal Damage Act, I understand that any damage caused malicious or not, can be considered criminal damage. I think it would be, if it ever came to that, I don't think that FIG would wish to prosecute anyone who is driving over Camp for bona fide reasons to get from "A" to "B." I think it's not entirely possible to say whether somebody turns at speed because they think they are going to get stuck in a bog or they want to have fun and make deep ruts in the Camp.

Clerk of Councils

ORDERS OF THE DAY – BILLS

The Supplementary Appropriation 2005/2006 Bill 2006. This Bill requires a first reading.

The Honourable Financial Secretary

Mr Speaker, Honourable Members, this is the second Supplementary Appropriation Bill to be presented for this Financial Year.

In addition to the sum of £39,866,260 already appropriated, the purpose of this Bill will authorise the withdrawal of £629,650 from the Consolidated Fund to meet

supplementary expenditure approved by the Standing Finance Committee on 16th December 2005 and the 27th of January 2006. The Bill provides for the Contingencies Fund to be replenished in respect of any advances made.

Under the Operating Budget an additional sum of £454,650 is approved. This includes £350,000 for Health and Social Services in respect of medical treatment overseas. It should be noted that a further £250,000 for medical treatment overseas was approved by the Standing Finance Committee today. This will be included in the next Supplementary Appropriation Bill.

This means that the revised medical treatment overseas budget this year is £1million, compared to an original estimate of £400,000.

£38,620 was approved for the Training Unit in respect of assistance for the unemployed. The additional funding is required to cover an increase in the number of people taking part in the Employment Programme managed by the Unit.

£17,500 was approved for the Courts in respect of remuneration and expenses for visits by two acting Judges and the Chief Justice.

£48,530 was approved for Police and Prisons in respect of external investigation expenses. The estimated cost so far of this new special expenditure item is £107,200. The balance of funding has been met by virement but is from savings on other budgeted items of expenditure.

Under the transfer payments budget, £175,000 was approved to increase the Abattoir subsidy to £375,000. This additional funding is required to cover income shortfalls and increases in Operating Costs and Capital Expenditure at the Abattoir.

The Standing Finance Committee was satisfied that all the supplementary expenditure was necessary, as no savings could be identified for virement.

I beg to move the First Reading of the Bill.

The Honourable Mike Summers OBE

I am happy to second the Bill

Mr Speaker

The Motion is that the Bill be read a first time. Are there any objections to the Motion? There is no objection the Bill will be read a first time.

Clerk of Councils

The Supplementary Appropriation 2005/2006 Bill 2006

The Honourable Financial Secretary

I beg to move that the Bill be read a second time.

Mr Speaker

The Motion is that the Bill will be read a second time? Does any Honourable Member wish to speak to the Motion?

May we proceed to the short track? May we then proceed to the third reading of the Bill? The Bill will be read a third time and do pass.

Clerk of Councils

The Supplementary Appropriation 2005/2006 Bill 2006

The remaining Bills on the Order paper all begin with the second reading as they have all been published in the Gazette.

The Civil Contingencies Emergency Powers Bill 2006

The Honourable Chief Executive

Mr Speaker, Honourable Members, in introducing this Bill I wish to make it absolutely clear that the Government is not aware of any imminent or looming events, which may lead to the declaration of an emergency and the use of Emergency Powers.

The Bill provides powers to make regulations in the event of an emergency and sets out in Clauses 5 and 6 the conditions which would be a prerequisite to the making of emergency regulations and the scope, that is to say the matters which might properly be covered by such regulations.

Within the definition provided by Clause 3 of the Bill, emergency regulations can only be made by His Excellency the Governor in relation to an event or situation, which threatens serious damage to human welfare in the Falkland Islands or to the environment of part or whole of the Islands, or in the event of war or terrorism, which threatens serious damage to the security of the Falkland Islands.

Clause 4 of the Bill would empower the Governor to make emergency regulations with or without in certain circumstances, consultation with Executive Council. In so doing, the Governor must specify the nature of the emergency and describe the reasons and affects of the regulations.

Regulations once made can only remain in force for a maximum period of 30 days, unless new regulations are made, which shall themselves be subject to the 30 day maximum.

Finally, whilst recognising that emergency powers in certain defined circumstances may be required, the role of Legislative Council is not overlooked. Clause 9 of the Bill requires that Emergency Regulations shall be laid before this House as soon as is reasonably practical and that, once laid, those regulations shall lapse after 7 days unless, during that period Legislative Council passes a resolution approving them.

I beg to move the Second Reading of the Bill.

The Honourable Financial Secretary

I second the Motion.

Mr Speaker

The Motion is that the Bill be read a second time. Is there any objection to the Motion?

The Honourable Dr Andrea Clausen

Mr Speaker, may I take leave of this House to ask a question of the Attorney General regarding this Bill?

Mr Speaker

Leave is so granted.

The Honourable Dr Andrea Clausen

I would like to ask the Attorney General what was the trigger for the drafting of this piece of legislation? Could you explain to the House please?

Attorney General

Mr Speaker, Honourable Members, the trigger for the drafting of this piece of legislation was that in about September of last year in discussion with a Ministry of Defence Lawyer as to the existence of Emergency Powers in the Falkland Islands, it became apparent that there was no legislation in force enabling us to make emergency legislation if need arose. That was a loophole in the Law of the Falkland Islands, which I hadn't realised existed and one, which needed to be filled in the interests of the public as soon as possible.

The Honourable Dr Andrea Clausen

I thank the Attorney General for that response.

Mr Speaker

If there is no objection then the Bill will be read a second time.

Clerk of Councils

The Civil Contingencies Emergency Powers Bill 2006

Mr Speaker

I declare the Council to be in Committee.

The Honourable Chief Executive

I beg to move that Clauses 1 to 9 stand part of the Bill.

Mr Speaker

The Motion is that Clauses 1 to 9 stand part of the Bill. Is there any objection to the Motion? No objection, Clauses 1 to 9 stand part of the Bill.

Clerk of Councils

No Schedules.

Mr Speaker

In this particular case there are no schedules so Council resumes.

The Honourable Chief Executive

I beg to move that the Bill will be read a third time and do pass.

Mr Speaker

The Motion is that the Bill be read a third time and do pass. Is there any objection? No objection the Bill read a third time and passed.

Clerk of Councils

The Civil Contingencies Emergency Powers Bill 2006

The Employment of Children (Amendment) Bill 2006

The Honourable Chief Executive

Mr Speaker, Honourable Members, in moving this Bill I wish to move an amendment to Clause 2. That clause sites the principle ordinance as the Employment of Children Amendment Ordinance Title 32.1. The inclusion of the word, Amendment, in this title is a typing error and it should be removed.

This Bill seeks to amend (section 3 (1) of the Employment of Children Ordinance) to further control the circumstances in which children can be employed. The affect of the Bill, if approved, is to prevent the employment of Children under the age of 14 years before the close of school hours to do any work which is likely to harm the health, safety or morals of a child and, in particular, to lift, carry, or move anything so heavy that it is likely to cause injury; before 0700hrs or after 1900hrs for more than two hours on any day on which a child is required to attend school and, finally, for more than 2 hours on Sundays.

Clause 4 of the Bill provides that anyone guilty of contravention will be liable upon conviction to a fine at level 3 on the standard scale, which currently stands at £800.

I beg to move the Second Reading of the Bill.

The Honourable Financial Secretary

I will second the Motion.

Mr Speaker

The Motion is that the Bill as amended be read a second time. Is there any objection to the Motion?

The Honourable Janet Robertson

I would just like to question, perhaps the Attorney General could answer that this Bill will not prevent children working on a farm, on their parents' farm, either on Sundays or in the School Holidays.

Attorney General

Mr Speaker, Honourable Members, the Principle Ordinance, The Employment of Children Ordinance which was enacted in 1966 contains provision in section 3(2) of that Ordinance for the making of regulations for the particular purpose of dealing with employment of children in Camp. No such regulations have at present been made and the special exemption provisions in relation to Camp Employment have not therefore been activated. It will be necessary for Executive Council to consider suitable regulations, in my view, and this should be after consultation with Camp, which would make special exemptions in relation to Camp and that is something which should be tended to after this Bill has been enacted.

Mr Speaker

Honourable Janet Robertson are you happy with that response?

The Honourable Janet Robertson

I am happy.

Mr Speaker

If there is no objection the Motion, the Bill will be read a second time.

Clerk of Councils

The Employment of Children (Amendment) Bill 2006

Mr Speaker

I declare the Council to be in Committee.

Clerk of Councils

Clauses 1 to 3.

The Honourable Chief Executive

I beg to move that Clauses 1 to 3 stand part of the Bill.

Mrs Speaker

The Motion is as amended Clauses 1 to 3 stand part of the Bill. Is there any objection to the Motion? No objection, Clauses 1 to 3 stand part of the Bill.

Clerk of Councils

Schedule.

The Honourable Chief Executive

I beg to move that the Schedule stand part of the Bill.

Mr Speaker

The Motion is that Schedule stands part of the Bill. Is there any objection? No objections the Schedule stand part of the Bill.

Council resumes.

The Honourable Chief Executive

I beg to move that the Bill be read a third time and do pass.

Mr Speaker

The Motion is that the Bill as amended be read a third time and do pass. Is there any objection? No objection the Bill as amended will be read a third time and do pass.

Clerk of Councils

The Employment of Children (Amendment) Bill 2006

The Employment of Women, Young Persons and Children (Amendment) Bill 2006

The Honourable Chief Executive

Mr Speaker, Honourable Members, this Bill amends certain provisions of the Employment of Women, Young Persons and Children Ordinance, which was modelled on the UK Employment of Women, Young Persons and Children Act of 1920. It does so because these provisions are not appropriate for application in the Falkland Islands.

Paragraph one of the Schedule to the Bill would delete the definition of "ship" in section 2 of the Ordinance because employment with young people on ships is now dealt with by provisions within the Merchant Shipping Act, which apply in the Falkland Islands.

The Bill also inserts a new section, section 3(4)(a) in the Ordinance so as to give a factor of a requirement under the convention on the abolition of the worst forms of child labour, which prohibits children from being employed to undertake certain specified types of work. For example, work which might expose the child to physical abuse, or to work in certain defined physical circumstances, for example underground or at dangerous heights or from employment requiring the use of dangerous equipment, machinery or tools without adequate training and adequate supervision.

New levels of fines are also introduced in the event of a successful prosecution of the ordinance.

I beg to move the Second Reading of the Bill.

Mr Speaker

The Motion is that the Bill be read a second time. Is there any objection?

The Honourable Janet Robertson

I would just like to comment on the Principle Ordinance which this is amending, I am not entirely sure how politically correct it is in this day and age to have women, young persons and children catered for in the same Bill. I believe, in reading the

Principle Ordinance that there have been several occasions when the legislation has been broken particularly in terms in requirements for protection of women in the workplace.

Attorney General

Mr Speaker, Honourable Members, the splitting of the two pieces of legislation into The Employment of Children Ordinance and the Employment of Women, Young Persons and Children Ordinance is historic. It occurred many years ago and in both cases because the ordinances in question were enacted to give affect to the obligations in the Falkland Islands under two International Labour Organisation Conventions.

As to the remarks of the Honourable Member as to employment of women and perhaps the provisions of the Ordinance have been transgressed, I am not aware of the particular cases so I cannot comment but there have been changes in the prohibitions. There are fewer prohibitions now than there were when the Convention first came into force.

I am sorry if there have been contraventions. They haven't been brought to my notice. Otherwise I would have taken any action which was necessary.

The Honourable Janet Robertson

In that case, I would like to clarify, given that there are requirements, there are certain prohibitions for women working in certain areas. I wonder how that sits with the issue of non-discrimination between the sexes?

Attorney General

My view would be that the legislation is in accordance with provisions of the Constitution, that the provisions in question and I am not sure which ones or how far they are still in force and what the Honourable Member has in mind but I recall particularly there were or are restrictions in relation to the employment of women at night were intended for the protection of women, they weren't intended to be detrimental to women. They were regarded as necessary by the United Nations in relation to the health of the woman and of the child, any child the woman might have.

They are and were, in my view, arguably reasonably justified in a democratic society and therefore not in breach of the provisions against discrimination of the Falkland Islands Constitution. If they are not necessary in the modern age, of course they can be abolished.

The Honourable Mike Summers OBE

Mr Speaker, I intended to raise the same question.

The Honourable Richards Stevens

Mr Speaker, I would also like to ask the Attorney General on a point of clarification. In the part where they are talking about dangerous machinery, equipment or tools, inadequate training. Would this mean that something like a quad bike and children, would a quad bike be considered to be a dangerous machine, many of the models have warning signs on them saying anybody under 16 are advised not to ride them? Who would then make the judgment about adequate training and adequate supervision?

Attorney General

I am not an expert in all fields of health and safety. I must preface my answer by that. I do, however, draw to the attention of the Honourable Member that the wording of the paragraph is not an absolute prohibition of using dangerous machinery, equipment or tools. A chisel can be regarded as a dangerous tool and could take part of a child's finger off. The prohibition is using that equipment without adequate training. Adequate training means clearly, in my view, such training as is necessary for the child to know how to use the equipment safely without injury to himself.

The provision also envisages that in certain circumstances adequate supervision may need to be given and this usually would be in relation to a child by a parent or older sibling. I am not aware of what notices may be on quad bikes. If they are on quad bikes and those are the advice of the manufacturer to say that a child under 16 should not use the equipment, I would have thought the parent would need to consider very carefully whether the child would be allowed to use that equipment. But that doesn't mean that there should be absolute prohibition, in my view, of a child using that equipment. For example, there can be a large 14-year old who is much larger than a 17-year old who would not be within the warning. I think the application of common sense and the knowledge by people in Camp of what children can safely use and can be safely taught to use should be the governing factor. But there may be circumstances where it would be very difficult to justify a child being allowed to use certain equipment because of the quite obvious danger to themselves. I don't think we should lay down under this paragraph hard and fast rules. It's got to be a matter of opinion in relation to the piece of machinery, the particular circumstances, the particular child and the training that the child has received.

The Honourable Richard Stevens

I thank the Attorney General for his answer.

The Honourable Dr Richard Davies

I wonder if I could ask for some clarification on the previous points the Attorney General was discussing. If women are not able to be employed in certain areas, for example, nighttime work, or restrictions on nighttime work, I understand the intention

to protect women is admirable but could that not be viewed as discriminatory because they can be unable to get work in certain areas?

Attorney General

I think that the work concerned is after an hour at night. I can't remember off hand but I think it was something like 2200 or 2230hrs that the prohibition is in place and it was prohibition of working in an industrial undertaking. I haven't got the legislation in front of me, the Principle Ordinance. If I realised that this question was going to be asked, I would have brought it. But in any case, I don't know of any particular premises in the Falkland Islands and any particular employment that this would prohibit women taking. But if it does, one would need to look at the particular circumstances to say whether it was discriminatory and was not by the provisions of the constitution which allow a discrimination if it is reasonably justifiable in a democratic society. The only reason it can be reasonably justifiable, in my view, is if there is a danger to the woman or a child as a result. Now, I am not in a position to judge that. But if there isn't a danger to a woman or a child as a result, I think the Honourable Member is in a better position to judge that, if I may say so politely than I am, then the provision would be unconstitutional in the particular circumstance.

The Honourable Dr Richard Davies

Thank you and I do appreciate we have strayed from the amendment to the original legislation.

Mr Speaker

It is proper, that there should be debate.

There are no further objections? May we proceed with the second reading please.

Clerk of Councils

The Employment of Women, Young Persons and Children (Amendment) Bill 2006

Mr Speaker

I declare Council to be in Committee.

Clerk of Councils

Clauses 1 to 3.

The Honourable Chief Executive

I beg to move that Clauses 1 to 3 stand part of the Bill.

Mr Speaker

The Motion is that Clauses 1 to 3 stand part of the Bill. Are there any objections? No objections. Clauses 1 to 3 stand part of the Bill.

Clerk of Councils

Schedule.

The Honourable Chief Executive

I beg to move that the Schedule stand part of the Bill.

Mr Speaker

The Motion is that the Schedule stands part of the Bill. Is there any objection? No objection, the Schedule stands part of the Bill.

Council resumes.

The Honourable Chief Executive

I beg to move that the Bill be read a third time and do pass.

Mr Speaker

The Motion is that the Bill be read a third time and do pass. Is there any objection? No objection, the Bill will be read a third time and passed.

Clerk of Councils

The Employment of Women, Young Persons and Children (Amendment) Bill 2006

The Employers' Liability: Defective Equipment Bill 2006

The Honourable Chief Executive

Mr Speaker, Honourable Members, this Bill forms part of an on-going review of Labour Law By Government. In Common Law an employer is liable for death or injury occasioned to any employee incurring in the course of that employee's employment if and only if the death or injury occurs by reason of the employer's negligence. The affect of this is that where the death or injury of the employee is caused by defective equipment, unless the employer was aware or ought to have been aware that the equipment was defective, he will not have been negligent and the employee will not be able to recover damages from the employer.

This is clearly an unsatisfactory situation and so this Bill provides that where an employee suffers personal injury in the course of his or her employment as a

consequence of a defect in equipment provided by the employer and the defect is attributable wholly or partly to the fault of a third party i.e. the equipment manufacturer, the injury shall be deemed also to be attributable to the negligence on the part of the employer. This will therefore enable employees to recover damages from employers in these circumstances.

Of course, the employer is free to seek any contribution for any damages awarded by suing the equipment supplier for the breach of contract or negligence.

This Bill would, if enacted, bind the Crown.

I beg to move the Second Reading of the Bill.

The Honourable Financial Secretary

I second the Motion.

Mr Speaker

The Motion is that the Bill will be read a second time. Is there any objection to the Motion? No objection.

The Honourable Mike Summers OBE

Mr Speaker, I believe there is a typographical error in Clause 2(1)(b) after inset (b), it says the injuries shall be deemed also. That should read, "deemed" I believe.

Attorney General

That is correct.

Mr Speaker

The Motion shall proceed as amended.

Clerk of Councils

The Employers' Liability: Defective Equipment Bill 2006

Mr Speaker

Council is in Committee.

Clerk of Councils

Clauses 1 and 2.

The Honourable Chief Executive

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

Mr Speaker

The Motion is that Clauses 1 and 2 as amended stand part of the Bill. Are there any objections? No objections. Clauses 1 and 2 stand part of the Bill.

Clerk of Councils

No Schedule.

Mr Speaker

No Schedule. Council resumes.

The Honourable Chief Executive

I beg to move that the Bill as amended be read a third time and do pass.

Mr Speaker

The Motion is that the Bill be read a third time and do pass. Is there any objection? No objection, the Bill will be read a third time and passed.

Clerk of Councils

The Employers' Liability: Defective Equipment Bill 2006

The Taxes Amendment Bill 2006

The Honourable Financial Secretary

Mr Speaker, Honourable Members, the purpose of this Bill is to make miscellaneous amendments to the Taxes Ordinance 1997. The amendments would come into force on 01 March 2006.

The primary amendments are related to the new rights created under the Fisheries Conservation and Management Ordinance 2005. These amendments are covered in clauses 2, 5 and 7 of the Bill. The purpose of these amendments is to tax the proceeds of the sale of Individual Transferable Quota (ITQ) within the meaning of the Fisheries Conservation and Management Ordinance 2005 as income and not as capital. This follows the policy approved by Executive Council following consultation with the fishing industry.

In Clause 2 the Bill provides that expenditure incurred on acquiring any ITQ will be treated as Revenue Expenditure for the purposes of the Taxes Ordinance. The

expenditure will be deductible against income when it is incurred. Without this provision, such expenditure would be Capital Expenditure and therefore not deductible as a revenue item.

The provisions of the two new sections inserted by clause 5 ensure that the charge to tax on proceeds on sale of any ITQ cannot be avoided by private companies owning the ITQ by simply selling their shares. The sections provide that the proceeds of such share sales shall be taken into account for tax purposes as income, not capital. If a loss arises on the disposal of such shares, that will be allowable as a deduction against that person's chargeable income in the year of sale.

When such a share sale takes place, the cost of the acquisition of those shares will be deductible as expenses in the computation of taxable income. Those costs will not be deductible at the time that they are incurred, since the shares may never be sold or may not be sold while the company owns the ITQ.

These provisions are modelled on similar provisions in Chapter 2 of part 6 of the Taxes Ordinance relating to disposals and shares in private companies which own all licences. Any disposal of shares owned by an estate will not fall within the charge tax, as there is no inheritance tax or estate duty in the Falkland Islands. Any disposal of such shares by a beneficiary of an estate will, however, fall within these rules.

In clause 7 further provision is made for the disclosure of information in support of taxation of transfers of ITQ.

In addition to the provisions relating to taxation of ITQ proceeds, the Bill makes other amendments as follows:

In clause 3, section 15 of the Ordinance is amended. Sub-clause 1 repeals the now obsolete section 15(3)(d), which allowed any sums paid under the Old Age Pensions Ordinance to be deducted from an individual's taxable income. The Old Age Pensions Ordinance was superseded by the Retirement Pensions Ordinance 1996 and payments under the earlier ordinance are no longer made.

Sub-clause 2 of clause 3 amends section 15(3)(e). This provision refers to contributions made under the Retirement Pensions Ordinance by an individual. Originally that ordinance allowed a man to make contributions in respect of his wife and claim a tax deduction. But since independent taxation was introduced, married couples are now taxed separately. Therefore, the tax relief position needs to be clarified as a consequence. The amendment makes it clear that only contributions made by an individual for his or her own benefit can be deducted from their taxable income.

Clause 4 amends section 32(3)(c) of the Taxes Ordinance, which imposes 10% Corporation tax year penalty for accounts more than 6 months but less than 12 months late but only if there is unpaid tax immediately before the accounts are delivered. The Amendment changes this situation so that both delivery of the accounts and payment of any corporation tax that is unpaid more than 6 months after the due date of delivery

of the accounts of 10% tax year penalty is applied, irrespective of when the accounts are delivered.

This amendment brings the penalty in line with that imposed under section 33(2)(d), which applies when both tax and accounts are more than 12 months late.

In clause 6 section 124 of the Taxes Ordinance is repealed. Section 124 made transitional provision for capital allowances under paragraph 3 of the 7th schedule of the Income Tax Ordinance. The section of the Income Tax Ordinance has been repealed and these allowances are now all spent. Section 124 is therefore no longer needed.

Clause 8 amends Rule 4 of the Income Tax Apportionment of Deductions Rule 1997. This rule requires deductions under the Taxes Ordinance, in particular, the personal allowance to be apportioned by the reference to the number of days the taxpayer spends in the Falkland Islands in the year in question. It is possible to be ordinarily resident in the Falkland Islands without being physically present. At present, the rule applies to reduce the allowances of those who are ordinarily resident if they are technically non resident. The amendment, for example, will allow anyone who has to go overseas for training or work purposes, who remain ordinarily resident to receive the full personal allowance against any Falkland Islands income received by them during that time.

Finally, clause 9 clarifies several provisions of the Taxes Ordinance.

I beg to move the Second Reading of the Bill.

The Honourable Mike Summers OBE

I am happy to second that.

Mr Speaker

The Motion is that the Bill be read a second time. Is there any objection to the Motion?

The Honourable Dr Andrea Clausen

Could I just raise a point for clarification with the Honourable Financial Secretary regarding the issue of not resident physically? Does this extend to spouses who are accompanying a husband or wife if one person is sent away for medical evaluation? Does this extend to the spouse? As a couple they would be ordinarily resident in the Falklands and he or she may only be overseas with their partner due to the reasons you have mentioned as acceptable.

The Honourable Financial Secretary

It would extend to the spouse. The spouse is a taxpayer in their own right in any event.

Mr Speaker

Is there any other objection? The Bill will be read a second time.

Clerk of Councils

The Taxes Amendment Bill 2006

Mr Speaker

I declare the Council to be in Committee.

Clerk of Councils

Clauses 1 to 9.

The Honourable Financial Secretary

I beg to move that Clauses 1 to 9 stand part of the Bill.

Mr Speaker

The Motion is that Clauses 1 to 9 stand part of the Bill. Is there any objection?

The Honourable Mike Summers OBE

Mr Speaker, there are some difficulties with Clause 5 which deals with the issue of preventing the disposal of ITQs through the sale of shares. Whilst I am entirely satisfied that that is an appropriate closing of a loophole, there are a number of issues surrounding this which are not yet clarified to my satisfaction and I believe the satisfaction of others. They are to do to a large extent with how the ITQ is to be valued. There are also other issues that affect some multi shareholder companies in the Falklands who may be unduly disadvantaged by this. I have no wish to prevent the passage of this Bill but I do have difficulties with Clause 5 and I therefore would like to propose an amendment to section 1(2) and the amendment would read as follows: "To delete the whole of section 1(2) and insert in its place, with the exception of section 5 this ordinance shall come into force on 01 March 2006. Section 5 shall come into force on such date as may be fixed by a notice by the Governor published in the Gazette and which has been approved by a prior resolution of the Legislative Council. Subject to any provision to the contrary this ordinance shall have affect in

relation to the charge to tax to corporation tax for corporation tax years beginning on or after 01 January 2006 and for years of assessment beginning on or after 01 January 2007."

The affect of that amendment is to suspend the coming in force of clause 5 to enable further discussion. I so move.

Mr Speaker

Does any other Honourable Member wish to speak? Having noted that objection, the Motion is that Clauses 1 to 9 as amended stand part of the Bill. Is there any objection to that Motion? No objection. Clauses 1 to 9 as amended stand part of the Bill.

Clerk of Council

No Schedule.

Mr Speaker

Council resumes.

The Honourable Financial Secretary

I beg to move that the Bill as amended be read a third time and do pass.

Mr Speaker

The Motion is that the Bill as amended be read a third time and do pass. Is there any objection? No objection, the Bill will be read a third time and as amended will pass.

Clerk of Councils

The Taxes Amendment Bill 2006

The Criminal Justice Amendment (Miscarriages of Justice) Bill 2006

The Honourable Chief Executive

Mr Speaker, Honourable Members, this instrument would enable the Governor to make a reference to the Court of Appeal in respect of possible miscarriages of justice in relation to convictions in the Magistrate's and Supreme Courts and provides a right of compensation for miscarriages of Justice in relation to convictions for criminal offences and for connected purposes.

The Governor is required to satisfy himself that certain conditions exist before he may make a reference to the Court of Appeal. In particular the Governor must consider that there is a reasonable possibility of that conviction, verdict, finding or sentence, would not be upheld were the reference to be made.

Furthermore, in making a reference to the Court of Appeal the Governor must have regard to any representations he may have received and, indeed, any other matters, which appear to him to be relevant.

Where a conviction is reversed, or where a pardon has been issued on the ground that a new or newly discovered fact shows beyond reasonable doubt that there has been a miscarriage of Justice, the Governor is required to pay compensation. The amount of compensation is to be determined by an assessor appointed by the Governor.

I beg to move the Second Reading of the Bill.

The Honourable Financial Secretary

I second the Motion.

Mr Speaker

The Motion is that the Bill be read a second time. Is there any objection to the Motion?

The Honourable Mike Summers OBE

Mr Speaker, from my reading of this Bill, there is no provision for an individual other than the Governor to seek redress from the Higher Court. I am not convinced that that's fair. I wonder if the Attorney General could explain whether there would, in fact, be other provisions of the law that would permit in circumstances where the Governor refused a reference to a Higher Court but would permit an individual to seek leave of the Court to so appeal?

Attorney General

Mr Speaker and Honourable Members, the Governor and his Bill means the Governor in Executive Council. It would be open to any member of Executive Council, or any Councillor, to ask that the matter be raised in Executive Council. In the hypothetical instance that the Governor were to unreasonably refuse to refer a matter to the Supreme Court, it would be possible, in my view, to make application for judicial review because all powers exercise by the Governor under statute are subject to judicial review. While, I think it is most unlikely that a circumstance could arise because of the Executive Council involvement in the matter, I do think that there is the safeguard of an application for judicial review.

The Honourable Mike Summers OBE

Thank you for that. I am perhaps less convinced than the Attorney General that that circumstance might not arise and, if we're concerned about the quality of justice. It shouldn't be a matter for an individual to have to first satisfy Executive Council of this case before getting access to the Courts. Therefore, providing that we are certain that

this can be done through means of Judicial review then I would be content to proceed. I would not be content to proceed otherwise.

Mr Speaker

Does any other Member object to the Motion or wish to speak to it? There is no further objection; the Bill will be read a second time.

Clerk of Councils

The Criminal Justice Amendment (Miscarriages of Justice) Bill 2006

Mr Speaker

I declare the Council to be in Committee.

Clerk of Councils

Clauses 1 to 6.

The Honourable Chief Executive

I beg to move that Clauses 1 to 6 stand part of the Bill.

Mr Speaker

The Motion is that Clauses 1 to 6 stand part of the Bill. Is there any objection to the Motion? No objection, Clauses 1 to 6 stand part of the Bill.

Clerk of Councils

No Schedule.

Mr Speaker

Council resumes.

The Honourable Chief Executive

I beg to move that the Bill be read a third time and do pass.

Mr Speaker

The Motion is that the Bill be read a third time and do pass. Is there any objection to the Motion? No objection, the Bill will be read a third and passed.

Clerk of Councils

The Criminal Justice Amendment (Miscarriages of Justice) Bill 2006

The Planning Amendment Bill 2006

The Honourable Chief Executive

Mr Speaker, Honourable Members, this is perhaps the shortest Bill that I have had the honour to present to this House. At Present, public officers are prevented from serving as Members of the Planning Committee. The Government believes that this restriction is no longer required and so the Bill would amend the Planning Ordinance 1991 so as to permit Public Officers to become Members of the Planning Committee.

I beg to move the Second Reading of the Bill.

The Honourable Financial Secretary

I second the Motion.

Mr Speaker

The Motion is that the Bill be read a second time. Is there any objection to the Motion? No objection, may we proceed with the fast track? We may.

The Honourable Chief Executive

I beg to move that the Bill be read a third time and do pass.

Mr Speaker

The Motion is that the Bill be read a third time and do pass. Is there any objection to the Motion? No objection, the Bill will be read a third time and passed.

Clerk of Councils

The Planning Amendment Bill 2006

The Family Law Bill 2006

The Honourable Chief Executive

Mr Speaker, Honourable Members, this Bill represents the important step in the development of Falkland Islands Law in terms of eliminating discrimination against women. The Convention on the elimination of all forms of discrimination against women applies to the Falkland Islands. The need for this Bill, in part, originates in

the requirement to fulfil obligations under that convention. It is still the case that women are disadvantaged by being more likely to be the lower salary earner in a partnership, whether within or outside a marriage with a man.

They may, often because they are engaged in bringing up children, have no earnings of their own. The house in which the husband and wife or unmarried heterosexual partners live may be owned solely by the husband or male partner. If it is, in the event of the breakdown of the partnership, for whatever reason, the woman currently has no rights in the former home. In these circumstances, unless a woman obtains an order in her favour in matrimonial proceedings through the Courts, which she cannot do if there is no marriage between the partners, the woman has no right to remain in the home.

The purpose of this Bill is to correct this inequality and remove the discrimination. It confers rights upon spouses and partners in the family home in situations where they do not have any ownership and who are the victims of domestic violence or who are deserted by their former spouse or partner.

Under the provisions of the Bill the Courts would be able to make occupational orders in favour of a spouse or partner even though they may have no ownership rights. Such an order could only be made for six months but it could be renewed. The Court would be required to have regard to all circumstances including housing needs and resources, financial resources, conduct and the length of time since the parties ceased to live together and the likely affect of an order.

Similarly, in relation to tentative accommodation the Court would have the power to make occupational orders, where one spouse or partner is the tenant and the other is not. To houses where neither partner is entitled to occupy the house, for example, where the house is let on a service tenancy to a man for the period of his employment. The employment ends and the man leaves his wife and children in the House.

Finally, the opportunity has been taken to include provisions in part 3 of the Bill dealing with the validity in the Falkland Islands of certain marriages overseas and under overseas laws, which permit polygamy.

The reasons for this are that otherwise a man and a woman could decide to marry overseas and, although intending a monogamous relationship, their marriage was potentially polygamous because of the form in which it was carried out and would, under the present law of the Falkland Islands, be regarded as invalid. Therefore a marriage entered into outside the Falkland Islands between parties, neither of whom is already married, will not be void under the Law of the Falkland Islands on the grounds that it is entered into under a law which permits polygamy and that either party is domiciled in the Falkland Islands.

I beg to move the Second Reading of the Bill.

The Honourable Financial Secretary

I second the Motion.

Mr Speaker

The Motion is that the Bill be read a second time. Is there any objection to the Motion?

The Honourable Mike Summers OBE

Mr Speaker, this is an important piece of legislation. It contains many issues of philosophy as well as a policy. I know that my colleagues feel that we would all benefit from spending more time to consider the implications of the provisions of this Bill. I therefore beg to move that this Bill be referred to a Select Committee of the House. If it helps, Mr Speaker, I believe that the next item on the agenda, the Land Charges Amendment Bill 2006, is contingent on the passing of this Bill. It might make sense therefore to take them both together and refer them both to the Select Committee.

The Honourable Dr Andrea Clausen

I second the Motion.

Mr Speaker

We will proceed with the deferment to Select Committee. That is in terms of items 9 (Family Law Bill 2006) and 10 (Land Charges (Amendment) Bill 2006).

Clerk of Councils

The Motion for Adjournment.

The Honourable Chief Executive

Mr Speaker, Honourable Members I beg to move that this House stands adjourned *Sine Die*.

Mr Speaker

The Motion is that the House stands adjourned *Sine Die*. Does any Honourable Member wish to speak to the Motion?

The Honourable Ian Hansen

Mr Speaker, Honourable Members, in rising to support the Motion for Adjournment, I just have a couple of very brief issues to touch upon. They are both issues concerning public consultation.

One is the review of our Constitution. I know there is still a few months, at least, but I would urge members of the public to begin to focus on this so that important contributions can be made to the end result.

The other is the transport study; this comes back to us in May and, in the interim I would just like to see a little feedback from the public. I don't think it's a particularly heavy or boring document, at least not compared to some, to read and digest. Of course, there are the on-going visits from the Chief Executive when he's been meeting in these various locations, which have, I hope, been helpful in the extreme.

It is a hugely important piece of work and will have an important affect on the transport system both internally and externally. I would ask as many people as possible to give us guidance on how we could best facilitate this study.

At the public meeting on Tuesday evening there was a question on the designation of all Government constructed roads and whether this was to be part of the Road Traffic Bill. I think it was made clear at the public meeting that this wasn't the case or at least not at this point. But sadly, and I say sadly, because I have always been opposed to the designation of Camp Roads. It does appear inevitable that some form of designation of Camp Roads will happen in the life of this Council. I strongly believe there must be exhaustion in thorough consultation with all residents in the Camp community to discuss the many problems that this will without question cause. It's probably not necessary now that I go into detail as to what those problems are, indeed, people in Camp will be very much aware of them. It certainly would be inappropriate of me to touch on the debate that we had at Executive Council

I would just like to assure people in Camp that I, and I hope, my colleagues on this Council make absolutely sure that if Camp Roads are to be designated it must be achieved in a way that does not in any way harm businesses or force people away from Camp and in particular from the farming community.

Finally, Sir, I would just like to extend my appreciation to the Commander British Forces South Atlantic and his staff for those very interesting, informative and enjoyable day that they played host to us on Tuesday. I thank him for giving up his valuable time.

Mr Speaker, I beg to support the Motion.

The Honourable Dr Andrea Clausen

Mr Speaker, Honourable Members, in rising to support the Motion for Adjournment I would like to briefly touch on a few issues. My first relates to the Internal Transport Review, partially, in that I would like to mention the Interim Ferry Service. I know some folk are not terribly in favour of the word, "interim," but really I would just like to say that this is a very important step towards building a permanent link between East and West Falkland. Of course the track to a fully successful operation, may well be littered with many ditches but we have to stay positive and focused. We have to make this vital link work if we want West Falkland to survive. In time, I hope that this service will provide opportunity for new business to develop and grow, providing some much needed security for at least a part of the rural community.

Another issue I would like to mention is that of the recent assessment by a contracted organisation on the extent to which the Falklands can comply with the UN Convention on the rights of the Child, which the UK ratified in 1991. This has come about due to the obligation of the UK Overseas Territories to submit a report in 2007, outlining the action plans and policies, ensuring that Convention obligations are met. Considerable work has been done and I am sure many people have met with the visitor, Ms Chris Hamner.

Preliminary reports suggest that the Falklands do appear to be complying reasonably well in a good deal of areas mentioned in the convention. We also appear to be relatively ahead of many other Overseas Territories. Nonetheless, we do have some way to go. I realise some people feel that children have far too many rights already but this is a hugely important area that we have to address. The right of a child to participate in family, cultural and social life is one with which I think we have a long way to go in the Falklands in addressing. I alluded to this in my manifesto back in November and I take the family approach rather than separating children out of the issue.

Some issues relating to this right include employment terms for parents, in particular flexible working hours but also childcare and leisure provisions. A number of other gaps have been identified by the compliant assessor and some crosscut the issues I have mentioned. I do look forward to working with both relevant officers and colleagues to try and find solutions to a number of these gaps.

I see from media coverage this morning that they have touched on a number of other issues I was going to mention, so I will be very brief. Nonetheless, I would like to mention that we do appear to be entering quite an upbeat period regarding Minerals and Oil Exploration. I do applaud that. We have come a long way from the first drilling round in 1998 and we still have a long way to go. Of course we don't know whether oil and minerals will be found in commercial quantities and it may be some time before we do know the answer to that but it's refreshing to experience this renewed optimism.

On to another area of my portfolio and that is Fisheries, in particular the current Illex season. Whilst the jury is still out as to whether we will have a reasonable season or

not, I would like to make a point of mentioning the lack of a clear refund policy. Whilst there are many arguments for and against such a policy, I personally feel that a well thought out, fair and clear policy will be a real benefit to both ourselves and the Government but also to fishing companies. I sincerely hope this issue is going to be addressed in the near future. I will be taking it further myself.

Finally, I would just like to mention the forthcoming budget discussion. This being my first budget session, I will enter it with some trepidation, knowing it's not going to be an easy process. However, I believe that most people are aware of the challenges that face us all. Speaking for myself, I would like to convey that I will approach this process in an as fair and realistic manner as I am able and I will endeavour to achieve the best outcome for all.

Mr Speaker, Honourable Members, I support the Motion.

The Honourable Mike Summers OBE

Mr Speaker, Honourable Members, I will try to be brief. I was privileged and delighted to be on the first scheduled ferry service that went across to Port Howard last weekend. It was an excellent trip. It was well run and I think everybody can take credit for that. It hasn't been an easy track. I joined the pro-ferry lobby in 1989, so it's taken only 17 years, which isn't bad going, really. I think as a Council we as a Government need to treat the ferry service in the way that we decided fairly recently, we should be treating the pasture improvement programme and the Abattoir, it has to have a long-term life for it to be successful because if people are sitting there worrying about whether it will still be there next month, they won't then begin to take advantage of the economic and service opportunities that are raised by the existence of a ferry. So, it's important for us as a Government to come out hard and clear and say the ferry is here, it's here to stay. If it is delivered in a different matter then so be it. But the service is there and should remain there.

I would like, too, to thank the Commander British Forces and his staff for the excellent tour we had of their facilities earlier this week. It was instructive for me and I hope instructive for others. The benefit to us in going out to see what is going on in Mount Pleasant and surrounding areas is that we can be continually and constantly assured that the Commander has in place the sort of facilities that he needs to deter aggression in this area. That was a message that came over loud and clear to us and I am happy to repeat it to everybody else that the facilities do exist here to defend the Falklands in circumstances that require it. Thank you very much for your time to demonstrate that.

I am sorry that The Honourable Dr Clausen mentioned it will be her first budget because it prompted me to note that it would be my tenth, when we get into it. It's probably why I am so grey-haired. But this budget, I don't think is going to be any easier than the last four or five that we've had. We can all hope and pray that by May time we have had a decent Illex season and we may feel a little more relaxed. That won't mean there is going to be a good Illex season the year after and the year after that, so it is going to be another difficult budget session. My understanding so far,

from what I have heard around the bazaars, is that everybody wants more money and nobody is particularly asking for less. There have already been some pressures on the wages budget from particular areas. I think we will see more of that but my understanding is that just about every department is making a special case for more money. Well, sorry, but it can't be delivered. I don't see how the Select Committee is going to be able to deliver that. So, as we have said before, there will need to be a certain amount of re-adjustment of sites in that area. But we will, of course, try to be fair and reasonable for everybody and to maintain all of those essential services that the Falklands thrive on.

My final comment is to slightly mourn the passing of "Calling the Falklands." It was finally announced today. But also to look forward to the things that are going to replace it. There have been long discussions between the Falkland Islands Government and BBC World Service about helping to improve the quality of radio broadcast in the Falklands and hopefully, in the longer term, to enhance some television broadcasts. Whilst I know some will be sad to see the name go - "Calling the Falklands" has been through literally dozens of iterations in its time. It's not now an iteration that forms a really important part of Falklands broadcasting. I think we will be much better off by accepting the training provision and technical assistance provision and some programming provision that BBC World Service is going to provide in its place. So, bye-bye "Calling the Falklands" but we look forward to a more complete and more vibrant Falkland Islands Radio Service and the Media Trust.

Sir, I support the Motion.

The Honourable Dr Richard Davies

Mr Speaker, Honourable Members, some of my colleagues have already touched upon the difficult budget we are going to face. I won't flavour the point. But it does seem clear we are facing an economically difficult year and we have already started discussing spending priorities. As you all know, Government Departments have cut budgets successfully over the years and this can't go on without reductions in service and difficult decisions.

Health and Education spending has, to a large extent, been protected but those departments are feeling the squeeze as well. Members of the public who attended the meeting on education last month will be aware that we are looking at ways by which we can maintain at current levels the numbers of our students going overseas for further and higher education but it's not going to be easy.

Regarding Health Services, one of the major cost to Health Services all over the world is the cost of treating diseases caused by smoking, heart attacks, angina, bronchitis, emphysema, lung cancer and loads of others. I congratulate the local newspaper on raising this important issue. A ban on smoking in public places would encourage and assist many smokers to give up. It would have beneficial affect in human terms and economic terms. I think it's clear that any gains that Government may make by taxing cigarettes will be more than offset by the savings in health costs in the longer term. A ban would also protect non-smokers and staff who work in establishments from the

affects of passive smoking. I do understand the views of those who feel that this is taking the Nanny State too far. I think it's an important, philosophical debate, which I hope members of the public will contribute to as to how far Government should interfere in people's private lives and habits. I personally believe politicians have a duty to improve people's health and I believe that some Government involvement in the smoking issue would counter-balance the pervasive and powerful influence of tobacco companies, who, of course, would like us all to take up smoking.

Moving on from the thorny issue of trying to protect human life, there is a less controversial one, protecting seabirds. I am delighted the Falklands are going to be hosting the ACAP workshop next month. ACAP is a treaty which aims to protect certain endangered species of Albatross and Petrels. The Workshop is organised by Falklands Conservation and attended by delegates from a large number of countries and Overseas Territories. I am pleased that the Falkland Islands, who have played a leading role in reducing seabird mortality in the Fishery are taking this a stage further.

Finally, I won't repeat my colleagues' comments too much but I would like to thank Commander British Forces for his hospitality the other day. I was particularly impressed by the high quality of briefings and intelligence and the huge investment in training and equipment as well as the high state of vigilance, which is clearly maintained 24 hours a day 365 days a year. I think none of us seeing this could fail to appreciate the seriousness of the United Kingdom's commitment to continue to defend our right to freedom for as long as it is threatened.

Mr Speaker, I support the Motion.

The Honourable Mike Rendell

So, the first ferry run has taken place! Passengers were blessed with some good weather, too. Well done to Island Shipping and long may it continue. I see this development as just one of a number of tools to enable farms and other businesses to develop their own potential and find new opportunities.

The recent first meeting of the Camp Workshop helped to set the scene for where Falklands agriculture was, is, and may be in the future. Without any doubt whatsoever, the tools to do the job are an integral part of the long-term prosperity of the Camp. These tools include such things as a cross-sound ferry service, regular shipping services to the Islands, all-weather, heavy-duty roads, long-term operation of the Sand Bay Abattoir, FIDC support for new agricultural opportunities, good internet connectivity, and powerful agricultural programmes. We meet for a further session immediately after Camp Sports, with the intention of identifying some quick wins that will give peace of mind to those farmers who are currently going through worrying financial times.

The question for oral reply regarding MSL touched on the thorny issue of medical treatment overseas. This particular item has serious cost implications if a reasonable solution cannot be found, which will not be easy. One possible option that may be worth exploring is to require all non-FIG contract persons coming to work here from

places other than from the UK because we have reciprocal medical care arrangements with the UK to take out medical insurance before arrival. With rising expectations, we are just going to have to take measures to keep this particular area of health costs under control.

Other Honourable Members have touched on our day trip to Mount Pleasant. For me this was most beneficial because it re-confirmed the absolute commitment and professionalism of Her Majesty's Forces and the unswerving track that they follow in upholding our right to self-determination. Sincere thanks to all those we met on the day the Brintel Helicopter crew, the ships company of HMS Dumbarton Castle, Jocks of the King's Own Scottish Borders, the Tornado F-3 air crews and the men of the RAF Regiment and their Rapier Squadron. Most particularly, it was a privilege to have the company of Commodore Ian Moncrieff throughout the day.

Finally, I, too, would like to maintain the momentum on the issue of smoking in public places and not just because I have the Health and Medical Services portfolio. Who would ever have thought that the Irish would have so whole-heartedly supported a smoking ban or that the Scottish Parliament would even have agreed to such a proposal, but they have, principally because of the recognition that voluntary measures, which are really all about comfort rather than public health, protection, simply do not work. It amazes me that the prominent health warning signs on every pack - the most stark being "Smoking Kills," have no apparent deterrent value. If a smoking ban was introduced in all enclosed public spaces in the Falkland Islands this would, as some young smokers admitted in last week's local newspaper editorial, provide the motivation for them to give up smoking. It is young people in particular who would benefit the most from giving up smoking because they still have many years to live. The medical benefits are obvious and proven but there are financial spin-offs, too. An average smoker spends at least £2,000 a year at today's prices all that money literally going up in smoke. I therefore urge fellow Honourable Members to take up the challenge of providing some real motivation for youngsters in particular to stop smoking.

Mr Speaker, I support the Motion.

The Honourable Janet Robertson

Mr Speaker, Honourable Members, at this stage in the proceedings there is a danger that I end up saying - "I also, I also, I also" so on that basis, I am going to keep it very short.

I would like to thank the Commander British Forces for an excellent day on Tuesday. Apart from feeling very queasy at one point in the proceedings, it was a thoroughly enjoyable day. I was going to talk about a number of issues but I will just keep it to one. The Honourable Dr Clausen did mention the visit of Chris Hamner and it was here to look at the gaps that we have in our legislation practices and policies, which will prevent the Falkland Islands complying with a UN Convention on the Protection of the Child. Her assessment highlighted all the benefits of being a child, children growing up in the Falklands.

But inevitably there are some down sides as well. I think I am right in saying that it does not appear that we are vastly or that we have a vast way to go in order to comply with this particular Convention. But I do think that it highlights the need for us to address these issues anyway. It's looking at the whole range of children's issues through from nursery care - baby, nursery care, through to adolescence and college students over wide elements including disabilities and care for disabilities and so on.

I think that in the Falklands we've got a situation where something like 74% of women over 15 work. I don't have figures for countries that might not be particularly high. It seems to me quite a high figure, especially when you consider that the percentage for men is going to be considerably higher. It is inevitable that this high percentage of both parents in most family working, it's going to have an affect one way or another on our children and in terms of the support that they are going to receive.

I think that over the years there have been developments in childcare. I think we have got a long way to go and nursery care is certainly and there has been a boost to nursery care in recent years but there are still groups of children that don't have the facilities of proper care and they might have a significant affect on our society. We need to look at those vulnerable groups. Offhand, I can think of one group, which are the 8 to 13 year-olds, who are too old for nursery care but too young to be at home alone. There is currently nothing to cater for these children unless they have activities through pre-school and after school hours, which is not the case.

I think this is something for the whole community to be interested in and contribute to as it does involve all of us.

The only other thing I was going to say is that the assessment that Chris Hamner drew up was considered by a cross-department group, which I really found quite exciting. It was quite clear that this cross-department thinking is really the way to go. I know we hear a lot of the term, "joined up thinking" and it is a bit of the currency of our age and I think we have to develop that as much as we can as it is quite clear that by looking at things from one angle or another angle doesn't necessarily give you enough information to address the fuller picture. We discovered that. The Honourable Richard Stevens and myself talked to careers guidance people at FICS yesterday and it became apparent how important it is that all those people that are affected or have input in some way to the development of children into adult life. Indeed, the entry of people from abroad into our community as well and how that can all marry together and match to the benefit of the Islands.

That's all I'm going to say.

Mr Speaker, I support the Motion.

The Honourable Richard Stevens

Mr Speaker, Honourable Members, I feel a bit like the Honourable Janet Robertson with a lot more to say but I would like to reinforce a few areas and say that I was a little bit disappointed that we were unable to come up with some short-term initiative so that the Camp Economy would grow because it is right now that farmers are feeling the pinch. We did have to grapple with an immense amount of information and opinions on the day. We resume deliberations on the 6th March and hopefully, we will be able to come up with something constructive.

I think it's worth mentioning that we are in a period of great change in farming and statistics, which are everything I know, went to changing farming practices and income from other sources is an important way of keeping up costs and providing a reasonable standard of living.

Change is a slow and winding road and easier for some farms, in my opinion, due to size, type, location and a host of other things. We, as a Council, need to support and encourage the rural community during this transitory period.

The designation of roads seems to come up at the time when we could do without the cost implications that will come by making this decision. I look forward along with the other two Camp Councillors and the rest of the Councillors, speaking to people on the phone and also getting around within the Camp and talking and trying to make it as painless as possible.

I have to point out that there are a number of farms that do manage to function with designated roads going through their entire length.

I can't close without briefly mentioning "Calling the Falklands," slightly differently and I know that everyone at one time used to listen to "Calling the Falklands," and this is our main external news source of issues concerning the Falklands. Many of us remember the morale boosting broadcasts during the conflict. Today, however, they seem to have a smaller audience, with little or no feedback to programme makers. And, at an estimated cost of £100,000 per year, the BBC and the last Council decided to call it a day. But hopefully, there will be benefits to have by this decision.

Mr Speaker, Honourable Members, I support this Motion.

The Honourable Richard Cockwell

Mr Speaker, I don't even have the benefit of being able to say "I also" because that's already been done. However, in rising to support the Motion, there are one or two issues which concern me, which I would like to highlight.

The first is that the oncoming budget round I think we are all aware of the escalating costs due to the cost of fuel. But I do believe that we have to concentrate quite

carefully and address the issue of the low income earners and people on fixed incomes, particularly the old age pensioners, who are finding that their cost of energy is actually creating a huge burden, using up a huge amount of their income. I think we really do have to look at this very seriously and see if there is any way we can alleviate the issues for these lower earning people.

Some of the people who earn higher incomes can actually tighten their belts but the belt is on the last notch with some of the older people. I do ask Members to think about that.

The ferry, everything's been said about the ferry. I think it is a wonderful thing. I am so pleased as a long-term resident, in the past, of West Falkland. I can hardly imagine what it really will mean. I think we do have to congratulate everybody involved in it. But remember, that until such time as we have a proper ferry, a dedicated vessel which is designed for the job, we cannot actually finally decide on the success or failure of the exercise. But it does look as though it's going to work very well.

This is the first part of the development of communications. In order to develop anywhere, you have to have road and surface communication and then also telephone and, these days, digital communication. That is the next thing that we have to look at so that Camp has equal digital communication as that which we are looking forward to in Stanley. We haven't received it yet but we are looking forward to it.

Just returning to the budget again, I think all of us want to see a new budget, new ideas coming forward. However, the money has to come from somewhere. I think that is going to be the issue which affects all of us. There are going to have to be constraints whether we like it or not. We all have projects which we like to see taken forward. We have to be aware of the fact that medical treatment and education are things which we don't want to see drawn back on. So, let's hope that we can retain the services that we have while hopefully developing some new initiatives in the budget this year.

Sir, I beg to support the Motion.

Commander British Forces

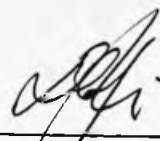
I hadn't planned on saying anything Mr Speaker but could I just thank Honourable Members for their very kind remarks. I think it's beholding on me and my people to be very clear in demonstrating and illustrating our capability to those who it is our duty to serve. Therefore I was delighted that all the Members found time in what's been a busy schedule this week to come up to Mount Pleasant and to meet my people. For their part, they enjoyed meeting you, too. There will be more. We need more of these events and I look forward to showing you further elements of our capability that it wasn't possible to show you in just the one day. Thank you very much.

Mr Speaker, I support the Motion.

Mr Speaker

The House stands adjourned.

Confirmed this 24th day of May 2006



The Hon. Dr. Clifton OBE
Speaker of the House.



**RECORD OF THE BUDGET MEETING
OF THE LEGISLATIVE COUNCIL
HELD IN STANLEY
ON 24TH & 25TH MAY 2006**

**RECORD OF THE BUDGET MEETING OF THE LEGISLATIVE COUNCIL
HELD IN STANLEY ON WEDNESDAY 24 AND THURSDAY 25 MAY 2006**

THE SPEAKER OF THE HOUSE
(Mr Darwin Lewis Clifton OBE)

MEMBERS (Ex-Officio)

The Honourable Chief Executive
(Mr Christopher John Simpkins)

The Honourable the Financial Secretary
(Mr Derek Frank Howatt)

Elected

The Honourable Dr Andrea Patricia Clausen
(Elected Member for Stanley Constituency)

The Honourable John Richard Cockwell
(Elected Member for Stanley Constituency)

The Honourable Dr Richard Andrew Davies
(Elected Member for Stanley Constituency)

The Honourable Ian Hansen
(Elected Member for Camp Constituency)

The Honourable Mike Rendell
(Elected Member for Camp Constituency)

The Honourable Janet Robertson
(Elected Member for Stanley Constituency)

The Honourable Richard James Stevens
(Elected Member for Camp Constituency)

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

PERSONS ENTITLED TO ATTEND

The Attorney General
(Mr David Geoffrey Lang CBE, QC)

The Commander British Forces South Atlantic Islands
(Commodore Ian Moncrieff BA, RN)

ACTING CLERK: Anton Livermore

PRAYERS: Reverend Paul Sweeting

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**The Budget Meeting of Legislative Council
Held on 24th and 25th May 2006**

Prayers

Mr Speaker

Good morning Honourable Members, Ladies and Gentlemen, I declare this meeting of the Legislative Council open.

Acting Clerk

His Excellency the Governor

His Excellency the Governor's address to the Nation

His Excellency the Governor

ADDRESS TO THE LEGISLATIVE COUNCIL BY HIS EXCELLENCY THE GOVERNOR

Mr Speaker, Honourable Members of Legislative Council, Commander British Forces, listeners to the Falkland Islands Radio Service, Ladies and Gentlemen:

It hardly seems that a year has gone since I last addressed you from this platform. The increasing speed at which time appears to pass is, I suppose, a sign of advancing age, although I have found several people who subscribe to my theory that clocks go faster in the South Atlantic.

My speech will follow the precedent which I set a year ago. I shall share with you some personal impressions of the last twelve months and address some of the key issues faced by our community. The annual reports from each government department which traditionally have made up the bulk of this speech will still be available, but in written form only. My aim is to provoke thought and to stimulate discussion. If some of what follows proves controversial, so be it.

There should however be nothing controversial in my first statement. I welcome the members of the new Legislative Council to their first budget session.

We had a good election last November. There was a wide choice of candidates, and clear themes emerged during the campaign. By electing to the new Council only three members of its predecessor, the electorate made it clear that they wanted change. I also have the impression that the voters liked what some of the successful candidates said about the need for greater openness and transparency in decision-making. I welcome that. In a political system such as we have in the Falklands Islands where there are no political parties and an instinct for consensus, open debate between politicians and proper accountability for decisions can sometimes suffer.

The challenge for you now, Councillors, is to deliver on those promises. I suspect that those of you new to elected office are already finding that the processes of decision-making are more complex than you may have realised, and that what looked black and white from the outside is in fact covered in grey areas. But that should not - and I know it will not - deter you from pursuing those principles of openness, transparency and public debate. I will have something to say later in this speech about some of the substantive policy challenges to which you will have to apply those principles.

The politicians cannot, of course, be effective without a dedicated public service, and I would like to thank our public servants for another year of hard work and commitment. The Chief Executive and his team of senior managers work under heavy and unremitting pressure which will only increase as the complexity of our society becomes inexorably greater. But the people at the top cannot do their job without the support they receive from public servants at every level. I express my gratitude to you all.

I want to say a special word about the police force, the fire service and the other emergency services. I had the privilege recently of hosting an event at Government House at which I awarded long service medals to several members of the fire service. I was deeply impressed by the dedication not only of our small cadre of full-time firemen, but also of the retained firemen, the part-timers. They are modest about it, and glad to be able to serve the community, but it can be a tough, dangerous and stressful job. Unlike their counterparts in the UK or elsewhere, when our firemen and our police officers and our hospital staff are called out to deal with a fire or a car accident or whatever the emergency may be, they are likely to know the victims personally, or even to be related to them. Some recent tragedies of which you will all be aware have been especially distressing. Yet they continue to get on with the job without fuss or drama.

This has been a particularly testing time for the Royal Falkland Islands Police. I think you will all be aware of the reasons and will understand why it would not be appropriate for me to comment on them any further at this stage. But I do want to say how much I admire the professionalism and the quiet determination with which the Acting Chief Police Officer, Inspector Len McGill, and his colleagues in the force have got on with the job. Your work is challenging even at the best of times.

I thank the officers of our fire, police and emergency services for their commitment and dedication to the Falklands community.

Councillors will be deciding this week how to raise the money which government needs to supply the services which the public expects, and how to spend it. It is the most important session of Legislative Council in the annual cycle. The state of the economy determines the difficulty or otherwise of the choices which Councillors have to make. So how has the economy fared over the last year?

The fishing industry continues to overshadow every other sector in value terms. Income from licence fees and, more recently, corporation tax paid by the Falklands

fishing companies provide the largest slice of Government's income and determine whether the Financial Secretary is a happy man. It has been a mixed but reasonable year overall. Loligo squid is the key catch for most of the Falklands fishing companies and their mainly Spanish joint venture partners. It did well in 2005 and continues to look good this year. The toothfish fishery remains steady and is sustaining healthy catches. Last year was regrettably another very bad one for the illex squid, but this year our scientists identified changes in the oceanographic data which suggested that we should have a better season. So it has proved. Catches have been good. Following the previous two disastrous years, it is not surprising that take-up of licences has been lower than the 2006 biomass probably justifies, but the hope is that the return of the illex this year will encourage the jiggers to come back to the Falklands in 2007 in something like their traditional numbers.

It has been tempting to write doomsday scenarios following the collapse of the illex fishery in recent years, but I hope we may now be learning to be more circumspect. It is clear that we cannot rely year on year on the levels of income from illex to which the Falklands became accustomed for much of the nineties. Experience now suggests that there will be bad years and good, and that we have to learn to live with these fluctuations, which are partly - perhaps largely - the product of climatic changes beyond our control. It also underlines the importance of cooperation with Argentina to ensure responsible management of this species, which migrates between Argentine and Falkland waters and the high seas. Unfortunately that has been proving difficult. I shall have more to say about that later in this speech.

Perhaps the most important development in the Falklands fisheries during the year has taken place not at sea but in this legislative chamber. The new Fisheries Ordinance, passed by Legislative Council in August 2005, radically restructures the way in which we manage our fishing industry. At the heart of the new structures is the decision to replace the system of short term licences with long term property rights of up to 25 years in duration. This brings three key potential benefits: it increases the incentive for responsible and sustainable long term conservation of our fishery resources; it paves the way for long term investment by the fishing companies in more efficient management practices and infrastructure; and it makes it possible to expand the involvement of Falklands companies in the industry, with consequential benefits for local employment and the exchequer. The new structures will be brought into effect progressively over the next few months.

I should like to pay tribute to the Director of Fisheries, John Barton, the Attorney General, David Lang, the members of the Fisheries Committee and those members of the industry who have been involved in bringing this very important and extremely complex piece of legislation into effect. It has been a demanding task, and is not yet complete, but its successful implementation is vital for the interests of the Falkland Islands.

Fishing has for many years outpaced agriculture in terms of its importance to the Falklands economy, but there is a sense in which the ancient soul of the Falklands is still to be found in Camp. The opportunity to visit farmers in East and West Falkland and on the islands is one of the privileges of my job. I do not take advantage of it anything like as much as I would like, but every time I do so I am impressed by the

self-reliance of the farming community, by your commitment to your very special way of life, by the hard work which it entails, and by your extraordinarily generous hospitality. I like to think I have also gained an inkling of that special quality of Camp life which, despite the isolation, the privations and the struggle to keep one's head above water at a time of poor wool prices, keeps the farmers on their farms.

It is not surprising therefore that the new Council took office with a firm commitment to support Camp and the Falklands farming community. A package of measures reflecting this commitment has already been announced. Meanwhile the Agriculture Department has broadened the pasture improvement programme and has promoted work to improve the gene pool of the Falklands flocks. Opportunities continue to be available to diversify into meat production. Caroline and I and our guests at Government House have greatly enjoyed the very high quality beef now being produced by a number of farms, as well of course as traditional Falklands lamb and mutton. We are also enjoying the new products from the dairy.

Farming will continue to be tough. Not every farm will survive in its present form, and there may need to be further consolidation. Those who succeed will be those who innovate, diversify and adopt modern business practices. That is a hard message. But I have no doubt that a distinct Camp community on East and West Falkland and on the Islands will continue to be one of the unique features of Falklands life.

I know that farmers have been sorry to bid farewell to Steve Pointing and his family. Steve served as Senior Veterinary Officer for some seven years and made a huge contribution to Camp life and animal welfare in the Islands. He will be much missed. He has been succeeded by Vic Epstein, who is already thoroughly immersed in his new role.

Tourism has had a good year. Some ninety-three visits were made to the Islands last season by cruise vessels carrying more than 45,000 passengers, which I suspect may be a record. This is good for our revenues, but perhaps even more importantly these people now have first hand experience of the Falkland Islands. We hope that at least a proportion of them will be tempted back for more, and for longer. This is where the real potential for growth lies. Land-based tourism is still at an early stage of development here. The market for the kind of product which the Falklands offer is large and growing. We currently have only a tiny proportion of it. We need to develop our local infrastructure, to improve our communications with the outside world, and to market our product with energy and imagination. The potential benefits to the Falklands economy, and especially to Camp, are huge, but energy, imagination and well-targeted investment will be required if we are to realise them.

I should like to pay tribute to the excellent work of Connie Stevens as Director of Tourism. In her work at the Falkland Islands Development Corporation and more recently at Tourism she has displayed exactly the qualities which these Islands need if our economy is to develop and diversify. Her marketing skills are formidable. I regret that circumstances have prompted Connie to resign prematurely from her post. She will be a great loss.

Diversifying our economy is the core business of the Falkland Islands Development Corporation. Julian Morris and his team have focused successfully on expanding meat production, improving the marketing of our wool product, and improving communications by sea both within and beyond the Islands. Work has been proceeding on the potential for creating an aquaculture industry. I welcome Brendan Gara, who has recently taken up his post with FIDC and will be providing specialist expertise and advice in this area.

If we are going to develop our economy we have to develop new products and bring them to new markets – or, in the case of tourism, bring the market here. Improving our communications with the outside world, by sea, by air and by electronic means, is a prerequisite. Our link with South America, provided by Lan Chile, has proved increasingly popular, and during the summer season is sometimes full to capacity with both freight and passengers. Unfortunately our Argentine neighbours have placed obstacles in the way of further development of this service.

Islanders have also relied heavily for many years on the airbridge operated by the Ministry of Defence between Mount Pleasant and RAF Brize Norton. I should like to express on behalf of Falkland Islanders our gratitude for the access we have had to this service since the 1980s. However, the Falklands economy has developed to the point where the airbridge as it currently operates no longer meets the Islands' needs. Given our inability to develop our South American links, it is no exaggeration to say that the operation in its current form is an obstacle to economic development. It is of course not only Islanders who have an interest in the Islands' economic development. This is an important United Kingdom interest too, since the stronger the Islands' economy the more we can contribute to the costs of our defence and the less the Islands represent a contingent liability to the UK Government.

FIDC has therefore been examining alternative and better ways of meeting the needs of the civilian community for modern air communications while ensuring that the needs of the Ministry of Defence continue to be met as well or even better, and at no greater cost. Meeting the military's needs is of course an essential interest for the civilian community too. This is important work, and I hope it will prove possible for representatives of the Falkland Islands Government, the Foreign and Commonwealth Office and the Ministry of Defence to sit down together soon to examine ways of taking it forward.

It is interesting that in the FIDC's recent Business Climate Survey public sector respondents identified air links as the most significant obstacle to development. The Survey is of wider interest, not least because it provides a clear message of continued confidence about the prospects for business growth over the next two years. If our entrepreneurs are optimistic about the future, something must be going pretty right!

I cannot complete my remarks about the FIDC without saying something about Julian Morris, who has announced that he and his wife Amanda will be leaving the Falklands later this year, after more than three years as General Manager of FIDC. Julian has brought to this crucial role a wide range of private sector experience and entrepreneurial flair which have been of immense value to the Falklands, to both public and private sectors. I have admired in particular his capacity for lateral

thinking and his irrepressible optimism. It will not be easy to find a successor to match his talents.

This is perhaps the moment to mention a number of other departures and arrivals in key Government posts. Sylvia Cole left at the beginning of this year after a three year stint as Director of Education, one of the most demanding roles in the administration. Sylvia brought rigour, hard work and commitment to her work. She and her husband John will also be remembered for their elegant performances on the dance floor. We welcome Sylvia's successor, Barbara Booth, who brings wide experience of the education sector to her new role, most recently in Plymouth in the South West of England.

Many of you will recall Jim Wood as a former Senior Magistrate. For the last ten years he has visited the Islands periodically as Chief Justice. He has made an enormous contribution to the administration and dispensing of justice in the Falklands (as well as South Georgia, the British Antarctic Territory and the British Indian Ocean Territory, in which Overseas Territories he also occupies the role of Chief Justice). Jim announced early this year that he had decided to retire from his post in the middle of the year, partly because of the increasing demands of his judicial role in the UK. Jim has many friends here, and I am sure he will be back in his private capacity. The recruitment of his successor will be underway shortly.

I cannot refer to the legal community without saying a few words about David Lang in anticipation of his retirement as Attorney General at the end of October this year, since this may be my last opportunity to do so in public before I leave the Falklands. David has occupied this most demanding of all government offices for nineteen years. It is impossible to overestimate how much the Falkland Islands owe him. His wide and profound knowledge of the law, his encyclopaedic memory, his skill and experience as a legal draftsman and his rigorous professional and personal standards have been an immense asset to the Islands, and especially to successive generations of Councillors, Chief Executives and Governors. David's reputation is legendary, and extends well beyond these shores. I know that he has found his role immensely stimulating as well as enormously busy. I do not know how I could have done my own job without his unfailingly wise advice and support. The community is fortunate that David, Theresa and their family have made their home here.

We are fortunate too in David's successor, Melanie Chilton. Melanie has put in a distinguished performance as Principal Crown Counsel, and by now she and her husband John know the Islands well. She brings considerable skills and valuable experience to her new post. I wish her well and every success.

It has been an active year for our overseas links. Sukey Cameron and her colleagues at the Falkland Islands Government Office in London have continued to cultivate close relations with Westminster, to secure good coverage for the Islands in the UK media, and to pursue the Islands' interests in the UK. Sukey has been elected Chairman of the UK Overseas Territories Association for the coming year. Councillors have attended Commonwealth Parliamentary Association events in Fiji and Malta, the Overseas Territories Consultative Council in London, the Overseas Territories and European Union Forum in Brussels, the Committee of 24 in New

York, and the Conservative and Labour Party Conferences in the UK. Councillors Richard Davies and Richard Stevens will be representing the Falkland Islands in June at the next session of the Committee of 24 in New York.

In the Falkland Islands we have welcomed representatives from a wide range of interested countries and overseas territories to a Workshop on the Agreement on the Conservation of Albatross and Petrels. A group of Westminster MPs visited as part of the Armed Forces Parliamentary Programme. Although they spent most of their time at MPA, they were also able to make a useful visit to Stanley to learn something about the civilian community. Senior military visitors included the incoming Chief of the Defence Staff, Air Chief Marshall Sir Jock Stirrup, the First Sea Lord, Admiral Sir Alan West, the Chief of the General Staff, General Sir Mike Jackson, and the Chief of Joint Operations and now Chief of the Air Staff, Air Chief Marshall Sir Glen Torpy. It was also a great pleasure to welcome back Adam Ingram MP, Minister of State for the Armed Forces, on his second visit to the Islands.

This lengthy list of distinguished military visitors is a reminder, if we needed one, of the seriousness with which the UK Government takes the defence of the Falkland Islands. This is my opportunity to thank the Commander British Forces, Commodore Ian Moncrieff, and his colleagues at Mount Pleasant for all that they contribute to the Falkland Islands in so many ways.

The mention of visitors prompts me to thank the staff at Government House, in both the Office and the Residence, for their invaluable support throughout the year. A lot of people pass through the house each year, and I hope they enjoy the experience. The credit must go to the Residence staff. Caroline and I are immensely grateful for their unfailing courtesy and willingness to work long hours when necessary to keep our guests entertained. And of course I must say special thanks to Caroline. She may not have realised when she married me that she was expected to manage a bar, restaurant and hotel too, but she does so with great good humour and, I suspect, may even enjoy it!

In my address a year ago I regretted that I had little positive to say about relations with Argentina. I wish I could say that the situation had improved, but I cannot. If anything, it has got even worse. Difficulties raised by the Argentine side at its last two meetings have prevented the South Atlantic Fisheries Commission from addressing the serious issues of fisheries conservation in the South West Atlantic. Indeed, at the last meeting the two sides were unable even to reach agreement on the agenda and there was no substantive discussion at all. The prospects for the next meeting, due to take place in July, are not encouraging, but I hope I may be proved wrong. Meanwhile the Argentine Government appears to be taking active measures to deter foreign fishing companies with interests in Argentina from seeking licences in Falklands waters, and has threatened reprisals if they do. The Argentine Government has taken similar measures to discourage oil exploration companies from continuing their activities around the Falklands – with conspicuous lack of success, I am pleased to say. Meanwhile there has been no progress on charter flights since the unilateral Argentine decision in November 2003 to refuse permission for charters to the Falklands to overfly Argentine airspace. The only issue on which there has been some slow progress has been the feasibility study on the removal from the Islands of

the mines which were laid by the Argentines in 1982. Representatives of the UK and Argentine Governments have been meeting regularly to agree arrangements to enable a study funded by the Argentine Government to take place in the next austral summer.

It is understandable that many Falkland Islanders should interpret Argentine actions as a policy of de facto economic sanctions against the Islands, designed to do damage to the Islands' economy and to put pressure on the Islanders to agree to negotiations on sovereignty.

I have this message for the Argentine Government. If that is your aim, it is bound to fail. Pressure will prove utterly counterproductive. Falkland Islanders are united in their wish to remain British. They find inconceivable the idea that, with their strong historical, linguistic, cultural and family links with Britain, they should ever opt to change their status and join a country with which they share neither history nor culture nor language nor economic links nor political system – a country moreover which carried out a military invasion of the Islands within the living memory of the majority of Islanders, and continues to pursue a claim which disregards the clearly expressed wishes of the Falklands community.

But Islanders know that the commitment of the UK Government to respect the wishes of the Islanders and to defend the Islands is rock solid.

I have another message for the Argentine Government. It is that we want to be good neighbours. We live in the same region. We share interests in common, especially in the sustainable management and conservation of the marine resources of the South West Atlantic. It makes sense to work together to our mutual benefit. But we can only do so on the basis of equality and mutual respect.

In the closing part of my address I want to take a few moments to look ahead over the next year or so. For our new set of Councillors this is going to be a challenging period. I have the sense that the Falkland Islands have reached a stage of development where there are new opportunities to be grasped and renewed progress to be made. But if advantage is to be taken Councillors must be courageous, imaginative, and willing to take key decisions relatively early in their term of office. While as elected politicians they must be responsive to the wishes of the electorate, they should not change direction in response to every ephemeral shift in the public mood or to small but vocal lobby groups. It is Councillors' business to lead, not just to follow.

Over the next few months Councillors will be addressing policy in a number of vital areas. These include immigration, transport, the constitution, the funding of further and higher education, child protection and young people's issues, and the construction of new government offices. In each case there will be active consultation with the public, and I hope that you, the public as whole and not just the vocal few, will be ready to take part in the debate.

I should like to comment on four of these policy issues:

- On immigration, I can understand why there is some concern about current arrangements. I would only say that traditionally the Falkland Islands have been welcoming to incomers and have been relatively liberal in the application of immigration policy. I believe that the Islands have benefited greatly as a result. I hope that this traditional approach will be retained. I note in this regard that of the current set of Councillors only two were born in the Falkland Islands.
- Councillors continue to debate proposals for amendment to the constitution. It is now some seven years since the UK Government invited the governments of the Overseas Territories to consider whether and if so how they wished to amend their constitutions. The consequential negotiations between the UK Government and most of the other Overseas Territories have either already been completed or are well under way. I hope that the package of proposals being considered by the Select Committee on the Constitution here in the Falkland Islands will emerge soon. The constitution sets out amongst other things the nature of the relationship with the UK Government, acting through the Governor. It is the UK Government's policy to allow the maximum degree of internal self-government which is compatible with the UK's responsibilities for foreign policy and the Territories' international obligations, for defence, and for good governance. There are however limits beyond which the UK Government will not go. For example, the UK has to retain the ability to fulfil its international responsibility for ensuring that its Overseas Territories are well and properly governed. The Minister for the Overseas Territories, Lord Triesman, will shortly be sending to the governments of the Overseas Territories a paper on good governance. The paper will be published.
- Child protection and young people's issues have been occupying a lot of attention in recent months. This is good, and I suspect overdue. The Falklands would not be the only Overseas Territory in which past problems in this area have been brushed under the carpet rather than brought out into the open. The debate will continue over the coming months. It is vital that it should involve all sections of the community. I hope it will lead to changes in attitude and policy which will bring real benefits to the young people of the Falkland Islands. It may be trite to say it, but they really are the Islands' future. Those of you who were at the May Ball last Friday and witnessed the enthusiastic participation of so many teenagers in that traditional event will feel optimistic about putting our future in their hands.
- Finally, the proposal to construct new government offices to house the majority of the government administration in one building. It is easy to understate the importance of this project. I hope it will receive enthusiastic public support, as well as support from Councillors. If properly done, and the temptation to go for half-baked solutions is avoided, the project promises substantial savings in government running costs (which could then be spent on improving front-line services), more efficient and accessible government, a better service to the public, a much better working environment for public servants, and more effective management. The right kind of building would be a statement of civic pride and confidence in the future which would not be lost on those who take an interest in these Islands. It will be worth every penny and I hope it goes ahead.

This is my last formal "address to the nation", although I do not promise that they are my last words before I depart these shores. It has been a privilege to give this address each year, and you have been generous in listening to me so patiently.

My successor, Alan Huckle, plans to take up his post on 25 August. He will however be making a short and informal familiarisation visit to the Islands from 10 to 17 June, and I hope some of you will have the opportunity to meet him then. As a former head of Overseas Territories Department in the Foreign and Commonwealth Office and currently as Governor of Anguilla, Alan has masses of overseas territories experience, and visited the Falkland Islands a few years ago. I know that you will give Alan and his wife Helen a warm welcome, and I wish them both every success. Alan will face a heavy and fascinating agenda, including the preparations for the commemoration of the 25th anniversary of the Conflict next year. This is one of the best jobs in the Diplomatic Service, and I hope Alan and Helen enjoy themselves as much as Caroline and I have done.

Caroline, Suzanna and I leave the Falkland Islands on 5 August at the end of my tour of office. We shall do so with heavy hearts and with countless happy memories, not least of the generous hospitality we have enjoyed and of the good friends we have made during the years we have lived here. We look forward to visiting you at some time in the future – not least because once she is old enough to appreciate it we shall want to show our young daughter the place where she spent the first few months of her life.

Thank you very much indeed.

Mr Speaker

That you Your Excellency for your address Sir, please could you remain in the Chamber for Member's Motion of Thanks.

Acting Clerk

Motion of Thanks for His Excellency the Governor and his address.

The Honourable Ian Hansen

Your Excellency, Mr Speaker, Honourable Members I will be fairly brief. I would like to begin by thank you Sir for your address and just to make that the comment that the precedent you set last year in the presentation was well received, not only in this forum but publicly and I thank you for that.

I will speak briefly on the forthcoming budget and in very general terms. I haven't the experience of a couple of my colleagues but it does seem to me that perhaps this year we have a larger wish list than in previous years. I think this is possibly down to two or three things, one maybe that we are a new Council who wish to make our mark with new and fresh ideas. It may be partly because of the unfortunate state of our fishery over the last five or six years but the cautious approach that we have been

forced to apply in those years means that many of the items in our capital programme have been deferred but there does become a point, when you cannot defer something for yet another year and I believe to a certain extent we have reached that point with some things. FIPASS, the Stanley Runway, perhaps replacement of Islander aircraft, the improvement to the Stanley water supply and the Camp telephone system, to name a few. I think coupled with this we now seem to be agreeing as a team of Councillors, and rightly so that perhaps we should be spending big now in certain areas to save big in the future. A good example of that is the waste heat recovery system, maybe even a new administration building. I think of course there are other investments we should be making within our key industries.

To speak briefly on my portfolio responsibilities, I agree totally Sir, with your comments on Tourism and I make no apologies for giving Tourism a bit of a plug here. It is a growth industry that has tremendous potential and I believe that we must develop the land based side of it. That is extremely important, however I know Tourism does appear to be in some sort of turmoil at the moment and perhaps even a transitional period, that may not be a bad thing. I think we must make the best of what we can do with that. I make no criticism of fellow Councillors who are asking for more information from the industry before committing substantial amounts of money to that industry. I do have some criticism for those within the industry that and I would say "allegedly" though I think it more than that, withhold such information. I think whilst others in the same industry may be suffering and probably are suffering because one or two wish to wallow in a pit of so called success that is not productive to the Falkland Islands as a whole, certainly not to the Tourism industry.

I am very grateful for the support that my fellow Councillors have expressed (or at least so far) on the issue of the Camp economy and Your Excellency you commented on how farming will continue to be tough, it will indeed. You also commented on the fact that a distinct Camp community on East and West and on the Islands will hopefully continue to be a unique feature of the Falklands life. I agree totally with that. To me no matter how tough it gets I think we must preserve that uniqueness and way of life.

Very briefly on transport, I think our transport system is entering a very interesting and exciting period. The Transport Study is gelling together now. We have a new coastal shipping contract to be completed this year and all these things including FIGAS will hopefully gel together to make a much better transport system. There will be a cost but I think the benefit for the Islands as a whole will outweigh that cost.

I'm sure my colleagues have much more to add today, Sir, so I would just like to end by saying Mr Speaker, I support the Motion.

The Honourable Dr Richard Davies

Your Excellency, Mr Speaker and Honourable Members, Sir, I thank you for your interesting and indeed thought-provoking comments. I will not speak at length, either but I would like to respond to one or two of them.

Firstly I would like to thank you for your welcome to new Councillors. You are absolutely right that the issues do turn out to be more complex when one is more closely involved with them. But I am pleased to say the principles with which they should be tackled remain the same on closer inspection. Transparency and openness are two particularly important principles to which you alluded and I am glad that with your years of experience continue to place a high value on them.

At the same time, as you mentioned, it is our business to lead rather than to follow. That does not mean asking for public permission and approval every step of the way. It does mean, however, that our decision making process should be open to scrutiny and that we should be able to justify our decisions. Consultation should be appropriate and we have to judge when and how the public should be consulted in the important decisions which we are going to take this year. When we do consult we must make sure we take account of all views, not just the most vocal.

You mentioned the on-going discussion of the new government offices which illustrates this point well. It is clear that in the current dilapidated state of many government buildings it is not an option to stand by and do nothing. We have heard strong arguments in favour of centralisation of some services and the decision about whether and how to proceed is one that Councillors will have to make once we are satisfied that we have all the facts. Like you, I would hope the public will support the project if we proceed responsibly. This will mean that decisions are well informed, that money is not wasted and that appropriate consultation takes place as the project proceeds. The inter-related issues of the position and the appearance of a new building will be of considerable public interest and we should seek public views on that. Personally, I hope we will construct a building which the Islands can be proud of and which compliments our attractive and historic town.

Finally, I would like to echo your message to Argentina. As you mentioned, my Honourable friend, Richard Stevens and myself will soon be travelling to New York to address the Decolonisation Committee. We will be making the same points and giving them the same message. As you say, it is hard to interpret Argentina's actions towards us as anything other than economic sanctions. You know well as we do that this will not succeed in driving us toward negotiations. It will only strengthen our resolve. While we remain willing to co-operate with Argentina on practical issues such as the fishery, which will benefit both our countries, we will never give up the right to govern ourselves.

Sir, I support the Motion.

The Honourable Dr Andrea Clausen

Your Excellency, Mr Speaker, Honourable Members, I would like to make a few comments in particular regarding my portfolio areas in rising to support the Motion. I will try not to be too repetitive. Firstly, I would like to thank Your Excellency for your very interesting address.

I will start with Fisheries and you have already commented at length on fisheries. But I also would like to add that this has been a very interesting year. We have seen

considerable recovery of the Illex Stock, which whilst not bringing huge rewards in terms of revenue for this financial year, will hopefully restore confidence for next year and subsequently improve our income levels. Of course we must remain cautious, as we now know squid stock levels may fluctuate wildly and so we need to bear this in mind during our future budget deliberations.

The second important area in fisheries in this past year has been the new fisheries policy and its implementation. July 1st sees the allocation of ITQ in the Loligo and Tooth-fish fisheries. There will be a number of implications both for the Fisheries Department and its staff as well as for the industry as they adjust to this new system. I look forward to an enthusiastic approach to development by the industry as they gain the confidence to invest with their newly acquired long-term security in the fishery.

On to a related topic and it is that of port development. The conclusion of the wide-ranging consultation and deliberations has lead to FIPASS and its surrounding area as being identified as the site of our future port. This was supported by EXCO in 2005. Since then there has been limited progress in the production of a port development strategy. I would like to reassure all stakeholders that this is being addressed and that a timetable has been initiated for the progress of this project so that a business plan will be produced within the next 12 months. This, of course, does not hamper any stand-alone development, which will also have a role to play in the overall plan.

With the development in mind, it has also been a hectic year for the Development Corporation, as His Excellency has already mentioned. FIDC continues to stimulate and facilitate new business ideas at a considerable pace. I must say that this is one of my busiest areas of responsibility and, with its wide range of activities, often one of the most exciting. Whilst I, too would like to note the optimism that is identified in the Business climate survey, I would also like to mention a comment made to me recently by some visiting consultants. That was that one of the biggest obstacles for development in the Falkland Islands is that of in-fighting. Sadly, I think this might be true.

I sincerely hope that business people can put aside some of their small island issues and look to have co-operation of colleagues might in fact lead to higher benefits to themselves as well as others rather than to the detriment of all.

I can't end on development without thanking Julian and his team for their hard work, in particular Julian, who leaves later this year. Whilst I have only been chair of the Development Board for six months, it has been a privilege to work with him and he has done a wonderful job in explaining in as few sentences as possible some of the large development issues that he deals with. I wish Julian and Amanda the very best for the future.

On Minerals, I will be brief. We are moving forward and as I have mentioned recently in the media, the next big jump for offshore exploration is currently being hampered by extremely high rig rates. However, we remain confident that things will progress well and, until we can move forward, the Falklands must maintain its level of commitment to marketing internationally. We also look forward to continued

commitment and support of Her Majesty's Government in the development of this industry.

With the budget in mind, I would like to thank all Heads of Department and the Treasury for their time and effort in preparing all of the relevant documentation to assist us in our deliberations. This being my first budget, I had a lot to learn but I am relieved to find that the process thus far has not been quite as scary as I had imagined, largely due to the assistance just mentioned as well as to the support of long-serving colleagues who have been very patient with a new recruit.

Finally, I would like to take this opportunity to thank His Excellency the Governor for his support during these past six months since the election. New Councillors find themselves with a large and often complex range of issues to grasp and whilst they have their colleagues and officials to call upon (for which I am also grateful) assistance and support from Government House is also greatly appreciated. As this may be the last time you are present in this house, Sir, I would like to wish you and your family the very best with your future endeavours, wherever they may be.

Sir, I support the Motion.

The Honourable Janet Robertson

Your Excellency, Mr Speaker and Honourable Members, while thanking you for your address, Sir, I must also confess to a few moments of anxiety, specifically to your challenge to Councillors to be creative, imaginative and willing to take key decisions. I sincerely hope we won't disappoint. You have mentioned many achievements over the year and the efforts of several key people, who have helped to bring about important new policies or worked hard to maintain standards of service in Government and in the private sector. I absolutely agree with you but would, however, like to mention one significant development that has happened this year and that fell off your radar and that is the establishment for containerised service. This service is of absolute necessity for the development of our economy and already we can see the demand for it growing. A little bit like the Lan Chile service when it originally commenced operations to the Islands, there is the run-in time as people understandably question the viability and reliability of a risky new venture.

In the case of the shipping service, its degree of success is largely linked to the decisions that will be made on the development of our port. Working towards a strategy of investment and development of the port has to be one of our major priorities. I would urge private sector interests to work together in voicing their views and their ideas about its development. Initial investment and port development strategy has been included in budget proposals. Much of our discussion leading up to this budget has centred around the need to save and to invest to prosper schemes, some of which have already been mentioned. The proposals have, again, included efficiency savings, elimination of waste, unnecessary expense, the development of user pay schemes, so that this point in time the budget looks balanced and relatively healthy.

But some caution also needs to be voiced. So far in difficult times incomes have managed to exceed expenditure, with no noticeable loss in service to the community. Indeed, the scope of services has actually improved over later years. However, in trimming the fat, we must be careful not to be cutting into the muscle of our government, to maintain morale, to maintain the faith of the community, we must ensure that it remains effectively managed and properly resourced.

The point at which we can maintain current levels without placing impossible burdens on many key departments has probably been reached and breached, dare I say it, in some cases. In future years we must be careful with budget cuts to identify and target precise areas that can absorb it and to use the broad brush with discretion.

My second note of caution is vague and it is not a concern with current proposals on the table but rather more with trends and thought. Part of this budget process will be to consider a means testing approach to specific areas where appropriate, for example, access to further and higher education. There has been discussion, not currently agreed, on means testing for the Holiday Credit Scheme and Family Allowance. In principle there is absolutely nothing wrong with this approach. The need to balance the budget and manage expectations may demand it.

But aside from the administrative problems associated with it, it is worth noting that it represents a significant shift in political outlook and equal treatment for all to a more discretionary social politics to that which we have been used to in recent years.

We must also be wary of inflicting too many costs for middle income families, or eroding their savings and reducing their incentive to progress in their jobs and to support their children's aspirations.

I reiterate that this is a note of caution only and doesn't represent fears about the immediate proposals that are going to be decided today but one I would urge Councillors to think about over the course of the next year.

I haven't actually thanked anyone yet but I would like to. I support your kind words about some of the key people who are due to leave or who have recently left the community leaving a noticeable hole in their wake, including Sylvia Cole, Steve Pointing, Connie Stevens and Julian Morris.

It is actually some concern that, within these seven months since the election, so many are departing. I just hope that there is no connection there. Each in their way have been an asset to these Islands and we are very sorry to see them go but wish them very well for the future and thank them for their efforts and achievements.

I would also like to thank the Governor himself, this being your last address to the nation, for your commitment and strong leadership during your term. For being the first Governor in many years to marry here and to give Government House the sound of the patter of little feet – perhaps not quite yet. This makes you an unforgettable Governor indeed.

Lastly, in response to a comment in your address, I don't think it is the case that the process of decision making on Council are more complex than I had realised it seven months ago, or indeed areas are more grey than black and white than I had thought. But nevertheless, I have had good reason on several occasions over the last few months to be thankful that I have as colleagues in Council a sound, reasonable and hard working group of people that have been as committed and focused as they all promised to be. So, although an unfashionable thing to do and despite the arguments that have been and will be, I would like to thank them and congratulate them for their sometimes thankless commitment and dedication. As I may never wish to thank any of you again, I thought I'd best do it now.

I support the Motion.

The Honourable Mike Rendell

Your Excellency, Mr Speaker, Honourable Members, firstly I want to endorse your remarks, Governor about the police force, fire service and emergency services. All of them work in at times very stressful circumstances and they deserve much praise for the professional way in which they carry out their duties.

In this context I must also highlight the sterling work of the KEMH, ably lead by Nikki Osborne and Roger Diggle. It cannot be denied, however, that there are still serious shortcomings in the way that the Dental Department operates. But within the next 5 months or so, the two dentists and the dental hygienist will be in place, working in what will be newly refurbished, well designed and fully equipped surgeries. In the meantime, Dr Moira Bhola continues to provide the best possible service in the circumstances and she and her staff deserve much praise for this.

Your comments and support for the Camp is another of the themes that I would like to comment on. In the short term, I support package of wool freight payments and the widening of the labour scheme should allow farmers to carry out much needed maintenance of their farm infrastructure during this winter.

A one-year interest holiday on mortgages from the 1st of July should also be a significant benefit to those who really need it. Meanwhile we are moving ever closer to establishing an east-west ferry, which will seriously transform the economic prospects for West Falkland in particular. Whilst at the same time enhancing business opportunities for the Sand Bay Abattoir and for many others.

In your report, Governor, you have highlighted the difficulties that Argentina continues to place in our development. One of these relates to their inability to accept that charter flights for cruise ship passenger exchanges should be allowed, even though they were for a considerable time after the 1999 Agreement. As time goes on it is abundantly obvious that we need to expand and strengthen our other air-links and, that due to Argentine obstruction, this needs to be with the UK. You have made it clear that this initiative should be taken forward and I join fellow Councillors in hoping that this can be progressed as soon as this is practically possible.

This Argentine intransigence will do them no good in the long run. If only they could realise this, then perhaps we could move on to meaningful exchanges on fisheries, conservation, and oil exploration, which will be mutually beneficial.

Although this is your last Legco, Governor, it is premature to say cheerio because we have another meeting before you go.

I support the motion Mr speaker.

The Honourable Richard Stevens

Your Excellency, Mr Speaker, Honourable Members, I would just like to comment on a few things in your address, sir.

On my portfolio responsibilities I also welcome Barbara Booth and I look forward to working with her on the many challenges that we have ahead. I would like to comment on the further and higher education and this is an issue of funding. But it is also an issue of trying to encourage better work ethics and maximising our students' performance. It's a far greater thing than funding though that is one of the most important areas. I also echo your views and have great optimism in the young of these Islands and the May Ball is, of course, one of those areas where it is clear for us all to see.

I would also like to thank you for your Camp visits and I know they are appreciated by many of us. I would like to say how I feel and others have told me how you engage on your visits to Camp. I certainly remember when you were visiting our area how you were late to your next appointments and I think this shows that it wasn't just a visit. It was something a little bit more and we appreciate that.

There are many important areas of the future in the Rural Community and farming, the Pasture Improvement Programme the opportunities and meet and the area that encompasses all and development in Camp are probably the ones with communications. I know there has been criticism from different areas and I believe that we've got a balanced approach and complaints and disapproval coming into the system are good. But behind the scenes there is also a lot of work and hopefully we can develop good communications in Camp over the next few years.

I know people think I am like a record stuck in the groove because I seem to go over the same old issues and put my same views of concern about the farming community. Many years ago I think the Government made some predictions that, in my opinion, didn't materialise. We had strong wool prices that were meant to last for at least five years and we expected increased performance from re-seeds and the Abattoir was going to take our surplus sheep and we had a countdown out of subsidy. I think that principle of getting out of subsidy is a healthy one.

However, the wool prices didn't hold and the re-seeds didn't deliver on a lot of farms. Many changes will have to happen with the genetics and farming practices to maximise returns from the Abattoir. This is something that we've learned, of course since the Abattoir has been in operation. I think we all know at the shop floor that it

will take many years for farms to move to this position. I think when we look at the Government farms where they were the first to realise after this optimism that it didn't materialise and they couldn't make their sums work.. They are in the happy position of not having a mortgage and having expensive management – a development management team. There is a feeling that with a board made up of two Councillors and Chief Executive, they were able to find more money and break back into subsidies. They were able to get funding for a recovery plan. Of course, as a Council, we continue to support this.

In contrast, however, a number of farm owners find out exactly the same but our response, for some reason, is quite different. Economically speaking, I think the frailest farm would overcome some of their problems if they were treated in the same manner as money for sheep. I think everyone in the Farming community knows that wool alone will no longer pay the bills. Most of us also know that we need change but that change will take time and I believe that we should offer more help during this period.

Sir, I support the Motion.

The Honourable Richard Cockwell

Your Excellency, while rising to speak to your annual state of the nation address I fully support many of the things that you say and I will not go into breaking down everything that you said. However, I must thank you for your robust statement regarding our next door neighbours and reiterating the fact that the Falkland Islanders will always require the right to determine their own future. This is absolutely paramount to everything that happens within the Falklands and it will not change. Until people realise that this will not change we are going to have difficulties with our neighbours. Once they realise that I think they will find it is quite useful to have a good neighbourly relationship with us. But that will take a long time to achieve.

I am not going to go on for very long but I should talk about my portfolio, which is the Public Works Department. This is a new portfolio for myself and I have to say that I find it extremely interesting and stimulating and in some cases rewarding. Public Works is one of those Departments which people don't notice unless something goes wrong. Manfred Keenleyside and his section heads and others that work within Public Works quietly get on with things that we are used to in our daily life and they don't get any congratulations for it. I would actually like to pass on my personal congratulations to everybody involved because I do believe they do a very good job. However, one little thing that goes wrong and it becomes very public and certain members of the public criticise them for things which they believe they could do better. I think we must look at the MPA Road. There are men who dedicate themselves to keeping that road in as good a condition as they possibly can. I think that other than certain times when we get bad weather and the road deteriorates, they do an extremely good job.

I must also at the same time mention the Power and Electrical Department. There has been a lot of criticism over the issue of electricity metres in the past few months and it has been a very difficult issue. They have been vilified in some areas and people get

very angry with them. They are only trying to do their job. I think we have actually achieved a protean solution to the problem or a way around the problem that we have. I must thank my colleagues in being very supportive in this. The sooner that we get meters which work in a different way, I think the general public will be satisfied with what goes on. Don't blame PWD or the Electricity department. It's something that had to be taken through. So I do believe they should be supported rather than attacked.

Today is the culmination of a series of meetings throughout the past four or five months to discuss the coming year's budget. I think the theme is to maintain the services that we can in the best way we can. To look at investment in the future to generate income and/or make savings and, I think one thing which I might say (again with my public works hat on) draw people's attention to our proposal and it is something that you didn't mention, Sir, we are proposing to install wind generators a wind generating farm, which has the ability, with a concerted investment, to save £300,000 to £400,000.00 worth of diesel every year, possibly more. I think this is something which is going to reflect on electricity prices, it will share our commitment not only to reduce energy but also our commitment to the environment and everything else. I think it is a flagship project which we are going to have to make the most of. Hopefully the contracts will be coming back to Executive Council within a very short time. I hope that we will actually see by this time next year (even though you won't be here, Sir) that our electricity that we are burning in this room today will be generated by the wind, particularly if it's as windy as it's going to be today.

One short thing. I know that we will have other opportunities to thank you for everything you have done for us in the period that you have been here but as this is the last time you will be in this House formally I would like to thank you very much. It has been stimulating working with you. It's been very thought provoking. We haven't always agreed but we have always come to a solution at the end of it and I would like to thank you very much.

I support the Motion.

The Honourable Mike Summers OBE

Mr Speaker, Your Excellency Honourable Members, Ladies and Gentlemen, thank you very much indeed for your final address to the Nation, Governor. It was, as usual, thought provoking and I don't doubt that you spent many hours honing it and getting the right words in all the correct places.

You mentioned the Camp. Anybody who has ever been to the Falklands and has been to Camp understands the Falklands. The comments that you made therefore that you made were highly appropriate. That is why all Honourable Members support continuing development of the Camp Community. We very much look forward to the advent of a regular and frequent ferry to the West, which will make a huge difference.

I will comment on three other areas, very briefly on fisheries legislation. You pay tribute to one or two people who paid a big part in the creation of the fisheries legislation, I would just like to make reference to two others who slipped through the

net, Michael Harte who produced a huge amount of the original thinking that went behind the new ITQ system and very much helped John Barton formulate the ideas for it and of course Councillor Richard Cockwell who was the Chair of the Fisheries Committee throughout that time and spent hours and hours both in consultation and in mediation sometimes to make sure that the legislation was as it should be, so thanks to both of them for that.

A quick word about constitutional change and I note your slightly veiled reference to the length of time that it has taken for this Government, this Community to put its view forward to Her Majesty's Government on Constitutional change. I don't apologise for it and I don't think it is a mistake. One of the important things about constitutional change of course is to get it right, make sure that the community is with you and they understand what you are doing and we sometimes criticise the sort of slight bumbling approach to administration in other parts of the Falkland Islands Government but actually sometimes if you just take a little more time you get a better result. But, we are getting there with our constitutional change and we still remain committed presenting to some proposals to the Foreign Office in September.

On the issue of openness and transparency, I entirely agree that they are very important aspects of the Government of these Islands, I have been an advocate of them since before I joined the Council and have pushed hard for more openness and transparency throughout my time on Council and am happy to continue to do that. They will however always be balanced with some of the other attributes that must come along which are the pursuit of efficiency, effectiveness and value for money. Sometimes those things don't always stick together and you will always have to get the right balance. That is our job, that is what we do and that is what we will continue to do.

On the question of Immigration, we have in the past been relatively liberal and I believe that those policies suited the time what we must have in terms of immigration is mechanisms and controls that are appropriate, I think the United Kingdom Government has also discovered that in recent weeks, so the work that my colleagues will continue to do on this and Executive Council will need to consider in due course the need to be sure that what we are proposing is appropriate for the Falklands.

If I could pay tribute to one group of people that I work with much closely in the Government is the Chief Executive and his team of senior managers. They have had to adapt in the last three or four months to a new group of people with new styles, that is not always easy, they have done it with largely good humour and very effectively and I thank them for that. We are conscious that the Secretariat is probably under resourced and that some of the things that we ask for puts huge pressure on that time. They do their very best but we may have to look in the longer term at providing more and better resources to enable the sort of issues that we need to be considered, to be considered by the right people in the right sort of environment.

I will talk later about the budget and I will offer my praises then to the Financial Secretary (well I might) but I would like to mention the Tax Office who have done a splendid job in the last few years, the results alone play testimony to the work that has gone on in the Tax Office. Most issues are now up to date. Their work is done

effectively and efficiently and I thank them for that. They are never going to be the most popular department in town, however they are essential. I would also like to pay tribute to the Human Resources functions of the Government, it is again a department that usually only comes into the limelight when somebody is criticising it. It is not an easy job, they have a lot of people to deal with, they have some very complicated issues to deal with that very often involves matters of opinion as to matters of fact and I think they do it well, so thank you to them.

A couple of words about Argentina. I would like to place on record as I sometimes do in this House that the antics and activities of the Argentine Government have little or no effect on either the economy or the community of the Falklands. Whatever it is that they do we will adapt and get by because we are Islanders and that is what Islanders do, they adapt and get by. So, try as they might we will continue to do the things that we do to maintain this community. Co-operation would indeed be a better way forward but until it is on offer and we hope that it is on offer sometime soon, but until it is we will survive.

I would also just like to repeat what has been said before that it is Argentina that bears the international responsibility for failing to engage on the issues of conservation on the high seas of scarce resources or sometimes scarce resources and the eco system that do require care and attention. It is Argentina that is refusing to do that and as and when there is international criticism for there not being a multilateral arrangement for protection of the high seas in the South West Atlantic it is they who will bear that criticism.

I finally sir, would like to thank you for your contribution to the office of Governor in the Falkland Islands. The job changes from time to time, different people bring a different style that has to be a good thing. Not everybody could be the same and the days of the old Foreign Office clone are thankfully long gone. Your job is to bring a balance between internal self-government and Her Majesty's Government's interest. That is sometimes a delicate balance but it is a very important one, it is not just symbolic it is real. The level of internal self-government in Falklands and other Overseas Territories reflect the level of confidence amongst the people and the development and progress that they can then go on to make so it is a very important issue. You have made a real contribution in terms of foreign affairs and international issues, the consultation has been real, it has been honest and it has been straight forward and that is very, very important, important for us and I think it is important for the relationship between the Falkland Islands Government and Her Majesty's Government. Sir we do thank you for that and we thank you for your robust attitude on self determination and your robust attitude in reporting back to Her Majesty's Government, the views of this Council and its predecessor's and indeed of the community on important issues, and indeed your robust attitude in rejecting Argentine adventurism, that is essential and your messages to the Argentines today are very welcome. So, I would like to thank you for your contribution to the community for the time you have been here, you are not formally a Member of the Legislative Council but you have chaired a session of the Legislative Council, and of course you have delivered your address here since you have been so I think it is appropriate that we should present you with the customary Legislative Council tie. Thank you very much indeed.

His Excellency the Governor

Thank you and I shall wear it with pride; I think my chairmanship lasted for about thirty seconds.

The Honourable Mike Summers

Mr Speaker, I support the Motion.

The Honourable Financial Secretary

Your Excellency, Mr Speaker, Honourable Members I support the Motion of thanks, as everybody will be hearing enough from me later on I will reserve my comments until then. Thank you.

The Honourable Chief Executive

I will echo the words of the Honourable Financial Secretary and reserve comment for later. I support the Motion.

Commander British Forces

Your Excellency, Mr Speaker, Honourable Members, I listened very intently to what His Excellency had to say and I think to my eye it shows the grip and the grasp that the Governor has over the business of these Islands and indeed at the strategic context in which they are set. Can I give my personal thanks to His Excellency for the counsel I have enjoyed from him.

My job here is very much in support of diplomacy, diplomacy has primacy and is the diplomatic leader of power which the military is here to support and I can't do that unless I understand the context in which that sits so I Sir have benefited very much from your counselling and understanding of some of the sensitivity on some of the issues with these Islands.

I think the other side for me is to echo what the Governor said about the indomitable spirit out in Camp. It is the mortar of the Falklands to desire the right to my view and to my eye again it is an aidable right to self determine ones future and ones government and that is my job to make certain that is supported here.

I have found a great welcome in these Islands the same as the Governor has done and I have come to realise quite quickly that there is a lot that we can share and a lot that we have in common in my people, myself being in these Islands. I was pleased that the Governor highlighted a number of issues in his address that talked about some of this increased burden sharing, talked about the contribution the Ministry of Defence can perhaps help to make towards that and as the Governor and I know we discussed it long and often, there are many areas of mutual support which I think we have identified and I think we are on a road to sorting them out, maybe not as fast as he or I would like but nonetheless we are nudging that process forward.

Finally I think the issue I was pleased to hear as well was of the visitors to these Islands and I can liken my year here to a school year then I would say this term has been particularly busy. For those that are listening to my words or reading the transcript later I would just like to pick up on the message the Governor made about senior visitors. We have had all three UK service Chief of Staff here and a senior Minister in the last three months. No one should be in any doubt therefore whilst the UK may have a lot going on in military interest in both the areas of Iraq and Afghanistan the eye has not been taken off the ball anywhere else around the world and for the senior visitors that came here at four star level they were all here to make certain that people understand and that I understand that we still have the ways and the means as well as the stated will to discharge the military mission here. That mission is clear, it is to support the right of self determination of the Islanders. It is my provision to serve you in that and it is even more heartening when I am serving people who have such an indomitable spirit and people should be in no doubt from those visits and what has been said of the UK Government's intent that that mission will endure for as long as it is required.

I believe it is also worth noting that those senior visitors did not just look at the military issues here but were taken and ceased by what they saw, heard and took their views back to the UK and those views are on the state of the islands and on the views of the islanders have been represented at the House level.

Thank you Sir for your remarks and your kindness to me personally and for what you said about the contribution about my people here. Mr Speaker, I support the Motion.

Mr Speaker

Thank you Commander British Forces. Your Excellency, the Motion appears to be well carried, thank you.

Acting Clerk

The confirmation of the record of the meeting of Legislative Council held on 24th February 2006.

Mr Speaker

Honourable Members I have before me the minutes for signature is it your wish that I sign these minutes as a true record of that meeting.

Agreed

The Honourable Dr Richard Davies

Mr Speaker, Honourable Members, I don't wish to make any corrections to the minutes, I wish to apologise to this House for the fact that part of my reply to question 6/06 from the Honourable Janet Robertson was incorrect this was regarding the respect of damage by vehicular access to the Murrell Area and Cape Pembroke. I

stated that a Management Plan for the Murrell was being drafted and was in its last stages of consultation. In fact, Honourable Members may recall that the Management Plan had been completed and had been approved by Executive Council for implementation at its meeting in January 2006. The process of consultation had therefore been completed. In tendering this apology I would add that the information I gave was based upon advice provided by an official but I accept that it was genuine mistake and that there was not intention to deliberately mislead me or this House

Mr Speaker

Thank you Councillor Davies, the record of this meeting will carry that statement, I will move to sign of the minutes of the last meeting.

Acting Clerk

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 Legislative Council and laid on the table pursuant to (Section 34(1)) of the Interpretation and General Clauses Ordinance 1977.

- Coins Order 2006
- Capital Equalisation Fund Order 2006
- Trade in Controlled Goods (Embargoed Destinations) (Amendment) Order 2006
- Fishing Licences (Application and Fees) (Regulations) Order 2006

The Honourable Chief Executive

Mr Speaker, Honourable Members I hereby lay the aforementioned papers on the table.

Acting Clerk

Questions for Oral Answer

Question Number 7 of 2006 by The Honourable Mike Summers OBE

The Honourable Mike Summers OBE

Mr Speaker, would the Honourable Richard Stevens please advise, of the students funded by FIG to attend Peter Symonds College between 1995 and 2004 what percentage have returned to the Islands or are in higher education with a view to returning, and of the students funded by FIG to attend higher education courses

between 1995 and 2003 what percentage have returned to the Islands or are expected to return within the next few months.

The Honourable Richard Stevens

Mr Speaker, Honourable Members between 1995 and 2004, 93 students were funded by FIG to attend Peter Symonds College. 77.4% of students (72 students¹) have progressed to University. Of those whose courses are complete 40% are now resident in the Islands². Of the students funded by FIG to attend Higher Education Courses between 1995 and 2003:

1. 45% of Higher Education students who completed their courses have returned to the Islands;
2. 24% remain enrolled on courses of study and their future intentions are not known;
3. 4.2% are intending to return;
4. 19.3% withdrew from their course³; and
5. 7.0% return occasionally

¹ of which 5 were contract officers children

² number of contract workers children now reside in the Islands

³ 59% of those who withdrew from their courses have returned to the Islands

The Honourable Mike Summers OBE

Mr Speaker, thank you Councillor Stevens for that response. My purpose in asking this question was I think on occasion we are in danger of believing our own propaganda, does the Honourable Member agree that these returning figures are not in fact quite as good as the propaganda sometimes suggest and that the rate of return is not as complete as we often like to believe it is and would he agree that we perhaps should spend a little time studying these figures to see if there is more that we can do to encourage those people who we have funded in education to return for useful purposes.

The Honourable Richard Stevens

Mr Speaker, Honourable Members yes, I think we could study the figures and perhaps our propaganda is slightly misleading but I think that sometimes we focus too clearly on certain areas and my personal view is that some of our higher education students could always benefit from staying away from the islands and getting experience. However, there is no mechanism that says that they will come back to the islands at any time. To have our students returning straight away all the time perhaps might not be that beneficial either.

The Honourable Richard Cockwell

Mr Speaker, Honourable Members would the Honourable Richard Stevens agree that we do have examples of people that have actually stayed away a considerable time

and have come back and become very valuable members of the community in fact we have at least one of them in this room at this time. There is at least the possibility that this is the benefit that we can actually see in the future rather than in the present.

The Honourable Richard Stevens

Mr Speaker, Honourable Members yes I agree with the Honourable Richard Cockwell and say that yes, however it is very hard to quantify.

Acting Clerk

Question Number 8 of 2006 by The Honourable Mike Summers

The Honourable Mike Summers OBE

Would the Honourable Richard Stevens please advise the House what place is provided in the school curriculum for competitive sports.

The Honourable Richard Stevens

Mr Speaker, Honourable Members sporting provision at the Falklands Island Community School falls into two categories. Physical Education (PE) forms part of the standard curriculum for all pupils who attend the school, ranging from 1-2 hours per week depending upon the age of the pupil. This is supplemented by additional sporting activities through clubs and house activities many of which are of a competitive nature.

The main competitive sporting events are Sports Day, the Swimming Gala and the Tumbledown Run. Additionally competitive sport is involved in the 5-a-side football club and the netball club.

Inter-house sports competitions take place at the end of each term.

There is a similar picture in the Infant/Junior School. Each class is taught a weekly allocation of PE that varies from 1 – 2 hrs per week. For Key Stage 2, lessons are supervised by specialist PE staff from FICS. Recently this has been supplemented by 17 weeks of swimming lessons which includes pupils walking to and from school.

There are a range of extra curricular clubs which take place on a regular basis. These are:

- Football;
- Short Tennis;
- Netball;
- Karate;
- Scottish Dancing;
- Ballet; and
- Running & Jogging Club;

of which the first four are competitive by their very nature.

Plans are also being made for participation in forthcoming events such as competitions with the MPA school in sports such as football, introducing yoga and taking part in Challenge Day.

Allied to these activities are additional curriculum opportunities to inform pupils about associated topics. These include the DARE programme on healthy living and healthy living and food topics in Science lessons.

Opportunities for PE in the Camp Education Service are more limited due to a lack of numbers. Most locations only have one or two students. Approximately one hour a week is devoted to those elements of skills development appropriate to the circumstances and to the Qualification and Curriculum Assessment objectives.

Opportunities for sporting competition are limited by the lack of numbers or, in the case of settlement schools, the disparity in ages. Staff seek to introduce such opportunities when circumstances permit but these are infrequent. However, when children transfer to Stanley House they are encouraged to participate fully in all programmes offered by the schools and the community.

Healthy competition is encouraged but this is not to the detriment of ensuring participation in sporting activity by all pupils whatever their ability and fitness level in order to promote physical fitness and well being for all.

The Honourable Mike Summers OBE

I thank the Honourable member for that, I have long been concerned that competitive sport has disappeared from school curricula, not only here but also in the UK and I guess here because it disappeared in the UK. Does the Honourable Member agree that it would be appropriate to study the opportunities for more competitive sport in the curriculum in the Falklands on the basis that this is a competitive world and teaching people competition is no bad thing? I know that doesn't necessarily doesn't find favour with some of the wishy washy liberal groups that you find in some education circles but I think that it is a belief widely held in the Falklands and does the Honourable Member also agree that there is a real need to ensure that all the children are healthy and are kept healthy and some supervision within the curriculum might be appropriate.

The Honourable Richard Stevens

Yes, that is a lot to agree with. I think we do need to focus on competition and being healthy but basically children are individuals and some are stimulated and respond to physical education certainly however, there are groups that don't as well. So, certainly it is an issue that we can discuss on the Education Board, but as I say all children are individuals we would have to be fairly flexible to achieve what the Honourable Member is asking for.

The Honourable Janet Robertson

I would just like to ask Councillor Stevens if he agrees that if we had our school's sports day and school's swimming gala on a weekend and make it a community event if this might not encourage the spirit of competition amongst our children and indeed amongst the parents as well.

The Honourable Richard Stevens

Mr Speaker, Honourable Members, I'm not quite sure that I could answer that. Maybe it is a question that we could ask parents, students and staff. Certainly something that we could investigate.

Mr Speaker

Thank you Councillor Stevens. No more supplementary? Next question please.

Acting Clerk

Question Number 9 of 2006 by The Honourable Mike Summers

The Honourable Mike Summers OBE

Would the Honourable Janet Robertson please advise what use is made of data copied down from departure tax forms and passports by Immigration officials at MPA.

The Honourable Janet Robertson

I presume my Honourable colleague is actually referring to the 'Embarkation Form' which the Immigration Department requires certain passengers to complete when departing the Falkland Islands by air.

All departing passengers who are travelling on valid passports endorsed with their Falkland Islands' immigration personal identification number or who can produce a work permit signifying that their personal information is already recorded by the Immigration Department, are not required to complete an 'Embarkation Form' and a record of their departure is kept by simply noting down their respective surnames and identification numbers.

However, all departing passengers who cannot produce an endorsed passport or work permit are required to complete the embarkation form.

The purpose of Immigration Officers undertaking this process is to:

- Firstly, ensure all persons travelling on the respective flight have valid passports and which will be accepted for entry by the country of destination;
- Secondly, confirm all persons listed by the airline as intending to travel have in fact checked in. This also serves as part of the aviation security check in

respect of the number of persons actually checked through to the departure lounge in readiness for boarding the aircraft;

- Thirdly, collect departure data relevant to the maintenance of complete and accurate personal information and movement records in respect of all persons ordinarily resident and temporary resident;
- Lastly, collect relevant personal information in respect of persons whose information has not previously been recorded by the Immigration Department, for example ship's crew members who have only disembarked from vessels the same day and proceeded directly to the Airport.

The corresponding personal and movement records information collected by the Immigration Department is used internally to:

- Ascertain that applicants for permanent residence permits or Falkland Islands status are in fact eligible by having completed the relevant qualifying residency periods, and;
- Ensure that persons subject to immigration restrictions have either renewed their immigration permits or have indeed departed the Islands prior to their expiry and have not remained unlawfully present in the Islands.

The personal movement information records are only provided on request to the following:

- Anyone person requiring information relating to themselves;
- Falkland Islands statutory authorities, namely:
- The Royal Falkland Islands Police in connection with criminal investigations or in establishing the whereabouts of persons;
- The Commissioner of Taxation in ascertaining the correctness of personal information supplied by individuals and entitlements to personal allowances;
- The Chief Medical Officer in determining eligibility to medical treatment;
- The Electoral Officer in assessing eligibility of persons to be included on the Electoral Register;
- The operator of the Holiday Credit Scheme in so far as required for audit purposes.

General statistical information, that is to say, that which does not in any way reveal an individual's personal details or movement records is also provided from time to time to:

- Members of the public and the private sector;
- The Falkland Islands Development Corporation, and;
- The Tourist Board.

There is a note here that says the embarkation Tax receipts are simply evidence of payment of the tax.

The Honourable Mike Summers OBE

I'd like to thank the Honourable Member for the comprehensive reply, could she assure me that the data that is collected is entered on a timely basis onto the database at the Immigration Department and that up to date statistics are generally available. I did not in my question make reference to the Embarkation Form I made reference to the embarkation tax form there is habit of copying the reference number of the embarkation tax form onto a piece of paper and there is no evidence that it is of any earthly use to anybody which was the purpose of that part of the question. Could the Honourable Member confirm that it is of some earthly use to anybody, you simply need to look at it to see that it has been paid, you don't have to write down the number.

The Honourable Janet Robertson

I have to admit to being absolutely comprehensively sure that they enter their required information as soon as possible but I can certainly find out. With regard to the numbers on the embarkation tax form I can certainly see your point, I have often wondered in the past the need to take down those numbers and I will certainly find out for you as soon as possible.

Acting Clerk

Question Number 10 of 2006 by The Honourable Richard Stevens

The Honourable Richard Stevens

Would the Honourable Mike Rendell please advise the House what are the estimated annual cost, to the relevant parts of the Health Service and Public Protection budget, smoking and alcohol abuse has. Can he provide a separate figure for both?

The Honourable Mike Rendell

It is a highly complex calculation to work out the cost of smoking and alcohol abuse for the health services and public protection budget. Whilst there is plenty of evidence to link smoking and alcohol abuse to a range of health and public protection issues, it is much more difficult to pin this down to actual costs. For example, not every case of lung cancer or heart disease can be attributed to smoking.

However, the following can be noted in relation to smoking particularly:

Smoking

Smoking related diseases include cardiovascular disease, cancer (mouth, throat, lips and lungs, as well as other cancers) and chronic lung disease. According to the Chief Medical Officer's Health of the Nation Report, these are the major causes of ill health and premature death within the Falklands

We do not have precise figures on smoking prevalence in our population but it is thought to be higher than that of the UK. We do know that, in particular, teenagers, young adults and especially women appear to be smoking far more than their counterparts in the U.K.

In the UK NHS, it is estimated that £1.7billion is spent on treating smoking related diseases each year. At the time that this figure was calculated, it equated to approximately 10% of overall expenditure. It is likely that the proportion of expenditure in the Falkland Islands health service is greater than this because:

- (a) we appear to have higher smoking rates
- (b) our range of services is narrower and we spend a lower proportion of our funding on preventive and community services
- (c) a large proportion of our MTO budget is spent on cancer and heart disease referrals – accommodation and flight costs make specialist treatment very expensive compared to the UK
- (d) our administrative overheads are lower.

ii. Alcohol

We know that there are links between alcohol consumption and:

- (a) Being unhealthily over or under weight
- (b) Cancers of the mouth, throat, lips, and digestive system especially when alcohol consumption is linked to smoking.
- (c) Tooth decay and gum disease
- (d) Damage to unborn children. Alcohol readily crosses the placental barrier and a pregnant woman who drinks alcohol is also making her unborn child drink alcohol.
- (e) Liver disease – especially the development of cirrhosis and higher risks of suffering hepatitis are well known.
- (f) Mental problems – particularly depression and in later stages brain damage

- (g) Enhanced risk of suicide. Alcohol interferes with the production of a substance in the brain called serotonin and there is a clear link between serotonin levels and suicide risk.

In the Falkland Islands, the Health of the Nation Report and 'One for the Road' Alcohol Strategy also highlighted the following:

- (a) approximately 25 – 30% of non-surgical admissions have alcohol misuse as a significant factor leading to admission.
- (b) large proportions of casualty attendances are alcohol related and are as a result of accidents and of violence.
- (c) depression is very common in the Falklands. Alcohol plays a significant role in the causation of depression, either because it is depressant or because of the effects on work and the family. Some individuals drink to obliterate the depressive feelings.
- (d) In the region of 80% of child abuse/ neglect cases alcohol is a major factor.
- (e) Abuse of alcohol is a common feature in marital and relationship problems
- (f) Violence – nearly all cases of violence and fights reported to RFIP are fuelled by alcohol

Alcohol is calculated to cost the NHS, social services and the wider public sector a far greater proportion of the budget than smoking because of its implication in so many social issues, as outlined above. As the Honourable Richard Stevens will understand it is difficult to answer this specific question regarding estimated annual cost of smoking and alcohol abuse, as we do not have those records. However, if one took a really conservative view just 15% of ours, UK 10%, but it is probably much higher than that of our health budget was spent in this area this would equate to approximately £750,000 per annum. Put another way, the cost equates to about £355 per head per annum assuming a population base of 2000 persons over the age of 16.

The Honourable Richard Stevens

I'd just like to thank the Honourable Mike Rendell for that answer.

The Honourable Mike Summers OBE

Mr Speaker would the Honourable Mike Rendell care to comment further on the incidents of under age smoking and the failure of the Government to do very much about trying to prevent underage smoking. We have spent considerable amount of money in recent years in producing Health of the Nation documents I have seen little evidence of what has been done with them. But, I have seen huge evidence of large numbers of under 16 year olds smoking in the street, smoking in the Town Hall, smoking outside the Infant/Junior School when practice was going on for the May Ball and it was hard to find somebody who wasn't smoking. Does the Honourable

Member agree that much more could be done in terms of education to prevent underage smoking and indeed more could be done in terms of providing educational facilities for people to avoid alcohol abuse.

The Honourable Mike Rendell

In a very short summing up of what the Honourable Member has said, I totally agree that a lot more work needs to be done in these areas. I'm unsure as to what education if any is carried out on helping children under the age of 16 to fully appreciate the dangers of tobacco and alcohol and it might be appropriate to ask one of our Members from the Education side of things. Whether there is any kind of education strategy to look at these issues, but certainly if there isn't that we know about then it is something that needs to be followed up on and I hope the Member that represents education might wish to look at that. In relation to the whole issue, I think there is a parental duty as well and I think this needs to be highlighted and there is no doubt that some parents are not aware of the consequences of smoking and alcohol and I hope that the answer to the question that I gave this morning might give them a lot more insight if they didn't know and there may also be an issue with the Royal Falkland Islands Police to take some interest in this. We have the Police on patrol in certain parts of the town in certain times of the day and they might want to make it their business to be patrolling the areas between the school and the town. I think there are a number of ways in which this problem of underage education could be addressed.

The Honourable Richard Stevens

Mr Speaker, Honourable Members I would be pleased to comment that I think there has been a number of initiatives in the school over the years and I believe that the DARE programme that the Police run also contributes to tackling smoking but I would agree that there is a lot more work that could be done. However, I would think that from my experience and from what I see that the problem seems to be away from the school, on the way, leaving, coming to the school. I would suggest that the remit is probably elsewhere away from the staff members. I think there is an area of concern and it certainly needs to be addressed.

The Honourable Dr Richard Davies

In his initial response to the question, the Honourable Mike Rendell highlighted the fact that misuse of alcohol and I deliberately use the term "misuse of alcohol" rather than "alcohol" per se puts huge social burdens on the community in addition to the financial burdens mentioned. Would he agree that smoking likewise places huge burdens which are difficult to quantify on the community, on families and on the employers of smokers who are affected by ill health or indeed die prematurely.

The Honourable Mike Rendell

Certainly, I support the proposition that the Honourable Doctor has said there and I am sure that there will be a lot more discussion about this in due course in this chamber. I understand it is going to be raised at the next Legislative Council, the whole issue of smoking in public places, but we are talking about smoking in general

and there will be a lot more opportunity to discuss this then and to come to some logical conclusions.

Mr Speaker

No further supplementary questions?

Acting Clerk

MOTIONS

Motion number 1 of 2006 by the Honourable Chief Executive.

It is MOVED that the Legislative Council hereby approves the making by the Governor of the Canache (Mooring of Water Craft) Development (Amendment) Regulations 2006, a draft of which is on the table before the house.

The Honourable Chief Executive

Mr Speaker, Honourable Members, I move that the Legislative Council hereby moves the making by the Governor of the Canache (Mooring of Water Craft) Development (Amendment) Regulations 2006, a draft of which is on the table before the house.

The Honourable Financial Secretary

I second the Motion.

Mr Speaker

Does any Honourable Member wish to speak to the Motion?

The Honourable Dr Andrea Clausen

Mr Speaker, Honourable Members, just really to make one very brief comment regarding this particular Motion and that is that it is understood that any cost that will be incurred in supplying electricity which is what this regulation is about to the Canache be met by the user and not by the Falkland Islands Government, it was stated that this subsidiary legislation would be at no cost to the Government. I'd just like to make that note. Thank you.

The Honourable Dr Richard Davies

Mr Speaker, Honourable Members I would just like to add a comment that when we do effectively make special provisions for parts of the Common it is very important that we bear in mind the fundamental philosophy of common land, which is that land is for public use and we think very carefully about allowing certain people specific rights over our common land.

Mr Speaker

Does any other Honourable Member wish to speak to the Motion? We therefore move that the Motion be carried. The Honourable Chief Executive do you have anything to add? The Motion is carried.

Acting Clerk

ORDERS OF THE DAY: BILLS

The Appropriation Bill 2006.

The Honourable Financial Secretary

Mr Speaker, Honourable Members

The purpose of this Bill is to authorise the withdrawal of £41,023,880 from the Consolidated Fund for the service of the financial year beginning 1 July 2006. The schedule to the Bill summarises the appropriation under three headings: firstly, £32.3 million is allocated to the operating budget, which represents estimated expenditure net of internal charges of £1 million and capital charges of £3.6 million. Secondly, £4.4 million is allocated to fund transfers and thirdly, £4.3 million is allocated to transfer payments.

The Draft Estimates for 2006/07 reflect the budget strategy and policy approved by Executive Council. This followed the usual comprehensive budget process. Honourable Members have examined budget submissions from managers in detail in two separate meetings of the Standing Finance Committee and amendments have been incorporated at each stage. As a consequence the budget figures have been condensed into a summary document. The document includes extracts from the annual accounts for information and a copy of the Appropriation Bill and Capital Equalisation Fund order for ease of reference.

At this stage I should draw attention to the budget strategy which was approved by Executive Council in September of last year. This included the following elements:

- A target surplus of £200,000
- Inflation, including any pay adjustments, to be met from efficiency savings and a reduction of discretionary expenditure.
- To continue the scrutiny of the transfer payments budget with a view to a 5% reduction of £200,000.
- To continue the development of new and a review of existing user-pay charges in accordance with approved policy.
- The transfer to the capital equalisation fund to be confirmed as projected at £4 million.

- Net capital expenditure to continue to be limited to £12 million in any rolling 3-year period.
- The Consolidated Fund balance to be maintained at a minimum of 2.5 times annual operating expenditure, excluding internal and capital charges. I should add at this juncture that Executive Council has subsequently requested a review of the policy of maintaining this ratio.

As usual, before dealing with the detail of the 2006/2007 budget, I will briefly review the current year. The Draft Estimates show that the out-turn at 30 June 2006 is expected to result in a budget surplus of £4.2 million compared to a deficit of £393,000 forecast a year ago. The reason for this substantial improvement is an increase in revenue of £6.6 million, mainly from investments and taxation, partly offset by a reduction in fisheries revenue and by additional expenditure of £2 million.

At 30 June 2006 it is estimated that the balance of the consolidated fund will amount to £90.5 million. This represents slightly more than the budget strategy target of 2½ years worth of operating expenditure, and is an appropriate point to start the report on the 2006/2007 budget.

Operating revenue for 2006/2007 is forecast at £42.8 million and the submissions for total expenditure, excluding depreciation, are inserted at £42.1 million. This results in an estimated budget surplus of £745,000. The main aim of the budget strategy, to produce a small surplus has therefore been achieved. This is mainly the result of positive assumptions in two areas: the global economy to produce the projected return on the overseas investment of government's reserve funds and the local economy to continue to produce the projected tax revenues. Both of these valuable sources of revenue are needed to help to offset some of the reduction in fisheries licence fee income.

As just mentioned, operating revenue is forecast at £42.8 million which shows an increase of £3.7 million on the original estimate for the current year excluding depreciation recovery. The main variance relates to additional investment income and taxation revenue. The revenue forecast includes fisheries licence fee income inserted at £16 million. This figure, which is the best estimate at this time, is £2 million more than the revised estimate for the current year. After the poor results of the previous two Illex seasons the current season has shown a partial recovery. Having regard to this partial recovery and historic trends it was considered reasonable to make an allowance for a further marginal improvement, though not to the high levels of the past. No significant change in licence fee income from the other fisheries is projected.

This brings me to the draft estimates of operating expenditure where a total of £37 million is inserted. Following adjustments made at the recent budget meetings of the Standing Finance Committee this figure is £848,000 more than the original estimate for the current year. This is the result of a long process of discussions between

Treasury and managers, and several days of debate by Honourable Members at the Standing Finance Committee. During this process, and starting from a base of expenditure projected this time last year, efficiency savings amounting to £1.1 million were accepted and additional spending proposals of £3.6 million were approved subject to confirmation by budget select committee. It will be recalled that a 1.5% cost of living award was approved for government employees last year following a rise in the retail prices index of 5.6% in 2004. No pay award was made in the previous year despite an increase in the index of 2.1%. In 2005 the retail price index rose by 4.3%. To go some way towards mitigating the increase in cost of living over the past 3 years, the additional spending proposals include a provision of £600,000 to allow a pay adjustment to be considered for government employees from 1 July 2006. If this provision is approved, the way in which it is distributed will need to be determined.

Other significant expenditure proposals include the following areas:

- £600,000 for medical treatment overseas
- £177,500 for further and higher education, and
- £850,000 for fuel

The additional £600,000 for medical treatment overseas brings the proposed estimate for next year up to £1 million and reflects a growing upward trend. Medical treatment overseas now represents around 16% of Health and Social Services proposed expenditure of £6.2 million. A review of the medical treatment overseas policy is currently underway to ensure that the level of this essential part of the health service remains affordable.

The additional investment of £177,500 for further and higher education reflects a growing number of qualifying students. Proposed expenditure on further and higher education now amounts to £1 million and this represents around 20% of the total education and training budget of £5.1 million. A review of both further and higher education provision is currently underway to ensure that ongoing expenditure in these areas remain affordable.

An additional £850,000 for fuel covers the recent increases in price and a provision for some further increase. This brings the total budget for fuel for all departments up to around £3.3 million. The main users affected by fuel price increases are the power station, fisheries patrol vessels and FIGAS.

The draft estimates for transfer payments amount to £4.3 million. This is around £400,000 more than the original estimate for the current year and what was projected for next year. Clearly the strategy to reduce transfer payments by £200,000 was unable to be met. This is mainly the result of proposed increases in both direct and indirect support to camp where £264,000 of new money has been inserted. Although there has been some modest recovery and wool prices are not at their lowest levels, the proceeds from sales are inadequate to cover rising production costs without income streams from other sources. Income from tourism, meat and other diversifications have helped the camp economy in certain areas. However, there are some farms which, due to their particular location or situation, are unable to benefit from such diversification to the same extent as others. Furthermore, both the meat

and tourism industries are in their infancy. Additional support is therefore required at these early stages of development to help return viability to camp.

At yesterday afternoon's meeting of Executive Council it was recommended to the budget select committee that the transfer payment of £220,000 allocated to support the Falkland Islands Tourism budget should be increased by £270,000 to £490,000. However, Executive Council attached an important message and a condition to this recommendation. The message is clear in that Government recognises the importance of the tourism sector and is prepared to invest heavily to support its promotion and development. The condition is for the additional funding to be withheld until such time as government can be satisfied that it is economically justified to make the increased investment. It should be noted that, if the additional funding is approved, this will reduce the estimated budget surplus unless compensatory savings can be identified.

Fund transfers of £4.4 million are included in the draft estimates. This is the same level as projected last year and it includes a £4 million transfer to the Capital Equalisation Fund. It is estimated that the balance of this fund at 30 June 2006 will amount to £22.5 million. It will be recalled that the Capital Equalisation Fund was established in 2004 by a redesignation of the former Sinking Fund. The purpose of the redesignated fund is to smooth out the peaks and troughs of capital expenditure over the longer term. Although there is a strategy to limit capital spending to £12 million net of capital receipts in any rolling 3 year period, currently the net capital programme for the next 3 years totals £13.3 million. As a consequence the annual contribution to the capital equalisation will be kept under review to ensure the fund is maintained at an appropriate level. Please note that the projected capital receipts include a total of £3.6 million of European grant monies for budgetary support. The most recent allocation of this support was confirmed more than 2 years ago. However, no monies have been received to date despite the employment of dedicated resources and visits to Brussels. Clearly the extent of the bureaucracy involved was not fully appreciated and the receipt profile remains uncertain.

The proposed capital expenditure for 2006/07 to be met from the capital equalisation fund is £7.8 million. This is in line with the projection of £7.6 million. In addition it is anticipated that underspends of £172,000 from the current year will be available to support the capital programme next year. It should be noted that greater effort has been dedicated to establishing the 2006/07 estimate than to subsequent years. The projections are shown for financial planning purposes only. They are not approvals to spend at this stage and further work will be required to firm up the projections.

The major areas of expenditure in next year's programme are for roads both in camp and Stanley where £1.6 million is proposed, and for replacement power generating equipment including wind turbines and a pumped sewage disposal system for Stanley, where a total of £3.3 million is inserted. The balance of £2.9 million is allocated to 22 smaller but equally important capital schemes. I should add that, at yesterday afternoon's meeting of Executive Council, a recommendation to allocate £327,000 in the capital programme to make a start on a survey and major restitution works at FIPASS was referred to the Budget Select Committee. This would represent a substantial increase in next year's programme and Honourable Members will need to

consider how the funding for this essential project can be accommodated. The need to spend serious money on upgrading our port facilities has been in the planning stages for some time now. The total cost of the FIPASS restitution programme is estimated at £3.7 million. However, the allocation of financial provision for future years has been deferred pending the consideration of a port development strategy. When I report back from Select Committee I will provide a more complete overview on what the approved capital programme contains.

I now turn to revenue measures:

- A simplified tax regime was introduced from 1 January 2004 following an extensive review process. As a consequence, it is not considered to be appropriate at this time for structural changes to be made, nor to amend the tax rates and allowances currently in force.
- A principle adopted by the approval of the taxation policy framework was to keep user pay charges under review and to expand that concept in preference to adjusting existing taxes or introducing new taxes. Although it may prove necessary to make taxation adjustments at some point in the future, the budget proposals are focussed mainly on the user pay principle for the forthcoming year.
- It is proposed to increase customs import duty on cigarettes by 10%, tobacco and cigars by 5% and alcoholic beverages by 4%. These increases would, for example, add an extra 23p on a packet of 20 cigarettes, 30p on a 50 gram pouch of tobacco and an extra 28p on a 75cl bottle of spirits. These increases are designed only to maintain current revenue levels estimated at around £800,000 since consumption has declined. Based on the answer to question 10/06, this level of revenue would appear to just recover the estimated cost of medical treatment resulting from smoking and alcohol abuse.
- Embarkation tax was originally introduced at a rate of £10 per passenger with effect from 1 January 2000. The rate was increased to £20 with effect from 1 March 2002 to recover the additional costs of airport security. The tax has been the subject of criticism from visitors, in particular due to the weak US dollar rate, and efforts continue to include the tax in the cost of LAN Chile air tickets. It is therefore recommended that this charge remains unaltered.
- An increase in the passenger levy to £15 was agreed two years ago to fund additional security measures, together with an introductory fee of £5 for vessels previously exempt. The tourism industry representatives have requested advance notice of any changes due to the impact on cruise vessel operators. Therefore no increase is recommended for the forthcoming financial year. However, it is important to ensure that such charges reflect the increasing costs of security and an increase of 10% is recommended with effect from 1 July 2007.
- Harbour dues were increased by 3% from 1 January 2004. In order not to fall too far behind inflation a 4% increase is recommended from 1 July 2006. This

will raise an additional £18,460. It is further recommended that the increase is not applied to private yachts. This charge would remain at £50.00.

- Customs entrance and clearance fees were increased by 10% per annum from 1 July 2002. The approved three-year programme of increases has been completed and a 4% increase from 1 July 2006 is recommended in order to keep up with inflation. This will raise an additional £3,830.
- Vehicle licence fees were last increased by 3% with effect from 1 July 2005. A further 3% increase is proposed from 1 July 2006. This would, for example, increase the fee for a land rover from £93.00 to £96.00 this proposed increase would raise additional income of around £7,000. I can also report that Executive Council agreed a review should be carried out to consider changing the fee basis from weight to engine size for next year.
- In view of the fact that house rents are lower in the public than in the private sector, the policy in recent years has been to increase rents by more than the rate of inflation. A review was carried out in 2002 and all properties were assessed, using a points-based system, to determine their relative rental values. Overall rents were increased by a maximum of 10% but the increases were staggered, depending upon current rent levels compared with assessed relative rental values. Utilisation of this staggered approach has caused rents to gradually migrate to the points-based level and all properties have reached that point. It is therefore recommended that a general rent increase of 4% be applied to government housing. This will raise an additional £31,000. It should be noted that this increase will not immediately apply to sheltered housing, which is already subject to a staged increase. To ensure that tenants on low incomes are afforded consistent protection, the allowances and thresholds under the rent rebate scheme will be adjusted by the same percentage as the rent increase.
- Due to capital works which are planned or currently in progress and the increased cost of fuel, the water supply section of the public works department will show a significant deficit unless increases are implemented for next year. An increase of 33% in charges for measured water supply to non-domestic premises would be required to fully recover the deficit but this is considered to be excessive in one year. It is therefore recommended that the increase be phased in over 3 years at 10% per annum. This will raise an additional £11,800 in 2006/07.
- Water charges for residential properties are covered by the domestic property service charge, which was introduced from 1 July 2004 at a rate of £250 per annum or £125 for pensioners. In the first instance, the aim was to amalgamate the former water charge and a new refuse collection charge. Since then the principle of recovering elements of other community costs such as street lighting, cleaning and grass cutting has been accepted. As the major element of the service charge relates to water it is recommended that the charge is increased by 10% in line with the increase in the charges for measured water supply to non-domestic premises. This would result in an

increase from £250 to £275, with a 50% charge for pensioners. This will raise an additional £14,000.

- A separate refuse collection charge for non-domestic properties was introduced in 2004/05. A charge of £90 per year is currently payable for each domestic wheelie bin or £270 per annum for each large bin. As this charge continues to recover the costs of the service, no adjustment is proposed.
- The principle adopted when determining electricity charges is that the service should break even. The draft estimates for 2006/07 indicate a significant deficit on the power station primarily as a result of depreciation from the wind power project and increasing fuel prices. However, there have been two significant increases in the price of electricity in the current financial year. It is therefore recommended that the current price of 17p per unit is maintained, pending a full assessment of the costs and benefits of wind power generation and the outcome of the review of the metering system, which has been the subject of some debate over recent weeks. The situation would however need to be reviewed if there are further significant increases in fuel costs.
- The charge per funeral was last increased to £850 with effect from 1 July 2005. It is proposed that the charge be increased to £900 with effect from 1 July 2006 to keep abreast of costs.
- Postal charges have been reviewed biannually since 2000 with the last changes implemented in July 2005. This was an interim review affecting only postcard and letter prices. The postmaster has carried out the normal biennial review of postal charges and it is proposed that an inflation adjustment should be made to postage rates from 1 July 2006. The revised rates will be published if confirmed. It is anticipated that the revised rates will maintain rather than increase the profitability of the post office service provision.
- Full review of Health Service fees and charges was carried out two years ago as part of the move towards the user pays principle and several charges were revised as part of the budget process last year. A further review has been carried out and a number of adjustments to charges are proposed. Most of the charges affect non-entitled patients. These are too numerous to include in the budget presentation and if approved they will be published separately.
- In line with the agreed policy of moving towards 'user pays' for Services, the Director of Education proposed an increase in the tuition fees at the community school for non-residents and accommodation fees at Stanley House for all borders. Last year it was agreed that the fees should be increased by 10% and a further 5% increase from 1 September 2006 was originally proposed. However, in view of the fact that financial assistance measures for Camp are under separate consideration, it would make little sense to add to the costs of Camp families by introducing this increase at Stanley House as it stands. No increase is therefore recommended for Camp residents. It is however recommended that the 5% increase be applied to non-resident families.

- The Standing Finance Committee recognised that there has been no increase in FIGAS passenger and freight charges since 1993 and it is evident that they are in need of review. However, since there is a separate Transport Advisory Committee, it would be inappropriate to review charges on a unilateral basis. It was therefore agreed that this committee should make recommendations to the Executive Council.

Moving now to pension benefits, contributions and social payments:

- The last discretionary adjustment to old scheme public service pensions and Falkland Landholdings pensions was a 3% increase from 1 July 2005. This was more than the cost of living award granted to staff but reflects the provisions of the Falkland Islands Pensions Scheme where an annuity with a guaranteed 3% annual increase has to be purchased. For the same reason it is again proposed that old scheme public service pensions and Falkland Landholdings pensions be increased by 3% from 1 July 2006. These pensions are payable from the old scheme fund and the funding implications for them are kept under review by the Government actuaries department.
- Retirement pensions and contributions were increased last year by 3% and 5% respectively. It is proposed that contributions and the earnings limit threshold should be increased by 5%, from 1 January 2007. This would, for example, increase the employer and employee rates from £10.00 to £10.50 per week and the self-employed rate from £20.00 to £21.00 per week.
- It is also proposed that retirement pensions should be increased by 5%, from 1 January 2007, as follows:

Standard rate from £105.00 to £110.00 per week

Married couple's supplement from £59.00 to £62.00 per week

Ex gratia pension from £94.50 to £99.00 per week in order for it to remain at 90% of a standard rate pension.

- It is coincidental to learn from a report to the UK Government by Lord Turner that to restore the earnings link to the UK basic state retirement pension would result in a rate of £110 per week. The current rate of retirement pension in UK is £84.25 per week that is £20.75 less than the current Falkland Islands rate.
- Retirement Pension Contributions are paid into the Retirement Pensions Equalisation Fund and retirement pensions are paid from that fund. The funding implications for these pensions are also kept under review by the Government actuaries department. The provision of a subsidy of £300,000 per annum continues to be included in the draft estimates as a fund transfer to the Equalisation Fund. This subsidy is necessary to make up the funding shortfall as the resident rate of contribution is lower than the actuarial rate.

- It is proposed that welfare allowances and attendance allowances are increased by approximately 5% from 1 July 2006 at an estimated additional cost of £4,500.
- Following the significant increases in the price of kerosene over the last year, and the increasing burden it places on the elderly members of our community, it is proposed that the winter fuel allowance should be increased from £270 to £400, an increase of 48%. It is proposed that the allowance is payable in 4 monthly instalments of £100 from June to September. It is also proposed that the income threshold should be increased by 5% from £13,700 to £14,400. The revised rate of allowance is estimated to cost £33,400; that is an additional cost of £11,000.
- It is proposed that the fostering allowance should remain at £20 per day.
- The child allowance is currently £53.50 per month per child. It was last increased from £52.00 with effect from 1 January 2003. If the status quo on eligibility is continued, and a 5% increase to £56.00 per week was applied, this would cost an additional £15,000. However, a review of the child allowance system is underway at the request of Executive Council. It is therefore not considered appropriate for an increase to be applied in isolation of that review.
- It is proposed that a Christmas bonus equivalent to one week's pension should continue to be paid to those pensioners in receipt of a retirement or ex-gratia pension who reside in the Falkland Islands.
- Finally, the holiday credit scheme was introduced as a means of wealth distribution following a review of the employment terms and conditions of the civil service in 1997. It was introduced at the rate of £1.00 per day for eligible adults and 50p for children. Following budgetary pressures, the daily rates were reduced by 50% from 1 July 2004. Due to continued budgetary pressures it is proposed that the daily rates be reduced by another 50% from 1 July 2006: that is from 50p to 25p for adults and from 25p to 12½p per day for children. All credits accrued to 30 June 2006 would be honoured at the going rates. It is estimated that this latest reduction will reduce the cost of future accruals by £175,000 per annum. However, it should be noted that the value of outstanding credits at 30 June 2006 is estimated to be around £1.5 million.

Now to sum up:

I am pleased to be in the privileged position of being able to present a balanced budget at the first budget meeting of the new council. Although the reduction in fishing licence income continues to challenge the process, other sources of revenue from the overseas investment of our reserve funds and from our maturing economy have helped to ease the situation. Sensible and measured adjustments to user pay charges and expenditure plans have also helped to ensure that government remains solvent.

It is comforting to report that, despite not meeting all of the budget strategy targets, the most important targets of a surplus and the ratio of consolidated fund to operating expenditure were exceeded.

With our small economies of scale, limitations on alternative income sources and the ever increasing pressure of rising costs to meet the demands of a modern society, there is a need to maintain a rigorous budget process and a strict financial management and control regime.

The private sector generates the wealth of the nation facilitated by the political and defence security we enjoy. The Government providing sound stewardship of public funds and sensible management of the economy, the well being of the Falkland Islands can be assured.

The budget process demands a great deal of time and effort from managers, Treasury staff and Honourable Members alike. In particular I must thank my deputy, Keith Padgett who prepared all the policy and working papers and to Helga Burroughs for all her hard work in providing secretarial support. The orderly production of documents has been accomplished despite the unintentional upheaval by the Saltire decorators, who, I must add, are doing a first class job in brightening up the Treasury offices. I am grateful to all those who contributed to the budget process.

Mr Speaker, this concludes my budget presentation and I beg to move the first reading of the Bill.

Mr Speaker

The Motion is that the Appropriation Bill be read a first time. Is there any objection to the Motion? There is no objection, the Bill will be read a first time.

Acting Clerk

A Bill for an Ordinance to provide for the service of the Financial Year commencing on 1 July 2006 and ending on 30 June 2007.

The Honourable Financial Secretary

I beg to Move that the Bill be read a second time.

Mr Speaker

The Motion is that the Appropriation Bill be read a second time. Does any Honourable Member wish to speak to the Motion.

The Honourable Mike Summers OBE

Mr Speaker, Honourable Members I must confess I had no idea at all that the Treasury needed brightening up. I'm glad that it is happening.

This is my 10th anniversary of Budget session so it is interesting to see how things have gone and this year hasn't been as difficult as perhaps we may have foreseen. I would like to thank the Honourable Financial Secretary for his very detailed presentation and for all the hard work that has gone into preparing this and echo his thanks to Keith Padgett and Helga Burroughs who I think is the finest minute taker I have ever come across, if you can take good minutes from Standing Finance Committee you are really doing well.

There are a number of issues that underlie this budget and they are the principles that have been spouted before but I think it is worth just repeating them for the sake of it and for wider understanding. The concept of user pays is growing and we will whenever possible implement that philosophy but of course it is not always possible to do so and we have to be careful about that. The concept of invest to save is really important and the Financial Secretary has mentioned that we are going to take a look at the micro-economic position in the Falklands and particularly the level of reserves to see whether greater spending on capital items could create greater economic activity and economic opportunity and that would be a sensible thing to do. I do emphasise that the additional expenditure if it takes place is likely to be of a capital nature rather than an operating recurrent nature. The current projects of waste heat recovery and the installation of the wind turbines which are exciting projects are good examples of projects that can table themselves in a very short number of years and make a positive contribution to the economy.

We will continue to strive for proficiency, to look for necessary expenditure as oppose to traditional expenditure and monies that are spent just because we always did.

The maintenance of services will be essential although folks will find that there are some changes of emphasis in some areas and some people may have already notice for instance in some social services areas and particularly in housing. There is an emphasis on need as oppose to demand and those that want Government houses may not be regarded as needing Government housing and there will be a regular programme of re-evaluation in that area. We will of course have to make sure that the population is nevertheless properly and safely housed and that will result in due course in some more infrastructure work being necessary.

The maintenance of assets will continue to be important it is a fools of business to let your existing assets fall into misuse and to not keep them in a good state, that will be a priority in the capital budget and we will try during the course of our final deliberations to maintain reasonable distribution of funds amongst the whole population. In making that comment I am concerned about low wages in some parts of the economy, having asked the question of the Chief Executive and Financial Secretary only yesterday I understand that only 30 Government employees in full time employment fall below the tax threshold of £12000 and none of those fall below £11000. I think we can be relatively satisfied therefore that in the public sector low pay isn't an issue. In the private sector I think it is an issue and I think we are going to have to spend a little more time, a little more effort identifying the extent of the problem, the causes of the problem and then think about ways of dealing with it. I have never been in favour of wage regulation, compulsory wage levels; I don't think it is the right way to go. I think what we need to do is to evaluate the extent of the

issue and then deal with it, so that will remain with further work to do through the course of this year and may affect the way we think about future budgets.

I think finally, I will come back to a recurring theme that I mentioned in this House and it is the question of energy saving. I am not satisfied, I have never been satisfied that the Falkland Islands Government makes sufficient effort to save energy. You can still go around the town at night and see Government buildings blazoned with lights burning electricity. Yes, we can produce the electricity but there is a cost to it, there is no need to have public buildings blazing with lights at night time and half the time it is not necessary either for lights to be on during the day when the sun is out or the heating to be on with the windows open. It is irresponsible and it is not good enough. So, every Head of Department supported by the Management Team need to make more effort to save energy, it is a social responsibility as well as an economic responsibility.

On that note, I once again thank the Financial Secretary for his presentation and I support the Motion.

Mr Speaker

Thank you Councillor Summers. Does any other Honourable Member wish to speak?

The Honourable Dr Richard Davies

Mr Speaker, Honourable Members I will be very brief I'd just like to echo the Honourable Mike Summers concerns about conditions in the private sector, I would have some concerns about conditions in the public sector although less so I'm clear that reaching the tax threshold necessarily reflects having an adequate income particularly for someone who is trying to support a family. I am pleased that in the process of reviewing public sector pay the Union has been consulted and their views have been taken into account. I support the Motion.

The Honourable Richard Cockwell

Sir, I would like to also get up and support the Motion but I am very pleased that we have been able to increase the fuel allowance for the elderly, I think this is very important.

The Honourable Mike Summers OBE

Declaring an interest. (Laughter)

The Honourable Richard Cockwell

I did consider declaring an interest, I think I am fortunate that in some ways I won't be a recipient of the increase, but I do realise that there are a lot of elderly people who will be very appreciative. We do need to look at the lower paid. I am very concerned about the lower paid in many areas and I do appreciate Councillor Summers' remarks on that. I support the Motion.

Mr Speaker

Does any other Honourable Member wish to speak to the Motion?

Acting Clerk

A Bill for an Ordinance to provide for the service of the Financial Year commencing on 1 July 2006 and ending on 30 June 2007.

The Honourable Chief Executive

Mr Speaker, Honourable Members I beg to Move that the Bill and the Draft Estimates be referred to a Select Committee of the House and that the Honourable MV Summers be appointed chairman.

Mr Speaker

The Motion is that the Appropriation Bill and the Draft Estimates be referred to a Select Committee of the House and that the Honourable MV Summers be appointed chairman. Is there any objection to the Motion? There is no objection. The Appropriation Bill is now referred to a Select Committee of the House.

Acting Clerk

The Finance Bill 2006.

The Honourable Financial Secretary

Mr Speaker, Honourable Members the purpose of this Bill is to give effect to the amendments to some of the charges, pension contributions and benefits regulated by legislation which I proposed in my budget presentation as follows.

In clause 2 an increase in the passenger levy from 1 July 2007.

In clause 4 an increase in vehicle licence fees from 1 July 2006.

In clause 5 an increase in retirement pension contributions, the earning limits threshold and retirement pension benefits from 1 January 2007.

In clause 6 an increase in harbour dues from 1 July 2006.

Clause 3 of the Bill seeks to amend the Taxes and Duties Special Exemptions Ordinance with effect from 1 January 2007, the amendment would limit exemption from income tax in respect of persons employed by defence contractors to those who are resident outside the Falkland Islands at the time they were engaged provided they do not enjoy Falkland Islands Status or hold a Permanent Residence Permit. The policy to limit the exemptions in respect of this category of employee was approved by Executive Council following a review of the tax position of all defence related workers. Executive Council have decided that the tax exemptions for all such employees should be reviewed again in two years time.

For completeness I should add that the proposed increase in postal charges and customs entrance and clearance fees will be implemented by two separate pieces of subsidiary legislation as tactical amendments to the application of these charges and fees are also required.

I beg to Move the first reading of the Bill.

Mr Speaker

The Motion is that the Finance Bill be read a first time. Is there any objection to the Motion? There is no objection the Bill will be read a first time.

Acting Clerk

A Bill for an Ordinance to increase fees, charges, contributions and benefits payable under various laws of the Falkland Islands.

The Honourable Financial Secretary

I beg to Move that the Bill be read a second time.

Mr Speaker

The Motion is that the Finance Bill be read a second time. Does any Honourable Member wish to speak to the Motion?

Acting Clerk

A Bill for an Ordinance to increase fees, charges, contributions and benefits payable under various laws of the Falkland Islands.

The Honourable Chief Executive

Mr Speaker, Honourable Members I beg to Move that the Bill be referred to the Select Committee on the Estimates.

Mr Speaker

The Motion is that the Finance Bill be referred to the Select Committee on the Estimates. Is there any objection? No objection, the Bill is now referred to the Select Committee on the Estimates.

Council is adjourned until 2.15 pm on Thursday 25th May 2006.

COUNCIL RESUMES

THURSDAY 25TH MAY 2006

Mr Speaker

Good afternoon Honourable Members I declare this reconvened session of Legislative Council open.

Honourable Financial Secretary would you care to report back on the procedures of the Appropriation Bill.

The Honourable Financial Secretary

Mr Speaker, Honourable Members this report covers both the Appropriation Bill and the Finance Bill referred to the Select Committee on the Estimates yesterday morning.

Following the detailed and lengthy considerations at the special budget meetings of the Standing Finance Committee the proceedings of the Select Committee were completed by 4.30 sharp yesterday afternoon. This is the result of strict order by a well experienced chairman of some 9 years standing. By finishing right on time means we avoided overtime claims. In any budget session there are always choices to be made and priorities to determine. A balanced budget was achieved but only after prioritising expenditure in a climate of static income levels, rising costs and expectations to keep pace with best practice and modern technology.

No adjustments were made to operating revenue and only one adjustment was made to operating expenditure. This was in relation to the medical treatment overseas budget. The revised medical treatment overseas budget for this year amounts to £1,075,000. For various reasons, this was considered exceptional and there is a policy review underway, the outcome of which is expected to lead to reduced costs to government. It was therefore decided to reduce the provision by £250,000 to £750,000, which is close to the average of the past 3 years of £778,000.

Despite another tight budget round all essential services are maintained broadly at existing levels. For example, in terms of expenditure, as would be expected and having regard to its wide range of service areas, the Public Works Department is allocated the largest slice of the cake at £8.6 million. Next is Health and Social Services which are allocated £5.9 million following the £250,000 reduction in the Medical Treatment Overseas budget. Education and Training are allocated £5.1 million. This will enable the essential services under these areas to continue to be delivered to a high standard for the benefit of all of our citizens. The Fisheries Department is also allocated £5.1 million. This level of expenditure is necessary for conservation and management purposes and represents 30% of the estimated direct income to Government from the fishery.

£3.5 million is allocated to central administration. This includes the services provided by the Secretariat, Treasury, the Computer Section and Taxation Office. Also included is a provision of £600,000 as a central reserve for a pay award for the public

service and a reserve of £150,000 to cover projected fuel price increases which the committee approved. Aviation, which covers Civil Aviation, Stanley Airport and FIGAS, is allocated £2.4 million and the Department of Agriculture is allocated just under £1 million. These examples are just those heads of service where expenditure is almost £1 million or over. Details of the approved revenue and expenditure for all departments will be shown in the approved estimates document and this will be available shortly from the secretariat for members of the public (at £20 per copy).

No adjustment was made to the transfer payments budget of £4.3 million. The referral from Executive Council to increase the £220,000 budget for Falkland Islands Tourism by a reserved £270,000 was considered. However, the committee decided that it would be more appropriate to leave the budget as allocated at £220,000 and to invite the Tourist Board to provide the economic justification for both the allocated budget and any additional funding it considered was essential. The additional funding, if approved, would then be made available by supplementary appropriation. The message to the Tourist Board remains clear. Government is keen to invest in the promotion and development of tourism but must be satisfied before public money is invested that it is properly justified. The transfer payments budget includes the following allocations in the form of assistance to non-government organisations, social payments and programmes for the purpose of helping the economy to develop and grow:

- As just mentioned, £220,000 to support the promotion and development of tourism.
- £200,000 as a contribution toward building a community hall or cinema at Mount Pleasant to mark the 25th anniversary of liberation next year this replaces the customary annual contribution to defence of £150,000 for building 2 houses at Mount Pleasant.
- £156,000 for air terminal, live TV and Met services supplied by the Ministry of Defence.
- £400,000 for the holiday credit scheme to allow credits to accrue at the approved reduced rate of 25p per day for adults and 12½p per day for children.
- £446,000 grant in aid to FIDC in order to support its expenditure budget of £1 million.
- £319,000 for family allowances.
- £111,000 as an operating subsidy for Falkland Landholdings. This subsidy is necessary to continue to help finance the recovery plan over the next 2 years.
- £75,000 for donations and subventions to support youth, sports and other charitable organisations.
- £175,000 to support the Falkland Islands Radio Station.

- £114,000 to support the pensions board of the Falkland Islands Pensions Scheme.
- £85,000 to support the Museum and National Trust. This includes £11,000 towards the preservation of wrecks.
- £90,000 to support the work of Falkland Islands Conservation.
- £1.7 million for direct and indirect support to the Camp community in the form of assistance with retirement pension contributions, coastal shipping services, Falkland Islands Meat Company subsidy, energy grants, agricultural business development, labour scheme, grassland improvements and mortgage interest. With respect to mortgage interest I can confirm that a new form of assistance will be available from 1 July 2006 for one year. It will be applied automatically to farmers with FIG or FIDC mortgages but farmers with mortgages from other lenders will need to apply to FIDC for the assistance. The assistance will be applied in the form of an interest holiday. This means that farmers can stop their mortgage repayments for one year and no interest will be applied to the outstanding balance of their mortgage. Alternatively, mortgage repayments can continue to be made either in full or in part. This alternative approach would have the effect of shortening the period of the mortgage and the total amount of interest payable would be less.

The capital budget was increased by £352,000 to £8.1 million. It was decided not to increase the transfer from the Consolidated Fund to the Capital Equalisation Fund but to leave the budget surplus at its increased level to help absorb any reductions in revenue or increases in expenditure throughout the year. The increase in the capital budget is made up of 2 new allocations: firstly, £327,000 for a survey of FIPASS and to start essential restitution works, as proposed in my budget presentation, and secondly £25,000 for the purchase of a new generation of pre-payment electricity meters. The capital budget also includes allocations for the following schemes:

- £977,000 for continuing the building of Camp roads both on East and West Falklands. This includes £150,000 to start a 3 year programme of replacing culverts at a total estimated cost of £650,000.
- £209,000 to continue the programme of upgrading Camp jetties and ramps.
- £41,000 for design works for cross sound terminals projected to cost £1 million over the following 2 years.
- £420,000 for major repairs to roads in and around Stanley, including further work on the By-pass Airport road.
- £100,000 for continuing the backlog of public building maintenance.
- £176,000 for installing surface water drainage at Jeremy Moore Avenue.

- £135,000 for design works on a refurbishment and extension to the police and prisons building and proposed new government administration buildings. A provision of £115,000 is made in the projections for 2007/08 to complete the latter design works.
- £200,000 for starting the installation of services at the Lookout Estate. A further £200,000 is projected for 2007/08 to complete this project.
- £2.3 million for replacement power generating equipment including wind turbines.
- £1.1 million to complete works on a pumped sewage disposal system.
- £242,000 for completing a waste heat recovery system. The plan is that this will utilise waste heat from the power station for heating the community school and possibly other buildings in close proximity.
- £196,000 to continue the improvements to Stanley's water supply
- £75,000 to continue the improvements to Stanley's power supply
- £150,000 for improvements in waste management and disposal in Stanley.
- Finally, £100,000 to continue the major repairs to Stanley Airport runway. A further £400,000 of expenditure is projected at £100,000 per year to complete the repairs and resurfacing.

It is considered that this mix of capital construction schemes together with the other more minor works will keep the in-house labour teams fully occupied and take up any slack in the private sector contracting business.

As well as construction schemes, the capital budget includes the following investments:

- £330,000 to finance housing mortgages provided under the joint government/standard chartered bank scheme.
- £200,000 for the purchase of plant for PWD and £200,000 for the purchase of replacement vehicles for the whole of government.
- £74,000 for new distant measuring equipment and a standby generator at Stanley Airport.
- £227,000 for new and replacement medical equipment; and
- £55,000 for equipment to produce machine readable passports.

I am pleased to report that the Select Committee approved all the proposals on revised fees and charges and all the proposals on revised pension contributions and benefits, social payments, allowances and holiday credits. All the provisions of the Finance Bill to implement those revisions, where appropriate, were approved. The Committee also approved the provisions of clause 3 of the Finance Bill which amends the Taxes and Duties (Special Exemptions) Ordinance. I will just explain again what this amendment means. Currently any persons engaged for employment by defence contractors are exempt from income tax provided they are entitled to be accommodated on land which is occupied for defence purposes. The amendment introduces a new condition which means that the exemptions are removed from 1 January 2007 in respect of residents and persons with Falkland Islands or Permanent Residence Status who are engaged for employment by defence contractors at mount pleasant or other military facilities in the islands. They will therefore be subject to taxation from that date.

As a result of the Select Committee's deliberations, I am pleased to report that the estimated budget surplus has been increased by £250,000 to £995,000.

The estimates, now that they have been approved, form a series of promises, in financial terms, to the general public. The job of the public service is to deliver those promises and obtain best value for money for the benefit of all residents. As usual, Honourable Members will be able to monitor progress through the monthly meetings of Standing Finance Committee.

A paper summarising the small number of adjustments made to the draft estimates at Select Committee was presented to Executive Council earlier this afternoon. I can now report that the Executive Council recommends to Legislative Council the amendments to the Appropriation Bill necessary to accommodate those adjustments.

I would like to thank all officers and Honourable Members who took part in the budget process. In particular I thank my PA Helga for putting in extra hours to keep my papers in order and once again to my deputy Keith for all his support and hard work. In addition I am most grateful to all the staff in the Treasury for all their work in maintaining the ledgers and financial control systems leading up to and following the approval of the budget.

I must say that the new Council has made an excellent start to the budget process. From the legacy of previous councils this council has confirmed the sound fiscal policies which underpin the public finances. This firm financial foundation allows services and programmes to be delivered as fairly as possible to a modern society and facilitates the private sector in maintaining a vibrant economy. The new Council is not completely new of course as it includes 3 old hands from the previous council and one from a former council, some of them older than others. This wealth of experience has no doubt helped the new Members to get to grips with the complexities of the budget process. The amount of work is bad enough for full time officers so I congratulate Members who appear to have taken all the papers and meetings in their stride to produce a much welcomed balanced budget.

In support of the sentiments expressed by the Honourable Mike Summers at the opening session yesterday morning, the outcome of the budget once again demonstrates that the economic and social well being of the Falkland Islands can be sustained with or without the co-operation of the Argentine government.

This concludes my report of the proceedings of the Select Committee on the Estimates and I beg to move the second reading of the Bill.

Mr Speaker

Thank you Honourable Financial Secretary for your report on the proceedings of the Select Committee of the Estimates and the Appropriation Bill.

The Honourable Mike Summers OBE

Mr Speaker, Honourable Members I would like to pay particular thanks to the Financial Secretary and his team for the work that they have put in. I did thank them before the select Committee process but it has been, I think this year, a very well ordered process and the Financial Secretary has marshalled his folks as well. Those of us who were involved in the budget process know what a tremendous number of hours they all put in most particularly Keith Padgett who marshalled the figures and the papers with great care and very great accuracy and we are very grateful for that.

I did pay tribute yesterday to Helga Burroughs, but she has done a fantastic job in support of that team and I thank her for that. I would also like to thank my colleagues on the Select Committee I know that in the first budget it is never that easy, there is a tremendous amount of work to do to catch up with things that others might already know and that is not easy. It is also necessary at times to take things on trust. Depending on what type of person you are that is not easy either. So, thank you for your cooperation and good humour I think it all went extremely well and it wasn't at all difficult to chair this year.

It was a slightly easier process in that we weren't desperately fighting to avoid a deficit that is largely due to issues outside of our control, largely to do with projected improved income from reserves that therefore relies on the economies of other countries, principally the United Kingdom but also others so as long as there is world economic growth and good economic conditions then we will continue to benefit from that from the investment of our reserves but we can't always anticipate that. At least this year we had a little bit of a space to work in.

I am by in large happy with the budget we would of course liked to have done more in certain areas but you can't always get everything you want and as the Financial Secretary said it is a matter of choosing and prioritising. There are some issues that we still need to consider over the next two or three years and most particularly the issue of the lower paid in the private sector. We have talked in this House on many an occasion about minimum wages legislation and the working time directives. I am not particularly in favour of prescriptive legislation and I will talk a bit more about that later on this afternoon but the private sector has been given the opportunity in the past by previous Councils to come up with a Code of Practice on minimum wages and

working conditions. To my mind that hasn't been done and there are therefore concerns about a number of hours and the conditions in which some people have to work and the level of pay. This Council is concerned about that and will have to take that concern through into our work in the coming months.

There is always a matter of choices and I know and understand that many will be disappointed that the Holiday Credit Scheme has been reduced by another 50% however, that was pure distribution, pure consumption, it is nice to be able to give money away if you can but if you don't have that much available then you are better to be wise and direct that money to the areas where it is particularly needed. I am very happy as one of my colleagues mentioned the other day that we have been able to increase the fuel allowance for the old aged pensioners because the increase in the fuel prices hit a lot of people but most noticeably older people who perhaps need more warmth. We were able to give them a substantial increment in the fuel allowance this year. Doing away with the holiday credits, reducing the value of the holiday credits gives us scope to do that sort of thing so we are not just attacking a particular group of people or trying to disadvantage a particular group of people, what we are doing is trying to allocate money where it is most needed. Things like the fuel allowance and the increase in pensions are important to this community to look after those people who have worked for many, many years to help make the community what it is but didn't necessarily benefit from the sort of wages that we all benefit.

One or two words about the capital programme, I am delighted of course that the roads programme can continue virtually to its completion and that is a very pleasing matter to me personally. I am also very happy that we are going to get on and do the design work for the new prison and the refurbishment of the police station. The construction of the prison I don't think, perhaps if there is any kind of change in the sentencing policy in the Court, but the existing Police Station is not of the best and it does need to be replaced and we have been talking about it for an awful long time, it is about time we did it.

I am absolutely delighted about the inclusion of the wind farm project it is going to cost over £2million probably but provided the cost come in at the sort of level that we expect the return on investment from that project would be very good and the pay back period will be between 7 and 8 years. That should enable us to take that into account in the future consideration of electricity prices and possibly, possibly reduce the cost of electricity in the near term, but at the very least it will enable us to hold it steady in times of continuing fuel price increases. So, I really please about that from an economic point of view and from an environmental point of view. It is right that we should make our contribution to the reduction of fossil fuel use in the Falklands and particularly with the gentle breezes that we have so I'm pleased to see that project going ahead.

One area where we don't have significant allocation in the capital programme is housing infrastructure. That is not because we forgot it or because we don't need it but because there is an amount of work to be done on housing strategy that will preface the inclusion of money for future infrastructure work. Whatever the strategy comes up with it is inevitable that the Government will have to make some contribution to that; we look forward to that being produced relatively shortly.

I think that is all I wish to say about the budget at this time. I am happy with it, I hope my colleagues are happy with it and once again I thank the Treasury team for their very hard work I support the Motion.

Mr Speaker

Thank you Councillor Summers, is there a seconder to the Motion?

The Honourable Mike Summers OBE

I second the Motion.

The Honourable Richard Cockwell

I reserve for the Motion of Adjournment.

Mr Speaker

Is there any other Honourable Member who wishes to speak to the Motion? No, then we shall proceed. I shall therefore declare the Council to be in Committee.

Acting Clerk

Clauses 1 and 2.

The Honourable Financial Secretary

I beg to Move that Clause 1 stand part of the Bill but consideration of Clause 2 be left until the Schedule has been considered.

Mr Speaker

The Motion is that Clause 1 stands part of the Bill. Is there any objection? There is no objection; clause 1 therefore stands part of the Bill.

Acting Clerk

Schedule.

The Honourable Financial Secretary

I beg to Move that the Schedule stands part of the Bill with the amendment as shown in Executive Council paper 163/06 which has been circulated to Honourable Members.

Mr Speaker

The Motion is that the Schedule as amended is Executive Council paper 163/06 stands part of the Bill. Is there any objection. No objection; the Schedule as amended stands part of the Bill.

Acting Clerk

Clause 2.

The Honourable Financial Secretary

I beg to Move that clause 2 as amended stands part of the Bill with the following amendments, delete the words and figures £41,023,880 and insert £40,773,880.

Mr Speaker

The Motion is that clause 2 stands part of the Bill as amended, are there any objections? No objection; clause 2 as amended stands part of the Bill.

Council resumes.

The Honourable Financial Secretary

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

Mr Speaker

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

Acting Clerk

A Bill for an Ordinance to provide for the service of the Financial Year commencing on 1 July 2006 and ending on 30 June 2007.

The Finance Bill 2006

The Honourable Financial Secretary

Mr Speaker, Honourable Members I included the decisions on the Finance Bill in my report back from the Select Committee on the Estimates, I can confirm that the Select Committee approved all these provisions contained in the Bill as proposed in my budget presentation yesterday.

Mr Speaker

Does any Honourable Member wish to debate? There is no debate. I therefore declare Council to be in Committee.

Acting Clerk

Clauses 1 to 6

The Honourable Financial Secretary

I beg to Move that clauses 1 to 6 stand part of the Bill.

Mr Speaker

The Motion is that clauses 1 to 6 stand part of the Bill. Is there any objection to the Motion? No objection, clauses 1 to 6 stand part of the Bill.

Acting Clerk

There are no Schedules.

Mr Speaker

Council resumes.

The Honourable Financial Secretary

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

Mr Speaker

The Motion is that the Bill be read a third time and passes. Is there any objection to the Motion? No objections, the Bill will be read a third time and passed.

Acting Clerk

A Bill for an Ordinance to increase fees, charges, contributions and benefits payable under various laws of the Falkland Islands.

ORDERS OF THE DAY: BILLS

The Supplementary Appropriation (2005/2006)(No 2) Bill 2006

The Honourable Financial Secretary

Mr Speaker, Honourable Members, this is the third Supplementary Appropriation Bill presented for financial year. In addition to the sum of £40,495,910 already appropriated, the purpose of this Bill is to authorise the withdrawal of £869,970 from the Consolidated Fund to meet supplementary expenditure approved by the Standing Finance Committee on 24 February, 30 March and 28 April 2006. The Bill provides for the Contingency Fund to be replenished in respect of any advances made.

Under the Operating Budget an additional sum of £638,730 is inserted for the following purposes:

£125,500 for FIGAS, this is made up of £9500 for increase to central heating costs £45,000 for the additional consumption of aircraft spares and £71,000 to cover increases in cost of Avagas.

£396,630 is inserted for Health and Social Services. This is made up of £33,040 for medical salaries to meet the additional costs of a new pay structure for doctors, £250,000 for a further increase in medical treatment overseas referrals, £35,000 to cover the cost of additional and more expensive spectacles and £67,590 for the unexpected need to employ locum cover at the dentist surgery.

£105,000 is inserted for Fisheries to meet the increase in the cost of fuel used by the patrol vessel.

£11,600 is inserted for Courts to supplement the Legal Aid fund due to exceptional claims arising out of three complex cases.

Under the Transfer Payments Budget a total of £231,240 is inserted for the following purposes:

£65,000 to increase the Abattoir subsidy to £440,000. This further increase in the subsidy is required due to a reduction in meat prices which has created difficulties in selling the product.

£100,000 for FIDC for the investment of new equipment for the Stanley Dairy and £66,240 for FIDC to cover unexpected expenses incurred with the bareboat charter of MV Tamar FI.

The Standing Finance Committee was satisfied that all supplementary expenditure was necessary as no savings could be identified for virement.

I beg to Move the first reading of the Bill.

The Honourable Chief Executive

I second the Motion, Mr Speaker.

Mr Speaker

The Motion is that the Bill be read a first time. Is there any objection to the Motion, there is no objection the Bill will be read a first time.

Acting Clerk

The Supplementary Appropriation (2005/2006)(No 2) Bill 2006

The Honourable Financial Secretary

I beg to Move that the Bill be read a second time.

Mr Speaker

The Motion is that the Bill be read a second time. Does any Honourable Member wish to speak to the Motion. No objections the Bill will be read a second time.

Acting Clerk

The Supplementary Appropriation (2005/2006)(No 2) Bill 2006

Mr Speaker

I declare Council to be in Committee.

Acting Speaker

Clauses 1 to 3.

The Honourable Financial Secretary

I beg to Move that clauses 1 to 3 stand part of the Bill.

Mr Speaker

The Motion is that clauses 1,2 and 3 stand part of the Bill. Is there any objection? No objection, clauses 1, 2 and 3 stand part of the Bill.

Acting Clerk

Schedule.

The Honourable Financial Secretary

I beg to Move that the Schedule stands part of the Bill.

Mr Speaker

The Motion is that the Schedule stands part of the Bill. Is there any objection? There is no objection; the Schedule stands part of the Bill.

Council resumes.

The Honourable Financial Secretary

I beg to Move that the Bill be read a third time and do pass.

Mr Speaker

The Motion is that the Bill be read a third time and do pass. Is there any objection, there is no objection the Bill will be read a third time and passed.

Acting Clerk

The Supplementary Appropriation (2005/2006)(No 2) Bill 2006

The Medicine Bill 2006

The Honourable Chief Executive

Mr Speaker, Honourable Members this Bill makes new provision for regulating the import, manufacture, sale and supply of and other dealings with medicinal products and veterinary medicinal products, and the sale and supply of non-medicinal poisons; to amend the Medical Practitioners, Midwives and Dentists Ordinance; and for connected purposes.

There is at present no law in force in the Falkland Islands dealing with the manufacture, prescription, sale and supply of medicines. Possibly this can be attributed to the fact that, beyond some common remedies and medicines, which it is intended will continue to be available from retail sources without prescription, the Government had a monopoly on prescription and supply of medicines. There is now a wide variety of medicines of various kinds on public sale, and it is desirable, since there is no legal restriction on what may be offered for sale, and bought, that the Government should in the public interest take powers to be able to regulate these matters so as to protect members of the public from harm.

There is of course law in force in relation to the sale, supply and manufacture of "controlled substances" under the Misuse of Drugs Ordinance and the Drug Trafficking Offences Ordinance (Title 49.1). "Controlled substances" are ones which have narcotic or psychotropic properties. Many, but not all, of such substances have legitimate medicinal uses and, subject to regulations under the Misuse of Drugs Ordinance, can only be obtained, supplied or possessed under the authority of a prescription.

Another reason for legislation is that there is no law in force in relation to the obtaining, sale, supply and administration of veterinary medicines. It became the practice some years ago in some countries for farmers to administer antibiotics to animals and poultry so as to promote animal and poultry growth and health. The danger of that practice is that residues of antibiotics accumulate in the tissue of the animals and poultry concerned and will be passed on to human beings. As a result bacteria causing disease in humans will over a period of time become resistant to the antibiotics concerned, so that those antibiotics become less effective or totally ineffective in the treatment of the disease those bacteria cause. The same is also true in the case of bacteria causing disease in animals and poultry. Antibiotics are sometimes contained in animal feedstuffs manufactured elsewhere and for the same reasons it is important to be able to prevent their importation and use. It is for similar

reasons that the European Union will not accept importation from the Falkland Islands into its territory animals the carcasses of which contain antibiotic residues.

A third purpose of the Bill is to amend and re-title the Medical Practitioners, Midwives and Dentists Ordinance so as to enable the Ordinance to deal with the registration of health professions because it is intended that members of a number of health professions, not presently able to prescribe medicines, will be authorised to prescribe certain medicines. Changes of this kind are in train in the United Kingdom. The purposes of such changes are patient convenience and the removal of unnecessary burdens on doctors' time. The Medical Practitioners, Midwives and Dentists Ordinance would be re-titled as the Health Practitioners Ordinance.

Mr Speaker, Honourable Members I beg to Move the second reading of the Bill.

The Honourable Financial Secretary

I second the Motion.

Mr Speaker

The Motion is that the Bill be read a second time. Are there any objection to the Motion? There is no objection, the Bill will be read a second time.

Acting Clerk

The Medicines Bill 2006.

Mr Speaker

I declare Council to be in Committee.

The Honourable Chief Executive

I beg to Move that clauses 1 to 47 stand part of the Bill.

Mr Speaker

The Motion is that clauses 1 to 47 stand part of the Bill. Is there any objection to the Motion? There is no objection, clauses 1 to 47 stand part of the Bill.

Acting Clerk

Schedules 1 and 2.

The Honourable Chief Executive

I beg to Move that Schedules 1 and 2 stand part of the Bill.

Mr Speaker

The Motion is that Schedules 1 and 2 stand part of the Bill. Is there any objection? There is no objection; Schedules 1 and 2 stand part of the Bill.

Council resumes.

The Honourable Chief Executive

I beg to Move that the Bill be read a third time and do pass.

Mr Speaker

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

Acting Clerk

The Medicines Bill 2006.

The Currency (Amendment) Bill 2006

The Honourable Financial Secretary

Mr Speaker, Honourable Members, the purpose of this Bill is to modify certain provisions of the Currency Ordinance to better reflect administrative requirements in that it extends the maximum intervals for meetings of the Commissioners of Currency from six to twelve months and the submission of accounts from half yearly to annual. The Bill adds a new provision to permit persons to contract settlement in the currency of another country. This modification is necessary in connection with increased international trade for the development of the economy. The Bill removes the requirement for obtaining approval from the Secretary of State for the Governor to make regulations. I am pleased to report that the Secretary of State approved this amendment which will serve to shorten the process for prescribing the issue of new currency for example.

I beg to Move the second reading of the Bill.

The Honourable Chief Executive

I second the Motion.

Mr Speaker

The Motion is that the Bill be read a second time. Is there any objection to the Motion? There is no objection; the Bill will be read a second time.

Acting Clerk

The Currency (Amendment) Bill 2006.

Mr Speaker

I declare the Council to be in Committee.

Acting Clerk

Clauses 1 and 2.

The Honourable Financial Secretary

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. Is there any objection to the Motion? There is no objection; clauses 1 and 2 stand part of the Bill.

Acting Clerk

There are no schedules.

Mr Speaker

Council resumes

The Honourable Financial Secretary

I beg to Move that the Bill be read a third time and do pass.

Mr Speaker

The Motion is that the Bill be read a third time and do pass. Is there any objection to the Motion? There is no objection; the Bill will be read a third time and passed.

Acting Clerk

The Currency (Amendment) Bill 2006.

The Revised Edition of the Laws (Amendment) Bill 2006

The Honourable Chief Executive

Mr Speaker, Honourable Members the singular purpose of this Bill is to amend the Revised Edition of the Laws Ordinance so as to permit the Revised Edition to be published on CD ROM. It is also important that this House should note that printed

copies of the Laws will still be made available upon request but the publication of the Laws on CDROM will be of great benefit to legal practitioners.

I beg to Move the second reading of the Bill.

The Honourable Financial Secretary

I second the Motion.

Mr Speaker

The Motion is that the Bill be read a second time. Is there any objection to the Motion? There is no objection; the Bill will be read a second time.

Acting Clerk

The Revised Edition of the Laws (Amendment) Bill 2006

Mr Speaker

I declare the Council to be in Committee.

Acting Clerk

Clauses 1 and 2.

The Honourable Chief Executive

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. Is there any objection to the Motion? There is no objection; clauses 1 and 2 stand part of the Bill.

Acting Clerk

Schedule

The Honourable Chief Executive

I beg to Move that the Schedule stands part of the Bill.

Mr Speaker

The Motion is that the Schedule stands part of the Bill. Is there any objection to the Motion? There is no objection; the schedule stands part of the Bill.

Council resumes.

The Honourable Chief Executive

I beg to Move that the Bill be read a third time and do pass.

Mr Speaker

The Motion is that the Bill be read a third time and do pass. Is there any objection to the Motion? There is no objection; the Bill will be read a third time and passed.

Acting Clerk

The Revised Edition of the Laws (Amendment) Bill 2006

The Road Traffic (Amendment) Bill 2006

The Honourable Chief Executive

Mr Speaker, Honourable Members to apply section 36 of that Ordinance to all highways. Its effect is that the existing law in respect of the wearing of seatbelts by driver and passengers in vehicles using all carriageways, streets, thoroughfares, lanes, all access to a farm constructed by or at the expense of the Crown with the intention that it shall be available for use by the public with motor vehicles as of right will be compulsory. Therefore the same law which currently applies to the wearing of seatbelts on say the Stanley By Pass will apply to all roads. If passed by this House the amendment will come into effect on the 1st June 2006.

I beg to Move the second reading of the Bill.

The Honourable Financial Secretary

I second the Motion.

Mr Speaker

The Motion is that the Bill be read a second time. Is there any objection to the Motion? There is no objection; the Bill will be read a second time.

Acting Clerk

The Road Traffic (Amendment) Bill 2006

Mr Speaker

I declare Council to be in Committee.

Acting Clerk

Clauses 1 and 2

The Honourable Chief Executive

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. Is there any objection to the Motion? There is no objection; clauses 1 and 2 stand part of the Bill.

Acting Clerk

Schedule

The Honourable Chief Executive

I beg to Move that the Schedule stands part of the Bill.

Mr Speaker

The Motion is that the Schedule stands part of the Bill. Is there any objection? There is no objection; the schedule stands part of the Bill.

Council resumes.

The Honourable Chief Executive

I beg to Move that the Bill be read a third time and do pass.

Mr Speaker

The Motion is that the Bill be read a third time and do pass. Is there any objection to the Motion? There is no objection; the Bill will be read a third time and passed.

Acting Clerk

The Road Traffic (Amendment) Bill 2006.

MOTIONS

Motion number 2 of 6 by the Honourable the Financial Secretary

That it be resolved that from midnight tonight, customs duties payable in respect of alcoholic beverages and tobacco products under the provisions of the Customs Ordinance 2003 are increased as follows:

On beer from 24p to 25p per litre

On wines from 63p to 66p per litre

On fortified wines from 75p to 78p per litre

On spirituous beverages from £5.08 to £5.28 per litre
On spirits from £9.27 to £9.64 per litre
On cigars from £182.75 to £191.89 per kilo
On cigarettes from £152.03 to £167.23 per kilo
On tobacco from £120.12 to £126.13 per kilo

The Honourable Financial Secretary

Mr Speaker, Honourable Members this resolution will bring into force from midnight tonight the increases in customs import duties I proposed in the budget presentation. I beg to Move that the Resolution be adopted.

The Honourable Chief Executive

I second the Motion.

Mr Speaker

Does any other Honourable Member wish to speak to the Resolution? I therefore take it that the resolution is duly passed.

Acting Clerk

Motion number 3 of 2006 by the Honourable Chief Executive.

That the Wearing of Seatbelts (Prescribed Roads)(Amendment) Regulations 2006 in the form of the draft upon the table of the House be approved.

The Honourable Chief Executive

Mr Speaker, Honourable Members the purpose of the instrument in these regulations is to bring into force the wearing of seatbelt on all roads on the 1st of June. I beg to Move the Motion.

The Honourable Financial Secretary

I second the Motion.

Mr Speaker

Does any Honourable Member wish to speak to the Motion?

The Honourable Ian Hansen

Thank you Mr Speaker, may I ask the Attorney General for a point of clarification?

Could the Attorney General inform this House please if there are any exemptions to the wearing of seatbelts within our current legislation as I assume they will apply to this amendment and if so what are those exemptions and the reasons behind them.

Attorney General

Mr Speaker, Honourable Members, under the current legislation there are different provisions in relation to wearing of seatbelts by adults and the wearing of seatbelts by children. In relation to the wearing of seatbelts by adults, there are exemptions where the motor vehicle in question has not at the time it was imported to the Falkland Islands got the fittings for seatbelts to be fitted. There is also an exemption in relation to the reserving of a vehicle, it is not obligatory to wear a seatbelt by the driver when he is reversing the vehicle and that is simply so that he can turn around and look properly through his rear windscreen, that is an exemption and there is also an exemption in relation to vehicles being used for deliveries and on a delivery round.

In relation to the wearing of seatbelts by children and in relation to seatbelts by children I am referring also to things like child seats, booster cushions and the like, all of which are in generic description of seatbelts, there is no exception whatsoever, a child may not be carried under the present regulations in a motor vehicle without being wearing a seatbelt. I should say that the provisions of the seatbelt law are under examination by the Working Party on the new Road Traffic Bill and it maybe as a result of their deliberations alterations to what is the present law maybe proposed. I am stating this afternoon the provisions of the present law.

Mr Speaker

Thank you Attorney General. Does any other Honourable Member wish to speak to the Motion? I therefore take it that the Motion is accepted.

The Motion number 3 of 2006 the Wearing of Seatbelts (Prescribed Roads)(Amendment) Regulations 2006 is therefore carried.

Acting Clerk

Motion for Adjournment

The Honourable Chief Executive

Mr Speaker, Honourable Members I beg Move that this House stands adjourned *Sine Die*.

Mr Speaker

The Motion is that this House stands adjourned. Does any Honourable Member wish to speak to the Motion?

The Honourable Mike Summers OBE

Mr Speaker, Honourable Members since I've already spoken about the budget I will be very brief. I just have two issues that I would just like to mention.

The first is Education, not education in the traditional sense that we all recognise it when we talk about the budget or schools but education of the general public. It is an issue that I raised with my colleagues and the Chief Executive the other day, and I'd like everybody to have a little think about if I may. We too often I think in the Falklands get into prescriptive legislation without there being suitable education and there are a number of examples around just at the moment, one is the proposed legislation on firearms that has been out for public consultation which has caused a certain amount of aggravation and annoyance amongst a number of people and probably not surprisingly so. I am happy that Executive Council has withdrawn the current proposals and referred them back to the Police Committee for further work. A lot of what was proposed in there to be dealt with by legislation could probably could very well have been dealt with by providing good sensible advice to people and advising them how to keep their firearms, there is one example.

In the Road Traffic Ordinance, the proposed Road Traffic Ordinance I understand there are proposals for the wearing of cycle helmets by children and adults. I have never seen a single piece of advice in the Falklands about the wearing of helmets for cyclist, that surely would have been the sensible way to go about it at least in the first instance, rather than going straight to legislation.

I refer to the issue of smoking, there has been quite a lot talked about smoking in the last few months, there have been proposals about and probably will be proposals in this House in due course to ban smoking in public places, we spent a lot of money on the Health of the Nation survey and document but as far as I understand it is sat in somebody's drawer, I haven't seen any use of it in recent times. What has the Falkland Islands Government done in terms of education about smoking, I think probably nothing apart from a few elected Members and the odd medical practitioner making comments on the radio, but nothing. There are indeed adverts on the television that are produced by public service broadcasting in the United Kingdom on behalf of BFBS and I think they are actually very good, I hope people watch them but we haven't actually done enough ourselves to advise particularly young people not to smoke.

My fourth example is actually seatbelts. The seatbelt law in the Falklands has been around for some while, the application of it has been suspended for sometime for probably sensible, reasonable purposes, but what did we do in the meantime about trying to advise people to wear their seatbelts, absolutely nothing. I am not suggesting that any particular person or group of people are responsible for this but there are other ways of going about this encouraging people to do what is right for them and right for the community other than just charging into prescriptive legislation so I would like us all to think about that and next time we're proposing to legislate this thing or ban this thing or that thing or tell people what to do, lets think first about giving them good sensible advice about what is best practice.

The other issue I would just like to mention briefly today is the programme for 2007 next year. At the last public meeting we announced, Mr Speaker and other guys announced what the programme was planned to be, for those members of the public who were at the public meeting, they seem to appreciate that programme. I'm sure it will be published very shortly in the local news paper, we would like all members of

the public to look at it and comment if they have any comments of substance please let us have them. It is our earnest hope that every member of the community will be involved in the celebrations for 2007 next year and we would be keen for anybody to offer their services or to offer constructive proposals for that.

Finally Mr Speaker, before closing I would just like to thank Anton Livermore for his contribution to the proceedings over this budget session, its not easy after a gap of 11 or 12 years to come back and keep Mr Speaker on track but I think he has done it remarkably well, so thanks to him. Thanks also to Cherie in the Councillors Office for filling in over the period of time. Mr Speaker, I support the Motion.

The Honourable Richard Cockwell

Mr Speaker, Honourable Members, in rising to support the motion I have to, as usual, congratulate Derek and his team, Keith and Helga for their handling and guiding through the budget process. I don't know whether it's because I am getting old or not but it seems to be getting easier in some ways. It is more understandable, I can remember that 8 or 9 years ago my first budget was a very tortuous process and very difficult. It seems to go a lot simpler these days and I think it's due to yourself and of course to our Chairman, who keeps us in order in more ways than one.

I, too, regret that we haven't been able to do enough for the lower paid. It was hoped that in the next few months we can look at another strategy in which we can help the lower paid and obviously this includes pensioners, people on welfares, these sort of people. It is a very difficult issue. It looks simple but when you go into it because it is a difficult issue but hopefully we will be able to do something about it.

A lot of people are disturbed about the holiday credit being reduced. But as the Honourable Mike Summers said it was something which had to go when we were balancing up against other things such as increased fuel allowance for the pensioners and other items, we had to make a cut somewhere. I think we needs to look seriously at the cost of energy for these people, particularly the old age pensioners. I was talking to someone today who said that their mother would have to pay up to two months of their pension every year to pay electricity bills in their sheltered home. We have to look at that very carefully and I certainly will be following that up myself.

The wind power project is something, which is very dear to my heart and, like Councillor Summers, I think it is a very exciting project. It is something which will help to at least maintain electricity prices and I certainly hope it will reduce them and, if it is successful, I would be pressing, within the next two years that we should actually extend this to reduce the cost of our electricity even more.

We mentioned once or twice during this session about the importance of Camp. I don't think we can under-estimate how important the Camp is and how much support that this Council gives to Camp. It is difficult to find ways of getting money without giving direct subsidies but we have to try and find ways of giving more money into Camp by re-generating their industries, diversification, that sort of thing. I think as far as West Falkland is concerned, the east-west ferry project gets going it will make a big difference. I think there will be people who will find it a very great help and also

I think it will generate money in tourism, local tourism and overseas tourism. I think it is very difficult to overestimate, what the difference it will make having lived on the West for many years I am very aware of the differences it will make for the people.

I would like to just congratulate or just talk about one or two other groups within the Falklands, who need to be mentioned. The first is the emergency services. One Honourable Member mentioned earlier on in this session about the Police and Ambulance and the Fire Service. They've had a particularly difficult year. We've had some tragic events but I really believe that they should be congratulated for the professional way they have handled themselves. The Police in particular are in a very difficult situation at the moment. The other group we need to mention is the Falkland Islands Defence Force. We have to remember that these aren't just a group of very smartly dressed young men and women who turn up on ceremonial occasions and look very handsome. They do train for a role that we all hope they will not have to fulfil. They train very seriously and they are a very professional bunch and we should note that they go out year after year in dreadful weather and I believe they should be supported. I am very pleased to see that this Council has agreed to reinstate the PSI. This will make a big difference to the Commanding Officer and his senior staff in helping them to mould the Defence Force even more efficiently than they are now.

The Honourable Mike Summers mentioned the Firearms Bill. I think actually, I agree that it wasn't very realistic but I think publishing it as it was has got people to get up and talk about it and we've had a lot of input on that subject and I am quite happy with the way it happened because it does focus everybody on the fact that we had to have legislation but sensible legislation, which can actually be maintained and carried out.

In reply to the Honourable Janet Robertson when she said that she would like to congratulate all the rest of the Councillors. I'd like to do the same. I think this budget session has gone very well. We haven't all agreed on everything but everybody has worked and got on very well together.

Finally I, too, would like to thank Anton for his work here in this Council and in particular, Cherie Clifford, who has done so much work for us. I don't think we can praise her too much. She's really been amazing.

Mr Speaker, I wish to support the motion.

The Honourable Ian Hansen

Mr Speaker, Honourable Members, in rising to support the Motion for Adjournment I will just make very brief, few general observations.

This budget has been slightly as long as in previous years. As my colleagues have already stated and that is, no doubt, because we had the luxury of a more productive financial season with our fishing industry.

I guess, however, there will always be contentious issues. I can't remember what it was last year but the year before it was the wheelie bins. This year I think the

Holiday Credit Scheme will probably cause the most discussion. As part of the decision making process I expect to take part of that criticism directed at us about the scheme and that's only right. I have always felt the scheme was a huge benefit to people, especially those on low incomes or those with large families. I think Councillor Cockwell and Councillor Summers mentioned that this was one of the things that had to go or to be degraded slightly and that's correct. But I would also like to think that if or when our finances improve to the point they were when this scheme was first implemented, that we can actually consider seriously returning it to its full capacity.

On the issue of seatbelts, which will no doubt cause some more debate and discussion, I sincerely hope that the policing of this new regulation can be done in an educational way. I don't think we should be fastening seatbelts because we are afraid we are going to be fined. I think we should be fastening them automatically because it is as much a part of driving as turning the key to start a vehicle. So, I would urge an educational approach to policing this because people will forget to fasten seatbelts. It is a change in our culture.

I touched yesterday on my portfolio responsibilities and I don't intend to repeat myself. I would just like to take this opportunity to thank the Heads of Department I worked with over the last months and all the Directors on FLH and the Tourist Board for their support. I am very grateful for it.

I, too, would like to thank Anton and Cherie for the work they have done and a tremendous amount of work it is, too. I would also like to thank our Treasury team for the amount of work they have done in the course of this budget.

I think sometimes we as Councillors take it for granted the sheer volume of paperwork that has to be produced. It is really only when you stop to reflect to think about it we can appreciate fully at the effort that is taken. I think Derek, Keith, Helga and the rest of the team should be congratulated.

Finally, sir, on a lighter note, I recently read an article in a financial magazine. It was pretty much tongue and cheek but it said that during any budget session in any country in the world there's a perception that treasurers, financial controllers and financial secretaries change from being personable and likeable people to scrooge like figures who haunt corridors of treasuries late at night, muttering and speaking about money. I hope I can assure all those who are listening that our Financial Secretary is not like that at all.

Mr Speaker, I support the Motion.

The Honourable Janet Robertson

Mr Speaker, Honourable Members, I am going to follow the crowd and congratulate the Treasury for their quite fantastic work on the budget. It is quite true that I had some anxiety about the whole budget process and, when I first saw the volume of paper that appeared in our trays, I was even more so but happily the clarity of the presentations and the paperwork itself has been a lot smoother than I thought.

I would also just like to thank the various Heads of Department that actually prepared these figures. I have had to prepared budgets in the past and I know that it is a fairly thankless and not terribly enjoyable task, so congratulations to all of them. It's probably a reflection on their expertise that there hasn't been as many amendments as we might have thought.

I would like to comment on a few areas of the budget that have probably caused much discussion and debate. The holiday credit scheme has already been mentioned. I know this is one of the measures that is probably is going to upset most people and we are all affected by it. It just seems to me that it's a luxury that we can have in good times but that we have to sacrifice in the not so good times. As the Honourable Ian Hansen said before, they haven't taken it out completely. It's still there. It means that it can be increased at a later date if and when the budget allows.

I would also like to speak a little bit about Education, just to comment on the Honourable Mike Summers' comment. I absolutely agree with him about the need to have education as the first step prior to prescriptive legislation. I do hope that the soon to be held working group for the child will take into account some of those areas especially with regard to children and just to point out, I don't think the road traffic group have suggested that adults should be wearing cycling helmets. That was firmly rejected.

To talk about Education itself, further and higher education, we are victims of our own success. I think someone has said that before. The levels of education in our community have risen considerably over the previous years but with it, so have the aspirations to it. This has inevitably lead to an ever rising budget which, while affordable at the moment, doesn't necessarily mean that it always will be so. We have discussed means testing at length and we are not currently convinced that significant savings can be made without placing frankly intolerable burdens on some sectors of the community. Frankly, it can also take away incentives from some members of the community from actually furthering their children's education. We have also discussed incentive grants, which are linking levels of grants to degrees of commitment of the students. The idea of this is to give the students and the parents alike an incentive for the children to put in maximum effort during their secondary and further education. We haven't come to any conclusion at this time. It is something that we would like to think about in the future and I think it is something that we should develop over the course of this next year. It won't save much money but I think it will help to develop the aspirations and the achievements we are looking for at that level of education.

I would also like to talk a little bit about Camp. I am very happy that we found some quick win solutions for the farming community and I do hope that it will make a real difference to them over the course of the next few months. But more work still needs to be done on this, and, when thinking about the future of Camp it really behoves us to be broad-minded. Camp is no longer just about sheep farming. It's about tourism, internal services, even retail. The purpose of the ferry is to continue this diversification and in thinking of supporting Camp, we have to bear in mind all these factors. What we want to do is to ensure that all those Camp businesses are viable or

on the road to viability, are adequately supported and encouraged to develop those trends. We also need to ensure that for those who wish to, or those that feel the struggle is too great and the hope of turning things around too unlikely, that there is an opportunity to change their track and leave. These are exit strategies, if you like. I am thinking about targeting support. We also need to think that it's no good exchanging one means of transport for another. There's no good depriving an area of a road and depriving it of a shipping service or an air service if this is going to leave them more isolated and less capable than before. All it does is make the road an exorbitant treat but it makes little headway towards long-term solutions. This is not to say, by any means that every farm should have every service. But we must be clear that if we wish to develop farms that are currently managing to hold their heads above water, we will be failing them if we don't take this into account.

Reiterating the words of Councillor Summers and Cockwell, I am very happy to say the firearms proposals have returned to the drawing board. I would like to say that we should be careful about putting in place measures and legislation that only add to the financial burdens in Camp. It is sometimes the sum of all the little expenses that in the end can break the camel's back, just as much as major expenses. In addition to that, I am thinking of road designations. We need to bear this in mind.

Moving on to immigration, the Governor mentioned immigration in his address to the nation yesterday. I would just like to clarify what the purposes of the working group are. It is to ensure that our immigration policy helps to develop the overall human assets and capital of the Islands to the Islands' greater benefit. This is a rather cold statement but all it means is that we recognise the enormous value and worth of welcoming newcomers to these Islands. We need their skills, we need their resources, their new perspectives and the cultural diversity they bring with them. We even need some competition. But at the same time, we need to ensure that the current population is not sidelined in the process. We have enjoyed nearly full employment here for many, many years and we need to make sure that this situation doesn't radically change. We have to ensure that school leavers have access to the first step in the ladder of employment and that our welfare programmes are not over-burdened and that those who wish to develop their skills have the means to do so. This wonderful formula is what the working group hopes to establish. I sincerely hope that we will manage that over the course of the next few months.

Just lastly, I want to comment on the pay awards. We did reach an agreement on Civil Service awards yesterday. But in doing so, we did have a lot of debate because whilst it is welcome news for public sector employees, it doesn't do anything for private sector employees. This has been mentioned already this afternoon so I am not going to say a lot about it. It's just to say that we are concerned about some of the terms and conditions in the private sector. It really doesn't do the Islands any good to have a big difference between public sector and private sector employees. The private sector can end up losing some of its best employees to Government to their detriment and to the detriment of the economy. Very low paid employees can feel demoralised and de-motivated, which will have the same affect ultimately on the economy. At the same time the private sector might feel it cannot compete with Government pay scales to even the balance. I think this whole subject is worthy of debate in the future as it is of crucial importance, to our economy.

I would like to thank Anton and Cherie for all their work and everybody else who has taken part in this process.

Sir, I support the Motion.

The Honourable Dr Andrea Clausen

Mr Speaker, Honourable Members, in rising to support the motion, quite a few things I was going to say have already been covered so I will be quite brief.

I had a phone call last night from a member of the public who was quite irate with some of the proposals we were discussing as a result of our budget deliberations. My colleagues have already mentioned the particular subject but it was actually premised with the idea that this Council doesn't seem to do anything to help Falkland Islanders, which I thought was quite sad, really.

I would like to say a few words to try and reassure that member of the public and maybe some others who feel that we haven't done the best we can for everybody in our community. It's not an easy process as we have all mentioned but we have a role and that role is to try and be as fair to everybody as we can be and, in particular to take account of those who are less well off. We have, during this last few days in fact, the build-up to the budget session looked at a number of areas and have put some money and some commitment to those needy areas, in particular the rural community. This Council has promised to support the pasture improvement programme and the Camp labour scheme for the life of this Council not just this year. In order to give us a breather to look at short and long-term solutions of some of the problems in Camp, we have offered a range of short-term fixes and the Financial Secretary gave an excellent explanation on all of those, so I won't go into them again. Suffices to say that they are there for those who need them. We have increased pensions and I was fascinated to hear that the Falkland Islands pensions are actually £25.00 higher than the UK pensions per week. I think that is something we should be proud of. I am glad that we offer that level of support to pensioners. As the Honourable Mike Summers said, they worked very hard and not necessarily in such affluent times as ours, so they deserve that. We have also increased the winter fuel allowance.

The work for modest pay award to the public sector was discussed and as my colleague, the Honourable Janet Robertson mentioned, we did have quite a debate about this because it does just look at one sector and we want to do the best for everybody in the community and not just one sector. We are going to be looking at ways in the near future as to how we can properly influence the terms and conditions of those less well paid in the private sector. I suspect it will not be easy but we will be looking at it.

Of course we have had to increase some charges but they are mainly to cover our costs. They are not done just in spite. There are very good reasons for this and we do have the "user pays" principle so we must adopt it whenever possible.

As colleagues have already mentioned, we have yet to look at the medical treatment overseas and education but policies on both of these are going to be looked at very closely. We are in the middle of looking at them now but have managed to get through this budget round without making any significant cuts anywhere. Sadly, we have had to make a further reduction to the holiday credit scheme. I personally, and I think I am probably not alone in classing this as a luxury item, it's not something that I would deem a life or death service and our job is to protect our life and death services and to maintain them for everybody in the community. I appreciate that it is the only opportunity for some people to travel. If and when the economy improves I am sure that we will be able to reinstate it. You never know, we may even be able to double it. Who Knows? However while things are not so rosy we have to be cautious and we must protect our core services, which is the role, I think, of this budget, and the people who make up our community, we will look after them in the fairest way we can. That's why you voted for us and I hope you think that we have done a reasonably good job with the decisions that we have made.

I did offer my thanks yesterday but I will offer them again to the Financial Secretary and his team and to Anton and Cherie. We couldn't survive without them, I have to say.

I would like to end on one thing that I am very pleased to see and that is the establishment of the youth working group. It's an area that I have hammered on about from time to time. I feel very passionately about this area. Although I won't be sitting on the group, I will observe its business very closely as I am sure many will. It's a broad and complex area of work and I look forward to seeing some of the positive results from its deliberations.

Sir, I support the Motion.

The Honourable Mike Rendell

Mr Speaker, Honourable Members, this budget process has been a truly fascinating experience for me. Firstly because given so many variables, how can revenue be accurately forecast? Answer, It can't. Secondly, how can expenditure be accurately forecast? Answer, with more confidence than revenue but still with some degree of uncertainty. Nevertheless, every year, we go through this process and most times a balanced budget is achieved.

The secret of success is really not that much of a secret at all. It's down to good management at all levels right through from the Chief Executive and the Financial Secretary all the way down through the Heads of Department and section heads. It is perhaps even more importantly about every employee in the Falkland Islands Government team, all working within clearly defined parameters and to the best of their ability. Extra workloads may well have been put on a considerable number of them out of necessity in order to achieve the necessary savings. Well done to all of them. They all help in achieving balanced budgets year after year. At least this year a pay award has been possible. Hopefully, it goes some way towards saying thank you.

But can we go on relying so heavily on achieving revenue targets by selling licences to catch Illex in particular? Whilst the outlook for next year is more favourable than it has been for some years, the longer term is far more difficult to predict. It seems obvious, therefore, that we need to be able to generate new incomes streams.

There are clear areas where we can already see potential, with cruise ship visits being right at the top of the list. So surely we should be investing now in building a comprehensive infrastructure to add value to the incomes already being generated by cruise ship visitors. Clear examples include better landing facilities, tenders and more Stanley based activities. These are matters for all interested parties to determine in detail but, for goodness sake, let's get on with it, starting with the Public Jetty.

I am particularly pleased that funding has been approved for the road between Greenfield and San Carlos to be built this coming summer. I know that the bridging of this gap has not been completed for good reasons but at last it is at the top of the priority list and hopefully can be completed in time for our 2007 visitors to use. It will also enhance tourist opportunities and perhaps, more importantly, improve road communications for the North Camp in particular. It will also allow an alternative route when a proposed culvert replacement programme gets underway and in the event of any road closures for whatever reason.

I join the Honourable Richard Cockwell in expressing my delight with my colleagues have also agreed that the post of PSI Staff Instructor for the Falkland Islands Defence Force will be funded from January next year for two years, following the recent successful appointment of Nick Watson, it has been agreed that this post should be filled by another Royal Marine. I know that the FIDF will be very pleased to hear this and it will be inevitably enhanced with the already formidable capabilities they currently possess. It is also remarkable good timing that this post will be filled at the start of 2007 in time for all the commemorations.

Whilst on the theme, I am going to take advantage of my position to bring to everyone's attention that this year is the 30th anniversary of the Royal Marines being given the Freedom of Stanley, which happened on the 8th of December 1976. Believe it or not, there are still five members of that detachment of Naval Party 8901 still here now. So, it promises to be a significant event, augmented by a few newly formed Royal Marines in a new branch of the Royal Marines Association here. You can expect to see some of them out marching and hopefully they will be keeping in step. I heard some good news this afternoon that there may be a Royal Marine Band in attendance for the 8th of December. That will doubly help.

Finally, I join colleagues in thanking all those closely involved with the budgetary process. Clearly a lot goes on behind the scenes and Derek, Keith and their team must be congratulated. The workload of Cherie has also been particularly demanding over the last month or so and she deserves much praise for coping with and keeping us all on the straight and narrow – well, nearly.

I Support the Motion.

The Honourable Richard Stevens

Mr Speaker, Honourable Members, for someone that has been out of Government for a number of years, I would probably see changes in the budget process most clearly. I think the staggered approach over several months gives everyone time to think carefully about the many different issues.

It seems superfluous but I would like to thank the Financial Secretary and all the many parts of Government that contribute to this process. I also admire the Financial Secretary's ability to put across the benefits of the mortgage holidays for Farmers, without a flip chart or a Power Point presentation. I understand that the Agricultural Department will be explaining further the finer points of the different quick fixes.

My request for additional funds for Camp did not receive support and the feedback to other Councillors about the quick fixes have been positive. I am pleased that these initiatives have been well received. I would suggest that to farms that feel it is not helping them to consider the labour scheme. In the last Advisory Committee, we checked and some of the rules of the labour scheme allowed people to work on their own farms on certain projects. The idea behind this is that the money earned could fund the job, for example, if you had to replace the roof of a shearing shed or the gratings but couldn't afford to you could fund the work through the money received through the labour through your scheme.

I would briefly like to move on to my portfolio responsibilities. I congratulate the parents at the Infant/Junior School in forming an association and would like to give my support to this group. I think it's important to nurture the ties between parents, staff and children and work towards a partnership.

Finally, as the Honourable Richard Davies mentioned yesterday, he and I are speaking at the C24 next month. I am concentrating on the people in the Falklands and in particular our development since 1982. Writing my speech, it reinforces to me just how far we have come and the potential for more to come.

To finish off, I would also like to thank Cherie, who seems to be just everywhere in the past few weeks and to Anton for stepping in.

Sir, I support the Motion.

The Honourable Dr Richard Davies

Mr Speaker, Honourable Members, I don't think there is a lot left for me to say. The budget has been tight and has required careful weighing of priorities. Although the financial situation has not been as dire as we might have expected six months ago, I think there will be a general sense across the community that belts are still pretty tight.

I would like to pay tribute to and thank Senior Managers, Heads of Department and FIG from the Chief Executive down, who, I think, are under tremendous pressure at the minute, to continue to produce results with very tight budgets and, in some

instances, spiralling costs. There's no question that we will continue to provide the essential services and those in need are not going to suffer unduly, whether it be in housing, education, or health.

I am pleased that we managed to provide a significant increase in the winter fuel allowance and help old age pensioners and I am pleased that, in my view, we have been able to provide a significant boost to the Camp community, although I understand that more needs to be done in the medium and longer term.

Several of my colleagues have mentioned the lower paid in our community. Like them, I am sorry that we haven't managed to find a way in the budget to help them, either in the public or private sectors. I am pleased that there is a general consensus that we do need to examine this problem and look further at it and take action. At the same time, we don't forget that we can't improve employment conditions without maintaining a healthy economy.

Some of my colleagues, the Honourable Mike Summers in particular, have mentioned the importance of education over legislation in areas like smoking and seat belts. Whilst I heartily agree with the importance of education, I think perhaps my viewpoint as a Doctor who is actually involved in trying to tell people not to smoke or try to help people to stop smoking, trying to persuade people to wear seatbelts and seeing first hand the results of smoking and not wearing seat belts. I do think that it is absolutely essential that politicians take a strong lead and adopt legislation. I can talk until I am blue in the face in my surgery about smoking but I don't think it really makes as much difference as a ban on smoking in public places would to the health of the community.

Regarding seatbelts, I think the debate itself that we have had these last three months has been a highly effective form of education. I witnessed first hand a car crash at San Carlos a few days ago and I think I can say that five people might have been seriously injured or worst had they not been wearing seatbelts. So, I think the debate and the discussion has been highly effective and I am delighted that we have today decided to back that up with better legislation.

This brings me to the point that I was going to mention that sometimes Councillors are accused of unthinkingly adopting rules and practices from other countries and particularly the UK because they do it like that and I am glad to say that it has become clear to me over the last six months that we don't do that what we actually strive to do is what is in the best interest of the Falklands. We do have to sometimes introduce restrictions or rules, we don't do it for the sake of change or to mimic another country but we try to do it as reasonable responses to developments that are occurring in the community or to external influences that are beyond our control. I think, very few people don't welcome the road building programme, but it has brought dangers with it, it has brought fatal car crashes and seatbelts are a sensible response to the dangers of roads and faster and more powerful cars. Legislation is long overdue and I am delighted that we have introduced it today.

Considering the speed of change in the Falklands the way changes have come with increasing wealth for example, there have been a huge number of changes since I first

came here ten years ago and I think we have actually done extremely well in maintaining the way of life and the distinctive and welcoming character of the community and I'd like to believe that Councillors will continue to protect that as far as we can.

I support the Motion.

The Honourable Financial Secretary

Mr Speaker, Honourable Members I thank Honourable Members for their kind comments to me and the Treasury team in appreciation of their hard work. Councillor Hansen suggested that I wasn't a typical Treasury scrooge like character that he had read about, now that it is a pity, because I have been trying hard to achieve that status for about fourteen years, it is part of the person specification of the job. I see that I am going to have to try even harder to be meaner to protect my reputation.

I stated in my report from Select Committee that I am pleased with the balanced budget outcome and I thank everyone once again for their contribution to the process. I would also like to express my appreciation to my senior colleagues on the left for their assistance, advice and support.

Mr Speaker, Honourable Members I support the Motion for adjournment.

Commander British Forces

Mr Speaker, Honourable Members I firstly applaud Honourable Members decision to reinstate the PSI to the Falkland Islands Defence Force, something I know we touched on when you were good enough to visit us up at Mount Pleasant earlier this year. I think it is a cracking decision. With the right level of person in that post full time to keep their eyes on them, make certain that the training maintains its relevancy and maintain in tandem with our own tactics and procedures and that level of interoperability is not something that should be cast aside too easily so I would very much applaud your decision.

Could I also express my gratitude to Honourable Members for your stated and funded intent to mark the 25th Anniversary with a project at Mount Pleasant, it is extraordinarily generous and extremely welcomed and I would like to express my gratitude on behalf of my people and those that will follow me. Whilst the form of that project is yet to be decided and is very much your decision on what form it should it take, it is my earnest hope that that project once it is in being next year will be of use not just to the military but to all the community coming up to Mount Pleasant to use that facility in what form it may be and to enjoy it.

Thirdly, seeing as this is a day of reflection and also a day in which the Governor has encouraged debate and there has been talk about slavishly or not slavishly following practice in other communities I was struck by the question that was asked yesterday in respect of competitive sport in schools and curriculum, what lies behind that maybe we have yet to see, all I would say and that is from somebody who has watched and lived in the UK over the past many years, it is not a path that I think we got right in the UK, to my eyes some sort of misplaced political correctness we choose to remove

competitive sports from schools, we got it certainly wrong and I have to say that many people are now reversing that process. Competition is part of life, it is no bad thing therefore to learn about competitiveness and the elements of which winning and losing in sport. I would also like to remind people that there it is also in amongst competitive sport to teach people the value of teamwork, something very much at the heart of my business and at the heart I think of everybody's business in a community. So, if there is any thoughts of reducing competitive sport or doing away with it altogether in schools I would hope those who are advocating it would think again, competitiveness is not a bad thing.

Mr Speaker, I support the Motion.

The Honourable Chief Executive

Mr Speaker, Honourable Members I have the privilege of the final word. There is always the temptation for those who have been heavily involved in the balance budget preparation process to now breathe a huge sigh of relief at the completion of that process, and here I must once again pay tribute to the Financial Secretary, the Deputy Financial Secretary and their staff for their meticulous stewardship of the process and to the great many public officers and not just Heads of Departments, in all departments who have been heavily involved. Honourable Members have been bombarded with an enormous amount of complex information and data but as ever they have successfully met the challenge. There will be no sigh of relief, well perhaps a subdued murmur. The task of delivering sound and effective stewardship of public services and the public purse is relentless; if anything it becomes more complex and demanding each year, largely as a consequence of external pressures but, also in response to public demands and raised expectations for more and better services. Just as the demand for service is relentless so to is the search for improved efficiency and effectiveness in the civil service. It is rarely easy to achieve but I make no apology for continuing to express irritation at ineffectiveness, waste, duplication and unnecessary job creation and bureaucracy wherever I observe it. That said, it would be unthinkable that I do not use this opportunity to thank all public officials, perhaps especially those at the front edge of services for their dedication and commitment to the public service sometimes in the face of as the Governor put it yesterday unrelenting pressure and for their personal support. For very reasons many departments over the last twelve months have experienced staff shortages, but colleagues have moved pretty effortlessly to cover gaps, good evidence I think of strong teamwork.]

Finally, yesterday a number of Honourable Members recognised the contribution the civil service makes to the governance of the Islands. If I may and on behalf of the civil service I want to express a few words of thanks to elected representatives. The possible exception of the Honourable Councillor Robertson, it has been my experience of working with Councillor for over 36 years that the amount of time which they need to devote to perform their duties exceeds their pre-election expectations. Council work is rarely and perhaps never an activity which promotes universal support and often has a damaging impact on domestic well being of harmony and the ability to win friends. It is nevertheless essential in a modern democracy that electoral vitality is maintained and that there are people prepared to

dedicate themselves to public service and so I pay tribute to Councillors. If I may say so all Honourable Members on this Council, new and not so new and the reincarnated alike have clearly demonstrated their commitment and determination to address often very complex issues that face us and to which there are frequently no easy answers. What commentator use to refer to as the wicked issues.

Sir, I move.

Mr Speaker

The Motion therefore appears to be carried, before I conclude I would like to endorse Honourable Members kind words towards the Acting Clerk Anton Livermore and to Cherie Clifford, I would also wish well the speedy return and to good health of our regular Clerk, Claudette.

The House stands adjourned accordingly.

Confirmed this 28th day of July 2006



*D L Clifton OBE
Speaker of the Legislative
Council*



RECORD OF THE ~~BUDGET~~ MEETING
OF THE LEGISLATIVE COUNCIL
HELD IN STANLEY
ON FRIDAY 28TH JULY 2006

**RECORD OF THE BUDGET MEETING OF THE LEGISLATIVE COUNCIL
HELD IN STANLEY ON FRIDAY 28TH JULY 2006**

THE SPEAKER OF THE HOUSE
(Mr Darwin Lewis Clifton OBE)

MEMBERS (Ex-Officio)

The Honourable the Financial Secretary
(Mr Derek Frank Howatt)

Elected

The Honourable Dr Andrea Patricia Clausen
(Elected Member for Stanley Constituency)

The Honourable John Richard Cockwell
(Elected Member for Stanley Constituency)

The Honourable Dr Richard Andrew Davies
(Elected Member for Stanley Constituency)

The Honourable Ian Hansen
(Elected Member for Camp Constituency)

The Honourable Mike Rendell
(Elected Member for Camp Constituency)

The Honourable Janet Robertson
(Elected Member for Stanley Constituency)

The Honourable Richard James Stevens
(Elected Member for Camp Constituency)

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

PERSONS ENTITLED TO ATTEND

The Attorney General
(Mr David Geoffrey Lang CBE, QC)

CLERK: Claudette Anderson MBE

PRAYERS: Reverend Kathy Biles

APOLOGIES

The Honourable Chief Executive
(Mr Christopher John Simpkins)

The Commander British Forces South Atlantic Islands
(Commodore Ian Moncrieff BA, RN)

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**The Record of the meeting of Legislative Council
held on Friday 28th July 2006**

PRAYERS

Mr Speaker

Honourable Members, I bid you good morning.

Honourable Members I have before me the minutes of the last meeting would you please kindly confirm that I may sign off these minutes as a true record.

Agreed

Clerk of Councils

Papers to be laid on the Table by the Honourable Financial Secretary

Copies of subsidiary legislation published in the Falkland Islands Gazette since the last sitting of Legislative Council and laid on the table pursuant to (Section 34(1)) of the Interpretation and General Clauses Ordinance 1977.

- Plant Importation (Amendment) Regulations 2006
- Air Navigation (Fees for Certificates and Services) Regulations 2006
- Capital Equalisation Fund (No 2) Order 2006
- Customs (Fees) Regulations 2006
- Post Office Order 2006
- Canache (Mooring of Watercraft) Development (Amendment) Regulations 2006
- Wearing of Seat Belts (Prescribed Roads)(Amendment) Regulations
- Customs (Fees)(Amendment) Regulations 2006
- Coins (Amendment) Order 2006
- Post Office Order 2006 (Correction) Order 2006
- Murrell River Fishing Regulations 2006

The Honourable Financial Secretary

Mr Speaker, Honourable Members, I beg to lay on the table the papers named by the Clerk.

Clerk of Councils

Questions for Oral Answer

Question Number 11 of 2006 by the Honourable Mike Summers

The Honourable Mike Summers

Mr Speaker, Honourable Members, would the Attorney General please advise, given that it is illegal to smoke under the age of 16, whether it is also illegal to be in possession of cigarettes under the age of 16, whether there is any provision in Falklands law for the police to confiscate and destroy any cigarettes in the possession of a person under 16, and whether provision exists or could be made for schoolteachers to confiscate and destroy cigarettes taken onto school property by persons under the age of 16?

Attorney General

Mr Speaker, Honourable Members, under section 90 of the Licensing Ordinance it is unlawful for any person to sell any tobacco to any person whom he knows or has reasonable cause to suspect is under the age of 16. Under the same section it is unlawful for any person under 16 to consume tobacco in any way and a police officer may, with the use only of such force as is reasonably necessary in the circumstances of the case, seize any tobacco which he finds in the possession, in a street or other public place, of a person whom the police officer reasonably suspects to be under the age of 16. Any such tobacco seized is to be delivered to the Chief Police Officer or as he may direct. It is not an offence for a person under the age of 16 to be in possession of tobacco. Nor is it an offence for any person to give any tobacco to a person under the age of 16.

A schoolteacher has no statutory power at present to seize tobacco in possession of a pupil on school premises or elsewhere. However, in my view, a teacher has a common law power to seize tobacco in a pupil's possession on school premises. He has in my view such power in performance of his duty as a teacher at common law to take such care of children in his or her charge as a careful parent would take of his or her children. In my view, such a parent would not permit his or her child under 16 to smoke or be in possession of tobacco.

Statutory provision could be made conferring power on teachers (and, if wished, others in charge of persons under 16), to seize and destroy tobacco in possession of them.

The Honourable Richard Davies

I wonder if the Attorney General could just clarify the taking of tobacco under common law, would that be the same principle as confiscating a mobile phone and giving it back at the end of class?

Attorney General

I do not think the analogy is a good one, tobacco in the possession of a person under the age of 16 is prohibited. It is a prohibited substance as far as they are concerned. A mobile phone is not as such a prohibited thing it is simply contrary to school rules to have a mobile phone in ones possession. But, yes I can see that people may think of it in that way but I think there is a distinction to be made.

The Honourable Janet Robertson

I was just wondering if you could clarify what happens in the situation where a teacher does remove tobacco off a child at school. I just want to be sure that the child would have no recourse in law against the actions of the teacher.

Attorney General

In my view, not.

The Honourable Mike Rendell

I would just like to ask the Attorney General what the law on this subject would be in the UK for under 16 year olds. Is tobacco allowed to be in the possession of children under the age of 16 in the UK? I think this might be pertinent to the issue.

Attorney General

I am unable to answer that question at the moment, if the Honourable Member wishes, I will deliver a reply to that in writing.

Response from the Attorney General to the supplementary Question

In response to a supplementary question from the Honourable Mike Rendell in Legislative Council on 28th July 2006 calling for information on the law on the sale, supply to and consumption of tobacco by persons under 16 years of age in Britain which I was unable to answer orally and undertook to supply the information in writing as soon as I could. I now provide the information.

The subject matter is governed by section 7 of the Children and Young Persons Act 1933 and by the Children and Young Persons (Protection from Tobacco) Act 1991. I have now lodged a copy of these laws in the Legislative Councillors' Office.

Section 7(1) of the 1933 Act renders it an offence for any person to sell to any person under the age of sixteen years any tobacco or cigarette papers, whether for his own use or not. It is however a defence under section 7(1A) for a person charged with an offence under subsection (1) to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Under section 7(2) of the 1933 Act a magistrates' court, if satisfied on complaint made to the court that any automatic machine for the sale of tobacco on any premises has been used by any person under sixteen years, the court must order the owner of the machine, or the person on whose premises the machine is kept, to take such precautions to prevent the machine being so used as may be specified in the order, or if necessary to remove the machine within such time as is specified in the order.

Police officers and park keepers in uniform are required by section 7(3) of the 1933 Act to seize any tobacco or cigarette papers in the possession of any person apparently under the age of sixteen years whom they find smoking in any street or public place. There are somewhat outdated provisions in section 7(4) in relation to juvenile employees of manufacturers or dealers in tobacco and boy messengers.

Under section 3 of the 1991 Act it is an offence for a retailer to sell cigarettes to any person other than in pre-packaged quantities of 10 or more in their original package.

Section 4 of the 1991 requires warning statements in retail premises and on vending machines drawing attention to the illegality of sales to persons under the age of 16 years.

Section 5 of the 1991 Act imposes a duty on local authorities in relation to enforcement campaigns.

In my view the British legislation shares the defects of the Falkland Islands legislation in that—

1. It is not an offence for a person to supply or give tobacco to a person under the age of sixteen years;
2. It is not an offence for a person under the age of sixteen years to be in possession of or consume tobacco.

Further, in the United Kingdom a police officer can only seize tobacco and cigarette papers from a person under the age of sixteen years if he catches him smoking in a street or public place. He cannot seize them otherwise.

Clerk of Councils

Question Number 12/06 by The Honourable Dr Andrea Clausen

The Honourable Dr Andrea Clausen

Mr Speaker, Honourable Members, could the Honourable Janet Robertson please inform this house as to the specific limits in place on the import of personal tax free goods when arriving by air.

The Honourable Janet Robertson

The following customs allowances were published in the Penguin News on 02 May 2003:

Alcoholic Beverages:

(for persons aged 18 years or older)

1 litre of spirits exceeding 22% alcohol by volume **OR**

2 litres of spirituous beverages not exceeding 22% alcohol by volume

AND 2 litres of still table wine or sparkling wine **AND**

10 litres of beer, cider or similar beverage.

Tobacco Products:

(for persons aged 16 or older)

200 cigarettes **OR**

50 cigars **OR**

100 cigarillos **OR**

250 grammes of tobacco.

The above extra-statutory discretionary allowances have applied in the Falkland Islands for more than 25 years in respect of goods intended for personal consumption contained in the personal luggage of individuals entering the Falkland Islands.

I would just like to clarify what that means, under section 120 of the Customs Ordinance 2003, the Governor may by order make provision for relief from duty including goods that may have been obtained outside the Falkland Islands and contained in the personal luggage of persons entering the Falkland Islands. It was intended for a travellers allowance order relating to personal relief from duty on goods in respect of travellers arriving to the Falklands from overseas, to come into force soon after the commencement of the Customs Ordinance 2003. However, when the relevant order was being drafted by the Attorney General it was discovered that the different classes of alcoholic beverages as defined in the replacement Customs Ordinance were conflicting and therefore these and the corresponding duty tariffs would require thorough provision prior to a travellers allowance order being completed. By reason that the classification

and categorisation of alcoholic beverages is actually very complex, the required revisions have not today been affected as it is considered to be of low importance on the Attorney General's prioritised Legislative drafting schedule as agreed by Executive Council. I just want to clarify that this means that duty free amounts that we have are discretionary and not stated in law?

The Honourable Dr Andrea Clausen

I would further like to clarify whether or not under these discretionary powers it is possible to bring in for example a litre of spirits for your spouse, is that against the law as it stands?

Attorney General

If you would like me to answer the question, I will.

The present allowance is for personal consumption. I don't think anybody is going to argue that if you are going to bring it in for your spouse that you shouldn't bring it in, but the present allowance is for personal consumption and the law provides that it is discretionary at the moment. If an order were to be made it would be an order permitting things to be brought in for personal consumption.

Mr Speaker

The Honourable Dr Clausen, does that satisfy you?

The Honourable Dr Andrea Clausen

I have one further supplementary, if I may.

I would like to ask the Honourable Janet Robertson, in the event that items are confiscated because they are above the discretionary allowance, what actually happens to those confiscated items?

The Honourable Janet Robertson

Goods can be seized and where dutiable goods are found concealed in person's luggage which have not been declared to the Customs Officer in attendance, that is considered an offence. The accounting procedures for that where goods are either retained or seized the passenger to which it applies, is entitled to a formal numbered receipt which also contains the Customs Department contact details. The relevant officer is also able to take note of reason for retaining or seizing the goods in question. A departmental register is kept in respect of all retained or seized goods which are subject to regular departmental checks from the Government's Internal Auditor.

In respect of retained goods, unless the owner of the goods unless the owner of the goods makes representations for the return or makes payment for the applicable duty within 30 days the goods are forfeit to the Crown.

Seized dutiable goods are forfeit to the Crown after a period of two days unless the owner of the goods has made representation to the Senior Magistrate or when there is to be a prosecution and the goods in question form part of the evidence from proceedings that are being concluded.

The disposal of dutiable goods, being forfeit to the Crown are either disposed of or destroyed under the instruction of the Collector of Customs or he may be directed by the Chief Executive, on occasion and in instances where the Court has had an involvement as directed by the Court on completion of proceedings.

The Honourable Dr Andrea Clausen

Can you just confirm that the goods seized by the Crown are actually destroyed?

The Honourable Janet Robertson

That is my understanding, yes.

The Honourable Mike Summers

Can I ask the Honourable Member if she is aware and could tell the House what the current practice is if Customs Officers at border posts in the Falklands, routinely ask people if they smoke when declaring cigarettes and do they routinely ask people if they drink when they are declaring alcohol?

The Honourable Janet Robertson

I think the normal practice is not. The assumption is that people are bringing goods in and when declared they are for personal use. However, I understand that if Customs Officers are made aware either advertently or inadvertently that a person bringing in goods which are clearly not for them or their household, the Customs Officer has a duty to seize those goods.

The Honourable Richard Cockwell

If I could just get a point of clarification, am I correct in assuming that although this question is asked about goods when arriving by air, this actually refers to all methods of arriving in the Falklands?

The Honourable Janet Robertson

I understand that to be the case, I'm sure the Attorney General will confirm.

Attorney General

Yes, that is the case.

The Honourable Mike Rendell

I would like to ask the Honourable Member if she would agree that this is a very confusing. Many people are not aware of the rules and regulations, even though they were published in the Penguin News two or three years ago. Would she not agree that it would be useful to have a poster at Mount Pleasant Airport in the arrival and departure lounges so that people upon arrival and departure know what their allowances and they understand the situation pertaining to the import of duty free allowances.

The Honourable Janet Robertson.

I absolutely 100% agree. I think it would be useful to have these figures published in the Penguin News. I think the discretionary allowance should be published more and there should indeed be a poster so that people when they arrive at MPA they can see exactly what the nature of the allowances are and especially clarification in regards to the issue of personal use and that you are actually committing an offence if you are bringing in something intended for someone else using your own personal allowance.

Mr Speaker

Thank you, no further supplementaries, thank you, next question.

Clerk of Councils

Question Number 13 of 2006 by the Honourable Dr Andrea Clausen

The Honourable Dr Andrea Clausen

Mr Speaker, Honourable Members, could the Honourable Richard Cockwell please advise this House as to what plans are in place for the management of the Eliza Cove refuse tip.

The Honourable Richard Cockwell

Mr Speaker, Honourable Members, it was unfortunate that the Director of Public Works is absent from the Islands, as he has the issues of waste management in all aspects very high on his agenda and keeps a close interest in this important issue at both the Eliza Cove and Mary Hill sites. I will attempt to give a comprehensive reply. (I am indebted to Mr George Burroughs for giving me the up to date information)

It is accepted that it is difficult and sometimes unpleasant for the public to access the tip to dispose of their waste. Plans are under way and the materials are being stockpiled to make a stone access ramp, with a facility for dropping waste into a collection area thus avoiding the compactor having to damage the access area.

There has recently been an approach through the press and the Chamber of Commerce with the view of increasing awareness of the problems and minimising and controlling waste generated by the commercial sector. This has had only a moderate success

although I should compliment one retailer who has taken the issue seriously and stopped issuing free plastic carrier bags and is attempting to control waste disposal. There may be others but I am unaware of them at this stage.

Planning permission has been obtained for three lidded skips to be placed at an easily accessible spot thereby reducing the need for the public to access the tip.

New measures are being put in place to manage the disposal of batteries and other hazardous waste and the recording of any buried hazardous waste.

I am hoping to have further discussions with the Director on his return about the continuing problems with plastic and light waste blowing away from the tip. The problem of plastic clinging to minefield fences is a real one and one that needs to be addressed.

It is obvious to everybody that the Eliza Cove site has a limited life. It is my intention to bring forward a discussion involving the Public Works Committee, the Environmental Planning Office and other agencies to instigate plans for a new site and the future control and disposal of waste. Once proposals have been formulated it will be necessary to involve Councillors in approving these plans and allocating the necessary funding.

The Honourable Dr Andrea Clausen

I would just like to get a time line on that, I think you said the skips are in place now. I would like that they are and if you have a time line of when there will be a ramp in place, there are clearly issues with a number of individuals trying to drop off their own personal rubbish, have you got any ideas on time?

The Honourable Richard Cockwell

There is a sea of mud down there, I think we have to recognise that it is very difficult and public works have got this very high on their agenda. Unfortunately both the Director and Mr George Burroughs are away at this moment so I am unable to get a time line of when this going to start, but they are actually starting to stockpile the materials to build this ramp and this will avoid the excavator actually churning up the ground where vehicles drive in, which is causing the major problem.

With reference to the issue of the skips. Planning permission has been given, the skips are not in place and again I haven't got a time line but I am hoping that it will be in the near future.

The Honourable Dr Andrea Clausen

You mentioned the compactor, I wonder if there is actually an issue with drainage there rather than just the issue of the compactor itself and if anything is being looked into regards the drainage of the site?

The Honourable Richard Cockwell

I think the ramp is actually designed to avoid this problem. The problem is that the tip is getting very full and to get rid of the water which is held in the rubbish is very difficult to deal with and so when they put the ramp in, hopefully there will be ditches to take the water away, but the ramp will get the vehicles out of the mud.

Mr Speaker

Any further supplementary, no, thank you. Next question.

Clerk of Councils

Question Number 14 of 2006 by the Honourable Janet Robertson

The Honourable Janet Robertson

Could the Honourable Dr Andrea Clausen please advise this House whether the fuel bowser currently located at Fox Bay for the purpose of assisting fuel deliveries to remote settlements is currently being used,? If it is not, could she explain the reasons for it?

The Honourable Dr Andrea Clausen

Mr Speaker, Honourable Members, the purpose of the Bedford fuel bowser was to assist with fuel deliveries to West Falkland settlements as a result of the changes in the schedule of the Tamar FI. However, it has been awaiting spare parts and I understand that there have been some issues regarding servicing of the Bedford bowser and it should be in service relatively soon once operational arrangements have been finalised. In fact I have just learnt that a contract has been issued for somebody on the west to run this and it should be happening in the very near future.

The Honourable Ian Hansen

I wonder if the Honourable Member could for point of clarification confirm that this bowser is actually owned by Falkland Islands Development Corporation and if there will be any remuneration to Falkland Islands Development Corporation for fuel deliveries?

The Honourable Dr Andrea Clausen

I can confirm that the Falkland Islands Development Corporation do indeed own the said bowser. I would have to seek further clarification as to whether there will be any incoming funds from the contract. I would imagine there will be but I cannot say, I will have to find out for you.

Written Response to Supplementary Question

The arrangement for the use of the Falkland Islands Development Corporation fuel bowser on West Falkland is as free hire. There will be no income received by Falkland Islands Development Corporation as a result of this contract. The purpose of the bowser and the contract is to assist with the development of fuel delivery services which will compliment the ferry service.

Clerk of Councils

Question Number 15/06 by The Honourable Janet Robertson

The Honourable Janet Robertson

Taking into the account the poor state of some Camp Roads during the winter months, could the Honourable Mike Rendell advise whether there is any programme in place to supplement the overland fuel delivery arrangements of those settlements most affected with deliveries by the Tamar?

The Honourable Mike Rendell

The answer to a certain extent dovetails into what the Honourable Andrea Clausen has already responded to on this same question and from the sort of slight hesitation that you gave, it is clear that these issues overlap. The broad intention is that regular fuel supplies for West Falkland are now distributed by road. A 10 tonne four wheel drive tanker has been assigned to operate from Fox Bay and is light enough to legally transit the entire West Road network at all times of the year. However, in the event of the roads being impassable for an extended time, FIG would consider using the Tamar or other appropriate method to deliver fuel to isolated settlements.

Further to that I can confirm that Island Shipping has agreed to do a delivery to Port Stephens on this upcoming voyage of the Tamar. I can also confirm that in talking to Island Shipping yesterday, they confirmed that they are in a position to do this at anyone's request, provided that the road conditions are such that deliveries can't be made by road, provided they have sufficient time to fit it into their itinerary and to delivery it at a time which is convenient for them.

The Honourable Janet Robertson

Thank you for that and I am extremely pleased to hear that. You mentioned Port Stephens, I wondered if this service would also apply to other settlements in that part of the Falklands, Albemarle and possibly Port Edgar as well?

The Honourable Mike Rendell

It would apply to anywhere that has had its Tamar service withdrawn as a result of the cross-sound ferry operation, so that would include Albemarle. It would not yet include Port Edgar because they haven't got a road yet, so they still will get the Tamar and anywhere that is having difficulties with deliveries, but would only really apply to places that don't have a Tamar but did have the Tamar before.

The Honourable Richard Stevens

Mr Speaker, Honourable Members in the interest of fairness I just wondered if there were initiatives to help farmers on the east at isolated locations.

The Honourable Mike Rendell

As Members will be aware there was recently a problem at North Arm when the bridge flooded out and deliveries were taken there by sea and I believe deliveries have also been taken to Port San Carlos fairly recently. It is not a question of East or West; it is a question of deliveries to any settlement that has difficulties. The provision is in place for the Tamar to do deliveries if necessary in those circumstances which we have outlined.

The Honourable Richard Stevens

I would like to thank you for that answer; it will be very reassuring for people that live in Camp.

The Honourable Janet Robertson

Could you please clarify, who would make the decision on whether a road is impassable, or not fit for people to do their fuel overland, how would that process be decided?

The Honourable Mike Rendell

I can't give a specific answer, because I don't know, I could find out. I think it would probably be done in consultation with the PWD road authority. They could probably make a decision on whether they thought a road was passable or not and advise accordingly.

Written Response to Supplementary Question

The decision on whether a road is passable is made by the Director of Public Works, which in practise means through the Roads Engineer at the Highways Section.

Clerk of Councils

Question Number 16/06 by the Honourable Janet Robertson

The Honourable Janet Robertson

Would the Honourable Financial Secretary advise the House what procedures exist for appeals against rulings in relation to tax assessments made by the Taxation Department?

The Honourable Financial Secretary

Mr Speaker, Honourable Members sections 180 to 183 and Schedule 3 of the Taxes Ordinance 1997, consisting of 12 pages in total, set out the procedures for appealing against an assessment issued by the Taxation Department.

However, before the appeals process is put into place an objection to the assessment must be made under section 175.

Section 175 states that "the person assessed" on making the objection to an assessment must: -

- make an objection in writing;
- outline the precise grounds on which they are objecting; and
- make the objection within 30 days from the date of service of their assessment, unless they are unable to do so due to a reasonable excuse and that statement is included on the assessment notices.

On receipt of an objection the Commissioner shall reconsider the assessment and may require the person assessed to provide further information, books and records or any particulars that relate to the income being assessed.

If the Commissioner and the person being assessed who has objected agree to the amount which is liable to be assessed, the assessment shall be amended accordingly and notice of tax payable shall be served upon that person.

The person assessed may not appeal against the assessment under section 181 unless-

- he has given notice of objection under Section 175; and
- the Commissioner has completed his reconsideration of the assessment.

If the person assessed and Commissioner cannot agree to the amount which is liable to be assessed then the appeals process must be put in place. This involves the formation of The Tax Appeal Tribunal which shall have at least 5 and not more than 7 members

appointed by the Governor. There are certain individuals who do not qualify to be appointed as a member of the Tax Tribunal because of interests they may have in the case or within the community. For example elected members of Legislative Council do not qualify. The Governor will appoint one member of the Tribunal as the Chairman and a public officer to be the Clerk to the Tribunal.

The Tribunal will be informed of the subject of the appeal, the grounds for appeal and whether the appellant requests an oral hearing or for the appeal to be dealt with by written representations. There are slightly different procedures for an oral hearing and for the appeal being dealt with by written representation. However, at either hearing, both the appellant and the Commissioner can give evidence.

After the Tribunal has reviewed all the records and heard from both parties, it determines the appeal. The appellant and the Commissioner may appeal against the determination of the Tribunal to the Supreme Court on a point of law.

The Honourable Janet Robertson

Thank you Financial Secretary, but I am just a little bit intrigued by the idea, I appreciate that a tribunal might have its uses certainly for big claims and in significant situations but for the ordinary tax player who is claiming against or is unhappy with an assessment made by the Tax Office, it seems a rather complex and burdensome way to try and solve a dispute, is there not some simpler process for minor appeals?

The Honourable Financial Secretary

Mr Speaker, Honourable Members, the appeals process only comes into play after the objection process fails to resolve the issue, so as I outlined, section 175 provides the person assessed can make an objection and if the Commissioner (this is an objection to an assessment made by the Taxation Officer or one of the officers in the Taxation Office) and if a tax payer objects to that assessment and the Commissioner doesn't resolve the issue to the tax payers satisfaction then it is only in those cases that it goes to the appeals process, but there is not a more simple appeals process than the one that I outlined. That appeals process doesn't happen very often, it has happened and it has only happened in major cases, normally the position is resolved as a result of the objection.

The Honourable Mike Summers

Mr Speaker, could the Financial Secretary confirm that he is the Commissioner of Taxation and that in the first instance the dispute is referred to him? The assessment would have been made in the Tax Office and then on first objection is referred to yourself. Could he also advise if and when the tribunal does convene who is responsible for its costs?

The Honourable Financial Secretary

Mr Speaker, Honourable Members, I can confirm that I am the Commissioner of Taxation and that the objection would come to me to determine in the first place and it is only those cases where a satisfactory outcome cannot be reached there that the taxpayer would have the right to appeal to the taxes tribunal. As far as the costs of the tribunal, these are met by the Government.

The Honourable Mike Rendell

Mr Speaker, as a matter of public information, I wonder if the Honourable Financial Secretary could indicate what sort of levels of appeals or objections he receives on an annual basis?

The Honourable Financial Secretary

Mr Speaker, Honourable Members, in the course of a year, I would say that I would perhaps receive no more than five to ten objections against assessments and it must be more than ten years since one has had to go to the tax appeal tribunal.

The Honourable Janet Robertson

Out of those five to ten minor appeals that you receive on balance, how many of those would you say are actually decided in the appellant's favour.

The Honourable Financial Secretary

I would say that very few are decided in the appellant's favour; in most cases I would say that the assessments that are issued by the taxation office are confirmed.

Clerk of Councils

MOTIONS

Motion Number 4 of 2006 by The Honourable The Financial Secretary

That it be resolved that section 5 of the Taxes (Amendment) Ordinance 2006 shall come into force on 1 March 2006.

The Honourable Financial Secretary

Mr Speaker, Honourable Members, by way of background information, the Taxes (Amendment) Bill 2006 was remitted to the Legislative Council by the Governor on the 15 December 2005 following the advice of Executive Council. The requirement of clause 5 of this Bill followed the new policy on fisheries property rights. This policy included the granting of Individual Transferable Quota or ITQ for short, free of charge

by Government and all future trading of ITQ to be subject to tax. The Taxes (Amendment) Ordinance 2006 was passed by Legislative Council on 24th February 2006, however, the bringing into force of section 5 from 1st March 2006 was suspended as Honourable Members approved an amendment following concerns expressed over difficulties with provisions in that section which deal with the taxation of gains arising from the disposal of ITQ through the sale of shares. You will recall that the Honourable Mike Summers stated that whilst he was entirely satisfied that this was an appropriate closing of the loophole there were a number of issues surrounding it that were not yet clarified to his satisfaction or he believed the satisfaction of others. He said that the issues were to a large extent how ITQ was to be valued. There is no local expertise on ITQ valuation. The former Economic Advisor and Policy Officer, Michael Harte, who was involved in formulating the fisheries property rights policy, was approached for his advice. He recommended the services of a specialist firm, Fish Innovation New Zealand Limited. Following consultation with colleagues, this company, in association with two other companies were contracted to propose a basis with supporting models for calculating ITQ valuations. A draft report was produced and was referred to the fourteen companies listed on the eligibility register owning ITQ and to the Fisheries Committee for comment. Comments were received from the Industry representatives of the Fisheries Committee and from two fishing companies. Some of the comments indicated a degree of acceptance. The proposed basis appeared to be suitable and should help to resolve earlier concerns, however, there was also criticism that the basis for the valuations did not take into account the smallness of the local industry, the way it is structured or that the market will not operate in the same way as it does in New Zealand. These comments were forwarded to the New Zealand Company and their draft report was modified to take them into account, where appropriate.

At a meeting held on the 29th June, Executive Council approved the basis for valuing the ITQ for tax purposes as set out in the final report. This report was presented under the cover of Executive Council paper 143/06 which is available to the public.

I would like to emphasize that it has to be accepted, that quota valuation is not a precise exercise as the resources by holding the commodity is volatile. The value can be influenced by a range of short and long term factors. The values as calculated and illustrated in the final report therefore provide a base upon which refinement can be made as the new policy matures and the fishery evolves. The valuation basis uses a discounted catch flow method based on future income streams, other valuation methods could be developed in due course based on a market or cost approach, because the property rights system is new there is no reliable data available at this early stage to support such methods. In the absence of anything more appropriate at this stage, the approved basis would therefore be used for valuing ITQ for tax purposes. I would like to make it clear that there is no intention to prescribe a basis to make it part of the tax law. At the time a share trade takes place if the industry or individual tax payer can demonstrate where any assumption forming part of the evaluation basis should be reviewed consideration will be given to refining it accordingly as I indicated previously. As and when alternative methods such as those based on the market or cost approach are developed and demonstrates a practical way of valuing ITQ then they will be considered with the aim of reaching a compromise from a range of values produced by

all available methods. This would reflect the practice adopted in the valuation of other assets and companies for tax purposes.

As proposed in my presentation of the Bill to this House on the 24th February 2006, I beg to move that section 5 of the Taxes (Amendment) Ordinance 2006 shall come into force on the 1st March 2006.

The Honourable Mike Summers

Mr Speaker, Honourable Members, I thank the Financial Secretary and his various colleagues for the very large amount of work that has gone into this issue since February, indeed we have had a number of consultations on it to make sure it was as right as we could get it in the circumstances. We are in a new phase in a new era in the fishery and I think we have to accept that there will be certain things that are untested, what we have arrived at here is probably far from perfect, but it is as good as we can get at the moment and I think we can expect refinements to it in due course and if we agree to the adoption of this process in this House, we have to do it in the knowledge that this may not be a perfect system, but it is what we have, what we can work with and I think it is better than what we had previously, that caused a significant number of concerns, I therefore second the Motion.

Mr Speaker

Thank you very much. Does any Honourable Member wish to speak to the Motion? Are there any objections to the Motion? No objections, the Motion is therefore carried.

Clerk of Councils

Motion Number 5 of 2006 by The Honourable Dr Richard Davies

That this House supports a ban on smoking in public places

The Honourable Dr Richard Davies

Mr Speaker, if I may, I would like permission to withdraw the Motion and offer a few words of explanation.

Several Honourable Members have expressed a desire for further information about the public's views on the possible smoking ban and its affects, this is clearly an important issue and we need to get it right. The preliminary results of the hospital questionnaire have only just been published and I think it is appropriate that Honourable Members and the public have the opportunity to consider and discuss its implications. For that reason I have considered the comments and I agree with my colleague, but the intention is that we debate the issue at the next meeting of the Legislative Council.

Mr Speaker

Thank you very much, does any Honourable Member wish to speak? No comments, therefore the Motion is to be withdrawn and carried forward.

The Honourable Mike Summers

Mr Speaker, can I just clarify that technically, the Motion is withdrawn, if a Motion on this subject is brought forward at another time it doesn't have to come in this form.

The Honourable Dr Richard Davies

That is correct, I would like to withdraw the Motion, whether I propose it in exactly the same wording or not is something I am going to consider.

Mr Speaker

Thank you very much for that clarification. Does that suit? Yes, thank you very much.

Clerk of Councils

ORDER OF THE DAY: BILLS

The Supplementary Appropriation (2005/2006) (No 3) Bill 2006. This Bill has not been published in the Gazette and requires a first reading.

The Honourable Financial Secretary

Mr Speaker, Honourable Members, this is the fourth and final Supplementary Appropriation Bill to be presented for the last financial year. In addition to the sum of £41,365,880 already appropriated, the purpose of this Bill is to authorise a withdrawal of £142,100 from the Consolidated Fund to meet supplementary expenditure approved by the Standing Finance Committee on the 24th May and 30th June 2006. The Bill provides for the Contingency Fund to be replenished to the extent of any advances made.

Under the operating budget an additional sum of £92,100 is inserted, £75,000 of this sum is for Health and Social Services, to cover further additional costs associated with medical treatment overseas. The balance of £17,100 is for Police and Prisons to cover the estimated costs of a forensic investigation.

Under the transfers payment budget an additional sum of £50,000 is inserted to cover the estimated cost for wool freight subsidy, approved at a special meeting of the Standing Finance Committee held on the 17th April 2006 to consider Camp assistance matters.

The Standing Finance Committee were satisfied that all the supplementary expenditure was necessary, as no savings could be identified for virement. I beg to move the first reading of the Bill.

The Honourable Mike Summers

I second the Motion

Mr Speaker

The Motion is that the Bill be read a first time, is there any objection to the Motion?

The Honourable Janet Robertson

Could the Financial Secretary clarify for the public, what the final cost of medical treatment overseas was for this financial year that just ended and whether he would have some estimate of what percentage that amounted to in respect of the total Health and Social Services Budget.

Mr Speaker

If I may, I don't interpret that as a particular objection if we can proceed and then we can ask this later. Thank you very much. If there is no objection, may we will proceed with the first reading.

Clerk of Councils

The Supplementary Appropriation (2005/2006) (No 3) Bill 2006.

The Honourable Financial Secretary

I beg to Move that the Bill be read a second time.

Mr Speaker

The Motion is that the Bill be read a second time? It is clear that the Honourable Janet Robertson wishes to speak to the Motion.

The Honourable Janet Robertson

I apologise for getting my timing wrong. Just to repeat, if the Financial Secretary could inform us what the total bill of medical treatment overseas was for the previous financial year and whether he any idea or an estimate of what the percentage that amounted to, in respect of the total Health and Social Services budget it represented?

Mr Speaker

The Honourable Financial Secretary, do you have those facts to hand?

The Honourable Financial Secretary

Mr Speaker, Honourable Members, I thought I had a copy of my estimates in my briefcase, but I haven't. I think the final total was expected to be £1,075,000, thereabouts and that would represent about 20% of the Health and Medical Services budget.

Supplementary Written Response

The total cost for Medical Treatment Overseas for 2005/2006 was £1,097,245.

Mr Speaker

If there is no objection to the Motion, may I please therefore invoke the fast track? Aye. We shall proceed to the fast track.

The Motion is that the Bill is read a third time and do pass, is there any objection to the Motion. There is no objection the Bill will therefore be read a third time and passed.

Clerk of Councils

The Supplementary Appropriation (2005/2006) (No 3) Bill 2006.

The Bribery and Corruption Overseas Bill 2006. This Bill has been published in the Gazette and required a second reading.

The Honourable Financial Secretary

Mr Speaker, Honourable Members the purpose of this Bill is to enable the Falkland Islands to meet obligations under the United Nations Convention against trans-national organised Crime.

Under this Convention the Falkland Islands will be obliged to make criminal offences liable or punishable in the Falkland Islands for certain acts of bribery or corruption carried out overseas by British nationals resident in the Falkland Islands or by bodies incorporated in the Falkland Islands.

I beg to move the second reading of the Bill.

The Honourable Mike Summers

I second the Motion.

Mr Speaker

The Motion is that the Bill be read a second time. Is there any objection to the Motion? There is no objection, the Bill will be read a second time.

Clerk of Councils

The Bribery and Corruption Overseas Bill 2006

Mr Speaker

If there is no objection I will invoke the fast track. Aye

The Motion is that Bill be read a final time and do pass. Is there any objection to the Motion? No objection, the Bill will be read a final time and passed.

Clerk of Councils

The Bribery and Corruption Overseas Bill 2006

The Stanley Common (Amendment) Bill 2006. This Bill has been published in the Gazette so we go to a second reading.

The Honourable Financial Secretary

Mr Speaker, Honourable Members, the purpose of this Bill is to permit further lawful uses of land forming part of the Stanley Common. These comprise:

1. Any Approved Range on the Common used for firearms training by the Falkland Islands Defence Force (FIDF) and the Royal Falkland Islands Police (RFIP).
2. Any approved part of the Common used by the FIDF and Fire and Rescue Service for training purposes.
3. And, the installation of electricity wind turbines and associated equipment.

The opportunity has also been taken to update schedules, crown grants and leases of land, which form part of the Common.

Please note that the ranges approved by the Governor on the advice of Executive Council are the Rookery Bay Rifle Range and Philip's Point gun range for use by the FIDF, and the Philips Point Gun Range for use by the Police.

I beg to move the second reading of the Bill.

The Honourable Mr Ian Hansen

I second the Motion.

Mr Speaker

The Motion is that the Bill be read a second time. Is there any objection to the Motion? There is no objection, the Bill will be read a second time.

Clerk of Councils

The Stanley Common (Amendment) Bill 2006

Mr Speaker

Honourable Members with your permission I will invoke the fast track, Aye.

The Motion is that Bill will be read a final time and passed, is there any objection to the Motion, there is no objection, the Bill will be read a final time and passed.

Clerk of Councils

The Stanley Common (Amendment) Bill 2006

The Motion for Adjournment

The Honourable Financial Secretary

I beg to Move that the House stands adjourned *Sine Die*

The Honourable Dr Andrea Clausen:

Mr Speaker, Honourable Members, in rising to support the Motion, I would like to make a few comments.

Firstly, I would like to say how very much I enjoyed attending Farmers' Week earlier this month. It was an excellent week, I had a lot to learn and I hope I learned a lot. I would like to say a big thank you to everybody who was involved in organising and in participating in the event. I was particularly enthused by presentations that were made by the visiting Farmers from South Africa and Australia. I am sure it was welcome news to those who have started to use grazing plans and holistic management methods to see where they might get to in a number of years from now. As someone who considers themselves slightly on the green side of life, I was particularly relieved to see that we can do as much good, if not considerably better, with our own plant species and no added chemicals. I sincerely hope that the pasture improvement programme may be adjusted gradually over time to take some of these lessons into account.

From the other presentation that was made there was a clear message that there was a need to work together, another area that I am particularly interested in. Group breeding sounds great no need to import lots of expensive embryos from the best wool growers, although I think a few may be needed to help out at the beginning. We just need to select the best of what we already have and use them to improve our flocks. Of course this approach will take a lot of time, a lot of commitment and an awful lot of working together. I don't think anybody that was at those meetings was in any doubt that it might take 20 to 30 years to get to where we might want to be. But, I am an optimist and I look forward to seeing at least one group breeding folk set up.

On the subject of working together, I cannot talk about the proposed new Falkland Wool Company. This proposal is a result of discussions from last year's Farmers' Week when folk expressed a wish to maximise revenue from wool by selling direct, core testing locally and selling to global customers. The global wool industry is changing and the Falklands should have a positive attitude to changing in step. The Falklands have finally reached a position whereby such a proposal could really work. A company that would be wholly owned by farmers who employ a wool marketing expert, who will increase the number and diversity of buyers of Falklands wool, get better prices back to farmers faster and who will have no other interest than to satisfy the wishes of those Falkland farmers. Of course we have a long way to go. The project is only an idea at the moment. There may well need to be considerable assistance in setting it up, it will, in due course, be considered by Standing Finance Committee.

I personally would like to encourage folk to seriously consider this proposal. It might not be for you but don't dismiss it out of simple loyalty to other people. Consider it as a business proposal in the light of how it may positively affect your own business.

This leads me to another point, and it is that of marketing. Falkland Islands Development Corporation used to have a marketing manager and I wonder now if that role was unwisely left unfilled, what with Falkland Wool high on the agenda right now and our relatively meat industry, which whilst doing very well could no doubt use a little extra help and also fisheries products. It was interesting, at a discussion of the Fisheries Committee this week regarding Loligo and the confusion in the market over the product, our product and that from other places. I think it is clear that there is much more work to be done in getting the Falklands out there to as many people as possible for the best prices.

In to a somewhat different subject, I would like to mention the toddlers' play park, a wonderful new community project, which received funds from private sector companies, private individuals, the Falkland Islands Government as well as from a number of fund-raising activities. It is sad to see how little respect some elements of our community have for it and the efforts of others. It has been reported to the Police that some young people have been hanging around on the toys resulting in at least one of them being damaged and yet hardly used by toddlers so far, as well as a collection of cigarette butts and beer bottles accumulating around the toys themselves. I find it hard to reconcile that with a request for new facilities for young people and the reduced rent for "The Place" recently decided. Surely, if you would like us to invest public funds in new facilities, you might like to treat those limited few we already have with a little more respect so we can see how well you will take care of others.

I will end it there. I think I have said enough. I would like to finally take the opportunity to say goodbye and good luck to His Excellency Howard Pearce, Caroline and Suzanna.

Sir, I support the Motion.

The Honourable Richard Stevens

Mr Speaker, Honourable Members, there are two main things that I would like to talk about and the first is about farming.

Farmers' Week to me was a great opportunity to hear the views of farmers. This year farmers from harsh areas of Australia and South Africa were invited to the Falklands to demonstrate how they have improved farm performance with difference management. I think we all accepted, as rain lashed against the Town Hall windows that Falkland Harsh was a couple of notches above our visiting farmers' experience. However, the link with practicing farmers was positive, with ideas shared. I think the Honourable Andrea Clausen has already mentioned group breeding. I know that there are quite a few groups of farmers actively pursuing this.

Another very interesting presentation was the number of farmers that have tried to improve their lot with mainstream schemes in embracing the PIP funds. These farmers were prepared to share their experiences with everyone. One farmer has trodden their known path following the following soft rolling skin system. The results look promising with finer and more wool, greater body weights.

Other opportunities for farms were highlighted by Sally Ellis with an upbeat tourism presentation. Sally believes that her experience in Iceland has proved that you don't need to have penguins to have a tourist attraction. An example I remember was where they experienced an attraction to stand in an army-like 4X4 and then drove to a beach where everybody walked around and then went back. I could imagine farmers rushing home to sweep out the back of their 4-tonners. That's great. I am sure that with the ingenuity that farmers possess that the ones that are interested in tourism will have something to offer Sally and other tour operators.

As farmers are working to better their lot it is also up to Councillors to look at the bigger picture and so it came to the Falkland Islands Development Corporation wool initiative from David Lambert and his proposal of a wool marketing group in the Falklands. A group of farms allowed the Agriculture Department to present facts and figures from a number of different wool buyers and agents to demonstrate effective wool selling strategies. It showed that today over 40% of Falkland Islands Wool was sold direct by farmers and that these farms were banking the most money to a known benchmark. David Lambert suggests in his paper that to get even more money farmers need to work together. As I see the initiative it is farmers that have to make calculations and judgments. Can we handle more money? That one's easy. Can this mechanism work and deliver? It's purely judgement. As a Councillor that has asked colleagues to focus on helping Camp, I look forward to seeing the support farmers give this scheme.

My second subject is education. We have gone through a difficult period within the Community School. I am glad to say that we are working hard to move forward in appointing David Higgins, the past headmaster, who has experience of the Falklands is a help. We do have issues with children who don't behave to acceptable standards in both schools. We are looking at ways of addressing these problems in an imaginative

way. To eliminate the disruption they bring to the majority of enthusiastic, hardworking children.

Sadly, the past couple of weeks have overshadowed the great of achievements of our overseas students, who must put some of their success down to dedicated, hardworking staff of all schools and the education they received in the Falklands. I visited Peter Symonds in Chichester while I was away and I heard a lot of praise about Falkland Islands Students and many staff members asked about past pupils. It was a very positive experience.

I would like to say happy 110th birthday to Camp Education. It certainly was a trip down memory lane viewing the many pictures on display and to see John Fowler and Andy Clarke together in a football team. It was great stuff.

Yesterday afternoon we had one of the best attended public meetings that Councillors have had this term and, it was great to see so many young people prepared to engage on issues that affect them. It certainly highlighted that the flow of information needs to be improved.

Finally, I would also like to bid farewell to His Excellency, Caroline and Suzanna and wish them well for the future.

Mr Speaker, I support the Motion.

The Honourable Mike Summers

Mr Speaker, Honourable Members, I have three or four issues I would like to address. The first is I would like to pay tribute to the passing of Geoff Moyer fairly recently. I am not sure how many people here knew Geoff Moyer.

He was a Camp Teacher at Fox Bay and left in not all together satisfactory circumstances. But after he left and went to the United Kingdom he joined the Falkland Islands Association and was a tireless worker for the Falkland Islands Association for many, many years. He carried out in excess of 150 public lectures every year, educating people about the Falklands, bringing them up to date about the Falklands. People like that are absolutely invaluable to the Falklands. We need our friends in the UK and the Falkland Islands Association does an excellent job in holding together the Falklands Friends Club. Geoff Moyer was the epitome of the sort of people who work tirelessly on our behalf - for no reward. He did it entirely voluntarily. His passing will be a loss to the Association. I would just like to thank him publicly for all the work that he did for the Falklands and for its people.

A few comments, I think, to make about employment. The discussion that Councillors Stevens has mentioned last evening was certainly interesting and certainly illuminating. Getting Councillors together with young people and their supporters is a valuable exercise. I am very pleased that we did it. I think that we have learned a fair amount from that exercise. I hope that the people that attended the meeting also learned a fair amount about the expectations of society and about the expectations of Councillors in

terms of how the Government is to be run and what its responsibilities are. Employment is never an easy issue for anybody who leaves school, college or university, the transition is difficult and very often you have to be pushy and aggressive to get yourself into work. But, I was very heartened last evening to have asked a question on at least two occasions on how many people here are finding it difficult or impossible to find work? Not a single person put their hand up. I think that is very illuminating. I am pleased we had the meeting. We had a discussion and I am delighted that, that was the result or one of the results at least.

I would like to support my colleague on the question of education. There have been a number of issues recently particularly in the Senior School regarding discipline. From my point of view, I would like to leave teachers, parents and pupils who are associated with the Senior School in no doubt whatsoever that we will not tolerate bad behaviour. There is no reason, in this society, why teachers or other pupils to feel intimidated by any individual and, if teachers require further action, further support from this Council to prevent some individuals from creating disruption in the school, we will provide it. There is no reason whatsoever why particular disaffected individuals should try to disrupt the education process for other pupils and the good work the teachers are doing, so I fully support the work they are doing. If they need more help, from my point of view, it's available.

I would like to talk briefly about FIMCO, the Abattoir. We had a very useful discussion earlier this week between the Standing Finance Committee and FIMCO to be clear about where that business is going and what its place is in the agricultural sector. From my point of view, ever since we started talking about the Abattoir, planning it way back in the early '90s, it is not a stand-alone project. Yes, it is a commercial business to an extent. Yes, it operates in an area that no one else operates, but it is not a stand-alone business. It is part of a system. It is part of a farming system and the work that is being done in the Agricultural Department to develop new sheep breeds, breeding programmes and pasture improvement. All of that needs the Abattoir to help it succeed and the Abattoir needs it to help it succeed. It is part of a scheme. The Abattoir was built not as a stand-alone business but as an agent for change. I believe it is having that affect, it is helping farmers change, develop new ideas, develop new ways of earning money and therefore, it's fulfilling that function. The cost of it is, of course, an issue and it is something that we will continue to address. We have asked FIMCO to lay out a 5 and 10 year programme based on the Department of Agriculture's business plan. What do they anticipate seeing that business doing over that period of time based on that set of criteria? We will look at that next month at Executive Council and Standing Finance Committee. In the meantime, I am pleased that so many farmers are supporting the Abattoir and benefiting from it. I hope that we as a Council will be able to say to FIMCO next month, "we like what you are doing, we are happy with the way you are proceeding, you have our full support, at least for the life of this Council."

Finally, I would like to say my farewells in this House to Governor Howard Pearce and to thank him for the work that he has done on behalf of the Falkland Islands government during his tenure of office and wish him well in the future along with his family. I would also like to say goodbye, though he has not here, to the Chief of Staff, who has

been with us for two years. According to his radio interview, he has thoroughly enjoyed himself. That can't be a bad thing either.

I support the Motion.

The Honourable Janet Robertson

Mr Speaker, Honourable Members, there has been quite a lot of discussion already this morning about Farmers' Week and the value of it. I did not manage to attend as much of it as I would have liked to, but I did find every session that I did attend thoroughly stimulating. As I think it has been mentioned, really there was one dominant theme throughout all of Farmers' Week and that was cooperation. I am smiling now because I can see some of my fellow colleagues are thinking, 'damn, that was my speech.' Cooperation went through every discussion from the beginning of the week right through to the end of the week, when we were talking about tourism and how cooperation to achieve complementary and wide-ranging set of activities for our tourists, group breeding schemes that have been mentioned, wool marketing companies. The dominant theme throughout the whole week was cooperation.

It really left me thinking that clearly the benefits that derive from cooperation should not just be limited to the farming community. It equally applies to tourism and to fisheries and the value of Farmers' Week, I think, in having that forum with the stakeholders, with those who are involved in the industry can get together, can have expertise, can hear new ideas, can hear each others' ideas.

I think that it is tremendously valuable and I am not sure that there is not actually room to have both a tourism week and a fisheries week. I certainly think it would benefit the tourist industry this time of year when things are quieter. It need not be a week but I think that it would be a fantastic opportunity for members of the tourist industry to be able to discuss the strategies that they want to have in place for the future development of tourism. We know that this strategy is required. Iceland is a prime example of how they use strategies to have a very thriving and successful tourist industry. I would like to see the same thing happening here. I think it is fair to point out that cooperation does not nullify competition but it does help channel it into a direction that benefits everyone.

Following on from that a little bit, it was interesting that the Honourable Mike Summers, last night, in response to the Governor's speech at his farewell dinner touched on the subject of debate and discussion in our community and how we tend to shy away from debate and conflict. He suggested it was probably in-built response for the need to get along in a small community. We see this as potentially creating schisms in the community irreparable schisms that; really the best way to get along is to cooperate together. I was intrigued by this thought, this idea that we have a community where we cooperate wonderfully at the level of society and with each other but when it comes to business and development we have actually probably hindered our development by having an over competitive element in it, a competitive element, which has not allowed us to cooperate in a way that would have best benefited us.

Maybe that is a result of the speed at which the development industry has developed here in the community and that we have not quite learned, that actually debate and discussion doesn't need rifts or schisms and that managed conflict and rational debate is actually a good thing. As a result of the debate and discussion, consensus is achieved and, co-operation can only happen if you have some element of consensus so, there is a process. You need the debate, you need the discussion and you need to arrive at some element of consensus. You can then co-operate and move forward. I think that is something we probably still have to learn.

This does not just relate to development of industry. That issue relates to everything. Councillors debate among themselves and some people might say we have consensus politics and that is largely because we do debate the issues and we do find a common ground. We have debate, hopefully we want to have that debate with the public so that we can find the consensus and the common ground where we can see each others perspective. Although I was very sad to miss the meeting last night, I apologise for that. I understand that was a very good process and we need to encourage that further. I think it is good to see the young people taking on and being prepared to speak up about their own particular situation.

Just to talk about something else, the variety show, there are two things, one fantastic and one not so good. I will deal with the not so good one first, which is not actually anything to do with the variety show except that I walked to the variety show and my young daughter was on her scooter. I left the scooter behind the bank and, as we were getting a lift home at the end of the evening, I left the scooter there and the following morning it was gone. Thankfully, it has turned up and I would like to thank Steve Burston for taking it off the beach where someone had put it. I am mentioning this because sadly, it turns out that this was not an isolated incident. I have heard of a number of people who have had their bikes taken and they have turned up on the beach. Why is all I can say? I do not understand what the purpose is, what the motive is or why anyone should actually bother taking something from one place just to dump it on the beach. I think it is terribly sad that this should happen. Please, whoever is doing this, just don't, because it's just a pain for everybody concerned.

The good thing I wanted to say is that it was absolutely fantastic to see the number of youngsters playing music in the variety show. I thought it was excellent and the variety of instruments, including guitars and accordions, flutes, recorders, clarinets and drums was fantastic. Tonight we are having the Winter Ball and I know there are a lot of young people getting dressed up. I was at the May Ball for the first time in many years and I was absolutely staggered to see the capability they have of mastering the old time dancers. I am really pleased that the Winter Ball is going ahead tonight. I just want to say it is the sort of thing that makes me very proud of this community and all of it is a result of co-operation between those people concerned.

Sir, I support the Motion.

The Honourable Dr Richard Davies

Mr Speaker, Honourable Members, I am sure some people will be disappointed that we have postponed public debate on the smoking issue but I would like to thank those at the hospital who worked very hard over the last few days to analyse their questionnaire which had been reported in this morning's newspaper. It is fascinating. I think it is absolutely right that our debate, when we have it, is well informed, particularly if we are going to try and come to a specific conclusion at the end of that debate. I hope people will understand that.

By way of a pre-emptive strike, those of you who know me are probably aware that I am an ex-smoker myself and I still struggle from time to time and occasionally succumb to the temptation to have a cigarette. I don't see this as being in any way inconsistent with supporting a ban on smoking in public places, which I think would be to the benefit of the community. I hope that it actually gives me some ability to understand the views of smokers. I certainly do not wish to deny smokers the right to smoke but I think that we have come to the time when it should not be permitted to do so in a public place and expose other people to the smoke.

To move on from smoking, the Honourable Janet Robertson is absolutely right that I wanted to talk a bit about cooperation and I will try and say a few words from a slightly different viewpoint. Councillors have spent a lot of time over the last few months in discussions about the economy and how we can improve it to everyone's benefit. Like other members, I found David Lambert's wool report very thought provoking. Essentially, as I understand it, he believes that farms can increase their income from wool by clubbing together to offer it for sale in larger batches and in selling it directly to buyers. I am neither a farmer nor an economist but I would say that his suggestions are worth very serious consideration. Clearly, if they are going to work, they will need some serious cooperation between individual farmers who have, perhaps in the past, viewed each other as competitors. It may be in everyone's benefit to cooperate on this particular issue to compete against the bigger outside world.

Another recently published report is the tourist attraction study by Tony Doherty. Although it has come into some criticism, I think it is well worth reading and it provides a very useful overview of our tourist industry within the context of a global market. It is also interesting to have an outsider's view of what we are doing and somebody with a wide experience of the industry and how he values the different aspects of what we can offer to tourists. I was particularly interested that he thinks our historical heritage is a very important attraction to tourists. He even goes so far as to say that Stanley might meet the criteria for a UNESCO World Heritage Site. He is rather critical about a number of issues including the lack of coordination in information sharing within the tourist industry and, in fact, the lack of cooperation.

A couple of weeks ago the General Employees Union advertised a meeting for their members, which is going to take place on Monday. In the past, the Union has been beset by a lack of support at the grass roots, which makes it very easy for managers to

interpret as being a sign that employment conditions must be adequate. If employees wish to disagree with this analysis, they need to cooperate and get together and say so.

Cooperation is often contrasted with the well-known reliance of Falkland Islanders. I believe the characteristics are complementary. They are not exclusive. There are some situations which call for independence and self-reliance and there are other situations when cooperation is a useful strategy. As the Governor pointed out last night, we sometimes need to cooperate on an island-wide scale in order to compete at a global level. New challenges, which face the Falkland Islands today, often call for a co-operative approach. It does take time, confidence and perhaps a bit of a culture change to get used to working together, particularly with people who are maybe competitors in other fields or who used to be competitors. It is clear there is a wide view that the farming community will benefit as a whole if a common approach can be developed in certain areas perhaps to compete against China and Australia in the wool market or perhaps New Zealand for meat. Some people are going to have to weigh long-term benefit against short-term gain. Likewise, tourist operators will benefit from developing some measure of agreement about how to get the most out of a common resource.

Moving on, from cooperation, while we are doing our utmost to stimulate our economy, the Argentine Government appears to be doing its utmost to damage it. The fishing industry has been targeted at present and we can be sure they will introduce further sanctions if they can. But there is absolutely nothing to be gained from any form of appeasement. Quite the reverse in fact. Argentina's short sighted and obstructive approach does no good to the people of either country, nor will it further their government's political ends. It may cause us some short-term inconvenience but we will continue to live with that as we always have.

On this note, I would like to thank the Governor, who has always robustly and articulately put our case for the position of the British Government. I think his recent interview with John Fowler in *Mercopress* illustrates this very well, it is well worth reading. He has never been reluctant or backward in challenging the misinformation and propaganda from Argentina and as he is leaving shortly and I would like to thank him for this.

Mr Speaker, you and the Honourable Mike Summers very eloquently thanked him last night and I will not go on at length, but I would just like to mention one other fact and that is his and Caroline's hospitality at Government House over the years, which I think has been enjoyed by a very wide range of people much more than perhaps the stereotyped cocktail party circuit and I think this is absolutely the right approach for the Governor of a small democracy where we are all equal, we all know each other and I don't believe there is much class distinction in the Falkland Islands, there certainly shouldn't be. I think it is great that he and Caroline have welcomed such a wide range of people. I think this has been appreciated. I wish him and Caroline and their daughter, Suzanna all the very best in the future.

I Support the Motion.

The Honourable Mike Rendell

Mr Speaker, Honourable Members, firstly I really hope the farmers are finding the quick win measures a real help for wool freight as that was the reason for introducing them. Clearly the wool refunds will bring more benefits to those with larger wool clips but they may have higher overheads to cover. As a matter of interest, of the £50,000 allocated for this purpose, over £46,000 has been paid out already. So, the anticipated take-up was pretty accurate. The new rules regarding application of the labour scheme should give incentives to get a lot of work done over the winter, which might not otherwise have been possible to contemplate. Once again, the take-up of these funds has so far been significant.

There will be substantial savings for those with FIG or Falkland Islands Development Corporation farm mortgages over the coming financial year. In the longer term it will mean that many mortgages will be paid off much earlier than would otherwise have been the case, as FIG either foregoes or pays all interest for the next year on FIG and Falkland Islands Development Corporation mortgages respectively. The real key issue in this assistance package is that it should allow many, if not all farmers to pay off current debts, carry out repairs and maintenance, invest in plant and machinery, perhaps buy stock and generally be able to sleep a little easier in bed. However, farmers should be clear that the intention of this financial package is to get farmers back on their feet and that it is in force for this financial year only.

Looking at my Transport Advisory Committee responsibilities, there are a number of significant issues coming up in the next few months. These include the completion of the Integrated Transport Study, which includes some pretty hot topics including new tariffs for FIGAS and coastal shipping, the rationalisation of FIGAS landing strips, what should happen after the current road building programme is completed in 2008, long-term road maintenance policy and last but by no means least, shaping up the cross sound ferry service. This is clearly the most important issue to be resolved because without a reliable, efficient and adequate vessel, many other key services will suffer, particularly stock and wool movements, tourism opportunities, and the very real potential for military transport movements.

I want to highlight in particular that the coming road building season is going to be extremely busy with many different commitments on both the East and the West. When reviewing these commitments it is clear that there will be a need for more manpower than is currently on the books. There may well be opportunities for farmers and others to take up part time employment on road gangs, perhaps working two weeks on and two weeks off to fit around farm and other work. Anyone interested should listen out for radio adverts in the near future and apply as soon as you can so that it can be established that roadwork and other commitments can actually be fulfilled.

Moving on to another prickly topic - medical treatment overseas. Because of rapidly escalating costs, which were outlined earlier in this session, measures have had to be taken, as most people will be aware, to curb further increases. This has meant that some tough decisions have had to be taken. These include the tightening up of rules for short-term visitors, specific guidelines for Medical Officers on matters regarding overseas

referrals and, perhaps most significantly, a charge of £400 where a patient is referred overseas for elective treatment. Elective treatment includes, for example, hip replacements, which are not life threatening and where there is not necessarily a short-term timeframe within which such treatment must be received. Doctors have drawn up a detailed list of elective treatments and I want to make it absolutely clear that emergency and urgent treatment will remain free to the patient. Dr. Diggle and I had a radio interview on the subject on Thursday so listen out for a much fuller explanation on all the issues concerned and I understand that will be going out at 1230 today, so you will get some more of my dulcet tones shortly.

Lest there is any doubt, I want to make it clear that I fully support the principle of banning smoking in public places. However, if this goal is to have any chance of being approved in this House, there is still much work to be done in working out the practicalities of such a ban in, for example, pubs and restaurants. I understand that in Ireland they have the equivalent of bus shelters positioned conveniently outside premises where smokers can puff away to their heart's content. Perhaps this would work here, too. Anyway, until this and other practical issues can be well examined and solutions found, it would be premature, in my opinion, to go ahead.

Finally, a few farewells. Firstly, I want to pay tribute to the hard work, vision and dedication of Julian Morris. He will be a hard act to follow, but Julian would be the first to say that he is only one of a team and that a successor will fit into it with ease. I really hope he is right. Secondly, although I am a churchgoer on a very irregular basis, I feel the departure of Paul Sweeting will be regretted by many in our community. He had the common touch and gave each and everyone in his congregation a special feeling of being part of the service. I really hope that Maxine benefits from her return to the UK and that the whole Sweeting family may sometime be able to return here, if only for a holiday. Lastly, our Governor Howard Pearce leaves in just a few days, arriving as what appeared to be a confirmed bachelor and leaving as a married man with a baby daughter will surely bring fond memories for him and Caroline. But it is the robust manner in which he has defended the Falkland Islands position, *visa vi* our neighbours across the water. That will make a lasting impression on many, myself included. Good luck to the Pearce Family in their new home, wherever they establish it.

Mr Speaker, I support the Motion.

The Honourable Ian Hansen

Mr Speaker, Honourable Members, in rising to support the Motion for Adjournment I would just begin by remarking on Councillor Summers' comment asking if anybody remembered Geoff Moyer or knew him. Indeed I did, both when he was at Fox Bay and also after he moved to the UK. I would just like to agree with Councillor Summers' views that he will be missed because he did an enormous amount of promotion for the Falklands.

I want to briefly mention a couple of issues on the Farmers' Week meetings. This would be expected, I dare say. One is a discussion we had on road designation, which has not been mentioned yet and was followed up in a public meeting just a few days

ago. I would like to thank the farmers for their responsible, receptive and even positive attitude during this discussion. I think there may well have been to some people's surprise that it was not a more confrontational exercise. I was not personally surprised because I have known for years that farmers are responsible and receptive people. It has to be stressed, though, at the end of the day that the designation of camp roads, if and when it happens, or whatever format it happens in, it must be done properly. If not, it will unquestionably have a detrimental affect on farmers' livelihoods, both economically and socially. I think we, as Councillors, have to show the same responsible attitude shown by farmers during the discussion at Farmers' Week.

The proposed formation of the Falkland Islands Wool Company has already produced much debate and I am quite sure it will continue to do so for the next few months or perhaps even longer. I have a couple of thoughts on this. I believe it would be totally wrong for the Falkland Islands Government through any channel, to actively lobby individual farmers to join. I believe it will be equally wrong for existing agents and sellers to lobby and put pressure on individuals in any way. Councillor Stevens stated the facts are there for all of us to see. I agree advice should be sought from the Department of Agriculture and from existing agents and sellers. I do firmly believe that each individual farmer, at the end of the day, has to make a decision which they believe will ultimately be of economic benefit to their businesses. If there are enough individual decisions to join such a scheme and those decisions form a general consensus, then it is the Falkland Islands Government's responsibility to respond to that by committing initial funding. I think the indications so far are that there is enough belief within the agricultural community to carry this forward.

I will briefly touch upon last night's meeting with school leavers and students. I too, found it very interesting and, I hope constructive. I do think that while the Falkland Islands Government should not necessarily be over committing to supplying work, that perhaps some of our industries could make more effort to provide work experience for these youngsters. I am thinking in particular about growth industries such as fisheries and tourism.

Finally, Mr Speaker, I will be brief because we have had a fairly longish morning, I have a couple of farewells. I would also like to say farewell to the Chief of Staff and thank him for his contribution to the Islands. This will be my last opportunity publicly say farewell to Governor Pearce and his family. I have worked with the Governor over the past 2.5 years, much of which have been on Executive Council. For me, I think it has been a good education to work alongside someone who has so much experience in politics. So I would wish His Excellency, Caroline and Suzanna all the best for the future.

Mr. Speaker, I beg to support the Motion.

The Honourable Richard Cockwell

Mr Speaker, Honourable Members, you will be relieved to hear that I have not got a prepared speech so I am not going to talk for a very long time as I think people will be

getting ready for their lunch and, to also hear the Honourable Mike Rendell and Dr Diggle talking about medical treatment overseas.

Just a couple of things, which I would like to mention, this week has seen two very useful meetings. The Honourable Ian Hansen touched on the discussion about the Road Traffic Ordinance, we had a public meeting on the proposed Road Traffic legislation and also last night I was unable to go to the young people's meeting because there was also a meeting on firearms, the new firearms legislation or proposed legislation. Both these meetings, I felt, were very useful. They gave the public a very good opportunity to actually point out what they felt about the legislation and how they felt that we should be dealing with it. There were useful comments, which will go back to the working groups and I do believe that this is a very useful way of approaching new Bills. I look forward to carrying forward that sort of procedure in the future.

One or two people have mentioned an old friend, Geoff Moyer. I knew Geoff from the moment he arrived in Fox Bay. I believe it was in 1983 until he left. He was a great character, he was a great supporter of the Falklands and he will be sadly missed in many places.

The mention of David Higgins coming back, albeit temporarily as head of the Senior School, I believe that was a very good message to give people. David had a lot of respect from all the children in the Senior School and hopefully, he will be able to help some of the problems we have now.

Just some farewells, I, too would like to say farewell to Julian and Amanda Morris, who have been both very good and useful citizens in the Falklands. Their contributions both in and through Julian's contributions to Falkland Islands Development Corporation, he's tightened up and made Falkland Islands Development Corporation a much tighter organisation and I think it has improved under his management. Amanda with all the things that she's been doing with Conservation and other things she has contributed to the community has been superb.

I also would like to say farewell to Chief of Staff and I was most impressed with the fly-past that we had on Thursday and I look forward to an even better one for the 14th of June next year. I thank them very much for doing that. It has shown us what we can expect.

Finally, I also would like to say a public farewell to His Excellency the Governor and Caroline and Suzanna. May I take this opportunity to express my appreciation to the Museum and National Trust, in particular, Steve Masson, for making the superb gift that we were able to give the Governor last night and that the public will be able to see at the farewell party next week.

Sir, I beg to support the Motion.

The Honourable the Financial Secretary

Mr Speaker, Honourable Members on behalf of the civil service I would just like to add my good wishes to the Governor and family for the future.

Mr Speaker

Honourable Members, may I beg your indulgence for a few moments. I would wish to be associated with the remarks extended to Geoff Moyer, many I suspect did not really know Geoff until he turned up here as a Camp school teacher. He had for several decades before that been a very valuable member for the Falkland Islands philatelic study group and through that a significant contributor to exchequer of the Falkland Islands, he has a long and chequered history of the Falklands. I would wish to be associated with your warm and kind remarks bidding farewell to Julian and Amanda Morris and also Governor Pearce, Caroline and Suzanna. At this particular moment I think it is appropriate to beg your approval in respect of the next sitting of the Legislature and I ask this because in 1987 a precedent was set on the completion of the contract of the then Attorney General Michael Gaiger to speak to the House. With your permission I would like to extend that same opportunity on the retirement of the Attorney General and for him to speak to this House at the September sitting.
Aye.

Thank you very much Honourable Members, the House stands adjourned accordingly.

Confirmed this 22nd day of September 2006



Speaker of the House
The Honourable DL Clifton OBE



RECORD OF THE MEETING
OF THE LEGISLATIVE COUNCIL
HELD IN STANLEY
ON FRIDAY 22ND SEPTEMBER 2006

**RECORD OF THE MEETING OF THE LEGISLATIVE COUNCIL
HELD IN STANLEY ON FRIDAY 22 SEPTEMBER 2006**

THE SPEAKER OF THE HOUSE
(Mr Darwin Lewis Clifton OBE)

MEMBERS (Ex-Officio)

The Honourable Chief Executive
(Mr Christopher John Simpkins)

The Honourable the Financial Secretary
(Mr Derek Frank Howatt)

Elected

The Honourable Dr Andrea Patricia Clausen
(Elected Member for Stanley Constituency)

The Honourable Dr Richard Andrew Davies
(Elected Member for Stanley Constituency)

The Honourable Ian Hansen
(Elected Member for Camp Constituency)

The Honourable Mike Rendell
(Elected Member for Camp Constituency)

The Honourable Janet Robertson
(Elected Member for Stanley Constituency)

The Honourable Richard James Stevens
(Elected Member for Camp Constituency)

PERSONS ENTITLED TO ATTEND

The Attorney General
(Mr David Geoffrey Lang CBE, QC)

The Commander British Forces South Atlantic Islands
(Commodore Ian Moncrieff BA, RN)

CLERK: Claudette Anderson MBE

PRAYERS: Reverend Kathy Biles

APOLOGIES - OVERSEAS

The Honourable John Richard Cockwell
(Elected Member for Stanley Constituency)

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

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**The Record of the meeting of Legislative Council
held on Friday 22nd September 2006**

PRAYERS

Mr Speaker

Honourable Members, I bid you good morning.

Clerk of Councils

The confirmation of the record of the meeting of Legislative Council held on 28th July 2006.

Mr Speaker

Honourable Members, I have before me the minutes of the last meeting would you please kindly confirm that I may sign off these minutes as a true record?

Agreed

Clerk of Councils

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 Legislative Council and laid on the table pursuant to (Section 34(1)) of the Interpretation and General Clauses Ordinance 1977.

- Sexual Offences Ordinance 2005 (Correction) Order 2006
- Census Order 2006
- Census (Forms) Regulations 2006
- Census (Forms) Regulations Order 2006

The Honourable Chief Executive

Mr Speaker, Honourable Members, I hereby lay the aforementioned papers on the table.

Clerk of Councils

MOTIONS

Motion Number 6 of 2006 by The Honourable Dr Richard Davies

This House believes that tobacco smoke in public places is a health risk and a nuisance to members of the public and employees. A ban on smoking in enclosed public places would be an appropriate way to deal with this problem. This house intends to consult interested parties and consider practical details with a view to the implementation of a ban on smoking in public places.

This motion is proposed by The Honourable Dr Richard Davies and seconded by the Honourable Dr Andrea Clausen.

Mr Speaker

I wonder if we may have a short recess please until such time as the noise abates upstairs, thank you.

The Honourable Dr Richard Davies, the floor is yours, according to Standing Orders you have forty five minutes to present and speak to the Motion.

The Honourable Dr Richard Davies

Mr Speaker, Honourable Members I will endeavour to be a little shorter than forty five minutes.

Tobacco smoke exhaled by smokers is not only unpleasant it is toxic. Immediate effects include cough, shortness of breath, eye irritation and precipitation of asthma. In the longer term, passive smokers - those who are exposed to other people's smoke - have a greater risk of smoking related diseases, such as lung cancer and heart disease.

Tobacco smoke is a Class A Carcinogen which means that it is known to be a substance to cause cancer in humans. Other class A carcinogens include mustard gas, arsenic and asbestos. We have known that tobacco smoke has been dangerous to smokers for a long time, but over the last 10 years it has become widely accepted and I would put it to you that second hand tobacco smoke is dangerous too. I do not intend to dwell further on the medical effects of smoking but will endeavour to answer questions if you wish, but what I would like to do is discuss how our society should deal with this danger.

I believe I should be able to go out into a public place, whether it be a shop, an office, a pub or restaurant and breathe air which is clean and non-toxic. I also believe, in fact I am absolutely certain, that those who work in these places have a right to breathe clean air at work. I think it has become apparent over the years, that voluntary codes, better ventilation, education and the courtesy of smokers have proved entirely ineffective in providing clean air or safe workplaces, perhaps its fair to say that it has been effective in some areas but there is still many workplaces and indoor public areas where we get exposed to other people's tobacco smoke.

The question is whether legislation is appropriate to deal with the health risk and nuisance which tobacco smoke causes to third parties. In my view the answer is clearly yes – actions which harm and annoy others without justifiable cause should be controlled and if necessary should be controlled by legislation.

I have absolutely no desire to see our lives becoming more and more regulated by well meaning politicians. The endless pursuit of a risk free existence erodes our quality of life, the idea of a risk free existence is an illusion. The state which dictates what is good or safe, which claims to understand my interests better than myself and worse still insists that I do what they think is good for me is a nanny state. None of us wants that.

Many of our pleasures involve risk whether it is mountain climbing, having a few drinks in the pub, riding a motorcycle or horse, or even having cream on my strawberries. Individuals should be free to assess the risks of what they like doing and make up their own minds, but, the freedom to participate in risk-taking sports and the freedom to consume legal substances does not include the freedom to harm others which is precisely what exposing other people to your tobacco smoke does.

There is a valid distinction between protecting adults from the consequences of their own actions which were freely carried out, and protecting them from the actions of other people. There is no law that I am aware of, the Attorney General may correct me, that stop me from banging my head against a brick wall, but there is more than one law, I think, to stop me banging someone else's head against a brick wall. The legislation I propose or that I would like to see falls firmly in the second category. This is not an attack on the rights of smokers but a defence of the rights of non-smokers. A smoking ban does not ban smokers from restaurants and bars it just bans the smoke.

Smokers may continue to smoke at home or in the open air. I do not wish to dictate to smokers whether they continue to smoke or not, but I do wish to dictate that they do not harm others by their habit.

In fact, a ban would be beneficial to smokers although this is not its prime objective. Research suggests that around 70% of smokers would actually like to give up, but cannot or find it very difficult to do so. Nicotine is an extremely addictive drug. I heard a Professor of respiratory medicine say that it was more addictive than cocaine or heroine. A ban on smoking in public places will help smokers to quit and there is clear evidence from other countries so that those smokers who wish to stop smoking will be helped to do so and I believe that ban would also limit the opportunities for young people to take up smoking and become addicted.

I am aware of the concerns that publicans have about the effects on their businesses. The experience in other countries is that the overall effect on the hospitality industry seems to be about neutral. A survey in the UK showed that the main reason people gave for not going to pubs was dislike of the smoke. It is likely that more non-smokers would go out if a ban were introduced. I do not wish to dismiss the concerns of publicans here; they obviously know their business better than I do, but their concerns very much seem to reflect the concerns of publicans in Ireland, America and Scotland. The concerns do not seem to have been borne out in practice. I do however, remain very happy to discuss ways of mitigating the possible effects of a smoking ban on business, but I do not think that the basic principle should be compromised, the basic principle being that non-smokers should be protected from the smoke of smokers.

From a democratic viewpoint, the hospital recently sent out a questionnaire which asked both smokers and non-smokers about their views on a smoking ban and this showed strong support across the board for a ban. It was sent to all households and everyone should have had the chance to express their opinion. We had public meeting a few days ago and all those who attended it were unanimous in their support of a ban.

Mr Speaker, the banning of smoking in public places would make them pleasanter and safer for non-smokers. It would help smokers who wish to quit, to do so, and it would discourage young people from starting. I ask Honourable Members to support the motion.

Mr Speaker

Thank you Honourable Dr Davies, the Honourable Dr Andrea Clausen.

The Honourable Dr Andrea Clausen

Mr Speaker, Honourable Members I would like to rise to second this Motion but I would like to take leave and refrain from speaking to the Motion at this point, but I wish to speak later.

Mr Speaker

So granted. Does any other Honourable Member wish to speak to the Motion? The Honourable Janet Robertson.

The Honourable Janet Robertson

It stands to me put forward some alternative arguments in this debate and before I do so I would just like to clarify something, probably like a good number of people, I do feel remarkably indifferent personally about the issue that is being put forward so thoroughly today. This is probably because I am not a regular pub goer and I do not really feel affected either way and like a good number of people I feel remarkably indifferent. I make that comment because I have heard from a few people that in filling in the questionnaire they would have, they did opt for or against when actually they would have preferred to put indifferent. This is not a big issue but I just wished to clarify from which standpoint I am coming from.

There is however a deeper issue which I would like to address, it is about what we use legislation for, and we use it yes, to protect our community and to protect our environment and to protect our country. We use it to mitigate risk and to protect individuals against the harmful actions of others but this is the key. We protect individuals against the harmful actions of others when those who would do harm deprive the victims of choice and freewill. In this instance people do have a choice about whether or not to go to a pub, there is no force measure, no obligation on them to do what makes them uncomfortable, what they would like however and understandable is the opportunity to enter a public establishments under their own terms. Then, it does come down to freewill of preference, the preference of those who want to be in a pub without smoke conflicting with those who wish to smoke in the pub, whose freewill has a greater right than the other. There is also the preference of the pub owners to run their businesses in a manner which they believe to be most profitable and there is public opinion, I understand this to be a slight majority of people who wish to tell the pub owners and the clientele what they may or may not do because they do not like it. Legislation I believe must not be to used force people into doing things that we simply do not think they should, or that we do not approve of. On that basis we should be banning drinking in pubs to prevent the nastiness of being bothered by drunkards whilst we are there or prevent them getting fightable or we can legislate against parents who feed their children too many sweets which rots their teeth or we can legislate against obesity because we think it simply will not do. Once legislation is used to feed the preferences sometimes even the prejudices of moral majority then democracy is being abused and the principles of an individual's liberty are obscured. On the other hand, would a majority, albeit small, like to see smoke free pubs? It would appear from the survey that they would and they

are quite right to have this preference, what can they do then to achieve what they are quite entitled to want. I would argue not legislation not the democratic version of strong-armed tactics but rather the power of lobbying, the power of protest, the power that something over 50% of the population has on its side in terms of a marketable niche. When I talk about lobbying, I do not mean lobbying your politicians necessarily, although that is certainly an option, although I must say at this point that no-one has lobbied me, I mean lobbying your local landlords and ladies, letting them know how you feel, letting them know how much of your custom, they are losing by not moving in your direction. This is democracy and a liberal society in action; this is the other side of the face of democracy, the grass roots action. Within the last year, three establishments have responded to public preference with no legislation involved, our only nightclub and most of our restaurants are smoke free by choice of the owners and as a result of public pressure, lets have a pub make the same choice and let's see people use their voice and exercise their initiative to help it come about, let us see some other avenues being explored before drafting the bills. Let, as Christopher Mare said rather poetically on question time last night, "a thousand hecklers bloom" and let that be the agent of change.

The Honourable Mike Rendell

Honourable Members, I have got nothing prepared so I am only reacting to statements that have been made already and I would like to react to the statement that the Honourable Janet Robertson has made and a lot of work has gone into that preparation I am sure, that was a very eloquent statement of your beliefs.

The grass roots democracy proposal that you have made seems to me to be rather unworkable, I cannot see in the Falkland Islands that by talking to your publican you are going to persuade him, even if there were a group of you, that that pub in particular, that that outlet, is going to be swayed on to their own ban smoking. I think the only reason that it has worked at the Malvina and Brasserie is that they are in direct competition with each other effectively and they are not real pubs either, so I think they are not a way of judging the situation in regards to pubs and the same goes for the other outlet, the Trough that banned smoking some time ago. I do not think that there is a great deal of realistic comparison being made in relation to this point.

I would also want to make the point about the whole issue of banning smoking in public places, we seem to be getting round to a view that the Falkland Islands is different from anywhere else in the world. Smoking has been banned in many places throughout the world; the smoke in the Falklands is the same as the smoke anywhere else, so the arguments that you have raised in relation to our situation I think will have been gone

through in fine detail everywhere else and at the end of the day, the legislators have realised that the only way to do it is by legislating. It will not work in my opinion by personal choice.

I would also finally just like to say that I remember well a piece of legislation, or a Motion that was passed at a Council about ten years ago in relation to the setting up of a town council which I think was raised at the first meeting of the new Council and failed dismally because members had not got their act together properly, had not fully thought out what they were trying to do and how they were trying to do it and I am most pleased that we are not falling into that same trap and are working towards achieving our aims in a democratic and thorough way. I support the Motion.

The Honourable Janet Robertson

Could I just respond?

I would agree with the Honourable Mike Rendell that this is certainly proceeding in a democratic and well prepared fashion and I think that it is fantastic that this sort of event occurs and that we are seeing the debate happen because I think that is very important and is something that has been lacking in recent years.

With regard to your comment about the fact that it will not work if people lobby their landlords, I am not entirely sure that it has been tried, I have not heard of any instances of people getting together and forming a lobby group. My understanding of this debate is that it has originated from Councillors rather than from public. That, is no bad thing, a legislation of course can originate from the top downwards rather than the other way up, but I would have liked to have seen some expression of this majority and their views and I have not frankly seen it. The only comment I can remember, leading up to the election, was a question asked at the Chamber of Commerce, there were also questions asked about tarmacking the MPA road and several other things which has not been returned to since. So, I have not really seen examples of this lobbying and the other little point, which I would like to disagree with you on, I think the Falkland Islands are different, obviously not in terms of whether smoking is a great thing or not, clearly it is not, but in terms of how we can react in terms of the immediacy of the democratic process, the immediacy of the electorate to the Councillors, but also to each other. In a small place like this I think that it is easy or it should certainly be easier to use that community approach to things rather than legislation. In bigger countries that is not necessarily the case, that is my response.

The Honourable Mike Rendell

Just a very quick response to your last point, we have not passed any legislation yet, we do not know exactly how we are going to take this forward, so I would hope that we would be able to take into account the smallness of our community and the way in which we operate.

The Honourable Richard Stevens

Mr Speaker, Honourable Members, I think it is right for a responsible government to look at the issues of something like smoking and the third party and their rights. I think for many, many years the government response has been to add tax to tobacco products and with a packet of cigarettes I think being over £5 you would have thought that would have been slightly off putting and probably to a percentage of the population it has been and it has helped individuals make that decision not to smoke. We are bombarded through various media in a way of educating people to give up and showing people the damage that you are doing, I think of three instantly, the pathologist showing charred organs and demonstrating the damage that is done by smoking, the alien that has meant to come from another planet not quite sure where all the smoking thing has come from and probably the most graphic of all in my mind is people sitting in a room and just grease being produced, it is so graphic. In real life of course it is very hard for people to understand the dangers and if there were four teenagers standing around smoking and one dropped dead perhaps you would see how dangerous smoking was, but in fact it happens over a number of years and when you are young you are indestructible and you do not think about so many years later when perhaps the smoking catches up with some of your major organs and you start having problems. Of course we all know of the person who smokes like a chimney and lived to a ripe old age, but I think statistics do prove that smoking is not very good for you. I do feel some amount of sympathy for the long term smoking because they are obviously and addict and as my colleague Councillor Richard Davies has said, probably a proportion of those would like to give up smoking. Equally, there is probably a proportion that are quite happy to have sixty years of enjoyable smoking rather than eighty years of misery, that is another thing.

I will support this Motion because I think it is another step of a responsible government trying to break the smoking culture, the education processes do not seem to work especially with the younger and newer smokers who I think as a responsible government we should be targeting and helping. Sir, I support the Motion.

The Honourable Andrea Clausen

Mr Speaker, Honourable Members, I think I would like to start by just responding to some of the points that have been raised before I state why I support this Motion, which I do by seconding it of course.

To come back on a few of the things that the Honourable Janet Robertson mentioned, with regard to legislation being there to protect people I actually think that this is a classic case of one legislation that should be used to protect people, it is not to protect the smoker, the aim is to protect the non-smoker, whether it be a worker or a client in a public place, an enclosed public place. I think this is an appropriate use of legislation.

With regard to the fact that we do not know if the public actually support a ban, whilst I know we have not actually had a referendum as such, we do have some information, everybody was entitled to fill in a health questionnaire and on the that questionnaire 76% of the people who filled it in supported a ban of smoking in public places, so I think that is a reasonable statistic and I think we should use it.

With regard to the argument that alcohol and fatty foods are exactly the same as smoke I would like to disagree with that, fatty foods and alcohol do not always affect the other people who consume alcohol and fatty foods around them. We know that with smoking; second hand smoke does affect other people, so people who do not smoke are affected by that and of course we are not going to be legislating for things that a person does, that does not affect necessarily anybody else. I cannot say that 100% but in particular I refer to alcohol and fatty foods. I do not think that it is fair to put them all in the same class.

With regard to the publicans who we have consulted and have aired their views, I would like to make two points, firstly, our publicans do not actually know for a fact that banning smoking in their establishments would damage their business, because no-one has tried it. Yes, the Malvina recently banned smoking in their bar, but as the Honourable Mike Rendell said, the Malvina is not strictly a public house it is a restaurant and a bar, so it will be interesting to see what results they have and also the Brasserie of course. Of our purely public houses, none of them have actually trialed not even for a night as far as I am aware just to see if non-smokers come out.

With regard to lobbying I think that is great and quite often a few people will lobby, but when I think about some hot topics that are out and about at the moment it is usually a few loud people who lobby and it is not usually the greater masses who lobby. The greater masses are quiet and quite conservative in the Falklands and I think that is something that is a fact. I think that they would rather stay at home and not go out, than go and

badger their publicans until they are blue in the face. I think it is just one of those things and we elected members have a responsibility to address issues where there is damage caused to others, or potential damage caused to others.

I think that is all I will say in reply to the Honourable Members comments. The reason that I support this Motion is that I believe it is the right of all individuals to access clean air, bottom line wherever they are. I do not believe that a non-smoking worker or client should be subjected to unclean air when they are at work or socialising in an enclosed public space. Who is it that can say that the rights of a smoker are more important than those of a non-smoker or visa versa, we are in a quandary. A smoker would not be prevented from smoking by the proposed ban, they would merely not be able to smoke in an enclosed public place, much like when we travel by air, I mean smokers can manage to go for up to ten or more hours on a plane nobody has step outside, in fact it would probably be a bit dangerous, so it can be done and in fact public transport around the world is generally moving towards banning smoking and why, because it is a very enclosed public space. However, a non-smoker who wishes to go out to a smoking enclosed public place must run the risk of passive smoking related illnesses in order to socialise. Not lets forget the rights of the workers I suspect that we might have had a reason for banning smoking in all enclosed government work places why would we think that the private sector employees should be subjected to passive smoking related illnesses when we do not think that government employments should. Furthermore, whether we like it or not there is discrimination when we employ people in places where smoking is allowed, because we are asking a potential non smoking employee to sacrifice their health to work in a smoky environment and personally I do not think that is moral. Mr Speaker, Honourable Members I support the Motion.

The Honourable Ian Hansen

Thank you Mr Speaker, in rising to support this Motion I shall be brief as fellow Councillors have covered all the aspects I believe. I would just like to say initially that it is a great shame that all Councillors are not here to take part in this debate as it is an important issue.

I am not going to make any long justification as to why I would support this Motion, if anything I can just say that as a non-smoker I am doing it for purely selfish reasons, I am asthmatic as are others and to be in the company of anyone smoking for any length of time is pretty uncomfortable. I have also seen in the past, friends and relatives suffer terribly from smoking relating diseases. I think I would prefer or it would be preferable to see others follow the example of the Brasserie, Malvina and the Trough, but realistic I doubt, unless a non-smoking ban is compulsory we shall ever

see one. As the Honourable Mike Rendell pointed out, the fact that other countries have taken this step and successfully, it must give us some sort of direction. Mr Speaker, I support the Motion.

The Honourable Janet Robertson

I was just wondering if I could ask the Honourable Richard Davies his view. At the beginning you were saying, and I certainly do not dispute it that nicotine is a class A poison, similar to mustard gas and asbestos, if that is the case, why is this drug not banned altogether when we ban probably less toxic drugs such as marijuana and by the sounds of it cocaine and heroine?

The Honourable Dr Richard Davies

Thank you, a class A carcinogen basically means a substance which is known to cause cancer in humans and includes a wide range of substances and I mentioned a few of the more notorious ones, asbestos and tobacco are very well known to cause a number of different types of lung cancer. Why has it not been banned before, smoking has been a custom for hundreds of years and it was in the 1950s that Sir Richard Dole really conclusively discovered the link between smoking and lung cancer, I am quite sure that if somebody discovered tobacco today and some trials were done on it and its effects were discovered that it would not be legalised and other drugs like marijuana which although have been around in other cultures for hundreds of years are a relatively new introduction to our culture and our culture has decided in general not to legalise them. I think we perhaps do not have enough information to know whether it is more or less harmful than other substances, but there is a good argument for saying that many of the drugs, illegal drugs today are actually less harmful than tobacco.

The Honourable Janet Robertson

I take your point and I think that is a sensible reply but given that (going back to a comment made by the Honourable Dr Andrea Clausen) I think the difference between the smoking issues and the alcohol related issues and the other things which cause harm is that actually pubs are contained areas and people can either go there or not whereas someone who causes violence or upset or causes serious harm to others is not confined to a particular place although it is more likely to happen in the immediate vicinity of a pub on Saturday nights at chucking out time, it is something that can happen anywhere. So the effects of drugs such as alcohol and I referred to parents giving their children teeth rotting sweets and drinks earlier is that these are not actually confined to one area like smoking is, they actually go out into the community and they are potentially in any household. I think that that point needs to be made because I think there is a logical argument there about if you are going to ban something because it is causing harm to people

then the effects of those other drugs and those other harming influences should also be taken into account.

Mr Speaker

Does any other Honourable Member wish to speak to the Motion? The Honourable Dr Richard Davies, would you like to respond to the Honourable Janet Robertson or would you like to wind up?

The Honourable Dr Richard Davies

I understand that I have the privilege of winding up if everyone has spoken.

Mr Speaker

Yes please thank you.

The Honourable Dr Richard Davies

I would like to thank the Honourable Janet Robertson who I think has provided a lone voice in defence of the smoker, what I think you have done is question the role of legislation and I think that is absolutely essential, I think it is very important that we do not introduce legislation without good justification. The Falkland Islands are a place where we have not yet been swamped by regulation and legislation and we do not wish to be and I think that is a very clear wish to the people who live here as well as the Councillors and so I think we do have to make a good case for saying why legislating against smoking is different and I think we have heard the arguments on either side and we have compared legislating against tobacco with legislating against other things or not legislating against other things.

Tobacco does provide us with actually an almost unique dilemma and it does not always bear comparison with problems in our society, it is a perfectly legal substance and it has been used for hundreds of years. On the other hand we have discovered over the last fifty years quite how harmful it is to smokers and more recently than that how harmful it is to non-smokers. We know it is a highly dangerous carcinogen and it causes a wide range of disease, it costs the economy huge sums of money.

A difference perhaps from other pleasures which have been quoted is that many smokers would like to give up and 70% is a figure which came up in a recent survey. It is a highly addictive nature and makes it extremely difficult to do so. Another difference is that in contrast to alcohol for example there is no safe limit for tobacco smoking, any tobacco smoke is bad for you. As far as we know moderate quantities of alcohol do no physical or psychological harm and in general do no social harm. I would not wish at

all to dismiss the huge problems which alcohol abuse causes but I personally would be against legislating in a comparable way to tobacco because there are lots of people who use alcohol sensibly and I do not believe that they should suffer by legislation.

Rather than going over all the points again I would just like to say that the smoking ban is proposed not to take away people's right to smoke, it is not nanny state legislation it is not us telling people to do what we think is good for them, it is protecting non smokers from harm. The aim is to remove the smoke from public places not to remove the smokers. Thank you.

Mr Speaker

Honourable Members the Motion has been put before you in that this House believes that tobacco smoke in public places is a health risk and a nuisance to members of the public and employees. A ban on smoking in enclosed public places would be an appropriate way to deal with this problem. This house intends to consult interested parties and consider practical details with a view to the implementation of a ban on smoking in public places.

Would all Honourable Members in favour of the Motion please indicate by aye (there were five in favour).

All Honourable Members not in favour of the Motion please indicate by no (there was one not in favour).

Thank you very much it is so recorded.

Clerk of Councils

ORDER OF THE DAY: BILLS

The Supplementary Appropriation (2006/2007) Bill 2006. This Bill requires a first reading.

The Honourable Financial Secretary

This is the first Supplementary Appropriation Bill to be presented for the current financial year. In addition to the sum of £40,773,880 already appropriated, the purpose of this Bill is authorise the withdrawal of £822,740 from the Consolidated Fund to meet supplementary expenditure approved by the Standing Finance Committee on the 25th August 2006.

The Bill provides for the Contingencies Fund to be replenished in respect of any advances made. An additional sum of £124,500 is inserted under the

Operating Budget, £100,000 is allocated for Health and Social Services to provide additional resources following a review of the dental department. £12,000 is for Education and Training to provide special needs assessment and training for learning support assistants. £7,500 is for central administration and represents a carryover of unspent funds from 2005/2006 to meet a commitment for a specific bird study, £5,000 is allocated to the Legislature department and relates to a carryover of unspent funds from 2005/2006 for a rescheduled visit to the Islands by British Members of Parliament.

Under the Transfer Payments Budget an additional sum of £698,240 is inserted. Out of this sum £375,000 is allocated to supplement the subsidy for the Abattoir, £175,000 is required to cover the actual operating deficit for 2005/2006 and £200,000 to cover the revised estimated shortfall for the current year.

The balance of £323,240 represents carryovers of unspent funds from 2005/2006 for six items of committed expenditure as follows:

1. £193,700 for a contribution to defence in respect of housing
2. £73,000 for a contribution to defence in respect of Metrological services
3. £3380 for the Historic building renewal programme
4. £3160 for the wool freight subsidy
5. £25,000 for the Museum and National Trust
6. £25,000 for Camp Energy Grants

The Standing Finance Committee were satisfied that all the supplementary expenditure was necessary as no saving savings could be identified for virement. I beg to move the first reading of the Bill.

The Honourable Dr Andrea Clausen

Mr Speaker, I will second the Motion.

Mr Speaker

Honourable Members the Motion is that the Bill be read a first time. Is there any objection to the Motion? No objection, the Bill will be read a first time.

Clerk of Councils

The Supplementary Appropriation (2006/2007) Bill 2006.

The Honourable Financial Secretary

I beg to move that the Bill will be read a second time.

Mr Speaker

The Motion is that the Bill will be read a second time. Does any Honourable Member wish to speak to the Motion? If no Honourable Member wishes to speak to the Motion may we invoke the fast track please? Thank you very much.

Clerk of Councils

The Supplementary Appropriation (2006/2007) Bill 2006.

Mr Speaker

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

Clerk of Councils

The Supplementary Appropriation (2006/2007) Bill 2006.

The Marine Farming Bill 2006. This Bill has been published in the Gazette, we therefore go to a second reading.

The Honourable Chief Executive

Mr Speaker, Honourable Members in submitting this Bill to the House for approval, I wish to move amendments to Clause 4 as follows: firstly to delete sub clauses 2 and 3, secondly then to renumber existing sub clauses 4, 5 and 6 so that they become sub clauses 2, 3 and 4 respectively and thirdly by altering the present cross references in those sub clauses to subsection 4, so that they become cross references to subsection 2. Let me explain to the House the reasons for the deletion. The reason for the deletion of the existing sub clauses 2 and 3 is effectively to remove duplication and therefore the potential for confusion since the issue of qualifications of companies to which licences may be issued is dealt with in clause 3 of the Bill.

The purpose of the Bill is to provide a regulatory framework and licensing regime for fish farming in marine waters. This is a new and emerging industry for the Islands but has great promise. The Bill makes provisions for the application and issue of marine farming licences with the power to

make conditions to companies incorporated in the Falkland Islands. Clause 9 contains provisions which will enable the cancellation of licences where the terms of the licence has not been complied with and there are provisions to enable appeal against cancellation contained in clause 11.

Royalties will be payable to the Government in respect of the financial benefits accruing from licenses.

Finally clause 20 makes it an offence to undertake fish farming activities other than in accordance with the terms of the licence and the schedule grants powers of entry and search to fisheries officers. I beg to move the second reading of the Bill.

The Honourable Financial Secretary

I second the Motion.

Mr Speaker

Honourable Members the Motion is that the Bill as amended be read a second time. Is there any objection to the Motion? The Honourable Janet Robertson.

The Honourable Janet Robertson

I was just wondering if the Attorney General could help me in Section 5. It refers to determination of applications and the Governor shall have a regard in particular to effects which fish farming will have on the marine environment. I was wondering who would be advising the Governor in these instances and if there are any regulations regarding the requirement for environmental impact assessments before fish farming can commence.

The Attorney General

I'll answer the last question first if I may, there are as yet no environmental impact regulations, and those will have to be made in relation to fish farming. The first question, it will of course be the Director of Fisheries who would be responsible for advice to the Governor in relation to environmental considerations with the kind you mentioned. He may well of course involve outside consultants or other members of his staff. That remains to be seen, but the responsibility will be that of the Director of Fisheries.

The Honourable Janet Robertson

Sorry I just need to clarify who will then decide whether a proper protection of the marine environment is being undertaken.

The Attorney General

I have answered the question Mr Speaker.

Mr Speaker

Yes, I understand, thank you very much.

Are there any further questions? No, the Bill will therefore be read a second time.

Clerk of Councils

The Marine Farming Bill 2006.

Mr Speaker

I declare Council to be in Committee.

Clerk of Councils

Clauses 1 to 23.

The Honourable Chief Executive

I beg to move that clauses 1 to 23 stand part of the Bill.

Mr Speaker

The Motion is that clauses 1 to 23 stand part of the Bill as amended. Is there any objection? There is no objection. Clauses 1 to 23 as amended stand part of the Bill.

Clerk of Councils

Schedule 1.

The Honourable Chief Executive

I beg to move the Schedule stands part of the Bill.

Mr Speaker

The Motion is that the Schedule stands part of the Bill. Is there any objection to the Motion? There is no objection. The Schedule stands part of the Bill.

Council resumes

The Honourable Chief Executive

I beg to move the Bill be read a third time and do pass.

Mr Speaker

The Motion is that the Bill be read a third time and do pass. Is there any objection to the Motion? There is no objections the Bill will be read a third time and passed.

Clerk of Councils

The Marine Farming Bill.

The Fishery Products Bills 2006. This Bill has also been published in the Gazette and we go to a second reading.

The Honourable Chief Executive

Mr Speaker, Honourable Members this Bill makes provisions in respect of the quality of marine and other waters and of water used for washing or processing fishery products. The designation of areas as being suitable for the production, collection or relaying of shellfish, for securing the health of shellfish and for regulating the treatment, marketing, transport, import, export, introduction and movement of fishery products. It is therefore sister legislation to the aforementioned Marine Farming Bill. I beg to move the second reading of the Bill.

The Honourable Financial Secretary

I second the Motion.

Mr Speaker

The Motion is that the Bill be read a second time. Is there any objection to the Motion?

The Honourable Janet Robertson

May I ask a question? Yes, again to the Attorney General, I see from section 29 about quarantine requirements, I just want to clarify that the quarantine would mean that any fish caught in the deep sea would not be able to be placed in any marine waters or would it be that it would not be allowed in

any marine waters which had been designated, perhaps you could clarify quarantine?

The Attorney General

The clause provides that fish from marine caught in the deep sea and which are to be used for breeding purposes must first be placed in quarantine under appropriate conditions to be determined by a food authority. Food authority is a defined term means the senior veterinary officer or any other public officer appointed by the Governor to be a food authority for the purposes of the Ordinance. The placing into quarantine is compulsory, the conditions are not compulsory, and those are to be determined by the food authority concerned.

The Honourable Janet Robertson

Thank you very much.

Mr Speaker

There is no objection to the Bill it will be read a second time.

Clerk of Councils

The Fishery Products Bill 2006

Mr Speaker

I declare Council to be in Committee.

Clerk of Councils

Clauses 1 to 49.

The Honourable Chief Executive

I beg to move that Clauses 1 to 49 stand part of the Bill.

Mr Speaker

The Motion is that clauses 1 to 49 stands part of the Bill. Is there any objection to the Motion. There is no objection, clauses 1 to 49 stand part of the Bill.

Clerk of Councils

No Schedule.

Mr Speaker

There is no schedule. Council resumes.

The Honourable Chief Executive

I beg to move that the Bill be read a third time and do pass.

Mr Speaker

The Motion is that the Bill be read a third time and passed. Is there any objection to the Motion? There no objection the Motion will be read a third time and passed.

Clerk of Councils

The Fishery Products Bill 2006.

The Proceeds of Crime Bill 2006. This Bill has also been gazetted and we go to a second reading.

The Honourable Chief Executive

Mr Speaker, Honourable Members, the Proceeds of Crime Bill incorporates the UK Proceeds of Crime Act 2002 with appropriate amendments into the law of the Falkland Islands. It provides for the making of confiscation orders in relation to persons who benefit from criminal conduct. Such orders would allow the recovery of property which is or represents the property obtained through unlawful conduct or which is intended to be used in unlawful conduct. Lastly, there are provisions in respect of money laundering. I beg to move the second reading of the Bill.

The Honourable Financial Secretary

I second the Motion.

Mr Speaker

The Motion is that the Bill be read a second time. Is there any objection to the Motion?

The Honourable Janet Robertson

I wonder if the Attorney General could explain how this Bill relates, I am going to describe a particular circumstance, to someone who is authorising or processing in their function as accountant expenditure which they may query but in their position are subordinate to person who has authorised or presented the expenditure for processing. I wonder how this leaves the person in that role as accountant who may be processing expenditure which they are not terribly happy with but in their subordinate position feel that they cannot refuse to carry out what they have been asked to do.

The Attorney General

Mr Speaker, I am afraid I am not going to be able to give a very adequate answer to that question, I would have preferred that I would have been given notice of it because it requires a detailed consideration of the provisions which, or would be adopted by the Bill and I have not, I regret brought the English Act along with me so as to be able to answer that question. It should be appreciated that the law will provide the professional people who are making payments which they suspect and particularly if they are the manager of the business concerned, for example a bank, if there were to be a transfer by a bank which gave rise to suspicion of money laundering of the proceeds of crime, any member of the staff who was in charge of that payment who had reason to suspect that money laundering transaction was being carried out will, be under a duty to report their suspicions to an appropriate authority. That reflects the provisions which are enforced in England. Money laundering, I should explain is a very serious matter internationally, we are not involved in a criminal society in the Falkland Islands and this Bill, I do not expect, will have very great impact here. We have no need to invoke any of the present provisions of the Criminal Justice Ordinance which might bear upon the subject. We may need to invoke it in relation to foreign transactions which come through here and we can never know whether we will need to invoke the provisions or nor. We are obliged in terms of our international obligations to enact legislations of this kind and that is one of the purposes of why the Bill is being presented to the House.

Mr Speaker

Thank you very much Attorney General. The Honourable Janet Robertson.

The Honourable Janet Robertson

Just to ask the Attorney General's forgiveness for springing that question on you and I thank you for your reply.

Mr Speaker

Is there any further objections? No, therefore the Bill will be read a second time.

Clerk of Councils

The Proceeds of Crime Bill 2006

Mr Speaker

I declare Council to be in Committee.

Clerk of Councils

Clauses 1 to 3

The Honourable Chief Executive

I beg to move that clauses 1 to 3 stand part of the Bill.

Mr Speaker

The Motion is that clauses 1 to 3 stand part of the Bill. Is there any objection to the Motion? No objection, clauses 1 to 3 stand part of the Bill.

Clerk of Councils

Schedules 1 to 3

The Honourable Chief Executive

I beg to move that Schedules 1 to 3 stand part of the Bill.

Mr Speaker

The Motion is that Schedules 1 to 3 stand part of the Bill. Is there any objection to the Motion? There is no objection, Schedules 1 to 3 stand part of the Bill.

Council resumes.

The Honourable Chief Executive

I beg to move that the Bill be read a third time and do pass.

Mr Speaker

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

Clerk of Councils

The Proceeds of crime Bill 2006.

The Motion for Adjournment

Mr Speaker

Just if we may prior to the Motion for Adjournment, I believe that the Honourable Dr Andrea Clausen wishes to make two presentations.

The Honourable Dr Andrea Clausen

Mr Speaker, Honourable Members, if I could just take a moment, it is the tradition of this House to make a presentation to Members when it is their final appearance in this House in recognition of their valued contribution. I would like to take this opportunity to present the Legislative tie to both Commander British Forces who is making his final appearance and also to the Attorney General, I will refrain from saying further because I think Members might wish to say more in their Motion for Adjournment. If I may make that presentation.

Clerk of Councils

The Motion for Adjournment.

The Honourable Chief Executive

Mr Speaker, Honourable Members I beg to move that this House stands adjourned *Sine Die*.

Mr Speaker

Honourable Members I would like to beg leave of a slight change in the proceedings now, we are saying farewell to two distinguished members, the Attorney General on my right and the Commander British Forces on my left. As presentations have been made I would kindly beg your leave to permit the Attorney General to speak first and the Commander British Forces to speak second then I will do around the table. Thank you very much.

Attorney General

Mr Speaker and Honourable Members, thank you for the opportunity, the rare opportunity and privilege of speaking to the House in the adjournment debate. Unless something unexpected happens, this is the last occasion on which I shall attend Legislative Council at least as Attorney General. I have mixed emotions about this. It is an occasion tinged with a little sadness because I feel privilege to have been Attorney General of the Falkland Islands for the period I have and to have attended Executive Council and Legislative Council. I was sitting in this chamber when Michael Gaiger made his farewell speech and Melanie Chilton my successor is sitting here today, I think that is appropriate. I know that Melanie is looking forward to becoming Attorney General and I think she is right. It is one of the most interesting jobs in the legal world is why in a way I am sad to be leaving it. On the whole I am happy to be going into the golden sunset of retirement, you know that when you start off on Monday mornings looking forward to Friday afternoons. I came to the Falkland Islands in April 1987 to act as Senior Magistrate for a few weeks before taking over from Michael Gaiger in June 1987. I was very much slimmer then and I was bearded. I very soon shaved off the beard and I wish I could get rid of my excess weight so easily. I won't have the excuse in retirement that I don't have time and opportunity to get sufficient exercise, I'd rather take the regular exercise than eat the proprietary diet food my wife sometimes consumes for breakfast.

When I arrived here I was a moderately heavy smoker and before somebody else speaking later in this adjournment debate mentions it on one occasion I set fire to my wastepaper basket in the Secretariat by putting a cigarette stub in it. I gave up smoking however in November 1993 and I immediately start putting on weight.

I have been Attorney General here and elsewhere for a period of very nearly 30 years, I think that is actually some kind of record. I have been Attorney General in respect of five territories they are all different. I have always been Attorney General in island countries with small populations. In Nauru one of my functions was counsel to the Speaker, Parliament in Nauru is very political, the passage of the annual appropriation bill was a major political occasion, the debate usually lasted two weeks when the opposition went through every single line and item in the budget in an effort to defeat the bill. It was regarded as a confidence matter and if the government of the day failed to succeed in getting it passed in time, the government had to resign, unless one or more members cross the floor of the House there would be a general election. On year when the bill was very close to its third reading the speaker rang me very concerned, the mace which had been on the table during the lunch adjournment had been stolen, the opposition had

pointed out that that meant that Parliament could not sit. Challenge, how do we get out of this? The Parliament in Nauru had a very good library and I frantically looked through some of the books on parliamentary procedure and found that in the Bahamas in the past one of the members of the opposition being annoyed with the government and trying by all means to succeed in stopping the government doing something had run up to the table seized the mace and thrown it through the window into the sea. What Bahamas did was borrow the second, spare mace from the Canadian Parliament, so, scratching my head and adapting that a little, I advised the speaker to get a hold of public work department and get them to make a spare mace overnight. That was done and placed on the table and the speaker told parliament, we have a mace parliament is in session. The moral of the story is I think, either don't have a mace or make sure that PWD can make you a spare.

I would like to say a little bit about the law, because I have often felt a bit like Mozart, who is accused of writing too many notes and people here tease me about destroying part of the world's rainforest. I have not of course passed a single law in this House, you and your predecessors have done so, but I hope my efforts have left the law of the Falkland Islands in a better state than when I arrived here because quite frankly there were laws enforced that were so out of date they did not really adorn the law book, I am afraid there are still a few I feel that are like that but you cannot achieve everything.

The two most important Ordinances I have drafted are the present Fisheries Conservation and Management Bill and the Offshore Minerals Ordinance and the reason for those is they relate to the economy of the Falkland Islands. It is the fishery which has of course underpinned government expenditure, it is the fishery which is responsible for us being able to enjoy the health services and the other services, the education and all the rest of it which we do enjoy. I tend to get a bit upset personally when people say they haven't gained anything from the fishery as if there was to be a sort of hand out, everybody gets together every year and people gets divvied out money from the fishery. I have seen a country where that happened and that country is now bankrupted, it was Nauru, I was there when it was happening. I hope that if we get a find of oil that we avoid the whole motive of life of people in the Falkland Islands being destroyed by too much money, there can be too much money and particularly if it is not wisely spent. At present the second report of the Select Committee of this House on the Constitution has been published for public consultation, I do hope that people take an interest in that and make comments upon it and even if they do not disagree with anything which is said in it they express their support and that is because the constitution is the most vital plank in the law of the Falkland Islands. It is the constitution which helps the Falkland Islands be a democracy, it is the constitution which confers rights

in the individuals, it is the constitution which governs the whole process of government. Under our constitution, under the rule of law nobody is above the law, every public officer is answerable to the Courts if necessary for his actions, not only public officers but also by the Governor. It is the constitution which puts limits, correct limits on the power of the government and a failure to take interest in the constitution and the proposals for its amendment would I think be a very great pity.

I am saying farewell to Legislative Council today, I am glad I am not saying goodbye, I am glad I am not saying goodbye because I think I would get very emotional if I were. I am very happy to be retiring in the Falkland Islands; I could not wish to retire anywhere else. I am proud to have three grandchildren who are born here and I look forward to contributing in retirement to the life of the community. Thank you Mr Speaker.

Commander British Forces

Mr Speaker, Honourable Members, thank you allowing me too, the chance to speak, I am afraid that my tenure has been somewhat shorter than the Attorney General's in this forum but nonetheless I can echo his sentiment both of the love for these islands and indeed for the business that we both have been involved in Executive and Legislative Council.

Joseph Conrad wrote a very eloquent piece about the privilege of command and it has certainly been my privilege to have commanded a number of warships prior to coming here, but I must say that the privilege of a joint command with all three armed forces under command of these islands has been very special indeed. I have seen just what can be achieved when the three forces work in concert and bring their capabilities together and I do say have done so for the benefit of these islands and indeed for operations elsewhere in the world. It has been a huge privilege.

It is not just the privilege of command and the military bits that have been the privileges that I have experienced here, the other one is the hospitality and the friendliness of these islands and shall I say the people in them, extended to me, my wife Marion and indeed all the people under my command. I sense there that I have lumped my wife in as under my command and she might dispute that but I have going to say it anyway because she is currently in the air on her way back on the airbridge, so she cannot hear me so I will get away with it. It has been a privilege of that hospitality and that friendliness which has been extended everywhere throughout these islands and we have enjoyed our time here very much indeed.

I have also had that rare privilege for a military man of being involved with yourselves in the workings of government and I think and I hope making

some small contribution to your debate, I know we have moved forward some issues during my time here on mutual cooperation for mutual benefit and there is more to come from that. I have enjoyed being part of that debate, why, because we are also part of your community here. I say it is a small contribution and that it is in all honesty it probably is, I guess in return I have also learnt an awful lot, I have learnt a lot about myself here, I have learnt a lot not only about the other forces that I have mentioned earlier in talking about joint command, but I have learnt a lot from watching people going about their business here in good government and being prepared to have a healthy debate about maintaining a lifestyle and a quality of life that I think is second to none. When we look at the complexity of life in the UK, the complexity of some its legislation that has been adopted perhaps too hastily and I think I recognise here your debate to proceed I think in a measured way with some of the legislation, you do not always have to follow the UK model, we have not always got it right, I am not making a political speech I'm saying from my prospective there are elements about life in the UK that we have not got right and I think you are wise to think and debate these things before you adopt what is right for you in these islands. But, there is a quality of life here, there is a lovely simplicity to it and I do not mean that disparagingly, over simplicity in some areas of UK and the complexity and the headlong rush for a life of shopping malls and electronic games and god knows what else that we have got back in other areas of the world. I do love the peace, tranquillity and simplicity and the quality of life you enjoy and long may you do so.

My successor is a friend, we are both graduates of the higher command staff course together so I know him well, and he will serve you extremely well indeed. He is very much looking forward to being down here with his family, he comes down in November, I'm moving to pastures new, in fact on promotion to quite and exciting job as the national hydrographer which will be announced in public next week. That, is a great thing for me it is another chapter of my life opening up I look forward to it, but in looking forward I also have the sadness of leaving these islands and I hope at some stage still to return, perhaps in the new role, it is a worldwide role that I am going to and it might yet see me back down here. Thank you for your hospitality, thank you for friendliness, thank you for involving me in your debate and in helping in some way towards better government and better development of these islands, even though I have only been here a short time I like you do cherish the experience and I will remember it for the rest of my life. Thank you very much.

The Honourable Ian Hansen

Mr Speaker, Honourable Members in rising to support the Motion for Adjournment I intend to begin by saying farewell to someone who has served the Falkland Islands Government well, for a number of years and I

don't actually refer to our Attorney General, although I will come to him later.

Ken Halliday has worked for the Falkland Islands Government for many years, he has been at Fox Bay since 1980, and amongst other jobs for government he has been the government agent and postmaster. He retired on the 1st September and I think it is appropriate that he be mentioned here today. I would like to thank him for the contribution he has made to the West Falklands in particular and wish him a happy retirement.

We also say goodbye to our Commander British Forces South Atlantic, and I believe that his very positive and open stance while he has been in this post has been appreciated. I would wish he and Marion all the very best for the future and hopefully we will see you back in the islands one day.

This is of course, our Attorney General's last Legislative Council, I do not know precisely how many David has attended in his time but again I imagine that it is probably some sort of record. I would just like to personally thank David for the advice he has given me over the past three years that I have been on Council. When I was first elected he told me to contact him at anytime if I was unsure of any legal position and he would give me assistance. For someone who is as busy as the Attorney General to offer that sort of help to "green horned" Councillors is very generous in itself, but to actually reply promptly to the queries I have sent him that is quite amazing considering most of those queries were probably just presented through sheer ignorance of the legal system. I probably wasted much of his valued time, but I do thank him for that and I wish him well in his retirement.

It has been quite a busy time since our last Legislative Council meeting, perhaps not so much the volume of paperwork presented to Councillors but more for the importance of some of the decisions that have to be made. Three of these decisions have directly involved the Camp and its future and indeed its future economy. Firstly, the new coastal shipping contract that is still being negotiated with the preferred tenderers, that will have a major impact on the way of life in general in Camp. I will not go into the expectations and aspirations in any depth, but a regular and reliable link between East and West can only be good and positive for the Falklands. I would like think that the outer islands, at the very least, will be no worse off than before and hopefully will benefit from this new service.

The first review of Falkland Landholdings performance since the conception of the Recovery Plan has been aired, I will not speak in any great length on this, suffice to say that while there are areas that we would have liked and perhaps even expected to be better, it is not all doom and gloom as some people might suggest. We all know that FLH attracts much criticism, I do

not have a huge problem with folk criticising past or present Directors, to a certain extent that is what we are there for, to take constructive criticism. It does however, concern me when the managers, the assistant managers and the loyal staff on FLH farms are subjected to any level of criticism. FLH farms are understaffed and short of labour but those who are there and operate under sometimes quite extreme pressure because of that reason, should if anything be congratulated for doing what they do, not criticised.

In my last Legislative Council address I stated that concerning the wool cooperative proposal, that I did not believe there should be lobbying from existing agents or indeed FIG in any shape or form and that farmers were quite capable of making up their own minds on the issue. Unfortunately, it seems that nobody was actually listening to Legislative Council that day or certainly not when I was speaking. What could and should have been a proposal to look into new ways of marketing and selling wool in the Falklands robustly discussed by one and all over a period of time turned into something quite different.

On this subject of the Camp and its future we often talk of encouraging businesses to operate from the Camp and we also talk of the problem that current businesses have that are operating from there. If you run a business from Camp and have an office in Stanley that is used perhaps less than a third of the time and you wish to have broadband connection, the most suitable would probably be the 500MB package. If one were in Stanley for less than a week each month, this would seem ideal. However, it appears that Cable and Wireless say that this not possible because a business has to operate on the next package up which is considerably more expensive. It concerns me that some sort of flexibility in the pricing structure cannot be negotiated; I believe that we should address this issue before that structure is finally agreed.

Finally, Mr Speaker, I would just like to mention the Jetty Visitor's Centre, I would appeal to those who are leaving litter and generally making a disgusting mess most nights in the alcove on the north side of the building to cease doing so. I would also like to appeal to any members of the public who see anyone hanging around that area to report them to the Police. Mr Speaker, I support the Motion.

The Honourable Richard Stevens

Mr Speaker, Honourable Members I would just like to mention two things, probably more, but two main things.

Firstly, the FIDC Strategy plan for wool which has divided the farming community in a big way, in hindsight perhaps some things could have been done differently, like timing. However, finding the right people at the right

time does not always coincide. I support initiatives that explore ways of bringing more money into farming especially when it requires no extra work. I have always seen my position as a Councillor and whether or not I support this scheme hinging on the support that it got from farmers. I do have grave concerns about the level of support which on a proactive level shows only a quarter of farmers supporting, even with FLH counted as individual farms this is less than twenty. I do not want to stifle the potential of farmers that see this as the future of wool marketing but equally I do not agree with putting a lot of government money into a venture which as it stands has the potential to be another project that will always need subsidy. Some farms see this new venture as a threat to existing agents and buyers, but this is not the case, and most of all farms that support the Lambert proposal had already moved away from traditional selling practices. The proof is in the pudding and we will soon see if David Lambert is able to capture other and more lucrative markets that seem to have eluded our existing agents thus far.

Education is never far away from the front line of politics it is important to the individual and also collectively as a country that we strive to improve. We are proposing changes that we hope will address some of the areas of concern that teachers, parent, pupils and Councillors have. I have said many times that we are looking forward and trying to find imaginative and intelligent ways of raising standards of education. This is what we are trying to do here on a number of different levels. Collectively we are looking to bring all the pieces of our education system together to make the progress of students seamless as they move from pre-school to the training centre or universities. We want to design a career structure for those teachers that are ambitious, for support and training of our newly qualified teachers and ongoing professional development through to the head teachers and director. There are issues in the schools about behaviour, not long ago we were talking about exclusion units and being expelled for good. In the Falklands this is a desperate situation. We want a set up that identifies problems sooner and then to deal with them with the schools and outside with an education welfare officer that works with parents and guardians and the relevant agencies. We will not be bringing these changes in isolation and we will be working hard with interested parties at all levels to make progress.

I would also like to thank the Commander British Forces for his participation in our government and wish him well for the future.

Finally, I would like to thank the David for all his many years of hard work as the Attorney General and probably around this table today as Councillors I probably have worked with David more than the rest. It must be at times, as a very high profile, a lonely position, which David has taken on in his

individual style. Enjoy your retirement and good luck with your diet and your exercise. Sir, I support the Motion.

The Honourable Dr Andrea Clausen

Mr Speaker, Honourable Members in rising to support this Motion I have to confess to feeling like I have almost changed constituencies of late so it quite appropriate that I am following my two Camp colleagues. This is not a complaint by any means, quite the opposite in fact, I have quite enjoyed getting into some of the "nitty gritty" of the hot rural topics that have been about. However, I do not believe that foul language, rudeness and bully tactics similar to those witnessed at the recent wool co-op workshop held in Stanley are necessary. No matter how strongly you feel about something, we all have opinions on most things and everybody's point of view is equally important especially when such a controversial issue as wool development is being discussed, you do not need intimidation and volume to be heard. This Council lobbied very hard on rural matters as soon as it was elected and to that end a number of things have been carried out, we have had two camp workshops; we have another planned for this coming month to try and thrash out some of the current problems, what they are and how to practically and realistically address them in the future. This Council has also given support to the pasture improvement programme for the life of this Council. We have the new ferry service/coastal shipping contract in negotiation at the moment, that is part of the Integrated Transport System. We are also continuing to look at improving and maintaining Camp roads as a priority and the Abattoir which was set up as a means to facilitate change also receives continued support, so I think we are trying our best to address some of the issues out there in Camp.

The proposed Falkland Islands Wool Co-op and I reiterate that it is not the David Lambert Co-op that it is the Falkland Islands farmers wool co-op which was instigated by farmers in the Falklands, is another way in which we can look to improving the farmers lot. So, I am happy to hear that it now has the full support of Falkland Islands Government to get started. Of course, like most other initiatives aimed at assisting with Camp development it is not without risk but has the potential of radically changing the way the Falklands thinks about moving and selling its wool, at the same time providing relatively better returns than we have been used to of late. I think that is all I would like to say on rural issues for now, I feel I might be in danger of being accused of thinking I am an expert on something again, which I am not, but I am learning more each day and the more I look at these things the more I think there are real opportunities out there and I will not apologise for publicising those opportunities whenever I see fit.

Finally, I would also like to add to Honourable colleagues in thanking both Commander British Forces South Atlantic and the Attorney General for their time on Legislative Council. I am one of those "green horns" now not even a year in and so have not spent as much time working with you. I would also like to thank you for your contributions to the other many diverse areas of Council business. I would like to say a particular special thank you to the Attorney General who always seems to know the answer to every legal question we ask no matter how obscure it is and I would like to wish him well in his retirement. Sir, I support the Motion.

The Honourable Mike Rendell

Mr Speaker, Honourable Members firstly, I want to make it absolutely clear that as a Camp councillor I believe my duty is to support initiatives that have the potential to make a real difference to farmer's incomes. It was therefore a very straightforward decision that I made in giving my wholehearted support to the formation of a Falklands Wool Co-operative.

I do not want to dwell on the unhealthy division that built up within the farming community as a result of this initiative, but some comment is necessary. Everyone has the right to their own opinions, but at the same time, everyone should be able to make their own minds up as to what is best for their particular circumstances. I do earnestly hope therefore that a line can be drawn under this episode, that we can let bygones be bygones, and that we can all move on together.

I must admit that it was really difficult for me to understand why there was such a divided set of opinions on this issue. To me and many others it is manifestly evident that if the Falklands wool industry is to have any chance of making itself more secure in the long run then it must strive to find new markets, create competition, and as a result raise wool returns. If we stay where we are farmers will remain extremely vulnerable to market forces, and will have little opportunity to get more cash in their pockets. Double dumping, new shipping opportunities and adding value to bellies and pieces will help, but the ultimate objective must be to get some kind of premium on our wool. Developing an organic label may be an achievable target; indeed this kind of bold move is probably going to be required if we are to create a market for our wool that specialised buyers want and are therefore willing to pay over the odds for. The Falklands Wool Co-operative has been established to carry out this really important work on behalf of its members, and I wish the Co-operative every success in its groundbreaking endeavours.

Another very straightforward decision for me was in relation to approving or being part of the approval process in the new coastal shipping service. The enhanced opportunities that this will bring are very exciting, particularly for West Falkland. However, there are a number of issues that have to be

resolved before the new service can be classed as operating to full potential, and a significant amount of work is still needed in order to achieve this. Road building and other resources for the coming season are already stretched and some sacrifices will undoubtedly need to be made just to create the minimum infrastructure necessary to get the service up and running. Work is ongoing in deciding where the priorities lie, and in allocating resources to these priorities. The underlying message is that it might take a longer than we had hoped to get everything fully up and running, but that we will get there.

The last major project that I want to comment on is the strengthening of dental services at KEMH. At long last plans are now well advanced for the refurbishment of the three dental surgeries, with a timeframe of completion of the first of these by the end of October, and the remaining two within six months. Recruitment of dental surgeons, a dental therapist and dental nurses will take place in a phased pattern to allow each surgery to become operational as soon as is possible, with the aim of really starting to reduce the dental waiting list from the unacceptably high levels currently existing. I know that patients will have heard me and others thank them for their perseverance in waiting for treatment, but I must reiterate this, and say that there is now a positive and clear vision for the future of dental health in the Falkland Islands.

A few words of farewell to Commodore Ian Moncrieff. It has been an enlightening experience for me as a new councillor to have the privilege of getting a real insight into the workings of British Forces South Atlantic Islands. The personal attention that you have given to hosting Councillors and in making sure that we get as full a picture of your organisation as is possible has been most beneficial, and has without doubt cemented a firm bond between ourselves and yourselves. New initiatives to build roads and share the advantages of the cross sound ferry service are examples of the ways in which this association has been developed to the mutual benefit of us both, in no small part due to the relationship that you have with us. Ian and Marion, best wishes for the future!

Today is also the last Legislative Council meeting for the Attorney General. I recall a conversation that we had at a recent function where I think you told me David that you had probably attended more Legislative Council meetings than any other Attorney General, anywhere. This is a truly remarkable record and aptly marks the dedication and drive that you have demonstrated throughout your illustrious career, particularly as Attorney General of the Falkland Islands for the last 19 years. I doubt that you would wish to consider how many law passages you have drafted, probably a legal world's equivalent of the Guinness Book of Records I would imagine. Enjoy a well earned retirement David, and I know that yourself and Theresa will find lots to do. Mr Speaker, I support the motion

The Honourable Janet Robertson

Mr Speaker, Honourable Members I am not going to say too much because you have probably had enough of the sound of my voice by now, but I just wanted to mention one thing. I have recently returned from Nigeria from the Commonwealth Parliamentary Association Annual Conference. The press have not been beating down my door to hear all about it, but on the other hand I have not approached them either. I wanted to speak about it in context of one element, we had discussed in Council a few weeks ago the merits of continuity in attending these meetings overseas, the importance of Members continuing on with work that they done in previous years in attending the same events to make their presence known, to present a familiar face at these overseas forums. I think this was illustrated very well for me in Nigeria. I went with Councillor Richard Cockwell, who has been attending CPA for something like six years and simply knew everybody and everybody knew him. It was really gratifying to see how many people knew about the Falklands through the yearly presence and attendance of Councillor Cockwell at these meetings. It was quite evident that that level of attendance, that level of familiarity, that level of knowledge of Richard was really good for the Falklands, people have been going there for years like Richard, and knew a lot about the Falklands. The other aspect of it is that made me realise that it was very important to attend was in conversation with a Canadian who asked me where I was from, I said the Falkland Islands, and he said "Oh! My goodness what has it been like since Britain invaded". Which made it really quite clear that there is an awful lot of work to do at these forums and this came from a Canadian.

The other thing which I am just briefly going to touch on because it has been something that has been occupying our minds over the last couple of days, that is that we are going to be having a budget review in November. I am not sure if this is standard practice, I do not think it is normally, but I am really glad that we are going to do this. We were rather pleased with ourselves in May when we approved a budget with I think something just short or just over a million pounds I think that million pounds has been spent several times over since then and it is absolutely vital for us to have this review in November to look where we are at and look at all the pressures that have been put on that budget. The problem we are going to have is that nothing is less important than another, all these challenges to the budget are actually hugely important from agriculture, aquaculture, port development, medical services, they are all of equal importance and it is going to be a big challenge for us to try and prioritise from among those.

I am just going to say thank you and farewell to Commodore Ian Moncrieff. One of my memories from the early part of this Council was going to Mount Pleasant for a briefing that you provided and I have to say that I found that

one of the most useful events on the first six weeks on Council, it was very informative and I think it highlighted the need to have the close co-operation and communication between our two communities. Thirty six miles between here and MPA can sometimes be an extraordinary long distance and I am glad to see that efforts have been made on both sides over the last few months to try and narrow that down. I wish you well; I hope we do see you back here again in the future.

Finally, as portfolio holder of Regulatory Services it is definitely my duty and my pleasure to say farewell and indeed not goodbye to the Attorney General. By my calculations it has been something like 19 years which makes you almost an institution. You are aware that there are children going into university who have never known the Falklands without you and that is quite something. I would like to echo everything everyone has said about the work and the dedication, it is not an easy task to be able to think and speak in terms that baffle most of us and to try and to be able to explain that complicated language to those of us who are not familiar with it and achieve neither confusion nor hinderment I think is really quite an achievement. As Councillor Ian Hansen said earlier on you have always responded quickly and efficiently, you have always been terribly patient; you have nearly always had an answer, although as I found out today, not necessarily always and I am really glad you will still be around. Mr Speaker, I support the Motion.

The Honourable Dr Richard Davies

Mr Speaker, Honourable Members, it is lunchtime and I will be brief, you have heard enough from me.

I just wanted to raise one issue which came up in Penguin News this morning and that was a fairly heavy criticism of Britain over mine clearance here in the Falklands. I think we, it is not my role to defend the British Government, but I think we here in the Falklands know that Britain does take the issue of mines in the Falklands very seriously indeed and this is evidence by the excellent work of the EOD in maintaining our minefields and the fact that no civilian has been killed, we have got a large number of minefields, no civilians been killed and I think this shows what a good job they are doing and how seriously Britain does take the problem. The fact is that working towards mine clearance is going to take time and that is not helped by the special conditions of our geology and it is not helped by the fact that we have to negotiate with our neighbours over the question of the feasible study, but after five years of negotiation it appears that that will go ahead this year. The position of the Falkland Islands remains the same that there is no pressure from us on Britain to clear the mines we can live with them and we know that the clearance costs would be very expensive,

but I would like to thank the EOD for their continuing dedication to looking after the minefields.

I will echo my colleagues in thanking David Lang for his long service here, to change Councillor Robertson's word slightly I have never known the Falkland Islands without you and I was still at university when you came here, I think. It seems to me that you have done a high profile job very well for many years and I think we will miss your judgement, your encyclopaedic knowledge and your corporate memory and I wish you well. Perhaps as a doctor I could say that it is much healthier to be overweight than to smoke.

Finally I would also like to thank Commodore Ian Moncrieff for his time here, I think it has been very clear to us new Councillors that you have taken our security and our defence very seriously indeed and worked very hard at it. I wish you all the best as National Hydrographer, I think it sounds absolutely fascinating although as somebody who spent many hours hauling his boat out of the mud I do not think I would qualify for the job, but thank you. I support the Motion.

The Honourable Financial Secretary

Mr Speaker, Honourable Members, I have had the pleasure of working with David as a colleague over the years and have had the benefit of his vast knowledge on all manner of subjects not just the law. David, I am grateful for all your sound advice and I wish you well in your hard earned retirement. I would also like to thank you Ian for your contribution to the islands and the workings of government and wish you and Marion all the best for the future. I support the Motion for Adjournment.

The Honourable Chief Executive

Mr Speaker, Honourable Members, conscious of the time I will rise briefly to add my best wishes and those of my colleagues in the civil service to Commodore Moncrieff and of course to my learned friend the Attorney General as their membership and attendance of and at this House draws to a close. I have had the good fortune to enjoy the company of Commodore Moncrieff his wife Marion on many occasions during the last eighteen months and I recall that when welcoming the Commodore to this House I commented that we may not always agree but that we share a common purpose in working for the benefit of the islands and their people and so it has proved. There have been very few occasions when we have disagreed and even when we have we have always found accommodation with which we have both been entirely comfortable. Ian I wish you every success in your new role and thank you and Marion for your friendship and your time here and for all that you have achieved during what seems to have been a particularly busy tour.

And so, to the Attorney General, well what can I say about David that has not already been said, he is of course living proof that the good die young but he is much, much more than that. David you are a legend in your own lifetime certainly hereabouts but also way beyond these shores. I am personally indebted to your wise counsel during my comparatively short time here, but there are of course a great many officials who have benefited from your advice, usually patiently offered over many years. I have always admired the confidence with which you have delivered that advice, the study of concentration which you have displayed by my side in this House and your legendary computer like memory. Whilst I am sure that you may be looking forward to those golden sunsets I am equally confident indeed, I know you are not ready quite yet to hang up your briefs and that you and Theresa will continue to be active in many facets of community life. I know that I speak on behalf of your many friends and colleagues in the civil service present and past in extending every good wish to you and Theresa without whom you could not do what you for your imminent retirement. Thank you, Mr Speaker.

Mr Speaker

Honourable Members the time is approaching 12.30, I would wish to endorse the very kind words extended to Commander British Forces and the Attorney General. In terms of Commander British Forces, I recall being in a position to put forward, wearing of course a very different hat, some demands on his time onboard HMS Endurance as a hydrographer when it was necessary to review the soundings and the tide lines and everything relating to New Haven and Port Howard and of course you now leave these shores when that seems to be very much a reality for the development of West Falklands and I would like to thank you for that, I would also like to congratulate you on your appointment as hydrographer.

To the Attorney General, David you did support me immensely in my time as Falkland Islands Government Representative, I have been a Councillor off and on, and you have continued to support me in this role. I would wish you the happiest retirement here in the Falklands. I am always very grateful and I think we should always be very privileged to find folks such as yourselves who wish to set up home here, because without that new generation coming through the Falklands would not survive in the future.

Honourable Members, I think the Motion for Adjournment is carried, the House stands adjourned accordingly.

Confirmed this 17th day of November 2006

Speaker of the House.



RECORD OF THE MEETING
OF THE LEGISLATIVE COUNCIL
HELD IN STANLEY
ON FRIDAY 17TH NOVEMBER 2006

**RECORD OF THE MEETING OF THE LEGISLATIVE COUNCIL
HELD IN STANLEY ON FRIDAY 17 NOVEMBER 2006**

THE SPEAKER OF THE HOUSE
(Mr Darwin Lewis Clifton OBE)

MEMBERS (Ex-Officio)

The Honourable Chief Executive
(Mr Christopher John Simpkins)

The Honourable the Financial Secretary
(Mr Derek Frank Howatt)

Elected

The Honourable Dr Andrea Patricia Clausen
(Elected Member for Stanley Constituency)

The Honourable John Richard Cockwell
(Elected Member for Stanley Constituency)

The Honourable Dr Richard Andrew Davies
(Elected Member for Stanley Constituency)

The Honourable Ian Hansen
(Elected Member for Camp Constituency)

The Honourable Mike Rendell
(Elected Member for Camp Constituency)

The Honourable Janet Robertson
(Elected Member for Stanley Constituency)

The Honourable Richard James Stevens
(Elected Member for Camp Constituency)

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

PERSONS ENTITLED TO ATTEND

The Attorney General
(Mrs Melanie Louise Best Chilton)

CLERK: Claudette Anderson MBE

PRAYERS: Reverend Kathy Biles

APOLOGIES

The Commander British Forces South Atlantic Islands
(Brigadier Nicholas Roy Davies MBE, MC)

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The Record of the meeting of Legislative Council
held on Friday 17th November 2006

PRAYERS

Mr Speaker

Honourable Members, I bid you good afternoon.

Clerk of Councils

The confirmation of the record of the meeting of Legislative Council held on 22nd September 2006.

Mr Speaker

Honourable Members, I have before me a record of that meeting would you please kindly confirm that I may sign off this record as a true account of that business?

Agreed

Clerk of Councils

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 Legislative Council and laid on the table pursuant to (Section 34(1)) of the Interpretation and General Clauses Ordinance 1977.

- Building Designation (The Cottage, Beaver Island) Order 2006
- Coins (No 2) Order 2006
- Protection of Wrecks (Designation) Order 2006

The Honourable Chief Executive

Mr Speaker, Honourable Members, I hereby lay the aforementioned papers on the table.

Clerk of Councils

The Election of Elected Members to Executive Council

Mr Speaker

The Honourable the Financial Secretary and the Attorney General would you please act as tellers on the occasion of this election.

May we proceed then to the first ballot for a representative for Stanley.

In respect of the election for a Member to serve on Executive Council for Stanley the Honourable Michael Victor Summers is so elected.

We now proceed to the election for a Member for the Camp constituency.

For Executive Council as a Camp representative the Honourable Michael Rendell is so elected.

Now we proceed to a representative for either Stanley or Camp.

For a Legislative Councillor to serve on Executive Council representative for either Stanley or Camp the Honourable Dr Andrea Clausen is so elected.

To summarise, the election for a Stanley representative, the Honourable Michael Victor Summers, as a Camp representative, the Honourable Michael Rendell and for a representative to serve either Stanley or Camp, the Honourable Dr Andrea Clausen.

Clerk of Councils

Order of the Day: Bills

The Criminal Appeal Bill 2006. This Bill has been published in the Gazette so we therefore go to the second reading.

The Honourable Chief Executive

Mr Speaker, Honourable Members I beg to move the second reading of the Bill.

The Honourable Financial Secretary

I second the Motion.

Mr Speaker

The Motion is that the Bill be read a second time, is there any objection to the Motion? The Honourable Michael Summers.

The Honourable Mike Summers OBE

Mr Speaker, I beg to move that the Bill be referred to a Select Committee of the House.

The Honourable Dr Andrea Clausen

I second the Motion.

Mr Speaker

The Motion is carried that the Bill be referred to a Select Committee of the House.

Clerk of Councils

The Police and Criminal Evidence Bill 2006. This Bill has also been published in the Gazette and we go to the second reading.

The Honourable Chief Executive

Mr Speaker, Honourable Members I beg to move the second reading of the Bill.

The Honourable Financial Secretary

I second the Motion.

Mr Speaker

The Motion is that the Bill be read a second time, is there any objection to the Motion? The Honourable Michael Summers

The Honourable Mike Summers OBE

Mr Speaker, I beg to move that the Bill be referred to a Select Committee of the House.

The Honourable Ian Hansen

I second the Motion.

Mr Speaker

The Motion is carried that the Bill be referred to a Select Committee of the House.

The Honourable Mike Summers OBE

Mr Speaker may I propose that both Bills be referred to the same Select Committee?

Mr Speaker

Does any Honourable Member disagree with the proposal? No, therefore both Bills will be referred to the same Select Committee.

Clerk of Councils

The Motion for Adjournment

The Honourable Chief Executive

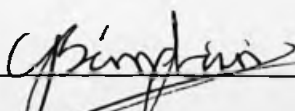
Mr Speaker, Honourable Members I beg to move that this House stands adjourned *Sine Die*.

Mr Speaker

The Motion is that this House stands adjourned. Does any Honourable Member wish to speak? No Honourable Member wishes to speak, the Motion is so passed.

The House stands adjourned *Sine Die*.

Confirmed this 15th day of December 2006



Speaker of the House



RECORD OF THE MEETING
OF THE LEGISLATIVE COUNCIL
HELD IN STANLEY
ON FRIDAY 15TH DECEMBER 2006

**RECORD OF THE MEETING OF THE LEGISLATIVE COUNCIL
HELD IN STANLEY ON FRIDAY 15th DECEMBER 2006**

The Honourable Chief Executive
Acting Speaker of the House
(Mr Christopher John Simpkins)

MEMBERS (Ex-Officio)

The Honourable the Financial Secretary
(Mr Derek Frank Howatt)

Elected

The Honourable Dr Andrea Patricia Clausen
(Elected Member for Stanley Constituency)

The Honourable Dr Richard Andrew Davies
(Elected Member for Stanley Constituency)

The Honourable Ian Hansen
(Elected Member for Camp Constituency)

The Honourable Mike Rendell
(Elected Member for Camp Constituency)

The Honourable Janet Robertson
(Elected Member for Stanley Constituency)

The Honourable Richard James Stevens
(Elected Member for Camp Constituency)

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

PERSONS ENTITLED TO ATTEND

The Acting Attorney General
(Rosalind Catriona Cheek)

The Commander British Forces South Atlantic Islands
(Brigadier Nicholas Roy Davies MBE, MC)

CLERK: Claudette Anderson MBE

PRAYERS: Reverend Kathy Biles

APOLOGIES

THE SPEAKER OF THE HOUSE
(Mr Darwin Lewis Clifton OBE)

The Honourable John Richard Cockwell
(Elected Member for Stanley Constituency)

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WRITTEN QUESTION

Written Question number 01 of 2006 by the Honourable Mike Summers

The Record of the meeting of Legislative Council
held on Friday 15th December 2006

PRAYERS

Clerk of Councils

Under the Constitution of the Falkland Islands section 33 (1)(c) the appointment of Christopher John Simpkins to preside at a meeting of the Legislative Council in the absence of the Speaker.

In exercise of my powers under section 33 (1)(c) of the Constitution and of all other powers enabling me in that behalf, I Alan Edden Huckle, Governor of the Falkland Islands appoint Christopher John Simpkins to preside at the meeting of the Legislative Council to be held on the 15th of December 2006 during absence overseas of the Speaker. Dated this 11th day of December.

Signed AE Huckle, Governor.

The Oath of Allegiance, the Commander British Forces.

Mr Acting Speaker

Before taking the confirmation of the record of the last meeting, I want to take this opportunity to extend a warm welcome to Brigadier Nick Davies to his first meeting of Legislative Council and to express the hope that both he, his wife Sue and their children enjoy their stay in the Falkland Islands. Welcome Nick.

Clerk of Councils

The confirmation of the record of the meeting of Legislative Council held on Friday 17th November 2006

Mr Acting Speaker

You have received the record of the last meeting, is it your wish that I sign them as a correct record?

Agreed

Clerk of Councils

Papers to be laid on the Table by the Honourable Financial Secretary

Copies of subsidiary legislation published in the Falkland Islands Gazette since the last sitting of Legislative Council and laid on the table pursuant to (Section 34(1)) of the Interpretation and General Clauses Ordinance 1977.

- Coins (No 2)(Amendment) Order 2006

The Honourable Financial Secretary

Mr Speaker, Honourable Members, I hereby lay on the table the paper named by the Clerk.

Clerk of Councils

Questions for Oral Answer

Question number 17 of 2006 by the Honourable Dr Richard Davies

The Honourable Dr Richard Davies

Can the Honourable Janet Robertson advise this House if she is satisfied that FIG have adequate legal powers to promptly assess and deal with environmental threats caused by shipping accidents near our coasts? Does the Falkland Islands Government have adequate powers to reclaim costs which might be incurred by them in assessing and dealing with such threats?

The Honourable Janet Robertson

Thank you, Honourable Richard Davies. I would like to say that I am very grateful to the Attorney General's department for supplying the answer to this.

The Governor has the power under section 12 of the Prevention of Oil Pollution Act 1971 to take a wide range of steps if the Governor is of the opinion that oil from the ship will or may cause pollution on a large scale and is also of the opinion that the use of the powers conferred is urgently needed. The obvious limitations on the powers available are in cases where pollution or the potential pollution resulting from an accident to a ship is not on a large scale.

The Oil in Territorial Waters Ordinance 1960 does allow for prosecution in relation to oil spills. It has the effect of imposing a requirement upon

those responsible to take all reasonable steps as soon as practicable to stop or minimise an escape of oil. If those steps are not taken, a prosecution can result.

The Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997, this creates a civil liability for some forms of pollution such as any damage caused by contamination resulting from the discharge oil; (b) for the cost of measures reasonably taken after the discharge or escape; and for any damage caused by any of the measures taken above.

It should be noted that the Order only has the effect of creating a civil liability. A claim may have to be enforced through the courts, and difficulties could arise should the party liable not be present in the jurisdiction.

In addition, a significant restriction upon the effectiveness of the Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997 is the fact that oil is defined as persistent hydrocarbon mineral oil. That definition does not include Marine Gas Oil (MGO), so no civil liability is created by this provision in the case of a spill involving MGO.

Briefly in answer to your question, I would suggest that our legislation is not satisfactory. The definition of a large scale will cause some problems and what may have been considered large scale in 1971 is not what we would call large scale or of immediate threat now. We also have the issue that whereas we do have measures in relation to hydrocarbon mineral oil we do not have any measures in relation to MGO and I think that is something we should address.

The Honourable Dr Richard Davies

I thank the Honourable Janet Robertson for a very comprehensive reply which makes further questions on this, it seemed clear to me that the key points were what defines large scale pollution because a relatively small scale incident might be actually very significant to our pristine environment. Clearly, what constitutes when it becomes urgent to use these powers needs to be defined and that in turn means that we need to be able to make a prompt and adequate assessment of an incident, so I take it from your answer that there is an intention to review the legislation?

The Honourable Janet Robertson

I do not think any intention has been stated as such, but I think that that is something that we Councillors have responsibility to do if that is how we wish to proceed.

The Honourable Mike Summers

Is the Honourable Member aware whether any of our legislation either pollution legislation or licensing legislation makes any reference to a requirement for insurance for vessels fishing in or near coastal waters and is the Honourable Member aware that there is a distinct possibility that the vessel coming to take the fuel oil from the stricken Holberg may not carry insurance?

The Honourable Janet Robertson

I have to say that I cannot answer the first part of your question and I was certainly not aware of the second part and I am not sure whether the Acting Attorney General could provide a more thorough answer.

The Acting Attorney General

I am afraid I am not in a position to provide a more thorough answer today Mr Speaker, but I will endeavour to provide a written answer to the Clerk as soon as possible.

Written Response to Question

The first part of Councillor Summers' question was whether fishing vessels are required to hold insurance as a licence condition of a Falkland Island fishing licence. The answer is that there is no such requirement (as was indicated by Councillor Clausen at LegCo, who believed that to be the case).

Secondly, Councillor Summers queried whether vessels were otherwise required by law to hold insurance [in Falkland Islands waters]. The only obligation by which vessels might be required by law to hold insurance is under the provisions of the Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997. The requirement to hold relevant insurance under that Order applies only to "ships carrying in bulk a cargo more than 2,000 tonnes of oil of a description specified in regulations made by the Governor". Relevant insurance means insurance which complies with Article VII of the Convention on Civil Liability for Oil Pollution Damage 1992. To date, no regulations have been made by the Governor, so those provisions of the Order have no effect.

Further Supplementary from Marine Officer – Jon Clark

There is no UK or international law requiring ships or goods to be insured except as you mention in respect of pollution liability for owners of certain ships. However, shipowners should protect themselves by self-insuring. Effectively this means that owners with deep coffers may carry their own Hull and Machinery cover. Examples are Government owned ships, such

as the RN or RFA or the Scottish Fishery Protection Agency which all cover their own risks. In the private sector large shipping lines such as Alfred Holt & Co. cover their own risk in respect of their Blue Funnel Line vessels. The lack of legislation also of course permits unscrupulous owners to make savings on insurance premia. The Greek Owner of the tanker "Queen of Vevey/Madmal" which was dumped in Port William a few years ago would be a prime example! Closer to home, FIG carries its own H&M insurance on FIPASS, but does have P&I insurance which includes wreck removal in Stanley Harbour, P William and Berkeley Sound.

The range of risks which may be insured carries many options. To draw an analogy with car insurance, We can satisfy the requirements of the Road Traffic Act/Ordinance by taking out Third Party Liability insurance, but by paying higher premia, this could be extended to cover fire and theft or we could consider full Comprehensive insurance and possibly some additions such as no-claims bonus protection or windscreen replacement insurance.

The shipowner or manager MAY purchase marine insurance cover against:

- actual total loss or constructive total loss of a ship's hull, machinery and equipment (H&M cover)
- accidental (particular average) damage to a ship's hull, machinery and equipment (H&M cover)
- liability to owners of other vessels (or their cargoes) with which the ship might collide (collision liability)
- liability for general average charges
- liability for salvage charges
- liability for damage done by a ship to a third party's property
- liability for other third party risks (eg cargo claims, personal injuries, pollution wreck removal costs etc - P&I risks)
- liability for oil pollution claims
- loss of earnings from strikes
- loss of earnings from operation of war risks
- loss of freight
- loss of charter hire (eg vessel goes "off hire" after damage or breakdown)
- increased value, disbursements and excess liabilities (an additional source of recovery over and above the hull and machinery insured value in case of total loss)
- employer's liability to workers

Obviously not all the above will apply to fishing vessels. Apart from the last category, employer's liability to workers (crew), which will normally be a flag state requirement enshrined in the country's employment legislation, most of the possible insurances are optional.

The UK Receiver of Wreck (RoW) confirms that the law in the UK as to the powers of the RoW are as enshrined in Part IX of the 1995 Merchant Shipping Act (which apart from certain sections adopted under the 2001 Registration of Ships Ordinance/Regs does not apply in the Falkland Islands). Applicable law in the FI is Part IX of the 1894 MS Act, which in fact does not differ substantially from the 1995 Act.

Both Acts permit the removal of a wreck by a harbour or lighthouse authority if the wreck poses an obstruction to safe navigation. The wreck may be sold to offset expenses of salvage, though if the wreck has been declared a total constructive loss by insurers, it is unlikely that costs will be recouped.

In the event that a wreck poses no particular hazard which might trigger the powers of removal by one of the bodies mentioned the last paragraph, there are no additional powers available by which an owner can be compelled to remove a wreck. The RoW described this situation as "a horrible grey area." They went on to cite certain cases in the UK where ships have been abandoned after stranding in navigable rivers and it has fallen to local councils or even individual landowners adjoining the wreck site to arrange disposal or removal. The grey area is of course that the owner of the vessel still retains title to that ship unless official notice of abandonment is given, which, I understand, rarely happens. This is worked around by posting a notice on the wreck stating the intention to remove unless action is taken by the owner by a certain date. Legal action is rarely effective because in most cases the owner resides or has his place of business in a different country/jurisdiction.

The Honourable Dr Andrea Clausen

It is my understanding that it is not a requirement for a fishing vessel to have insurance under its licence conditions, I would need to seek further clarification on that but it is my understanding that that is the case.

The Honourable Janet Robertson

It is true that as far as I am aware fishing vessels do not require specific insurance for oil spills.

Clerk of Councils

Question number 18 of 2006 by the Honourable Dr Richard Davies.

The Honourable Dr Richard Davies

Can the Honourable Dr Andrea Clausen advise this House regarding the following, Falkland Islands Fisheries Department have the primary responsibility for co-ordinating response to oil spills in our waters. Is she

satisfied that we have contingency plans, appropriate resources and skills to properly and promptly assess and control oil spills? Is the plan reviewed and skills practiced on a regular basis?

The Honourable Dr Andrea Clausen

Mr Acting Speaker, Honourable Members, I thank the Fisheries Department for assistance with the answer to this question.

The Falkland Islands National Oil Spill Contingency Plan was formulated by a UK consultancy company, Oil Spill Response Ltd., in preparation for the hydrocarbon drilling round which took place in 1998. It has been updated since as required to reflect changes in personnel, although the overall strategy sections remain unchanged and I would like to add that is a public document which is available in the public library and can be collected from the Fisheries Department.

A quantity of oil containment equipment sufficient to deal with small spills of oil was purchased at that time. It was recognised that any large persistent oil spill would require outside assistance probably deployed from the UK.

Initially, training courses on the Plan and deployment of equipment were held here in Stanley for Fisheries Department, FIDF, PWD and other Government and non-Government Departments as appropriate by personnel from Oil Spill Response Ltd.

There is a sufficient small nucleus of persons at the Fisheries Department trained in the use of the oil spill containment equipment to deploy it effectively. However, the Fisheries Department does not have the manpower or full resources to deploy the equipment over extended periods of time without calling on outside assistance as required, such as sea or land transport, dependent on location and additional labour. The heavy and bulky nature of some of the equipment such as containment booms increases the labour requirement.

The mounting of a deployment to a remote location would require considerable logistical planning to provide transport to the site and provision of a working base in close proximity to the area. For instance the deployment of booms would require not only the provision of a base vessel, but also the use of fairly powerful boats. Good communications and health and safety back-up are also paramount.

The Plan has been exercised as part of larger joint Search and Rescue exercises with the military, although some of the equipment has been used in real-life scenarios during minor spills in the harbours. I have to add that a full live exercise has not actually taken place since 1990, although a number of desktop exercises with the military have taken place.

The Honourable Dr Richard Davies

I thank the Honourable Dr Andrea Clausen for again a very comprehensive answer, so my understanding is that we have got a contingency plan and equipment which is adequate to deal with relatively small spills in the vicinity of Stanley and that for larger incidents we would require external resources and I can understand that, we do not necessarily have the resources to deal with every possibility. Do I understand from what you said that relatively small spills in remote areas as the Holberg incident are ones where we are inevitably going to have to ask for external assistance.

The Honourable Dr Andrea Clausen

I think it does depend on the actual incident that takes place, in this case it was judged because of the nature of the marine gas oil and as a result of the aerial surveillance which took place that it was not deemed a feasible exercise to try and move all of the equipment out to that location. Booms for example work much better in calm conditions and, at the time, the weather was not perhaps the most suitable. Marine gas oil does tend to evaporate quickly especially if broken up in chopping conditions and that was the advice that we had at the time. I would like to further add that there is the possibility of FIG retaining international oil spill response companies and in the past this has been considered, but has been deemed to be overly expensive considering the risks that we are susceptible to. I think perhaps that might change if in the future we had an offshore hydrocarbon industry for example, but at the moment it is currently deemed that the costs are probably prohibitive considering the relatively low level of risk that is expected. Of course, this is probably the first really significant incident in twenty years of the fishing industry being in action. I know there was another one in Port William but two incidences in twenty years and it has been deemed to be not cost effective too as it is a year on year cost which would be significant to have such a response. Furthermore, from major spills that have taken place around the world and this is by no means an excuse for not doing anything because I absolutely feel that where necessary we should do our utmost to prevent and then to clean up any environmental disaster. The success rates on clean ups even where companies have had every resource possible at their disposal have usually recovered in the 10-20% of oil spilled, so it is sadly not a very high success rate even when they do deploy everything people have.

The Honourable Dr Richard Davies

Thank you very much, would you agree with me then that rather than putting a lot more resource into the containment of oil spills what we need to do is reduce the risks of them happening in the first place?

The Honourable Dr Andrea Clausen

Absolutely. If indeed I am correct about the fishing licences for example not having any condition to have insurance then that is certainly one thing that needs looking at but there are a number of other things. I think it would be fair to say that when this whole incident has reached some kind of a conclusion, we need a thorough report on this and to look at all lessons learnt so that we can examine exactly where we need to look to see where we need to improve what we have.

Clerk of Councils

Question number 19 of 2006 by the Honourable Mike Rendell

The Honourable Mike Rendell

Could the Honourable Janet Robertson explain why new restrictions have been introduced on items permitted to be carried as hand baggage on all international flights leaving the Falkland Islands? Could she also confirm the amount of any additional costs incurred, if any, as a result of these changes, and if there are additional costs, who will pay for them?

The Honourable Janet Robertson

I am grateful to the Civil Aviation Department for the reply to this question.

The very serious aviation security alert in the UK in August led to the identification of a pressing need to develop counter-measures to a novel form of potential terrorist attack on aviation, involving improvised explosive devices using a liquid-based explosive.

New security measures, which in particular place controls on liquids able to be taken aboard aircraft, have since been adopted across all EU Member States. These measures match very closely those adopted in the USA and Canada for the same purpose, and the International Civil Aviation Organisation has advised ICAO Contracting States to implement the extra security measures. As the UK is signatory to Annex 17 of Chicago Convention for both itself and its Overseas Territories, these new baseline security measures have been implemented, with commendable speed, in the Overseas Territories.

In answer to the next part of the question, under the user pays principle, it will be for the aviation industry to meet any associated costs, which they may seek to pass through passengers.

The Honourable Mike Rendell

I am surprised that we are not able to come up with any additional costs. That was really the base of my question, to find out what the additional costs were going to be. I would ask that that information be provided as soon as it can.

The Honourable Janet Robertson

I appreciate your question and we shall be looking at it further in further detail.

The Honourable Mike Rendell

An observation that I would like to make on this is that about six weeks ago I travelled right across the southern hemisphere to western Australia and back and saw no precautions similar to the ones that are being introduced here in Australia and New Zealand, countries which you would expect to recognise a threat if there was one and I wonder if the Honourable Member would like to make a comment on whether there is a perception that we do have a threat of this sort in the Falklands. I can understand the issue in the northern hemisphere particularly in the UK, America and Canada, but I find it difficult to understand that we have the same level of threat here, would you like to comment on that.

The Honourable Janet Robertson

Yes, I can comment in general terms and I do sympathise with the point of view and I think all of us who have experienced the security measures will concur. Quite clearly, I do not think that anybody really believes that we have anything like the same level of security threat, if any, here in the Islands. The fact remains that we are an overseas territory of the United Kingdom and we fall under the regulations to which they comply and that is the way our civil aviation industry works in the Falklands and unless we want to radically change the way we run our civil aviation, indeed if could, I think we will have to abide by the measures taken.

Clerk of Councils

Orders of the Day: Bills

The Supplementary Appropriation (2006/2007) (No2) Bill 2006. This Bill requires a first reading.

The Honourable Financial Secretary

Mr Speaker, Honourable Members, this is the second Supplementary Appropriation Bill to be presented for the current financial year. In addition to the sum of £41,596,620 already appropriated, the purpose of this Bill is to authorise the withdrawal of £1,067,990 from Consolidated Fund to meet supplementary expenditure approved by the Standing Finance Committee. From this total sum a net amount of £730,990 was approved at a meeting held on 17th November as a result of a budget review. During the review supplementary expenditure of £936,990 was approved under ten heads of service for fifteen different budget items. Saving of £206,000 from four budget items were identified to produce a net supplementary expenditure requirement of £730,990. This was allocated to a Treasury budget reserve from where it has been distributed by virement to the relevant departmental budgets. I should add that six applications for supplementary expenditure amounting in total to £196,500 were not approved. Furthermore additional revenue of £1,204,480 was noted and taken into account giving a net operating budget reduction of £473,490. Details of all the budget adjustments are recorded in the open minutes of that Standing Finance Committee meeting.

The Bill provides for the Contingency Fund to be replenished to the extent of any advances made with respect to this net supplementary expenditure. The balance of supplementary expenditure of £337,000 was approved by the Standing Finance Committee yesterday under the Transfer Payments budget in order to fund FIDC for the continuation of the Coastal Shipping Service from the 1st December 2006 to the 30th June 2007.

I beg to move the first reading of the Bill.

The Honourable Mike Summers

I second the Motion.

Mr Acting Speaker

The Motion is that the Bill be read a first time. Any objection to the Motion? No objection, the Bill will be read a first time.

Clerk of Councils

The Supplementary Appropriation (2006/2007) (No2) Bill 2006

Mr Acting Speaker

Does any Member wish to speak to the Bill

The Honourable Mike Summers

Mr Acting Speaker, could I just ask the Financial Secretary to confirm that discussions in relation to additional funding required to run the *Tamar* were held in the open section of the Standing Finance Committee and therefore the reasons for that being necessary have been recorded in a public minute or if it has not, would he explain why the additional amount is necessary.

The Honourable Financial Secretary

I can confirm that discussion on the request for supplementary expenditure of £337,000 for the continuation of the coastal shipping service was considered by Standing Finance Committee in the open section and was approved and will be recorded as such in the minutes.

The Honourable Financial Secretary

I beg to move that the Bill be read a second time.

Mr Acting Speaker

The Motion is that the Bill be read a second time. Does any Honourable Member wish to speak to this Motion? No objection the Bill will be read a second time.

Clerk of Councils

The Supplementary Appropriation (2006/2007) (No2) Bill 2006

Mr Acting Speaker

Council is in Committee

Clerk of Councils

Clauses 1 to 3.

The Honourable Financial Secretary

I beg to move that clauses 1 to 3 stand part of the Bill.

Mr Acting Speaker

The Motion is that clauses 1 to 3 stand part of the Bill. Any objection to the Motion? No objection, clauses 1 to 3 stand part of the Bill.

Clerk of Councils

Schedules 1 and 2

The Honourable Financial Secretary

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

Mr Acting Speaker

The Motion is that the Schedules stand part of the Bill. Any objection to the Motion? No objection, the Schedules stand part of the Bill.

Council resumes.

The Honourable Financial Secretary

I beg to move that the Bill be read a third time and do pass.

Mr Acting Speaker

The Motion is that the Bill be read a third time and do pass. Any objection to the Motion? No objection, the Bill will be read a third time and passed.

Clerk of Councils

The Supplementary Appropriation (2006/2007) (No2) Bill 2006.
Companies (Amendment) Bill 2006. This Bill has been published in the Gazette and we therefore go to the second reading.

The Honourable Financial Secretary

Mr Speaker, Honourable Members, this is a highly technical Bill and it is not quite an easy read as the Tax and Finance Bills that I am accustomed to introduce. The Bill was drafted by our overseas draftsman Lesley Furlonger and the drafting instructions were prepared by the former Attorney General, David Lang. Lesley Furlonger, a former parliamentary draftsman, has considerable experience in Falkland Islands law as she has drafted most of our taxes and pensions legislation in the past twelve years. The fifteen page Bill consists of ten sections and two schedules it is accompanied by a nine page explanatory memorandum which is supported by a seventy eight page appendix.

The purpose of the Bill is to bring our law on Company accounts and audit and other matters into line with standards set in the United Kingdom and the European Union. There are some differences to take account of for the local situation but in general the move away from the Companies Act 1948

to the 1985 requirements as in effect in 2006 will bring the Falkland Islands law into line with the European equivalent law. The 1948 Act as it now applies in the Falkland Islands continues to be that Act as was enforced in 1950. Significant and important amendments made to that Act as is applied in England have not been applied here. Similarly the repeal of the 1948 Act and its replacement by the 1985 consolidation which has itself, been significantly amended over the years has not been applied here.

This Bill is not proposing a replacement of the 1948 Act in full but does provide a significant modernisation of important areas of Company law in the Falkland Islands. The Bill applies specific provisions of the Companies Act 1985 as they are in effect in England on the 1st September 2006 in the Falkland Islands. In accordance with section 80 of the Interpretation and General Clauses Ordinance all subordinate legislation made under those provisions on or before the 1st December 2006 will also be applied. By virtue of section 77 of that Ordinance all reference to the Secretary of State will become references to the Governor so that after that date subordinate legislation under the applied provisions will be made by the Governor as advised by Executive Council.

The Bill makes specific modifications of the applied provisions where necessary. The explanatory memorandum highlights the changes to be affected by the application of the 1985 Act. However, in practice many companies already comply to a large extent with the 1985 Act requirements so it is anticipated that what appears to be a significant change will not necessarily be very burdensome for the companies concerned. In some instances the change will allow more freedom for the companies to conduct their affairs as they wish. The application of the 1985 Act provisions which are set out in detail in the appendix to the explanatory memorandum will result in clearer law which is consistent with international practice and standards.

I should add that it has recently come to light that the appendix as published does not include all the references to the applied 1985 Act provisions, therefore a revised appendix will be issued as soon as possible. As the appendix is an annex to the explanatory memorandum it does not form part of the law and any inadvertent admissions in the appendix do not need to delay the consideration of this Bill. The development of the Bill has taken several years to complete; lengthy consultations were taken place on the content and drafting of the Bill with the local accountancy profession and the Chamber of Commerce. Many company accounts will no longer require audit thus saving money as overseas auditors will no longer be required. The Bill provides that the changes with respects to accounts and audit would have affect in relation to the financial year of companies which begins on or after 1st January 2007.

I beg to move the second reading of the Bill.

The Honourable Mike Summers

I second the Motion.

Mr Acting Speaker

The Motion is that the Bill be read a second time, any objection to the Motion? No objection the Bill will be read a second time.

Clerk of Councils

Companies (Amendment) Bill 2006

Mr Acting Speaker

Council is in Committee.

Clerk of Councils

Clauses 1 to 10.

The Honourable Financial Secretary

I beg to move that clauses 1 to 10 stand part of the Bill.

Mr Acting Speaker

The Motion is that clauses 1 to 10 stand part of the Bill. Any objection to the Motion?

The Honourable Mike Summers

Mr Acting Speaker, I do not object to the Motion but I would like to speak on some issues relating to this Bill.

As the Financial Secretary has alluded to, I think the first drafts of this new legislation were produced in or prior to 1996 when I was still General Manager at the FIDC, so I do not think we can be accused of rushing into this.

There are a number of changes brought about by this legislation that are very welcomed by the business community. The reduction of administration costs and the ability to purchase ones own shares which provides much more flexibility in running a small closely held company that is very much to be welcomed. I said at the time that we first saw this legislation and I have to repeat it now that I do not like this type of legislation, not the content but the way that it is produced because it makes reference to UK legislation and you have to cross reference any

number of documents to be able to understand it, it is very complicated. All Members in this House at one time or another have talked about issues of openness and transparency. Openness and transparency are not only to do with holding meetings in public and making information public but is also to do with having law that is clearly written and clearly understandable. You do not necessarily have to be and should not necessarily have to be a lawyer to understand the law that affects you or your business or what you are doing. So, I hope when we move further along the track of introducing and or revising company law we bear this issue in mind. It really is not helpful to have such complicated drafting. Nevertheless, the new explanatory memorandum is very helpful and we do appreciate that that has been produced, but it is not the law, and you can read the explanatory memorandum and think you understand the law but if there is a difference between it and the law it is of course the law that prevails and not the explanatory memorandum.

In the consultation on this Bill, there were concerns raised about the levels of exemptions available and the values put on what was a small company, a medium size company and a large company. There was quite an active discussion in the Chamber of Commerce on this issue the other day and some valid points were made in various directions. I think therefore that whilst we would all want to proceed with this Bill at this stage it will be necessary to come back and look at this and make sure that those that values are put on small, medium and large companies are appropriate in all the circumstances.

Finally, I would just like to put down a marker and perhaps ask the Attorney General's Chambers to provide advice to Executive Council in due course what the schedule is for the preparation of new law in respect of the rest of the Companies legislation.

Mr Acting Speaker

Thank you, does any other Honourable Member wish to speak?

The Honourable Dr Andrea Clausen

Thank you, Mr Acting Speaker, I would just like to ask the Financial Secretary if he could inform us how this Bill will interact with current audit limits which are set under the Taxation legislation. This was also an issue that was raised at the consultation that we had at the Chamber of Commerce.

The Honourable Financial Secretary

Mr Speaker, Honourable Members under the Taxes legislation accounts have to be submitted in accordance with the companies legislation which at the moment means that all the company accounts have to be audited,

but by extra statutory concession the only companies with turnover in excess of £350,000 have to submit audited accounts. If this new legislation is passed it will increase those limits under the legislation and so therefore that extra statutory concession will fall away because the turnover of the small companies is much higher than that in the companies legislation.

The Honourable Dr Andrea Clausen

Just to confirm this new piece of legislation will override that that is currently in the Taxes legislation.

The Honourable Financial Secretary

It will override the extra statutory concession, yes.

Mr Acting Speaker

Does any other Honourable Member wish to speak? No objections then, clauses 1 to 10 stand part of the Bill.

Clerk of Councils

Schedules 1 and 2.

The Honourable Financial Secretary

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

Mr Acting Speaker

The Motion is that schedules 1 and 2 stand part of the Bill. Any objection to the Motion? No objections, the schedules stand part of the Bill.

Council resumes.

The Honourable Financial Secretary

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

Mr Acting Speaker

The Motion is that the Bill be read a third time and do pass. Any objection to the Motion? No objection. The Bill be read a third time and passed.

Clerk of Councils

Companies (Amendment) Bill 2006

Falkland Islands Status (Amendment) Bill 2006. This Bill has been published in the Gazette and requires a second reading.

The Honourable Financial Secretary

Mr Speaker, Honourable Members, the purpose of this Bill is to amend the Falkland Islands Status Ordinance to give affect to the policy decision of Executive Council on the 27th July 2006, that ceremonies and a pledge for the grant of status should be introduced. In order to facilitate this important last step in the process for obtaining Falkland Islands Status the Bill provides that applications shall be considered quarterly by Executive Council in January, April, July and October and that the ceremonies shall be held with approximately one month following the grant of status. The ceremonies are to be presided over by the Governor or a person delegated by him. The wording of the pledge is also prescribed under the Bill. I should just add that the word "amendment" in brackets appears in clause 2 of the Bill, this is a typo and I propose that it be removed.

I beg to move the second reading of the Bill with the proposed amendment.

The Honourable Janet Robertson

I second the Motion.

Mr Acting Speaker

The Motion is that the Bill as amended be read a second time. Any objection to the Motion? No objection, the Bill will be read a second time. Does any Member wish to speak?

The Honourable Dr Richard Davies

I would just like to say a couple of words on the pledge that will be part of the ceremony of granting status in the future. Some people may think that a pledge is not terribly important but I think it has great symbolic value and I would like to express my satisfaction that the wording of the pledge has been made by the Falkland Island Councillors and not by the UK Government.

Clerk of Councils

Falkland Islands Status (Amendment) Bill 2006

Mr Acting Speaker

Council is in Committee

Clerk of Councils

Clauses 1 and 2

The Honourable Financial Secretary

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

Mr Acting Speaker

The Motion is that clauses 1 and 2 stand part of the Bill. Any objection to the Motion, No objection, clauses 1 and 2 stand part of the Bill.

Clerk of Councils

Schedule

The Honourable Financial Secretary

I beg to move that the schedule stand part of the Bill.

Mr Acting Speaker

The Motion is that the schedule stands part of the Bill. Any objection to the Motion, no objection, the schedule stands part of the Bill.

Council resumes.

The Honourable Financial Secretary

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

Mr Acting Speaker

The Motion is that the Bill be read a third time and do pass. Any objection to the Motion, no objection the Bill will be read a third time and passed.

Clerk of Councils

Falkland Islands Status (Amendment) Bill 2006

The Motion for Adjournment

The Honourable Financial Secretary

I beg to move that this House stands adjourned *Sine Die*.

The Honourable Mike Summers

I second the Motion

The Honourable Dr Richard Davies

Mr Acting Speaker, Honourable Members, I would like to start by welcoming the Commander British Forces, Brigadier Nick Davies to his first Legislative Council. I hope you have an enjoyable and useful tour of the Falkland Islands. I was hoping to welcome a second person to the Falklands today, Lord Triesman, who is the Minister for Overseas Territories, I understand that his visit has been postponed due to a delay in the airbridge. This is of course regrettable and confirms the need to ensure that the airbridge is reliable link with the UK. Lord Triesman's visit, or his intention to visit, demonstrates in concrete terms, the importance that the UK attaches to its partnership with the overseas territories and that Britain continues to send a very clear message out to the international community that she firmly backs up our rights to self determination. It would have been a useful opportunity for Councillors to meet him face to face and discuss some very important issues. I hope that he will be able to reschedule his visit before too long.

The second thing I wanted to say today was a few comments on the image that the Falkland Islands presents abroad to the wider international community. I have had the opportunity to go on a number of overseas visits recently and I have always been struck by the ignorance of the reality of the Falkland Islands and our rights and our way of life by the international community. It is not hostility in general, it is just ignorance and whatever the focus of the meetings that we go on, be it economic, or environmental or political they do give us an extremely valuable opportunity to project the reality of the Falkland Islands today. A number of people have pointed out that what is a much more valuable than this, or even more valuable than Councillors and other people going and selling us abroad is the impression that visitors get when they come here to visit and see the reality for themselves. They see for themselves that the Falkland Islands are a self sufficient, self governing community with a long history of settlement and development of their homeland. I have to say it has become very clear to me that it is the Falkland Islanders here who are the best ambassadors for their country abroad. Many visitors I know go back to their countries and, whatever their political views or initial previous thoughts were, they go back and they comment that the Falkland Islanders are a decent, hardworking, hospitable and generous people that makes it very hard for them whatever their political views to deny that we

have rights and that we have rights to govern ourselves peacefully and democratically without external interference or hostility.

Perhaps a second point about our image abroad is that we have made a number of very important steps on environmental issues, we have signed up to the Kyoto Protocol, we have hosted a workshop on Albatross and Petrel conservation, we have contributed to the climate change debate at the European Union's overseas territories forum and for a long time the FOCZ have been a dolphin and whale sanctuary. I recently had a letter from the UK's IWC commissioner congratulating the people and Government of the Falkland Islands on their strong stance against commercial whaling. I think that not only are these things the right things to do but they do raise our international profile and show us to be a responsible part of the international community. I think that is a very important thing to do and to continue doing.

I won't go on much longer but I wanted to comment on the valuable and often unrecognised work that a large number of people in our community in their work with young people, we have got people voluntarily teaching children netball, football, we have got people doing a lot of work in music, we have got the Sea Cadets. Paul Freer has recently retired from running the Beaver Scouts, I understand Paul's worked with the Scouting movement was for about 40 years and I just wanted to thank him for his work here which has been valued by the children and their parents who go to Beavers, I know it has.

Finally I would like to wish everyone a Happy Christmas and particularly extend my best wishes to families who are divided for whatever reason but particularly for those who I am aware of who are on medical treatment overseas and so will not be having Christmas with their families.

Mr Speaker, I support the Motion.

The Honourable Richard Stevens

Mr Acting Speaker, Honourable Members there are just a few things that I would like to comment on. Firstly, I would also like to welcome Commander British Forces, Brigadier Nick Davies to Legislative Council and also to him, his wife and family to the Falklands and I hope you have a great tour here. Secondly, I'd just like to mention the student fees for our overseas students and how we are now going to pay home student fee rates and after a challenging year in the Education Department, it is nice to have some good positive news. I think it would be unfair for us or certainly the newcomers in this Council to take all the plaudits so I would like to thank the many councillors of the past and members of FIG who have lobbied in UK and worked very hard to bring about this outcome. It has been a process I am told, from Phyl Rendell, who was Director over ten years ago, that it was going on when she was in post so it is great that

finally we have got a result and hopefully it will save Government a lot of money.

Of course, once we talk about a lot of money then everybody would like to get their hands on it and the Education Department certainly would like to hang on to all or perhaps a lot of it because there are many areas where we would like to reinvest in a positive and sensitive way. Adult education seems to have diminished over the last few years, that is an area that could do with more money, developing the Leisure Centre think of developing a concept of Health of the Nation as investment of funds in that area, would in many people's view, be a saving in the long term. There are many other areas as well. People and parents have spoken to me (and I have to declare an interest) about the £1000 that was taken away from our higher education students and whether this could be reinstated, what I am saying is that there is a lot of areas where we could put this money in the Education Department and I can understand from the muffled laughter around the table that perhaps other people have got their eye on these funds.

It was great for me personally to be back on the West Falklands last weekend to discuss the Constitution. It was a shame that there were not more people there but of course it was a really nice day and most Camp people like to invest time on nice days out in the sticks, but anyway, we were there to discuss the Constitution and that is what we did. However, at Port Howard we were able to have a more relaxed few hours after the deliberations on the constitution and discuss a number of issues.

One of the things that was brought up was the possibility of visiting the West Falklands on a regular basis so that people on the West have a chance to have some kind of relationship with Councillors and the opportunity to have some face to face interaction and that is something that we are looking at. It something that would probably be really great to do once the ferry is in place and Camp Councillors could develop it, taking their vehicle over on the ferry and do a lot more constituency work.

They were some very positive feelings that I had by visiting the West. Another area away from Constitution and debate was flying over the Holberg and I know we have had a lot of discussion this morning about the effects of oil, but what it brought home to me was, it just beggars belief really how a large vessel was that close to terra firma. If it was a whale or something like that you would think that there was something wrong with it.

I also had the pleasure (I think) of going lamb marking at Walker Creek. We had a full day of working with some of the members of Walker Creek, North Arm and Goose Green, but why I am mentioning it is because we had the opportunity to drive down where there had been a severe fire on the coast a couple of years ago and sample and look at the work that FLH

has done in trying to stabilise this area with reseedling. We could look at where the natural species have come back and also where the grass has been introduced. Although the area is still a mess and no-one could say any different, there has certainly been some great work in stabilising this area and I think that should be recognised. Going into Walker Creek settlement and then looking at stock that have come off this area, those stock were in very good shape, in my opinion, and the lambs which were Duney Lambs which was one of the reasons that Toni and I were there were the result of cervical AI looked to be fairly good animals.

I would like to say that on top of hoping to go and visit the West Falklands on a regular basis I know there is also plans to go into Camp and have a Legislative Council meeting like this one where it might not be quite as stimulating as a murder mystery on TV but it will be a great way of getting Councillors and senior members of FIG into Camp for people to have great one to ones.

Finally, I would like to wish to everybody a Happy Christmas and especially to my areas of responsibility in Education, to the schools, the training centre, the leisure centre and I look forward to working with everybody next year. Sir, I support the Motion.

The Honourable Dr Andrea Clausen

Mr Acting Speaker, Honourable Members, I will be brief today because we nearly are at the beginning of the festive season. Firstly I would also like to add to colleges comments and welcome CBF Brigadier Nick Davies to this House and I hope that he finds it a useful part of our democratic government to be involved in and can take something useful from it.

Very briefly on the grounding of the Holberg, I do not wish to add very much further to the very useful discussions that we have had resulting firstly from today's question for oral answer but also for the written question that was submitted by the Honourable Mike Summers. It is very clear that a thorough report into this incident is going to be necessary and there are clearly a number of areas that need addressing and lessons to be learnt I would like to just add caution that we do not get into that now before we have reached what we call an appropriate conclusion to this incident. I would very much like to see all that happen but only when we have reached an appropriate conclusion.

On the allocation of Finfish ITQ, we are currently in the process of doing that and we are about to bring in to our new Fisheries legislation, the fin fishers which will hopefully take place on the 1st January so that is another fundamental marker in the sand in our fishing industry, so hopefully next time we meet in this House we will be there.

Finally, I would just like to wish everybody a very happy festive season and all the very best for our very special next year 2007. Thank you Mr Speaker.

The Honourable Ian Hansen

Mr Acting Speaker, Honourable Members in rising to support the Motion for Adjournment I would also like to begin by welcoming our new Commander British Forces. I hope Sir, that you and your family much enjoy your time here and when you look back on us in a few years hence you will look back on it as a productive and positive experience. I do hope also that you get the opportunity to visit much of the Islands and to sample and encounter the warm hospitality of the Islanders and I am sure you will be made welcome.

I have one portfolio issue to mention and that is FIGAS. I guess it has become an annual event that I praise the extra work of FIGAS staff at this time of the year, simply because it is a hugely busy period. This year is slightly different in as much that an event occurred, that many youngsters would not even remember happening before, and that was an accident within FIGAS. This accident on West Point Island resulted in the loss of an airframe. I think it speaks volumes for the hard work and efficiency of FIGAS that nobody, or at least to my knowledge, has felt the need to complain about any lack of effectiveness that this incident has had on the service provided. I think this is a huge compliment to FIGAS staff, the administration, the pilots, the engineers and the fire service in the way they have coped with this situation. It is not only a matter for praise; I think it a matter that we have to thank them for achievements. Of course, with one less airframe the difficulties will continue and I believe that we must ensure that the service does not suffer any longer than necessary.

I was going to speak a little about the consultation process on the Constitutional Review, but I think Councillor Stevens has covered what I was going to say. I would just like to thank those people who did take the time to attend the meetings at Camp and indeed here in Stanley. I think also perhaps we should acknowledge the amount of work that the Chair of the Select Committee, Councillor Summers has done. He has done a huge amount of work on the issue and I think we should thank him for that.

I am going to be very brief today, I would just like to thank Councillor Stevens for acknowledging that perhaps the FLH recovery plan has at least began to achieve some of the issues it addresses and for giving credit where credit is due.

Finally Sir, I too would like to take this opportunity to wish all in the Falklands a Merry Christmas and a Prosperous New Year.

Sir, I beg to support the Motion.

The Honourable Mike Rendell

Mr Acting Speaker, Honourable Members, I too would like to welcome Brigadier Nick Davies to our forum and to the Falklands and to other fora, I believe that we have a lot to talk about in relation to working together between the civil and military communities and this will be an ongoing progress. This leads me on to the subject which I wish to discuss today which is the new coastal shipping service. Executive Council yesterday gave approval for the contract to Work Boat Services Limited to be signed. This means that the new vessel aptly named Concordia Bay should arrive here as planned in June next year. Officially classified as an ocean going landing craft she will have to prove this very soon because she is going to make her way here all the way from Miri in Sarawak, north Borneo, half a world away. Whilst this is a significant step forward, there are however a number of infrastructural issues to be resolved, including one in particular which has created speculation in the press. However, no decision has been taken yet on the detailed proposal as to where the ferry head will be at Port Howard or at New Haven or for that matter where the construction details and these matters are still being worked on. The most important factor is to get it right and that may take a little longer yet. In considering the breadth of issues that need to be resolved and that there is a great deal of other construction work going on concurrently it becomes very apparent why progress on ferry heads is not perhaps as fast as some would like. The reality is that the whole infrastructure necessary to provide a fulltime ferry service across Falkland Sound is unlikely to be complete until the end of next season so that is March/April 2008. In the meantime a limited service will operate, details of which will become clearer in the next few months. In finishing, I would like to thank PWD and Work Boat Services Limited in particular for the considered approach to the task with which they are faced and to give them every encouragement in finding solutions, something which locals are well able to rise to the challenge.

I would like to end by wishing everybody a happy Christmas and a prosperous New Year. I support the Motion.

The Honourable Janet Robertson

Mr Acting Speaker, Honourable Members, I would like to start of course like everyone else, to welcome Brigadier Nick Davies to the Falklands. I hope that we can continue to work in the future together and try and do the things that are going to make our communities more closer together and I think with 2007 coming up that is an especially important time to do that.

I am just going to briefly and possibly a little bit boringly about the Constitution. I do feel a little bit of sense of déjà vu because it is about a year ago prior to the election we spent many hours sitting around

discussing issues of transparency in government and debate and here we are a year later and doing much the same thing. Admittedly though we had precisely four members of the public in the whole of Stanley who wished to continue the discussion, it was an absolutely gorgeous summer evening admittedly, maybe there was another reason, maybe it is because we all doing so fantastically well and everyone implicitly trusts us with the Constitution or maybe because it is just so tedious and uninteresting. I do not know I can accept the sunny evening bit as the weather is just far too good to miss but I know from the Penguin News last months that some of you certainly do not think that we are all doing a fantastic job and boring though the Constitution might appear to be it is important and it is important for all of us. In fact some of the bits in it are not boring at all and I think that if you can come along to the meeting on Tuesday you would not either, I will give you some of the examples that we really need to hear views on and we would like to have further debate on, for example, should Falkland Islands Status be revocable, should children who have acquired status through their parents lose it on becoming 18, should Councillors be fully paid, should there be eight members of EXCO or five or three, should EXCO continue to be closed to the public, how can we change and adapt things so that you know how we all think as individuals, these are the sort of issues that we want to discuss and four members of the public will know on Tuesday, we did have some very interesting discussions and I know that there are a lot of people out there with very good ideas and we need to have those discussions with everyone.

One of the other things that is rather close to my heart this year and that is the Child and Youth Strategy Group. We have made progress this year, rather slowly, it has to be said because it is quite a complicated procedure, developing an action plan to address all child and youth issues in the Islands is not a simple matter and it is obviously something that everyone in the community has got an opinion about and in order to ensure that we are getting a good wide range of opinions we have had to spend a lot time thinking about the membership of the group that is going to take the action plan forward. So we have spent the last few months identifying these individuals and I am delighted to say we have got two young people from FICS on the team, we have a member of the churches, a member of the youth groups and we have several officers and a couple of councillors and we will begin the New Year by debating those issues. It is quite interesting that in discussion the other day with the head teachers, Councillor Stevens and I meet with them on a regular basis, one of the questions asked was who is responsible for incidences on a public street where there is bullying or something of that nature happening. The question was asked because an incident had happened where some bullying had occurred, the child had been very upset and the Headteacher had eventually helped her sort it out, but the fact is to me that the answer to that question, is the community. We shouldn't be trying to pass all the responsibility for looking after our streets onto the Police or onto the teachers or onto anyone else. I think we all have to take responsibility for

it and I do not want the Falklands to move too far down the road where we all take the view that it is someone else's problem, someone else's child, someone else's issues, it is our community and we should be prepared to intervene and I would like to think that if anyone walked passed the playground and saw any bullying happening that they would be prepared to take steps without running to parents or police or anything else.

I made a brief reference to 2007 and I just wanted to say that it is a year of commemoration yes, and it is definitely where we are not going to gloat but we are going to remember the sacrifice that was the cost of our freedom and we are going to give thanks for the chain of events that have lead us to become the country that we are today and we are going to be compassionate for all those who lost their loved ones in our Islands in 1982. We can celebrates as well, we can celebrate in our freedom and in our luck and in the one thing that we all have in common which is either being Falkland Islanders or enjoying what these fantastic Islands can provide for us. I would like to see lots of people getting involved in 2007 and with reference to what I said earlier to the Brigadier, we hope that the military will join us in those celebrations because I think it is an important time for coming together.

Lastly, nothing left to say but to wish everyone a very merry Christmas and a Happy New Year, I would like to especially direct those comments to all those hard working people in the departments for which I am responsible. I know that you have put in a lot of work this year and that workloads do not diminish and that you might appear to get very little thanks and praise for it, I would just like to say that I notice and I thank you. Thank you also to all my colleagues it has been a thrilling year and I look forward to the next one. Sir, I support the Motion.

The Honourable Mike Summers

Mr Acting Speaker, Honourable Members, of course I too wish to put my welcome the Brigadier Nick Davies who has arrived in the Falklands to take command of British Forces South Atlantic and it is nice to see a Para in situ in this important area of British influence. Every time that a new Commander arrives in the Falklands of course we express this welcome and we always express the wish that the communities will find ways of working together. Finding ways to assist each other to do the work that we need to do to run our community effectively and smoothly and to help you to defend these Islands in the way that you are mandated to do by Her Majesty's Government. We have made a number of areas of progress in the past and I know for sure that we will make a number of areas of progress in the future, some of those areas we know about already, whether it is the cross sound ferry or whether it is supplying milk to you from the dairy or other things, it does not matter what it is, but that cooperation exists at all levels in Government and in your structure and we do work together well and that is an important message, both to be

heard in the United Kingdom and by other Countries who might be listening and have any interest in our community at all.

In the recent Overseas Territories Consultative Council meetings in the United Kingdom it was very useful to talk with Lord David Triesman about the development of the relationship between the overseas territories and United Kingdom Government. It is unfortunate that he is not coming today, and we cannot have that discussion but there is always a silver lining, that means that has to come next year and so we will look forward to planning that. One of the commitments that he did give to us during the course of the discussions was that he would initiate a review of the 1999 White Paper which sets out the aspirations for the relationship, the partnership between the United Kingdom and the Overseas Territories and I think that will be a very useful thing to us, because we can re-examine those parts of the White Paper that are important to us, particular those that talk about the maximisation of Internal Self Government and the real issue of partnerships, so that will be important.

It is good that he has that view because that is precisely what we are doing with the Constitution, we are looking at the relationship between the Falkland Islands as an Overseas Territory and the United Kingdom as our mother country. The Constitution describes the relationship between the two of us and anybody and everybody who is interested in the idea of self determination and internal self government and the United Kingdom as our mother country should and must be interested in the Constitution and how it works. So I earnestly invite you to come to the meeting next Tuesday when we can and we are perfectly happy to go through the whole issue again that we did last Tuesday because it is important that everybody knows what proposals are for the Constitution and how we propose to carry it forward.

I enjoyed the discussions on the West and at Goose Green they were good and they were productive and actually they were very positive and I think that is a good sign.

Looking forward, it is going to be a very challenging year next year, not only is it 2007 and therefore the 25th Anniversary and we have got some heavy responsibilities in terms of looking after some very important guests but we have got some very serious infrastructure issues to deal with next year and none of them are anywhere near being bottomed yet. The ferry of course has been mentioned, there is the whole issue of Camp telecoms and how we are going to get telecommunication services to all areas of the Camp in the Falklands including telephones, broadband and television. That is a really big challenge and we will have to work hard on that and we will have to work on a multiagency basis and get Cable & Wireless and SSVC and KTV and anybody else who is interested all working together to provide those services otherwise it is going to be really very difficult. I look forward to a very busy next year.

I too would like to wish everybody a Happy Christmas, it is the time of Peace on Earth and good will to all men, I rather doubt we will achieve Peace on Earth in the next few days but perhaps we can practice just a little bit of goodwill to all men around own community; that would be a good thing.

One of my colleagues Councillor Richard Davies has already mentioned people who are away from home at Christmas time of course the very large bulk of people working at Mount Pleasant are away from home at Christmas time. I guess it goes with the job but nevertheless we are very grateful that you are here, sorry you cannot be with your families over Christmas time, but do come to the races on Boxing Day and the day after, it is great fun, it is a good event, it is a good chance to be around and talk with each other. One of the highlights of the sports meeting on the first day is Armed Forces Challenge Cup, whilst I do appreciate Brigadier that you are not a member of the Calvary, your regiment I understand is fearless and therefore we very much look forward to seeing you taking part in the Armed Forces Challenge Cup and getting from one end of the course to the other. Sir, I support the Motion.

Commander British Forces

Mr Acting Speaker, Honourable Members, I am very grateful for this opportunity to introduce myself and I thank very much to the Honourable Members for their kind words of welcome to me. I have served in Her Majesty's Armed Forces for some twenty six years and it is a privilege for me to come here to command British Forces in the South Atlantic Islands and also as such to attend this Legislative Council. In my short time here already, I have been struck by meeting a community which to my eye is confident, energetic and forward thinking and with a notable spirit and my family and myself have been most welcomed by everyone that we have met.

As you will expect my priority is the delivery of hard edged military capability to ensure security of the Islands, but in doing so, I look forward to working closely with the Falkland Islands Government, with your own defence force and also the people of the Islands. I would like to personally reassure you of my complete commitment both to ensuring that the Falkland Islands can prosper without foreign military inference, but also ensuring as much as possible it is to the benefit of the community as a whole. Thank you very much Mr Speaker, Honourable Members.

The Honourable Financial Secretary

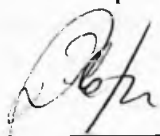
Mr Acting Speaker, Honourable Members on behalf of the public service I would also like to welcome Brigadier Nick Davies and his family to the Falkland Islands. I would also like to welcome Ros Cheek in her role as Acting Attorney General to her first meeting of this House and to thank

her for helping me to make some of the provisions of the Companies (Amendment) Bill clearer. It is very helpful to have a Legislative Council meeting this close to Christmas, so I too would like to wish everyone a merry one and a prosperous New Year, as I have not sent any cards yet this will represent a most welcomed savings. I support the Motion.

Mr Acting Speaker

I would wish to wish all Honourable Members and officials a happy and peaceful Christmas, and perhaps especially those who would be required to be on duty or at work whilst the majority of us are enjoying a holiday in the sunshine. The House stands adjourned accordingly.

Confirmed this 23rd February 2007



Speaker of the House



Legislative Council

Question for Written Answer No 01/2006
by the Honourable Mike Summers

Question No 01/06 by the Honourable Mike Summers

Would the Chief Executive investigate and advise:

- a) who gave permission for the Holberg to trawl for scallops in Port Purvis, which is an almost entirely enclosed pristine internal waterway with significant amounts of wildlife;
- b) was this matter ever referred to the Fisheries Advisory Committee, and if so what was their recommendation;
- c) how could such activity ever be contemplated without an environmental impact assessment;
- d) what other pristine areas within the 3-mile limit have been trawled by this vessel and with what effect.

Reply by the Chief Executive

I am grateful for the opportunity which these questions provide to, as well as addressing the specific issues, respond more generally in relation to FIG's response to the grounding of the Holberg in Port Purvis at around 0930 on Sunday 5 November 2006. I am grateful for the advice received from the Director of Fisheries and the Principal Crown Counsel to enable me to provide these replies and comments.

Quite apart from the understandable public concern raised by the presence of the Holberg in Port Purvis, and its subsequent grounding leading to the escape of fuels, it is fortunate that all present onboard, including an FIG Fisheries Observer, escaped from the vessel unharmed.

My responses to the specific questions are as follows:

- a) who gave permission for the Holberg to trawl for scallops in Port Purvis, which is an almost entirely enclosed pristine internal waterway with significant amounts of wildlife;

The Holberg was undertaking fishing operations in accordance with the provisions of a fishing licence issued by the Director of Fisheries using the powers available to him in the Fisheries (Conservation and Management) Ordinance 2005. The licence was generally intended for offshore operations although, as part of the exploratory programme, trawls were permitted within 3 miles with the consent of FIG's representative on board ie the Observer. Such consent to enter Port Purvis to fish was granted by the Observer following consultation with the Director of Fisheries.

- b) was this matter ever referred to the Fisheries Advisory Committee, and if so what was their recommendation;

The issue of exploratory scallop fishing was considered by the Fisheries Committee on a number of occasions. In particular the issue was considered in September 2004. Whilst Port Purvis was not specifically considered, operations in coastal or near shore areas were discussed. On the basis of information presented to the Fisheries Committee the exploratory fishery was supported although, as indicated, Port Purvis was not specifically mentioned at meetings of the Committee. Certain other areas, for example the Beauchêne Island area were excluded. Fishing plans were drawn up on the basis of where scallops were likely to be found. This relied on the skipper's experience, reports from other vessels, and local information.

- c) how could such activity ever be contemplated without an Environmental Impact Assessment;

There is no requirement for an Environmental Impact Assessment to be made and approved before granting a licence. However, in granting a licence, the Director of Fisheries is required by the Ordinance to have regard to a number of factors including environmental issues.

The issue of potential impact was raised in the Fisheries Committee. A number of factors were taken into account in reaching the conclusion that the operation would have a limited or acceptable impact. These included:

- i) *the trawls operated by the vessel are relatively small; the area covered during exploratory fishing is low compared to the total area.*

- ii) *tows are of short duration, typically 10 minutes or less.*
- iii) *operations are generally conducted on smooth sandy or muddy bottoms where diversity of habitats is low.*
- iv) *an observer was present throughout, if harmful or unforeseen impacts were observed through examination of the contents of the net, then the operation could have been stopped quickly.*
- v) *any interaction with seabirds or marine mammals was to be reported.*

The assessment did not extend to considering the likelihood of the vessel grounding.

- d) *what other pristine areas within the 3 mile limit have been trawled by this vessel with what effect ?*

Other inshore areas which have included some trawls within 3 miles have included Queen Charlotte Bay, the north coast of West Falkland, and the southern part of Falkland Sound. One trawl appears to have occurred at the edge of the 3 mile zone around Beauchêne Island. As already indicated the impact in terms of extent of area trawled, and the results of those trawls is assessed as being minor. Scallops were found in some of the areas and some work was done to assess biomass. Such areas could be classed as pristine or relatively pristine although fishing and fishing surveys have taken place in some areas. The Fortoser inshore fisheries survey covered much of the Falklands, albeit mainly with pots, although with some trawling, as part of an assessment of the potential for inshore fisheries.

I will now take the opportunity, in brief terms, to comment upon the action which has been taken by officials to try to secure the recovery of the Holberg and removal of the pollution threat. The leaking fuel is marine gas oil which is light in nature and readily disperses naturally. The use of detergents to disperse the oil sheen (it is not a slick) would do more harm than good and the deployment of booms would be ineffective.

There is a misconception that FIG has the power to enter upon stricken vessels to do whatever it feels is necessary. That is not the case and, in fact, the powers available are really quite limited. The Governor can direct that action be taken if a shipping accident results in pollution, or a risk of pollution, on a large scale and the need for action is urgent. Such directions can be given to the owner, master or other person in possession of the ship for the purpose of preventing or reducing oil pollution, or the

risk of oil pollution. There is no power for FIG to enter upon a vessel, carry out work and recover costs. Pollution in this case is not large scale.

Powers are also available in the Oil in Territorial Waters Ordinance 1960. This creates certain criminal offences where oil is discharged, or allowed to escape, into Falklands waters. The definition of oil in this ordinance is wide and includes marine gas oil. There are several defences available under the Ordinance but they require the master or owner to take all reasonable steps as soon as practicable after the damage or leakage is discovered, to stop or reduce the escape/leakage of the oil. The maximum fine for the relevant offences is £100,000. The possibility of a prosecution under this Ordinance is being examined.

The Fisheries Department have been in constant contact with the owners of the vessel in an effort to secure details of their plans. Some work to stem the flow of marine gas oil from the vessel has been carried out successfully by contractors employed by the owners of the vessel. Regular monitoring is taking place using FIGAS. It is understood that a vessel has been chartered and is currently on its way to the Falklands from Montevideo with a view to at least removing the pollutants. Any operation will be monitored by the Fisheries Department and options to secure the removal of the vessel are being examined. Once a final outcome has been achieved, a review will be undertaken to identify any lessons that need to be learnt, including the possibility of strengthening legal powers.

Finally, reports of pilferage from the vessel have been received. These have been referred to the RFIP.

Chief Executive