

# GIBRALTAR

## HOUSE OF ASSEMBLY



# HANSARD

20TH MARCH, 1998

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Tenth Meeting of the First Session of the Eighth House of Assembly held in the House of Assembly on Friday 20th March, 1998, at 10.00 am.

PRESENT:

Mr Speaker.....(In the Chair)  
(The Hon Judge J E Alcantara OBE)

GOVERNMENT:

The Hon P R Caruana QC - Chief Minister  
The Hon P C Montegriffo - Minister for Trade and Industry  
The Hon Dr B A Linares - Minister for Education, the  
Disabled, Youth and Consumer Affairs  
The Hon Lt-Col E M Britto OBE, ED - Minister for  
Government Services and Sport  
The Hon J J Holliday - Minister for Tourism and Transport  
The Hon H A Corby - Minister for Social Affairs  
The Hon J J Netto - Minister for Employment & Training  
and Buildings and Works  
The Hon K Azopardi - Minister for the Environment and  
Health  
The Hon R R Rhoda - Attorney-General  
The Hon T J Bristow - Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition  
The Hon J L Baldachino  
The Hon Miss M I Montegriffo  
The Hon A Isola  
The Hon J Gabay  
The Hon R Mor  
The Hon J C Perez

IN ATTENDANCE:

D J Reyes, Esq, ED - Clerk of the House of Assembly

PRAYER

Mr Speaker recited the prayer.

MR SPEAKER:

Before we start I would like to congratulate the Hon Peter Caruana QC, now the Chief Minister of Gibraltar, for having reached the highwater mark in the legal profession. He is now a leading counsel.

In my younger days when I was on the Bench and Mr Caruana appeared before me as an advocate, I could describe three main characteristics. He always came very well prepared. He was incisive and never attempted to mislead or misdirect the Court or to confuse an issue. Judges greatly appreciated his form of pleading. It enabled them to come to correct decisions.

I would also like to express my well wishes to the Hon Joshua Gabay for the safe return of his wife. We were very concerned about her.

Thank you.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 18th December, 1997, having been circulated to all hon Members were taken as read, approved and signed by Mr Speaker.

DOCUMENTS LAID

The Hon the Minister for the Environment and Health laid on the table the Report and audited accounts of the Gibraltar Heritage Trust for the year ended 31st March 1997.

Ordered to lie.

The Hon the Financial and Development Secretary laid on the table the following documents:

- (1) Statements of Consolidated Fund Reallocations approved by the Financial and Development Secretary (Nos. 4 and 5 of 1997/98).
- (2) Statement of Improvement and Development Fund Reallocations approved by the Financial and Development Secretary (No. 3 of 1997/98).

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.00 pm.

The House resumed at 3.05 pm.

Answers to Questions continued.

The House recessed at 6.00 pm.

The House resumed at 6.10 pm.

Answers to Questions continued.

The House recessed at 7.05 pm.

MONDAY 23RD MARCH, 1998

The House resumed at 3.05 pm.

Answers to Questions continued.

BILLS

FIRST AND SECOND READINGS

**THE ROAD TRAFFIC (WINDSCREEN TRANSPARENCY) ORDINANCE 1997**

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to create offences in relation to road vehicle windows of a certain opaqueness be read a first time.

Question put. Agreed to.

SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, at Committee Stage it will be necessary to introduce an amendment to alter the date of the title to 1998.

Mr Speaker, for over a decade the situation regarding tinted windows for motor cars has been unsatisfactory. Hon Members must themselves be fully aware of this in their capacity both as drivers and as pedestrians. Concern has, from time to time been expressed not just by the police but also by the general public about the reality that in many instances it is not possible to see the driver through the tinted windows currently in use in many cars in Gibraltar, or to get a view through the windows of these cars as to what lies beyond. The consequent dangers to both pedestrian and other road users are quite obvious apart from the enforcement difficulties that arise as a result of not being able to easily identify the occupants of motor vehicles. The Government have accordingly decided as a matter of policy to control tinted windows by outlawing the degree of opaqueness beyond certain levels. Although the relevant EC directive which is 92/22/EEC does not have to be

transposed in Gibraltar since it deals with single marketing goods, it is in Article 100A directive and therefore we are under no compulsion to transpose the directive, the Government have chosen to be guided by its provisions in order to create certain offences under our Traffic Regulations for persons who drive with these windcreens. In essence, the new Ordinance will create two offences. In the first place it will make it an offence for a vehicle to be driven with windows of a certain opaqueness. Thus windcreens will have to be more than 75% transparent and other windows more than 70% transparent. These are the percentages provided for in the directive and are tested by reference to British Standards Tests. Clause 3(2), that is, Schedule 1 of the Bill sets out how the percentages will be calculated.

Therefore, Mr Speaker, in summary the Bill in effect transposes a directive which we are not obliged to transpose because we, for reasons of policy different to those of the Community, think that this, as a matter of our own policy domestically driven legislation and policy, should be transposed but given that the reasons for doing it are different, the Bill does go further than the directive. For example, although the levels of opaqueness that we outlaw are the same as outlawed by the directive, the directive limits the prohibition, if you like, to certain windows and not others in the car. Generally the directive deals with those windows which are forward of the driver's field of vision but not behind, whereas in this Bill, and this is the extent to which it differs, we are doing this for a very different reason about which the hon Members are aware. We have extended it to all the windows in the car, not just the ones from the driver's seat, that is the two sides, front passenger windows and the front windscreen which is what is covered by the directive. Mr Speaker, the Bill applies only to cars registered in Gibraltar because of the reasons that I have just explained. If the legislation were applied to all vehicles in Gibraltar it would render illegal in Gibraltar the presence of vehicles driven by bona fide European Union visitors to Gibraltar whose car would cease to be legal the moment they left La Linea and entered Gibraltar because they would have cars that comply in respect of the front windows but may very well have cars that did not comply in respect of the rear windows because the rear window is an invention all of our own in terms of policy. Equipment for such tests has been purchased for the Police. It will also be an offence for windows not to be maintained, in the case of vehicles which have been constructed in accordance with Regulation 25 of the Traffic (Construction Equipment and Maintenance) Regulations. The Bill makes provision in Clause 3(3) for

the exclusion of certain windows of ambulances, omnibuses, goods vehicles, et cetera.

I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON J C PEREZ:

Mr Speaker, we are in principle in favour of the Bill although the Chief Minister has said that the exemption for the vehicles that come from outside is for any bona fide car from the European Union that might not comply totally and be complying in their country. We have to take into account that there are many cars driven by Spanish workers living in Spain who come in every day, even by Gibraltarians who have residence in Spain and come and drive Spanish-registered cars here. I think that if we are going to apply the legislation, in order for it to be effective it ought to include those cars that come in regularly. I do not know how that is going to be possible but certainly one could have Gibraltarians with cars with opaque glasses registered in Spain, with a Spanish-registered vehicle coming in every day and this Ordinance does not stop that. The other thing I would like to point out is that although this second Bill is a bit clearer than the first one in that it actually reflects what is in the European Union directive rather than refer to the directive per se, it is still a very complicated thing for a layman to understand and it might be a good idea for the Government to issue some guidelines at the MOT Test Centre for people to be able to understand the object or the practicality of the Bill much clearer. It does seem to be rather complicated. The Chief Minister said that the Police had acquired the equipment. Is it that the MOT Test Centre is going to have equipment in order to examine it there and then there are going to be random tests by the Police? Or is it not part of the MOT to fail the vehicle if it does not comply with the necessary opaqueness of the windscreen or the windows. That is all, Mr Speaker.

HON J J BOSSANO:

I just want to make a point in addition to what has been made. In fact, although the mover made a distinction that the reason why we are limiting it to Gibraltar cars is because it goes beyond the directive, in fact, we are exempting non-Gibraltar cars from all of it, including what is in the directive.

HON CHIEF MINISTER:

Yes, if I can start with that point, it follows that that is the case. We do not have to comply with the directive at all, at this stage. The infraction proceedings that have been commenced in order to try and establish that Article 100A - there are hundreds and hundreds of them that we have not with the consent of the Commission transposed because everyone has hitherto thought that Article 100A directives do not apply to Gibraltar - then this matter would have to be revisited. I take the point that the hon Member makes that whereas what we want to do is to exclude from this the bona fide visitor, that by doing it by reference to Gibraltar-registered plate we are excluding also people who are very frequent commuters. I am not sure that Gibraltarians driving Spanish-registered cars is so much the problem because they ought to have import duty problems with that practice. Certainly, if they are resident for income tax purposes in Gibraltar they ought not to be driving Spanish-registered cars in Gibraltar. However, I take his point in relation to the frequent Spanish visitor mainly the commuting worker but we have not been able to formulate any basis on the Gibraltar registration or non-Gibraltar registration because we immediately get into the realm of a bona fide visitor. What is a bona fide visitor? And the whole thing would become unpoliceable but I do recognise that it does mean that some people whom we would have liked to prevent are not prevented. That is absolutely true. This Bill is not going to be 100 per cent effective in that sense but I have to admit that for the Government it was not clear how that could be done by any other means. The practicality is actually very clear. I know it looks as complicated to the hon Member as it does to me. I know what the Bill says but I could not demonstrate from all the hieroglyphics in the Schedule that it actually says what I am told that it says. But I think it is very clear to those that sell the sticky paper and the window tinting material. It is perfectly clear to them. Basically what it means is that the range of vision which is basically a section of the windscreen and the side windows and the middle section of the back screen has got to let in more than 75 per cent of light in terms of the front and back and 70 per cent of light in terms of the side windows. The reason why the diagram that attaches to the Bill has the band around the outside, leaving only the centre part of the windscreen subject to that rule is because I am sure hon Members will have noticed that cars are manufactured with a sunproof band, normally dark green or something like that, which normally occupies a few inches at the top and sometimes a few inches at the bottom to protect things that are left there behind on the rear passenger seat from the sunlight. I am told that it is quite

straightforward that those that fit cars with these things will know immediately what is permissible and what is not but I accept what the hon Member said. Guidelines should be issued and I will certainly make that recommendation to the Commissioner of Police so that people in layman's terms understand what it is they are allowed to do and what it is that they are not. Nor had I addressed my mind to whether this would form part of the MOT, as far as I am concerned this is part of the law of the land and needs to be complied with. I do not know whether the MOT requirements include anything which is required by the law. If that is so then it may well be that we will have to buy another one of these little pistols that basically is a hand-held gun that you point and it measures the amount of light that has passed, you put something behind that reflects back and it just shows a reading. It may be necessary to buy the equipment for the MOT as well if as the hon Member is really insinuating this would also be a reason for failing the MOT. Obviously the MOT Centre has got to have the means for them to establish that.

Question put. Agreed to.

The Bill was read a second time.

HON CHIEF MINISTER:

I beg to give notice that the Committee Stage and Third reading of the Bill be taken later today.

Question put. Agreed to.

#### **THE COMPANIES (MERGERS AND DIVISIONS) ORDINANCE 1998**

HON P C MONTEGRIFFO:

I have the honour to move that a Bill for an Ordinance to transpose into the law of Gibraltar Council Directives 78/855/EEC and 82/891/EEC be read a first time.

Question put. Agreed to.

#### **SECOND READING**

HON P C MONTEGRIFFO:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the purpose of the Bill is to transpose the 3rd and 6th Company Law directives into Gibraltar law. Both these directives have been outstanding for some time. The directives and therefore the Bill deal essentially with the protection of shareholders in a company on a merger or division of that

company. The circumstances envisaged by the Bill are unlikely to occur frequently in Gibraltar but in order to implement EU obligations properly, this is a necessary addition to our statute book. The Bill, Mr Speaker, deals only with public companies and therefore will have no impact whatsoever on the large number of private incorporated and managed companies in Gibraltar. Section 2 of Clause 2 adds a new section to the Companies Ordinance providing for three cases which may be considered by the Court to take over mergers and divisions. In each case a member or a creditor of the company concerned may apply to the Court for an order to hold a meeting in respect of the proposed scheme. Clause 3 adds a new Schedule 17 to the Companies Ordinance. This provides that the Court will not approve any scheme for re-arrangement of the company unless various conditions have been complied with. Those conditions are, in essence, that the terms of the scheme are published in advance; a director's and an expert's report on the scheme are available; and the accounts are published. Clause 4 provides that the terms of the scheme and any order made by the Court should also be delivered to the Registrar of Companies. Mr Speaker, this Bill is important in transposing a long outstanding directive, but as I mentioned, it is unlikely to have great effect in Gibraltar but what effects it does have is surely entirely beneficial and desirable since it is obviously appropriate that the shareholders of a public company should have information about any merger or division of that company before it takes place. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON A ISOLA:

Mr Speaker, the view of the Opposition on all Financial Services legislation which imposes and transposes European Union directives is as was stated at the last meeting of this House. For those reasons, Mr Speaker, not to restate them once more, we will not be supporting this Bill through its passage in the House.

HON P C MONTEGRIFFO:

I shall only say two points, one that I repeat the fact that in the Government's view the Opposition's position is shortsighted and fundamentally flawed but more to the point in the context of this debate Mr Speaker, the Opposition Member describes this as a Financial Services Bill and I suppose it is in one respect because companies are used for financial services but, frankly, this is as much a commercial Bill, it is much a Bill that has to do

with general business as opposed to financial services. The Opposition's view extends as far as to say that anything that affects Financial Services that comes from Brussels they will oppose, then potentially that includes virtually everything. It will include health and safety at work, it will include environmental issues and in fact on the way machines are used, but it is a matter entirely for the Opposition. This is not a Financial Services Bill in the context of those Bills that liberalise the financial market which whilst I disagree with the Opposition they might take the view that until we have those rights respected and therefore in practice seen they might wish to block any further transposition. This is a Bill which is a matter of company law generally, a matter of commercial and business law which I would have thought should not fall within the strict confines that the Opposition Members have previously defined as Bills that they are going to object to. Nonetheless, I take further note of the extension of their ban on EU legislation and perhaps I will make no speeches at all when it comes to the second readings in the future.

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J Gabay  
The Hon A Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

The Bill was read a second time.

HON P C MONTEGRIFFO:

I beg to move that the Committee Stage and Third Reading of the Bill be taken today.

Question put. Agreed to.

#### THE COMPANIES (SHARE ALLOTMENT AND CAPITAL MAINTENANCE) ORDINANCE 1998

HON P C MONTEGRIFFO:

I have the honour to move that a Bill for an Ordinance to transpose into the law of Gibraltar Council Directives 77/91 and 92/101 on the formation of public limited liability companies and the maintenance and alteration of their capital be read a first time.

Question put. Agreed to.

SECOND READING

HON P C MONTEGRIFFO:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill transposes into the Gibraltar law the provisions of the 2nd Company directive as amended. It has also been outstanding for some time. It deals with the formation of public companies and changes in the capital value of such companies. The purpose of the directive is to ensure transparency in such operations so that shareholders or the prospective shareholders can be fully informed. The Bill as a whole is unlikely to affect Gibraltar since the huge majority of Gibraltar companies are private and the Bill again only relates to public companies but again in the case of public incorporated companies it is surely desirable that there should be transparency in the allotment of shares on formation. I will spare the House, Mr Speaker, any comment on the clauses and their effect. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON A ISOLA:

Mr Speaker, the position is as stated in the previous Bill, what I would add is that in our view these do impact on the financial services sector. As the Minister has said himself, the extent of this Bill and the previous Bill having any real effect in Gibraltar are very, very limited and to that extent I would not agree that they are basic company or commercial practices. The position is that these new Bills which provide more regulation in certain areas with long pending directives, as indeed the other directives, do not take us any further until the position that we have at the moment has been established. For that reason Mr Speaker we will not be supporting this Bill either.

HON P C MONTEGRIFFO:

Mr Speaker, I repeat my view that I am not entirely sure what position the hon Member speaking requires clarification on before we should lift this moratorium on transposing EU legislation. The position has always been the case that company law applies to Gibraltar, the position of this House has always been that Gibraltar is an integral part of the EU when it comes to the transposition of directives of which this forms part and therefore I really do not see what clarification is sought by the Opposition which has any implication on the transposition of this Bill. Mr Speaker, I did fail to mention that I will be moving a set of minor amendments at Committee Stage. Those amendments have been circulated but I would just like to make clear that the amendments are purely in respect of public companies. There were a couple of typographical amendments that required correction to make sure that was the case.

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J Gabay  
The Hon A Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

The Bill was read a second time.

HON P C MONTEGRIFFO:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today.

Question put. Agreed to.

## THE MOTOR FUEL (COMPOSITION AND CONTENT) ORDINANCE 1998

HON P C MONTEGRIFFO:

I have the honour to move that a Bill for an Ordinance to transpose into the law of Gibraltar Council Directive 85/210/EEC as amended by Council Directives 85/581/EEC and 87/416/EEC for the purpose of regulating the maximum permitted lead and benzene content of motor fuel be read a first time.

Question put. Agreed to.

SECOND READING

HON P C MONTEGRIFFO:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the main purpose of this Bill is to transpose into Gibraltar law the Lead in Petrol directive 85/210 thereby regulating the maximum permitted lead and benzene content of motor fuel. The Bill makes provision in Clause 4 for the method to be used in measuring the content of the fuel and the Schedule deals with the interpretation of the result. Clause 6 requires that the Licensing Authority provided for in the Petroleum Ordinance shall have regard to the need to maintain a balanced distribution for the sale by way of retail of leaded and unleaded petrol. Powers of derogation are given to the Minister under Clause 8, should the situation arise which restricts or prevents supplies of petroleum or crude oil entering Gibraltar. Mr Speaker, at Committee Stage I will introduce a minor amendment of which the House has been given notice. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON J C PEREZ:

Yes, Mr Speaker, we support the Bill except to find out whether the equipment that is necessary is available in Gibraltar and which Department it is in Government that is going to do the monitoring. I am not sure that there has been such equipment here before and that such monitoring has taken place. I believe it is a new thing and perhaps the Minister can say the cost of the equipment as well if he has got details on it.

HON P C MONTEGRIFFO:

My understanding is that Gibraltar de facto is complying with the directive already. In our consultations with

the industry the fuels imported into Gibraltar already meet the standards. This is very much a matter driven through simple EU compliance requirements.

HON J C PEREZ:

If the Minister would give way. My understanding of it is that it has been self-regulatory up to now. The legislation provides for the measurement method of the content of the petrol and I presume if it provides for that, it provides for an authority to do it or it would say here that it would be self-regulatory?

HON P C MONTEGRIFFO:

I think the hon Member assumes too much. The law sets out a minimum standard, you would normally expect suppliers to have to maintain that. There is a Licensing Authority which will generally issue regulations in the future with regard to petroleum matters. As hon Members may know the various improvements to the regulations affecting petroleum that have to be introduced but I do not envisage there will be a specific monitoring of these levels by the Licensing Authority. This will be a matter which each supplier will regulate in accordance with the legislation itself.

Question put. Agreed to.

The Bill was read a second time.

HON P C MONTEGRIFFO:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today.

Question put. Agreed to.

**THE MERCHANT SHIPPING ORDINANCE (AMENDMENT) ORDINANCE 1998**

HON J J HOLLIDAY:

I have the honour to move that a Bill for an Ordinance to amend the Merchant Shipping Ordinance in order to make further provision in relation to marine salvage and marine pollution; and for purposes connected therewith be read a first time.

Question put. Agreed to.

SECOND READING

HON J J HOLLIDAY:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the purpose of this Bill is essentially to give the force of law in Gibraltar to the 1989 Salvage Convention. This Convention was ratified by the United Kingdom on the 14th July 1996. It has been extended to Gibraltar but is not yet in force internationally. The full text of the Convention is reproduced in its entirety in this Bill and will become Schedule 5 of the Merchant Shipping Ordinance. The rights or liabilities arising out of any salvage operations started before the day on which this legislation comes into force are being safeguarded. Provision is also being made so that in the event of the UK agreeing to any revision of the Convention the Minister with responsibility for transport may make the necessary modifications to Part I and Part II of Schedule 5 by notice in the Gazette. The Convention does not apply to platform and drilling units, warships or other non-commercial vehicles owned or operated by the State. Article 8 of the Convention sets out the duties of the salvor and of the owner and the master whilst Article 9 safeguards the right of the coastal state to protect its coastline particularly from pollution. Article 10 sets the duty to render assistance. Chapter 3 of the Convention deals with the rights of the salvors particularly the conditions for reward and the criteria for fixing the reward. Without affecting the provisions of international law on this subject, Article 16 provides that no remuneration is due from persons whose lives are saved. Chapter 4 deals with the question of claims and actions. Article 23 provides for judicial or arbitral proceedings to be instituted within a period of two years. Article 25 covers the case of state-owned cargoes and in particular those entitled to sovereign immunity under international law, whilst Article 26 covers humanitarian cargoes. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON A ISOLA:

Mr Speaker, although we will be supporting the Bill, there are a number of items we would like some clarification on. The first question would be whether we have in fact been consulted in having the Convention extended to Gibraltar by the United Kingdom? There is provision in the Bill that in the event of there being a change to the Convention the Minister with responsibility for Transport may make such modifications of Parts I and II of Schedule 5 of the Merchant Shipping Ordinance. My question being, Mr Speaker, in the event of a change to

the Convention, however unlikely that may be, and which would not particularly suit Gibraltar, would we be able at that stage not to extend that amendment to the Convention or would we be forced to accept it? Another point, Mr Speaker, would be to ask which are the other signatories of the Convention, even though the Convention is not yet in force and it has only been ratified by the UK in 1996, what other countries have signed up to the Convention? And a final question, Mr Speaker, would be to what other Dependent Territories has this been extended? Are there any other Dependent Territories that this has been extended to?

HON CHIEF MINISTER:

Mr Speaker, if I could just deal with the more legalistic of the three questions, which was the first one. I think it follows that if the United Kingdom has extended a Convention to Gibraltar and there is an amendment to that Convention prior to implementation, prior to the Convention coming into force, I think it follows that we would be obliged to implement the Convention as amended. That would be my immediate assessment of the point that the hon Member highlights. I think it is highly unlikely, I think he has some experience in shipping matters. He knows that in this kind of Convention it is very difficult to obtain international agreement on these issues. The principal thing that this Convention does is that it authorises the master of a ship to enter into salvage agreements in an emergency not only with the owner of the ship but indeed the owners of the cargo on the ship, one would have thought that that was a relatively simple matter upon which to obtain international agreement. The position is that this Convention has not yet come into force because insufficient countries have ratified it and therefore this is an area of law in which the chances of there being international agreement on any matter that might be prejudicial to a seafaring jurisdiction like Gibraltar, in terms of our sophistication, or our Admiralty and shipping laws, is highly unlikely. But yet the danger that he highlights I believe, subject to being corrected by the Attorney-General when he has finished pondering the point, is that I am sure that we would be covered by it.

HON J J HOLLIDAY:

I wanted to clarify the point made by the hon Member in respect of the exemption of this agreement to other Dependent Territories. The provisions of this agreement were adopted by the UK, by their Merchant Shipping Act in 1995 and the Convention has been extended to the Falkland Islands, Monserrat, Jersey and the Isle of Man and the UK

is strongly recommending all overseas territories to enact this Convention into their laws.

Question put. Agreed to.

The Bill was read a second time.

HON J J HOLLIDAY:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today.

Question put. Agreed to.

**THE MEDICAL AND HEALTH (COMPLAINTS PROCEDURE) ORDINANCE**

HON K AZOPARDI:

I have the honour to move that a Bill for an Ordinance to provide for the establishment of a complaints procedure for patients or users of the Gibraltar Health Authority and to draw such a procedure to the attention of patients and users to be read a first time.

Question put. Agreed to.

SECOND READING

HON K AZOPARDI:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the Government have a manifesto commitment to introduce an effective complaints procedure and indeed the Health Authority at one of its monthly meetings back in August 1996 set up a sub-committee to look into that area and to make recommendations to the Authority on that. Subsequently, during the course of last year, working drafts of that procedure were prepared and discussed at Authority level. Indeed, one of the members of that sub-committee had been working within the Authority at the time that some guidelines had been produced some years ago for the staff to work a complaints process but that complaints process, I think, lapsed and the general consensus within the Authority was that there was a need to review the procedures as they were working.

The intention with this Bill is to create a statute which enables the Minister, or rather obliges the Minister, to give directions to establish a procedure and for the procedure guidelines to be issued subsequently. The working drafts, Mr Speaker, of the procedure itself have gone through several consultative stages. They have been sent to the different representative unions for

discussion and comment. As I mentioned just now the Bill itself is not the procedure, it is an enabling Bill, or rather an obliging Bill. It is in very similar form to the Hospital Complaints Procedure Act 1985 that obliged the Secretary of State for Health in the United Kingdom to give directions for the establishment of that procedure. The current situation is, and I speak from the experience I have acquired over the last couple of years being Health Minister, we had, as I say, that manifesto commitment to introduce a procedure. But that desire and need has been reinforced to me by the experience that I have acquired over the last 24 months to the extent that I feel, when patients come to me, that they come to me as a step of last resort. There is a degree of frustration with the process because I think the process is unclear at the moment. People do not really know where to turn. There is attempts made by the Hospital Administration Officer and by other officers within the Authority to deal with the matter as efficiently as possible and indeed they often do resolve matters but because they do not really know patients, do not really know where to turn to, after that there is a certain lack of clarity which then frustrates the whole process and frustrates the patients themselves and often there is nothing more than a need and a desire of the patients to know what has gone wrong or what is the explanation or what is the communication that they require in relation to a specific treatment or a specific reason for the delay in being surgically treated and so on.

The complaints procedure itself as I indicated as the Bill does not actually set out, the principles of the complaints procedure are, for the assistance of the House I shall give the House a flavour of the key principles that we intend to adopt as part of the complaints procedure. It will involve two principal avenues of complaints for clinical and non-clinical complaints. Each avenue will have different stages, an informal first avenue, where people can report verbally and then a more formal process in writing. There will be different people involved during this process from the member of staff specifically to the Clinical Manager, involving also a specific officer who will be designated as someone who will be responsible to be the patients' friend in that process. Then, of course, in the more clinical aspects to complaints there will be the ability to rope in the Director of Public Health to assist in a separate clinicians review of matters which substantively require that process and with ultimately the matter landing on the desk of the Chief Executive if there is no satisfactory resolution. That will be the end of the internal process but of course we do see the final recourse of the patients, if they are not satisfied with

the whole internal process, to the Ombudsman who will be empowered to act in these matters. That legislation will come before the House at some other stage during this year as indicated by the Chief Minister in his New Year's message. That methodology itself will be relatively simple for the complainant to follow. Initially they need not make the complain in writing, it can be verbally and hopefully we can sort things out with personal meetings. If not, there will be more record in writing taken of the issue and as the process moves along through the different stages, if the Authority is required to take more serious action, then of course, the process will become a bit more formal. The procedure will envisage that in very serious matters there will be an ability to have internal enquiries and for the Chief Executive himself to personally review matters. We will expect, turning my mind now to issues of time limits for example, to be able to deal with complaints almost immediately or within a few days if the complaints relate to fairly simple and straightforward matters that can be addressed, or if they are involving serious matters, not longer certainly at the other end of the scale when dealing with very substantive issues, not longer than 12 to 16 weeks, in the more complicated cases. The procedure itself will also envisage a supervisory body which we call a Complaints Board which will be made up of independent members who will have a general supervisory duty to monitor the workings of the complaints procedure itself. It will not have any investigative powers, as I say, it will only supervise, monitor and receive the statistics to assist us in ensuring that the procedure works and works efficiently.

The intention of the Authority certainly is to review the procedure and review how the procedure is working. The intention is for there to be statistics compiled and submitted both to me, the Ombudsman and the Authority every six months and I would hope after 12 months to take a long hard look at how the procedure has been working and remedy any defects that we come across in the process once it is introduced. By way of time scale I would indicate to the House that we expect some final amendments to the procedure internally as we move towards the final version and we would expect the procedure to be able to be introduced within the next two to three months once the final version has been tinkered with. I should indicate to the House that this is a far more rapid timescale than was adopted by the United Kingdom itself because the Complaints Procedure Act in the United Kingdom was introduced in 1985 but the Secretary of State for Health did not issue guidelines until July 1989 and so I think we are moving rather more expeditiously towards launching a procedure. The Chief Executive is looking at ways and means of making the staff aware of

the procedure that we shall adopt so that we can effectively administer it and to assist in the comprehension publicly of the comprehensive document that I intend to issue. By way of a complaints procedure we also intend to launch an Explanatory Booklet that, hopefully, will make things clearer to patients when they want to use the procedure, the newly-revamped procedure that we intend to produce. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON MISS M I MONTEGRIFFO:

Mr Speaker, it is surprising to the Opposition that the Government should have brought this Bill to the House because under the existing legislation of the Medical (Gibraltar Health Authority) Ordinance 1987, namely section 6(f), it states, "to ensure that all complaints made against the Authority or any employee or contractor of the Authority are properly investigated without delay". Then Section 7(1) on the Powers of the Authority it continues by saying, "subject to the provisions of this or any other Ordinance, the Authority shall have the power to do all things necessary for the carrying out of its duties under this or any other Ordinance". We find it odd that the Minister as Chairman of the Gibraltar Health Authority has decided not to use this avenue open to him. The Gibraltar Health Authority with him as Chairman could very well have decided to implement a complaints procedure. The Minister has referred to the 1985 Act which provides for the Secretary of State to give directions but he does not give it to a Health Authority of which he is the Chairman and we find it quite odd that we could find ourselves in a situation where the Minister could be giving instructions to the Health Authority as Minister and he would be receiving those instructions as Chairman of the Gibraltar Health Authority. The Bill before the House gives powers to the Minister to give instructions to the Gibraltar Health Authority as he sees fit. We do not know as the Minister has said, when the time comes what exactly he will be instructing them to implement and so in the absence of not knowing how the complaints procedure will actually function, the Opposition will abstain on this Bill.

HON K AZOPARDI:

Just very briefly. In the first place we do not consider the power which was embodied in the Medical (Gibraltar Health Authority) Ordinance 1987, was specific enough to deal with this matter. The purpose of this Bill is to reiterate the importance of the complaints procedure to

the Government and certainly to the Authority. The statutory power we do not think was extensive enough or specific enough and certainly if the view was taken by the Opposition Member that the power in the 1987 Ordinance was specific enough, perhaps she should have directed her mind towards the introduction of a more specific complaints procedure when they were in office. But certainly we think that the Bill is important to be introduced. The Secretary of State for Health indeed has general powers to issue directions to Health Authorities in the United Kingdom but the same legal view was taken in the United Kingdom that a specific Bill, the Hospital Complaints Procedure Act 1985 was still required, so on advice, I would have to disagree with the view of the hon Member that this is not a necessary Bill legally. Politically it is an important Bill because patients and representatives of patients are certainly clamouring for a procedure to be enacted, for a procedure to be directed to the Authority so that there is clarity in the process and so that matters can be determined and investigated and so that their frustrating process can be clarified once and for all. The giving of directions is a usual procedure and not something that is strange by any means for the reasons that I have explained. The Opposition Member makes the point that by the directions process the Minister, it is strange she remarks that the Minister would be giving directions to the Authority, that is, himself and one of the Opposition Members muttered that the Minister may disagree as Chairman. Well, I would be a manic schizophrenic if I gave directions to myself with which I disagree. If I did that I would move rapidly from being Minister to Chairman to being sanctioned under the Mental Health Ordinance to a patient and complainant under the Ordinance.

Mr Speaker, this is a matter of patients' right. The Opposition Members are free, of course, to disagree with the enactment of this Bill and are free to vote against it if they so wish but everyone who has come to see me certainly I see the frustration that they have in having the matters clarified. Patient groups are quite clear in their aspiration. The Government support that aspiration. The Government see the need for this procedure and will introduce it as a matter of clarity and accountability for the Authority. We are not scared of introducing this procedure. A lot of the things can be clarified because they are matters which purely arise because of lack of communication and this will be in fulfilment of the manifesto commitment that the Government have which we take rather seriously.

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

Abstained: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J Gabay  
The Hon A Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

The Bill was read a second time.

HON K AZOPARDI:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today.

Question put. Agreed to.

The House recessed at 5.00 pm.

The House resumed at 5.25 pm.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

I have the honour to move that the House should resolve itself into Committee to consider the following Bills, clause by clause:

1. The Companies (Mergers and Divisions) Bill 1998;
2. The Companies (Share Allotment and Capital Maintenance) Bill 1998;
3. The Motor Fuel (Composition and Content) Bill 1998;
4. The Road Traffic (Windscreen Transparency) Bill 1998;
5. The Merchant Shipping Ordinance (Amendment) Bill 1998;

6. The Statistical (Carriage of Goods and Passengers by Sea) Bill;
7. The Medical and Health (Complaints Procedure) Bill.

**THE COMPANIES (MERGERS AND DIVISIONS) BILL 1998**

Clauses 1 to 4 and the Long Title

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon A Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

Absent from the Chamber: The Hon J Gabay

Clauses 1 to 4 and the Long Title stood part of the Bill.

**THE COMPANIES (SHARE ALLOTMENT AND CAPITAL MAINTENANCE) BILL 1998**

Clauses 1 to 11

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon A Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

Absent from the Chamber: The Hon J Gabay

Clauses 1 to 11 stood part of the Bill.

Clause 12

HON P C MONTEGRIFFO:

I have given notice of various amendments, the first of which is in section 12 which is the section that adds a new section 147A before the word "company" in line 1 of sub-section 1 and before the word "company" in sub-section 3, the addition of the word "public" in each of those two sub-sections and then Mr Chairman in the same section 12 but in what will be the new section 147C(1) also before the word "company" add "public", in other words the addition of the word "public" in three different spaces.

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon A Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

Absent from the Chamber: The Hon J Gabay

Clause 12, as amended, stood part of the Bill.

Clauses 13 and the Long Title

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon A Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

Absent from the Chamber: The Hon J Gabay

Clause 13 and the Long Title stood part of the Bill.

**THE MOTOR FUEL (COMPOSITION AND CONTENT) BILL 1998**

Clause 1 was agreed to and stood part of the Bill.

Clause 2

HON P C MONTEGRIFFO:

Mr Chairman, as I have indicated, in the definition of "Licensing Authority" the reference to section 5(3) should be substituted with a reference to section 5(2).

Clause 2, as amended, was agreed to and stood part of the Bill.

Clauses 3 to 8, the Schedule and the Long Title were agreed to and stood part of the Bill.

**THE ROAD TRAFFIC (WINDSCREEN TRANSPARENCY) BILL 1997**

Clause 1

HON CHIEF MINISTER:

Mr Chairman, I did indicate that we should amend the date to 1998.

Clause 1, as amended, was agreed to and stood part of the Bill.

Clauses 2 and 3, Schedule 1 and the Long Title were agreed to and stood part of the Bill.

**THE MERCHANT SHIPPING ORDINANCE (AMENDMENT) BILL 1998**

Clauses 1 and 2 and the Long Title were agreed to and stood part of the Bill.

**THE STATISTICAL RETURNS (CARRIAGE OF GOODS AND PASSENGERS BY SEA) BILL**

Clause 1

HON CHIEF MINISTER:

Mr Chairman, I wonder if you would indulge me and rather than have to raise these points on the occasion that they arise, the Leader of the Opposition will recall that we did not take this Bill at Committee Stage last time because he made a series of observations which I thought were worthy of being looked into. Unfortunately, I have the list of the points and the answers but I would not be able to raise them clause by clause so if perhaps you would just indulge us for a few moments, whilst we have that discussion.

MR CHAIRMAN:

A tete-a-tete, certainly.

HON CHIEF MINISTER:

That is very good of you, Mr Chairman.

The Leader of the Opposition raised six points. His first one was, he asked whether this directive was applicable to Gibraltar at all given that we were outside the Customs Union. The answer to that point is that in the view of the United Kingdom Government, a view shared by our own advisers here, this is not a directive of the sort that would not apply for that reason, that is, an Article 100A directive. It is in fact a directive made under Article 213 and is directed at the Common Maritime Transport Policy as opposed to the Common Customs Union and therefore there is no relevance between this and Common Customs Union as such. It is a common transport policy measure and not a single marketing goods measure.

He then wondered why Gibraltar had a code number in respect of Annex 5 of the directive relating to national registries. In Annex 5 Gibraltar has got the code 0064 and he observed that for the purposes of Annex 4 dealing with maritime coastal areas Gibraltar suddenly ceased to appear there under the United Kingdom, Isle of Man and Channel Islands and thereby suggesting that Gibraltar might not have a maritime coastal area code. I have not

had a satisfactory, or indeed, any response to this point and I believe that the point is well made. It is clear from the fact that Jersey's code for nationality registration purposes which is approved for the purposes of the 1993 Commission Regulation No. 208/93 is the same, in other words the United Kingdom's code is 0061 for both purposes; Isle of Man's code is 0062 for both purposes; Channel Islands code is 0063 for both purposes and since Gibraltar's code is 0064 for nationality of registration of vessels purposes, I think it is logical and safe to assume that it is also our code for maritime coastal area purposes. Whilst I am not in a position to amend the directive which is something that was passed at the time that the Leader of the Opposition was responsible for stewardship of Gibraltar's affairs, I will not ask him how he left that one slip his view but whilst therefore it is too late for me to ensure that the directive was properly drawn up I can and indeed propose to move an amendment to the Bill transposing the directive. The hon Members have it in front of them, I propose to add a new clause 5 to the Bill, under a heading "Maritime Coastal Area Nomenclature" which should read, "For the purposes of the Directive, and especially Annex 4 thereof, the nomenclature to be used for the Maritime Coastal Area shall be the code 0064". It is the best that we can do at this stage to make it clear that when making these returns Gibraltar will expect owners and operators to use our own code 0064 rather than the United Kingdom's code 0061 which is, presumably, what would have to be used in the absence of our own when describing the maritime coastal area. I hope hon Members will recognise that that is the best that can be done at this stage and support the amendment. The third point that he raised was what he perceived as an inconsistency between the statistical variables in Annex 1 and the items mentioned in the Schedule of the Bill and he took the view that there were differences. The explanation that we have had from the United Kingdom on this is that these differences exist also in the United Kingdom legislation and the reason for that is that the annexes in the directive set out the way in which the Member State has got to report the information to the Commission. It does not impose an obligation as to how the Member State obtains the information from the operators. In order to minimise the cost of compliance to ship owners and port operators of this directive the United Kingdom Government decided to seek the information, that the reporting of the information should be on a simplified basis which enabled then, the Department of Transport in the United Kingdom, to glean for itself the information and put it into form that it needed to be reported on. So that, for example, by asking for the Lloyds Register number of the vessel, paragraph 1.3 of the Schedule, the Department of Transport in England was able to obtain the nationality

of registration of the vessel, the kind of vessel and the tonnage of the vessel simply by looking the information up itself in Lloyds Register of Shipping. In other words, the explanation for the hon Member's observation is that the directive does not require the information to be provided by the operator to the Member State in the form set out in the Annex. The Annex sets out the form in which the Member State is required to report onwards to the Commission. The United Kingdom decided to seek the information from the ship owners in a way which minimised compliance costs, realising and fully in the knowledge that there would then be information to be cobbled together by the Member State itself before passing it on to the Commission in the required form. That is the reason why there is not a coincidence between the annexes to the directive and the schedule to the Bill, because whereas the Annex to the directive stipulates the way in which the information has to be provided by the Member State to the Commission, the schedule to the Bill specifies the information in the form that it has to be reported by the owner to the Member State. I am not sure whether I have made myself clear to the Opposition Members.

HON J J BOSSANO:

I am clear with the explanation that he has been given, Mr Chairman, except that one of the things that I pointed out was that there were a number of instances where we were asking for more not for less. If the directive says under 1.3, which he has quoted, that the Member State has to tell the Commission about the vessels using the Port either by listing the dead weight of the vessels or the gross tonnage of the vessels, we are not simplifying the task by requiring that both the gross tonnage and the dead weight should be provided. I can see the logic of the explanation that he has given but it does not fit the facts. It is not a big issue whether we ask ship owners to give us the weight and the tonnage of a vessel, it just struck me that if we were looking at this on the basis of transposition then, logically we looked in the directive to see what was required to be transposed. The explanation that he has given us, in fact what is here is not a reflection of what needs to be transposed, it is a reflection of what the United Kingdom thinks it requires in order to be able to give the Member State the information that they need. In looking at the list of information for example in 1.3 one would have thought that if the Lloyds Register number of the vessel is provided then one would need also the name of the vessel, the type of vessel, the dead weight of the vessel and the gross tonnage of the vessel. If it was one or the other then we could understand that the explanation fits well but it does not seem to be like that.

HON CHIEF MINISTER:

Well, Mr Chairman, as I say, I am not willing to dedicate the resources to this to go word by word on something which I think the hon Member will agree is not that important. What I have been told is, that all the information that has been sought which is not required by the Annexes to the directive is for one reason or other, and I am not in a position to personally assert each one to the hon Member, to obtain other information which is required but which the legislation does not require the operator to provide. I cannot say in respect of each instance of difference that the hon Member has not tested each difference to see whether that is true and what source it enables one to access, for what information that has not been required to be provided by the owner, and I am sure the hon Member will agree, it is just not important enough to dedicate that degree of resource to.

The other point which the hon Member raised was whether the directive applied at all, given that it appeared to establish thresholds which were below the size of the port of Gibraltar and I have to say that on the first several occasions that I read the directive, I read it in the same way as the hon Member has misread it and indeed we were both misreading it. The directive does not say what the reporting requirement is limited only to ports which either handle one million tons of goods or record more than two hundred thousand passenger movements annually as it appears to say on a first and quick reading. What the directive says in Part 1 of Article 4 is that, "For the purpose of this directive a list of ports, that is to say all ports, not ports of a certain size, coded and classified according to countries and maritime coastal areas shall be drawn up in accordance with the procedure specified in Article 13". The first requirement is to draw up a list of all your ports, regardless of size. Then, in Part 2 it says, "Each Member State shall select from this list any port above the threshold". Let us forget the next paragraph because it deals with the transition period which in any case is passed. The final paragraph then says, "For each port selected..." that is to say for each port selected under the first paragraph 2, "For each port selected bigger than the threshold, detailed data are to be provided in conformity with Annex 8....". Then paragraph 3 says, "For the ports which are not selected from the list, summary data are to be provided to conform with Annex 8 data set in A3". In other words, in respect of the ports above the threshold which one has selected from ones list of all ports, one has to provide the information in conformity with Annex 8 but in respect of all the other ports in the list, that is, the ports that one has not so

selected, there is still a reporting requirement even though the ports are not above the threshold of a slightly different variety, data set A3 and therefore on a proper reading of the directive, it is not true that the directive only applies to ports above the threshold. Ports above the threshold if selected from the list have to have the information in respect of them provided in a certain format and the rest of the ports on the list which one does not select for that treatment including ports below the threshold have still have to have a reporting requirement under the directive. Therefore, Mr Chairman, it is not true to say that the directive only applies to ports above the threshold mentioned in the first part of Article 4.

HON J J BOSSANO:

Mr Chairman, the point that I made and I believe I drew attention to the reference of A3 of Annex 8 at the time in the Second Reading of the Bill, I think the point that I was making was that the information we were providing in the Bill in the House appeared to be greater than what was required under the limited reporting requirement for ports not on the list because as I read A3 the only thing that is required is the gross weight of goods in tons and the number of passengers and nothing else. That is what it says in A3 of Annex 8. What he has read out in fact says, that for ports not on the selected list the only thing we have to do is give the weight of the goods landed which we can get by getting the Abstract of Statistics for any year and we will see, goods landed in Gibraltar so many tons.

HON CHIEF MINISTER:

Yes, Mr Chairman, that may be true, the Bill could limit the transposition of the directive to whatever regime applies to ports the size of Gibraltar's and, indeed, we could do that and it may be possible to find just a few words to put in Clause 3 of the Bill to say, "In accordance with Article..... the Minister shall require.....", it would then be necessary of course to make it clear that the Schedule was subject to that. It could say that, "The Minister shall require if satisfied that the port handles more than one million tons of goods or records more than two hundred thousand passenger movements annually, the information required in the Schedule otherwise he shall only require the information in accordance with Part A3 of Annex 8 of the directive". We could add that if the Member will sleep more comfortably at night.

HON J J BOSSANO:

I know that he is constantly trying to send me to sleep, he does it in all the Bills. The point that I was making is that having looked at the original Bill it seemed to me that a lot of work had been done into making provisions in the laws of Gibraltar for obtaining information to make returns which were not required. We have done it and it is there and in fact if the Chief Minister will remember when I raised it in the Committee Stage he pointed out that it said "may" and therefore we do not have to do it. I know that but we might as well also save ourselves having to put it all down and print it and legislate it when we are not going to do it anyway and it seems to me from the explanation that he has given us that really what has happened is that people perhaps have followed fairly closely the transposition into the UK without really working out that in our case nine-tenths of it was not really applicable and perhaps only one-tenth was. That is the whole point.

HON CHIEF MINISTER:

Mr Chairman, I think it is almost unquestionable that that is what has happened. As the Leader of the Opposition himself has now mentioned the Minister for Tourism and Transport is most unlikely to choose to require information beyond that which he is required to report on. So we can do it two ways, we can either trust the common sense of the Minister for Tourism and Transport in the administration of this Bill or if hon Members are lacking sufficient confidence in that we can always amend the Bill. Could I urge them to leave it to the good sense of the Minister in question? But I entirely agree that if this legislation had been drafted starting here with a clean sheet of paper and not basing themselves on the UK, it is unlikely that it would have been done in this way. I accept that point.

Clause 1 was agreed to and stood part of the Bill.

Clauses 2 to 4 were agreed to and stood part of the Bill.

New Clause 5

HON CHIEF MINISTER:

Mr Chairman, I move to add a new heading, Maritime Coastal Area Nomenclature, and then the addition of a substantive new clause under clause 5 of the Bill with the following text: "For the purposes of the Directive and especially Annex IV thereof, the nomenclature to be used for the Maritime Coastal Area shall be the code '0064'".

New Clause 5 was agreed to and stood part of the Bill.

The Schedule and Long Title were agreed to and stood part of the Bill.

**THE MEDICAL AND HEALTH (COMPLAINTS PROCEDURE) BILL**

Clauses 1 to 5 and the Long Title

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

Abstained: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon A Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

Absent from the Chamber: The Hon J Gabay

Clauses 1 to 5 and the Long Title stood part of the Bill.

THIRD READING

HON ATTORNEY-GENERAL:

Mr Chairman, I have the honour to report that:

The Companies (Mergers and Divisions) Bill 1998;  
The Companies (Share Allotment and Capital  
Maintenance) Bill 1998;  
The Motor Fuel (Composition and Content) Bill 1998;  
The Road Traffic (Windscreen Transparency) Bill  
1998;  
The Merchant Shipping Ordinance (Amendment) Bill  
1998;  
The Statistical Returns (Carriage of Goods and  
Passengers by Sea) Bill; and  
The Medical and Health (Complaints Procedure) Bill,

have been considered in Committee and agreed to with amendments and I now move that they be read a third time and passed.

Question put.

The Motor Fuel (Composition and Content) Bill 1998; the Road Traffic (Windscreen Transparency) Bill 1998; the Merchant Shipping Ordinance (Amendment) Bill 1998; the Statistical Returns (Carriage of Goods and Passengers by Sea) Bill, were agreed to and read a third time and passed.

The Companies (Mergers and Divisions) Bill 1998 and the Companies (Share Allotment and Capital Maintenance) Bill 1998.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon A Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

Absent from the Chamber: The Hon J Gabay

The Bills were read a third time and passed.

The Medical and Health (Complaints Procedure) Bill.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

Abstained: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon A Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

Absent from the Chamber: The Hon J Gabay

The Bill was read a third time and passed.

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, I have the honour to move that this House do now adjourn sine die.

Question put. Agreed to.

The adjournment of the House was taken at 6.10 pm on Monday 23rd March, 1998.

# GIBRALTAR

## HOUSE OF ASSEMBLY



# HANSARD

**24<sup>th</sup> April, 1998**  
**(Vol. I)**

**(adj to 20, 21, 22 and 26 May - BUDGET)**

## REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Eleventh Meeting of the First Session of the Eighth House of Assembly held in the House of Assembly Chamber on Friday 24<sup>th</sup> April 1998, at 9.30 am.

### PRESENT:

Mr Speaker ..... (In the Chair)  
(The Hon Judge J E Alcantara OBE)

### GOVERNMENT:

The Hon P R Caruana QC – Chief Minister  
The Hon P C Montegriffo – Minister for Trade and Industry  
The Hon Dr B A Linares – Minister for Education, the Disabled, Youth  
and Consumer Affairs  
The Hon Lt-Col E M Britto OBE, ED – Minister for Government Services  
and Sport  
The Hon J J Holliday – Minister for Tourism and Transport  
The Hon H A Corby – Minister for Social Affairs  
The Hon J J Netto – Minister for Employment and Training and Buildings  
and Works  
The Hon K Azopardi – Minister for the Environment and Health  
The Hon R Rhoda – Attorney-General  
The Hon T J Bristow – Financial and Development Secretary

### OPPOSITION:

The Hon J J Bossano – Leader of the Opposition  
The Hon J L Baldachino  
The Hon Miss M I Montegriffo  
The Hon A J Isola  
The Hon J J Gabay  
The Hon R Mor  
The Hon J C Perez

### IN ATTENDANCE:

D J Reyes Esq, ED – Clerk of the House of Assembly

## PRAYER

Mr Speaker recited the prayer.

## CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 20<sup>th</sup> March, 1998, having been circulated to all hon Members, were taken as read, approved and signed by Mr Speaker.

## DOCUMENTS LAID

The Hon the Minister for Tourism and Transport laid on the table the following documents:

- (1) The Air Traffic Survey 1997.
- (2) The Hotel Occupancy Survey 1997.
- (3) The Tourist Survey Report 1997.

Ordered to lie.

The Hon the Financial and Development Secretary laid on the table the Draft Estimates of Revenue and Expenditure 1998/99.

Ordered to lie.

## ANSWERS TO QUESTIONS

The House recessed at 11.30 am.

The House resumed at 11.42 am.

Answers to Questions continued.

The House recessed at 1.05 pm.

The House resumed at 3.05 pm.

Answers to Questions continued.

The House recessed at 5.00 pm.

The House resumed at 5.15 pm.

Answers to Questions continued.

#### ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Wednesday 20<sup>th</sup> May, 1998, at 9.30 am.

Question put. Agreed to.

The adjournment of the House was taken at 7.30 pm on Friday 24<sup>th</sup> April, 1998.

#### WEDNESDAY 20<sup>TH</sup> MAY, 1998

The House resumed at 9.30 am.

#### PRESENT:

Mr Speaker ..... (In the Chair)  
(The Hon Judge J E Alcantara OBE)

#### GOVERNMENT:

The Hon P R Caruana QC – Chief Minister  
The Hon P C Montegriffo – Minister for Trade and Industry  
The Hon Dr B A Linares – Minister for Education, the Disabled, Youth and Consumer Affairs  
The Hon Lt-Col E M Britto OBE, ED – Minister for Government Services and Sport  
The Hon J J Holliday – Minister for Tourism and Transport  
The Hon H A Corby – Minister for Social Affairs  
The Hon J J Netto – Minister for Employment and Training and Buildings and Works  
The Hon K Azopardi – Minister for the Environment and Health  
The Hon R Rhoda – Attorney-General  
The Hon T J Bristow – Financial and Development Secretary

#### OPPOSITION:

The Hon J J Bossano – Leader of the Opposition  
The Hon J L Baldachino  
The Hon Miss M I Montegriffo  
The Hon A J Isola  
The Hon J J Gabay  
The Hon R Mor  
The Hon J C Perez

#### IN ATTENDANCE:

D J Reyes Esq, ED – Clerk of the House of Assembly

#### DOCUMENTS LAID

The Hon the Financial and Development Secretary moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the laying of various documents on the table.

Question put. Agreed to.

The Hon the Financial and Development Secretary laid on the table the following documents:

- (1) Statements of Consolidated Fund Reallocations approved by the Financial and Development Secretary (Nos. 6 to 8 of 1997/98).
- (2) Statements of Improvement and Development Fund Reallocations approved by the Financial and Development Secretary (No. 4 of 1997/98).

Ordered to lie.

## BILLS

### FIRST AND SECOND READINGS

HON J J HOLLIDAY:

As a matter of urgent necessity I move to suspend Standing Order 29.

Question put. Agreed to.

#### THE TRAFFIC ORDINANCE (AMENDMENT) ORDINANCE 1998

HON J J HOLLIDAY:

I have the honour to move that a Bill for an Ordinance to amend the Traffic Ordinance be read a first time.

Question put. Agreed to.

#### SECOND READING

HON J J HOLLIDAY:

I have the honour to move that the Bill be now read a second time. This Bill amends the Traffic Ordinance to make having roadworthiness certificates a necessary condition for the issuing of motor vehicle licences only after the 1 November 1998. The suspension of this requirement until after the 1 November 1998 is necessary as there are still a substantial number of vehicles which have not undergone the MOT test. The suspension of this requirement will extend the introduction of the MOT test for vehicles which are four years or more. On expiry of road licences on 31 May 1998, all vehicles which are four years or over and without the roadworthiness test will not be able to renew their road licences without this amendment of the Traffic Ordinance. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON J C PEREZ:

Government Members know that we are in principle against the application of the EEC Regulation on the basis of an annual test and that we think that meeting the requirement by having a test every two years is sufficient. Therefore since this is really applying the policy of the Government on the basis that it is an annual test we will abstain on the motion itself. But I am not sure why it is that it has been necessary for this Bill to have been rushed to the House since I would have suspected that the matter could have been sorted out by Regulation as indeed the implementation of the law itself was done. The other point being made is that as a result of a question I put in this House earlier in this meeting, there was knowledge of the amount of cars that had not passed the test as a result of a confidential answer given to me by the Minister and I would have suspected that that would have given the warning notice to the Government that this was a problem that was coming and I see no reason why we ought to be rushing this. I hear that the licences were ready to be issued and that they were suddenly stopped by order from the Minister's office basically because this was found out late in the day. What I am saying is I do not think it should have been found out late in the day because when we had the Question and Answer session it was quite clear that this problem was there and obviously since then I would have thought that this could have been changed by Regulation. We are definitely not voting in favour because the House knows quite clearly the position of the Opposition that the test should be once every two years and not every year.

HON CHIEF MINISTER:

The reason why this matter is not being done by Regulation, technically it could have been, is that it is the policy of the Government not to change Ordinances passed in this House through Regulations not debated in this House. I know that that is a device to which the hon Member sometimes had recourse during their term of office, we prefer not to. This is a provision in the Traffic Ordinance itself that requires the production of MOT certificates in order to obtain a licence, to pay the road disc and the Government believe that if we are going to amend other than as a requirement of EU Directives or even in the case of EU Directives, our policy is invariably to bring to this House, as the hon Members know, and therefore we bring it to the House as a matter of consistency and policy.

As to the second point, presumably the same people who informed the hon Member presumably from inside, that is the Department of Transport, that the licences were ready for issue but were stopped on Ministerial instructions, those same officials presumably told the hon Member that they had failed to point out to the Minister the fact that it was a statutory requirement to have one's MOT as a pre-condition to the issue of a road tax and that the moment that officials pointed out this difficulty to the Minister, the Government took immediate action. It is not the job of Ministers to be familiar with every detail of statutory provision in respect of the subject matter for which they are politically responsible, that is the job of officials. Certainly the Government would much have welcomed officials, in this case, to have brought the matter to the attention of the Government sooner. They did not, as soon as they brought it to the attention of the Government it was dealt with and I think that is the only explanation that I can offer the hon Member.

HON J J BOSSANO:

I think predictably the explanation is that if there is somebody to blame it is not the elected Government, it is somebody else and if there is something that is good for which praise can be taken, then it is the elected Government and not anybody else. Perhaps we ought to have expected that explanation in anticipation of what is a normal reaction that we will get on many other aspects. I think it is perhaps slightly inconsistent to be committed to bringing legislation to the House and to do something that to my knowledge has not been done in the House before which is to have to suspend Standing Orders to introduce a Bill. I do not recall that ever having been done before. When we were talking about the possibility of regulation, we were not suggesting that the Government should alter the principal Ordinance by regulation. We thought that since there is a reference saying that the regulation in force is under section 4(b), then the regulation that has been introduced under section 4(b) could have been amended so that it would not conflict with the requirements of the principal Ordinance. We do not know whether that is technically possible but that was really what we were asking. Was that not a possibility?

HON CHIEF MINISTER:

Would the hon Member give way, otherwise I cannot raise again. It was not a possibility because the requirement that the road tax cannot be issued until one has the MOT is not a requirement of the regulation, it is a requirement of the principal Ordinance so we would still have been in

a position of amending a requirement of the principal Ordinance through the regulation and it is Government policy to avoid doing that wherever possible. I am surprised that the hon Member should criticise the Government for rushing through the House, for suspending Standing Orders, at least giving the House, albeit on short notice, to debate this issue whilst at the same time advising the Government that what we should have done was simply scribbled it out in the Gazette and published it on Thursday morning. That is where I think the inconsistency lies.

HON J J BOSSANO:

Well, he did not have to scribble it, he could have sent it typewritten. He chooses to use words in which he gives a speed to every explanation that he rises to give in order to somehow convert a reply into a counter-criticism, that is his style of doing business. Since, in fact, the reason why we have got a backlog is because they introduced the requirement that the vehicles had to be tested at the end of the four years of life, I would have thought if the regulation had said that that requirement had to be met within a certain time scale, then it could have been made compatible with the principal Ordinance. In the amount of time that we had available we have not been able ourselves to come to a conclusion as to whether this would have been possible, that is why we are asking the question. We think it would have been possible to do it and we were simply saying, if that was a practical solution then it would have avoided what is, in fact, not a very good precedent which is to have to take a position on voting on something with virtually no time to work through the implications. I also think that it is quite extraordinary to argue that the reason why this Bill could not be prepared a week ago and notice given was that a week ago the Government were not aware that there was a statutory requirement to have passed a test in order to have a vehicle on the road. It is not a question of Ministers being conversant with every detail of every law although, in fact, to my knowledge, neither they in Opposition or anybody else in Opposition has ever in this or in any other Parliament chosen to forgive Ministers for ignorance. The ignorance is less defensible when we have actually a position where the clause that is being amended is the enabling provision in the law which has been used by the Minister to require this. He must have looked at the enabling provision when he made the regulation and gazetted it and where they have issued press releases on it and then taken decisions on it and they answer questions and they have done all that without looking at what the law requires them to do. It says, "where any regulation for the time being in force made under section 4B requires the examination of a

motor vehicle, no licence shall be issued". The Minister will have the right of reply when I sit down and he will then be able to deal with whether this is indeed the case or not. In any event, it follows from what has been said that in planning the resources that they provided which is in the estimates, in terms of the capacity to examine more vehicles because of the introduction of that requirement after four years, presumably they must have done an estimate as to how long it would take and it is not the case that they estimated it would be done by 31 May because they did not think it needed to be done by the 31 May. Obviously had they known before that it needed to be done by the 31 May they would have known on the basis of the rate at which the tests and the examinations were being carried out, they would have known that the tests for all the vehicles that needed to be tested would take them a year or six months or one month and they are making a judgement now. That is to say, the law on which the House is being asked to vote presumes that by the 1 November every vehicle that needed to be tested will have been tested otherwise they will have to bring back amending legislation before the 1 November to extend the date again, otherwise on 1 November the vehicles would be operating illegally again as they would have been on 1 June. So perhaps the Minister can confirm what was their thinking originally as to how long it was going to take and whether there has been any change in the resources that are going to be devoted in order to achieve the target of the 1 November.

HON J L BALDACHINO:

From this side of the House two non-drivers have spoken so I suppose that I, who owns a vehicle, find it surprising that the Government did not know of this requirement when insurance companies, when one has to renew one's insurance, one has to take the certificate otherwise one would not get one's insurance. The other thing is, and maybe the Minister can say, I might be wrong, but it says, "issued on or after the 1<sup>st</sup> November 1998". If somebody has a roadworthiness certificate which has been issued in October, for example, is it that the date when one has to renew one's road tax is going to be changed or is it going to be the same? Then if somebody gets it in November and the road tax has to be renewed in June next year, I suppose that he will have two road taxes. How does that fit in with the date of when one has to get the road tax? Is it that it is going to be changed or is it going to be the same or what is the provision there?

HON J J HOLLIDAY:

I think I would like to raise in answer to some of the issues that have been raised by some of the Opposition Members. Firstly, I would like to say that it is totally irrelevant whether MOT tests are done annually or every two years for this amendment to come into place. The reality is that on the 31 May any car over four years which has not had their MOT test passed would have been illegal on the road. So therefore the one or two year criteria are totally irrelevant in the issue that we are discussing here today. I must say that yes, there is a backlog of cars awaiting to have MOT tests done but let me say that during the month of February and March especially there was sufficient time available for these cars to be tested and owners of cars did not take the opportunity to do so. There has been a recent rush in the expectation that obviously they had to have their cars tested before the 31 May and it was at that stage that we took the decision that we would suspend this requirement. But let me remind the House that this is a EU directive dating back to 1991 when Opposition Members were in office and provision should have been made, at that time. Bearing in mind that this requirement came into effect on 1 January 1991, some seven years before, the fact that we have had to act on this at this late stage is due to the fact that Opposition Members when in office did not take this EU directive as an issue that had to be addressed. I have been advised that the suspension of Standing Order 29 has been requested before in this House but obviously it was long before my time so I cannot really give reference to it. Let me say that this was the advice that I did receive when looking as to the possibility of how this could be presented to the House today. I am advised as well by officials that the 1 November was a suitable date as it gave those vehicles without the roadworthiness certificate enough time to have all their vehicles tested. In fact, what will actually happen is that we would have given owners of vehicles of four years or over the year to have been able to have had their cars tested. So basically on the 1 November any cars without the roadworthiness certificate will be on the road illegally and the law will then have to be applied.

As to the issue raised by the hon Member in respect of the decision as to how road taxes will be issued, I can say that Government have given due consideration to the possibility of staggering road taxes on a monthly basis rather than have all road taxes expiring on the 31 May. However, a final decision into the logistics of this matter has yet not been taken.

HON J J BOSSANO:

Can I?

MR SPEAKER:

No, you cannot.

HON J J BOSSANO:

If he gives way, yes.

MR SPEAKER:

If he gives way but you have got to ask the Minister to give way. He gives way.

HON J J BOSSANO:

I want to ask, Mr Speaker, I do not want to answer him. Can the Minister say, we have raised at Question Time the fact that the wording of the regulation on the time before or after the anniversary within which the vehicle had to be tested for public service vehicles, to which I think we got an answer which we did not quite understand. Can the Minister say, in fact, is there in the regulation a time limit within which, apart from the fact that we are changing the principal Ordinance for the purpose of the licences, does the regulation say, he said people will have been given a year, is it that the regulations themselves stipulate a time limit within which the MOT test has to be taken?

MR SPEAKER:

Let us get the position clear. You have given way but there is no need to answer, you have just got to finish your summing up. If you wish to answer you can.

HON J J HOLLIDAY:

My understanding is that there is a time limit but I am afraid I cannot give the hon Member an answer today on the actual timing that is in the regulation. It is not something that I have here in front of me.

Question put. The House voted:

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

Abstained: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J J Gabay  
The Hon A J Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

The Bill was read a second time.

HON J J HOLLIDAY:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken at a later stage in the meeting.

THE APPROPRIATION (1998/99) ORDINANCE 1998

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have the honour to move that a Bill for an Ordinance to appropriate sums of money to the service of the year ending with the 31<sup>st</sup> day of March 1999, be read a first time.

Question put. Agreed to.

## SECOND READING

### HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have the honour to move that the Bill be now read a second time. Mr Speaker, I will be confining my contribution to the customary practice of making a few introductory remarks on the content of the Appropriation Bill before giving way to the Chief Minister to outline the Government's public revenue and expenditure plans.

The Bill seeks the House's approval for the appropriation of funds for the financial year 1998/99 as set out in detail in the Government's Estimates of Revenue and Expenditure which were tabled last month. As was the case last year, the Appropriation Bill is in three parts. In Part 1 of the Bill the House is being asked to appropriate £95.8 million to departmental expenditure including subventions to the Gibraltar Health Authority and the Gibraltar Development Corporation. A further £19.1 million Consolidated Fund charges not requiring a vote by the House brings the total recurrent expenditure to £114.9 million. Hon Members will see from the estimates that the recurrent revenue is projected at over £122 million, producing a budgetary surplus of over £7 million. Part 2 of the Bill, Mr Speaker, concerns the appropriation being sought from the Consolidated Fund Reserve. This comprises £14 million to fund Improvement and Development expenditure and £1.5 million for the Moroccan Resettlement Scheme the Government recently announced. In addition, it is estimated that £1 million of Government debentures will be repaid from the Consolidated Fund Reserve over the course of the next financial year. The repayment of this public debt does not require the vote of the House. Part 3 of the Bill, Mr Speaker, seeks the appropriation of an amount not exceeding £26.9 million for the Improvement and Development Fund. This expenditure finances the various capital and economic projects set out in the estimates book. The sources of finance for this investment include the £14 million from the Consolidated Fund Reserve which I referred to earlier and borrowing of £10 million with the remainder coming from the sale of Government properties and European grants.

Mr Speaker, I have circulated to hon Members three replacement pages to the Estimates which have been incorporated in the copies made available to the press today. A list of other minor amendments has also been circulated. I will be happy to deal with any queries arising from these amendments at the Committee Stage. I give way to the Chief Minister and in so doing I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

### HON CHIEF MINISTER:

The Government's Estimates of Revenue and Expenditure contain a number of changes this year, which reflect changes that have been in the machinery of Government during the last 12 months. To summarise them, they are mainly the following: Training has been transferred to the Department of Education with the two existing civil servants, the Construction Training Centre Manager and the Assistant Manager and there is provision in the Estimates for the appointment, indeed it has already taken place, of the new Training Officer, who will also be in that Ministry. The Estimates show a restructure of the Ministry of Social Affairs into four sections. A Social Security Department, dealing principally with pensions and benefits; social assistance work in hostels and drugs rehabilitation and drug related matters. A Social Services Agency, which includes the Dr Giraldi Home, the St Bernadette's Occupational Training Centre, the Bishop Healy Home, the Probation Services and Social Workers Service, all managed by Milbury Care Services Ltd on behalf of the Government. A Housing Agency, which includes most of the staff of Residential Services Company Ltd, a company which contracts were ended by mutual agreement, again under the management of civil servants and fourthly the Prison.

The third part of the Estimates that shows change is the Department of Trade and Industry, which has been reorganised in four sections: (1) Administration and Statistics, which has been transferred to the Department of Trade and Industry this year; (2) a commercial division; (3) a financial centre division and, (4) a telecommunications division, telecommunications of the non-domestic kind. The Minister for Government Services of course remains responsible for telecommunications in the traditional context; this is the regulatory framework of telecommunications. Hon Members will see that the Departmental Vote under Trade and Industry contains a provision for the Telephone Regulator, although a policy decision has not yet been made as to whether the Telephone Regulatory Authority will sit within the Government as part of the Ministry of Trade and Industry or whether it will be hived off and if so, to what degree of independence as a statutory body. The changes introduced this year, read together with the very substantial changes introduced last year, really complete the very substantial restructure that is taking place of Government departments

and the Government machinery. The hon Members will bear with me, I think it is worth just to indicate the scale of the restructuring and reform that has taken place, if I just summarise what those changes have been. I have already said the Departments of Education and Training have been amalgamated under the Department of Education. The Infrastructure, Engineering and Design Section, previously in the Ministry of Trade and Industry, and also the Computer Services Section, have been transferred to the Support Services Department, together with the Electrical and Garage Workshops which were already there. We have created a Ministry for Social Affairs, with the four separate sections that I have already described - Social Security, Social Services Agency, Housing Agency and Prison. We have created a Ministry for Tourism and Transport, with separate tourism sections and transport, divided into roads, traffic, port, airport and shipping registry. The Department of Trade and Industry has been restructured, as I have already indicated. In terms of the central administration, we have created a Central Procurement and Monitoring Unit, which now handles all tendering procedures on behalf of the whole of the Government machinery. We have established a Legislation Support Unit, which operates separately from the Office of the Attorney-General, which deals with all drafting of legislation and the management of the laws of Gibraltar. We have reorganised functions by the creation of the Civil Status and Registration Office, which will bring together all the Registries: the Registries of Births, Deaths, Gibraltarians, Marriages, Property Registry, together with Immigration, presently done in the RGP, that is our Immigration administration, and the Nationality and Passport Office, which is presently at No.6 Convent Place. All of that together will become the Civil Status and Registration Office. The Treasury Department has been restructured to receive the Lottery Section and the Licensing Section and a newly-created Central Arrears Unit. In addition, the Treasury Department has assumed overall responsibility for the financial monitoring of all contracts to which the Government are a party. The Customs Department has, during the last 12 months under the new Collector of Customs, Mr Tony Lima, undergone a substantial internal restructure and is now in the process of refocusing and remotivating itself and as the hon Members already know, the Royal Gibraltar Police is engaged in a similar process following the acceptance by the Government of all but one of the Grundy Report recommendations.

These steps represent a substantial reshaping of Government and the public administration. We believe that the Government machinery is now more focused, more structured, more accountable, more functional, and more capable of administering the public affairs of Gibraltar than

was the case two years ago. Old Secretariat Building refurbishment is now complete. I think the contractor, Gibraltar Joinery and Buildings Services, which is a Government-owned construction company, has done a superb job. I would like to take this opportunity in congratulating them, to point out that this project and indeed other projects that they have done, I think stand as a monument to just how Gibraltarian craftsmen and building construction labourers are indeed capable of delivering good quality output in the construction sector, which traditionally is thought to have been the province of others. As a result of the Government's decision to save this building, as a result of the designs for it, as a result of the good job that the contractor has done, the Civil Service will shortly have a magnificent new set of offices which will be occupied by the Civil Status and Registration Office, the Ministry for Government Services and the whole of the Support Services Division which is part of that Ministry and by the Attorney-General's Chambers who can once again look forward to having a set of Chambers appropriate to the important role that they play in the affairs of Gibraltar. Government expect that that building will be inaugurated in June, and occupied soon thereafter. It will be named the Joshua Hassan House in honour and memory of the late Sir Joshua Hassan, who initiated the business of public administration in local hands from that building which used to house his offices whilst he was Chief Minister.

One innovation that we are introducing this year as a further development of the Government's commitment to transparency and accountability is that we shall be publishing, later on today, a booklet explaining the principal features of the Estimates of Revenue and Expenditure in an attempt to make the public finances of Government more accessible to ordinary people and to give the ordinary citizen an opportunity to understand not just how Government spend their money, but indeed what the relative proportions are of items of expenditure and things of that nature. This is a start, I have no doubt notwithstanding the amount of work that has gone into this, that for future years it will be possible to improve the booklet, to make it more user friendly than it is, but I think as a commitment to transparency and accountability this initiative is a significant contribution.

The present estimates also reflect the completion of the reorganisation of public finances. That also has been completed and has taken a substantial amount of Government time and effort during the last two years. All public revenue, that is to say, all revenue that initiates by authority of the Government to the Government directly or indirectly, except social insurance contributions and the training levy and European

Social Funding that comes from Europe, is now channelled into and accounted for, in the Consolidated Fund and is therefore reflected in the Estimates of Revenue and Expenditure which are before the House today. The training levy and the European Social Fund are received into the Gibraltar Development Corporation, but even though there is no legal compulsion to do so, financial statements equivalent to what would have been the estimates in the Consolidated Fund if they had been part of the Consolidated Fund, are published at Appendix E to the booklet by way of information in respect of the Gibraltar Development Corporation. All payments to contractors of ex-Governmental or quasi-Governmental services are now shown in the estimates and the estimates now amount to a full and accurate, subject to the usual parameters that they are estimates, the best estimates of revenue and expenditure and they tell the whole story.

The public revenue of Gibraltar, the revenue of the Government is stable. Income Tax has held up at about £45 million despite the fact that the Government have given away, over the last two years, nearly £4 million in tax as a result of increasing tax allowances. That has been a rough cost to the Government of the increases in our first two years in office of tax allowances. Notwithstanding that, income tax levels remain at about £45 million. Indeed corporation tax has come in this year at £10.5 million, despite the pressure on the private sector and despite the fact that the Government estimates at the beginning of the year were for a little bit less. Although the booklet before the hon Members shows therefore that the total take from tax, that is to say income tax and corporation tax together, at about £55 million, it is possible that the final figure when the final count is taken may be in excess of £56 million. Import duty also has held up at about £20 million, despite the pressure on local trade from the very strong pound. There has also been the impact of the import duty review and the increases on tobacco duty. And therefore, the estimates of the Government placed before the House for approval, estimates that revenue during the financial year just started 1998/99, will be £122 million up from the forecast outturn for the year just ended of £118 million. Government remain confident that public revenues will continue to rise. This confidence stems from confidence in the fact that the economy will grow, that there will be higher levels of employment, that there will be a higher take from import duty and indeed in this last respect, although one month is not an indicator upon which any great reliance should be placed, the import duty take for the first month of this financial year, that is April, has shown a buoyant £2.3 million compared with £2 million in the same month last year.

Departmental public expenditure, recurring public expenditure, shows a rise of £9.4 million, but of course, as I will explain to the hon Members in a moment, that does not mean that real expenditure is rising by £9.4 million, it is a product of the reorganisation of the system of public finances. The estimate for departmental recurrent expenditure for the current financial year is written in at £95.8 million, the forecast outturn of the same statistic for the year just ended is £86.4 million and that produces an apparent increase of £9.4 million. But, as I have said, it is not that the Government propose to spend £9.4 million this year that we did not spend last year. Of that £9.4 million, £5.7 million arises from the fact that expenditure on social assistance, which as the hon Member knows has hovered at around £6 million for some time and which previously used to be paid from funds channelled into the Social Assistance Fund directly from elsewhere, are now paid from a subvention to the Social Assistance Fund from the Consolidated Fund, and therefore there is £5.7 million of expenditure that was incurred last year as well and the year before that as well but which now features in the Consolidated Fund and therefore appears to increase, indeed does increase consolidated fund expenditure but not Government expenditure because this was expenditure that the Government have always incurred but now bring it into the Consolidated Fund. Of the £9.4 million, £1 million is an increased provision which we sincerely hope we will not have to have recourse to, of £1 million for supplementary expenditure. That is not planned expenditure in the recurrent departmental sense. That leaves a net real increase in the cost of Government of £2.7 million, out of a figure of £9.4 million that appears from a simple glance at the estimates themselves. Hon Members may be interested in knowing roughly where that extra £2.7 million is generated and I am happy to give them the following information. About £600,000 of it - the reason why it is not possible to be entirely accurate is that of course there will be other departmental increases elsewhere, but there will also be other departmental decreases but this is the most meaningful net explanation for the increased cost of Government of about £2.7 million, on an estimated basis, over the next 12 months. About £600,000 originates from increased spending on social services, an area which the Government identified as under-funded and under-resourced. About £900,000 originates from increased personnel, increased emoluments and new posts. About £200,000 results from each of the following items:- increased materials from Buildings and Works; increased water tariffs subsidy, the hon Members know that there is a contract between the Government and Lyonnaise des Eaux, which entitles them to certain water tariff increases which the Government, in effect, compensate them for not passing on to the taxpayer, that is another item which results in

an increase of about £200,000; the disposal of fly ash produced by the incinerator; salaries in the Gibraltar Development Corporation, a provision which has never been provided for before, although the expenditure is not new of £200,000 for the telecoms regulator, which as hon Members know, is something which is required for the forthcoming liberalisation of the telecoms market pursuant to EU Directives; and a miscellany of items also amounting to £200,000.

As the Financial and Development Secretary has said, the Government are projecting a budget surplus for the current financial year in the order of £7.2 million. Under the Improvement and Development Fund, the Government are estimating that we will spend £27.9 million. I say 'estimating' because in a sense it is a wish list, it remains to be seen how much of that expenditure we will actually be possible to get out during the next 12 months. Much of that expenditure is not new, they are things that we brought to the House last year in the Improvement and Development Fund and were simply not able for lack of any number of reasons, underestimation of the design and needed time of particular major projects, undercapacity in the technical section and the design section, undercapacity in the local construction, and for a number of reasons the projects that we sought approval last year from this House amounted to £36.9 million, of which we only spent £11 million so that much of the £28 million that we seek to spend this year is really the remainder of last year's list. There are one or two new items and indeed some items that have fallen out which we have dropped but in effect the expenditure last year, coupled with the expenditure this year, if we are able to do it and we are certainly determined this year to do much more of it than last year, will more or less equal what we asked approval from the House last year. The projects on which the Government seek to invest represents a balance of the matters in which the Government judge this community should be investing. There is a provision of £4.2 million for housing. There is a provision of £1.5 million for improvements to our schools, youth and cultural facilities. There is a further investment of just under £4.5 million on tourism and transport infrastructure. There is expenditure, not all of it discretionary, a lot of it arising from the need to keep our cliff faces safe, a lot of it arising from the need to repair the massive landslide at Rosia Bay. An investment of just under £8 million on infrastructure and general capital works. Ministers responsible for these areas will no doubt, in their own addresses, take the House through the particular projects that this expenditure will cover. There is an investment of £9 million under the heading Industry and Development, which of course, includes the unspent provision of

European Union Objective 2 funding and is therefore not all Government expenditure.

Mr Speaker, the reserves of the Government of Gibraltar stood at £40.8 million as at March 1996. When I say the reserves of the Government, they did not actually exist as an identifiable transparent reserve, they were scattered around in special funds; reserves in the Savings Bank, company balances and things of that sort. As at the end of March 1997, that is to say, after one year of the present administration, those reserves had grown to £48.3 million. They presently stand at £47.1 million, that is to say, nearly £7 million higher than we inherited and that despite that we have given away, saying as we have always done, that the people of Gibraltar are unnecessarily taxed unduly highly. Public reserves have grown, notwithstanding that we have given away £4 million of tax to the taxpayers of Gibraltar, that we have incurred already nearly £1.5 million of expenditure in connection with the Harbour Views situation. We have funded the 50/50 scheme in respect of Westview Park and that we have invested £5 million out of that reserve in last year's Improvement and Development Fund expenditure. Notwithstanding all of those things, the reserves of the Government of Gibraltar continue to grow. But that is not to say that the Government of Gibraltar are obsessed with the growing of our reserves. That is simply to dispel misleading and confusing presentations which are fed, from time to time, to the electorate by those who feel they have something to benefit from it. It is not to say that the Government of Gibraltar are obsessed with putting money aside for what used to be called a rainy day. The rainy day is now, because this is when this community needs to invest in its future. Government reserves do not exist in order to buy shiploads of baked beans to feed the population behind the barricades, when some future Government decide that it is time to fight a political battle. Government reserves exist in order to invest in the repositioning of the economy in order to invest in the things that the Government need to do, in order to create the right conditions in which the private sector can take the economy of Gibraltar forward into the next century. And therefore we will, during the remainder of this term, make investments which will reduce the Government reserves below the present record level of £47 million because we judge that that is in the best interests of Gibraltar. If we spend the projected £28 million in the Improvement and Development Fund this year, if we spend that, and the surplus on the Consolidated Fund is not higher than it is estimated to be, then by this time next year the reserves of the Government may have been reduced to a sum in the order of £32 million. £14 million of that reduction will be invested in capital assets through the Improvement and Development

Fund, and £1.5 million will be invested in the Moroccan resettlement package which the Government have already announced. At the same time as these investments have been made, taxation has been reduced and Government reserves have risen, the Government have reduced the public debt, which remains at £61.4 million, having been reduced from about £67 million. During the forthcoming year we will repay, not because we would feel a need to, but because they simply come up for redemption, £1 million worth of Government debentures. But if the rate of expenditure in the Improvement and Development Fund requires it and if the Government's cash flow, and to the extent that the Government's cash flow requires it, we may borrow up to £10 million, which will result in a net increase in public debt of about £9 million. Here I have to sound a note of caution. Negotiations that the Government are conducting with Agroman, the builder of Harbour Views, for a settlement of claims against that company in a way which may have resulted in the Government's initial outlay being scaled down, are not going as well as we would have liked. It now looks increasingly unlikely that the Government will be willing to accept the settlement that is available, feeling as we do, that the share of the Government's contribution cannot be justified by anything for which the Government are responsible, nor indeed, by any reason for which Agroman is not responsible. Therefore, it may be necessary to continue with the litigation, and if we continue with the litigation, it means that the Government will honour our electoral commitment to fund the repairs in the first place and then seek to recover the full cost of those repairs from litigation. Therefore as a matter of cash flow and if that scenario occurs, as I have just described, it may well be that the Government will need to borrow further sums of money in connection with those repair works. There is still a small balance left in the Government's Co-Ownership Company, which will be used initially, for any Harbour Views expenditure that the Government need to incur. There is no provision in these estimates for any additional expenditure out of the Improvement and Development Fund or the Consolidated Fund for that purpose and if it becomes necessary to have recourse to that expenditure, then the Government will move a Supplementary Appropriation Bill so that the House will have indeed as it is right, the opportunity to approve or disapprove of that expenditure.

Mr Speaker, the last 12 months in particular have seen the Government make a concerted effort in the matter of the management of the very substantial arrears of public revenue which have historically built up. We have taken this view for three principal reasons, first of all, that allowing a lax attitude to arrears of public revenue creates an unlevel playing field for the private sector economy. It is just not fair and it is just not correct

that some companies operating in the same sector and therefore competing directly one with the other, should pay their public dues and that others should not, therefore, giving the latter an unfair commercial advantage over the former. Secondly, the whole area of arrears management is an essential tool in the fight against illegal use of labour which in turn contributes to the unlevel playing field in the private sector, to the extent that some companies are able to employ labour which they do not register for social insurance, which they do not register for income tax purposes and they therefore do not pay PAYE, they do not pay social insurance contributions and the cost of the labour is reduced so very dramatically that it puts that particular company at an operating advantage. Thirdly, and by no means least, the fact that the taxpayer who pays his dues, we believe at high levels in Gibraltar, is entitled to have public revenues enlarged as much as possible by an aggressive policy of arrears collection because that makes it more possible for the Government to lower the level of taxes for the benefit of those taxpayers that do pay their dues. In pursuit of that policy, we have established a new Central Arrears Unit under the overall supervision and control of the Accountant General within the Treasury. That unit which deals with PAYE, which deals with social insurance, which deals with rates arrears and others, is staffed by seven full-time members of staff within Treasury under the day-to-day control of an HEO, supported by a full-time lawyer dedicated exclusively to that section, supported by three Executive Officers, one AO and one typist and all supported by two Senior Executive Officers who dedicate a significant proportion of their time to this function and under the supervision of the Accountant General. This represents, Mr Speaker, a significant commitment of organisation and resources to an area in respect of which, apart from all the things that I have just described as good reasons for dealing with, is an area in which successive Governments have been criticised by the Principal Auditor for not doing enough. We believe that it is an investment, these additional resources, that they will collect much more in arrears of revenue than it costs to operate. For example, since the Central Arrears Unit began its work in May 1997, it has had passed to it, PAYE arrears amounting to £3.1 million. It has collected in cash, outright of that nearly £3.2 million just over £1.5 million in PAYE alone, a further £1.2 million have been made the subject matter of reasonable arrears payments agreements, 179 agreements in all have been entered into, just in respect of PAYE. In respect of social insurance it is not possible to know how much is owed to the Government at the moment. The exercise is in hand, the Central Arrears Unit, supported by the staff of the social security section of the Ministry of Social Affairs, are presently engaged in the exercise of trying to assess how much is owed to the Government

of Gibraltar in respect of arrears of social insurance. So far £2 million have been identified but there is every indication that the actual arrears may amount to as much as £10 million. Of that £2 million already £250,000 have been collected and £1.3 million has been made the subject of 140 agreements on reasonable terms for the payment of arrears. There is a similar performance record in respect of rates and other areas of arrears. The Central Arrears Unit is supported by a new unified inspectorate, inspectors that will go out into the field and check employers' compliance with all areas, not like before where the Income Tax Office used to check for PAYE and then compliance and then somebody else used to go from the ETB and often people were being pursued for one arrears whilst they had others. Government have created a unified inspectorate system whereby inspectors will go out into the field and check compliance by employers with the whole range of obligations that they have in respect of registration of labour and taxation. In summary, of the £6 million of arrears that have been passed for dealing by to the Central Arrears Unit since May last year, £1.8 million has already been collected in cash, £3.2 million has already been made the subject of repayment agreements and 25 companies have been compulsorily wound up for non-payment of a total of £230,000 worth of arrears to Government.

Mr Speaker, I am of the view that the present.....

MR SPEAKER:

Let me give a ruling on portable telephones. No one is allowed to enter this House with a portable phone. Leave it outside. All right, carry on.

HON CHIEF MINISTER:

Mr Speaker, I am of the view that the present basis upon which Ministers and other Members of this House are remunerated is inappropriate and indeed in serious need of review. The fact of the matter remains that Ministers of the Government continue to be paid as if they were part-time Ministers. In other words, as if they were not engaging for a full working day in their Ministerial responsibilities. Hon Members and indeed the whole community, is aware that that is simply not the case. I will therefore be putting proposals to this House in the form of a motion later in this meeting, with proposals in respect of a review of that whole area and I will certainly be inviting the Leader of the Opposition to participate with me or at least to hear from me in advance what the proposals are in case he has any suggestions that he would

like to make before the matter is brought to the floor of the House. I believe the matter should be brought to the floor of the House, I think the Government should not by ourselves, decide on these matters. I think as happens in the United Kingdom, for example, the level of Members' salaries and Ministerial salaries is a matter that should be agreed and resolved, certainly approved across the floor of this House, and I will expect to be putting proposals within the next month or so in relation to that matter.

Mr Speaker, during the course of the last year the Opposition Members but in particular the Opposition Spokesman for Government Services, the Hon Juan Carlos Perez, has from time to time put to me questions about what effect our restructuring and our recruitment programme has had to the size and shape of various aspects of the Civil Service and I have asked him to await the completion, which I have announced this morning, of the restructure of the Government and indeed of the recruitment process of the various levels of seniority that has occurred. I am now in a position to inform this House of the effects that the Government's actions in restructuring and resourcing the civil service has had on the numbers of civil servants engaged and indeed on the management hierarchy of that civil service. Hon Members may be interested to know that a total of 41 new posts have been created above the level of AO, we will deal with the basic level later. Although 41 new posts have been created, they have thrown up the opportunity for 82 promotions. I think hon Members know the musical chairs system, when a new post is filled by an incumbent in another post, that other post then becomes vacant and that gives somebody else coming from underneath a further promotion opportunity. So although 41 new posts have been created, and I will explain to the hon Members where those new posts are and at what level in a moment, 82 promotion opportunities above the level of AO have been created and in addition 44 new Administrative Assistants have been recruited into the service. Starting at the level of Senior Officer, Mr Speaker, there have been eight promotions to the level of Senior Officer including seven new posts. There have been 16 promotions to the level of Senior Executive Officer including 11 new posts at that level. There have been 19 promotions to Higher Executive Officer level including three new posts at that level. There have been 30 promotions to Executive Officer level including 12 new posts at that level. There have been nine promotions to the level of Personal Secretary including eight new posts at that level. When the process of musical chairs finishes from the bottom to the top at the end of that recruitment process, it has resulted in the recruitment of 44 people into the Service at the lowest level of AA. Five of the 30 EO posts that I

mentioned before, have been by recruitment from outside the Service. Two have already taken place during the course of the year into the Department of Trade and Industry and three have been advertised and are in the process of taking place into the Computer Section, where the Government have asked for a degree in computer studies, given that this is an area of technical expertise and not an administrative function. Mr Speaker, hon Members may wish to know what the additional cost of each of those things is. The additional Senior Officer posts and promotions to it have resulted in an additional cost of £19,000 in the current financial year. The SEO posts throw up an additional cost of £39,500; the HEO posts £8,537; the EO posts £86,872; the Personal Secretaries £33,300, totalling £187,000 in all. The 44 additional AAs that have been recruited come at a cost of £326,000 per annum. And so, Mr Speaker, what does all that do to the total establishment of the civil service? There are at present therefore, 429 persons occupying administrative, executive and secretarial grades. Twenty senior officers, 23 Senior Executive Officers, 38 Higher Executive Officers, 75 Executive Officers, 14 Personal Secretaries, 168 Administrative Officers, 44 Administrative Assistants and 47 Typists, a total of 429. The establishment of the civil service as per the estimates, for which the funding was therefore provided annually in the Consolidated Fund in the budget debate as at the 31<sup>st</sup> March 1996, that is to say, just before we came into office, was 420. In other words, the establishment has grown by nine people in this area during the comparison of the people that will be in post during the coming year and the establishment as per the estimates as of the 31<sup>st</sup> March 1996, is 420 compared to 429 now. In addition to that, there have been other staff recruitments in the Department of Education, four new teachers which have cost a total of £180,000. The Housing Agency at £55,000, in the sense of additional resources made available to the Housing Agency. The Vehicle Testers which were recruited at a cost of £72,000 and the Maritime Administrator at a total cost of £50,000. If, Mr Speaker, the hon Members want departmental information about where all that impacts, I will be happy to give it to them privately. I do not think it is necessary to give it on the record at this moment. Therefore, the total number of public employees is as follows: for the forthcoming year the salaried employees will be 1,561 compared to the estimate for 1997/98 of 1,559. The total cost of the salaried staff is estimated this year to be £33.75 million. There are a total of 592 industrial staff in the forthcoming year, compared to 599 in the estimates for the last year, at a total cost of £7.38 million. The Gibraltar Health Authority employs a further 617 and The Gibraltar Development Corporation employs a further 87.

Another area in which the Government have already signalled that the position is unsatisfactory from a management point of view, from an economic planning point of view, and from the point of view of compiling meaningful national accounts, is the whole area of statistics. Government therefore during the forthcoming year will make a start on the much needed process of computerisation and interlinking of Government departments by computer network, which will result in the timely and meaningful collection of statistics which can then be applied firstly, to give this House better quality information; secondly, to better plan Government policies and thirdly, to ensure that our national accounts and therefore claims of growth in the economy and GDP will actually be supportable by reasonably accurate statistics, which has not hitherto been the case. We believe, and indeed, there is already in hand, a consultancy by an expert from the United Kingdom in how Gibraltar's system for the collection of statistics and indeed for the preparation of meaningful public accounts can be effected. That is being done in conjunction with the Statistics Office here. The quality and methodology of the Employment Survey will also be improved and will return to the system of Employment Surveys as opposed to just statistics which derive from the Income Tax Office, so that we can get a meaningful assessment of how many people are really employed in this community and what the real level of unemployment is in this community. And indeed, the whole system for reassessing employment and unemployment statistics, which is open to abuse, is being reassessed. But perhaps on the statistical front, Mr Speaker, the most significant development during the last 12 months, has been the completion of the Family Expenditure Survey. That is to say, a reassessment of the basket of items of household expenditure that goes to make up the elements, the constituent part of the indices of retail prices and which ultimately becomes the measure of inflation in Gibraltar. Mr Speaker, I will like to inform the House that with effect from 1<sup>st</sup> April this year, the Gibraltar Index of Retail Prices will be compiled using new weights which have been derived from the results of the Family Expenditure Survey conducted during the past three years. The last time that the weighting of the index was revised was in 1980. A revision of those weights was clearly overdue, particularly given that household expenditure patterns have changed significantly during the intervening period. The Index of Retail Prices is a key statistical indicator which is relied upon to adjust levels of wages, occupational pensions and other forms of income. It is therefore important that the basis of calculating the index is as up-to-date as possible. Indeed, the changes that have occurred in household spending patterns since 1980 are not simply confined to changes in consumption as income rises but in the

case of Gibraltar also mainly reflect changes in major economic factors affecting consumer choice. First, the full opening of the frontier in 1985 resulted in a significant shift in consumer spending some of which inevitably switched into expenditure in Spain. Second, the move towards home ownership has increased the proportion of expenditure, in housing and housing finance related costs. I will highlight some of the more significant changes, for example, according to the new weights, average household expenditure on food as a percentage of total expenditure has fallen from around 33 per cent to 26 per cent. Expenditure on housing has risen from just over 12 per cent to just under 20 per cent. The other major change, rising incomes and higher spending on travel and recreational needs, relates to the increase in expenditure on transport, travel and motor vehicles which has risen from 13 per cent to 21 per cent as a proportion of total average family expenditure. Mr Speaker, it is too early to say whether the application of the new weights will result in a higher or lower figure for the rate of inflation. This has been tested empirically using price data during the past year or so. In other words, we have used historical data and we have applied it to the new Model. The analysis shows that the price inflation rates vary between the old and the new weighting from quarter to quarter, in some cases the rate being higher and in other cases the weight being lower. The Government will shortly publish the whole of the report on the Public Expenditure Survey which contains detailed information on household incomes and expenditures together with an interesting analysis of spending patterns and household compositions. I would like to take this opportunity to thank the members of the Retail Prices Index Advisory Committee, the enumerators and the households who co-operated in the survey which has required much detailed work and recording of information in what is an important matter for the economy and economic activity in Gibraltar.

And so, Mr Speaker, to the matter of taxation. It has been, during the first two years of our term in office and remains the policy of the Government to continue to reduce the levels of taxation in Gibraltar, to appoint where we have a proper and justifiable balance, between the reasonable revenue needs of the Government on the one hand and the legitimate entitlement and expectations of citizens that the Government will not take from their pockets more money than the Government need to deliver the services that this community wants the Government to deliver for them. In addition to that, the Government have as a matter of policy identified that it is necessary to reposition Gibraltar generally not just for the benefit of taxpayers, but indeed for the long-term benefits of our Financial Services Centre, that it is necessary to reposition Gibraltar

in the medium to long-term but preferably in the medium-term, as a low tax jurisdiction for all, rather than as a high tax jurisdiction for residents and a no tax jurisdiction for non-resident users of our Financial Services Centre. This is not entirely a matter of choice on the part of the Government. The fact of the matter is that those hon Members that follow developments in this respect internationally cannot fail to notice the sense of purpose and intensity with which not just the European Union but indeed the OECD on a global scale has in its sights what are called jurisdictions that implement harmful tax measures, to other countries' tax base. The definition of a harmful tax measure of the sort that the international community is ganging up to eradicate is precisely defined by reference to taxation facilities, taxation concessions which differ between the resident of the territory and the non-resident of the territory, that is the central core of the definition of a harmful tax measure. Low tax across the board is not part of the definition of a harmful tax measure, but if one charges one's residents high amounts of tax and one's non-residents, namely the citizens of other countries low tax or different rates of tax, that is by definition a harmful tax measure. Hence the Government's identification in the medium-term interests and long-term survival of our Financial Services Centre to reposition Gibraltar generally as a low tax jurisdiction *[Interruption]* No, we are not doing a Bermuda, we are doing a Jersey. Bermuda is a no tax jurisdiction and we would be a low tax jurisdiction like Jersey. To that end, Mr Speaker, I have appointed a committee of local practitioners to advise the Government into how this matter can be introduced over the next year or so. It comprises of local lawyers, local accountants, local tax technicians and their remit is not just to look at the question of taxation because converting Gibraltar into a low tax jurisdiction means assessing the whole system of Government finances. Every area of Government income has got to be assessed and re-assessed so that the levels of taxation can be reduced whilst continuing to deliver to the Government that level of revenue that it needs in order to pay for public services. In the meantime, and as a separate exercise during the next 12 months, the Government's next phase of purely local policy-driven taxation reform will look at the structure of tax bands and thresholds and at how future tax concessions can be delivered in a way which maximises their benefit to those in greatest need, namely the lowest paid. In respect of measures that the Government introduce for this current financial year, I can inform the House of the following alterations. Hon Members know that Section 47 of the Income Tax Ordinance creates a system of covenanted contributions to ecclesiastical bodies and charitable institutions. But that is subject to a maximum of £600 with the Tax Office closing it up in favour of the institution at the

standard rate. The maximum figure of £600 that can be covenanted in this tax effective way for the institution, has not been increased since 1993 and is now increased to £750. Hon Members will be aware that in each of the last two years we have increased the levels of personal allowance, of wife allowance, of the single old age person allowance and of the married old age person allowance. In May of 1996 the personal allowance was £1,450, we have increased it by £200 a year in each of the last two years. It currently stands at £1,850 and we now increase it by a further £200 to £2,050. That represents in all, Mr Speaker, an increase of £600 in the level of personal allowance. In respect of the wife allowance, again this has been increased by £200 in each of the last two years. It was at £1,350 in May 1996, it currently stands at £1,750 and it is now increased by a further £200 to the new level of £1,950. The single old age person allowance, which stood in May 1996 at £320 was raised to £360 in the first year and to £400 in the second year and therefore currently stands at £400, is now raised by a further £40 to the new level of £440. The married old age person allowance which stood at £450 in May 1996, was raised to £510 in the first year, £570 in the second year, so that it currently stands at £570, is now increased by a further £60 to stand at the new level of £630. Mr Speaker, the effect of this year's increases are that personal allowances will have risen by 41.4 per cent, wife allowance will have risen by 44.4 per cent, single persons old age allowance will have risen by 37.5 per cent and the married old age allowance will have risen by 40 per cent from May 1996. The approximate cost to Government revenue of those allowance increases is estimated as being something in the order of £1.9 million. In addition, there are a number of other allowances that have not been raised since 1987. These include the child allowance which has stood at £500 since 1987 and is now raised to £650. The allowance for the first child studying abroad which has stood since 1987 at £560 and is now increased to £700. The allowance for the second child studying abroad which has stood since 1987 at £450 and is now raised to £600. The allowance for the first handicapped child which has stood unchanged at £800 and is now raised to £1100. The allowance for the second handicapped child which has stood at £700 is now raised to £950. The allowance for the first handicapped child abroad which has stood at £920 and is now raised to £1,200. The allowance for the second handicapped child abroad which has stood at £800 and is now raised to £1,100. What does all that mean to the average taxpayer, who we might describe as a married man with at least one child who pays tax at the standard rate? Such a person is now £405 per annum better off than he was in 1996. In addition to these changes in the system of taxation allowance there is another allowance which is not delivered in

the form of tax allowance but rather as a cash payment under the social assistance scheme, and that is the allowance paid in cash to handicapped persons in respect of their handicap. These rates, which have not been increased since 1988, stand at £14.70 in respect of persons under the age of 19 and at £21.70 per week in respect of persons who are 19 years or over. The Government announce today an increase in both allowances, in both weekly payments by 46 per cent, that is by £6.76 to £21.46 in respect of under 19 and by £9.98 taking it to the new level of £31.68 in respect of persons aged 19 years or over. We believe, Mr Speaker, that these are allowance increases which are long overdue.

And so, Mr Speaker, to the private sector economy. We have during the past two years, I believe, clearly mapped out our vision for the development of the private sector economy in Gibraltar. I will not repeat that map and that vision here today. Hon Members know that the Government are investing in and working towards a Finance Centre which is based on a sound international reputation on good quality regulation, on high profile marketing and projection, on new product and new market development, on compliance with our inescapable international obligations and which will in the medium-term aspire to being repositioned as a low tax centre. I believe that under the stewardship and leadership of the Minister for Trade and Industry with responsibility for the Financial Centre development, we are well on the way towards that goal and I have no doubt that the House will hear more from him on that in his own contribution. Hon Members also know that in respect of tourism the Government policy is based on generating greater volumes of economically valuable overnight and higher spending tourism and for that purpose we have led the way by investing in an upgrade of our hotel infrastructure, by investing in the beautification of Gibraltar, by investing in better airline access to Gibraltar and by investing in generating additional level of cruise traffic to Gibraltar. We believe that all of these items in which the Government have invested for the future of Gibraltar are essential. Gibraltar can no longer rely in the recent inordinate strength of the pound as well as the increasing sophistication of our neighbouring retail market in Spain, Gibraltar can no longer rely on lower retail prices here than in Spain or here than in the rest of Europe as the magnet to attract people to visit Gibraltar. What we need is an attractive accessible well presented Gibraltar and the Government will continue to invest in this vision even if the Opposition Members, in a unvisionary way wish to continue to describe it as wasting money. Maybe wasting money from the analysis that they make, we regard it as an essential investment in the future of the economy of

Gibraltar and therefore in the future of Gibraltar itself. Hon Members also know that the Government have identified the Port as an area of development and the Minister with responsibility for the Port will no doubt be explaining to the House later what his plans are in that area. I would like to take this opportunity to put on record the Government's sense of delight at the fact that the Port activities and the contribution which the Port makes to the economy has been augmented again this year by the attraction to Gibraltar of what I think will be a first class commercial operator for the yard, namely, Cammell Laird.

Mr Speaker, it is clear from an analysis of the amount of construction activity going on that there is a sense of confidence in the development and in the construction industry in the private sector. Some of that development is public expenditure driven but a lot of it is not and much of the expenditure that there will be in the next two years in the construction sector will not be public expenditure driven. The Minister for Trade and Industry will explain later the successes that the Government have enjoyed in the fifth area of economic activity, namely, the development of bringing on line of the satellite projects and some new ones that have been attracted. Other industrial projects, such as the bottling plant and other projects that his Department has in the pipeline. An essential element during the next two years in the Government's contribution to the sustenance of the private sector, in addition to the infrastructural investments, the marketing investments that we are doing is the investment that will take place in training. The next two years will see a sharp focus in all aspects of training and the Government will very shortly be publishing a comprehensive far-reaching co-ordinated and well-resourced training programme blueprint which will be implemented during the next two years and which will deliver our manifesto commitment that every person in Gibraltar under the age of 21 should either have a job or a valuable training opportunity and indeed we hope to improve on that by raising the age bracket there to 25 and not 21. In addition to that, the Minister for Employment will, during the next several weeks, be announcing the Government's new wage subsidy schemes and cadet training schemes which will, together with training, and this will be the essential philosophy of the Government's activities in both training and job creation schemes, but the focus will be on training. Government's job is not to fund people forever in low paid dead end jobs. Government are interested in getting people back to work and are interested in getting them back to work in a way which at the same time delivers to them the opportunity to acquire qualifications, the opportunity to acquire skills and therefore the opportunity to progress as they grow older through life up the quality job ladder. Therefore gone will be the

unmonitored and unsupervised cadet training schemes, gone will be the pure wage subsidy which simply becomes a burden on the taxpayer and a trap for the employee in low pay.

Mr Speaker, there can be no doubt that Main Street and the other areas of our retail trade in Gibraltar in particular, but not just the retail trade, in consequence of the retail trade, the wholesale trade, for example, and in consequence of that the transport sector, has had a difficult 18 to 24 months and this has been almost exclusively due to the inordinate strength of the pound, which has risen by something in the order of 28 per cent in the last two years. Although that is not something that the Government can remedy, although we have tried to deliver elements of assistance to the private sector, there are things that the Government can and will do during the next two years as our contribution to the success of our private sector. The first is to do more to create what I called before a level playing field and a level playing field results both internally and externally. In an internal sense, all employees must be made to pay their dues, the ones I have described earlier PAYE, social insurance, rates and utility charges. Otherwise, as I said earlier, it amounts to unfair competitive advantage. I have already taken the House through what the Government plan to do there, the Central Arrears Unit, the unified inspectorate and soon there will be published the amendments to the legislation that will create, not just the unified inspectorate but which will establish failure to register your labour for all purposes, for PAYE purposes, for ETB purposes, for social insurance purposes, will become fixed penalty offences. That is to say, one will not need to be prosecuted in court, it will be like being issued with a parking ticket for parking on a double yellow line and the penalties that the legislation will impose, coupled with that new system of fixed penalty offences, will be severe. The Minister for Employment has said, the next month or so is an opportunity for employers that are not in compliance with their obligations to bring themselves into compliance with their obligations because after this new legislation is in place the regime under which they will be operating will be visibly different. And the element of external creation of a level playing field is also very relevant to the sound development of our private sector. Large areas of our private sector are exposed to unfair competition based on low cost competition from Spain. Organisations that do not maintain any form of registration in Gibraltar, any form of infrastructure in Gibraltar, who pay no taxes in Gibraltar either on their profit or on their employees. The measures that the Government will implement in that respect during the next years are the following: Firstly, there will be a tighter control at Customs to regulate and control the incidence of cross frontier trade and

to ensure that it complies strictly with legislation. Secondly, there will be amendments to the Trade Licensing Ordinance to require the registration in Gibraltar of businesses including businesses engaged in cross-frontier business. Thirdly, there will be a continued but necessarily cautious use of the import duty system to promote local trade and therefore to protect local jobs.

Mr Speaker, we believe that we are well on track in the deployment and the achievement of our economic policy objectives. We expect the private sector, with the support of the Government which will continue to grow steadily, if slowly but therefore soundly, we expect training opportunities to increase dramatically, we expect employment opportunities to rise significantly and Government will continue to invest and work together with each sector of the economy to help meet its needs and deliver the conditions needed for the success of as many sectors of the private sector as possible. The Government's budget is we believe a finally and carefully struck balance between prudent financial management in terms of the management of reserves, public debt and budgetary surplus. A balance between that and a delivery of better services to the general public in many areas in which we believe the service has been deficient over the years including health, social and housing services. A necessary investment in our future and a balance between those three things and lower taxes to improve peoples' disposable income and therefore their freedom of choice in family expenditure, those are the four guidelines. The four criteria that the Government applies in assessing its expenditure commitments, prudent financial management, the improvement within the scale of what is affordable public services, to ensure that we keep up with Europe in the 21st Century, necessary investment in our future and keeping the tax burden as low as possible are all achieved in a system of public finances which is completely transparent. Mr Speaker, I commend the Bill to the House.

MR SPEAKER:

I understand that the next speaker is the Leader of the Opposition. We will have a break of 10 minutes.

The House recessed at 11.35 am.

The House resumed at 11.45 am.

HON J J BOSSANO:

Mr Speaker, in replying on behalf of the Opposition to the explanations that have been given, I will be concentrating on the content of the Estimates of Expenditure which is what we are debating. Of course, let me just say that the closing remarks of the contribution of the Chief Minister in explaining that ultimately what we are talking about is his vision of the future, perhaps the best way to deal with that point is to say that one man's vision is another man's optical illusion. Therefore, I suppose, they look like visions from the Government benches and like optical illusions from the Opposition benches.

When we assess what is due to happen it helps us to go back and assess what has happened and what we were told was going to happen a year ago. Therefore, the analysis has to start with the position that we were addressing when we were looking at the Estimates of Expenditure 12 months ago. When we criticised, as we did last year, the level to which the reserves were being run down by the Government, the Chief Minister was very upset that we should be criticising, not that it is such an unusual thing for Oppositions to do, on the basis that in fact the figures to which we were speaking would probably never materialise. But, of course, we have no choice in debating the estimates but to work on the premise that what the estimates say is going to happen will happen, because if it is not going to happen then all this business about accountability and information and giving information which may or may not be there at the end of the day means that since we do not have a crystal ball, even less than the Government have, we cannot make a judgement as to the consequences of what will take place if what will take place is not what is planned to take place. The Chief Minister said that there was going to be a blitz on the collection of arrears, to quote his words, which would probably produce about £5 million in extra revenue over and above the amount estimated. Today we have been given a lot of detail about the new Arrears Unit except that it is not the new Arrears Unit, it is the old Arrears Unit which was in the estimates last year. It is not that there is an Arrears Unit with seven new bodies over and above the 11 bodies that were there last year. It is that there were 11 last year and there are seven this year. So what is new about it is that there are four people less in it. Of course, if they expect it to be more efficient with four less than with four more, then that perhaps remains to be seen and we will see what happens to the actual yield when the outturn for the year is eventually known. So what was in fact the Government, a year ago, expecting to happen? That is to say, what was last year's vision? Well, last year they brought estimates to the

House in which they said that they expected conservatively, that is, assuming the lowest level of collection, they assumed that they would collect £117,171,000 and that this was confidently expected to be exceeded by the blitz. Yes, I am quoting his words, Mr Speaker. If he goes back and reads what he said last year he will find that I am right. In fact, what has been collected? What has been collected is £118,330,000, that is, £1,160,000 more in revenue receipts than the estimate at the beginning of the year. This extra amount can be explained by a change in just one item. That is to say, a year ago, if hon Members look at page 7 of the estimates the Government expected to collect £280,000 in gaming tax and now we are told that instead they collected £1,580,000; that is to say, £1.3 million more on that single item than they expected. Obviously, if their expectation had materialised and they had not collected that £1.3 million, the revenue estimates would be back where it was at the beginning at £117,171,000. So the whole of the difference in the total revenue of the Government can be explained by that net increase in gaming tax. Therefore if that is an indication of anything happening in the private sector, it must be an indication that there are now more gamblers than a year ago in Gibraltar, except that it does not even mean that. What requires an explanation is why it is they only expected to collect £280,000 when in fact in 1996/97 they collected over £1 million? So the previous year, when we looked at the estimates last year, there was the same operation. That is to say, it started with an expectation of £280,000 and it finished with a collection in excess of £1 million. Frankly, we did not seek an explanation at the time because we thought that this must be a one-off collection of possible arrears of this particular item of revenue given the changes that there had been in the ownership of the Casino where it was well-known that part of the deal that happened in our time was that there would be a settlement of all the previous accumulated debts. So we thought that perhaps that must be the explanation why in fact they were able to collect this extra amount. Hon Members will see that in fact the position was that instead of collecting £280,000, they actually received in 1996/97, £1,347,000. So they dropped the estimate for the current year from the outturn that they had for the previous year and therefore it is strange that this year it should have gone up again to £1.5 million. Removing that from the equation means that in the rest of the items in the £117 million, every change up or down cancels out. That is to say, it does not mean that every single item is in accordance with the forecast outturn, simply a repetition of the original item, it means that where the Government's forecast is up in one Head of revenue it is down in another Head of revenue and the bottom line is an unchanged figure.

What is the position on the expenditure side? The Government's view of the expenditure for this year as compared to last year is that it has grown by £9 million because, in fact, they are comparing the outturn with the anticipated expenditure. But of course, as was recognised even last year and more so as has been recognised this year, there was an anomaly in the way the accounts were presented in accordance with the criteria spelt out by the Government of what constitutes recurrent expenditure payable from the Consolidated Fund and what constitutes charges to be made to the reserves of the Government. We have seen the change in page 3 to which the Financial and Development Secretary referred which had been incorporated in the book that has been circulated and what has happened there is that whereas in the original, the £1 million debt repayment was charged as recurrent expenditure coming out of this year's income, it does not alter the final position that it has been moved from being recurrent expenditure to being something coming out of reserves. We, of course, believe that there should be an identifiable recurrent charge for debt servicing to be considered against the year's revenue. It is not just a question of presentation, I think there is a question of philosophy here in terms of economic management and it is not a philosophy invented by us, it is a philosophy that has been there since accounts have been presented in the House of Assembly which is that there was a Sinking Fund and if the Sinking Fund is now part of the reserves, well every year the Sinking Fund used to get topped up and that was identified. Whether one puts the money into the Sinking Fund directly or whether one shows it as a charge on the Consolidated Fund, before the Sinking Fund received the money direct, before 1988, the way it used to be presented was that as part of the annual cost of servicing the outstanding debt there was an identifiable amount every year which indeed the Auditor used to examine, as I have explained previously, on the premise that it was designed to provide the amount that would be required to repay maturing debt on the day the debt matured. To the extent that money is borrowed to create new assets which are intended to yield new revenue, the inescapable logic of that system is that we do not want to charge the cost of the new asset to one year's revenue but we want to make sure that the revenue yield of the asset is being amortised in order to meet the capital cost over the life of the asset. So if one borrows £20 million to build a factory one would expect that every year from the revenue of the factory one puts money aside to pay for the £20 million. That is how it has always been done and that is not how it is going to be done in the future. Well, just like today we are told we have not paid back £1 million because we wanted to, we have had to pay because it was maturing. Obviously the remainder of the projected £70 million, there will come a time when they

have to be paid and the only excuse that was given last year was that because a big chunk of that debt is by Community Care who really have no choice in whether they get repaid or they do not get repaid, they will get rescheduled. *[Interruption]* Yes, that was the explanation. Yes, they can all nod their heads, it seems that the approach of servicing public debt is that it depends on the bargaining position of the holder of the debt. Fine, that is not a view that we share. Of course, Community Care will certainly need to have some of that money repaid because eventually they will have to start eating into their capital unless in the future the Government restores the grants made to Community Care.

When one is making a comparison of the estimates and a comparison of the position inherited by the Government and how much was left in the kitty for the Government to spend in March 1996, the Chief Minister last year said he would not accept criticism about having a small surplus because we had had deficits every year. Well, we must have some kind of magic formula if we have a position where the GSLP is elected in 1988 where there is a budgetary deficit of £2 million covered by borrowing and we finish up eight years later, according to the views expressed by Government Members when they were in the Opposition, with an economy teetering on the verge of ruination – again those are his words, not mine, I do not use words like teetering. Well, they must be Houdini because they have been teetering now for the best part of two years and they still have not fallen off and on top of that there is now a flow of income to the Government which is indicative of a healthy situation whereas before it was wrong to assume that the flow of revenue to the Government indicated anything about what was happening in the private sector. Well, certainly the private sector today says it is in a very precarious position to the degree that they have to freeze wages. I think when we are looking at an economy which produces wealth in the private sector to pay for those that receive their income from public funds, including Members of this House, I think we need to evaluate whether it is right that the people in the private sector should be facing wage freezes whilst we give ourselves wage increases. I will have an opportunity to discuss that with the Chief Minister when I see his proposals for increased salaries for Members of this House. But, of course, there have been increases in some of the jobs already to which no reference has been made. There is no reference to the fact that the Financial and Development Secretary in these estimates will be earning £1,000 a month more than the figure that was there in last year's estimates. I do not know if that is indicative of the kind of changes the Chief Minister has in mind for the rest of us but that figure has not been mentioned in explaining the differences between this year's

estimates and last year's estimates. Of course, the shop assistants who are facing the wage freeze I imagine will not be particularly well disposed on that bit of information so it is better, I suppose, from some people's point of view, that they should have to search for it themselves by going through the estimates. I do not know whether in the public explanatory memoranda that information is included. When we are looking therefore at the expenditure side of the equation, in order to try and do a realistic assessment to compare one year with another, we feel a number of adjustments need to be made to the information that is provided. Let me say that from the actual figures that we have been provided by the Financial and Development Secretary which are not included in this book, we see that the year 1996/97 ended with a deficit of nearly £1.7 million but of course we all know, that is all of us except the Chief Minister, because he said last year that to say that there were surpluses this year which were not high enough when we used to have deficits before, was something that was totally unjustified criticism. He knows full well that the deficit of 1996/97 cannot be compared with the figure here because there are elements of things that received revenue and paid revenue which have not been added or deducted to the figure of the expenditure for 1996/97. He knows that and he knew it last year when he replied to me. What, Mr Speaker, is missing in the expenditure in 1996/97 but was in the expenditure in 1995/96 was a £15 million grant to Gibraltar Community Care and it is, of course, missing in 1997/98 and it is of course going to be missing in 1998/99. So independent of anything else if the economy is in exactly the same state as it was in 1996 and if the Government had done nothing to alter revenue or expenditure except the Community Care payment then what we would have been seeing would have been £15 million surpluses generated by that alone. One does not need to have any great visions to establish where the source of the expenditure is being financed from. It is a matter, of course, which the Government are perfectly entitled to do. That is to say, they choose to spend that revenue on other things instead of putting it into what were the reserves for future payments from Community Care. They are not keeping it with their own reserves because the policy of the Government is that the level of reserves is too high. They thought it was too high a year ago and therefore a year ago the Chief Minister said, "I have not yet used up £20 million from the reserves but I have every intention of doing so". So what? So we do not agree, that is so what. Presumably we are permitted still in Gibraltar to disagree even though disagreeing carries with it the risk of then being subjected to vitriolic attacks. That is the risk of disagreeing. Well, we will continue to disagree in spite of the vitriolic attacks. We will get the vitriolic attacks when the Chief Minister exercises the right of reply when

he knows I cannot do anything about it. *[HON CHIEF MINISTER: I think that encourages me to reply.]* I see, I have not said anything that encourages him to reply. I do not think he is capable of keeping silent, Mr Speaker, even if I said nothing myself. The figure therefore of a year ago compared to this year, that is to say, if we look at the estimates of expenditure a year ago and we look at the outturn and we look at the projected expenditure, we need to do one of two things to make sure that we are comparing like with like and that is to make an adjustment in evaluating those figures which either puts in the £6 million for 1997/98 or ignores the £6 million for 1998/99, otherwise there is not a difference of £6 million. The Chief Minister has already mentioned it but I think it is the way the figures are done.

Really what is it that we are saying? Well, what we are saying is that in looking at the outturn on page 4 by the kind of explanations that have been given as to the changes that have been introduced, what one would have expected was that that presentation, even if it was here on paper, would have been explained as being consistent as being an expenditure which would have included the cost charged in the appendix to the Social Assistance Fund and also acknowledged, for example, if we look at that cost although the cost in the Social Assistance Fund is in excess of £6 million, £100,000 of that cost is already charged to the budget as a contribution from the Consolidated Fund to the Social Assistance Fund. So in adding back the remainder that is a cost that is already included in the £104,979,000. If we look at the revenue side of the Government, well by the criteria that all the revenue ought to be reflected in the Consolidated Fund it follows logically that the £140,000 of interest income would have appeared on the Government side. So we are talking about £250,000 needing to be removed from that expenditure in order to assess the new figure that ought to be appearing there in order to compare it with the figure for this year of £115 million. Of course the outturn for last year which we were told could well happen has not happened entirely in the area that we were led to expect. The most obvious discrepancy between what was planned and what has happened is the huge drop in the Employment and Training Board expenditure and in the contribution from the Improvement and Development Fund to the Employment and Training Board. Indeed, we have the extraordinary situation this year where the ETB is a net contributor to the Government because there is a £250,000 charged and £125,000 contribution. So in spite of the fact that the high priority is training, irrespective of the content of the training, the resources devoted in this year's budget is down from last year. Last year we were told it was the Government's intention to replace what was there as to its

content but that until that happened the system would continue with the same level of financing. Well, the system is not being continued. It is all very well to come here and say they are going to provide more training and better training but it is strange that they are going to provide more training, better training and more money to promote employment and the budget is less than it used to be. *[HON CHIEF MINISTER: Well, watch this space.]* Well, we will watch that space, more than he would like us to, I have no doubt. If we look at the expenditure item for the Employment and Training Head in the estimates what we find is that it is in Building and Works and in Employment and Training that there is a level of underspending of £2.5 million, that is to say, instead of spending the amount that this House was asked to provide a year ago of nearly £9 million, they have actually spent under £6.5 million. That £2.5 million they did not expect to underspend in the explanation we were given a year ago as to where underspending might take place, was not one of the areas mentioned and that is the area that accounts for almost half of the total. The £2.5 million of underspending in employment and buildings and works plus the fact that they have spent £600,000 less on fuel than was budgeted plus the fact that they have spent less than budgeted on the pay review, to which no reference has been made, that totals just over £4 million and the other £1 million is in the difference in Consolidated Fund charges which are not voted by the House where the forecast is £18,458,000 as opposed to the approved budget of £19,479,000, part of which of course is explained by the fact that the public issue of debt did not take place last year. Debt was in fact increased in 1996/97 by the Government making use of the revolving facility from Barclays Bank. We were told a year ago that they borrowed the £10 million in spite of the fact that they did not need it because the facility was about to run out. That, in fact, is not true. The facility was not about to run out in the financial year 1997/98 because the drawdown was in the agreement until October in the following financial year. So they did not do it at the time that they did it because either they took the money or they lost the money, which was what we were told then and which we supported, if they were going to lose the opportunity to make use of those funds, unless they borrowed it then whether they did it or not it made sense but, in fact, they did not need it according to them. We asked where was the £5 million reflected because of course if one borrows money and one does not spend it it appears in the reserves. The reserves made no distinction between the money that comes in, whether it is one's money or somebody else's. We had assumed that the £10 million had been credited into the Improvement and Development Fund in 1997/98 and that a great deal of it had been spent and I asked a question earlier in the House as to where this was and I was told that it

was not. I thought the Chief Minister might tell us where we can find it today but I would ask him to do so when he replies. The decision on whether to borrow to finance capital spending or whether to use the reserves to finance capital spending, I think has to take into account a number of factors. One, of course, is the amount of money one is earning on the money and the amount of money one is paying on the borrowing. If one is putting a substantial proportion of one's savings in the bank that is lending the money then to the extent that the amount they pay one and the amount one pays them does not match it is not bad business for the bank, I am not so sure it is a good business for the customer. There are, of course, substantial funds with the same bank that lends the Government the money and I cannot understand why they choose to borrow instead of using their own money or borrowing from their own bank, the Gibraltar Savings Bank and let the margin be earned by the bank. In looking at the level of expenditure and making those adjustments therefore what do we see? We see that the outturn can be explained by the Government having spent £2.5 million less on the Head, Employment and Buildings and Works; £800,000 less on the supplementary for the pay review because we have only seen one warrant for £158,000 providing for the pay review of the Police and the Fire Brigade and GBC and nobody else. I do not know whether the fact that there is £1.5 million in this year's estimates is because there is back pay that has to be met but no explanation has been given. There is no indication that the level of pay increases in the United Kingdom is getting any higher so we are assuming that the £1.5 million is not because they expect pay rises to be 50 per cent higher this year than they were last year, at least not for everybody. The provision for this year, therefore, is a repetition of last year's budget. That is to say, the overall amount of money that the Government are planning to spend once those differences are identified is really practically the same as the amount of money that was put into the estimates a year ago and the amount of money that was not charged to recurrent revenue to meet social assistance payments but was taken out of the reserves of the Social Assistance Fund which would have been the reserves of the Consolidated Fund had the balance been treated in the same way as the other Special Funds were treated. So we are not talking about a major change in the level of Government spending and when we look at the revenue side we are not talking about a major change in the level of Government revenue. They are expecting to collect £4 million more than they think they have collected up to the end of March. If we look for that additional £4 million we see, Mr Speaker, that there is a number of limited areas where that is to be found but one area which stands out and for which no explanation has been offered is that they expect to

collect £1 million more in electricity charges this coming year than they did in the last financial year. Is it then that the Arrears Unit is going to have a blitz on electricity arrears this year or is it that they expect electricity sales to be higher by what would be a significant amount from £7 million to £8 million, a 12 per cent increase in electricity sales would be required to generate that extra £1 million. The expectations of the Government of the so called new Arrears Unit which, as I said, is in the estimates of last year, does not appear to be reflected in estimates of expenditure. So although we have not been told explicitly that these are conservative estimates, unless we hear the contrary we take it that there is no element that has been put in which assumes collection of arrears higher than in the past. That is to say, that when we are talking about recurrent revenue we are talking about recurrent revenue on the basis that they will be collecting not a backlog of unpaid bills but bills that are current or at least bills that reflect current collection even though they may relate to an earlier period because the fact is that when we look at company tax although the £10.5 million do not relate to the present year, from the answers that I have been given in the last 12 months in respect of the relationship in collection to different financial years, it is quite obvious that from previous years up to 1995/96 even though the £11 million that were collected in one year were not for that year, there were an equivalent amount of assessments pending for that year so that there has been a clear pattern where every year if the taxpayers were totally up-to-date and if there were no arrears the figure collected would have been the figure that has actually materialised. So what tends to happen is that although people in any given year may be paying out of that £10 million, £3 million or £4 million that is current and £6 or £7 million that is backdated, there is a new £6 million or £7 million being issued in assessments which replaces what has been paid. So there is a rolling average yield of £10 million which is not changing. The vision of the development of activity in the private sector is not going to happen in 1998 or 1999. That is to say, we are not going to see that taking place in 1998 or in 1999. There is nothing in these estimates to suggest that that is there. We have in fact been given an interesting example of how different reality is from perception. The figure that we have been given for the net result of the numbers of persons required in the public administration of Gibraltar, those numbers have gone up by half a dozen. The admin jobs that we have got today is 429 and in 1996 it was 420 but in 1996 we were told that the public service was disassembled and that in fact it was on the point of collapsing. It is true that there have been internal promotions but the manpower of the system at 429, now that we know the final figure, shows that the numbers of people required to do the jobs – they may be in different places and they may be doing

different things because the Government have got different priorities but it is being done by 429 people in the clerical and administrative grades and we have got a breakdown of the structure which is, of course, the breakdown that is reflected in the complement in the establishment. If there have been other increases, those other increases clearly are in the Gibraltar Development Corporation or in the Health Authority where we have got a figure for the numbers that are currently employed but we do not have a figure for what there was there before. If I can just interrupt my contribution at this point I will continue after the break.

MR SPEAKER:

We will adjourn to 3.15 pm.

The House recessed at 12.30 pm.

The House resumed at 3.15 pm.

HON J J BOSSANO:

Mr Speaker, I ended my contribution earlier on at the point where I was examining the information we have been provided that the clerical structure now has 429 between the entry grade and the Senior Officer grade and that this is nine more than the 420 provided for in the 1996 budget. We are of course therefore working on the basis that these are the posts irrespective of whether they are being filled or not filled and that, in fact, there is no indication that they have not been filled given the number of recruits that there has been at the bottom. If we look at this situation and we compare it with what we were told a year ago, what we were told a year ago was that the personal emoluments global figure which was in excess of £33 million was in fact I think overstated by a provision of the order of something like £1,125,000 which covered the posts that had been provided for but were not occupied and might not be occupied. The Chief Minister described it as a situation in which there were 103 phantom posts and that the assumption was that all these posts would be filled but that in many cases it is an assumption that would not be realised. In the questions that have been put by my hon Colleagues during the year we have been trying to establish what has been the pattern of filling those vacancies so that we can see which have been realised and which have not and I take it that the additional information that is going to be provided will in fact enable us to see exactly what it is that has happened about those posts. The amount in this year's budget we are told is £33 million for personal emoluments

and there has been no reference to any phantoms this year. So we take it that the fact that no one has said that there are vacancies that might not be filled means that it is intended that every post that is included there and for which an amount has been put in the estimates, the expectation is that that amount will be required and that that post will be filled and that the exercise which left some jobs with a question mark as to whether it would be proceeded with or not is now complete. The change, therefore, and the fact that we are talking about £33.75 million, even though the amount in the supplementary funding Head 14 has hardly been used for pay reviews and there is clearly still an amount that will need to be added to that figure and which I said I assume accounts for the fact that there is now £1.5 million for the pay review, I take it therefore that we can work on the premise that that money for those posts, 1,561 salaried staff, is based on the salaries as they stand at the moment and the pay increases are not provided there because they are provided in the block vote under Head 14. It is strange therefore that the sum should be so close to the sum last year which had in it an element of unfilled vacancies which might never be filled and therefore the only possible explanation that we can adduce to that is that much of the extra cost has been produced by the upgrading of a number of posts rather than by increasing the number. That may account for the failure of the Government to meet their targets in the things that they have set out to do and for the complaints that there appears to be from different sectors about the time it takes to get replies to things. It may be that having upgraded a lot of people they now find that there are too few at the bottom to service many more people at the top. In fact, if at the end of the day the number of bodies is nine more than there were before in the administration then I suppose even if they are doing more highly remunerated work the total amount of work that they can do is only so much. It is difficult to reconcile these conflicting statistics that we get as to what is the nature of the changes that have taken place. It is all very well to say that they have created bigger Ministries with more sections but it is really, as far as the administration is concerned, a musical chairs exercise; they are moving people around from one building to the next and from one Minister to the other one but if the same number of people are there they will produce the same and if they are being asked to produce more then it is taking longer. We have not only the shortfall in the Improvement and Development Fund which is very large, we also have of course the fact that clearly the Government believe they can get things done by a certain date. We have just been told that the publication of the Family Expenditure Survey is going to take place shortly this year but, of course, last year it was announced as being published in October. So we are talking about six or seven months

behind the event. It seems to us, and it is not that we are advocating a larger civil service, let me make that quite clear, what we are saying is if the Government think that by having more Ministries with more sections with more Senior Officers and more SEOs and not more Clerical Assistants, that they are going to get a lot more done, then they may find that it is the lowest ranks of the system that creates the bottleneck in that system. They might well have to review therefore the structure that they have created. In terms of what exactly is it that produces this vision of the future, it is difficult to identify it in the estimates. Last year we had phantoms, this year we have got visions. Certainly the Government are very inventive at terminology. The customs is being internally restructured and is remotivating itself. We have people being recycled, renovated, regenerated with visions of the future but in the real world in which the Chief Minister used to live before, when he used to be in the Opposition, they do not seem to be conscious of this. The complaints of which I no doubt hear more now and he hears less appear to be consistent with what he was hearing before except that we are two years down the road. There is nothing here reflected on the revenue side that indicates growth and it is all very well to be told that the calculation of the national income is something that needs to be looked at, we are going to get another consultancy and another expert telling us how to do it. Well, to my knowledge, the system here is in fact copied from the United Kingdom bluebook on the advice of the United Kingdom ODA. It certainly was not changed in the eight years we were in Government, it was there when we got there and when we asked how it was done, that is the explanation that was provided by the experts. I know that when experts provide somebody else with explanations it is the fault of the recipient of the explanation and when experts provide them with explanations it is the fault of the expert, we all know that, that, we have already established beyond doubt. In the meantime and until the consultancy decides what is going to be done, the problem is that however inadequate the calculation was before, it is better than none. *[Interruption]* Apparently it is not the view of the Government that it is better than none, it is better to have no information whatsoever than some information. I will tell the Chief Minister why he is wrong. He is wrong because, as I think I told him last year, in relation to either this item or some similar argument, if we have got two sets of figures and they are calculated in the same way at least the trend in those figures is reasonably accurate and therefore whatever it is we were leaving out before, if we are going to include it or whatever we were including that should be left out, I can certainly say that there is one item, for example, that traditionally was included in the capital account as gross domestic capital formation which was the Improvement and Development Fund. I

suppose that if we give subsidies to people, whether that is gross domestic capital formation is questionable, depending on how they use the subsidy. If they use the subsidy to clear their arrears to the Government then it is hardly gross domestic capital formation. But I do not think that that necessarily requires a change in the structure of the national account but it may be requiring a closer look at what goes in it if in fact the component that goes in it is being used for things other than capital formation, as an example. The income of the Government, as I have said, presumes that there will be no success in collecting arrears other than in the case of the £1 million which we cannot explain in respect of electricity charges which we assume there could be an element provided for in there. If there is, in fact, in the other revenue estimates an assumption of arrears then we would like to know what it is because then we would be able to assess what is the reflection on current income of the level of activity in the private sector. I imagine that if the private sector are facing the difficulties that they claim to be facing and they certainly seem to be facing them after the changes that the Government announced a year ago in restructuring import duty and rates and rents and so forth, they claim still to be having the problems and the Government have now come to the conclusion that irrespective of the exchange rate Gibraltar will not be able to compete by offering visitors to Gibraltar cheaper prices because the competition in Spain can now match or even better our prices and they can certainly match or better the availability of products which was not the case always in the past. Well, the truth is that the private sector in 1996, we do not know what it is since, but in 1996 25 per cent of its employees were in retail and wholesale trade. That is how big that sector was. A sector that is at the bottom end of the distribution of income rather than anywhere else in that distribution. If that sector is shrinking then it is not that we have the answer how to stimulate it but there is certainly no answer in these estimates to stimulate that particular sector, if it is shrinking, we do not know whether it is or it is not. In fact, I would imagine that from the tax state on recurrent incomes the position now is that the private sector is less than half, I would have thought, from the figures that we have been given in answers to questions. So the Government are optimistic about the growth of the private sector but their optimism is not based on indicators that are reflected in the estimates, their optimism is based on hope that by switching people in between jobs within the public sector they can somehow produce a level of activity that they themselves claim was never there in 1996 and that which today is if anything less than it was in 1996. We certainly were told then that to use as a guide the amount that is collected from private sector activity into Government receipts was in fact misleading because in time there would be a drop

from those receipts. Given that there is going to be, theoretically, an emphasis on training which was not there before, with less money than was there before, I look forward to hearing how that particular miracle is going to be performed, obviously by somebody with the right background in performing miracles. Somebody who has got some experience of miracles, Mr Speaker, has been given the job. No doubt that explanation will be provided when that contribution is made by the Minister that now has the responsibility. We are told that the construction industry jobs are due to private sector investment as much as it is to public sector investment which, of course, is what was the case in the past when the private sector construction industry grew between 1992 and 1993, it was 70 per cent private sector and 30 per cent Government but then it ended, like all construction booms do. It seems that today jobs in the construction sector are worth having which they were not before. We think it is valuable to have jobs in the construction sector and we think it is important to have Gibraltarians in those jobs and we welcome the recognition of the ability of JBS to undertake quality work and perform it to the same standard, if not better, than anybody else because in 1995 JBS was described by the then Opposition as being a residue for non-dead-end jobs. JBS was the one that was mentioned in the 1995 Hansard, Mr Speaker. In terms of the percentage of workers in the construction industry, this will be seen when the Employment Surveys come out but I must say that the indication that the Employment Surveys are going to go back to what they used to be as opposed to being based on tax returns is not welcome news. When they depended on what employers choose to put down or not put down, there was a greater degree of unreliability. The reliability of the figures that we have today is that we know that it cannot be less than that because those are the people in respect of whom PAYE has actually been paid. So if the survey tells us that there are 1,000 people employed in April in construction it means in April in construction there were 1,000 people declared on tax returns that paid tax, that is what it means, does it not mean that? Well, that is how the last one, which is April 1996, was done and in fact in answer to questions that I have put earlier in the House I have been told that in the return for the month of April and the month of October the information is included which is not available for other months of the year and which is the information which is reflected in the Employment Survey. We will see, given that the Government have decided to change from that system to the one that we asked before which was that people were sent a questionnaire and they were asked to put down on that questionnaire who they employed and it relied not on an independent person looking at the returns that were made for other purposes and then building up the picture, it was on the basis of

the person filling the questionnaire saying he had X numbers with him. We will see whether that proves to be more accurate or not but, of course, we will have a problem in comparing, if we have two different methods, one system with the other. When the system was changed to the one that was introduced by using tax returns it was on the premise that the one based on tax returns could not possibly show more people paying tax than the employers claimed they employed because whatever employers may say about who they employ and who they pay tax for, they are hardly likely to say they are employing 50 people but they want to pay tax on 100. So that was one of the reasons why the system was changed in order to give it that extra reliability. I imagine that until that new system is operational we will keep on getting it based on the old system. In looking at the import figures the Government have said, of course, that the imports for April showed £2.3 million instead of £2 million. Well, without going into details of the particular commodity, I am sure the Chief Minister remembers when he sent me the information which particular commodity it was that accounted for that particular increase so if in fact that trend were to continue during the year it would be because we are selling more of a particular product which he does not seem to be very keen to encourage should be sold in Gibraltar. I think if he goes back and looks at the figure he knows what I am talking about. The £2.3 million for one particular month, as the Chief Minister says, is not a guide to anything but, of course, I am sure he will remember that when he announced the restructure he said that it was intended to make it revenue neutral, not intended to collect more money from import duty and that it was quite possible that it would not be revenue neutral and I would expect, for example, given the answer that he gave me on the import duty collected on building materials, that since the building materials element in the imports is based on the duty being levied for projects that had not already been started, the amount of tax under that particular Head will keep on going up simply as new projects replace old projects. So quite apart from anything else, on the building construction side there ought to be an assumption that more money will be collected in import duty in 1998/99 that was collected in 1997/98 not only because it was in for six months but because when I got the answer I was told that it was around £60,000 but that that was not an accurate reflection of the fact that a couple of million pounds on materials had been imported. Well that has not been built into the projection, as I see it, in the estimates for the estimated receipts from import duty unless the Treasury has done that on the plus side and come to the conclusion that they are going to get less import duty on some other element in the import of goods in Gibraltar something else that is dutiable is going to be declining and that therefore it is neutral because the pluses on

construction materials will be neutralised by minuses in other imports. We would like to know which of the two explanations is it. Is it that they simply left out because they have chosen not to make a provision for it or is it that in fact they really believe they are going to get £20 million. The increase in spending does not show through in the overall budget. As I mentioned at the beginning when one takes into account the £5.7 million out of the Social Assistance Fund the global figure shows that the Government this year are actually putting to the House a total in recurrent and capital spending which is virtually the same as last year. Last year we were talking about £143 million between the two and I think this year we are talking about £144 million between the two, something of that order. So if there are plans in some areas they must be compensated for in others. But, of course, what is absent from any explanation is the fact that the Government have decided to increase the levy of the Employment and Training Board, which we were told previously in answer by the Minister for Employment to a question from this side, that it was a tax and it is a tax because not only is the money not going to increase the ETB but the ETB, as has been confirmed, is a net contributor to the Consolidated Fund. If they have decided that they can do the training that they want with the money or even with less money than they provided in last year's estimates, why is there a need to increase the levy? There is no explanation for it. If it is decided that the level of reserves are sufficient, that there is no point in increasing reserves, that there is no value in increasing reserves, then what is the purpose of that increase? The amount of money in the context of the whole overall budget is no more than £600,000 but, of course, the £2 which has been there since 1988 was constantly being attacked as a tax on employment before. So, if it was such a bad thing to have a tax on employment of £2, how can it be better to have a tax on employment of £3 when we do not need the third pound? The other element which is the cost of the extra money for the Health Authority will be dealt with by my hon Colleague when we come to look at the question of the financing of the health service for the next financial year.

In looking at the amount that is going to be provided for the thrust on collecting arrears, I mentioned that there appears to be not a new unit of seven but, in fact, a unit that was there of 11 and now there is going to be seven instead of 11. It is difficult to understand how last year they expected much better results in terms of collection of arrears, they did not estimate for it but in the explanation the Chief Minister said he was very confident that it would happen, I would have thought that if it has not happened with 11 people why is it that this year again they are very confident it is going to happen but with less people than last year?

Unless the people are somewhere else and they have not been identified, of course. The next 12 months we have been told completes the restructuring of the Government and that is what has been engaging them for the last 24 months. I know that on top of that they take the credit for everything that happens in Gibraltar and that was already happening in 1996 and, of course, they distance themselves from anything that they think they should blame other people for. We look at the emphasis that is being played on tourism and the contrast that is made between the emphasis that is there now and the emphasis that was there before and, of course, the only indicator that we have had from the Minister for Tourism which he has chosen to draw attention to in answer to a question was when he told us in this House that he was encouraged that expenditure by visitors in hotels was £14 million instead of £7 million. We still do not know how it is that in a survey that shows expenditure per capita coming down by every category, expenditure in hotels is shown as twice what it was last year even though the numbers in the hotels are not twice as high as they were last year. In fact, the guest nights sold in the case of tourists, as opposed to all visitors, was actually lower. He told us, of course, that the figure was not just tourists but tourists and any other kind of visitors and of course there has always been an element of non-tourist use of our hotels mainly, I would have thought, related to business visits and no doubt they themselves, with their promotion of visits to Gibraltar, will have contributed to the number of non-tourist visitors in the hotels to an unquantifiable extent. There is a charge to the reserves of £1.5 million for the amount that is being offered to Moroccan workers which was described as an investment, the £1.5 million investment. When the Moroccans of course stopped the demonstration outside Convent Place presumably on the advice of those who advised them to start it in the first place, the Minister for Education who negotiated the withdrawal announced that this showed the value of dialogue. Well, we now know the value of dialogue; it is £1.5 million and let me say that we do not support that decision. As far as we are concerned, the House will recall that when we brought the cost of the agreement that we had done with the Moroccan Government to the House, which was something that cost £3 million, we explained at the time that in fact this had resulted from a visit from the United Kingdom by a national officer of the T&G who came along with the Moroccan delegation and proposed a deal involving the union, the British Government and the Government of Gibraltar and when that was finally agreed the only party that honoured the deal was the Government of Gibraltar that forked out £3 million for its own workers. The British Government pulled out, it was intended originally to be signed by all sides and they did not sign it, the Moroccan Government then would not

sign with the Government of Gibraltar without the British Government and, as I explained at the time, it finished up with the President of the Moroccan Association and the Administrative Secretary signing an international agreement between the two of them. So as far as we are concerned this is money that should not be coming from us but should be coming from the United Kingdom, whether it is £1 million or £1.5 million or £10 million. We are not questioning the size of the figure; we do not know how it has been arrived at. From the explanation we were given in answer to a question it is just really a figure arrived at by saying, "Let us offer so much lump sum plus so much per year" and there is no other scientific basis on which it is being calculated. In case anybody chooses to put a different interpretation on this, let me pre-empt it by saying that we do not consider ourselves to be racist because we take that view and that we do not think that anybody has got a right to call us racist because we take that view, nor do we think that the decision that was taken in July 1995 to protect Gibraltarians and other British resident workers from competition from outsiders against the background when there were many people calling for protectionism in the labour market, both in the House and outside the House, and where given the refusal of the British Government to proceed with what had been promised way back in 1985, we were left either doing nothing or doing what limited action we could do and we did it not because the newly arrived workers were of a different race, because they are Caucasian the same as us, I do not know who actually it is that thinks that we are racist but perhaps the Minister for Education can enlighten those who do as to the difference between race and nationality. But in fact it was not even based on nationality, it was based on either they were already here and they were entitled to protection and to priority of employment or they were not. And I believe that today we have a position in Gibraltar where Gibraltarians are at a disadvantage in obtaining employment and, again let me say to the Minister for Employment that he is wrong in saying that we are trying to create racial tensions when we say that one quarter of all the jobs filled by the ETB has gone to Spanish nationals from across the frontier. It is a fact. It is based on the information that he has given us, it has nothing to do with racial tensions. That is a reality and it is a reality which has to be put against the context that when it used to be one out of 10 as opposed to one out of four, he as Branch Officer wanted us to do something about stopping it so we are perfectly entitled to say to him now what is he doing to stop it? We did not think he was being a racist when he asked us to do it and I do not see why he thinks we are when we ask him to do the same thing. The idea that one protects to the degree that one can, the Government have kept on with putting a condition on employment which presumably they have cleared

has been compatible with Community law which says that anybody taking up employment must be either a resident of Gibraltar or willing to become a resident of Gibraltar. That condition of work in Gibraltar comes out regularly in advertisements in the Development Corporation, it came out for Gibraltar Community Projects, it has come out for Government jobs in the public sector so presumably they are doing that because they want to protect the resident against the outsider and presumably they can do that on the grounds that the job requires that the person should be available in Gibraltar at any time outside working hours or some similar argument that can be made to fit the bill so that nobody can accuse them of protectionism which is not permitted under Community law but which every country does its best to find a way around. Therefore our job here, it is what we are paid to do, to highlight these things, to bring them to the attention of the Government just like it was their job before. The fact that it is easier to identify these things than to actually produce cures for them is of course a fact of life. Nobody is saying to them that they are capable of producing miracles nor will we be as vicious because they do not succeed as others were with us but the fact that they do not succeed we are entitled to highlight and we are entitled to make it a point so that in fact we do part of what they are supposed to do which is to pressure them so that it gets given a priority which perhaps it would not get if the pressure was not there because the pressure would be coming from some other quarter to do something else. That is part of the function of this House, that is part of the reason why we use the estimates of expenditure to talk about more than just the amount of money that there is there and whether it is going to be spent on materials or on labour or whatever. Part of the role in looking at what the budget is doing is looking at what effect it has on the community as a whole and on jobs because jobs is something that the Government say is ultimately what they are after, that their confidence is based on the creation of employment. Well, it is the creation of employment primarily for the people that are here. Obviously if we have got an economy that generates so many jobs that there are lots to spare then why should anybody be concerned where they come from. But that is not the case. It is not the case now, it has not been the case for the last two years and therefore whatever difficulty that there was in terms of the size of the private sector there is nothing so far to suggest that the private sector of Gibraltar today employs more people than it did then and if it employs the same total but more outsiders then there is only one explanation that one can arrive at, it is simple arithmetic. If we take the outsiders from the total and the total is the same then the people that are residents of Gibraltar must be less and if there is more unemployment and there is no apparent explanation then the only explanation that we can arrive at

is that one. That is the analysis that we have made. If the Minister for Employment thinks that there is a different analysis that explains it, then we will be interested in hearing it. Then when we hear it we will make an assessment of whether we think he is on the right track or on the wrong track but presumably he accepts that it is possible that the analysis that we have made is correct and therefore he ought to give it consideration because we are not saying anything to him other than something that ought to help him do his job better which ought to be something that he should want to do.

Given the level of spending and given the distribution of that expenditure the amount in the Improvement and Development Fund we were told last year in the course of the year when it became obvious, I think the Government at the beginning thought that perhaps there would be a speeding up during the course of the year but I think it became obvious because I remember in the first three months of the year being told in supplementary to questions that one could not extrapolate for the rest of the year from what had been spent in the first three months. Well, in fact if one had extrapolated from the first three months of the year we would have come up very close to the £11 million that have actually been spent and a lot of the money that there is in the I&D Fund is, of course, the £14 million on the revenue side being carried forward so it has not gone out of the reserves into the I&D Fund because they have only used up £5 million of the £19 million they intended to use and the remaining £14 million are going to go in this year. And on the expenditure side presumably what we are seeing is the £14 million they wanted to spend last year but they did not spend. So their ability to spend £28 million, that is to say, the £14 million they did not spend last year plus an additional £14 million on top, I must say we would be surprised that they should be able to do it unless they have already gone so far down the road in terms of spending the money that a lot of that work is already done and what has not come through are the bills which, of course, is something that when one has got a finite date on which one closes the book can always happen but what could have been done in March and the billing comes in in April and it moves from one financial year to the other. We have not been told that that is happening, if that is what is happening then obviously it is a different scenario from the one that we are assessing. If the expenditure does not rise to that degree then obviously the final figure in the reserves will be higher and I think the indications that we can take from what has been said is that underspending will be reflected in the take-up of the facility from the bank not happening or not happening to the extent of £10 million. At least that is how I understood the reference that was made to that money being taken up if it was

needed. In looking, therefore, at how much money there is in the kitty and how much money there will be in a year's time, last year of course the Government seemed to be quite relaxed about finishing up with £16 million and this year they chose not to project that because by borrowing the £10 million and not using £10 million more from the reserves what they are showing is that they are going to finish up with £26 million. The fact that the Government today with the MOD are over 50 per cent of the economy means, of course, that we are talking in national income terms, virtually no greater impact from one year to the next. If there is a private sector without growth at the moment then irrespective of what consultancy we bring and irrespective of how we are told the national accounts should be constructed in Gibraltar and how they are going to be different from the way they are, of course we would expect that if there are changes made we would be told what are the nature of those changes because there is always a problem when one is changing the methodology in being able to compare what was done with one methodology and what is being done with the other. But that suggests that the economy is at the moment not growing. The fact that it is not growing in the absence of any contribution to Community Care and in the absence of a regular identification of an annual sum for debt repayment leaves the Government with the position where, with nothing else happening, they will still be able to cover these costs. But, of course, can the private sector continue indefinitely to operate at its present level? Well, we cannot make a judgement of that until we actually get some figures to show whether, in fact, there is contraction or whether there is minimal growth or whether there is zero growth in the private sector. I do not think it is possible to do a scientific assessment of this simply on hearsay. There appears to be an element of contradiction between the import figures and the volume of trade and the only way that one could square that apparent contradiction, it seems to me, Mr Speaker, is that perhaps the turnover is being maintained but at the expense of the margins and that therefore when businesses are saying they are having difficulties it does not necessarily mean that all of them are selling less than they were but that very few are selling profitably. If that is indeed the case I would have thought the Government have got a way of monitoring that if they look within the tax returns at one particular sector of if they get the people in the tax office to look at one particular sector as opposed to another because there seems to be a position where today the things that have been done have not had any effect and the things that are going to be done in the next 12 months are not going to have any effect. Certainly the effect of the drive by the Government to make people meet their obligations is not a stimulus to the private sector. So if there is nothing else other than

that in this budget for the private sector I do not think they are going to be dancing for joy.

In summary, therefore, what we have is not an indication of the emergence of a private sector growth replacing the MOD of which we have heard nothing so far and providing the stimulus to the economy, the stimulus is whatever stimulus is provided by Government expenditure and at the end of the day in fiscal terms, of course the balance of that stimulus is related not by just the money one spends but whether one is actually spending in a deficit situation and creating demand or whether one is actually using recurrent revenue for the expenditure. If it is recurrent revenue for the expenditure then, in fact, it is all coming out of the same pot that it is going back into. The Government I think therefore have no choice but to talk about a vision because that is all it is. A distant vision in a distant horizon and in between the only thing the Government can do is do what they are best at which is propaganda. They are, without a doubt, very effective at running a propaganda machinery and because they are very effective that is what they are concentrating their energies for. I am surprised that they have not announced, in fact, amongst all the new super Ministries, a Minister for Propaganda and a new Ministry of Propaganda because that would be really making it transparent. I do not know how we would quantify the effectiveness of the Chief Minister, whether it would be by the money he spends or by the people he brainwashes. We try to look at our response to this budget in the context of the direction in which it is taking Gibraltar and we do not see it being taken in any direction whatsoever other than hope on the part of the Government that their vision will actually produce concrete quantifiable identifiable results which they will be able to stand up and say, "This is the result of the money we spent on this". Of course, in between now and that happening, if it does, we can expect that the Minister for Tourism will claim, for example, that amongst his achievements is pedestrianisation which of course he negotiated as President of the Chamber of Commerce, then he stood for election and promised his colleagues in the Chamber of Commerce that if they voted for him he would not make them pay what he said he was prepared to pay before he decided to stand and to that extent in his other life form he was responsible for pedestrianisation but since then, Mr Speaker, it is not that in taking credit for it he is doing anything unusual, it happens in many places when there is a change of Government but logically the new people that come in assume that they can take the credit for everything that was already taking place on the day they came in provided it is something that they think will rebound to their benefit and blame their predecessors

for everything that they think will not rebound to their benefit. The Government of course seem to think that if we question why they raise charges all they need to say is that they are raising charges because that is what we did in 1995. The fact that we did it in 1995 does not require them to do it in 1998 and if they were against us doing it in 1995 then there is all the more reason why they should not do it in 1998. If in 1997 they were saying that in March 1998 they saw nothing wrong with having a surplus of £6 million, which was really £1 million because of the Social Assistance Fund being paid from reserves, and they have got more money not because the economy has performed better but because they have performed worse, well then there is less need to raise money because they are not spending what they thought it was prudent to spend. So it is at the end a position to which we can only react in the expectation that regrettably it does not address any of the problems that people tell us exist in Gibraltar and which they claimed before were on the verge of sinking us and if they were on the verge of sinking us in 1996 and we are still around to tell the story then all I can put to the House is that it was exaggerated then and we are seeking not to exaggerate it now but there is certainly no indication of anything getting better either in the private sector or in the employment field or in training. What we have got at the moment are things being promised for the next 12 months which, by and large, were being promised for the last 12 months and on that basis I am afraid it is a budget that fails to address what Gibraltar needs in terms of a sense of direction for the economy by the Government of the day.

HON K AZOPARDI:

Mr Speaker, in opening the more departmental ambit of this budget, I want to give a financial overview of departmental expenditure as it concerns my Ministries. No doubt much of what the Leader of the Opposition has said will be addressed in the reply by the Chief Minister.

My joint Ministries spend over a quarter of the Government budget and indeed in respect of Health alone just under 20 per cent of the financial budget of the Government of Gibraltar. That represents the continuing commitment of the Government to fund the public services and to fund them adequately.

The Gibraltar Health Authority budget is annexed to the estimates at Appendix F and I wanted to just go through a summary of major changes. Last year we spent £23.2 million in the Health Authority, we expect to spend nearly £23.8 million this year. The revenue itself, hon

Members will note the Group Practice Medical Scheme part of the revenue has been tightened by £1.2 million to compensate in part for the lack of contribution of the Ministry of Defence and also to fund the expenditure so that we can cover the additional expenditure we intend to spend this year. The Heads of the budget themselves are in general terms not new; the only aspects of the budget I would highlight which I will touch upon later in my contribution is the issue of GPMS prescriptions which continue ballooning and this year £5.1 million was spent on GPMS prescriptions and the issue of the new head in respect of St John Ambulance to the tune of £250,000. As I say, I will be dealing with those matters more specifically later on in my contribution but I have said this because the Leader of the Opposition highlighted the fact that the Opposition Spokesman for Health may be touching upon the issue of revenue and expenditure broadly in the Health Authority. To pre-empt no doubt what will be the contribution of the Opposition, the Opposition in their last year of office spent £20.6 million on the Health Authority; we spent £22.1 million in our first year of office and £23.2 million last year and we intend to spend just under £24 million. That is an increase and I wish to categorically state that I at least can count, I did at least learn that when Bernard Linares was my teacher and we may hear some more banana economics from Opposition Members but at least in that respect I think they will concede that nearly £24 million is a substantial increase on their last budget.

Mr Speaker, I highlighted last year that the process of reform was my main concern in the Health Authority, indeed the 1996 review recommended 98 recommendations be implemented and the Government had a target of implementing 35 per cent of the report by the end of the last financial year and indeed we have done that. I will give the House a flavour of the things we have done. We appointed, for example, a Chief Executive, a Personnel Officer and other additional posts in management; additional General Practitioners, we have changed the selection process of General Practitioners and consultants; there has been an internal review of dental services that has led to the appointment of a Senior Dental Officer/Orthodontist; we have tried to deal as best as possible with the issue of noise in the Hospital; we have dealt with the concerns of both nursing and medical staff on re-registration; we have redesigned and restructured or we have commenced that process within the managerial structure; the social work services have had a substantial review which no doubt my hon Colleague, Minister for Education, will touch upon; we have started a health promotion team; we are bringing back the Public Health Reports, more of that later; and we have started the process of tackling the issue

of pharmaceutical controls; we want and we will do so in the next few months create more delegation of management in relation to primary care; we have started a Mental Health Review; fulfilled our manifesto commitment to establish a Clinical Psychology Service; and recruited a qualified Pharmacist; looked at the ambulance service and reopened the Nursing School. All of that was in the Medical Review Team's Report and I will touch upon those in greater detail, at least a main part of them. I should also give a flavour of the refurbishment works that have been conducted last year. Hon Members will be interested to note that the Health Authority spent nearly £360,000 on minor works last year; a vast sum of that, just over £100,000 in respect of Children's Ward and the problems encountered there, and spent £500,000 on new equipment of which the main items were spent in the X-ray department, gynaecology, theatre, orthopaedics, ophthalmology and electromedical. I said that we had started this process of review. The process of review continues, I set myself the initial target of complying with this threshold of 35 per cent implementation within the first 12 months; we have done that and I have stated in the House that my policy and the policy of the Government is now that we have a new managerial team to allow them time to advise me on the balance and the pace and process of implementation of the balance of those recommendations. I await their thoughts with interest and no doubt we will be seeing further changes in the next couple of years. I will highlight the most important ones that I see coming up further along my contribution. The Leader of the Opposition mentioned, when he was making his own submission, in comparing the manning levels of the civil service in the Health Authority, he did mention that perhaps he thought the increase might have come in the Health Authority but he was not sure because the reference in the Appendix mentioned the employees at 31<sup>st</sup> March 1998 but not the previous one so he could not compare. My finance department found it difficult to give me those specific figures as at 31<sup>st</sup> March 1997 or 31<sup>st</sup> March 1996 just over lunch because they say that when they calculate the complement they do so in November/December when they originally prepare the budget and so it is very difficult for me to actually give those statistics at 31<sup>st</sup> March 1996 and 1997. But if I give the House a flavour of what we see as the increase in complement perhaps at least by comparison we can understand where we are in the Health Authority. In general terms additional posts in the Health Authority are as follows – I am talking generally from memory, I may leave someone out: we have recruited in the last year or 15 months two General Practitioners; the Chief Executive; a Personnel Officer; a Medical Secretary; a Typist; an EO and an AO; an Occupational Therapist and a Physiotherapist; of those the Personnel Officer, EO and AO have been transferred, I understand.

from other departments so they are not new to the civil service themselves; added to that there is the recruitment of the enrolled nurse trainees which last year was advertised publicly, hon Members will recall that this is the second batch of enrolled nurse trainees, the first I think may have been taken either from previous nursing assistants or from Mount Alvernia, I am not sure what the previous administration did, but these we advertised and selected a number of them. That essentially is the difference between the previous figure at which we found the Health Authority in 1996 and where we are now. Added to that hon Members will have to add the filling of the managerial posts which selection is now being approved by the PSC. I am talking about the posts of Hospital Services Manager and Primary Care Services Manager. The student RGNs who may have started last week and posts such as the Clinical Psychologist and Dentist/Orthodontist that have been appointed but not started and were not counted at 31<sup>st</sup> March. I hope that is helpful to Opposition Members.

HON J J BOSSANO:

Can he confirm if the actual personal emoluments shown in the Appendix include the posts filled and the vacancies, is that correct?

HON K AZOPARDI:

The Leader of the Opposition asked that question I think a month ago and received the answer that the Financial and Development Secretary at the time recalled that nursing vacancies were included. My understanding, having checked that with my Finance Department, is that vacancies are not included in that. But I will certainly correct that position were my understanding to change.

Mr Speaker, we did receive a Nursing Review Report, I did commission one late last year on things such as manning levels, working practices and working environment, nurse training, overtime, recruitment selection and so on. We have considered some of those recommendations and indeed the effect of implementation, there is a degree of overlap between the Medical Review and the Nursing Review. Some of the things recommended have already been put in place but as I have indicated to the House, that report is not public and so it is difficult for Opposition Members, I appreciate, to judge that issue. The Government will be taking a decision on the issue of publication, as I mentioned to the House, shortly and by the deadline that I gave last time to the House when I gave that indication. Apart from the issue of the implementation

of the Medical Review and issues pertaining to the Nursing Review, there are of course other structural matters which are extremely important to the Health Authority and need to be implemented. I state, as I did last year, that a review of the structure I consider to be essential because while the Health Authority is one of the biggest departments, perhaps the biggest department of the Government with over 600 employees, it is true that the managerial section of it is relatively small and certainly my impression of the Authority was that even though the managerial staff were loyal, extremely hardworking, they certainly could not cope with a plethora of day-to-day issues, long-term strategic issues, EC directive matters and so on. So we needed to give a better direction to the Health Authority and the only way to do that was to actually review the structure and engage certain posts and that is an essential pre-requisite to implementing not only the review but a long-term strategy in relation to health. But there are other structural matters which are essential in that process of review, I will highlight a few of those. I consider very important the issue of training and development for staff. There is an annual sum of money voted in the estimates or certainly in the requests, for nurse training and so on and training of other health professionals but for many years there have not been sums of money allocated for managerial training. One of the things that I would expect to do is to progress a formulation of a package of training and development, not only for the health professionals themselves but also for the managerial staff so that they are better versed in dealing with the issues of health care, after all, Mr Speaker, I remind the House and anyone listening, health care is progressing rapidly. We run the risk of being left behind unless we recognise that greater specialisation of that field and a greater need for people to have a specialist understanding of issues of management which are particular to health and which are not manifested in other areas of the civil service. As I said, we are bringing back the Annual Public Health Report. The last one in 1982 was prepared by Dr Bacarese Hamilton. We intend to present the Public Health Report again, it may be slightly a rough version this year but hopefully will be more refined in subsequent years but we intend to do that at our Annual General Meeting which we are having on the 28<sup>th</sup> May. Again that itself is implementation of a recommendation in the Medical Review Report which stated that they recommended that for the purposes of greater public information and accountability and so on that there should be an Annual General Meeting of the Authority. We will be holding our first General Meeting next week and that is, as I say, the first ever convened by the Health Authority. I think the process of staff communication has been assisted by the institution by the new Chief Executive of a regular circular where staff are encouraged to state

current events as affect Health Authority staff, developments and progress in certain fields and I think the staff are better informed because of that. On a structural nature also, I think I need to highlight the importance of the Medical and Health Ordinance introduced and passed by the House of Assembly last year in July. That Ordinance not only transposed the relevant EC directives on nursing, midwifery, pharmacists and doctors on mutual recognition of qualifications; it also put into legal effect the long-term aspiration that doctors and nurses have had that there should be re-registration of those professions in Gibraltar. Hon Members will recall that I said, when I presented the Bill, that doctors registered for life in Gibraltar and so did nurses and that produced an undesirable situation where a doctor could have registered 70 years ago, there were people who were dead and were still on the register; there were people who had left practice, come back 15 or 20 years later and there was no check on those people, there was no ability legally to be able to ensure that those people who were being re-introduced into the nursing and health profession took refresher courses and so on. That aspiration of nursing management, of medical management has been introduced by the legislation; certainly in respect of nursing and re-registration is now available in respect of both professions, indeed it is obligatory if people want to practice in Gibraltar. We also enlarged the Nurses and Midwives Registration Board to recognise in Gibraltar for the first time the role of the health visitor and allowed two posts on the Nurses, Midwives and, now, Health Visitors Registration Board to be elected from among the body of registered nurses. That produced a progressive result in that it allowed nurses on the ward floor, it allowed them a voice on the professional, disciplinary body that regulates their work. We also have provided an enabling section in that Ordinance to allow for future regulation of the nursing assistant auxiliary grades. That is in line with trends which the UKCC are contemplating at the moment and I await more detailed discussions with nursing management as to when and how that should be tackled further.

Turning to some legislative areas, there are some legislative matters that are being considered by the Authority, which the House may be interested to know. One of the recommendations in the Review Report was that our mental health legislation was out-of-date and needed to be reviewed and modernised. Indeed, I set up a sub-committee of the Health Authority more than a year ago to look into this area. They have now put their recommendations in and they have been discussed by the Health Authority. The Review Team itself looking into the Mental Health Ordinance effectively brought together all those officers who had day-to-day dealings at a senior level with the Mental Health Ordinance, the

Consultant Psychiatrist, the Mental Welfare Officers, the Clinical Manager at KGV and indeed the Deputy Director of Nursing who used to be, I understand, Clinical Manager at KGV. Those recommendations have been considered by the Authority. The essential thread running through them is that the structure, the method and the manner of sectioning of patients, the powers in the Ordinance, the composition of the Mental Health Tribunal and the terminology all need to be modernised and the doctor/patient relationship needs to be focused and re-modernised. Our intention is the Legislation Unit now needs to prepare legislation in line with those recommendations which the Government can consider and can take a view on in due course. Certainly I do envisage that this is a two-stage process because whatever modernisation there can be of the initial Ordinance, it is true that the Mental Health legislation in Gibraltar has been based on older provisions in the United Kingdom and those provisions are indeed already simultaneously under review in the United Kingdom and so to a degree it will be interesting to see the outcome of that review in the UK. There is a move, Mr Speaker, for the regulation of professionals ancillary to medicine, that I think is the aspiration of many of those professionals and the Government are seriously considering that matter. The House may recall that this year, in March, I presented a Bill to establish complaints procedure. Indeed I said at the time that there was an absolute need for that procedure. I get many people coming to me and I have had many people come to see me in the last 18 months and there is a lack of clarity of where to go, a lack of clarity of how things are settled, sorted out and who to speak to. Once people are directed to the relevant officers in the Health Authority, those same officers deal with issues expeditiously and efficiently but of course there is a degree of lack of clarity and when there are matters as sensitive as issues of health which affect people so emotionally, I think it is important for there to be clear guidelines so that everyone is aware what is provided for and what the avenues of complaints are. Indeed, I think there is an important requirement to establish an informal process so that complaints can be dealt with relatively easily and then more formal powers of referral to the Chief Executive or, for example, if it is a matter of a clinical complaint, the possibility of independent review by clinicians, assessment by the Director of Public Health, the possibility of formal enquiries and people will see when it is launched if a patient is still dissatisfied having gone through all the runs of the complaints procedure through the informal, the more formal, the Chief Executive, the clinicians review and so on, we would hope certainly to deal with things on an informal basis rather quickly but in the rare case where all the stages have been gone through and people are still dissatisfied, there will be ultimate recourse

to the ombudsman. The legislation itself made it obligatory on the Minister to establish guidelines. I mentioned at the time of the legislation, when I introduced it in the House, that similar legislation was introduced in the United Kingdom in 1985 and it took the Secretary of State four years to establish a complaints procedure in the United Kingdom. I do not intend to take that long, hon Members will be happy to note, I expect to launch the guidelines within the next 10 weeks. Those guidelines will be accompanied by an easy to use summary encompassed in a booklet which will indicate to people the different stages of the procedure and how to go about having a complaint determined and assisted by the relevant staff. Of course there is an element of awareness of the staff that needs to go with that, people need to be aware in the staff complement that the procedure has been launched and what the provisions of the procedure are and the Chief Executive is indeed now examining, with the management board, the possibility and how to go about it of making the staff aware of that procedure and having any relevant training established to achieve that. I think it will be a continuing process once we establish the complaints procedure, I do not think it is the end of it. I would hope and the officers in the Health Authority will be tasked with this, to compile statistics on an anonymous basis of the nature of complaints so that we can carry out a continuing review of the workings and efficiency of the Health Authority so that we are able to perfect any inadequacies that are picked up either in the administrative workings of the Health Authority itself or in the procedure. That is the first stage of the manifested commitment that we had to establish a procedure and a charter. As I said last year, we also do want to introduce a patients' charter; a first draft of that document has been discussed at Health Authority level and indeed has been commented on by the internal representative bodies, the unions and so on. But I should also say that the patients' charter that we were discussing, the draft of it. Well based on a United Kingdom version and there are moves now, under the new Labour Government in the United Kingdom, to review the patients' charter because they have seen that there are some fundamental problems that have been encountered in the day-to-day functioning of that charter and so my original intention is to at least wait the preliminary recommendations coming out in the United Kingdom before we take the issue further in Gibraltar. But certainly my understanding is that there will be some form of recommendation or white paper issued in the United Kingdom shortly on that matter and by analogy I would not like to incorporate issues in the patients' charter which have been found to fundamentally operate inadequately in another jurisdiction. I do envisage that the charter will encompass staff rights as well as patients' rights and so I now consider this more than a

patients' charter to be a health charter. I said last year that I was discussing the issue of private practice and I mentioned the Government's continuing commitment to regulate the issue of private practice. Indeed I am happy to restate it publicly now, the Government are eager to regulate private practice into a form of control acceptable to all parties and which makes it co-exist with the public system of health care without acting in detriment to the public patients. I mentioned last year that I was in discussions with the BMA consultants; those discussions have progressed, I thought there might be more progress last year when I gave that indication to the House, that has not been possible but I certainly expect there to be movement in that field within this financial year. But certainly the commitment of the Government remains, the commitment of the Government is private practice exists, we know it exists, I keep getting complaints about it, about the lack of regulation and we intend to regulate it in line with the aspirations that I have mentioned to the House so that it can comfortably co-exist with a public system of health care without acting in detriment to the public patient.

There is one area, Mr Speaker, in the budget which concerns me greatly and indeed concerns the rest of my hon Colleagues substantially. The biggest single item of recurrent expenditure in the whole budget of Gibraltar is the GPMS prescriptions budget. The House will note that the GPMS part of the Health Authority budget went from £1.2 million in 1988/89 to £1.6 million in 1989/90; £1.9 million; £2.2 million; £2.7 million; £3.3 million in 1993/94; £3.7 million; and £4.2 million when we were elected to office in 1995/96. In other words, that was the last figure as at 31<sup>st</sup> March 1996; the GPMS budget was £4.2 million when we were elected into office. It then went to £4.7 million and this year to £5.1 million. The increases have oscillated anything between 10 per cent to, at its height, nearly 30 per cent of an annual increase. The Price Waterhouse Report of 1995 and the Principal Auditor's Report all highlight the problems in this area. It is unacceptable to the Government that this issue remains untackled and untackled in a vigorous way. The problems areas are the lack of pricing control; the prescribing of medically unnecessary products; abuses, which are highlighted in the Price Waterhouse Report; the lack of regulation of the scheme and the lack of control of prescribing habits; there is an absolute need to tackle this issue. I will be announcing during the next few months a package of measures aimed at curbing all these abuses, controlling expenditure and regulating the scheme. It is absolutely essential that we do that. I assure anyone who is listening that the regulation of the scheme, the curbing of the abuses and the controlling of expenditure will not affect the issue of

any medically necessary products, let me make that categorically clear. There will be no problem whatsoever of any patient going to see the doctor and receiving the medication that they are entitled to and that they should receive. What we want to control is the well-known throughout Gibraltar abuses that there are in the pharmaceutical budget where prices are not controlled, prices are not monitored by the Health Authority and that part of the budget now has become the biggest item of recurrent expenditure in Gibraltar and almost 20 per cent of the budget of the Health Authority itself. It certainly detracts from our attempt to restructure and reposition the health service; it detracts from our attempt to reinvest any savings because it is sucking away at the resources of the Health Authority in an unacceptable manner. As I say, I am not going to detail the package of measures; the Government are considering a list of things that need to be introduced and we hope to do so in the next few months. I said last year that we were thinking of linking with the price prescriptions authority; that scenario has encountered some problems, primarily because the PPA have indicated to us that they are not ready to take Gibraltar on, they need to provide a new and specialist software package, they are not ready to do so, they were not ready last year, they hoped to be ready later this year but have now come under pressure from the new Labour Government in the United Kingdom who want to crack down on prescription abuse in the United Kingdom and have had a lot of their time resources diverted to that and so we are considering a replacement of the pricing contribution which the PPA would be making to this new system of measures by adding a local element of control. Hon Members may have noted that is the reason for the tender notice issued in yesterday's Chronicle. There are some specific measures beyond the financial issue which is the most burning issue for me, this issue of pharmacy control and the structural issues. There are some specific measures which have some financial implications that the House and listeners may be interested in knowing about. The Health Authority and the Government continue to be deeply committed to the issue of health education and so our vigorous policy in this field continues. Viewers of television will have noticed the health commercials launched by the Health Authority throughout Christmas and the New Year period in relation to drugs, alcohol and smoking. There was a successful poster competition and campaign at which all the schools took part and we have also had seminars on health awareness which have been very enthusiastically greeted by those participating in those seminars. I am happy to say that the new Director of Public Health is deeply committed also to the issue of health education and he expects to tackle issues such as smoking reduction, accident prevention, protection from the sun, a whole range of topics

covering many key areas such as stroke/mental health and heart disease; health protection on public roads; healthy workplace; heart disease counselling; immunisation and screening for major cancers throughout this year. He certainly intends to tackle in the public awareness campaign those types of issues. I am also happy to say that the no smoking policy introduced on the 1<sup>st</sup> January this year throughout the GHA facilities is, on the whole, being highly successful. There are, of course, some members of the public and staff who, from time to time, do not break but perhaps fracture the law but those matters are being dealt with by the management and staff and the public are encouraged to adhere to that no smoking policy. Indeed it is a great irony, I think, for the Health Authority to be spending vast sums of money treating patients perhaps for lung cancer where the cause may be to a degree the smoking contributor and where patients and staff used to walk around smoking. It really does send the wrong message and I urge the staff and public, certainly the staff are on board I know on this issue, but I certainly urge the public not only to refrain from smoking but also call anyone who they see smoking around the GHA facility, call their attention to the fact that it is a no smoking facility in line with our general aspirations of public awareness.

This year, Mr Speaker, we took over responsibility for the chiropody service to district patients, in-patients and patients over 60. Previously the League of Hospital Friends were paying for the provision of this service for out-patients out of funds collected by them out of charitable events. The League came to see me to express their concern and unhappiness about the provision of the service from charitable funds. As an interim measure I agreed to reimburse the League for the costs expended during 1996/97 and as from the 1<sup>st</sup> January 1998, we agreed to assume the direct responsibility and contractorised the service by putting a tender notice in the press.

Mr Speaker, the House will also be aware that the Government will be contractorising the emergency ambulance service to St John Ambulance. Indeed I explained this publicly recently. The Government received proposals from St John Ambulance some months ago, they had put proposals to the previous administration, they came to see whether we were interested in receiving proposals. I said that of course we would consider any issue if they wanted to bring it to our attention. They remodelled their proposals. St John Ambulance have experience internationally on running ambulance services, they have contributed locally on that issue substantially for many years. Members of the public may not know but I think it is an important factor, the St John Ambulance

run the emergency and transfer ambulance service in Guernsey, a place of comparative size and health needs. Guernsey has a population of about 58,000 and St John Ambulance run the ambulance service in that jurisdiction. The basis of the proposals were very much on the Guernsey model. St John Ambulance enlisted the support of someone in their international headquarters in London and Guernsey to be able to assist in the formulation of that proposal and when they brought it to us it was on those same professional lines of the service in Guernsey. The new service will be run by St John's but be accountable to the Ambulance Service Board which will be chaired by the Chief Executive of the Health Authority and appointed by the Government. The new service will be composed of a Senior Ambulance Officer and 15 other Ambulance Officers and the staff will receive training prior to the commencement of service and the Government indeed intend to provide funds for the initial training programme of those selected for these posts. The move will allow deployment of the Police Officers to more classic policing duties and also enable the gradual development of a more specialist medically trained ambulance service. Once the Ambulance Service Board is appointed, I hope that will take place in the next few weeks when I receive the nominations from the Chief Executive. Once that is done they will discuss the process of appointment of that Senior Ambulance Officer and the recruitment of the other posts and I expect that advertisements will be placed in the media within the next couple of months to enable the recruitment of those prospective Ambulance Officers who will then commence their training, who will then in turn hopefully by the end of this year, assume responsibility for the ambulance service. The Government hope that this arrangement will enhance several aspects. The fact that Police Officers will be able to conduct more general usual duties and the evolution of a better more specialist service. We congratulate and applaud the efforts of the Royal Gibraltar Police who for so many years have been on the ambulance front line but we hope and expect this service to work well and indeed to provide a better service to the community shortly.

Mr Speaker, the final area that I want to deal with in relation to health is that of nursing. We have a manifesto commitment which we have now fulfilled in relation to nursing. It is a manifesto commitment that many people had a lot of anticipation about and were enthusiastic about, both the public and within the staff and it relates to the reopening of the Nursing School in relation to registered general nurse training. The Nursing School had only taken enrolled nurse trainees before we took office, certainly for quite a number of years that had been the case. We have not only provided funds to enable a second and substantial batch

of enrolled nurse trainees to be recruited and that was so last year, we have also reopened the Nursing School in respect of RGN training. Those students who were taken on, after a process of advertisement of those student posts, in line with the Government's stated policy in relation to entry qualifications across the board in nursing. I should say and restate that the Government's view in relation to entry qualifications is this, we think and we have introduced the policy that nursing assistants joining the Health Authority should take an entrance exam. We think that it is good for the service that that be reintroduced and that is, as a matter of policy, our decision on that issue. We have stopped the automatic induction of Mount Alvernia nursing assistants into the Health Authority. The reason for that is because it diverted from resources and from the greater view that the Health Authority and Government took at what was required in the Health Authority was not untrained staff but more trained staff. It was diverting funds and resources if nursing assistants continued to be automatically inducted and it was also being very disruptive to the staff and residents at Mount Alvernia. The residents of Mount Alvernia were finding it disruptive to their sense of security and routine for Mount Alvernia to be a railway station of staff and so our view was that staff should be engaged in Mount Alvernia on a more permanent basis and that we should stop the automatic induction of Mount Alvernia nursing assistants into the Health Authority. That allowed us to take policy decisions in relation to the other issues which were entry requirements in relation to enrolled nurse training and RGN training. So we took the decision which was later reflected in legislation in October last year that we would require three 'O' levels for enrolled nurse training introduction and we would require five 'O' levels or equivalent for those people who want to become registered general nurses, who wanted to join the nurse training opportunities that were being given by the Government in that field. I am happy to say that the response to the advertisements both in relation to enrolled nurse trainees and RGN trainees could not have been better. We have had a flood of interest from both male and female students, men and women who wanted to join the Health Authority, who had many more qualifications than three and five 'O' levels, I know that the Opposition voiced concern when we mentioned that policy decision some months ago but I assure them we have had more and in some respects, more than double the number of places that were available of people who had many good qualifications, 'O' and 'A' levels, some people with university degrees wanting to join nursing and I think it is an encouraging sign for the nursing profession and it is something that the Government intend to certainly encourage and foster. It is not that we do not value the nursing staff that we have, we certainly do, they are loyal and hardworking but

times change, things are becoming more modern and competitive and I think it is a benchmark and a yardstick and as good a yardstick as any other for us to be able to judge prospective applicants for nurse training by there having been successful, at least academically in some subjects.

Mr Speaker, the process of reform in the Health Authority will continue. I said when I published the Review Team's Report in 1996 that the process of reform would take three years, that we envisaged that the initial tranche of 35 per cent implementation could be conducted by the 31<sup>st</sup> March this year. We have done that but we still have a long way to go. The process of reform will continue for years, for at least the next couple of years. I think we are making major inroads into structural administrative and training and development issues and especially the latter are at the core of a delivery of a good, efficient and high quality health service. By the very nature the product of reforms will take some time but we will certainly see results soon and while some of the structural reforms may be more intangible than the nurse training ones, people, consumers, patients at the other end of the production line, of the delivery of the health care will certainly see results when we progress this process of reform and when we near completion of that. I remind, as an example to that, people listening to this that, of course, by reopening the Nursing School to RGN trainees and by taking on enrolled nurse trainees, it does not cure the issue of the criticism there might be in the Nursing Review or the Medical Review Team's Report that we needed to have more trained nurses because enrolled nurse trainees will take two years, RGN trainees will take three years to complete their course, the RGN trainees have started their course now and so that is why I say that notwithstanding the process of reform, notwithstanding how quickly we want to move, it is inevitable that those young Gibraltarians who will become RGN students today, who will become registered general nurses tomorrow will at least take three years to complete their course. But certainly the Government are very aware of the need for reform. We are embarked on that process and we will continue with that process in relation to the Health Authority because we think that that will deliver a better system of health care than the one that we have today.

Mr Speaker, if I can turn to one of my other hats, my Environment Ministry spends about £10 million of public expenditure and, indeed, there is a wide variety of issues that I tackle within environment. My Ministry spans a whole range of services all the way from contractual services in relation to cleaning; wildlife contracts; planning and development control; Ministerial responsibility of Community Projects

with a workforce of about 230 men; heritage; some overlapping responsibilities with my hon Colleague, the Minister for Port, in relation to the port, primarily in respect of oil pollution; and now the new responsibility that I have taken on board transferred from my hon Colleague, the Minister for Education, of consumer affairs. Last year I broke down my responsibilities within Environment into five sub-heads – Public Health, the EC Environmental dimension, Planning, Heritage and Local Environmental issues. I will adopt these again this year because I think it facilitates my explanation of my department's working this year and the prospective measures we intend to introduce next year. Under the heading Public Health, I only mention, as I did last year, that there is an obvious overlap because the Environmental Agency, the late Lionel Mena, was tasked with this area before he regrettably passed away, there is an overlap in the issue of health education with the Health Authority. The Director of Public Health, as I have said, is committed to that area and the Environmental Agency continues with their very efficient work in this field with general responsibilities in administering and enforcing the provisions of the Public Health Ordinance that range from service of abatement notices, prosecuting public health matters in court and advising the Government on all sorts of water testing and emissions. In relation to the field of EC environmental dimension, I would mention that we continue with our struggle to absorb the burden being put on little Gibraltar by Brussels and the bureaucrats in Brussels who seem now to have taken the environmental field as the area where it is fashionable to issue directive upon directive. The Government are deeply committed to implementing and transposing directives and adhering to such EC regulations that are enacted in Brussels in relation to the environment. We consider it our international obligation to do so but, of course, while there are some environmental directives that have no impact on Gibraltar and we are happy to transpose and have no effect like directives controlling large combustion plants when there will never be large combustion plants in Gibraltar, there are some directives that have a substantial effect on little Gibraltar. Of course those areas, it is difficult for us to resist and the Government continue to consider ways of dealing with those issues. But I do, as I said to the House last year, in raising this issue, I give the House an indication of the areas where my department is considering environmental legislation of a European ambit. We are, at the moment, considering legislation ranging from burning of gas fuels, directives on air quality, monitoring of mechanisms of greenhouse emissions, transfer shipments of waste, incineration of hazardous waste, waste from titanium dioxide industry – which I hope we do not have, protective zones exposed to plant health risks, and arrangements of systems of information of dangerous preparations,

environmental impact assessment directives and limitation of Co2 emissions directives. All of that combined with local concerns that have been voiced in relation to enforcement of the pollution of the aquatic environmental regulations and the pollution of ground water regulations and the major accidents, hazards of certain industrial activities regulations which transposes other European directives. The Government are also considering and will consider in the next few months obligations which stem from several international conventions such as the London Convention on Dumping Waste at Sea, the EC Convention on Access to Environmental Information, the Convention on Climate Change, the EC Protocol on Sulphur Emission, the United Nations Convention on Biological Diversity. I say all of this because, to a degree, there is a lighter side to my reflection on this technical burden of all these European and international environmental obligations that require such a high degree of expertise. As I said last year, my Environmental Agency experts probably fit in one floor of a double-decker bus but the tea ladies of Director General 11 on Environment in Brussels probably do not even fit on two floors and it really does pose tremendous problems to the Government and to our own internal experts to be able to deal with all these issues when plainly they are of such a complex and convoluted technical nature. But we will continue undeterred trying to comply with those international obligations when we can.

Coming down to earth, in relation to planning I have stated before that the Government have a philosophy which I will talk about later of increasing public participation and high on that agenda of increasing public participation is the need and the commitment to introduce public participation in the planning process. Legislation in a very advanced stage is now being considered to ensure that there is an objection and representation procedure, that there is a review of the appeals structure, that there is advertising of controversial applications and that there is categorisation of different applicants by the very nature of the application. For example, there are some applications that come before the Development and Planning commission where plainly it is not necessary to advertise. If for example there is a partitioning of an office floor in a modern building but then there are other applications that plainly, again, also do require advertisement when they relate to an unlisted but historic building and so we are looking at all of that, as I say, legislation is relatively advanced and we hope to be able to bring legislation to the House during this financial year. I did indicate last year that we were looking at that field but I would say that we have progressed substantially in the drafting process and we are looking at

that. There is an overlap with the environmental European field in that there is now a new directive on environmental information and environmental impact assessment that now replaces the 85 directive which was partly transposed by Opposition Members in the Freedom of Information Regulations. There is a new directive 97/11 in relation to that which we will have to consider when it comes to impact on domestic public participation. But the Government's decision in that aspect is to progress local amendments in line with the philosophy of greater public participation while keeping in abeyance the issue of the transposition of 97/11. The reason I say that is because the United Kingdom Government themselves are facing Article 169 infraction proceedings in relation to that particular directive and have promised Brussels that they intend to transpose the previous directive fully in line with this new directive during the course of this financial year and if we waited for that, which is the Government's preference, to wait for that before we do anything with this new directive then I fear that our own local amendments in relation to public participation will be inevitably delayed. We do not favour that and so we intend to bring forward that legislation once the Government have taken a final view on that before the European aspect is dealt with. Under the issue of planning there is also the beautification programme that continues around Gibraltar. Hon Members and the public will have noted the commencement of the Irish Town and its side streets programme. The side streets have been in a substantial part completed, there are some minor details to be dealt with, for example, the curve at Tuckey's Lane needs to be dealt with but in general terms the paving of side streets has now happened. The Irish Town segment of the contract, the contract was in two parts: the Irish Town segment will be signed hopefully this week or early next week and we will see commencement of Irish Town during the next month, I would say, once there is mobilisation and when there is resolution which is the only outstanding issue of where Amey will put their trucks. Once that is done I expect the project to start and start quickly and to be finished by the end of the year. As the Chief Minister indicated, I think, earlier this year, the Government are considering for the next financial year, perhaps not this one, we may not have time this year but for the next financial year, certainly before the end of our electoral term, a project to level the Piazza to its original state as it was before the 1960's construction of the present Piazza. I have just initially received departmental costings now so the Government have not really had an opportunity to consider those further beyond the issue of principle which we took that we would like to see it done. It will depend obviously on prioritisation of projects next year, it may not be done when that process of priorities takes place but certainly it is the aspiration of the

Government that indeed the Piazza be levelled to its former glory so that we have a square brought back which will be the focal point touristically as well as the Casemates project which other hon Colleagues will deal with, the Piazza will also be a touristic focal point. In connection with the process of beautification, the Government announced tax concessions to those who wanted to repair, repaint and beautify facades in Main Street, adjoining streets and Irish Town. There was a slow take-up of those concessions but these have moved substantially more quickly in the last few months and I am happy to say that even though it does not perhaps present a very substantial number, 28 applicants have applied for income tax concessions in accordance with the property deduction rules enacted under the Income Tax Ordinance and beautification which has been declared to the Commissioner of Income Tax totalling £395,000 has been conducted by those applicants when they have sought that income tax concession from the Commissioner of Income Tax in accordance with the rules. The Government are considering the possibility of extension of similar tax concessions to other areas because we think that it is good that there should be refurbishment and beautification by landlords, the Government cannot do it for the landlords but are happy to create the climate under which landlords are able to conduct a beautification project and so we are considering the possibility of extension of that, it will depend no doubt on the revenue implications which those applications to the Income Tax Department have led to.

Mr Speaker, my fourth heading was the area of heritage. Last year I stated the Government's commitment, and I am happy to restate it, to review heritage legislation in line with discussions I am having with the Heritage Trust. The object of that review process is to review and enhance the powers of the Trust, to make the Heritage Commission a statutory body, to set up a wider listing process and to review the appeals appellate mechanism against the listing intentions. Hon Members will recall that there are only seven listed buildings in Gibraltar and that the Save Gibraltar's Heritage Report recommended hundreds of buildings be listed. If there are going to be more buildings listed as protected, there needs to be a process worked out and so the legislation is being looked at to enable a mechanism under which the intention to list a building would be, first gazetted and those owning the building will have the opportunity to appeal against that mechanism and so on. That legislation is still under consideration and that is only one of the provisions of the new legislation because, as I said to the House, it is important that there should be a very complete consultative process with the Heritage Trust and a lot of the drafting is being done in conjunction

in committee with representatives of the Trust. The drafts have not been fully considered or finalised and so therefore it is difficult for me to say what time-scale is envisaged for the introduction of that but I would hope to make substantial progress towards that end soon. The difficulty we had last year was that while we had advanced discussions with the Trust by the time I had spoken at the budget speech, at least on a preliminary basis, after July or August discussions with the Trust because of one thing and another, because of priorities that Government and the Trust had in other respects, meant that discussions died down for several months and so we have had to regrettably delay that process but I expect again to at least consider, in principle, the legislation in final draft within the next financial year. Mr Speaker, there are also specific Heritage projects that the Government are keen to sponsor. There is an inevitable link between heritage and tourism, what I do not want to do is spend my term of office dealing with what I call the "dry heritage legislative areas" such as planning and the review of the Heritage Trust Ordinance, necessary as it is to do that if we want to set up a structure for advertising and public participation in planning and if we want to set up a structure for listing and protection of buildings, necessary as that is, it is what I call the "dry heritage projects" and they do not have an immediate link with tourism. There is though an aspect of heritage, the more visual topics, the more visual projects that have an impact on tourism and it is where the Government are extremely keen to act so that Gibraltar's touristic importance is enhanced and so that people are encouraged to come more than once once they have seen what we have in Gibraltar. In line with that aspiration Government organised the first Calpe Historical Conference, Calpe 97 that dealt with the history and heritage of Gibraltar through the ages with differing points of view, there were professors from the United Kingdom, Spain and academics and experts from Gibraltar that hosted a very successful conference in August last year. This year is the Calpe 98, I said last year that I hoped to make this an annual event, this year Calpe 98 will focus on the 150<sup>th</sup> anniversary of the finding of Neanderthal skull in Forbes Quarry. The Director of the Museum has been able to entice most of the world's leading Neolithic experts to Gibraltar and we hope to have a very successful international conference. The initial indications are that there is a lot of international academic interest, it will be, by its very nature, a more academic conference than it was last year but we hope that certainly it will be a very successful event. The Government also intend to sponsor historical research and publications and there is a forum for discussion that has been set up with the Heritage Trust and other members relevant to the field of heritage, like the Director of the Museum and the Archivist and so on, so that there is a sifting

mechanism by which the Government can sponsor historical publications into Gibraltar's history and heritage which, not only will enhance the knowledge of the public, will help our educationalists and will help international understanding of Gibraltar's history and heritage and Gibraltar's perspective. At the end of the day, dissemination of information, call it historical propaganda if we wish, is important I think to at least put across what Gibraltar has in a touristic sense, in a financial sense, and indeed, if need be, in a political sense. Another specific project that I wanted to highlight is Government's continued funding of archaeological works in relation to history and heritage and so we continue our assistance to the annual Goram's cave excavations because the findings that are being excavated at Goram's cave were now the subject of international press conferences set up by the Natural History Museum in London and interesting research, comparative research being done on DNA testing of the bones and findings by academics in Germany. That is, what I call, an investment in heritage which has a touristic impact because that inevitably then hits the headlines internationally, not only does it assist us in the understanding of what Gibraltar's historical importance is locally. It also then makes people sit up and hear about Gibraltar in the news and if it has any touristic impact in Gibraltar, I think it is worthwhile and a worthwhile investment. Added to that, of course, we have now got the archaeological works at Casemates happening which have thrown up a lot of interesting findings.

My final area in relation to the environment is in respect of local environmental issues, Mr Speaker. There is a problem that we encounter substantially in my department and it is that of illegal works and litter and so on. I call upon the public, as I have done annually, that they assist the Government in our difficult function in controlling illegal works and litter. As I have said, there are some aspects of local environmental issues where there is some overlap with the Port Department in relation to matters of oil pollution. There is a review of the GIB-MOPP plan that is currently being undertaken and my department has been leading discussions with Oil Spill Response Ltd in relation to the provision of an international response. We have progressed those discussions quite helpfully so that we are able to cover the international support and equipment that is made available to the Government of Gibraltar in case any problem arises out of any bunkering accident or issue of that nature.

The other area in the environment that I finally wanted to mention is the issue of seagulls which hits the news and there has been some financial

expenditure in the estimates noted in relation to that field. GONHS have, in conjunction with Community Projects, been conducting some culling of seagulls and have culled about 500 adult seagulls during the last year or so. That, admittedly, needed to be stepped up but it does present quite a substantial move from the position we were at before.

Mr Speaker, finally, consumer affairs has been transferred from my hon Colleague in education to myself from this year. What that has meant is this really, I will be leading the Government's drive in relation to consumer affairs and the package of measures we want to introduce which will have some financial impact but certainly will have more than a financial impact. There are two themes running through the Government's philosophy in relation to consumer affairs. It is that there should be higher public participation and that there should be governmental accountability and that will be manifested in a review of consumer issues. That review will form part of a package of measures which substantially are formed by five pillars. In the first place we intend to examine the current role of the community advisory service, review and explore the community protection role. Secondly, the European dimension that seems to permeate in every field in Gibraltar will have to be examined and so we are considering legislation in relation to consumer matters in respect of unfair terms and in respect of price markings. Thirdly, we will be introducing legislation to this House to set up the office of the ombudsman. The ombudsman will be empowered, I will only deal with this briefly, to enquire into acts of maladministration of the Government, statutory authorities and other bodies. He will report to the House of Assembly; he will be independent of Government, financially, politically, administratively independent; he will have the power to investigate; he will call for documents; he will be able to summon witnesses; he will be able to make recommendations; and he will be, as I have said before, the ultimate tier of review in matters of health complaints. The legislation is being drafted on the basis of what people internationally term the classic model, the New Zealand and Danish legislation which has been incorporated in places like Malta, and also by using the United Kingdom comparisons of the Parliamentary Commissioner and the Health Ombudsman. All of that will come later this year. Fourthly, we intend to set up a civic rights agency. That agency will supervise a new system for administration of legal aid. It will review the Ordinance and the principles it will incorporate will be to increase access to the courts for lower income groups; the advisory and representation service and it will set up a system of supervision for resolutions of small claims. The key principles that we are envisaging in this package of five pillars is that we intend to enhance access to advice:

transparency of public services; the ability of the citizen to enquire into and have public acts investigated and have claims quickly resolved by an investigative process or recourse to the courts which is independent of Government. The Government's aspirations certainly is that once this package of consumer affairs issues is put into place, the man in the street will, for the very first time, be able to peer through the window of Government to ensure fairness of official action. Mr Speaker, I have nothing further to add.

MR SPEAKER:

We will now recess for 20 minutes.

The House recessed at 5.35 pm.

The House resumed at 5.55 pm.

HON MISS M I MONTEGRIFFO:

Mr Speaker, as a Member of the Opposition I have been responsible for being spokesperson for the Health Service and also for Sport and, as in other years, I will also be contributing to this debate covering both these departments. Of course, I will try to do this as objectively as I have always tried to do.

Last year I told the House during the Budget session that the level of spending in the Health Authority was not increasing to the same degree as when the GSLP had been in office. Then I gave a detailed account of how the figures in the estimates proved my point. The Chief Minister, in his rounding up contribution, went to pains to try and prove the contrary and so has the Minister today. But in so doing they have conveniently ignored the detailed analysis I gave in relation to the figures that had been included in the estimates and what they represented. I think I need to remind the Chief Minister what I said, and I will quote what I said last year; "For 1996/97 we left an estimated budget prepared on the same basis as we had always done and, indeed, the Minister for Health in answer to Question No. 35 of 1996 confirmed our figure was £23 million. However, in answer to Question No. 72 of 1997, he states that the estimated expenditure is £22 million. Already nearly £1 million less in their term in office than what we had provided for. We never underspent but we overspent from what we estimated. For this coming financial year they are providing, as the Minister has said, £22.8 million. When one takes into account that in these new estimates before us they have

included, for the first time, an expenditure of £345,000 for pay settlements and the figure for personal emoluments include new posts, plus they are receiving a contribution on the revenue side from the MOD of £745,000, when one compares like with like there is less money being provided for the Health Authority". That is what I said last year, Mr Speaker.

With regard to this year's estimates the Minister for Health has already stated that the Health Authority is receiving more money, and I wish to take issue with his statement, as again he is in fact giving us a distorted picture. In order to arrive at the real situation, we must look at the estimates of the Health Authority taking into account both the revenue and expenditure side. Then we can arrive at the true picture.

I must therefore refer the House once again to the estimates for the Gibraltar Health Authority presented in this House. If we look at page 116, Appendix F, under receipts, as the Minister has referred to, we will see that with regard to the Group Practice Medical Scheme, there is an increase on the revenue side of £1.7 million. We strongly believe that this amount of money raised in one year is not justified. The Minister has said that the increase is to compensate the loss of the MOD contribution. But surely, the Government has enough money to increase the Government contribution, instead of charging the taxpayer. When we were in office, the Hon and Learned Mr Caruana used to criticise us for increasing the GPMS saying that this was a hidden tax measure. Quite independent of the fact, that this Government have done the same, the situation is worsened because they are not reflecting the extra income in the expenditure side, something we always did. Whatever amount of money we raised, we reflected it in the expenditure. The Government now come to the House and present estimates that show that whereas they are collecting from the taxpayer through social insurance contributions an extra £1.7 million, they are only raising the expenditure side by £1 million. Also, when we look at payments there is a new charge to the Health Authority of £250,000 for St John's Ambulance. This is not a new service, but an existing one because before it was being paid by the Government from their general revenues, but now they are passing the cost to the Health Authority. It is therefore a new financial burden for the Authority. If we look at the exercise it is a simple one. If we take £250,000 away from the £1 million more provided this year, we are left with about £700,000. As the Government have raised on the revenue side an extra £1.7 million, the net effect is that the users of the health service through social insurance contributions are being overcharged by nearly £1 million. And they had the cheek to criticise us

when we were in Government. This is the situation which we have today which is a blatant example of hidden taxation.

We have analysed the performance of the Government during the year and I would like to highlight some areas where we disagree and where we have certain concerns. The Minister has today given publicity to the complaints procedure. As he has stated, he brought a Bill to the House and we abstained because there was already provision to implement a complaints procedure under the existing Medical (Gibraltar Health Authority) Ordinance 1987. What seems incredible to us is the fact that the GSD when in Opposition kept alleging that the Authority lacked sufficient independence, that there was a lot of interference from me. With the new legislation the Minister now has more power than what I had to interfere with the Gibraltar Health Authority because he can issue whatever instructions he sees fit to the Health Authority, over and above its Board, of which he is the Chairman. A question of double standards.

As to the issue of private practice, the Minister has said that the Government intend to regulate it. We do not yet know what this means, but we will certainly monitor the situation in order to see whether public patients will not need to stay longer in the waiting lists, something he was concerned about when he contributed to his first budget speech.

Moving to the GPMS, in the expenditure side, we did indeed start tackling this problem ourselves just before we left office because we contracted the UK Pricing Authority and two years later the Minister has not been able to do anything about it. Certainly, the software package, when we were in office was already there so I do not really know what has happened. Again, on health education which the Minister has mentioned, indeed this was started by the GSLP administration. Before we came into office health education was non-existent and we diverted a lot of resources and a lot of financial assistance in order to bring back health education into the Health Authority.

Another measure implemented by this Government, which the Minister has mentioned today, and which we have already said we are against, is the condition that applicants for staff nurse or enrolment training need to be in possession of a certain number of GCSEs. The Minister said that many people had applied with many qualifications, but he forgets that there will undoubtedly be many people in Gibraltar, who will be debarred of looking towards nursing as their career. Our contention is that with the compulsory two or three years training in our school of nursing, they could ultimately have become good nurses. We are pleased to see that

the Minister is continuing the enrolment training that we started. He cannot take the credit for opening the school of nursing, we opened the school of nursing for this purpose, and we can also take the credit for introducing what is called Prep, which is a system for first-level trained nurses to re-register with the UKCC.

Looking now at the refurbishment works at St Bernard's Hospital, the Minister has not said much about this but we believe that these are moving at a very slow pace. For example, the works at the kitchen commenced over three years ago, and now we are told by the Minister that this area might be converted into a rehabilitation centre, he mentioned this in answers to questions that I have put to him in the last House of Assembly meeting. Therefore we consider that a lot of money and time has been wasted in the process. The kitchen was moved to the old Lewis Stagnetto Ward and the Minister has confirmed in the House that patients from that ward will remain in what used to be Private Corridor. In order to reopen Private Corridor he has stated that an area is being looked at within the hospital. When I was in office, Mr Speaker, I was advised that the will of the late John Mackintosh stipulates that a Private Corridor must exist in the John Mackintosh Wing. Therefore, I wonder whether he knows this and he is disregarding it, or that perhaps he has not been so informed.

As to the overall resources at St Bernard's Hospital, very little has been done as yet to increase them. There is certainly room enough to expand for extra wards and theatres. In this House I already told the Minister of plans drawn up during our term of office. He said he had not seen them and when I asked him whether management had mentioned these plans to him, he said that if they had not they must be of very little value. I would like to inform the Minister that these plans were in actual fact drawn up in accordance with the requirements expressed by the medical and theatre staff, who even put their signatures to them, and who indeed welcomed them.

Moving now to the nursing review, we wish to stress the point that the Government received it in March of last year. In answer to questions in this House the Minister stated that the reason for the delay was because certain members of the team had not yet put down their signatures to it. Yet again, in February of this year, he stated in the House that a decision as to whether it would be made public or not, would be made in three months' time.

HON K AZOPARDI:

On a point of clarification, would the hon Member give way? We did receive a version in March last year but, as I indicated to the House during the debate in a question and answer session, it transpired that it had not been signed by all the members of the review team and indeed it was because not all the members were agreed on the recommendations in the draft that we got in March and so therefore it is not true to say that we got the review report in March. The review report signed by all members signifying their agreement to the draft was delivered to us on the 29 September and, as I said to the House before, it is a slightly different document to the one that was delivered to us in March and that is because the March document was not the report of the review team, given that it was not agreed by all the members. So while it is true that we have been considering the matter since October last year, it is then that the review team rendered their report and not earlier.

HON MISS M I MONTEGRIFFO:

Fine, but in any case what the Minister has said is that he has had it in his possession for nearly seven months.

So what is it that the review contains that is so controversial that the Government are still undecided as to whether to publish it or not? They very quickly published the Medical Review but they have not published the Nurse Review and we are wondering why the delay and what does it contain that still the Government need more time to study it. On the Medical Review Report we need still to see the full effects of those recommendations the Government will implement and those they will not. Up to now, they have been reluctant in the House to give details of those they intend not to implement. And, of course, ultimately, we need to assess whether the review has produced any real impact on the quality of the service to the users.

As to the status of the staff working for the Gibraltar Health Authority the review team recommended that they cease being civil servants. The Government, Mr Speaker, are still considering the matter. They have said in the House that the matter was being discussed with the unions but that what they wanted to do was, if I remember rightly they said that they wanted to change their terms of engagement and that they wanted to concentrate expertise on a long-term basis in the Health Authority, and therefore they would not be as freely transferable on promotion or

otherwise. We therefore need to see what it is that the Government are intending to do and what they will do ultimately. I see from the note in the Gibraltar Health Authority estimates that the employees are referred as Gibraltar Health Authority employees. I know they do not move that fast, Mr Speaker, so I take it that there has been a mistake, perhaps wishful thinking on their part, but nonetheless a mistake.

Finally, on health, Mr Speaker, the GSD administration have been in Government for two years. If we look at what is being provided for the next 12 months, where exactly is the evidence that the health services were so short of resources that it needed a massive injection of funds in order to solve the crisis, which they said existed three years ago? How could it be at the time of the elections that our health services were in such a terrible mess, that it was falling to third-world standards and was on the verge of collapse? Then three years later, we have the same system, with the same resources, with the same nurses, same number of patients, practically the same budget as we left, and for the next 12 months there is no indication that there is a major injection of funds. And it is not that we are asking the Minister to spend more money by throwing pound notes from the roof top of St Bernard's Hospital as the Chief Minister accused me of doing, nor do we think that we were responsible for throwing pound notes away. We put in the budget what the professionals were advising us, and we do not think that the professionals were either responsible for throwing away the money. What is clear is that they invented the crisis because it never existed. They did so with their propaganda machinery, and with this same machinery they are now painting the picture which suits them. Because certainly the picture they painted when we were in office was again an optical illusion. What there is today, is more bureaucracy and more paper work.

Turning now to my other responsibility, sport, here again we see bureaucracy and more paperwork. And what has been done by the Minister for Sport. He has continued the refurbishment works to the playing areas we opened; continued the assistance for all the premises we left; he has constituted a Council whereas there was a Body before and certainly the Minister uses the Council whenever it suits him as to why decisions have been taken or have not been taken. Something I did not do, Mr Speaker, as Minister, I took responsibilities for all decisions, as it should be. As to the length of time for decisions to be taken, one example is the installation of the floodlighting system in the second pitch at Victoria Stadium, soon after the GSD were elected into Government and of course the realisation of a Sports Development Unit.

For the latter, another consultancy was created after attempts by the Government to create the unit and the post of Sports Development Officer failed. Here, when and how the consultancy is implemented, the Minister can again use the argument that he did what the expert and/or Sports Council advised him to do. This Government, as the Leader of the Opposition said earlier on, take the credit when things go right, and either blame experts or the civil servants when things go wrong. However, the Minister has given me credit for earmarking certain areas as premises for sporting entities. I also give credit where credit is due, and that is that he has continued to increase the level of sporting grants. He has set down a standard for eligibility but I hope that he will be able to give a commitment to the House, that if these standards are not met, and the specific event is of a national representative nature, he will provide assistance. The point I am making, Mr Speaker, is that whether we win or lose, the important thing is that Gibraltar is represented in these sporting events. Sport is perhaps the one area where we have been most successful in giving good publicity to our identity as a people.

Finally, I await the contribution of the Minister for Sport to see whether he can prove that he has given sport the same impetus I gave to this department, when we came into Government. Thank you, Mr Speaker.

HON J J HOLLIDAY:

Mr Speaker, my responsibilities cover tourism and transport. I would like to commence by commenting on the complement of my Ministry under Head 6 and then analysing expenditure in respect of Other Charges. I will then be summarising the various projects which will be undertaken under all subheads of the Improvement and Development fund, Head 103 and Head 104, subhead 13. This includes projects that were commenced last year and will be concluded this year and others due to commence this year. Finally, I will also briefly comment on revenue.

Insofar as the complement of the Ministry is concerned, the only significant change which is necessary to highlight is the increase in the complement of the Traffic Department consequent on the employment of six vehicle testers. This was necessary in order to implement MOT testing of vehicles which are four or more years old, following the EU Council Directive of 21 June 1991, which required testing of such vehicles at least every two years as from 1 January 1998. The Opposition have tried to make an issue of annual MOT testing requesting that tests on vehicles should only be carried out every two

years. Government are not prepared to compromise on matters of safety. As I have informed this House before, annual tests are undertaken in most member states, including the UK. Other changes to the complement of the Ministry are of a very minor nature, and primarily consist of rationalisation of the different departments.

In respect of Head 6C, Transport, the salaries bill last year was less than expected because there were vacant posts for part of the year on the department's complement. This year's bill reflects the fact that there is a new position of PTO. The cost of industrial wages is being contained at the same level as last year. Turning to Head 6E, Port, officers whose duties covered ship registration have been transferred from this section to the Ship Registry, which is now housed at the Duke of Kent House, and now appear under Head 6F. With respect to Other Charges, as a general comment, I must first of all indicate that it was exceedingly difficult to arrive at meaningful estimates of expenditure for tourism for the financial year which ended on 31 March 1998. This is because the full complement of the Gibraltar Tourist Board was not in place last year. Therefore, there was an element of guesswork involved in trying to gauge the form that expenditure would take in this field. This is reflected by the forecast outturn for the year in respect of a number of subheads, which differ from the original estimates. I therefore consider, Mr Speaker, that the estimates for this year will reflect realistic patterns of expenditure and the emphasis which this Government want to give in respect of the various subheads of expenditure.

I will now analyse Head 6A in more detail to indicate where there are changes when compared with last year's estimates. Insofar as office expenses are concerned, the level of expenditure on the telephone service has now been established at £26,000 per annum. The previous figure was simply an educated guess. The same is true for printing and stationery for which it is estimated that expenditure will total £9,000. Office cleaning services were previously charged to repairs and maintenance under the heading "Operational Expenses". This expenditure is more appropriate under Office Expenses and now appears under subhead 3 in lieu of subhead 4. The cost of uniforms has increased not because more is being spent in respect of each officer but simply because the complement of the Gibraltar Tourist Board is now up to full strength. This was not the case in the last financial year. In order to contain expenditure, the bid for general embellishment has been reduced from £150,000 to £100,000. This subhead was intended for payment of materials for Community Projects Ltd in respect of tourism-orientated projects. I have considered the matter carefully and it is my

view that the Ministry for Tourism should have at its disposal a small hit squad comprising employees of Community Projects who will be available exclusively to my Ministry to perform minor jobs. The intention is that this small squad should be able to clear up quickly whenever there is a need. This will have an impact on everyone, residents and visitors alike, as it will ensure that eyesores are removed as soon as they are created. This, in turn, will act as a deterrent for those who might be tempted to create the eyesore in the first place. I believe that this small squad, which will be responsible to my Ministry and which will therefore be available to deal with tourism projects as their sole function, instead of having to deal with requests for jobs on the basis of priorities set by others, will be generally welcomed by the tourist industry. This subhead will cover the cost of materials for this task force to ensure that they are used to maximum effect. The budget in respect of official functions will essentially remain unchanged for this year. Although there is a drop from £30,000 to £17,000 this simply reflects the costs of one-off events which will not be repeated this year such as the opening of Main Street.

The budget for this year in respect of marketing, promotions and conferences is £650,000. The estimate for last year was £750,000. However, it was not necessary to cover the PGC contract for UK marketing for Gibraltar out of this subhead, and in addition some expenditure incurred in the previous financial year which was not settled on time because of the changes in accounts procedures inherited from the previous administration. These two elements accounted for the full overspend. The reduction in the amount of this subhead, in comparison to 1997, does not in any way imply that Government feel it is not necessary to promote Gibraltar heavily as a tourist destination. This is far from the case. I nevertheless feel that the Gibraltar Tourist Board has started to settle down, and the perception of Gibraltar is no longer tainted as it was prior to May 1996. Image advertising in order to counter such perceptions is becoming less necessary. The marketing, promotions and conferences budget will now be more focused. However, I must remind the House that in May 1996 when we took office, the marketing, promotions and conferences budget was £300,000, that is over 50 per cent less of what it is today. The marketing budget can be subdivided as follows: In the first place, there is the production of literature. This includes production of the UKGTA brochure for use in the United Kingdom which is currently under review in order to meet the needs of the market today. There is a need for appropriate brochures for the Spanish market. It also includes literature to inform travel agents of changes and improvements to the Gibraltar product. I

have also directed that special interest literature should be revamped this year. This is important for us to develop our niche markets. There will also be new conference folders prepared, in anticipation of greater activity in the conference market. Where possible, commercial sponsorship will be sought to offset part of the cost of literature production. One item of literature which will be produced this year and will be fully covered by sponsorship is a new tourist map, something which is in great need. The second item of expenditure will be promotional material. This includes updating the Gibraltar tourist video and preparation of special short videos for specialist needs. In addition, the library of transparencies will be updated. There is a need to purchase small corporate gifts, in line with other Tourist Boards. Promotional material, which is described technically as "Point of Sale" material, that is posters, displays and so on, all need to be commissioned so that it can be supplied to travel agents abroad who sell Gibraltar holidays. At this point, let me say that the draft copy of the video film produced by the Teaching Learning Network of the USA for nation-wide screening in the USA and by satellite into Europe has now been received. I have viewed this and it is excellent. I am now expecting notification of the dates when it will be broadcast. In addition, I have asked for screening rights so that this 30 minute presentation can be shown on GBC television. The third item is UK consumer and trade activity. It is intended that there should be a series of travel trade roadshows to promote knowledge of Gibraltar tourism to travel agents in prime catchment areas. This will be complimented by shopping centre roadshows, which are geared at the consumer market. The aim of the exercise is to generate consumer interest in Gibraltar as a short break destination in a series of target areas and ensure that the travel agents in those areas are equipped with the knowledge to meet the demand, so as to successfully sell holidays and short breaks to Gibraltar. Provision has also been made under this Head for workshops for travel agents and for sponsoring competitions. The fourth area of activity will be familiarisation trips. The first of these has already taken place, in early April 1998, when my Ministry hosted 35 top travel writers. The feedback from this group of travel writers was most encouraging. A number of travel pieces have already appeared on radio, in newspapers and in magazines as a direct result of this trip. The journalists were delighted with Gibraltar, and with the changes which have been made over the last two years. It is intended that there should be further travel writers invited to Gibraltar during the course of the year. In addition, there will be familiarisation trips for targeted travel trade personnel. I should add, Mr Speaker, that in the case of these familiarisation trips, much material assistance is provided by the travel industry who bear the lion's share of

the costs of these trips. The principal area of activity for the year will be direct advertising, £228,000 will be spent on this together with a substantial sum for specialist advertising. This figure I have just given is therefore just for direct consumer and trade advertising. Specialist advertising, for example to support our attendance at a particular trade fair or at a marketing event such as a roadshow, will be payable from the specific budget allocated to these events. This means that the proportion of the budget which will be spent on advertising out of the total marketing spend will be in excess of £300,000 which is well above the expenditure of any previous Government on this particular item. The next largest sum in the budget is the £110,000 budgeted in respect of attendance by Gibraltar at travel fairs. These range from the World Travel Market and the London Boat show at one end; Fitur, Situr and La Lonja in Spain; the Sea Trade Convention in respect of the cruise industry, and Confex and EIBTM for the conference market. It is of paramount importance that we continue our presence at these major travel trade fairs and conventions. Our participation at the World Travel Market is prestigious for Gibraltar and a strong signal to the travel industry that Gibraltar means business, especially to the UK trade. Our participation at the London Boat Show; Routes 98; Seatrade Convention; EIBTM and Confex, are specially targeted at the yachting fraternity, the airline business, the cruise industry and the conference and incentive market respectively. This year Gibraltar will be represented for the first time at Posedonia, a shipping exhibition in Greece. The Port, the Tourist Board and the Gibraltar Shipping Registry will share the stand and we shall promote the Port of Gibraltar generally in addition to the specific sectors of ship registration and cruise calls. This reinforces the importance given by the Government to the cruise industry. A number of local port-related companies will join the Gibraltar delegation. A presentation to specific targeted clients will be given by me at a reception. Finally, the budget contains an element to support local events, such as the Challenge of the Sea event; the Second Gibraltar International Regatta; the Millennium Odyssey Yacht Rally which will start from Gibraltar in October this year. These and other international events calling at Gibraltar are of immense value to our tourism industry. Therefore, we will continue our efforts to attract other such events. Funds have been allocated in the budget for a Gibraltar presentation in November this year to the organisers of the Cutty Sark Tall Ships Rally. There is a possibility that Gibraltar could be selected for this event in the year 2002. We shall be making a bid for this, in competition with others, as Government feel that Gibraltar could gain substantially from the coverage which would result from such a prestigious event. Our marketing budget is relatively small compared with those of many

countries and administrations which are trying to attract tourists. That means that we have to ensure that every penny is wisely targeted. I believe that we are indeed getting good value for money. Our visitor figures show increased hotel occupancy and I believe that this trend will continue despite the fact that hotels are refurbishing and that, during a period of refurbishment, the noise and disruption tend to put visitors off. The figures speak for themselves. The number of bed nights sold in 1997 rose from 140,000 the previous year to 144,000. However, of far greater significance is the fact that the tourism spend during the same period by persons staying in our hotels more than doubled from £8 million to £17 million. Such results are not obtained by themselves; they require much hard work, effort and commitment and these have been forthcoming.

Mr Speaker, the Leader of the Opposition in his contribution earlier today suggested that Government's marketing strategy is in shreds and that the number of tourists declined in 1997 compared with 1996. In reply to such a suggestion, I would like to remind the House that the decline had been in the number of Spanish shoppers during the latter half of last year as a result of the strength of the pound. This is what the total figures reflect but this does not mean that the number of tourists coming into Gibraltar has dropped.

HON J J BOSSANO:

If the Minister will give way. He has quoted me as saying something and I think he has got it wrong. I have not said anything about less people arriving in Gibraltar across the frontier or in any other way. I quoted the figure in the report that he tabled in the House of 95,000 guest nights sold for tourists. Even though the total for visitors including non-tourists shows a slight increase, the tourist component of that was down. That is the only thing I have quoted, I have not said anything else about visitors. So whoever he is quoting it is not me.

HON J J HOLLIDAY:

Hotel occupancy, in fact, as has already been noted, was up and visitors arrivals by air also increased. Expenditure by visitors on yachts also increased from £810,000 in 1996 to £1.39 million in 1997. I believe that Gibraltar tourism is growing and this is a direct result of Government's tourism policy. Our priorities for this year will continue to be to increase overnight stays; increase cruise calls; increase yacht arrivals; increase daily tourists; and market Gibraltar as a conference and incentive

destination. Our tourism policies are starting to show success and this will be evident in the year ahead.

Specifically on the matter of cruise calls, I wish to announce that two cruise companies who have never previously used Gibraltar as a port of call have launched their programmes for 1999 only this week and both have scheduled visits to this port. They will account for an additional 38 cruise calls for 1999. Government's policy in this sector is starting to pay dividends. The poor result of 99 cruise calls in 1997 which was the result of the lack of policy and direction in this important area of tourism by the previous administration in 1995, is now behind us. Had my Ministry not taken decisive action, I can assure the House that the number of cruise calls for 1998 would have been even lower than the 1997 figure. Gibraltar would have lost a valuable source of tourism revenue. We anticipate that this year will see an all time record with about 150 cruise calls. Our share of the cruise market is growing because there is new confidence in Gibraltar from cruise operators. I cannot leave the subject of cruise calls without some reference to transportation matters. The Government tried very hard indeed to solve all outstanding issues through consensus. This was not possible and so the only solution is to introduce legislation to cover the needs of Gibraltar in this regard. I will be bringing this legislation before the House at the first opportunity. I must explain that when it was found that legislation would provide the only way forward in this regard, I decided to widen its scope to encompass all matters which impact on transportation. I believe that the draft Bill will meet the needs of the tourism industry and will, at the same time, safeguard the positions of both the coach operators and the members of the Taxi Association. I am trying to grow the market so that there is more for all parties to share. Mr Speaker, I would like to take this opportunity to express my appreciation to members of the Tourism Advisory Council who give their valuable time to assist Government with their guidance on particular issues. I acknowledge that it is important to consult the private sector on various strategies before implementation.

Turning now to subhead 9, this is a totally new item of expenditure of £1,000 which is really a token figure at this stage. During the course of the year Government will need to take decisions with regard to management of the ape population. It has been widely reported in the press that there has been an explosion in the ape population in recent years. This is a matter which needs to be addressed. Proper veterinary care of the apes is also high on the agenda, changes are envisaged soon.

I am particularly pleased that the School of Tourism will be a reality shortly. Funds for this are provided under subhead 10. It had been envisaged that the School would have been up and running by Easter this year but the works to refurbish Bleak House have not allowed for this timetable to be adhered to. The first intake is now planned for September. This development is of great importance as we must train Gibraltarians to work in the tourism industry as this sector has a promising future.

With regard to item 11(a), the subvention to Sights Management Limited, I wish to say that their contract no longer properly reflects the duties expected of the company. I am scrutinising the agreements with the company at present with a view to updating them to meet today's needs. A review is also envisaged to the Terminal Management contract.

Turning now to subhead 12, cleaning contracts, this includes £26,000 which was previously made for the cleaning under contract of Duke of Kent House and the Cruise Terminal under subhead 4(b), repairs and maintenance. The increased figures reflects the fact that cleaning of the coach terminal which is about to be built and the coach park will be the subject of a new cleaning contract.

Finally, I wish to refer to subhead 13, the contribution to the Gibraltar Development Corporation in respect of salaries for the staff of the Gibraltar Tourist Board. Mr Speaker, the House will note that there was an underspend in the year ended 31 March 1998 when compared with the estimate for that year. This is because the full team did not come on stream until September 1997, later than had been anticipated. In fact, the sum budgeted for this item last year did not cover the full year; so it is not a realistic figure against which to compare this year's estimates. I must highlight that part of Knightsfield Holdings contracts was terminated and all tourist information officers are now part of the Gibraltar Tourist Board. An element of the Gibraltar Development Corporation funding for staff in connection with the School of Tourism appears under subhead 10(a), Staff Services. The total Gibraltar Development Corporation contribution to staff for the Ministry is thus £397,000.

Finally, I wish to comment on the Carreras Concert. The outturn for this was estimated at £250,000. In fact, the actual outturn in respect of this subhead was considerably less at £168,950. I believe that the concert was a resounding success even though there was a deficit at the end of

the day. The value of this mega event in cultural terms and the positive publicity for Gibraltar cannot be underestimated. The concert was good for Gibraltar at a time when there needed to be a change of our international image for the better.

I will now turn to Head 6B – Transport: Airport. I do not think that the figures require comment. The historical payment which had to be made in respect of a rebate of departure tax was paid last year in order to honour a commitment made by the previous administration. This is not a recurrent item.

Head 6C covers Transport: Roads. It was found in the light of experience that the cost of electricity and water, subhead 3(b); and of printing and stationery, subhead 3(d); were overestimated last year and this has now been corrected. Greater emphasis is being placed on safety at work and the bid for protective clothing has been increased. In addition, there is a bid under a new subhead 6, for staff training, in the sum of £4,000. Training and safety go hand in hand. The provision for materials and other costs has been trimmed in line with the spending pattern which emerged during the course of the last financial year. The expenses in respect of the Motor Vehicle Test Centre have been adjusted in line with expenditure patterns during last year.

With regard to traffic security expenses, the major cost is that of the salaries of the employees of Gibraltar Security Services. The sum expended in respect of the traffic compound has been reduced as previously derelict cars were towed to the compound and incurred parking fees while awaiting gazetting and disposal. This practice is not acceptable and alternative arrangements in this regard are being put in place. The cost of the traffic compound now needs to be offset against the fees paid by persons who have their vehicles towed away although of course for accounts purposes, revenue is shown as such and expenditure is explained separately. The employees of Gibraltar Security Services were unhappy because there is presently no occupational pension scheme for them. This was a legacy from the previous administration. I share the concern of GSS staff. Government will shortly be putting in place a contributory pension scheme for these employees. At the same time, I am currently considering a new pay structure for employees of Gibraltar Security Services which will achieve employee satisfaction by the abolishment of anomalies which exist today.

Turning now to the Port Department, Head 6E. There will be a significant change in the Port during the course of this financial year as recommendations made by the consultants who produced the Port Study for Government are implemented. I will comment further on this report later in my address. At this stage what I would like to say is that the expenditure of the Port Department will be in line with the spending pattern of previous years.

The Shipping Registry is an area of activity which is being given a special impetus. There is a new Head 6F which covers the Shipping Registry. It is for this reason that a specific unit has been set up at Duke of Kent House to deal with ship registration. The costs for the Registry are self-explanatory. However, I would like to particularly state that Government will be promoting the Gibraltar ship register to potential clients at a seminar to be held in London in September. This will follow on the back of our presence at the Posedonia Exhibition in Greece where I will be establishing contact with a number of important ship owners. To finalise with regard to Head 6, seen globally the bottom line is that expenditure was estimated at £7.036 million for last year. The forecast outturn was substantially less, at £6.75 million and the estimated expenditure for this year will show a further saving of £72,000, totalling £6.68 million. This is indicative of good housekeeping.

I shall now turn to the Improvement and Development Fund. Head 103 covers tourism and transport. Subhead 1 provides for the annual expenditure on beaches and for the provision of new planted areas. I would like to comment briefly on the beaches. The beaches were maintained over the winter months, I am pleased at the state of cleanliness that has been achieved during the last year, due in part to the purchase by Government of a new machine for cleaning the sand. In addition, during the course of this year, work will be carried out to improve tourist sites. One area which will be tackled is the provision of new toilet facilities at St Michael's Cave and the Great Siege Tunnels. The large increase in visitors means that the existing facilities are totally inadequate. I also intend to site public toilets in other areas as there is a need for this.

Part of the funds in this subhead will also be dedicated to repairs which are needed to our City Gates and for the provision of luggage handling facilities and security screening at the Cruise Terminal. This is particularly significant for Government. P&O have shown faith in the Government by having a cruise start and finish in Gibraltar in November this year. In addition, Gibraltar will be the home port for the "Adriana" in

November. These are new developments for Gibraltar in the cruise sector and the right infrastructure to handle such cruise calls must be in place. I look forward to being able to announce that Gibraltar is to be the home port for other cruise calls in 1999.

Subhead 2 is simply a revote of funds from last year to complete work on enhancing tourist entry points. The Air Terminal and Cruise Terminal have been completed. The Ferry Terminal is about to be tackled. This leaves the Coach Terminal and the land frontier. The Ferry Terminal and Coach Terminal projects are being part financed by the European Union. Work is also programmed to improve the customs and immigration building at the land frontier to make it more attractive and user friendly. This will then complete the Government strategy of making all visitor points of entry attractive and welcoming.

Subheads 3 and 4 previously appeared under Head 106, Industry and Development. Airline assistance is essentially joint advertising with and assistance to airlines as it is necessary to put in place the right sort of environment in order to attract new airlines to Gibraltar. I am in discussion with several airlines which have expressed an interest in a Gibraltar route and I am hopeful that increased capacity on routes to Gibraltar and new routes will be achieved during the course of this financial year. I feel I should comment briefly with regard to the airlines which service Gibraltar. There has been an increase in air arrivals in 1997 of 11.2 per cent when compared to 1996. Monarch have now completed one full year of operation in Gibraltar. In the period between May 1997 and the end of March 1998, they have enjoyed load factor levels in excess of 71 per cent. This is in excess of the kind of load factor which is achieved in a first year of operation on any new route. Monarch are doubtless pleased at this result and so are the Government. With regard to GB Airways, the airline enjoyed an 84.8 per cent load factor in the 12 months ended 31 March 1998. By any standard this is an excellent performance. I am, however, disappointed that all Heathrow flights to Gibraltar have been dropped. The perception, particularly of business travellers, is that Heathrow is the premier London airport. There are nevertheless features of the new GB Airways programme which deserve to be highlighted. The seat availability between Gibraltar and London has been increased by 29 per cent and this is a welcome move. In addition, 79 per cent of Gibraltar services now terminate in Gibraltar increasing the availability of seats to Gibraltar by 38 per cent in comparison with 1997. On the negative side, the availability on the Gibraltar to Manchester route has decreased as the aircraft now operating this route is considerably smaller. I am in

discussion with GB Airways as I would wish there to be a twice weekly Manchester service, at least through the summer months. It nevertheless has to be recognised that GB Airways has always maintained the vital lifeline by air to Gibraltar through good and bad times.

The hotel refurbishment programme has been in full swing during the last financial year and will continue this year. In this connection I am particularly pleased to note that the major refurbishment of the bedroom stock of the Rock Hotel and the Elliott Hotel is now nearing completion. A considerable upgrade is being achieved in respect of the conference facilities of both hotels. In addition, the Caleta Palace Hotel intends to have in place by March 1999 conference facilities for 250 people and its bedroom stock will also be refurbished by then. The Bristol Hotel is upgrading its common areas and the Queen's Hotel is about to finish a complete refurbishment programme. All hotels have also improved their product.

I would now like to pause for a moment on the matter of the arrears due to Government by hotels. At the end of the last financial year, in fact on the 27 March 1998, as I stated in reply to a question from the Hon Albert Isola, the total arrears came to just under £1 million. These arrears had built up over a period of years from 1991. What is significant, in the eyes of Government, is that the assistance scheme for hotels has created a mechanism for the systematic eradication of these longstanding debts. There are already agreements in place which cover the repayment to Government by instalments of debts totalling almost £900,000. Discussions continue with regard to the balance. This longstanding issue is therefore on the point of resolution.

New tour operators continue to be attracted to the Gibraltar market, both in the United Kingdom and in Spain. The hotel product must be up to standard for the benefit of our visitors. The short break market is of particular interest to my Ministry, as these visitors contribute more to the economy. Higher hotel occupancy means more jobs in hotels and restaurants and more money entering the economy generally.

On the question of new UK tour operators, the last 12 months have seen three new tour operators coming on stream. The most important of these is Thomas Cook. The new Thomas Cook city brochure was distributed to all 365 Thomas Cook shops in December 1997. Thomas Cook recently advised the Gibraltar Tourist Board that Gibraltar was becoming one of their highest producing new city break destinations. Thomas

Cook are promoting the Rock Hotel, the Caleta Palace and the Bristol Hotel. The second new UK operator is Wallace Arnold. Their new Europe brochure was first distributed in April 1998. In this short time that they have been promoting Gibraltar they have already started to take bookings. Bridge Travel Services are the latest tour operator to confirm that they will be featuring Gibraltar. Bridge Travel are one of the top ten tour operators in the UK. They are also the general sales agents for Eurodisney and The Disney Cruise Line. Their new city brochure will be distributed from September 1998 and their hotel contractor has recently returned from Gibraltar having inspected all the different hotels. In addition, I am pleased to announce that there are another two tour operators who have said they are likely to feature Gibraltar. We have never had so many tour operators selling Gibraltar programmes. This is particularly important to Gibraltar's tourism given the problem there is in trying to find racking space for small destinations in travel agents' shops for brochures other than those of tour operators. Insofar as the Spanish market is concerned, two new tour operators came on stream. Pulmantur published a Gibraltar programme at the end of January 1998 and this was followed by Mundicolor at the beginning of April 1998. The promotion of Gibraltar tourism in Spain will step up when the Gibraltar Tourist Board Office opens in Madrid. I hope to make an announcement shortly in this regard. We would by now have had our office open had it not been that the Municipal Authorities found that the office earmarked for the GTB did not meet basic fire and safety criteria. This problem was also common to other offices in the building. This meant that we had to negotiate with the landlord for a different office in the same building in the very heart of Madrid which would not have these problems. All outstanding matters are now on the point of resolution.

Subhead 5 is the funding for the new Motor Vehicle Test Centre. The centre at North Mole Avenue is simply a temporary facility. I hope to announce shortly that work will commence on the new test centre which will be an extension to the existing centre at Eastern Beach Road. I regret that work did not commence on this project during the course of the last financial year. However, the machinery for the new centre was only identified in March this year and the centre itself could not be designed until the shape and size of the machinery to be installed had been established.

Subhead 6 covers road construction and resurfacing. A major strategy will now be put in place to try and remedy the poor standards of our roads. It is intended that the funds being made available for this purpose should achieve the desired aim. In fact, I do not think that any

Government have allocated £1 million for road improvement and resurfacing as this Government intend to do over the next 12 months. Winston Churchill Avenue, Watergardens, Glacis Road and Waterport Road by Watergardens, are examples of roads that will be included in this year's resurfacing programme. In addition, the area of the Cruise Terminal will be resurfaced. Once this is done and the remaining unsightly shed on North Mole is demolished, the facelift of the area will be complete. Demolition of this eyesore is scheduled to commence in mid-June 1998. The structure of the Highway and Sewer Department is currently being given due consideration as Government would like to see an improvement in the general function of this department. I am confident that this will lead to solutions in some of the historical problems.

The Government deserve credit for the many beautification projects which have been achieved over the last year. Their impact on visitors should not be underestimated. Journalists and other influential persons have all been particularly impressed at what has been achieved in a short timescale and there have been many positive comments on the new image of Gibraltar. I would particularly like to single out the North Mole Promenade and the City Centre beautification schemes. I am pleased that the Winston Churchill Avenue project is nearing completion. It is already creating a far more attractive first impression of Gibraltar for visitors arriving by land and by air. During this financial year the road widening project at Sir Herbert Miles Road will be completed. This has the double function of also enhancing and beautifying this area. The Europort Avenue project has gone out to tender and the Casemates project will soon commence. It is therefore not just the historic centre that is being revitalised but key tourist routes. A further priority of the Government is that these beautification schemes should provide a more attractive environment for our citizens. In fact, transport matters are high on my agenda. It is for this reason that the Government commissioned a team to study the public bus service. I look forward to receiving the report and studying its recommendations. Car parking issues and traffic flows will also continue to receive my particular attention. New tourist signage will be designed over the next few months to make it easier for visitors to circulate around Gibraltar. There is a need for a total transformation in this field.

Finally, subhead 7 covers infrastructure improvements for the Port Department. The bulk of the funds being made available will be used for the purchase of launches for the department. The view expressed by the consultants who produced the Port Study recommended that there

should be two launches made available to the Port Department. The Port Study identifies that there should be an adequate launch available for boarding duties and another launch available for the new roles which it is envisaged that the Gibraltar Port Authority will soon need to assume. I am keen that these launches should be purchased as soon as possible. Funds have already been allocated in this subhead for the security works which are needed to secure the Port area. This is necessary from the point of view of safety; the Port is a working area and there is machinery in use. Only those who have business in the area should be allowed access. In addition, cruise companies require that there should be restricted access to areas where cruise liners berth. It is important to grow this sector of the tourist market and so it is essential to put in place adequate security measures. Government are nevertheless aware of the needs of the people and there will be special provision made to cater for local fishermen who will wish to continue to have access to the North Mole to practice their sport. All that will happen is that there will be controls exercised by the staff of the Port Authority.

Head 104, Infrastructure and General Capital Works, subhead 13, Storm Water Drains and Sewers Replacement, will cover the works which were planned for this financial year which had to be postponed, namely the replacement of the old collapsed sewer which extends from The Convent to Ragged staff and the laying of a new surface water drain from the junction of Main Street with Cooperage Lane and Landport. Had the Lover's Lane project been completed earlier in this last financial year, as had originally been envisaged, then it would have been opened to traffic by now allowing for the closure of the southern section of Main Street for purposes of the storm water drain replacement. Again, it was decided that the surface drain project in the area of Casemates Square would be tackled as part of the Casemates beautification programme. That work will soon be ready to commence after the archaeological explorations of Casemates Square are completed.

The Port Study published last month confirmed Government's view of the immense potential of the Port as a major asset to the economy. The principal recommendations of the Port Study can be summarised under four major headings. The first is the need to restructure the Port Department as the Gibraltar Port Authority. This does not imply a privatisation of the Port Department, as those who excel at scaremongering are trying to make out and I have explained this to the Port Department personnel. The second major heading is the need to grow existing business in as profitable a manner as possible. We are already extremely successful as a bunkering port. Indeed, the number of

vessels calling for bunkers in 1997 rose to 2,663 which is almost 1,000 vessels more than in 1995. Gibraltar Port continues to be the leading port for bunkering in the Mediterranean. In addition, Gibraltar has an excellent reputation as a serious port for admiralty arrests. The port also does good business from ships which are laid up. The third major heading is the need to attract new types of business to the port. The principal new type of operation identified by the study is container transshipment. Finally, the fourth major heading is the need to have clear strategies for the long, medium and short-term development of the port. There needs to be a sense of vision and direction, with a strong commercial input into the way in which the port is managed and with emphasis on safety issues. Mr Speaker, I will shortly be appointing members of a Steering Committee to systematically implement the recommendations of the Port Study which have been accepted by Government. I will be consulting players in this sector at every stage as I wish to ensure that business for Gibraltar port is grown and that we do not put in place measures which will result in becoming uncompetitive. The commitment of the Government to developing the Port is therefore clear.

I would now like to turn to revenue. The revenue which will accrue to Government through the activity of my Ministry is at revenue Head 4, subhead 1 and revenue Head 6, subheads 42 to 58. There are only a few points which I would like to highlight where there is a noticeable difference between the position last year and the projected income for this year. At revenue Head 4, subhead 1, the projected revenue from motor vehicle licences is £950,000. This shows a decrease of £100,000 as this was overestimated last year. At revenue head 6, subhead 42, it is expected that the revenue which will accrue from Upper Rock admissions will increase by £66,000. This is due to the increases in nature reserve fees which will be introduced later on in the year. The income in respect of Head 6, subhead 46, driving tests, has now found its new level. Income was previously higher and the difference is attributable to a drop in the number of persons taking driving tests in Gibraltar consequent on the full implementation of the EC legislation of 1 January 1997 which requires that persons taking driving tests need to fulfil a residential requirement. In effect, this means that non-residents can no longer take their driving tests in Gibraltar. The income derived last year from vehicle testing, Head 6, subhead 47, which has a forecast outturn for 1997/98 of £140,000 reflects the fact that testing of vehicles which are between four and 10 years old came into effect in November 1997. The projected figure for this financial year shows the estimated revenue from a full testing year is £100,000.

The revenue which is derived from the Port should increase substantially over the figures contained in the estimates when the recommendations contained in the Port Study are put into effect. However, as the new levels of Port fees have not yet been agreed, the estimates simply reflect the existing fee structures. On the question of port arrival and departure tax, I am pleased that the calendar year 1998 will probably see an all-time record number of cruise liners calling at Gibraltar. My aim is to grow this sector further and I wish to achieve a substantial increase in cruise liners in 1999 over 1998. My Ministry is working hard to achieve the target of 200 cruise calls. Given this scenario, one of the strategies which I have put in place, following negotiations with cruise lines, is a sliding scale of arrival and departure tax for cruise liners. The more often a particular cruise ship calls at Gibraltar the lower the level of passenger tax. This is an incentive to cruise companies to schedule a greater number of calls at Gibraltar by their vessels. This strategy is already paying dividends. The direct revenue lost by Government in respect of port arrival and departure tax is more than compensated for by the revenue and economic activity generated by Gibraltar as a result of additional cruise calls.

Finally, it is projected that there will be a substantial increase in the fees generated by the Shipping Registry now that Gibraltar is once again an A1 Red Ensign Group register. There has already been considerable interest in the register and I look forward to its success.

Mr Speaker, there has been much activity in those areas which fall under my Ministerial responsibility in the last 12 months. There is much more planned in the months to come in a spirit of confidence which is so essential. There are strategies in place and proper structures. New activity is being generated. The right sort of environment for development of tourism and the port as creators of wealth for the economy is being reinforced. I believe I have cause for satisfaction in the estimates of revenue and expenditure in respect of my Ministry. Mr speaker, I conclude my submission.

The House recessed at 7.05 pm.

The House resumed at 9.35 am.

Debate continued on the Appropriation (1998/99) Ordinance, 1998

HON H CORBY:

Mr Speaker, we are now at the half-way mark since the GSD Government came into office. I will take this opportunity to highlight the commitment of my Government and indeed of my department to the people of Gibraltar in accordance with our election manifesto of 1996.

I have always advocated that some Gibraltarians have been living in third world accommodation and this has been due to the lack of investment and maintenance made by previous administrations which also manifests itself in different estates throughout Gibraltar. Only recently the Chief Minister and myself visited the Upper Town area and in doing so we saw how bad houses in the Upper Town area are. The Chief Minister has said, "We have a commitment to improve the quality of Government housing stock through a programme of long-term investment so that people can see that improvement is being made in the Upper Town area". External upgrading and beautification of housing estates will also be undertaken. We went to the estates and again they need refurbishment, up in Calpe, we have got Sandpits, Heathfield and other estates which are dilapidated and that is a thing that we are committed to do. Regarding our commitment to offer Gibraltarians access to both privately-owned and rented accommodation, we have honoured all existing 50/50 schemes and included Edinburgh House as part of the Government's housing stock for those Gibraltarians on the waiting list. This will drastically reduce the 3RKB list and 4RKB list. On representations made by senior citizens – they came to see me at my office and they wanted practically four things:- That we gave them a house in a flat area of Gibraltar that was near a shopping centre; near the 50/50 schemes where families had bought and also within the town area. This we did and when we were handed over Edinburgh House there was an area there where we could build a block for the senior citizens. This was mainly because they were finding it very difficult to access their flats because they were living in high rise accommodation. I am glad to say that Government have now embarked in building within the Edinburgh complex 2RKB flats that meet their requirements. This initiative will not only have the effect of suitably rehousing senior citizens but also recover large flats which can be released to applicants on the

housing waiting list. I have to say that in extreme cases in which senior citizens do not release Government accommodation this will be assessed by the Government on its merits. Whilst the 50/50 scheme has undoubtedly opened up home ownership opportunities for many people who would otherwise have been unable to opt for this, the Government are mindful that our obligation is to provide a roof over the heads of those members of our community who cannot aspire to paying a mortgage regardless of how advantageous the terms are. Perhaps such priorities went somewhat by the wayside in the euphoria surrounding the 50/50 developments as did, no doubt, any degree of attention being focused on the pressing need to refurbish vast proportions of the Government's housing stock abandoned for almost a decade. The result is obvious to all. Buildings all over the Rock, but primarily in the Upper Town area, have turned into slums and which do not just present a despicable image of Gibraltar to outsiders but seriously threatens the conservation of our heritage. But most importantly condemn a good number of people to living in substandard, close to third world conditions. We are committed to put an end to this unacceptable state of affairs.

The restructuring of the Department of Buildings and Works which has been conducted in close consultation with the Transport and General Workers Union will result in the Government being able to contract our various functions which the workforce are unable to undertake due to backlog of work. This will result in a more effective procedure to ensure speedier repairs to Government housing and service to the sitting tenants. I take this opportunity to urge all concerned to forget past and political differences and work together on a matter which so clearly has the best interests of Gibraltar and the living conditions of our people at heart. Again I would like to reassure the workforce that they have nothing to fear from what is only after all a restructuring of what, in this day and age, can best be described as obsolete working practices.

Mr Speaker, I have previously mentioned housing for the elderly but we have also given those persons who have an incomplete contribution record in respect of periods of actual employment in Gibraltar at a time that they were exempted or prohibited by law from contributing to the Social Insurance Pensions Scheme either because they earned more than £500 ceiling or because they were self-employed, a further opportunity to pay arrears of social insurance contributions. This option has also been extended to widows of any insured person who was eligible on 6 January 1975 but is now deceased and to those persons who at the time may have opted to pay arrears by instalments but were

unable to complete all the payments. Due to this initiative by the GSD Government a total of 621 persons are now eligible to receive enhanced pensions including pensioners.

Mr Speaker, when we were in Opposition, we strongly opposed the fast launch activities and true to our convictions we have given the Police and Customs the necessary legislation and powers backed by political will and support so that a resurgence of this activity which so blatantly tarnished the international image of Gibraltar and the fabric of our society will never raise its ugly head again. This is a commitment that my Government make to the people of Gibraltar and will continue to do in no uncertain manner. Not even the most cynic of our detractors can attempt to sound credible in failing to concede how far down the road Gibraltar has gone over the past two years, in restoring the Rock's shoddy reputation abroad. Every other newspaper story published in the British, and indeed the international press as a whole, accused us of being drug runners and pirates. It is a far cry from the sort of coverage we are getting today. Our Government's strategy combining the elimination of any form of trafficking by taking a firm line locally coupled with a tireless effort on the PR front has put paid to what had dangerously become our Achilles heel in more sense than one.

Again, Mr Speaker, in accordance with our manifesto commitment, we have already acquired in the form of a lease Bruce's Farm 1 and 4. These two buildings with an area of 5.6 acres will be the home for a Rehabilitation Centre which will provide rehabilitation and counselling facilities to those affected and their families. This facility will be manned on a 24 hour basis and will have a follow-up programme once the patient leaves the centre. As Opposition Members might be aware there has been a Drink and Drug awareness campaign by my hon Colleague, the Minister for the Environment and Health, on GBC television and we will continue to keep the public informed on the dangers of drug abuse. There is also an on-going campaign, by the Minister of Education, on school children on the dangers of drug abuse so that when the need arises they are well prepared to say no to drugs. I think that we have to get children educated on the misuse of drugs at a very early age so that they can be able to make a decision and say no to drugs.

Mr Speaker, as can be seen from my contribution much has been done to address our manifesto commitment to the people of Gibraltar in such a short period in Government, no doubt we will be able to discharge our obligations within our term of office.

HON R MOR:

Mr Speaker, I can appreciate that my hon Friend, Mr Corby, because of the responsibilities he has he gets few occasions to promote himself or to shine and today he has chosen to shine a little by referring to the fast launch activity. That was stopped in 1995, it is not that the GSD have stopped it. I can appreciate.....

HON H CORBY:

Will the hon Member give way? The fast launch activity was stopped not because of the initiative of the GSLP Government but from the pressure from the 8,000 people who went down the street and stopped the fast launch activity.

HON R MOR:

That does not alter the fact that it was the GSLP which stopped it and not the GSD. [HON H CORBY: No, it was the pressure from people.] It was in 1995 and not after 1996. Obviously, going back to what I was saying before, because he might perhaps be in a department where he might well be helping old ladies with their problems and that obviously does not provoke media excitement he is just repeating the same thing time and time again to give the impression that in line with other Ministers in Government, it gives the impression that they are doing a lot but they are just repeating the same things. Last year he said in the House, when referring to the rehabilitation unit, he said, "I expect that the centre will be operational within three or four months". That is what he said 12 months ago. In their GSD Fun Day at the Mackintosh Hall, according to a report in the Chronicle, again it says that the Minister said, "Mr Corby also announced the setting up of a Drugs Rehabilitation Centre". So within a period of 12 months that has been announced three times already. Obviously that is how the GSD keep up the public relations and give the impression that they are doing a lot but, in fact, all they are doing is just repeating the same thing time and time again. If we go to the budget, in order to be able to make a valued judgement of the estimates which are being presented for 1998/99, one needs to go back and see what it was that they said and what they promised last year and what in fact they have been able to achieve. We need to go back and look at some of the things that the Chief Minister said when he presented the 1997/98 estimates last year. The House will recall that he spent a considerable amount of his time in explaining the presentational aspects of the estimates and in fact described this with the rather

militant expression that the presentation represented a complete revolution. I have heard that cranks make the most revolutions but I have never heard before that the presentation of financial estimates could possibly be described as a revolution. The Chief Minister also emphasised at the time that the principal change represented a complete transformation in the completeness and the volume of financial information disclosed. He also said at the time that the revenue for last year had been estimated on a worse case basis and that he was confident that revenues would be enhanced substantially. He also indicated that expenditure for the year had been overestimated. So, from what he said the implications were that if the total revenue was estimated on a worse case basis and the expenditure generously overestimated, the gap between the two would be sufficient that the wider the gap the better that the Government would be seen to have done. The House may remember, Mr Speaker, that my own reaction to the Chief Minister's presentation of the estimates was that it showed lack of confidence, it showed that there was uncertainty in being able to attract extra revenue to Gibraltar. As regards the revolutionary presentation of the estimates and his underestimating of revenue and overestimating of expenditure, one may recall that I described the estimates as a clock which one can see through to the clockwork mechanism but that the time could be anything between midnight and 6 o'clock in the morning. Well, without in any way trying to be immodest, I think that the results that we have been provided with show that the presentation of last year's estimates could not have been more adequately described. Perhaps I was a bit over-generous because instead of having said that the time could have been anything between midnight and 6 o'clock in the morning, perhaps I should have said that the time could have been anything between midnight and 2100 hours – the 21 representing the £21 million of miscalculation. The £21 million of miscalculation which is shown at the end of the accounting period. So what is the use of all this cackle and waffle about revolution, openness, transparency and the complete transformation in the completeness and the volume of financial information disclosed if at the end of the day the projected calculations, which is the all important factor is completely out, it does not give any valuable information at all? So what is the point of our being here today discussing the Appropriation Bill for 1998/99 when the financial statements before us could just be another pictorial display like it was last year and which lacks all manner of accurate projections? The only accurate projections made last year were in fact as regards to recurrent revenue. But this, as we were told last year, was not an honest expectation as it should normally be but based on a worse case basis. That is to say, in the worst possible scenario and obviously on the basis

that no Government could possibly do worse in attracting income. Well, may I extend my congratulations to the Government for having achieved this. That has been, as I say, the most accurate estimate for last year. In fact, as has been pointed out, had it not been for the extra £1.3 million recovered by way of gaming tax, the estimate of revenue for last year, that is, the worst possible case would have been 100 per cent accurate. It is perhaps on this item, which is the gaming tax, where we find an example, an indication of just how prudently ridiculous the Government were in estimating revenue last year. As we can see from page 7 of the estimates, the Government estimated revenue in gaming tax at just over £250,000 and as we can see the forecast outturn is over £1.5 million. That is to say, they collected, as I said before, an extra £1.3 million in gaming tax. It is clear to me that if that is the yardstick that the Government used to measure and produce the worst possible scenario as regards revenue, the worse cases basis which is how the Chief Minister described it at the time, then it is perfectly honest and reasonable to assume that they must have underestimated other items of revenue in a similar way, that is, purposely underestimating revenue to a ridiculous level so that they could not possibly do any worse. Well, Mr Speaker, they set the lowest standard and that is precisely what they have achieved – the lowest possible standard.

As regards expenditure, if the House would care to look at what they told us last year we will find that they planned to spend £110 million of recurrent revenue and £20 million on improvement and development and contingencies. Of the £20 million they only managed to spend £6 million which is only 30 per cent of what they said they would spend and which shows that 70 per cent of the things they were going to do were not done. Of the estimated recurrent expenditure last year of £110 million, we will find that they spent £104.5 million. This means that the underspending was £5.5 million. What is incredible is that about half of this underspending can be attributed to underspending on employment and training. Out of a budget of £4.6 million, only £2.4 million was spent on employment and training. I remember last year that the Minister for Employment made what seemed to be a very touching comment and this is how he summarised at the time the year ahead, "I am confident that after one year in Government the GSD have provided a firm foundation from where the economy will grow". Well, Mr Speaker, the reality has been that the Government's income has not shown any growth whatsoever and, in fact, has proven the worst possible expectations as pointed out by the Chief Minister himself. He went on to say towards the end, "No doubt throughout the year we shall learn from my other hon Colleagues of new business start-up and this coupled with

the lead in Government in providing the investment in people's skills is the best ingredient for a strong healthy economy". Obviously, the Minister for Employment could not have believed what he was saying about investing in people's skills otherwise how can he explain that his investment in people's skills was practically half of the £4.6 million that this House voted for him. This brings me, we would like an explanation, if one looks at Appendix E, under Receipts Contributions by the European Social Fund, we will find that the estimate for last year was £1 million and the forecast outturn is only £100,000. This is something which we were very much involved with, we were responsible for having attracted European Social Funds in Gibraltar in 1990 and it is very worrying to see that if the European Social Fund has made £1 million available to us why is it that only £100,000 has been used? We expect an explanation of that, Mr Speaker.

Last year the Minister for Employment also volunteered some statistics of unemployment and he said that in 1995 the average number of unemployed was 456; in 1996 it was 385 and the GSLP left the figure of unemployed at 330; and in 1997 the figure for Gibraltarians unemployed averaged 453. Well, perhaps he should now explain how it is that in January 1998 there were 599 Gibraltarians unemployed; in February 1998, 598 Gibraltarians were out of work; and 545 Gibraltarians were unemployed in March 1998? Is that what the Government mean by a strong healthy economy and investing in people's skills?

We have already seen the effects of the Government's brilliant ideas on how they were helping businesses. We have a good example if we look at the rates initiative. As we know the Government introduced a 20 per cent reduction in rates for those businesses who were up-to-date with their payments. In their wisdom, which is beyond all understanding, this does not apply to businesses who are facing difficulties and are behind in their rates payments. So we therefore have a situation where those who are better off are being helped and those that are worse off and are in difficulties are being further penalised. That is not all, Mr Speaker, let us take one example of a small business which is up-to-date with rates payments and is therefore receiving the rates rebate. In this particular example this firm has six employees and receives a rates reduction of £102 every 13 weeks. However, because of the increase in social insurance contributions this firm has to pay an additional £156, that is six employees times £2 times 13 weeks = £156. So in fact this business is now worse off than it was before and, of course, a similar business which is not up-to-date with their rates payments would not only not get the £102 rates rebate but would also be £156 worse off than before.

With such brilliant economic strategies it is no wonder that we have 600 unemployed Gibraltarians. Is this how they intend to provide the best ingredients for a strong healthy economy?

Mr Speaker, going back to the social insurance increases which I have just mentioned, we may recall that on the 19 December 1997, the Chief Minister brought a motion to this House in which he claimed that it was necessary to increase the pensions contributions and, in fact, I am going to quote from Hansard where he was defending that there should be an increase of £1 by the employee and £1 by the employer, that is, £2 increase and he said, "These increases are necessary in order to meet the increase in costs of paying local pensions". We may remember that at the time we questioned, although we did not question that there may have been some merit in doing what the Government tried to do, we were however curious about how they were going to do it and we therefore sought an explanation at the time from the Chief Minister to indicate to us whether it was a case of increasing contributions or whether it was a case of shifting from either the Short Term Benefits Fund or the Employment Injuries Fund, shifting money to the pensions sub-fund. The Chief Minister waffled a lot at the time and refused to give an explanation. Of course, some weeks later we found out why and the reason was that there was an increase in the social insurance contributions. But what was most surprising was that the increase of £3 to social insurance contributions were going to the Health Authority and, of course, we had never had any indication in this House that there was any need to increase the Health Authority budget. But what was perhaps alarming was that the internal distribution of the new contribution which had just been increased actually reduced the contribution element which was going to the three Social Security Funds. So in fact what the Government were doing was increasing the employment levy, increasing £1 at the expense of the benefits of the contributors to the Pension Funds. I think if this is a Government that are constantly talking about openness, transparency and all the rest, it is clearly definitely, in this case, they have not been either clear or transparent.

In conclusion, Mr Speaker, judging by the Government's performance as reflected by the projections and the results represented by the financial statements before us, this demonstrates that there is absolutely no credibility in what the projected result for next year is, it shows that they are not really doing an honest exercise. It suggests a constant public relations exercise the same as we are being constantly subjected to on a daily basis. Thank you, Mr Speaker.

HON DR B A LINARES:

Mr Speaker, my ministerial responsibilities cover a wide and varied spectrum of social and human needs and in that sense the fields of education, youth, training, culture and disability care transcend mere political considerations and in some way, I would like to think, present an opportunity for all of us on both sides of the House to share a common aim and a common concern.

Within the scope of education alone, Mr Speaker, we have to attend to a wide range of complex and varied issues. But in terms of strategic planning, the Department of Education has focussed on two areas which in some sense mark the two poles of the spectrum: higher education on the one hand, and special educational needs on the other.

Higher Education - it is not by chance that our students' A-level examination results, year after year, rank our schools among the most academically successful schools in UK and that an increasing number of our students are gaining entry into universities and colleges. It is, of course, the result of hard work and motivation by our pupils, but also the result of careful planning by the schools' management and departmental administration. We give a high priority to the Sixth Form curriculum in terms of material and staff resources and high quality teaching. We believe that we should maximise the academic potential of each individual as of right, but we also believe as a matter of policy that in a small community like ours where our chief resource for our economic survival and social development is our own people, we should enable as many of our young people as possible to graduate to the highest standards of academic attainment.

The House may be aware that the Government in UK are currently carrying out a radical review of its policies and provision for higher education. It is not for me to comment on the merits or demerits of the New Labour Government's changes in the funding arrangements for university students in UK. But as far as our community is concerned, the principle of "Free Education for all" is held by our Government as fundamental and accordingly we have decided to refund all students whose tuition fees charged by universities and colleges may no longer be paid by the Local Authorities in UK. It is not possible to put a figure on this item of expenditure because, as the House may be aware, the new arrangements in UK will involve a form of means-testing whereby those students below the threshold of £23,000 parental or personal income will continue to be paid fully by the Local Authority, and this, of

course, will also apply to European Union students. Those below a ceiling of £35,000 will also get a pro rata payment from the Authority towards the tuition fees, but those above that ceiling will have to pay their own fees, that is in UK, not in Gibraltar.

In the Estimates we have been able to budget for increases in the maintenance grants and travelling allowances to students abroad in order to keep up with inflation and also provided for discretionary awards to subsidise mature students who engage in distance-learning courses, generally with the prestigious Open University.

We are, however, Mr Speaker, not at all satisfied that the present system of maintenance grants, based as it is on income tax returns and calculated on the highest earner in the family, is a fair and equitable means of distributing the available funds. We are, therefore, preparing new legislation to give the Minister for Education statutory powers to investigate the real total income in doubtful cases and we are carrying out an actuarial review to establish the cost and implications of relating grants to the total income in the household.

Special Needs - this Government are particularly proud of the advances made in our provision for children with special educational needs. By substantially increasing the teaching staff complement and devising an in-built supply system in our schools, we have enabled headteachers not only to maintain for the first time in many years the teacher:pupil ratios agreed with the Teachers' Association as a norm (which, may I say, at 1 : 20 in First Schools and 1 : 25 in Middle Schools are the envy of schools in UK and indeed throughout Europe) but also to provide consistent classroom support to class teachers by attending to slower learning pupils either within the classroom or in special units in some of our schools where the children are given very close individual tuition particularly in literacy and numeracy.

In a recent lengthy reply to a question from the hon Member the shadow for education (a reply which I would not even think of repeating here at length today) I had occasion to describe in detail the systematic provision we make for children with specific learning difficulties, including assessment procedures, screening exercises, specialist tuition in small homogeneous groups and special assistance in public examinations. In fact, we have gone a long way in implementing the recommendations of the team of Inspectors from UK (two of them from OFSTED, the Office for Standards in Education). Their methodological advice is now being assimilated by our teachers through in-service

seminars and their main recommendation which was to create a senior post of Special Needs Adviser has now been put into effect and the name of the person already selected to occupy this important post in the education service will be announced in a few days time.

Disability Care - in the world of special educational needs those presenting the greatest challenge to the caring ethos of our community are the children and adults with learning disabilities and mental and physical handicaps. The whole range of disability care has now been integrated, as it should be, within the wider scope of social services and the newly created Social Services Agency is now steered by Milbury Care Services who work with our local practitioners and provide valuable professional expertise and training. As an integrated service the funding provision now comes under the ministerial control of my friend and colleague, the Minister for Social Affairs and the estimated budget is presented under Head 5B of the Estimates. It is to him that Milbury are now presenting their in-depth reviews and reports on acute areas of social concern, namely, Child Care, Child Fostering, Home Care Services, Elderly Services, and Legislative recommendations. But having been instrumental myself in what I consider to be a definitely positive transformation of our care services (which we found when we came into office to be in total disarray in spite of the good efforts of those carers and workers involved) I wish to say, Mr Speaker, what a privilege it has been for me, as Minister, to work beside those good people such as the Society for the Handicapped, the Disability Awareness Group and the Faith and Light Movement who have been generous and bold enough to meet the challenge of this difficult enterprise, and as a person, how enriching it has been for me to be close to the hearts, anxieties, uncertainties and hopes of those who are the weakest in our community.

Mr Speaker, let me now move across the spectrum and examine other issues within the general area of mainstream education.

Our schools, as the House may be aware, are classified as First Schools comprising the ages of four to eight; Middle Schools with ages from eight to 12; and Secondary Schools with ages from 12 up to 18 and 19. Although the statutory school-leaving age is 15, most pupils will stay on until 16 to complete their GCSE exams and a very high proportion will then move on to do A-level courses in school or national diploma courses with BTEC or City and Guilds at the College of Further Education.

The main issues more specifically attended by the Government within this broad area are the following :

Community-based Schools - Firstly, the importance for primary schools (that is First and Middle) to be community-based, that is, not only easily accessible within the catchment area, but as part of the community ethos establishing a close relationship of understanding and trust between educators, parents and other agents in the neighbourhood. Immediately we came into office in 1996 we found that the great demographic movement which has made the Westside area one of the most populated areas on the Rock was not provided with adequate accessible schooling. We took some emergency measures there and then and now with the construction of a large extension to Governor's Meadow First School and Bishop Fitzgerald Middle School the problem has been largely solved, but not entirely. There are still further residential developments on the way with the allocation of flats in Edinburgh House and Chilton Court at a later stage, which will have to be matched by accessible schooling provision. The Government are currently studying these issues so as not to be caught on the hop as we were in 1996.

Meanwhile, this year a large and long overdue extension costed at £750,000 will be constructed in St Anne's School in Glacis Estate providing the school with six new classrooms to replace the old portacabins and a new School Sports Hall which may also be available for community use after school hours. Provision has been made in the Estimates for the first stage of building during this financial year at a cost of £400,000.

Social and Moral Education - Mr Speaker, our schools and our teachers are called today to face powerful negative influences which prevail in the world outside the school environment. A great deal of emphasis is being given in our schools today to programmes of social and moral education involving drugs awareness, citizenship, environmental sensitivity and other social and moral issues. I wish to acknowledge in this respect the contribution made in these areas by the Churches, through the school chaplains, the Royal Gibraltar Police, the Gibraltar Health Authority, the Environmental Health Agency and other organisations and individuals. The Ministry for the Environment and Health and the Ministry for Education have now jointly funded and promoted a well-planned and comprehensive programme of environmental education. With the participation of a specialist team of teachers from different schools at different levels, that is, first, middle and secondary. The project tackles

issues such as nature conservation, management of green areas, lifestyle practices and choices, public values and environmental health.

Similarly, for some time now, our schools have adopted a scheme that has proved highly successful in UK which goes by the name of "Discipline for Learning". The aim is to raise standards of discipline in schools and, indeed, civic responsibility in the pupils, through positive approaches and motivating techniques. The in-service courses which have been run by Professor Adrian Smith for teachers will now also be offered to the instructors at the Construction Training Centre.

Nurseries - Another area which has been traditionally under-provided by Government is that of pre-school and nursery education, and yet today we all know the crucial importance of early learning in determining a child's educational progress during later stages. We have gone a long way since we came into office to meet the increasing demand from parents, not only by opening new Government-run nurseries but also by supporting private nurseries through tax allowances to parents who send their children to private nurseries, allocating premises and subsidising the refurbishment of these premises. An achievement which fills me personally with great satisfaction has been the building and creation of the pre-school assessment unit for children with special needs in St Martin's Special School which is now fully constructed, beautifully resourced and well staffed and already catering for a number of identified little children of pre-school age with very special educational needs and learning disabilities. The solace this initiative has brought to the parents of these children is worth every penny we have spent on it.

Youth Service - It would be churlish of me, Mr Speaker, not to acknowledge that our Youth Service has been a vibrant and successful service to our youth for many years. And as one or two of the Opposition Members can testify, I could, perhaps, with little modesty but with some nostalgia, if the House will allow me, Mr Speaker, I could go back many years when with more youthful vigour I was personally engaged in a dynamic youth movement at the time – but I will not put a date to that. However, now in a different capacity, I am very satisfied that my Government have made a considerable contribution to further progress in this field. The well resourced Youth Conference Centre we have created in the Montagu Bastion Youth Complex has proved to be a tremendous success, not only providing for "serious" activities that are often keenly sought after by young people, but also because the conference facilities provided have been in great demand, almost continually, by other organisations such as the Sports Associations, the

Social Services, the Royal Gibraltar Police, the Catholic Marriage Advisory Council, and other business firms such as Lyonnaise des Eaux, Deloitte and Touche , et cetera.

I am also happy to announce that the new Youth Club in Laguna Estate that will replace that old Nissen hut which was falling to pieces is now nearing completion and also the enhanced adventure playground in the same area.

Perhaps, Mr Speaker, of all the very many activities organised by the Youth Service, in my opinion, its programme of international exchanges carry the highest educational value broadening the perceptions of our young people locally. During the past year groups of young people have been taken on organised educational visits to Italy, Sweden, Spain and Britain and we have reciprocated as hosts to similar groups of youngsters from these countries. And I am pleased to state that a student we are sponsoring in UK to train as a qualified Youth Worker is doing very well and we hope he will soon bring new blood to our Youth Service as a welcome and valuable addition to the experienced and dedicated team of youth workers in our service.

Culture - I think that we will all agree that the whole wide field of culture in our community has in recent years suffered a serious drop in status and vibrancy in spite of the efforts and enthusiasm of groups and individuals. And I am not pointing the finger of blame at previous administrations; there are complex factors causing this situation, not least of which is the advent of instant canned entertainment in the form of the TV screen and the compact disc. And yet a culturally sensitive and active community, as demonstrated in other places, not only enhances the quality of life for its own people but serves as an attraction to visitors and tourists from abroad. We are trying to boost this often neglected area of Government concern. We have constituted the Arts Advisory Council which is already beginning to yield results. The Council is inviting all groups and individuals active in the field of the Arts to formally register with the Arts Council for purposes of funding, allocation of premises and other means of Government recognition and support. The Council has also introduced a Web Site in the Internet to disseminate updated information of cultural events and activities which can be accessed by tourism agencies, hotels et cetera. The Council and its Secretary, the Government Cultural Officer, have been instrumental this year in reviving the May festival which, because of its very full programme of events and activities, has spread into June – hence the change of name from the May Festival to Spring Festival.

The Estimates include the customary provision for cultural grants to assist recognised groups and organisations and for cultural activities such as the Open Art Exhibition which, I am glad to say, is gaining in popularity every year attracting artists from beyond our frontier, from Spain and other European countries, the Drama Festival and the Spring Festival.

This year we were particularly fortunate to obtain from the John Mackintosh Educational Trust substantial funding to sponsor a 10 days visit to Gibraltar from a team of the Royal Shakespeare Company who worked in our schools in an exciting and very successful project involving our teachers and pupils engaged in GCSE and A-level studies of English Literature and Drama. The initiative came from His Excellency the Governor, Sir Richard Luce, who is a governor of the Company and I am especially pleased that the RSC wish to maintain a close link and an on-going working relationship with our schools and our teachers. In order to ensure this we will be sponsoring teachers and pupils to take part in the popular and prestigious summer schools run by the RSC in Stratford-on-Avon.

Our Estimates, Mr Speaker, do provide capital expenditure for the on-going works of refurbishment at the Ince's Hall, which had been allowed to fall into a disgraceful state of disrepair, and to the John Mackintosh Hall where we will provide a lift for the benefit of wheelchair users, a toilet for the disabled and a fire curtain to replace the existing one. May I say and I would like to assure the House that the decision for this last item was taken well before the incident last night when a show had to be cancelled because when the Fire Officers brought down the fire curtain to inspect it they could not raise it up again. We will also carry out major works of repair on the roof of the Hall which is showing signs of serious deterioration. These projects have been prompted by the newly constituted Board of Management of the John Mackintosh Hall in consultation with the Trustees of the John Mackintosh Educational Trust.

Millennium - The House may be aware that a Millennium Committee has been appointed by the Government under my chairmanship and made up of representatives of different spheres of life. The aim is to plan ways in which our community may suitably and meaningfully celebrate the close of the Second Millennium and the start of the Third in the year 2000. And for this purpose the Committee is launching a public opinion survey seeking ideas and proposals from the general public through a questionnaire which is being sent to every household. The public are being asked to suggest what type of communal celebration should take

place on the 31st December 1999; ideas for a Millennium memorial project of a permanent nature for the use and enjoyment of present and future generations; and a programme of celebratory events over the year 2000 with a religious, cultural, and social significance.

Training - Mr Speaker, all aspects of training in the widest sense have been, as announced earlier in this House, recently assigned by the Government to the Department of Education which will be known as the Department of Education and Training under the responsibility of the Minister for Education and Training. We will soon be announcing a detailed and comprehensive developmental programme of training in Gibraltar, the aim of which is to achieve a more coherent, well-planned, well-implemented and effective framework for learning in all its forms. The Government are committed to ensure that every person under the age of 25 is offered the opportunity to opt for one of the following:- (a) full or part-time education; or (b) vocational training; or (c) employment or (d) a combination of the above. The Government are further committed to extend a multi-skills training and re-training provision to those beyond the age of 25 who need to be ushered successfully into the world of useful employment. We are currently planning practical schemes which will range from vocational courses in schools, developments in the College of Further Education, modern apprenticeships to at least NVQs (National Vocational Qualifications) level 3, other forms of traineeships available to school-leavers up to NVQ level 2, and on-the-job training schemes with approved employers closely monitored and advised by Government training officers. In liaison with the Transport and General Workers Union we are planning to introduce on-the-job apprenticeships in Buildings and Works, in GJBS, Balfour Beatty and Cammell Laird. We will also run professional courses for employees and potential employees in the tourism, finance and business sectors and for this purpose we have allocated EU Konver funds to refurbish, furnish and equip Bleak House near Europa Point to accommodate, as from the next academic year, a School of Tourism, an information technology laboratory and professional courses which will continue to be run by the College of Further Education as the accredited centre with official institutes and associations in UK, such as the Institute of Legal Executives, the Bankers Association, the Association of Accounting Technicians and the Institute of Chartered Secretaries and Administrators. The Government will also encourage employers to participate fully in all our training schemes by offering specific concrete incentives and we will encourage and recognise effective investment by employers through the "Investors in People" standard.

We have also budgeted £163,000 for a major expansion of the facilities and resources in the Construction Training Centre and Our Lady of Europa Training Centre and we have engaged experts from the City and Guilds Institute to review and restructure the training programmes to ensure that the trainees attain proper standards and accredited qualifications. In order to co-ordinate and operate all these various projects we have now appointed a highly qualified Training Officer. And to oversee and steer the wide-ranging scope of our training schemes, a Training Advisory Council with representation of employers and unions will soon be constituted.

Furthermore, Mr Speaker, we recognise that Gibraltar needs to develop a positive work ethic that will enable it to meet the many challenges ahead, and, rather than just moralise about this, we intend to carry out a proper scientific study in which industrial relations, management styles, work habits and practices and motivation and attitudes to work will be analysed with a view to working out effective strategies to improve the prevailing work ethic in many areas of the business and commercial sectors, industrial work places and the public services.

The budgetary provision for this ambitious programme which is seen by the Government as a key element in terms of economic development and job creation, is included under Appendix E of the Estimates. This budgetary provision has been questioned earlier by the Leader of the Opposition. Let me assure him that we feel confident that the funding provided in the Estimates will amply provide for the targets we have set for ourselves. The Leader of the Opposition referred to my penchant for miracles, well, I do actually believe in miracles, particularly the miracles of science, reason and rational analysis. And there is a rational explanation for the question the Leader of the Opposition raised. With respect, the point is that he has actually and slightly misread the real aim of our proposed training programme. We do, indeed, intend to do lots of things but the real thrust of our efforts is not essentially quantitative, to do more, but qualitative, that is, to do it better. And I know the Leader of the Opposition understands the concepts of "value for money" and "economies of scale" and that is the rational explanation. It is still a difficult challenge, and I may well need to call on my friends up there - I like to think I still have a few of them - but certainly I will not be praying for miracles.

In-service - As I draw to the close of my report, Mr Speaker, I want to assure the House that the Department for Education and Training avoids complacency by ensuring a continuous process of in-service development of all staff drawing from our local expertise and also on UK expertise. Since the beginning of the current academic year, not the financial year but since September, no less than 40 courses and seminars have been organised by the department and I can safely say that all our teachers, deputy headteachers, headteachers, officers, advisers and administrators in the service have taken part in one or more of the wide variety of courses which have been organised. I will not go through the extensive list that I have before me but I will just perhaps single out a few instances to give the House a flavour of what is happening all the time within our teaching establishment in the way of professional development. Going back to April 1997, a course empowering parents as teachers of reading by Mrs Sheila Lee, a recognised expert; courses on class management and the management of behaviour by our own advisers; environmental educational workshop by Dr Daniella Tilbury; a course for special educational needs co-ordinators in all our schools and headteachers run by Michael Wright and Michael Whittaker from OFSTED; a course on information technology run by the College lecturers for all teachers from all schools on windows 95, word for windows, excel, power point and networking for windows; one of our qualified teachers in St Martin's attended a down syndrome international conference in Madrid; 11 teachers were provided attachments in UK visiting schools, attending seminars and courses; and just at the beginning of this financial year, from April there have been seven courses provided already with music in the national curriculum by Alan Pickard, one of the moderators in our music exams, discipline for learning; further IT courses, et cetera.

In conclusion, Mr Speaker, I am grateful for your indulgence and that of the House by listening attentively to the report of my ministerial aims and objectives for education, training, youth and culture in the light of the Estimates of Expenditure. But I do wish to stress that we do touch here on areas of human, social and developmental concerns which do deserve to be explained fully to this House.

I, therefore, commend the items of expenditure under Heads 1A, 1B and 102 of the Estimates of Expenditure 1998/99 to the approval of the House. Thank you very much.

HON J J GABAY:

Mr Speaker, firstly without sounding sarcastic, I feel that we have been treated yet again really to what is a descriptive submission on the situation, in a way as it is, and as in other departments, the fact that so much is being planned for the future and at the same time the submission is, in some ways, superficial and at the same time, ridden with the sort of jargon that we sense is usually provided by civil servants.

Mr Speaker, whatever amount of money is spent on education is welcome by this House, I am sure and the community at large. It is money well spent. Perhaps with all due respect, better spent than perhaps overfeeding fat cats. The present allocations made follow a pattern which has been set in Gibraltar for quite some time, certainly by the GSLP administration and we note few departures really of substance other than, of course, the incorporation of training into the Ministry of Education which has been mentioned already by the Leader of the Opposition and, no doubt will be mentioned by others and on which I have a different philosophy apart from the financial implications of the change. Without indulging into a long string of thanks to a variety of people, I would like to say on a general basis that the structure of our educational system, based on the English pattern as it is, is firmly rooted and generally serves us well. For this, much credit goes not just simply to what is happening at the moment, much credit goes to successive Governments, Ministers of Education, dedicated Directors of Education, and the many devoted teachers through a fairly long process. In this remarkable development one can never forget the contribution made in the post-war period by the Loreto Nuns and the Christian Brothers. Academic work went in those days hand in hand with pastoral care, principles were set and ideals were pursued. And they were pursued without all the modern jargon that seems to blur the aims of education. Those ideals were pursued unmistakably and they played a role in our minds, often through the charismatic influence and encouragement of very learned teachers and perhaps more often by the black strap of inescapable power to which we were all subjected as well. I feel quite confident that the new Bishop will remember his experiences in the Latin class where we sat together for many years under the vigilant eye of Brother Taylor, I will not comment at the levels of Latin reached.

Mr Speaker, in our intervention on education we, in the Opposition, have raised matters of practical consequence and also matters of academic importance as we see it. On the practical side we vehemently condemned the closure of St Peter's School at Catalan Bay against the

wishes of the parents on grounds that seemed to us quite unconvincing. Perhaps the most important pillar of village life was abruptly removed and perhaps without due consideration that it might be restructured elsewhere in the village. We also put forward ideas on the role of 'A' level Spanish; the creation of a register of graduates; possible changes to the patterns of school hours; opposition to the absurd duty on printed materials; the suspect entitlement of some to free education; the timing of National Day; the extraordinary retreat from the manifesto commitment to a university; the validity of so-called co-operation with the Mancomunidad; the peculiar reservations on publishing the OFSTED Report; and quite a few other matters of practical importance. I do realise, of course, that the Minister's role is to enhance what is going on and I also realise, perhaps fortunately or unfortunately, that my aim must be to probe deeply into what is going on and, if necessary, be critical. In the domain of possible innovations, we raised a variety of subjects such as literacy classes; the question of super teachers; evening workshops; NVQH qualifications; access to the courts by pupils; et cetera. Perhaps our most important proposals in this category referred to teaching of our history and heritage and citizen classes. I choose to review some of these points, Mr Speaker, some of them of minor budgetary consideration in order to refresh the memory of the Government. At the same time I am not so naïve as to believe that the Minister will keep an open mind on matters raised by the Opposition. Regrettably, and I say this sincerely even if it may sound offensive, that one-upmanship appears to be the hallmark of this Government. I really do feel that it is driven by a compulsive neurosis that theirs, and only theirs, is the high moral ground. I do not want to go into questions of miracles; the supernatural; divine intervention; mysticism, with which I associated the Chief Minister at one stage, he was not sure whether I was talking about the chill heights of mysticism or the thrilling heights of mysticism or something of the sort, but be that as it may. At the recent well-publicised rally the Minister for Education described culture in Gibraltar as the Cinderella. Of course, until his arrival. No doubt with this celebrated magic wand he has instantly transformed our cultural poverty into a thriving Camelot. I am serious in this sort of criticism, furthermore on that occasion, again as I say I was not there, I was not invited, so well publicised the Minister quite elated and riding on a wave of what I can only describe as demagoguery, perhaps a cloud might be more appropriate than a wave, but nevertheless the current was there, claimed that the Opposition whilst in power, "were amateurish, unintelligent, and unprofessional". No doubt, Mr Speaker, that the Minister is a paragon of virtues and is not shy to blow his prophetic trumpet. These are important issues. All I can say is that such blank denigration ill befits a Minister of

Education and is questionable on grounds of integrity coming from one who worked so happily under the administration that he now so brutally debunks. These are matters of integrity; these are matters where we can seriously talk about morality. To talk about the high moral ground, anybody can do it, the worst dictators in history have claimed that privilege. But we are not finished on this line, Mr Speaker. Perhaps what I find is the most unforgivable remark was the following, as quoted in the Chronicle, "The Minister condemned the promotion of racist feelings against foreign labour in Gibraltar". I could not believe that such a comment was made so I had to take the trouble to investigate and find out exactly what words were used. Does the Minister not share the view that Gibraltar is always singled out by detached observers, by the way, and rightly so, as possibly unique in its tolerance of racial differences? Precisely because we are an amalgam of them ourselves. In his moral concern does it not disturb him to introduce the word 'racist' into our political arena because as far as I am concerned I do not believe that it has ever been used before. Surely he knows full well, as an academic, the ugly majority of connotations of the word 'racism'. Whether the Minister was referring, of course, to the July law or to attitudes towards the Moroccan workers, I have heard along the political divide sensible arguments from both sides that it was a good measure or a bad measure for this or that reason but never have I seen or heard or listened to any comment that attributes those moves to a racist motivation. That, Mr Speaker, I think is really disgraceful and I do not say this with any sense of animosity, the Minister and myself have been good friends for many years and I sincerely hope that this will continue but I must say that if such outrageous remarks are made then he must expect a degree of justified criticism and I hope he will ponder on that.

The education field, as indeed many others, is bubbling with the multiplicity of different philosophies, methodologies, techniques and so on, of which we have heard quite a little today. But for that reason, amongst others, it is necessary to participate creatively in the on-going debate and fashion our own views based on our own requirements. It is rightly so that we should follow the national curriculum and be aware that GCSEs and 'A' levels are important passports but at the same time there should be scope for manoeuvre, scope for bespoke local needs. It should not become a straightjacket and unfortunately it can tend to become one otherwise we are landed with a brand of educational colonialism where the imported expert is always dogmatically correct. This can tend to reduce us to implementers of packaged education, supervisors of the thought synthesis of others; the blueprint in fact becomes sacrosanct. This is the important point, that running parallel to

the consolidation of our identity as a people and our mission to achieve self determination with those in mind must run a current of educational innovation enterprise that takes the intrinsic requirements of our people into its embrace otherwise we may find ourselves educating for export in a way that we have never seen before. This adverse policy, or indeed, lack of policy, often reflected in the Minister's statements, breeds a degree of complacency. Instead of judging for ourselves the real results of the system, then we start to pride ourselves almost solely on quoting league tables and results. I am not suggesting that they are unimportant but they are not always the best yardstick of good education. This, of course, may be some politics as indeed the previous remarks that I have quoted but it amounts to poor education whether in the schools or outside the schools. Our feeling is that experts should advise Government in the formation of policy, they should not be imported to rubber stamp dogmas, it produces an uneasy sense of artificiality and reliance.

Turning to the question of training, we do not share the Government view that it should be dissociated from the Employment Ministry and integrated into the Ministry of Education. Merging education and training, as if they were synonymous, blurs a fine distinction. Training is geared to a specific function and is inseparably related to the job market. Training a person to become a cook, for example, is not an academic exercise within the proper realms of education. Education aspires, as the Minister well knows and his life reflects, to broaden and intensify understanding of life and of oneself to expand the horizons of knowledge and consciousness of the world around us. It has to do with personal fulfilment in an intellectual fashion even though the achievement may lead, as a side consequence, to positions of prominence. Yes, even in our materialistic age, we presume that the training to be provided at Bleak House when it eventually opens will be specifically targeted to job requirements in the tourist and hotel industries of Gibraltar. The aim should be training for a job, I should imagine we are not considering it an education for life. To take the cook as an example yet again, although I use the word in a generic sense obviously, the number of GCSEs obtained at school need not be the best criterion for enrolment but rather the candidate's vocational approach and aptitude as well as his determination to find employment in that field. His job will not basically consist of a literary ability to describe in choice words the wonders of haute cuisine but to involve himself in the practical task of producing good food with confidence. Are those who leave school without GCSEs or not many of them at an early age in life, are they to be refused the opportunities which will come with the establishment of that school? Mr

Speaker, my hon Colleague, the Hon Mr Baldachino, will add more to this question of the change of the training section into the Ministry of Education in his submission.

In the field of heritage as we review the recent past we have seen the historic aura of Lover's Lane disappear abruptly, for the most part through the lack of romantic sensitivity - although he is busily attending to other speakers - on the part of the Chief Minister who I am reminded failed to court his prospective wife in such humble surroundings. *[Laughter]* It is true that a part of the lane that has been restructured is now clean, tidy and commonly modern but the historic character which complimented Wellington Front since 1840 is gone forever. Further irreparable damage will be done to the Convent garden perimeter wall no doubt in the very near future. In years to come the preservation of the old Generating Station leaning monstrously on King's Bastion will remain a monument to architectural shortsightedness and governmental perverseness. The in-depth study and plans for Wellington Front lie gathering dust in some forgotten office shelf even though this formed part of a wider project for the uncluttering and repairing of our remarkable City walls to which the Government, of course, have voiced a commitment. The pile of stone blocks that lie by the water's edge in the dockyard should be used to carry out repair work and not dumped into the sea as seems likely at present. The prison remains lodged in the Moorish Castle, our most historic site although there is a ray of hope in the Government's study of possible alternatives. The notorious serpentine pipes glaring large and white above Europa Point spoil the natural beauty of the rockface and I believe that that feeling is shared. The magic garden - here we come to magic again - remains abandoned in the vicinity of the mosque and the craftsmanship of vandals is cheekily obvious at Nun's Well. Mr Speaker, the allocation of funds to move forward in some of these directions would have been encouraging but we do not see this. If we analyse Head 3-A, subhead 6, there is no real direct input into proper conservation through heritage matters. The running of the Museum and archives, although most important and I think in our case exemplary in their functions are basic really to any civilised community but if one subtracts the cost of these two items from the total allocation of £292,000 for heritage, that leaves a meagre £1,000 for heritage plan and £10,000 as a token for archaeological excavations. The remaining £65,200 is for promotion and conferences. I may be forgiven then for concluding, as in other matters of expenditure, that the stress is on image rather than real action.

Mr Speaker, the Government are zealously keen on presenting the right image but there is danger in forgetting that there is no better image than that reflected by reality. Fanciful talk and promotion often lead to damning disappointment. This brings to mind an anecdote of the Franco era; in the days when the Atunara was a poverty stricken shanty town, a peasant in a mountain village heard over the radio that luxury blocks of flats had been built by Government in the Atunara, excited and furious he trekked down to the Atunara to see for himself. Great was his disappointment when he saw no blocks of flats but just the same mean hovels; incensed he wrote to Franco for an explanation, the reply was quick in coming, "Keep on listening you silly peasant and travel less". [Laughter] There is an interesting moral there but I shall not take the time of the House to probe it in a variety of directions.

Mr Speaker, I understand only too well that a difficult balance must be established between the demands of conservation and the needs of changing times; what the Government can afford and what might be considered the ideal but nevertheless it is my firm conviction that tourism in the future – and we all seem to pay homage to this idea – will largely depend on the proper conservation and display of our remarkable heritage. In this we all have a vested interest and the time is right; I say the time is right because the destruction of heritage is generally brought about by the imperatives of housing and industrial needs and we are at the moment in a privileged position thanks to the previous GSLP administration in their achievements in land reclamation and housing projects. There are now fresh possibilities of initiative on the part of any Government in the field of the preservation of our history. I would like to add, having left the main point out, Mr Speaker, that needless to say we congratulate the Government on undertaking to pay the tuition fees but from any Government in Gibraltar we expected no less than that, to keep a tradition going of concern for our students, their success and helping them financially as best we can but nevertheless it fell to this Government to make what might have been a deficiency up and we welcome that. Thank you, Mr Speaker.

The House recessed at 11.30 am.

The House resumed at 11.45 am.

HON J J NETTO:

Mr Speaker, the last financial year was very much a period of change, particularly in Buildings and Works. Change in the composition of management, systems and processes in the execution of the operations leading to a better service to our clients.

The state of the Department just after the dispute in October 1996, can only be described as having reached its comparable lowest point as in the last few years of the AACR Government, given GSLP activists intent to subterfugely obstruct the delivery of the Department Services for their own party political ends.

The new management was faced with the task of changing the department in line with Government policy in order to improve the productivity and thereby reducing its historical accumulation of Housing Maintenance. For many years prior to this, the workforce had been paid overtime, most of which was not actually worked, as "incentive" payments. These incentive payments were seldom linked to any measurable increase in output or productivity and in many cases served as a disincentive given that those within the workforce privileged enough who had been promised overtime payments for the duration of a particular job tended to stretch it out as much as possible in order to maximise their earnings. Estimates, when prepared, were made in a very casual manner with very little measurement and/or specification, and even when prepared the estimates were only considered rough order of costs with very little commitment to keep to the budget limit set. There was also a lack of separation of duties between the officers involved in the preparation of the estimates and those supervising the actual works and hence benefiting from such previous schemes.

During the first six months of 1997, the Government entered a long and torturous period of consultation and negotiations with the Union in order to introduce the Government's new incentive scheme. This process was marred by a reluctance on one side by those that were adamant not to change attitudes or methods of providing a service, and those who knew that Buildings and Works time of reckoning had arrived. Of course the process was not helped by GSLP activists as in the AACR period in Government, who obstructed the delivery of services to tenants through Union channels, causing deliberate industrial strife. I am afraid that so long as there is a GSLP utilising the union for its own political ends this will always continue to be the case, unfortunately. However, the new incentive scheme was introduced officially in July for a trial period of six

months. Due to some teething problems initially the scheme got underway by the end of August. During this period a total of 194 major works started and were completed. This represents an outstanding record of achievement in Buildings and Works history or for that matter the Housing Department, as it was known before.

Mr Speaker, the new payments are linked to measurable outputs against set targets. An estimating team, which operates completely independent of the workforce and the depots was recruited in order to quantify, specify and estimate all jobs to be carried out by the Department. Those jobs once costed are passed on to the Depots for action. The actual cost of the job is monitored and on completion of the works, any savings when compared with the estimate cost, can be directly linked to output and as a result the productivity of the Department is increased.

In an effort to streamline the Department the four sections under the previous administration (Town, South, West, and North) were merged into three sections (Town, South, North) with a corresponding adjustment to the operating areas. PTOs and Works Supervisor posts which had been filled by men on an acting capacity for a long time were advertised and the corresponding appointments made. This resulted in some confirmation of posts and some new appointments which resulted in a readjustment of the PTOs and Works Supervisor hierarchy. This readjustment has eliminated the unsatisfactory state of affairs which had existed hitherto with men acting for a long time or on a rotational basis. This acting on such a long period was as a result of GSLP delayed intentions to privatise the Department. However today, this has increased the motivation of the first line management structure. Additionally, as part of an on-going training programme, three Works Supervisors have been sent to training courses in the UK in order to maximise their management skills. In parallel with the restructuring of the labour resources, the Department has also embarked on a programme of modernising and/or replacing its plant and tools. Substantial investment has been made in the purchase of new woodworking machinery for all the Depots to replace machines which had reached the end of their useful life. Most notable amongst these purchases was a crosscutter which now enables the Department to purchase timber in 9" x 3" planks without having to rely on the only supplier in Gibraltar who has the capacity to cut them down into smaller sizes. Additionally, the Department has invested in small hand tools in order to reduce the amount spent on hiring these items. A system has been introduced to record the issue and return of these hand tools in

order to introduce greater accountability and control over the handling of these items.

The Department's fleet of vehicles is an area which has also been targeted for improvement. Many of the Department's vehicles are past their useful life and some are beyond economic repair. The lack of transport is sometimes a serious setback to the operational capability of the Department and in an effort to overcome this, the Department has had to resort to hiring vehicles on a long-term basis. This is not a satisfactory state of affairs which will be addressed, hopefully, soon as a result of Government investment in resources.

Mr Speaker, Government are considering the future of the Warden Section within the Department. The performance of this section is far from satisfactory and numerous complaints about the poor service it offers are received from tenants. It would seem, at best, that by trying to serve all the Government Estates that they currently serve the section is over-stretched. Therefore the Government are considering whether to contract out in whole or in part such services of cleanliness in the Estates. If this takes place, Government do not envisage any redundancy but in any event a consultation period would thereby begin.

Mr Speaker, the Department has invested considerably in computerisation in an effort to modernise all facets of its operations thus giving greater and quicker access to information in order to assist management in the decision-making process. The reporting office, which has been relocated to Ragged Staff, has been computerised and linked by modem to the main office, so that daily requisitions can be monitored and actioned as quickly as possible.

Conscious of its responsibility under new Health and Safety legislation, a Departmental Health and Safety Officer has been appointed and is currently undergoing training with the Government Factory Inspector. Additionally safety representatives have been appointed for each Depot and these men will be required to undergo training in due course.

Regular meetings have been held with the Committees of the various Tenants' Associations in an effort to come to grips with the many longstanding complaints and to improve the image of the Department. These meetings have, in the main, been conducted in a frank and open manner and have resulted in greater understanding of the problems faced by both sides. The Department is also in the process of implementing a Customer Satisfaction Survey to assess the degree of

satisfaction experienced by tenants of the services offered by the Department.

Mr Speaker, stricter financial controls have been employed both in the payment of wages and in the purchasing of materials and this has resulted in substantial savings being made. For the first time probably in the history of the Department expenditure has been kept within the limits set by the Government Estimates of Expenditure, and supplementary funds have not been requested. In contrast with this it should be recalled that Opposition Members, whilst in Government, often used to finance excesses in the subheads by reallocation warrant by viring from the Supplementary funding subhead of the Reallocation and Subventions Head. As we are aware, with this method there was no need to go to the House of Assembly for supplementaries. The important lesson learnt here is that it is possible to increase output, whilst keeping the public purse under control. Although much has been achieved the Department is conscious of the need to improve the service it gives to Government tenants and to better its image with the public at large. To this end it has engaged consultants in order to prepare a programme which will hopefully lead to ISO 9000 certification. Already systems have been put in place which have identified and remedied various weaknesses in our modus operandi.

Mr Speaker, despite those who plot to boycott the Department's effort to progress from within and outside, today there is a new spirit which is taking over. It has been a GSD Government that have given its workforce, security in employment in return for providing better quality services for its users and value for money to the taxpayer. As I have said before, a strategy for survival and success. Notwithstanding that the Hon Mr Baldachino has been in the last few weeks at Transport House and a member of the staff has facilitated access to him to confidential union files, no doubt to..... [*HON J L BALDACHINO: Will the Minister give way?*] No, I am not giving way.

HON J L BALDACHINO:

On a point of order, Mr Speaker.

MR SPEAKER:

If he does not give way.

HON J L BALDACHINO:

On a point of order.

MR SPEAKER:

What is the point of order?

HON J L BALDACHINO:

Mr Speaker, when I went to Transport House.....

MR SPEAKER:

No, that is not a point of order.

HON J L BALDACHINO:

He is making an accusation which is not true.

MR SPEAKER:

No, he cannot reply but if you want to give way.

HON J L BALDACHINO:

He is giving false information to this House and therefore that is a point of order and I want to clarify for him so that he does not carry through that line why I went to Transport House.

MR SPEAKER:

He does not give way and you can raise the point of order at the end because you want to clarify it.

HON J J NETTO:

No doubt to misquote me in this or in other areas. Regardless of the campaign of misinformation by Opposition Members, the silent majority within the department knows that there is not now any hidden agenda to privatise the Department, as was the case under the GSLP administration. Today we have a comprehensive package of agreement with the Union, which brings hope and life to the Department after years

of under-resourcing by the GSLP Government. Today we look forward to future Principal Auditor's Reports on how the new management has regained control over its resources in relation to labour and materials. Evidently bonuses under the new agreement are being carried out with proper controls and are available for auditing.

Mr Speaker, the process of consolidation and progress in the last financial year, has placed the Department in good stead, especially when one considers the budget that has been laid before this House, in relation to works that we expect to carry out either in-house or contracted-out. At long last the department will fulfil its role in restoring and maintaining Government housing at a speed and at a standard which will make everyone proud of the contribution that each and everyone makes. It is this path that progress on the historical accumulation of housing maintenance work will now start to be tackled, whether they be major remedial works, flat refurbishment or minor works.

Mr Speaker, the subject of unemployment and vocational training has been cause of heated debate in this House and elsewhere consistently over the last few months. Much as I welcome serious debate over this subject, I regret that with their distortions and misrepresentation of the subject matter Opposition Members have made such an endeavour impossible. However, before outlining the Government's maxim for assisting unemployed local residents back to work, it is important that some outrageous and false statements by the Opposition be put right, given the typical scaremongering and potential racial tensions that Opposition Members appeal to.

Mr Speaker, the Leader of the Opposition in his intervention alluded to the fact that he is not a racist. It is not a fact that he considers himself not to be a racist that bothers me, what concerns me is the language he adopts and the message he transmits in a manner to appeal to the lowest common denominator in our society which then manifests itself in individuals looking for scapegoats for what is a very complicated subject. When the Leader of the Opposition chooses to blur, confuse and distort the reality of our workers composition by constantly introducing the label 'foreigners'; when he chooses to ignore the fact that at present some vacancies filled are by intransient labour in the construction projects; when he chooses to ignore the fact that in his label of foreigners he is including UK nationals resident in Gibraltar, other EU nationals resident in Gibraltar, Moroccan nationals resident in Gibraltar and Indian nationals resident in Gibraltar, then I tell him that he has chosen to

create the climate for racial divide that has never existed before in our society given that we have always been a multi racial community enriching and contributing to Gibraltar's diverse cultural heritage. But let me also tell him that regardless whether he may consider himself a racist or not, the reality is that there is not much difference in the substance between his speech to the one that constantly Jean Marie Le Pen gives in France or the National Front in London. All of them follow the same logic of blaming the cause of unemployment due to foreigners taking over the labour market instead of debating the different component parts of an economy in relation to growth, competition, technological change and adaptability to such conditions. The Leader of the Opposition yesterday also justified implicitly the implementation of the 1<sup>st</sup> July law because, according to him, I as Branch Officer requested him to stop foreigners finding employment in Gibraltar. It is really fascinating to try and believe that at least once in eight years of GSLP Government the Hon Mr Bossano did listen to the voice of a representative group. This is no more than another of Mr Bossano's red herrings in order to cover their wrongdoings. Here the first thing to highlight is with regard to my union's constitution which Opposition Members have never understood or bothered to comply with. Full-time officials of the TGWU are not policy-makers. The policy-makers with regard to TGWU Gibraltar is indeed the Executive who is the District Committee and the District Committee in the final analysis is subject to biennial delegate conference of the National Union. Therefore the decision to collect signatures was one decision amongst others by the Executive, an Executive, I should add, then like now, contains prominent members of the GSLP which dilute the credibility and independence of the Union. Here what is important is the background that led to the infamous 1<sup>st</sup> July law. In May 1993 the Union outlined its position giving the then Government 19 points as how Gibraltar could develop a comprehensive policy for employment. At a further meeting with the then Chief Minister, the Hon Mr Bossano, on Thursday 20<sup>th</sup> May 1993, the Union representatives outlined their complete programme of policies including the one to canvass support amongst TGWU sponsored MPs in the House of Commons for the following motion: "It is proposed that, while every EEC national would enjoy the right to settle and work in Gibraltar, the Gibraltar Government should have the right, in consultation with the UK Government, to restrict the number of Community nationals eligible to work in Gibraltar while residing in Spain. The actual quota would be fixed and come into effect not later than in the autumn 1994 and it would be reviewed from time to time thereafter in the light of circumstances". It was at this meeting and upon this issue that the Hon Mr Bossano, as Chief Minister, gave the delegation copies

of the House of Assembly memorandum to the Foreign and Commonwealth office in 1984 and his exact words were; "We have tried this avenue before and failed. However I have got something in mind which I cannot reveal today". He continued by saying; "If I do not do that then by all means we can do a joint Union/Government canvassing exercise in the House of Commons in order to try and obtain derogations". As can be seen, at no time, did the Union proposals or talks with Government in any way call for a ban on any one specific nationality, be they UK or whatever. All throughout and in a letter of the Union containing its 19 points did the then Minister for Employment, the Hon Joe Moss, give proper answers to the Union proposals. In subsequent meetings at the ETB on 16<sup>th</sup> June and on Thursday 29<sup>th</sup> June, following the Gibraltar Chronicle edition of Tuesday 25<sup>th</sup> May, did the Union request that UK nationals be treated in any discriminatory manner. In fact, the first time the Union was told about implementation of the 1<sup>st</sup> July 1993 law was at a meeting with the Hon Joe Moss and the Chamber of Commerce held on 3<sup>rd</sup> July 1993. To this the minutes were never supplied giving both union and Chamber rejection of the 1<sup>st</sup> July law. Mr Speaker, despite the impression that Opposition Members have chosen to give, the removal of the 1<sup>st</sup> July Law (ignoring for a minute the immorality or legality of such a move) has not resulted in a diminution of Gibraltarians in the composition of the various industry groups. Even allowing for Notice of Termination not sent to the ETB, we see in the main, that the number of Gibraltarians in employment through 1996, 1997 and for first three months of 1998, has increased in real terms and whilst the industry groups have increased in size too, that as a percentage of the total, it has remained stable despite the removal of the 1<sup>st</sup> July Law. This is a fact, whether we look in the retail trade, wholesale trade, banking and finance, et cetera. The one industry group that shows a different picture is in the construction. But even here for the sake of clarity, it is important that we focus in order to avoid the typical manipulation of facts by the Opposition. First of all, in terms of Gibraltarians in employment as at the 31<sup>st</sup> March 1998 in the construction industry there are 760 out of a total of 2209, this is the highest ever since records are kept by the ETB as far as Gibraltarians. This high number indeed applies not just to Gibraltarians but to other nationalities too, both in short-term employment and the size of the present construction boom under the GSD Government. Mr Speaker, the present cyclical point in this industry group can only be properly understood if we turn back to the previous cyclical peak under the GSLP Government in 1992. Then there were a total of 2895 yet only 499 Gibraltarians, which represents 17.2 per cent of the total, as opposed to 34.4 per cent in 1998, a real and substantial increase as far as

Gibraltarians are concerned in this industry group. To put it in another way, whilst in 1992 for every Gibraltarian employed in the construction industry, there were six of other nationalities, in March 1998, for every Gibraltarian employed there are three of other nationalities. But it is common knowledge, and one that relevant statistics have long proved, that an extremely high percentage of non-resident labour is engaged in the construction industry, always has, nothing new as the Opposition Members would have us believe, and even moreso given a construction boom period. And let nobody forget that it was the GSLP Government, soon after getting into office, that decided, in their wisdom, to close down precisely Government's own Construction Industry Training Centre and the Gibraltar Shiprepair Limited training centre for good measure, only to realise their blunder some eight years later by meekly and hurriedly setting up a Construction Industry Training Centre six months before the general election. That goes to show how much the GSLP administration cared for protecting and fostering the employment potential of this sector. And now because it suits their political propaganda, conveniently choose to use much of what has been their own misdoing to blame this Government for the influx of foreign labour; even if it must be stressed that in no small measure such is a transient labour resulting, in the main, from large construction projects.

Having said as much, I welcome the Opposition Members' recent conversion in expressing such a cosmetic desire to protect also employment for UK residents. Whilst hardly any UK resident would ever have accepted the GSLP's defence of the 1<sup>st</sup> July Law and, since the GSLP now accept the protection of local residents then, why not include Moroccans too and let us see what impact these three categories have on the total workforce composition. Well, Mr Speaker, if we do that, we see that over 80 per cent of the workforce are local residents, hardly a situation as Opposition Members would have us believe in which foreigners have literally taken over the labour market. Unless of course, other local residents, UK nationals and Moroccans are being defined by Opposition Members as 'Foreigners'. This shows a true and correct assessment of the nationality composition of the labour market and that does not mean that the GSD Government are complacent about the current numbers in unemployment to which I will refer later. But to round up this aspect and as stated in the Government Press Release of the 20<sup>th</sup> April 1998, "there are still signs of some employers in certain industries still preferring to employ non-resident labour. The Government urge employers in appropriate sectors to consider the importance to the economy of Gibraltar and therefore to their own long-term commercial prospect of providing employment to resident labour".

Mr Speaker, the rules of this game are very clear, and the Leader of the Opposition should be in a better position than all of us, in this Chamber, given that he started politics in 1972, and 1972 was the year in which new legislation was brought to the House in order to amend the Immigration Control Ordinance, 1972 and the Control of Employment Ordinance, 1972. The amendments to these two Ordinances were in readiness for Gibraltar to join the European Economic Community, in order to afford Community nationals the right to reside and obtain employment in Gibraltar without a work permit. It is interesting to note that the contribution of the Leader of the Opposition then, when the debate was taking place, was to say amongst other things, "I feel it is a good thing that we should open our doors to Common Market nationals and let us take this opportunity to build a Gibraltar to which nationals will come, to which they will want to belong for a time, and from which they will go away maturer and better citizens, taking back something from the way we run our own affairs which will be of value to them in their own countries". Mr Speaker, the long evolution of European Nationals obtaining employment in Gibraltar, has meant different things in different times to the Leader of the Opposition. In the joint memorandum by this House to the Foreign and Commonwealth Office in March 1984 entitled, "Gibraltar and the Accession of Spain to the European Community", in point 6 it states, "It is accordingly proposed that, while every Spaniard, as every other EC national, would after the transitional period, enjoy the right to settle and work in Gibraltar, the Gibraltar Government should have the right to limit, in consultation with the United Kingdom as the Member State the number of Community nationals, including Gibraltarians, eligible to work in Gibraltar while residing in Spain". In point 8 it says, "UK nationals and Gibraltarians applying for jobs available under the quota will not be eligible for preferential treatment over other EEC nationals except in respect of employment in the public sector". In point 9, "there is no wish in Gibraltar to discriminate against anyone, particularly Spaniards, be shown by the fact that already there are 224 Spaniards and 179 EEC nationals, other than UK nationals residing in Gibraltar".

Mr Speaker, these joint proposals by this House were not entertained, as it was felt contrary to the spirit contained in the Articles of the Treaty of Rome, the very same ones that 11 years earlier the Hon Mr Bossano had embraced and stated in Hansard.

Given then, the present Opposition shenanigans over this subject in order to confuse and inflame discord, it is imperative that I once more

explain the application of the above rules in Gibraltar. Community nationals are free to accept offers of employment actually made in Gibraltar by some employers; Community nationals can and do move freely within our territory for this purpose; Community nationals can and do stay in our territory for the purpose of employment in accordance with the provisions governing the employment of nationals of our state laid down by our laws, voted in this House, including the Hon Mr Bossano; and finally, some Community nationals can and do remain in our territory having been employed in Gibraltar before, in other words, what has now become known as the "Gibraltar belongers".

Therefore this Government, as in the practice with previous Governments, apply these rules to those who are residents. And to those who are residents, the ETB does provide a service with regards to any vacancy registered. The policy of the ETB in respect of sending EU nationals to any vacancy registered with the ETB has not changed and remains as in the past. Therefore as in the past it is not the policy of the ETB to send all EU nationals to all vacancies opened at the ETB but only those locally resident. Still, if an employer wishes to employ a non-resident EU national, and the vacancy for the position has been duly registered with the ETB then irrespective of numbers of candidates submitted by the ETB, the employer is still entitled to employ that non-resident EU national even if not submitted by the ETB. Unfortunately, such is the case in more instances than the ETB would wish. This happens now under a GSD Government and before under the GSLP.

Mr Speaker, as of late the shadow spokesman for Employment and Training has felt prudent to raise his head over the parapet and make the clever conclusion that since the Government are not spending our allocation under the subhead on training, therefore one would have sought to conclude, "the reason for the current level of unemployment". Furthermore the Opposition Member has questioned the need to raise the training levy, given the under-spending in the last financial year. Outstanding statements, especially coming from those who should be nervous about the diabolical performance of GSLP Government in matters of vocational training. Mr Speaker, the Opposition Member should know from his time as Minister, that during his period the training levy was only in part used for training purposes. The training levy revenue was used during his time to cover salaries of ETB personnel and running costs and for such other misdemeanour as paying for a Minister's visit to Vietnam; the repairs to the John Mackintosh Hall roof costing £125,000 and subsidising the Gibraltar Song Festival and such other items, to be later rectified with due reimbursement to the ETB, yes,

but at the expense of having caused auditors a nervous breakdown. Such was the situation that it was only at the end of the financial year 1996/97, upon this Government bringing the ETB under budgetary control, like any other Government Department, that the accumulative deficit of over £3 million in an advance account was to be corrected by this GSD Government. Given then the scenario in which the training levy was carelessly used by Opposition Members, for anything and everything, whether to do with training provision; wage subsidy; or for any spontaneous whim of Opposition Members when in Government, this made it very difficult for GDC/ETB auditors to prepare and advise on averages of spending for inclusion as estimate in the 1997/98 budget for vocational cadets and wage subsidy. That set what has now happened in relation to the forecast outturn as a result of this Government's policy on transparency and accountability that the management at the Ministry of Employment has been allowed to instil good financial control over his allocation and without allowing the indiscriminate abuse of some unscrupulous employers who again and again under the GSLP Government abused both the vocational cadet training scheme and the wage subsidy measure. Therefore, it is not surprising that now, as far as the estimates for the second budget, we can plan better even though this is an estimate and subject of being demand led but yes, with proper criteria. Mr Speaker, it is the height of hypocrisy when the Opposition Member said, "the GSLP will monitor what is introduced by this Government for its effectiveness in helping Gibraltarians into jobs as opposed to gimmicky slogans". Well, by any standard anything introduced will be far more inclined to yield results than the vocational cadet training scheme introduced by the GSLP in 1988. Just to highlight this, take for instance the number of cadets that went through the scheme during 1994, 1995 and 1996, a total of 1216 of which 829, 68.2 per cent were terminated while still cadet and a further 154, 12.8 per cent laid-off for less than one year on completion of being cadet. Only 164, 13.5 per cent are still employed to date. That said the hon Member should relax in the knowledge that youngsters will get a better deal under a GSD Government than with the previous Government. Mr Speaker, it is the duty of a Government, and more in particular of the Minister charged with responsibility to provide vocational training, along with various overlapping departments and the social partners, to get together and (1) identify Gibraltar's needs in vocational training; (2) design and implement the various training programmes, (3) monitor the programme throughout its period, and (4) evaluate the performance, and its continuing needs for the future. It is obvious that the Opposition Member had abdicated his share of responsibility, by commonly passing the buck to other entities. But that does not exonerate him or the GSLP

Government from their failure to address the need for vocational training for the betterment of our workforce and Gibraltar's labour market in eight long years of GSLP Government.

Mr Speaker, as we all well know one of Europe's big problems today is the issue of unemployment. This is why within The Amsterdam Treaty and the Job Summit that followed soon afterwards, there is a greater concentration of efforts designed by member states to allow optimum conditions to facilitate employment opportunities. Within this approach one of the greatest recommendations is the moving to active labour market policies from passive ones. What this means in the Gibraltar context is that it is not sufficient for an unemployed person simply to sign on, and therefore be registered and receive either statutory or discretionary benefits. In other words, for any unemployed person to receive any unemployment-related benefit, he/she will have to demonstrate his/her availability and actively seeking efforts in finding a job. If we have a closer look at our current unemployed as at the 31<sup>st</sup> March 1998, out of a total of 545, we see that there are 99 persons with more than two years unemployed of which 20 have never bothered to be submitted for a vacancy interview and 50 for less than 10 interviews. Equally for those persons unemployed between one to two years, we have 14 who have not attended a job interview, and 36 for less than 10 interviews. This is an area in which the GSD Government are not prepared to accept the status quo, or the plod along mentality of eight long years of GSLP Government inactivity. To accept that would mean to condemn the long-term unemployed to a life on welfare, dependency, and not to make better, or useful use of public spending. Gibraltar has grown used to a large number of people being without work but we are just beginning to understand how people become locked into long-term unemployment and how that experience affects their future working lives. Many of the critical factors are outside the control of individuals and the more we know about what makes people vulnerable to long-term unemployment the better we will be able to tackle the problem. That is why we are carrying out in-depth interviews in order to develop a personal profile of the individuals concerned in order to assist he/she acquire skills, confidence, motivation, so that employers when recruiting can be satisfied that the person they take on will be able to perform their task with the best interest of their business in mind, and thereby in the best interest of the economy generally.

Mr Speaker, the best way to tackle poverty, and to stop the growth of an "underclass" is to help people into jobs - sustainable long-term jobs. The unemployed have a responsibility to take up the opportunity of a training

place or work. Rights and responsibility must go hand in hand without another option of life on benefits and excluded from the labour market. We will replace the failed vocational cadet training scheme soon with our new programmes, offering the unemployed a much better opportunity to obtain a job. This will be our pledge, to take action on long-term unemployment; but for this to succeed we need a better relationship between Government and business. I urge every business to play its part in this crusade in order to include into our society those out of work.

The new approach of the Government is a very simple one. It will be a philosophy of helping those that want and need to help themselves. On our side, we want to know how many are genuine jobseekers; how many have skill shortages for the various vacancies that come up in the labour market; how many may have a social or medical condition, and to what degree; how many may have problems with numeracy and/or literacy, to allow them better prospects of obtaining employment; and to that extent the State or, more in particular, the Ministry of Employment and the Ministry of Education and Training will provide the resources and the infrastructure to maximise employability to local residents with financial incentives to employers as a pathway into employment for our unemployed people. The Government will very shortly announce the ranges of measures that will optimise such a situation.

In conclusion, therefore, Mr Speaker, the key objective behind the proposed new programme of direct intervention is to actively promote the creation of increased sustainable employment opportunities while at the same time re-motivate the long-term unemployed, especially, back into employment. The programme will thus aim: (a) to promote increased sustainable employment; (b) to "incentivate" employers to create such employment; (c) to re-motivate long term unemployed persons back to work; and (d) to establish a 'job-seekers agreement' whereby continued payments of statutory or discretionary unemployment related benefits will be dependent on active job seeking efforts by the unemployed as directed by the Employment Service. The basis for achieving such aims will rest heavily on: (a) the introduction of a series of new wage subsidy measures; (b) the provision of enhanced job seeking facilities; (c) very much increased individual unemployed monitoring through job seekers agreement in particular.

The above, of course, cannot and must not be seen in isolation from the intended training and re-training programme currently being developed by the Education and Training Department which will aim to increase general levels of employability of the unemployed through the promotion

of the pertinent programme. This natural link between the two programmes will at times dovetail into one cohesive and proactive employment strategy which will enhance the employment prospects of our unemployed and allow for maximum employment uptake.

Thank you, Mr Speaker.

HON J L BALDACHINO:

Mr Speaker.

MR SPEAKER:

Wait a minute, I will give my ruling which is as follows. You wanted to intervene and ask the Minister to give way. He refused. It is entirely up to any Member not to give way or to give way. Then you wanted to raise a point of order to contradict something which the Minister had said. That is not a point of order. The point of order only arises when the Member speaking has infringed the Standing Orders of the House. There was no infringement here. That does not mean that you have no remedy. You can, with the indulgence of the House, resort to Order 49 to give a personal explanation. That indulgence is not necessary here as you are the next speaker and you can put the Member right if you so wish. So I call on you.

HON J L BALDACHINO:

Mr Speaker, the accusation of the Minister when he started that I had gone to the TGWU to look at confidential files, let me say, first of all, I am a member of the union and I can go to the union whenever I like and for whatever reason I like. The reason I went to the TGWU on that occasion, and his father was there, was not to look at any confidential files that might do with anything of the Government. I went there because some of my ex-colleagues in the Defence Fire Service came to see me for advice because they wanted to do some changes to their agreement in the MOD and therefore as I was the one in 1972 who did that agreement, they came for my advise. I recollected certain things in 1972, the only thing is I had to look at the file to have a better recollection of what happened at that time. So that was why I was there. I would like the Minister to withdraw what he said because what he said

is not true. The accusation of going there to look at confidential files is not true, he can check with the whole staff of the TGWU including the District Officer because I saw him the other day and I asked if I could see that file.

Mr Speaker, starting my contribution, obviously if the contribution that has been made by the Hon Mr Netto had been made in 1995 in this House and from the Opposition, the accusation and the conclusion they could have given to that interpretation is of 'cara dura' and of 'poca verguenza'. The Minister has not at all referred to what is in the estimates. He has not given us an explanation of why he is underspending in that department. The other thing is he accuses us of having GSLP activists trying to block the negotiations that they have been carrying on for two years with Buildings and Works and then he said that some of us still have some people in the District Committee. If I can correct him and what has come out in the press, it appears that the agreement now made with Buildings and Works, some of the recommendations came from the District Committee and if they look at the composition of the District Committee there are more people there who support them than support us and one of the people there is the Chairman who writes every day in the Chronicle. He writes every day in the Chronicle in their support. The other thing is, the people that he says that were GSLP activists are the same people that he actually took to No. 6 Convent Place and as Branch Officer broke the door in No.6 Convent Place and went in with all these people. Now that he is the Minister for Employment and the Minister for Buildings and Works he accuses them of being GSLP activists. What were they before when he staunched into No. 6 Convent Place, GSD supporters? He knows very well because he has been in the TGWU the same time as I have been there, for the same number of years, that people do what they want and then when it comes to their livelihood they will support one thing or they will support another immaterial of whether they support one party or another. Everything here is, if they do not reach an agreement, it is the fault of the Opposition. The Minister has come to this House not to defend his policies in the estimates. There is a distinction between one speaker and another, the distinction between the Minister is that he does not recognise what is propaganda and what is reality. One can say different things in different places. The classic example is the Hon Dr Linares, he says one thing there but here he has come down to reality, he has touched everything up and the reason why he has done that is because he has no explanation whatsoever. I told him before on Buildings and Works that we will have to wait for the four years and then we will compare what they have done and what we have done in four

years but what he has no defence, if we were to go down that road, is that in Glacis Estate there is sewage coming on to the road which has been there for nearly two and a half months, and he can check with his hon Colleague, the Minister for Health, that that is a major health risk. The Minister cannot plea ignorance because I have been told that he was told, he cannot put the blame now on the civil servants because he was told and nothing has been done there, nothing whatsoever. Of course, they have painted blocks, they are now going in, I accept they now have an agreement and they now might contract out but we have to wait and see because very little has been done in the two years he has been there, very little whatsoever. As a matter of fact, Mr Speaker, they have not even done repairs to the housing that should be going to the waiting list, according to the questions put here in this House and answered by the Hon Mr Corby, in the two years, half has been done by Buildings and Works and the other half has been done by the persons themselves because they could not wait. Maybe now that he has an agreement he will put it in place but he has done very little as a matter of fact, maybe in conjunction with what the Minister for Tourism and Transport is doing in Winston Churchill Avenue, he painted one block on one side, this was about six months ago but the other side was left undone. In his contribution on housing the Hon Mr Corby mentioned Third World countries. Well, I do not know if some houses are in a Third World state but if they are the majority are in the private sector. There are others, I am not disputing there are none within the Government housing stock. The Minister knows quite well that those pre-war flats allocated to social cases because there is a demand or because there is an urgency and according to the Housing Allocation Scheme that is the only way one can help them, there is very little one can do unless the workers carry out repairs with the tenants in situ and that is very difficult unless the Minister is referring to the outside and then that also puts a burden on the housing stock and what repairs can be carried out. There is a contradiction in what the Minister said in the allocation of Edinburgh House to the elderly. I have been looking through last year's Hansard where he said that Government would put a roof over those people who cannot afford to buy. If he goes strictly by the Housing Allocation Scheme he has no guarantee that that will happen, no guarantee whatsoever because the Housing Allocation Scheme says either one has to be a registered Gibraltarian; one has to be resident in Gibraltar or a British subject who has connection with the British territory Gibraltar, that is what it says. There is no mention there of what one earns or anything like that. So if the policy of the Government is to allocate to people who cannot afford to buy and the only way they can judge if somebody can pay or not pay for a 50/50 or buy a house would be that

one of the lending institutions tells them they have not got the financial backing to pay because that is governed by law, that is the way they do it in UK. What I am saying is that the Government have declared the policy that they will be allocating to people who cannot afford to buy and what I am saying is, of course, some of them will and other people might not, it depends. They might even have to allocate to somebody who earns £60,000, he would still be entitled if he is top of the list. That is simple enough, that is what the scheme is. So therefore they might find somebody with low wages who might not be entitled because he has been less time in the Housing Waiting List. The other thing is, Mr Speaker, maybe if I can make a suggestion to the Minister, he can take it on board or not, on the question of the directives. I agree with him on the point that he made that we should try to recover as much of the housing stock as possible and especially larger houses. But we must not forget that there has been a policy which has been handed down from Government to Government, even the AACR had it, that in all new construction for Government housing 20 per cent used to go for people who were in the medical list. That is an established practice which the AACR did actually and which we carried on as a matter of fact. It is difficult, I understand, to judge but he said, "The Government would be assessing" – when he says, "The Government" I suppose he means the Housing Allocation Committee. I suppose Government will set the policy and it will be the Housing Allocation Committee who will be allocating those houses according to the merits of the person. But on the elderly side, there are a lot of elderly people who live historically in private accommodation because they go back a long time and to say that they live in Third World standards is a bit strong I suppose because we do not live in tents and we do not live in tin huts anything like that; maybe some of our houses are substandard but I would not call them Third World. But some of our elderly do live in private accommodation who are not in the Housing Waiting List, who might not be medically categorised, who might not appear anywhere in any of the lists but obviously there is no advantage there to the Government getting a flat back neither is there an advantage of reducing the waiting list but I think the Government should take into consideration those people who are living in that type of house.

Mr Speaker, if I may now concentrate on Appendix E which deals with the Employment and Training Board. Two years ago the Minister for Employment and Training kept on saying that he would change our scheme because it was not to his liking, there was fraud in it, that people abused it, that I did it because it was election year and so on. The only thing I can tell him is that I was there from 1995 to 1996, he has been

there two years and obviously if there is anybody in this House who can defend anything that he has done it is him, Mr Speaker. At least his hon Colleague, the Minister for Tourism, can say that he has done the beautification but he has not introduced anything. He has been telling us for two years that we need changes, maybe that is why they have now changed responsibility for training from him to the Hon Dr Linares. In 1996 he was telling us that the scheme would be changed, that the whole thing would be looked into. I accept all these things I understand that this is the normal thing when somebody takes over a new Ministry and when there is a new Government that these things should be done. But he actually did not do anything of what is here. As a matter of fact, he said that the ETB, looking at what he said during that time, would be moving to New Harbours because Duke of Kent House was required by the Minister for Tourism to expand and this was going to be for nine months. He has not told us anything in this House whether he is going to remain there or whether they are moving somewhere else. And he says, according to his words, and the Hon Dr Linares must have a word on this because he is responsible for the disabled, he said this was not disabled friendly. He laughs but people who are disabled might have a problem going there. What has he done? He has not even been able to do anything on that. Of course we now have announcements of what they are going to do in training, the same announcements that they made in 1997. The Chief Minister made the announcement in 1997, then it was followed by the Hon Mr Holliday, then it was followed by the Hon Dr Linares, the only one who did not say anything about training, apart that he was looking, he said, "Mr Speaker, in matters of vocational training, this House has heard from me that the Government are not satisfied with the operation of the Vocational Cadet Training Scheme. In a broad sense it can be said that the Vocational Cadet Training Scheme has failed over the years to provide proper skills for the employees to compete in the labour market and it has also failed in providing long-term jobs for the cadets." Then he went on to say, "The Government will, during the course of this financial year, be moving away from this ineffective scheme and providing a new one which will be better both for youngsters and to business alike". When he has had the money in the estimates to do it he has not done anything. He has not given us an explanation, even though we know, because he has done it during, and I am referring to page 114, Appendix E, which is Gibraltar Development Corporation – Employment and Training. The Minister for Employment and Training said in this House that the increase of the training levy was a tax raising measure, that is what he said. Not that it was required by his department, he said that it was a tax revenue measure, that is what he said. We were criticised when we were in Government because they

used to say that this was precisely that and the Government have, as a matter of fact, increased the training levy paid by employers. We have in one hand the Government of Gibraltar telling us that they must help the business community and in some cases they do give Government financial help and in the other hand they increase the training levy. There is a contribution from the Consolidated Fund which is £145,000, this year; last year it was estimated at £2.3 million, they only got £1 million and now they are estimating that the contribution from the Consolidated Fund will be £145,000. Well, that is not correct, this is a double book entry as I can see it, why a contribution from the Consolidated Fund to the Gibraltar Development Corporation under Employment and Training when on payments, further down the page, there is a reimbursement of training expenses funded by the Consolidated Fund of £250,000. So as a matter of fact it is not a contribution, there is no subsidy in this Head from the Consolidated Fund to the Employment and Training Fund but the other way round. The one which is subsidising the Consolidated Fund is the Employment and Training Fund. I do not know, maybe somebody can give me an explanation why there is £145,000 there and then further down £250,000. That is a good loan if it is paid with interest. Nobody has given an explanation especially the Minister for Employment and Training. The contribution from the European Social Fund which is something that is given by the European Social Fund and then it is obviously matched up with Government funds, obviously for the cadets, we expected £1 million. We only have, according to the forecast outturn of 1997/98, £100,000, what happened to the £900,000? Have we lost it because, as I understood it before, if one did not use that money it was not carried over to the next year unless it has changed. On what they intend to spend on training I suppose there is an element of salaries, overtime and allowances which is also included in that, and then they have the vocational cadets and wage subsidy and training and development courses. Obviously the figure of £3,351,000 is not what they intend to spend because out of that £3,351,000 we have to take away the £250,000 which is going back to the Consolidated Fund. So, in fact, what they actually intend to spend in that Head is £3,101,000. The saving that has been made by the Government, almost nearly half of it in the overall budget, is savings that have been made in this Head. On the question of unemployment he went back to the figures of 1994, I do not know where he got them but there is certainly no indication here on the unemployment figures in the year 1996/97 and 1997/98. I think at question time he said that the figures that we used to produce of unemployment were on a quarterly basis, which is true, and we have no quarrel of it being done on a quarterly basis. The quarrel we have is

when it is done on an average because it does not tell us what it is and which way unemployment is moving because we only have an average so we do not know if one month it has gone down or gone up. Obviously even if we get them quarterly at least we have a better judgement of what is happening. What he cannot do is compare the 1995 figures with the actual figures that are produced now because the 1995 figures, as a matter of fact and as a matter of policy of the Government at the time, also have included the lapsed people and to compare like with like one would have to include the lapsed on those. Obviously that would change in January and if he looks at the figures I used to give in the House he will see there is an element there. For example, in answer to Question No. 19 of 1996 the Hon Col Britto asked and I gave him the figure of 472; if he looks at the political broadcast during the election I did not mention the figure of 331, I mentioned the figure of 400. What is inescapable, Mr Speaker, is that employment is not going up. By the figures that they produce employment is not going up and employment has not gone up especially because the money, I suppose, that was there to stimulate employment and to create jobs was not spent by the Minister. The Minister might think "we have to change the scheme", fine, they want to change the scheme. Normally a Government has 100 days grace, we have given him 370 days grace, he has not produced any improvements, he has not come here in any of the two budgets telling us what he is going to do in employment. The one who has now given a clear indication has been the Hon Dr Linares. When I was looking at it I was taking it with a pinch of salt but now that I see that the Minister at least has given that announcement, the pinch of salt is less and I await to see what he puts in place. There have been a lot of intentions, a lot of announcements but we still in 1998 do not have the details of what their actual training will be and how it will work. I understand that the Hon Dr Linares says that it will be more of a quality thing than anything else. Fine, but he also has to bear in mind that unemployment is of quantity, it is not all just on quality, so it is not just for qualified people. Unemployment also has to take into account the numbers that are unemployed and their requirements. But, of course, what the Minister has said has been said before and some of the things that he has mentioned were already being done by the College of Further Education, some of the things they said that would be happening were happening there since the College of Further Education was put in place. The course for legal secretaries was there before.

HON DR B A LINARES:

Would the hon Member give way? Certainly the computers they had in the College of Further Education were certainly not up to the requirements of information technology today. It is only when we put in £100,000 into computer hardware and software that they managed to meet and match the requirements of today. Would he accept that?

HON J L BALDACHINO:

I accept that especially in computers there is a change of technology every day so therefore obviously they have to be upgraded, next year the same might happen and then they have got a system which is not compatible to something else and therefore I accept that in that case. But what I am saying is that there were certain courses already in place; some of the ones that he has mentioned that were already taking place before, they are nothing new and maybe he will have to enhance them because the technology is now out-of-date and they have to enhance the technology to bring it up to a certain level. But some of the things that he mentioned were already there at the time. I would like to take the word of the Minister for Education and Training rather than the one from the Chief Minister because he has been clearer when he said that the provisions or the commitments that they had in their manifesto to give a place to all who were under 21 is now going to be extended to 25. Whereas the Chief Minister said in his contribution that this might happen, the Minister for Education said that this will happen. The Minister for Education and Training said that apprentices would be placed in Buildings and Works and in JBS and that the qualifications would be to NVQ standards. If that is possible why has it not been possible to place people in Government garages so that they could have training on the mechanical side because that was announced last year and I have not heard anything this year. Obviously, Mr Speaker, what is escapable to the Government is that the unemployment figures are going up. No matter whatever permutations one does it is still going up. In the two years of GSD Government the unemployment figures have gone up even though the Minister said publicly that with the new enterprises that are starting more people have been employed. But the figure of unemployed Gibraltarians has gone up. The Minister for Employment mentioned the private sector and said we now have more people employed in the private sector. But it is obviously not going to Gibraltarians and when he accuses us of being racist, all we are saying is that our people must come first. And there is another contradiction, if I may add, even though we do not agree with the £1.5 million that they

are going to use for the repatriation of Moroccan workers because we believe that should be the responsibility of the UK Government, but there is a contradiction. I would understand that Moroccan workers, if that was the policy of the Government, who were here for a long time should now have the same right as Spanish nationals, for example, or EEC nationals to look for employment, but when there are 15 new work permits issued there was no commitment there, morally or otherwise to those people because that, as a matter of fact, is not only detrimental to our workforce or to our unemployed but it is also detrimental to the people who they now want to pay for them to go because maybe they could have got one of the jobs and they would have had to pay less money. The Minister for Employment talked about racism and things like that. Mr Speaker, we have a situation that for every four Gibraltarians there is one Spaniard being employed when before it was one to 10 at least. Looking at June 1997, Mr Speaker, of the total 339 jobs filled, 55.2 per cent were Gibraltarians; 17.1 per cent were British; 21.8 per cent were Spanish; 4.4 per cent were Portuguese; other EEC 3.2 per cent and Moroccans 0.9 per cent. That is the information that has been provided by the Government. In May 1997, 48 per cent were Gibraltarians; 28 per cent were Spanish; 16 per cent British; 7 per cent other EEC nationals. It appears that that is not happening. I remember it having been said and I think it was in the Chamber of Commerce, that the Government will help but the Government expect that in return for the help they are giving, there should be a certain amount of the business community employing people who are actually registered as unemployed but that is not happening, according to the figures. The Minister for Buildings and Works has had a difficult position in this House to defend these estimates and therefore he has had to make the contribution that he has made because he cannot defend anything. He cannot defend the expenditure in his department that has gone down when unemployment is going up. Of the new projects that they have announced, many of them were already there, that they are going to be enhanced is a different thing altogether. I hope they do make them better and I hope they are successful because that is good for us but many of the things were there, some of the things might be new like Bleak House School but Bleak House School was not only tourist orientated. If I remember correctly last year it was said that it would be for the financial centre training and for other training. Is that going to happen? Because the concentration of the three Government Members who have mentioned it, have dedicated themselves to the hotel industry. Is it correct that it is going to be an extension like the Hon Dr Linares said last year that it was going to be an extension to the College of Further Education? The Minister said that this was going to happen in

September last year and it did not happen, it is here in Hansard. I can read it to him if he wants. He said, "I am pleased to announce that the initiatives already taken in the College of Further Education will be greatly expanded and facilitated by establishing Bleak House, once the adult education centre of the MOD, as an institution of further education not only for the private sector but also for civil servants in order to enhance the quality of our public service. We aim that by September this year courses for staff in the hotel industry to which my hon Colleague, the Minister for Tourism, has referred, will have got off the ground in the new facilities at Bleak House." This is what he said and this is what he is saying now, for this September so we have lost a year there and we do not know why. What is clear is that nothing has happened in that area at all. I do not know how much of what the Hon Mr Netto was looking at for two years has been passed to the Hon Dr Linares but apparently by the contribution of the Minister he did nothing. Now he has to look at it, now he has to give us the blueprint. So the blueprint is not in place otherwise he could have announced here what he is going to do, so it is clear that we have wasted two years. We have wasted two years, Mr Speaker, of valuable time so that people could at least have had the training, because they gave a lot of emphasis on training, that it was good because we needed it for our economy, we needed the schemes, they were trying to bring investments and we needed those skills so that we would be in a better position to compete with outsiders. I sincerely hope that seeing that now training comes under the Minister for Education and Training, that he does not look at it from a purely academic side and he will also consider something else which is what my hon Colleague said. It does not necessarily follow that he will be doing that. I do not know if he actually put in place what he said last year in the schools where persons who did not have the ability academically, he would be looking at certain things to implement as NVQs. In the construction centre, if I understood him, is there an element in the £250,000 to upgrade the training centre because there should be a certain amount of upgrading there and I suppose that the other percentage is for the materials that are required and things like that. If I understood him correctly the new Training Officer will be a person I suppose who will be collating all this training, it will come under him and he will be like an overseer of what is happening in all those areas, I suppose that will be his terms of reference. I am also glad that they are keeping Our Lady of Europa Training Centre because I did not want to make it public at the time when it was set up when I was in Government and I am glad because it caters for certain people who if we gave it publicity obviously knowing that Gibraltar is too small we could pinpoint why they are there but I am glad that that is being kept on by the Government.

MR SPEAKER:

I do not want to interfere, you can have as much time as you want, but if you are not finishing within the next five or 10 minutes we might adjourn for lunch and then you can come back.

HON J L BALDACHINO:

I do not know.

MR SPEAKER:

You might be longer. It is entirely up to you.

HON J L BALDACHINO:

I might be longer.

MR SPEAKER:

Then I think we had better recess for lunch.

The House recessed at 1.20 pm.

The House resumed at 3.00 pm.

MR SPEAKER:

The Hon Mr Baldachino to put the finishing touches.

HON J L BALDACHINO:

Mr Speaker, I left off on wage subsidy, if I understood it the position of the Government last year was that they considered the wage subsidy was a means of subsidising the private sector and therefore they thought that employment should not be subsidised by the Government and it should be on a declining basis. Obviously I thought that after having estimated £800,000 last year and only having spent £405,000 that this was the trend or the way that they wanted to go but even though the figure estimated for 1998/99 is higher than what was estimated in 1997/98 and having heard the explanation given by the Government that there was a lack of interest on the part of the

employers to take up wage subsidy, I thought that part could be that they intended to run this down until we reached zero but I now see that there are £600,000 and after the explanation that has been given by the Minister for Training that part of that money will be used in conjunction with training, the only thing is that we have not had an explanation what sort of training will be covered by wage subsidy and which training will be covered mostly from the payment of vocational cadets. If I understand it correctly, I might be wrong, the question is is it that wage subsidy will be used where an employer shows an interest in employing somebody, especially in the finance centre or in more academic employment but this person, even though he might have a degree he needs a certain amount of training in that area and therefore is it that he would be employed by the employer and a certain amount of wage subsidy will be given there and then obviously the person will go on the new training scheme, could it be that or is it wage subsidy as it used to exist before? Obviously they intend to have the same level of cadets as they had last year because the estimate is exactly the same as what the forecast outturn is.

In conclusion, Mr Speaker, there is very little I can say on the contribution by the Minister for Employment as I think that seeing that he could not defend the budget for last year, he cannot defend the budget for this year, he adopted the sort of speech that he gave this House which goes back to 1972 with a lot of, I would say, faults in what he said because he mentioned that my hon Colleague, the Leader of the Opposition had said in 1972 and what the Leader of the Opposition said in 1972 obviously was with a closed frontier which has got nothing to do with what exists today. What is surprising, Mr Speaker, is that the Minister in his contribution, the only thing that he said that he would introduce is a policy which is very right wing. The Minister said that he would look into the people who registered as unemployed and therefore those who did not take up employment will be scrapped from the waiting list. I do not know if that is to cook the books, or to have less people registered as unemployed but it is surprising because in the United Kingdom the Labour Party has just announced, that that is not a realistic way of looking at people who are unemployed and looking for work and they are now intent to introduce those that the Minister wants to remove from the waiting list. It is not surprising because the explanation that he gave in this House during Question Time, I would even classify it as an insult to women in Gibraltar because he actually said that the fluctuation that had existed in unemployment, especially in October when he did not want to give us the figures for October, was because there were women who used to go and register because they heard that there was a new

supermarket that was going to open and they go and register. Well, the fluctuation is not seen in the figures that we have had, there is no fluctuation there and therefore it is obvious that married women and single parents obviously go for those types of jobs and one cannot say that those are not genuine job seekers. What is obvious is that they have other commitments in society, in their own families which actually forces them into looking for those types of job. By doing what the Minister says that he will be doing, obviously we are going back to the days when they said that there were some people who were unemployable. They cannot just take them off from the unemployment register just because those people might be unemployable or some of the employers think they are unemployable, they should try and look to help them to see if we can get them into employment. But by removing them from the figures there is only one explanation, that is a way of bringing the unemployment figures down but that is not realistic either of how many people are unemployed. So I think that is wrong if the Government adopt that policy and I think that they should have a rethink if they do it. I would like to personally say, I have never and I would never – and this is on a personal note – look at anybody in any union to which party they belong, if they are in the union they can belong to any party that they really want and they have the right, within that institution and the two or three or five or six of us here who know how the union works, they have the right to defend whatever they think might defend them, they might be wrong or they might be right but if at the end of the day they are the membership of that institution and there should not be any political interference. As a matter of fact, I have not interfered at all in whatever accusation the Minister for Employment wants to put. As a matter of fact and the truth is that as far as I am concerned that is a union decision and that is between the union and the employer and whoever is in the union in whatever capacity he is in the union, whatever political affiliation he has it is up to him and to nobody else. The reality of the situation is, Mr Speaker, that the Minister for Employment has failed in the two years that he has had that Ministry and he cannot escape that. He cannot escape that during those two years he has not implemented anything new for training even though he said and he promised and the other thing is that during those two years he has been there unemployment has gone up, the Gibraltarian unemployment has gone up and that is the reality and that is a fact and those are figures that he himself has given in this House during Question Time this year. I sincerely hope and one of the things maybe, I do not know but maybe that is why training has now been passed to his hon Colleague because the Minister has not been able to do the blueprint that was required and I have the expectation that the Minister for Education and now Training is

more successful than his predecessor in this area because it is an important area in our economy. To get people into training and to have people in employment is an important element in our economy. So in conclusion, Mr Speaker, all I can say is I hope that next year we are not back here looking at the estimates and the promises that they have given on training have been fulfilled to a certain extent. All I can say is that we have less training in the last two years of the GSD Government and a higher unemployment in the last two years of the GSD Government and not the contrary as the Minister for Employment tried to put to this House. Thank you, Sir.

HON LT-COL E M BRITTO:

Mr Speaker, as Minister for Government Services, I have responsibility for five different Government Departments, for broadcasting as well as for a number of commercial joint ventures which were formerly Government utilities. Consequently my contribution will be less structured than that of my hon Colleagues in the Government because it will invariably have to be made up of 10 different small contributions as opposed to one flowing. I intend to deal with the Government departments in the order in which they appear in the Estimates of Revenue and Expenditure at present before this House.

So I will start with the Support Services Department. A department which has been very involved and has been dealing with a significant number of projects during the course of the past year. A total of 20 projects were undertaken last year and 12 additional projects currently being worked on. The major project, as far as this department is concerned, is without doubt the beautification and refurbishment of the area of Casemates. Conceptually the intention is to turn the existing area which is essentially, as hon Members know, the Casemates Square, the road and then the open area in front of the Health Centre building, to turn the whole thing into one large open square in one area. This will obviously need a fair amount of groundwork because there is a substantial difference in levels between the three areas I have mentioned so it will involve a considerable amount of work of re-levelling and of groundworks and the intention is to finish off the area with a surface material similar to that or maybe even the same as that that was used for Main Street. Coming on to Casemates Barracks itself, the overall plan is for the barracks to accommodate part of the Gibraltar Museum, which is presently short of space together with commercial and retail units, and restaurants. The building itself will undergo a substantial cleansing operation both internally within each vault and to

the outside on the external facades. There will be repairs to the building, where necessary with regards to windows, doors and the roof but every effort will be made to maintain the character and the style of the existing building. The philosophy behind the concept is to provide a basic shell, refurbished which will then be leased out to prospective commercial clients. In respect to Casemates House itself on the opposite side of the Square, as hon Members will appreciate this is a private development building but it is felt that the façade of this building is unsympathetic to the heritage historical background of the rest of the area and to ameliorate this lack of sympathy it is intended to construct a new self-supporting arcade in front of the Barracks standing free from the existing building in order to enhance the outlook as well as the entrance to the shops. In respect of the rear of Casemates Barracks itself, this area is going to receive a less intensive treatment than the Square itself but it will nevertheless be refurbished because it will form, in essence, the rear of the commercial units and in some cases additional halls will be provided at the base of Grand Battery for storage purposes. In respect of other projects undertaken by this department, at the forefront is the new promenade, walkway, seafront – the final name has not yet been decided – on the Westside reclamation area, on the seafront which will, when finished, provide leisure amenities, a garden area, landscaped areas, a children's playground and a cafeteria. This project is due for completion in autumn of this year. The works to widen and embellish Line Wall Road, commonly known as Lover's Lane, are now almost complete. The results speak for themselves. Those members of the public who have gone along the Lover's Lane side of the road will have appreciated the tremendous improvement to the building and the consequent improvement to traffic flows that will result from the widening of the road.

Touching briefly on other projects, the embellishment works along Winston Churchill Avenue are expected to finish shortly and again the considerable improvement to the general appearance of the area is obvious. Obviously, again, an area that is important in that it causes the first impressions to visitors to Gibraltar by land and by air. Similarly, the work of this department has seen the refurbishment to the third entry point to Gibraltar by sea in the provision and completion of a promenade along North Mole Road which has successfully and completely transformed this area. We are in the process of tackling another eyesore in the Port area which are the two large dilapidated sheds near the Cruise Liner Terminal. The demolition of which is due to finish by summer of this year.

Coming on to other longstanding problems, the wall at the Loreto Convent in Europa Road had been presenting an engineering problem for a long time that it had been leaning out dangerously and the problem was identified and getting more serious earlier on this year and was successfully tackled, the wall was demolished and replaced by a different designed wall, as a consequence of this alternative design the costs were considerably reduced as well as the time taken to finish the project if the wall had been replaced. There is another retaining wall that is causing problems near the entrance to Mount Alvernia and works are now currently taking place to repair the road which collapsed in this area. Again, this work is expected to finish by the end of the summer.

On the East side of the Rock significant progress has been made in the replacement of the water catchments in that two of the three Government catchment areas have now had their sheeting removed and this has been replaced with a geotextile matting which prevents surface erosion and the loss of sand and, of course, as hon Members know the opportunity has been taken to re-seed the whole area to try to restore it, with the co-operation of GONHS, to its original natural habitat. The works on the last remaining catchment area have now started and are progressing satisfactorily but are a long-term project and are not expected to end within the current financial year.

In terms of the rockfall at Camp Bay, I explained in detail in answer to questions earlier on in this meeting what the situation there was so I will just summarise by saying that as a result of the latest consultant's report and geotechnical investigation, it has been established that further stabilisation works need to be taken to ensure long-term stability and that this work will start immediately after the summer.

In respect of other miscellaneous projects the widening of Sir Herbert Miles Road has been dealt with by my hon Colleague, the Minister for Tourism, and the improvements to traffic circulation in that area to those who have not yet seen what the final product will look like, will be considerable not only in the looks of the area but in the traffic flows. Three other significant projects were undertaken by this department on behalf of the Ministry for Social Affairs and Housing. Firstly, the conversion at Buena Vista Barracks into the new Workers' Hostel. Secondly, the refurbishment, which is on-going, of the Edinburgh House Housing Complex. Thirdly, the construction of the new 86 flats in the same area of Edinburgh House for allocation to senior citizens. Because of the large amount of work being undertaken by this department, because of the large number of projects that have been pushed their

way, there has been some internal restructure with an increase by one Civil Engineer and we have taken on a new Quantity Surveyor on a time constrained contract. Finally, during the next few weeks, Support Services Department will be moving into new offices in the old Treasury Building.

Coming now to Information Technology, and specifically to the IT Services Unit – hon Members will note technically a part of Support Services that I have just covered, but because its work is so diverse and covers so many different Government departments, I thought it would be worthwhile to report on it separately. This unit was essentially constituted during the past financial year and it was done by merging the IT staff that were employed at the City Hall engaged essentially in dealing with vehicle licenses, industrial wages, salaries and various small systems, and merging them with the IT section of the Income Tax Office. Apart from maintaining these same core systems that they had maintained separately, the department has now been tasked with a number of new projects. Firstly, the computerisation of Government pensions which has now started, is on-going and is at present being system tested. Secondly, ensuring that all Government systems, all these core systems are millennium compatible and in this we are working together with an IBM partner, Total Quality Systems, and the project completion date has been set for October this year. Similarly all Government computer hardware and software is being tested for millennium compatibility and this is an on-going project by this department. During this year the IT Services Unit will initiate the following projects:-

1. The integration of the Income Tax and ETB Databases.
2. The inclusion of Social Insurance records and all the Civil Registration Office records within the tax and ETB Database. This will allow Government to have a central database on citizen information. It is expected that eventually other Government offices will have access to this database, subject to security, need to know and other considerations. In respect of income tax these considerations will be particularly relevant and obviously the confidential information in the income tax database will not, at any stage, be available to anybody who does not have the authority. In other words, the database will be restricted to the Income Tax Department as it is now.

3. The installation of a Geographical Information System which will be done by Government initially in partnership with Lyonnaise des Eaux and with Gibraltar Nynex. Eventually other services like Land Property Services, for example, will join in to have access to this information system.

This Unit is now planning the infrastructure necessary for these projects with both local and UK partners. It is eventually intended to have a Government wide network that will allow the following –

1. Sharing and transferring of information with different departments and agencies, for example, a person registering at the ETB for employment will automatically and with only one call, open a social insurance and tax record in the same office without having to make three visits to three different offices as he does now.
2. It will provide electronic mail for departments and agencies, both intra and inter-departmentally.
3. It will allow controlled access to the Internet – and I stress the word 'controlled' – especially for people away from Gibraltar having access to their departments like Ministers. They will be able to monitor their office over the web and also access relevant information from departments and agencies on the network.
4. It will have control of the planned Gibraltar Government Website.

Turning now to the Electricity Department. A department which we tend sometimes to take for granted but which carries on functioning from year to year and has to be forward looking all the time. I report that the consumption of electricity continues to grow and that last year this amounted to 112.5 million units as compared to 109.4 million units in the previous financial year, an increase of about 2.8 per cent. Interestingly, the maximum demand was smaller than in the previous year, despite the increase in the overall demand and was only rated at 21,600 kilowatts as opposed to 24,100. Those who are knowledgeable in these things informed me that this is because of the relatively mild temperatures experienced during the last financial year.

The new Distribution Centre beside the American War Memorial, which I mentioned last year, is now well in progress. Civil works have been completed in the switch-room and a start has been made on the installation of the high voltage switchboard and ancillary equipment. Once this new equipment is commissioned it will be possible to remove from service, once and for all, the switch-gear which is still today in use in King's Bastion old generating hall at Queensway. I also mentioned last year the project to provide a supervisory and data acquisition system, known as SCADA. This is now well on the way to delivery; the orders have been placed and are being processed and the system is expected to be in place before the end of this financial year. Technical discussions are still taking place; there were a number of problems encountered en route and the final detail design of the hardware and software is still developing between engineers from the manufacturers who have come to Gibraltar and our own local engineers.

With respect to the new depot for the Electricity Department at Rosia Road, I am pleased to report again that work on this is progressing. The discovery, as I explained to the House in answers to questions, of an old tunnel and magazine which was not known to be there underneath the surface delayed works whilst investigations were carried out and consultation with the Heritage Trust, amongst others. Eventually it was decided to isolate and not destroy the heritage aspects of this, to construct a new walkway round the area so as not to come anywhere near the walls and to allow public access to the external walls. I am pleased to report that now the foundations for the new buildings which have been made smaller because of the restrictions because of the tunnel and the magazine, are now proceeding and work on the new buildings is expected to start and progress quickly once the foundations are ready. In conclusion, I would mention the involvement of the department in the improvement of street lighting and the floodlighting schemes in various areas many times in co-operation with the Tourism Department headed by my hon Colleague, the Minister for Tourism.

In respect of the Fire Brigade, it is pleasing to note that once again, and I always like to mention this every year, that this department is exemplary in its budget control and how it has remained, once again, within budget and how it continues to do so year after year and, at the same time, continue to be a dynamic and forward-looking department who, especially this year, are developing in line with the targets and the strategic plans which they have set themselves.

During the last financial year, training and fire safety were the main areas of activity for this department and a large number of officers attended training in UK in both these areas.

In terms of improvement of equipment, two large mobile trailers were provided during the course of the year and fitted out with specialised equipment to act in support of front line appliances engaged on fire fighting. These equipments ranged from heavy rescue equipment for serious accidents to foam and foam producing equipment for fuel fire, a deficiency which was there in the past, was made by carrying the equipment on the fire tenders themselves but is now provided by separate trailers. Additionally, in the very near future, they will be replacing their small zodiac inflatable dinghy with a larger semi-rigid vessel which will enable them to expand and improve their area sea rescue capability. All these items will have been seen by members of the public and any Opposition Member who visited the Essential Services Day last Saturday at the Naval Ground No. 1.

Provision in the Estimates has been made, hon Members may not have noticed because I do not think it is specified individually, for the replacement of one fire appliance with a medium-sized water tender fire engine designed to meet the demands of the outer city. It is hoped that this unit, which is currently being designed, will be in operation by December 1998.

With regards to Fire Safety, the Brigade has embarked on a programme targeting the very young, at one extreme, and industry, at the other extreme of the trade and it will be using the latest technology to deliver this training to the public. In addition, a safety house project will shortly start using a complex within the John Mackintosh Hall in which children will participate in house safety practices.

Finally, Mr Speaker, during the year, the Brigade attended 1,300 emergency calls and they were all attended within the period of five minutes recommended by the Home Office Standard of Fire Cover.

At the Post Office the project for computerisation of mail records is now well in progress and continuing and shortly it is planned to be submitting out-going documentation in computerised form. During the year out-going mail has suffered no undue delays except those caused by interrupted air communications due to bad weather. The local delivery service has shown some improvement but I am still looking for further

improvement in this area because I think there is still scope for betterment of the service locally.

During the year we will see the culmination of planning and the start of the re-siting, at least in the planning stages, of the parcel post store to its new location above Casemates Barracks. The re-siting of the Post Office itself to the Health Centre, cannot start until the Casemates project is finished so it will not really take off in this financial year. But the plan at the moment, and this is not set in concrete, is to provide the present counter section in Main Street to occupy the major part of the ground floor of the Health Centre building; to put the Sorting Office, Postmen's Room and Accounts Section on the first floor; and to house the Administration Section on part of the top floor. As part of this reallocation of facilities, a number of PO Boxes to meet continuing demand will be substantially increased. I think it is fair to give a warning at this stage that some disruption to service to the public will be unavoidable during the transition period and change especially when the PO Boxes are being moved over and especially when moving from one building to another. We are also envisaging and expecting some problems when the pedestrianisation of Irish Town is taking place and can affect the movement of mail. So whilst every effort will be made to minimise this inconvenience I take this opportunity to call on the public to have forbearance and understanding on the problems that may arise and to realise that it will mean an improved service and better conditions of work for all concerned. During the year there will be a new issue of Definitive stamps by the Post Office and this is something that happens once every five years approximately. There are basically two types of stamps that the Post Office issues; the Commemorative issues which are the ones that we see five or six times a year which are aimed mainly at collectors and which are the backbone of the philately business but which are, of course, postage stamps and can be used; and then the Definitive issue which is a design that is chosen and changed once every five years and that remains the backbone of the stamps that are put on envelopes for posting. That is due to go on sale during this forthcoming year. There will be an innovative measure this year in that stamps, apart from being sold in the normal sheets of 50 as they are now, will also be sold, as is common in other markets, in rolls of 100 of self-adhesive stamps. This is on an experimental basis and judging from the results in other markets we expect it to be quite successful especially within the commercial and finance centre community. Finally, the Post Office is currently involved in studying the requirements of the EU Directive 97/67 of the 15<sup>th</sup> December 1997, and the implications that this will have on local postal services.

My fifth and final Government department is the sports department. I have no doubt that as regards to this department the most important far-reaching decision that Government made during the course of the year was to accept the advice of both the UK Sports Council and the local Sports Advisory Council to engage the services of a UK expert to carry out a consultancy study into the development of sport in Gibraltar. This came about as a direct result of my attendance at the Commonwealth Conference on Sport held in Edinburgh in October 1997, where I met Mr Tony Banks, the UK Minister for Sport and also very high ranking officials from the UK Sports Council. Arising out of this visit, Mr Mike Lockhart, the Regional Director of the South East Region of the English Sports Council, was contracted to carry out this report. Mr. Lockhart has been in Gibraltar on two occasions, has now completed drafting his report and I have seen a draft of it but it is too detailed to go into at this stage. I intend to present this report at a Press Conference next week where Mr Lockhart will be present and I can anticipate that I will be implementing, there and then, one of the recommendations of the report which is to make a Government policy statement on sport in Gibraltar and I will take the opportunity of doing that next week at the Press Conference.

Last year Government substantially increased the funding of sport in Gibraltar. When we came into office funding of sports societies to attend events overseas and so on was essentially at the level of about £50,000. Last year we doubled this figure by creating a second fund also of £50,000, making obviously a total of £100,000 specifically for sports development. We also provided a figure of £147,000 last year, for improvement to existing sports facilities. As a result of that funding a number of projects were undertaken and these include the provision of floodlights to the Stadium No. 2 Pitch; the purchase of a new electronic scoreboard which was in any case long overdue but essential for the hosting of the FIBA Basketball Promotion Cup of the European Small Nations Championships which will be held in Gibraltar next month. The existing scoreboard has not been thrown away but has been transferred to the Westside School sports hall. We have also acquired dismountable spectator stands and we have commenced work on the construction of a new indoor shooting range at the Europa shooting complex and this will, in turn, release shooting premises in Prince Edward's Road which will be available for other sporting societies. We have reconstructed the cricket nets at the Victoria Stadium and there have been major improvements to Hargrave's Court playing area and to the courts at South Barracks. Last but not least, the changing facilities at the Stadium will be improved to provide facilities for the disabled.

As I said, we doubled the funding last year and I am pleased to inform the House that once again Government, showing our commitment to sport in Gibraltar and our appreciation of the contribution sport makes to the quality of life in Gibraltar, will be increasing funding this year, this time by 26 per cent. Grants to sporting societies for participation in sporting events away from Gibraltar will be increased from £50,000 to £70,000 and for sports development in Gibraltar from £50,000 to £56,000. As a matter of interest, I would inform the House that for the first time ever, certainly for the first time in our two years of Government but certainly to my knowledge for the first time ever under previous Governments, these figures have been arrived at on a scientific basis and not on a pure guesswork basis, as they were done in the past. Let me explain, in the past Governments have brought to this House a figure in the estimates of £x thousands, whatever the Government figure was at that particular time and this figure was given to the Minister for Sport who in turn relied on his advisers to allocate this as and when bids were received during the year. I found that the system was deficient in that it was treading on a tightrope in trying to give enough money to people if we felt that it was warranted but at the same time making sure that I did not run out of money before the end of the year because there was no budgetary machinery in place. So what we did this year, through the Sports Advisory Council and through them, through the Sports Associations, is to ask associations in advance, as far back as summer last year, to tell us what they would require for this financial year coming in. These figures are based on those estimates of what their expenses will be for the events in which they have qualified or are in the process of qualifying to take place. Of course, allocations will only be made on the same basis as heretofore on the basis of the correct information being supplied and the right standards being met.

I am also pleased to announce today, Mr Speaker, a Government initiative to provide two new major sports facilities in Gibraltar. The first of this will be the construction of a completely new roller skating park and roller skate rink. This will be located in the Westside area, in the waste ground between the GASA swimming pool and the Generating Station/Lyonnais distiller area and it will cater for the needs of a sector of the community, of the younger generation, which have been pressuring Government for some time to provide this facility and it will cater for two different aspects of roller skating; firstly for aggressive roller skating which is the name by which those less well-advised members of a younger generation that we see skating down Main Street and doing pirouettes in mid-air are involved in, there will be a provision of proper ramps and proper obstacles for this sort of aggressive skating to take

place under controlled conditions on the skate park. As part of the skate park there will be a roller skating rink specifically for roller hockey; a sport that is gaining in strength world-wide which is in the process of becoming recognised as an Olympic sport and which already has firm roots in Gibraltar. Both areas will be interchangeable and compatible and we expect to come to arrangements with the Gibraltar Skating Association for the control and allocation of the areas and I can inform the House that I am already working in consultation with them. The forthcoming year is also expected to see further development in the handing-over of MOD sports facilities. The indications that I have is that during the coming year the Europa Sports Ground, USOC Hockey Pitch, the tennis courts at Queensway and, possibly the Naval Ground No. 1 will all be handed-over to the Gibraltar Government during the course of the coming year. This is news that the Sports Department welcome because it will go a long way towards alleviating the present problems with allocations on our current Government facilities.

In terms of participation away from Gibraltar, and one would say as a direct result of all the help and the funding that Government in the past and the present Government continue to give to sport, participation in sports events continues to be very good. Our participation in the Jersey Island Games was creditable, although there are a number of question marks that I want to iron out before the next Games. The Men's Hockey National team enjoyed success in the Mediterranean Championships and there were excellent performances from the hockey club sides in the various European competitions. The Commonwealth European Division Shooting Championships were hosted in Gibraltar in 1997 and were a great success. I am pleased to say that Government offered tangible and financial support to all these and other sports events.

The Gibraltar Trophy has now been firmly established in the sports calendar of the National Week events and 25 sports held events in competition for the challenge trophies that were donated by Government. It is expected that the Gibraltar Trophy will continue and will continue to grow in stature during forthcoming National Weeks.

The Gibraltar Sports Advisory Council met on average once a month and set up five sub-committees that meet regularly, over and above the meetings of the full Council. It has successfully completed the first rotation of half of its elected members in December 1997 and were replaced by new ones and all four members that I appointed at the beginning of the first year, at my request, voluntarily stood down to give me a free hand in appointing four new members, some of them were the

same members replaced in order to maintain the overall balance of the Council. I am pleased to report that the Council is working extremely well; there is great co-operation between the Council and myself and through them individual sports associations and the feedback that I have is that sportsmen and sportswomen are generally very pleased with the system. On this note I would like to take up a point of criticism made by the hon Opposition Spokeswoman for Sport where I think in general terms she was accusing me of shielding behind the Sports Council. Let me state quite categorically to this House that I accept and have accepted and continue to accept full political responsibility for all decisions made by me as Minister for Sport or on my behalf by the Sports Department. The Sports Advisory Council is precisely that, an Advisory Council. I consult them and I will continue to consult them. I have made it very clear to them that what they do is advise and that I am free to accept or not to accept that advice; already there has been, I think at least one occasion in which I have acted differently to the thrust of the advice, and I stand by the decision, whether it is on the advice of the Council or whether it is not and even if it is on the advice of the Council, the decision at the end of the day is Government's and mine so let there be no doubt in anybody's mind about the Government shielding behind the Sports Council. It has not happened, it does not happen and it will not happen with this Government.

Coming on to the Premises Committee which I Chair and which meets and has met, on average, once a month, this is a Committee that looks at areas or buildings or facilities that can be used by sports units, societies, associations as premises, as somewhere to base themselves and which we refurbish, as a Government and which we allocate to them. A total of 31 societies have already been allocated premises by this Government and I have made a further six new offers recently. Among them, in particular, I would highlight GFA who have now agreed to move and will move in shortly into what used to be the building housing the GIB Offices in Napier Battery. This is being refurbished for them at the moment. Other recent offers include a reallocation of the Girl Guides Association; the exploration of new premises for the Duke of Edinburgh Award Scheme, and to the Society for the Prevention of Blindness. Once again I pause to take up criticism from the Opposition Member on the work of the Premises Committee and the allocation of premises. I think if I remember rightly, essentially the thrust of what the hon Member said was that the Government were not taking any initiative, that all that the Government were doing was continuing the process of allocation of premises which had been initiated by the previous Government. This is a discussion and a debate that I have had

before with the Opposition Member and that I am not keen to restart and I hope that by giving some facts and figures we can accept what the situation is and avoid what I have no intention of letting become an issue of "I gave three premises and you gave two" or vice versa. The statistical situation is as follows: during their eight years in Government the GSLP actually allocated and handed over premises to six sporting associations. When they left office they had earmarked and presumably would have, if they had returned to office, given premises to a further 12 associations. Of those 12, nine have been continued by this Government and are nearing completion and will be handed over in the near future and three have already been handed over. A number of other premises which the previous Government had earmarked have been either turned down, refused or for some other reason not accepted. So the essential figures are, the previous Government actually allocated six and presumably if they had returned to Government would have allocated a further 12, three of which this Government have already allocated and nine will allocate. Let me stress what I have said in the past, when this Government came into office we looked at that programme and we examined every single promise that the previous Government had made, we cancelled some, we changed some and we accepted some. The 12 are the 12 that we accepted and others we prioritised differently or changed. Having said that six were allocated and 12 were about to be allocated, let me put the counterbalancing figure to that and say that during my period in office this Government have already allocated 19 premises to clubs and associations and there are a number which are still in the offing and will be allocated. Those are the statistics. As I say, I have no intention of getting into slanging matches, those are the facts as reported to me earlier on today.

In respect of the coming sports year we have already started in a positive manner. The permanent battle of recognition by international sporting bodies continues and the Gibraltar Squash Association have been first off the mark in the current year by obtaining recognition from the European Squash Federation. There are now, I am pleased to report to the House, a total of 17 Gibraltar sports associations which are internationally recognised, well above the minimum of five demanded by the International Olympic Committee for recognition of our Gibraltar Olympic Committee. Despite this the recognition of our Olympic Committee runs up against the stumbling block of lack of recognition but I understand that the Gibraltar Olympic Committee are considering ways of taking new initiatives to break the present impasse. In the meantime we await with interest the results of applications from GFA for

recognition by FIFA; from the Shooting Federation for recognition by the UIT; from the Taekwondo Association for recognition by the WTF; and the Gibraltar Tennis Association for recognition by the TTF. Next week will see the first ever international Women's Hockey European Competition to be held in Gibraltar. Only one day later, Gibraltar will host the FIBA Basketball Promotion Cup for men which I mentioned previously and soon after that the basketball women's selection will take part in a similar competition in Austria. Gibraltar Cricket will be participating in the European Championships in July and our fishermen will be competing in the World and European Championships. The European Pool Championships will be held at the Victoria Stadium in 1998, and that promises to be an experience that some of us are not likely to forget from the indications I have so far and I am looking forward to what promises to be a very big event. We are talking of participation in the order of over 500 people and this could be one of the major events, apart from the Island Games, ever staged in Gibraltar. I look forward as well to the participation in the Commonwealth Games in Malaysia in October and the European Hockey National Championships. I am also greatly looking forward to tomorrow evening to a new venture, a major breakthrough in setting a new precedent and that is the new Straits Games which are due to be held in Algeciras on Saturday with the Opening Ceremony tomorrow evening. Nearly 200 Gibraltarians – and I choose my words a little bit carefully – sportsmen and sportswomen will be participating, and I say that because most of them are under 13 years old. The age is no accident, it has been chosen on purpose. The thrust by agreement between the three cities – Gibraltar, Ceuta and Algeciras – has been of a non-political event and the age group is one of the reasons to trying to keep it completely non-political. We look forward to the growth of these Games and any tangible side benefits they may produce and I advise the House that Gibraltar is due to host the Games, because we have done it in alphabetical order, Algeciras this year, Ceuta next year and Gibraltar in the year 2000, by which time I confidently expect the Games to have been expanded and to have included at least Tangier, if not other cities of the surrounding area.

The future for sport augurs well in Gibraltar and I apologise for labouring this particular department but it is close to my heart, and I must pay tribute to the large number of volunteers who devote so much of their time to running and administering sport in Gibraltar. Without them sport would not be what it is and I pledge the continuing support of the Government financially and tangibly for sport in Gibraltar. But before concluding I must take up the final criticism point made by the

Opposition Member – not criticism, I think it was more a plea than criticism – when she said that in recognising that this Government were looking for value for money and asking for sports associations to meet certain standards in choosing people to participate abroad and to depend on financing from the Government, she made a plea which I understood to be that if that sportsman or sportswoman or club or team is representing Gibraltar that those standards should not be applied or should not be expected or should not be strictly enforced. I have to say quite categorically to Opposition Members that I do not agree with that philosophy and that national representation will not be an overriding criteria in respect of meeting standards and meeting value for money. Let me be quite clear about one thing, it is not the Government, it is not me, it is not even the Sports Advisory Council who will be setting those standards, we will expect the sports associations themselves to set standards and make sure that their people meet the standards and satisfy the Sports Advisory Council that the standards have been met. This is a system that has worked very well for many years with the Commonwealth Games Association teams. I have been involved myself as a competitor, I have been involved on the Standards Committee which I Chaired and I know the system works and it has worked well and people respect the system and it is something that works for the betterment of sport and for the betterment of sportsmen. I recommend what was done by a sports association last year which shall remain nameless, where a particular sports person of gender indeterminate, the son or daughter of a committee member of the particular association, a leading sportsman or sportswoman in that particular field, in with a chance of certainly qualifying for finals, maybe even winning a medal and because this particular person just, for whatever reason, did not meet the training schedules and did not attend and fulfil the instructions being given by the coach of the association concerned, the association without any prompting from Government or from the Sports Advisory Council, dropped this particular athlete at the expense of losing a medal. I applaud that decision, I recommend that philosophy to sports associations in general. At the end of the day it is for the benefit of everybody that everybody knows that no one will go along for a free joy ride.

Moving away now to the non-Government organisations and to the Gibraltar Broadcasting Corporation, hon Members may recall that last year the House voted £350,000 for Capital Equipment Replacement Plan of which a substantial amount was for the replacement of the Medium Wave Radiator System, which during the past 40 years, has been doing the job from Wellington Front. The conclusion of this project

has met with a number of problems, the main difficulties being in finding an alternative site that met all the requirements, the right level of propagation, the right level of approval by the town planning authorities, lack of interference with other units in the area like, for example, MOD transmission service. None the least of these considerations was the requirement of a reasonable land area. The problem has forced this administration as indeed it forced previous administrations for a number of years but I am pleased to report that we seem to have cracked the problem that a tailor-made solution has been designed for Gibraltar which occupies a very much reduced land area and which will, I am assured, provide the acceptable level of propagation. It is a system that has been tested elsewhere, in Mexico amongst other places, and is already in use and we have identified a site and subject to civil engineering considerations and approval by the Development and Planning Commission work on the installation of the new aerial will begin shortly and hopefully finish before the end of the financial year.

During the course of the year, GBC produced numerous radio and television programmes. I would just like to highlight four of them: The Enthronement Ceremony of Our Lady of Europe at the Shrine; Local reaction to the tragic death of Princess Diana; The "Live" coverage of the National Day celebrations; and Special programmes to commemorate Radio Gibraltar's 40<sup>th</sup> Anniversary. And, of course, for the first time ever, Radio Gibraltar relayed a "live" broadcast from the House of Lords when the House debated Gibraltar. There is one further undertaking initiative that I want to highlight and that is the GBC Open Day which in December 1997 raised over £21,000 for local charities. This is an event that I think some of us almost take for granted every year. It is one in which the staff of GBC put in a lot of time and effort over and above their normal work commitments and at no extra cost, on a voluntary effort which raises a lot of money for worthwhile causes which is an excellent example of co-operation between GBC and the community and I think GBC deserve special congratulations for maintaining this, year in year out.

This year sees the second year of the implementation of the capital investment programme and once again the Government are making funds available. Provision has been made to re-vote £130,000 needed for the completion of the Medium Wave Radiator, which I have already mentioned and further amounts are being made available, as per the Estimates and this year the Corporation will concentrate on relaying the power supply cable to the Signal Hill Transmitter site and on replacing programme-making equipment. Advantage will also be taken to upgrade

facilities and, whenever possible, digital technology will be introduced. The Corporation intend to expand into using the Internet to introduce a new service and to provide Local News Headlines over the Internet which is something that will carry Radio Gibraltar to a world-wide audience and will, without doubt, be very welcome by all Gibraltarians overseas who have access to the world-wide web and who like to keep in touch with Gibraltar.

Training continues to be given importance and a number of courses have taken place.

To finalise, as I mentioned already, Radio Gibraltar is celebrating its 40<sup>th</sup> Anniversary and to coincide with this the 22<sup>nd</sup> General Conference of the Commonwealth Broadcasting Association is taking place in Gibraltar next week and there will be over 157 participants coming to Gibraltar for this event. It is the most important conference held by the public service broadcasting organisations within the Commonwealth and I have met the Secretary General at lunch time today and I have impressed on her that we are pleased that Gibraltar was chosen and she, in turn, has shown great appreciation for the efforts being made by GBC in organising the conference.

Finally, until such time as the Government arrive at a decision on the future of broadcasting in Gibraltar, the radio and television service as being provided now will continue for the immediate future.

Mr Speaker, as a direct result, as was the case of my predecessors, of my ministerial responsibilities for telecommunications, I am Chairman of both Gibraltar Telecommunications Limited better known as Gibtel, and Gibraltar Nynex Communications Limited better known as Nynex or GNC. The year has been dominated, as hon Members are aware, by two issues. By the continuing non-recognition by Spain of Gibraltar's 350 geographical code and secondly, by the merger negotiations between British Telecom and Bell Atlantic on a possible merger between Gibtel and Nynex.

With regard to the numbering issue, I have nothing substantial to report since I last spoke to the House in answers to questions. The issue remains with the European Commission for decision of what further steps to take.

The negotiations for the merger are continuing and are now at the concluding stages and I expect to be in a position to make an announcement within a matter of weeks.

In respect of the companies themselves, I will deal in alphabetical order with Gibtel first which continues to experience growth; last year of the order of 9 per cent in incoming international traffic from direct dialling and 3 per cent in the volume of outgoing traffic. At the same time during the last year Gibtel reduced by 10 per cent the level of customer collection charges to the United Kingdom which is its major market accounting for some 70 per cent of the traffic that it carries. It also brought forward the commencement of the cheap rate period to 8 o'clock in the evening and has reduced the rental of pagers and for dedicated bandwidth or IPLCs. The company experienced a growth of 64 per cent on its GSM or mobile network and now has a market base approaching 2,000 customers. However, impressive as those figures may appear to be at first glance, this penetration which is of some 6 per cent is below average when compared with the rest of Europe and the reason for this is directly attributable, as hon Members know, to the refusal of the Spanish Administration to sign a roaming agreement to allow the use of Gibtel telephones in Spain.

The company added to its portfolio of services a video conferencing bureau during the year and this is now available on a rental basis for customers from the Finance Centre or from any other sector of the Gibraltar community. Work has begun on the upgrading of the signalling protocol of the International Bearers supporting the network and the Mobile Switching Centre is being upgraded to perform the functions of an International Switching Centre.

An innovation of which hon Members may have got glimpse of or deducted something in the Estimates is the negotiations currently taking place which are at a very advanced stage between Gibtel and the emergency services, which includes the Ministry of Defence, for the introduction of a private mobile system based on the TETRA signalling protocol. This is the standard which has been adopted by the European Technical Institute for emergency services within the European Union member states. The intention is for the company to finance the investment in the infrastructure and support and maintain the system that will give Gibraltar's emergency services access to cutting edge radio technology that is envisaged to follow the Trans-European features of GSM.

Turning now to Gibraltar Nynex, the company opened up a new commercial front during the course of the year by establishing itself through its wholly-owned subsidiary, GNC Networks Limited as an internet service provider. Two links were established for resilience purposes; one to Washington and the other to the United Kingdom and, following a trial soft launch, the service continued to improve and shown itself to be fast, reliable and is attracting a rapidly growing customer base.

As a direct result of the inauguration of the new FLAG cable connection through Estepona, GNC has commissioned a new fully digital signalling system C7 (ISUP) and is now in the final stages of activating a circuit linking Gibraltar and the UK with digital fibre optic circuits from end to end. This new signalling system will replace the former analogue links with Spain. In November last year, a new computer system, a Sun Billing system, was commissioned to replace the old NCR Tower, and this will pave the way for the integration of GNC's computer facilities in the future. Three new issues of phone cards were produced depicting butterflies, FLAG and warships. Finally, the 1997 Telephone Directory was also produced and distributed on schedule with little, if any, complaints from the public and the current directory is in the process of being produced, the first proofs are about to be presented to the company and will be distributed towards the end of the summer. I take this opportunity to highlight that the section covering Government Departments and other non-Government services has been completely revamped following comments made by members of the public and it is hoped that the new format, which incorporates both sections, which will include an index and which will be much more user-friendly, I hope, will meet with the approval of Opposition Members and especially of telephone subscribers and the public in general.

Coming to my fourth non-Government department, Lyonnaise des Eaux, once again as Chairman, I am Chairman as a result of my ministerial responsibilities, needless to say the company is responsible for the distribution of fresh and salt water supplies throughout Gibraltar. It employs 104 persons of whom 19 are Government-seconded employees. The company has been instrumental in procuring for Gibraltar full corporate membership of the International Water Services Association. Members of the management team are active participants in the Committee and the Managing Director is a member of the Board of the IWSA. During the last financial year, 1,065,511 cubic metres of potable water was supplied. Lyonnaise pumped a total of 3,135,000 cubic metres of sea water to the various sea water supply reservoirs.

The various sewage pumping stations were operated at 100 per cent availability.

The trial I mentioned last year to evaluate the feasibility of trenchless technology for renewing old water mains was successfully carried out. Arising from this, the company is planning to replace some 4 kilometres of pipeline this financial year using no-dig pipe bursting techniques. These works are scheduled to commence in September this year.

Lyonnaise have also put in a new billing system. The software being developed by a local computer company. The next development, in computer terms, the company is envisaging is a customer contacts system which will improve the management of its customer services.

Finally Mr Speaker, coming to the Philatelic Bureau for which I also have political responsibility, I am pleased to report that despite the general tendency world-wide to the contrary affecting other Philatelic Bureaux, the Gibraltar Bureau is still observing a gradual growth in both sales and collectors and it expects another 25 per cent increase in sales and collectors over the next two to three years. The Bureau has doubled its sales compared to its start date four years ago. The casual buyers on its name database are now well in excess of 150,000. The number of persons employed has doubled and the wholesale trade to world-wide Agencies has increased by some 25 per cent. The Bureau, on behalf of Gibraltar, is attending virtually all marketing meetings and symposiums to do with the marketing of philatelic products and the changes in marketing which will come about as a consequence of most European countries changing their currency to the Euro. In June 1999, as a result of the proceeds from the sales of the Diana, Princess of Wales stamp issue, the Bureau will be making a donation, both to the Diana, Princess of Wales Memorial Fund and also to a number of local charities. An innovation in the current year was the promotion of Gibraltar through international personalities which, in some way or another, are linked to Gibraltar. In 1997, Gibraltarian, John Galliano, helped in producing stamp designs which made headlines in the fashion and general international media world-wide. This year it is planned to invite to Gibraltar the great great granddaughter of Lord Nelson for the issue of the Nelson's stamps. This innovation is intended to be continued next year. The Bureau is responsible for the international marketing of the Gibraltar Nynex Phonecards and is currently negotiating for world-wide exclusive rights on the production of Phonecards depicting certain international personalities and their charitable organisations.

Mr Speaker, in conclusion I would like to pay tribute to the efforts of a number of people during the course of the last financial year, and to offer them personal thanks. First of all, to the Heads of the five Government departments for which I have ministerial responsibility and to all the civil servants who work therein, namely, Support Services, Electricity, Fire Service, Post Office and Sport. Secondly, thank the senior management and all members of staff of the non-Government organisations for which I have ministerial responsibility, that is, Gibraltar Nynex, Gibtel, GBC, Lyonnaise and the Philatelic Bureau. Thirdly, to my personal staff as Minister for Government Services, my PA, Mrs Denise Chipolina and my Personal Secretary, Mrs Olga Palao, without whose work because they by themselves, together with me, form Government Services and without whose support it would be impossible to exercise responsibility over such a wide area of 10 different departments and non-Government organisations.

Finally, Mr Speaker, last but not least, I would like to repeat something I mentioned very briefly during my contribution and that is to pay tribute and give public thanks to the many people throughout Gibraltar who on a purely voluntary basis, year in year out, help to administer, to run sport, to form part of the numerous committees that are involved in sport in Gibraltar. These are the unsung heroes of the success of sport, nationally and internationally; the people who provide their time unselfishly, without being paid, without in many cases even being thanked and who yet come back year after year to continue to provide that service. I think the whole of Gibraltar owes them a debt of thanks, certainly the sportswomen and sportsmen of Gibraltar and the associations owe them a debt of thanks and I am pleased to offer them personally, on behalf of all Gibraltar and all sportsmen and sportswomen a very sincere vote of thanks. Thank you, Mr Speaker.

HON J C PEREZ:

Mr Speaker, before I deliver my own contribution I would like to take up a couple of issues raised by some Ministers yesterday. The Hon Mr Holliday explained the shortfall in revenue from driving licences as a result of the full application of European Union directives which now create a residential qualification on persons wishing to take the driving test in Gibraltar. This is not the case. The residential qualification has been there for years as the application form clearly depicts. Last year the Minister supported the expenditure of £96,900 for driving examiners arguing that there were many calls for examiners to test drivers outside normal working hours, "Much of the demand comes from foreigners"

said Mr Holliday. These foreigners were all required to fill in a form ascertaining that within the preceding six months they had been resident in either Gibraltar or the United Kingdom. What seems to have happened is that there is a suspicion on behalf of the Spanish authorities that many of these foreign nationals made a false declaration in Gibraltar and the Spanish authorities are now refusing to recognise some of these licences as bona fide. I think the Minister ought to, at least, have been aware of that.

The other issue I would like to take up is the question of the non-industrial complement. The Chief Minister has been promising clarification on this matter for some time yet every time he gives us details of posts and complements he seems to do the opposite. He confuses the issue further. He said yesterday, to give but two examples, that there were 168 AOs within the administration excluding those civil servants within the Health Authority. If hon Members look at the Estimates in front of us today they will find that, according to the Estimates, we are making provision for 225 posts of AO, or are we? We do not know because the figure given by the Chief Minister and the figure that is reflected in the Estimates are totally different. Similarly, the figure for AAs in post, which he gave yesterday, was 44 and in the Estimates there are only 23 posts, the reverse is true here. We are making less provision for more posts, according to the figures produced by the Chief Minister. I give notice, Mr Speaker, that we will seek further clarification at the Committee Stage, particularly since a lot of what the Chief Minister said last year does not tally with some of the explanations given yesterday.

Mr speaker, in my contribution to the budget debate last year, I drew attention to the fact that nothing on the expenditure side was intended or expected to generate more revenue for the Government. The results for the year show this to be true even taking into account that the revenue estimates, last year, according to the Chief Minister, were prepared on the basis of a worst case scenario. If the Chief Minister had also spent all the money he said he would spend, the state of Government finances would not be what they are today.

As Estimates go, last year's presentation will go down in history as the worst forecast ever. The Government announced a spending programme last year of £26 million, that is deducting the Harbour Views £10 million which were to be borrowed, and only spent £11 million out of the estimated amount. Out by – not £1 million or £2 million or £3 million, but by £15 million. With a variance of this nature and size one can hardly

have any confidence whatsoever that the figures in front of us today are any more accurate. This is particularly so in the Improvement and Development Fund where the expenditure budget estimated for the year is £27,915,000. One wonders whether the variance next year will be the £15,000 or the £900,000 or we will again see another distorted scenario with the difference between the sum estimated and the forecast outturn running into millions of pounds.

It is all very well for the Chief Minister to make longwinded statements and speeches about transparency and accountability. He ought to realise that the Estimates he presented to this House last year are less transparent than ever before and therefore less accountable to the scrutiny of this House. He fails to explain why it is that this happened last year and why it is that he thinks it will not happen again this year. Why it is that Government think they have the capacity to spend £28 million this year when they could only spend £11 million last year. What is really transparent is that either he did not have a clue of what he was doing last year or that he deliberately tried to mislead the House; I tend to believe the first of these two explanations *[Interruption]* I have not given way.

Mr Speaker, turning to matters related to transport and traffic, I notice that there is no new expenditure on traffic management. If there is an area where this Government urgently need expert advice it is on traffic matters. The GSD Government claim that in contrast to the GSLP they are a Government with a hands-off approach that follow the advice of experts and professionals, sometimes even without question. On traffic, all one hears about the intended changes in traffic flows is that the Chief Minister and the Minister for Traffic are ignoring the warnings and advice of experienced professionals within the Royal Gibraltar Police and the Traffic Commission; that the intended changes in traffic flow will go ahead by Ministerial decree despite all the negative consequences this will bring to pedestrians and motorists alike. Indeed, I am told that if phase three is implemented, the City Fire Brigade will be unable to adhere to its standard seven minutes response time in a fire or emergency in the Upper Town area. Surely, the Government cannot be so obsessed with their pedestrianisation programme that they would ignore this and carry on regardless; create absolute traffic chaos instead of facing the reality of Gibraltar's circumstances. The Government have even tried to justify these changes by arguing that they would be creating better access for the ambulance to St Bernard's Hospital when a child can tell you that the opposite is true.

It is this same obstinacy which did not allow them to admit they had made a mistake over the regularity of MOT tests for vehicles over four years old. Checking through Hansard I have been able to discover that the Hon Mr Holliday last year actually did make a reference to the minimum requirements of the tests being biennial. Yet when I raised the matter in the House after the annual tests had already been introduced, the Chief Minister agreed to look at it again arguing that these things are prepared by officials and that Ministers had not realised that the minimum requirements were that these vehicles should take the tests every two years. Definitely Mr Holliday knew about it because he had informed this House but he must have obviously forgotten all about it by the time that the changes were effected. Then comes the last excuse of the Government which is that the annual tests have been introduced on grounds of safety and on expert advice. As if other EU jurisdictions applying the minimum requirement of tests every two years were in any way compromising safety standards.

Yesterday, again, we saw the Minister having to rush a Bill through this House, now changing the effective date of the requirement of an MOT test certificate having now gauged what most people in Gibraltar already knew, that a great number of vehicles would not be able to collect their road vehicle licence because they still had not had a chance to get their vehicle through MOT. An unnecessary inconvenience and extra expenditure to motorists which the Government can still remedy if they climb down from their high horse of infallibility.

Mr Speaker, last year the Hon Mr Holliday told this House, "I wish to state that it is not Government policy to privatise the Highways and Sewers Section". He said that Government were to carry out a human resources audit to establish appropriate manning levels. I would suppose that if that audit ever did take place, the result of it is not what is reflected in today's Estimates in front of us. All that is shown there is an extra industrial worker and a typist. If we turn to Head 6-C, Transport – Roads, under subhead 5(b) – Maintenance of Highways, we can see that of the £551,000 estimated for the section on Maintenance of Highways, only £189,000 was spent during the year. What we are seeing is clearly a running down of the section with work valued at nearly £2.5 million having been paid to construction companies for repairs to roads, pavements, car parks, et cetera, all work related to that section. The road section had put proposals to the GSLP administration on the basis of leaving the Civil Service and entering into a commercial relationship with Government. Part of those proposals envisaged the creation of new jobs for Gibraltarians together with a period of training.

The concept of going private was rejected by this Government. The result is that less work is being carried out by this section, with contractors headed by Amey which had itself at one stage shown an interest in taking over the section, doing most of the major works. Contractors which, I am informed, employ very few Gibraltarians and there is another £1 million in the Improvement and Development Fund for this to continue through the year. Let me inform the Hon Mr Netto that governments try and ensure that citizens of their countries are able and equipped to take over jobs available in the economy at least at the same pace as foreigners do in order to create what he says we are trying to create in the Opposition and that is in order to create racism, that is what prevents racism. But the irrational, irresponsible and unwarranted and unsubstantiated remarks by the Minister this morning lowers the degree and standard of debate in this House as never before. To say and to accuse the Leader of the Opposition and compare him with Le Pen when the Minister has swung from being a Marxist Leninist in the Partido Socialista de Gibraltar to joining a Right Wing Party with credentials similar to the Partido Popular in Spain. How can he dare criticise the Leader of the Opposition for being racist or compare him to Le Pen. Mr Speaker, it seems to me that the hidden agenda of this Government is to do away with the roads section completely with all works in the future carried out by contractors. The same philosophy it is following in the Buildings and Works Department and I know that anyone who is against GSD policy or opposes the Government in any way is considered by the Minister, and probably by the rest of the Government, to be GSLP activists. But people are living in a democracy and are entitled to disagree with the Government even if the Government think that they are so righteous that they can sit in judgement over everybody and believe that they are always correct and everybody else is wrong. Of course, the running down of the Buildings and Works is being implemented by the Hon Mr Netto who was formerly the Branch Officer of the TGWU and who, in his union role some three years ago, occupied Convent Place with workers from that same section who by his yardstick were presumably then GSD activists, because workers on Government training schemes were repairing the flat of an elderly lady on welfare and he said this was contractorisation and that he was completely against it. Now, having abandoned all the principles he said he stood for then, he comes in as Minister and implements exactly or to greater degree, what he said he was trying to stop when he invaded Convent Place with what – bully boys then or is it bully boys now and then they were gentlemen? This is the kind of double talk, duplicity and hypocrisy of this Government which they try to blame on everybody else but only to protect and camouflage themselves from that accusation which they

continually practice. Let me say, Mr Speaker, that the Minister's outburst this morning can only be attributed to one thing, that he has been two years in office and that he has done absolutely nothing, either in the Department of Buildings and Works or in the Employment area or in the training area and the evidence of it is in front of us today. He has not only done nothing, he has done less of what we used to do before. In every sphere there is room for improvement, the Minister has had the challenge of being able to come to this House and say, "I have improved what you did not do", well he has not. He has not only done nothing on top of what was there, he has done less of it which is even worse and the unemployment figures speak for it today. He has been a complete disaster and a complete failure in everything he has touched.

Mr Speaker, I will turn, if I may, to matters concerned with the Gibraltar Government Lottery which appears to have forgotten or escaped the Hon Col Britto this year. Let me remind the House that the Hon Col Britto used to question the viability of the Lottery from the Opposition benches. As recently as April 1994 he used to be of the opinion that fortnightly draws should be changed back to weekly draws, at the time he was concerned about the returned tickets and the loss of income to Government. The Minister said last year that he was still concerned about the high level of tickets returned and that he was studying various proposals following meetings with the vendors. He also said he was to formulate a questionnaire to carry out a market research and to foster interest in the lottery. Let me tell the Minister that as far as Government revenue is concerned, up to my last year in office, 1995/96, the contribution to revenue from the lottery was between £500,000 and £730,000. In 1996/97 it dropped to £162,000 and the result for this year is £192,000. If he would care to look at the accounts of the lottery he will notice that the returned tickets have increased in the last two years. If there was ever a case for worrying about the future of the Gibraltar Government Lottery it is now, and since the Minister was so eager to see changes whilst in Opposition, I look forward to see what he proposes to do now that he has completed the market research, or I presume he has completed the market research.

HON LT-COL E M BRITTO:

Would the hon Member give way?

HON J C PEREZ:

Yes, by all means.

HON LT-COL E M BRITTO:

I thank the hon Member. The hon Member is absolutely right, I did express those concerns in Opposition and they are concerns that I still have but if the hon Member will think back what I also used to say is what has happened now, that the lottery was depending, the way the lottery had been restructured the lottery was making money only because the Government were winning prizes themselves out of the tickets that were being returned. I said and I am down in Hansard as having said it more than once, the year that that does not happen, the year that it goes against the law of averages and the year that the Government do not win prizes then we are going to be in dire straits. That is exactly what has happened, Mr Speaker, that this year ....  
*[Interruption]* Yes, it has because I have researched this. What has happened this year is that half the tickets that have been returned there have been less prizes. So the same or a greater number of tickets have come back but not the same number of prizes have been retained by the Government and therefore the amount of money accrued to the Government has come down.

As regards the consultation exercise, the questionnaire and the various other points made, again the hon Member is absolutely right. The questionnaire has been completed and has been analysed. I have held two or maybe three meetings, and I have another one coming up next week with the lottery vendors, all of which I am sorry to say have been inconclusive. The Treasury has been involved in the exercise; the lottery vendors have made proposals for changing the lottery which the Treasury is not happy about. The crux of the questionnaire seems to show that at first glance, anyway, that the public is satisfied with the present structure of the lottery except that when we analyse it further we find that 90 per cent of those who have replied are people who are buying the lottery anyway. So presumably they buy the lottery, they are satisfied with it so the suggestions from the questionnaire have not produced anything very tangible. Yes, I share the concerns, I still have them, I am still actively looking for a solution but I am advised from all quarters that the last time the lottery was substantially changed in structure, seems to have been – this is not an accusation – for the worse because since then the lottery has been deteriorating. So I am very conscious of not making changes until I am confident that those changes are recommended by all those concerned, meet with the approval of the Lottery Committee, with the Treasury and with the lottery vendors. So far, I am sorry to say, we have not been able to find a solution or a formula that meets with all those.

HON J C PEREZ:

Well, Mr Speaker, the Minister might be right in thinking that I was luckier than he was in winning prizes for the Government when I was in office but what I have said as well is that in the last two years if he cares to look at the lottery accounts he will see that apart from that factor the returned tickets have increased in the last two years whereas they had remained static to the level that the returned tickets were when the lottery was weekly before that. What I am saying is that there is a case to worry about it, there is certainly a case to worry about it now and that since the Minister was so keen in making changes then I take it that having consulted the people I used to consult he now takes my point of view and what I am telling him is that if he thought so much of it here why does he not try and do something now? But I take the point that the Minister is taking the same advice I used to take when he used to criticise me from the Opposition.

The Hon Col Britto also showed concern in 1994 that telephone rates from Gibraltar to London were higher than from London to Gibraltar. He was joined in his arguments by the then Opposition Member Mr Freddie Vasquez and by the Chief Minister himself in making a case for reductions in telephone charges. What was then Nynex had still not made a dividend payment to its shareholders and with liberalisation still to be introduced. I put it to the Government that there is a strong case today for telephone charges to decrease across the board. In today's competitive environment, with call-back services making greater strides within the business community and the mobile telephone in Spain competing with us, there is a case for accelerating the decreases in international charges initiated by Gibtel when I was Chairman of the company as part of my Ministerial responsibilities. There must also necessarily be a case for cuts in charges across the board in a situation where the estimated dividend payment of Gibtel was £1.8 million and the forecast outturn is £2,052,000 and where similarly the estimated dividend payment of Gibraltar Nynex was £900,000 and the final figure is £1.8 million – I am talking about the global figure of the dividends for both shareholders. The figures show that both companies are showing profits exceeding their expectations and therefore some of that must be given back to the consumer. I am not, of course, as inconsiderate or irresponsible as Mr Vasquez was from the Opposition benches. He was of the view that our telecom partners were in Gibraltar milking us and that we needed to either exercise control or sack them. I really feel there is a strong case for Government to go back to their partners and argue convincingly for a reduction in telephone charges. Of course, the Chief

Minister does not need to do that. His policy, advocated from the Opposition benches in 1994, was again somewhat more reasonable and considerate than that of his colleague, Mr Vasquez. He agreed then that the telecom partners of the Government who had invested in Gibraltar were entitled to a return to their investment. It was the dividend payment of the Government, which he claimed then, was a form of hidden taxation. This is what the Hon Mr Caruana suggested in April 1994, and I quote from Hansard, "But if the Government used their share of that fatted calf in the form of dividends to in effect subsidise the usage, then we would all be killing two birds with one stone. The joint venture partner would get his return but the user would get the cheapest possible tariff". Well, Mr Speaker, I am sure that the reference to fatted calf was not either to me or anyone else in the House. He was of course referring to the dividends the Government receive which this year amounts to a juicy £1.926 million. Enough for the Minister to reduce telephone charges considerably, so that the user may get the cheapest possible tariff. This is, in fact, a golden opportunity for the Chief Minister to get into the role he loves so much of Robin Hood and give back to the poor what his hon Colleague, Col Britto, has robbed them throughout the year and he is then the hero of the working class which he likes so much to depict himself as.

Mr Speaker, I have to say, for what it might be worth to the Government, that the GSLP is against the move of the Post Office to Casemates. We did, from this side of the House, make a case for extensive repairs to be effected to the rear part of the Post Office which is in a very deteriorated condition. We did acknowledge that there was a problem there; we were not able to effect the repairs when we were in office; we had made plans for those repairs to be effected and we raised that fact when we came into Opposition. I understand that it is expensive to do this but certainly not impossible. I understand this is a listed building, at least the façade of the General Post Office is, and has historically housed the Post Office for many years. In the centre of town, a convenient location for many retail outlets, we believe that the main function of the Post Office should remain in its present location. There is nothing, however, stopping the Government from opening a small branch at Casemates, orientated towards selling stamps for postcards, if that is really what they want. Other than that, the move would be a complete waste of public funds and I was going to say that I see no funds available this year but the Minister has explained that the move is not scheduled until the next financial year and I would ask the Government to reconsider the issue before they make the move which I think will not be helpful to any of the users of the Post Office.

Mr Speaker, another source of concern for the Opposition is the continued neglect of the cemetery. Quite apart from the fact that works that commenced nearly two years ago, appear to be incomplete, the overgrown weeds around the graves are an eyesore and an irritant to those that methodically visit the cemetery to upkeep their grave. The latest situation was already a thing of the past when we left office in 1996. There was a contract in place worth some £30,000 which was working relatively well and which was supervised, I think, either by the Superintendent of Cemeteries or the former Superintendent of Cleansing. This contract was cancelled by the GSD Government, probably in the expectation that one of the existing Government companies would take on the work. Well, ever since the contract was discontinued the deterioration has crept in and the place is now in an absolute mess. *[Interruption]* There are weeds all over the place, overgrown between the graves and the contract that was awarded was for that. The Minister might have resurfaced the pathways but the contract that he cancelled was not for the maintenance of the pathways, it was for the overgrown weeds that are overgrown again.

I must mention, Mr Speaker, that there is talk within the Civil Service of there being an attempt by the Government to breach the principle of parity with UK in its current pay negotiations with the union. For the GSLP the principle of having established that link for the public sector was what kept the standard of living of Gibraltarians higher than in the hinterland and what probably avoided the Spanish osmosis plan to take effect. It was a sacrosanct principle which we defended outside Government, prior to 1988, and during our eight years in office and we would defend again, if it is true, that there is any wish on the part of the Government to breach that principle. Definitely, Mr Speaker, we think that if that is the case, there should be a debate on the matter if it is a matter of Government policy, that they now wish to see wages and salaries negotiated in a different way to the way that they have been negotiated for the last 14 or 16 years.

In rounding up, let me say that this budget offers more of the same. There is no reflection of new wealth being generated and the spending programme seems as over-ambitious as the last one, although there is no visible capital investment expected to create a return. It is investment in the tourist product with little evidence that the numbers of visitors is on the increase or will generate the kind of wealth and growth that the economy needs. The arguments put last year against the elimination of Special Funds are as valid today as they were a year ago. I said last

year that rather than a prudent budget it was a gamble into the unknown probably based on an over-optimistic premise that tourism would create and generate the necessary growth Gibraltar needs. This year the premise seems to be exactly the same but the risk is greater because the commitment to expenditure continues and the growth is still not showing. A budget based on the single-minded vision of one person with not even a flicker of light at the end of the tunnel. I rest my case, Mr Speaker.

The House recessed at 5.00 pm.

The House resumed at 5.15 pm.

HON P C MONTEGRIFFO:

Mr Speaker, as the Chief Minister has indicated in his own contribution, the Department of Trade and Industry has undergone certain transformations, certain changes in the context over the last year and broadly speaking we are comprised of three divisions. These are - the Commercial Division, a Finance Centre Unit and the Administration and Statistics Division.

The Commercial Department, just to run through that quickly, includes, of course, the EU Unit, a Unit that is dedicated just to the promotion of the EU funds and to the machinery necessary to give effect to the requirements established by those funds and also includes within it the Small Business Board which was brought into the Department. It is likely, Mr Speaker, there will be further development within this Division in the context of the next year. We have found quite a need for the Small Business Board for the facilities to small businesses it offers. I can tell the House that we have received in the different categories, 139 general enquiries over the last year, 135 funding enquiries and we have had 26 start-up enquiries. Most of those contacts are personal contacts within the office, some of course are on the phone, but there is clearly a need to provide some assistance to business, especially small businesses. The occupants of Governor's Cottage, for example, have all been really taken through that process. Governor's Cottage is now fully tenanted and it has all benefited from the facilities which the Unit has been providing in terms of Trade Licence advice et cetera.

On EU funds the House generally has a feel, following questions on this matter, of how that issue has gone, in particular in the context of the private sector. I remind the House that there have been 14 applications

received from the private sector for assistance, nine of which have been granted; the others are either pending or have been rejected. And, of course, of a special importance in the context of EU funds generally, is the area of training which my hon Colleagues have spoken about and which this year will see further developments.

Without wishing to go into many details, I think two of the most important public sector led projects of this year, mainly Bleak House and Casemates, are a good demonstration of how EU funds, in this case Konver funds, can be used productively to lend assistance; in one case to training, in the other to the rejuvenation of an old part of the town, for commercial purposes.

The Finance Centre Division, the second element I spoke about, has been constituted formally. This is the first year in which the Finance Centre Development Director has been in place. I believe, Mr Speaker, that that facility and his involvement has been an excellent move. There are three main things that Unit does: Firstly, it supports the Ministry in our own strategic planning and there are issues that are, as I will develop later on, increasingly global, increasingly challenging for Gibraltar to have to deal with. Secondly, it liaises with the industry. I do believe that the capacity afforded by that Unit now gives the Government and the industry a much better interface than before. And thirdly, of course, it leads on promotion and marketing. Kicking off with the Britannia visit in July last year, I think a lot has been done in focusing and marketing, and I will have something more to say about what we believe must be done in the next year.

Finally, Mr Speaker, the third part of the Department is the Administration and Statistics element of it. This really provides an element of miscellaneous support. We have heard in this House the Government's plans for the development of the collation of statistics. I simply would like to add my own thoughts to this issue briefly. Clearly better statistics are necessary. There is some frustration felt within Government at the fact that in some areas it seems as if we are working in a vacuum without a very good idea of exactly what sort of response any particular initiative gives rise to because the data, both historical and what we can actually achieve in the context of the current machinery, is frankly not good enough to make formal judgements on.

Mr Speaker, the economy of Gibraltar and the whole issue of creating investment interest in Gibraltar is subjected to a couple of broad issues that show the way that Gibraltar has moved into a fully commercial

environment. Firstly, there is the whole issue of globalisation, a word much misused and perhaps little understood, but nonetheless something that means something real in the current situation. That globalisation, brings threats and it brings opportunities. We heard the Opposition Spokesman for Telecommunications and Government Services talk about the threat to telecommunications in the context of real globalisation in telecommunications, beyond what was the case even five or 10 years ago. Technology is moving so fast that globalisation is bringing challenges unimaginable only fairly recently. The whole thrust is not just European Union directed, it is also OECD driven, it is G7 driven. Many of the issues that Gibraltar will have to tackle with in the context of tax harmonisation and the introduction of the single currency, many of those are issues that are global rather than just specifically European. I certainly had occasion to feel that when I visited the United States to see the Federal Reserve Board earlier this year, Gibraltar was very much within their sights. The idea that a place even the size of Gibraltar can somehow live insulated from the eyes of the wider world is naïve. Gibraltar is a place that the Federal Reserve Board, together with other small territories, keeps an eye on and therefore in dealing with this process of globalisation the important thing, in our view, is to know where to draw the line. To know how to respond to what is a global agenda; a global agenda that looks towards disclosure in certain areas, looks towards certain standards of commercial conduct, but at the same time knowing what is necessary to preserve in order to keep economies like Gibraltar viable and competitive.

The second broad issue is, of course, the general volatility of economic forces in the world. I do believe that Gibraltar, even our little Gibraltar, is subjected to the waves caused by volatile conditions elsewhere. Whether they be South East Asia, whether they be the developments in Eastern Europe, whether it be the expansion of the European Union as a result of those developments; they all have an impact in Gibraltar. Will there be structural funds beyond our current programmes will depend to some extent on the way the European Union grows. All these issues are issues that Gibraltar can no longer afford simply to regard as of no consequence to us. And, of course, one very strong area in which volatility becomes of relevance is the exchange rate, an area where we believe volatility is likely to continue. Whilst orthodox opinion may suggest that the pound will weaken over the next year, I do not think local business can rely on that with any certainty. Our view is that, if and when the UK joins the Euro, that will create a new environment but until the position of the UK becomes clearer, it is likely that the strength of the

pound will be open to many different forces and that therefore uncertainty is probably the only thing we can predict with any clarity.

The other issue, of course, is the general political and external influences brought to bear on Gibraltar. I think this cannot be forgotten in a debate about the future direction of the economy because we have to be conscious of the limitations within which we are working. There has been a reference to the telecommunications difficulties caused by Spanish pressure. Looking at tourism I think that the success that my hon Colleague has had in that area is nonetheless brought about in the context of an airport that is severely limited in its development because of political blockage; a port that has no communication with the surrounding area of Spain, and a frontier that again is potentially open to political whim. I think it is important to place that as a matter on record in a debate of this nature because it does underscore the particular challenge that Gibraltar has to face and the need perhaps why our competitiveness and our quality and what we are trying to do has to be all that bit sharper than places that we would normally be competing with. How have we come out of all this? How have we come out of the volatility and of the various environmental influences that come to have a bearing on Gibraltar? In my view, Mr Speaker, with remarkable resilience. I do believe that Gibraltar continues, and primarily the private sector, to be resilient in the transformation which we are still undergoing. I believe strongly that we are seeing enhanced levels of confidence, that we are seeing a more focused business interest than before and that there is a more stable and attractive environment for inward investment. It is not just the Government that are saying this, I think the international press view, investors that I certainly deal with on a daily basis, people who have dealt with Gibraltar historically over a period of time, all pay testimony to the fact that Gibraltar today is much better placed than two years ago to actually survive in an increasingly competitive situation. I know Opposition Members do not accept that analysis and I will have something more to say in a minute on it. But I can tell the House certainly from my own personal experience, and I think I have made reference to this in the past in similar debates, that the conditions for business in Gibraltar two or three years ago, in other words, towards the end of the last administration's tenure, became in my view absolutely impossible. I have described it as virtually a collapse in investor confidence towards the end of the last administration and I do believe that we have done well to retain the level of business that was hanging on to see what would be happening after the last elections and indeed provide a foundation for new investment coming to Gibraltar. But it remains a fiercely competitive world and because we are labouring

under the particular circumstances that I have broadly described, the task for Gibraltar is that much more difficult. One of the issues that continues to face Gibraltar is, of course, the question of the MOD rundown. The House will recall that the announcement made several months ago indicated that the cuts that the MOD would be introducing would be less severe than originally anticipated. The House will recall that from the original figure of about 700 job losses that figure was reduced to 300 job losses, 100 jobs having gone through natural wastage. It seems clear that the mechanism of early retirement and voluntary redundancy which was the prime instrument through which we were all looking to handle the rundown, has not given rise to the number of people taking up that option than we had anticipated. Whilst as I speak I do not have figures that would be able to confirm that position, I am awaiting those figures from the MOD, my view in discussion with the Unions and the understanding I have received from the MOD, albeit without figures, is that the uptake has been less than we had wanted. The House will recall that the basic expectation and hope was that through a combination of early retirement and voluntary redundancy we would be able to effectively deal with the whole 300 thus avoiding any need for compulsory redundancies. That is an issue that we will have to keep an eye on and I am certainly quite happy to share the information on numbers once I have that from the MOD. But two other issues are on the horizon with regard to the rundown that also complicate the position. The House will recall that beyond the 300 job losses that were anticipated there were other issues which potentially could have affected jobs depending on decisions taken by the MOD as we move forward. The first of those issues was the "competing for quality" exercise. The MOD has a commitment under existing UK policy to look at all its operations and determine whether, through a number of mechanisms, including things like competitive tendering, it is possible to do what they do more cheaply and thereby get better value for money. Our position on this is very clear, Mr Speaker. We have indicated to the MOD that whilst we are not opposed to a rationalisation of certain facilities, if there are no job losses and if indeed security in employment is not threatened, it is not acceptable to import into Gibraltar, lock stock and barrel, UK thinking which is not sensitive to local conditions. So we are quite happy, and indeed are engaged with the MOD in looking at the rationalisation of the water production facility, we are looking at the possibilities of developing the laundry facility where there might be some commercial opportunities, and we are also in discussion with regard to a new sullage plant investment that would also allow for the decommissioning of the MOD plant. But other than in examples such as that, we are totally opposed, and have taken a joint coherent view with the TGWU on this,

to the contractorisation or commercialisation of functions that cannot be rationalised in the way that I have indicated. All that would do, is frankly export jobs probably to Spain because we do not believe there is the capacity within the private sector and certainly within the timescales that the MOD would seek to have us work to, to absorb the type of demands that would be made of it.

The second issue which looms on the horizon is of more recent origin and that is what is commonly known as the strategic defence review, namely, the review brought or announced by the Labour Government in the UK. That review has had the effect of holding back a number of developments with the MOD in the rundown much to the frustration of the Government. We understand that it is likely that the review will be public by the end of May or June but again I would not be surprised if that was further delayed since the review had been expected earlier. The review may or may not be bad news for Gibraltar. I should say that the local MOD view is that it would probably be neutral, that it will not have any impact on their activities here and in particular on jobs. But to some extent it is crystal ball gazing and until we actually see what comes out one should not make any judgements. There is the prospect of increased use of Gibraltar. Without raising expectations I do know that the MOD has argued for an increase in the use of Gibraltar, that there are facilities available here that in a rationalised defence restructure of the UK's needs might in fact be useful. But that is another matter, as I say, that I think we will simply have to keep an eye on for the time being. One of the consequences of the strategic defence review, a direct consequence of that has been and this has been a particularly frustrating aspect of work over the last year, that it has held back many land transfers that were earmarked for delivery to the Government. The House will note, when I run through a couple of developments that we will be looking at shortly, that many of those are dependent on land releases from the MOD. Those have effectively been frozen and will remain frozen despite our best efforts until the review makes the position clearer. Obviously the MOD position is that facilities that potentially have a defence use in the new world following the strategic defence review, although previously earmarked in theory as being surplus to defence requirements, must be held in suspense until the position becomes clearer.

One other matter, finally, with regard to the MOD I think is important to bring to the attention of the House is the position with regard to the Lands Memoranda. The Government have taken the view that the Lands Memoranda require renegotiation. The provisions of the

Memoranda are totally outdated, they produce a situation where the transfer of land which is vital for economic development is made very difficult and we have to have recourse through the most imaginative and often absurd devices, with goodwill on both sides it must be said, to overcome the barriers that the Memoranda put in our way. The two main issues are, firstly, the whole question of residual value; what payment, if any, should be made for buildings that are less than 60 years old, and secondly, this whole issue of freehold title that in fact falls outside the Lands Memoranda and therefore also cause complications. We do not think that any possible progress can be made on this until again the strategic defence review is sorted out but it is an important issue that will have to be addressed. So, Mr Speaker, putting then to one side the question mark of what is going to happen with the MOD rundown, the Government are embarked on a number of projects in support of some private sector initiatives and others because we feel that they are good long-term investments in the fabric of Gibraltar. Many of those projects have been highlighted by my hon Colleagues and I will not repeat them. I will highlight two possible initiatives that we think are of importance.

HON J J BOSSANO:

Mr Speaker, before the Minister goes away from the MOD, can I ask him whether on the basis of what he has said there is no assumption on what is going to happen in the next 12 months built into the Estimates? Am I right in thinking that, based on what he has told me?

HON P C MONTEGRIFFO:

That is right, Mr Speaker. We have not built into the Estimates any guesstimate of whether the MOD will compulsorily relinquish an element of workforce. We are still working on the basis of the expectation that the MOD will not move towards making anybody compulsorily redundant, that is the expectation we have been developing with them but one would have to see the degree of uptake on voluntary redundancy and early retirement before seeing what the difference is and whether the strategic defence review has any impact on the remaining figures. But nothing is built into the Estimates specifically on that issue.

Mr Speaker, I was saying that in addition to the projects that my hon Colleagues had mentioned, there are two I would want to highlight. Firstly, the need to create further workshop facilities in Gibraltar. We feel a continuing demand which I think is indicative again of private sector

buoyancy, continuing demand for workshop and storage facilities as a result of the reduction of rents in New Harbours. New Harbours is significantly more tenanted than it was a year ago and we feel confident that it will be fully tenanted in due course so there is a need to identify light industrial workshops for a diversifying economy. Secondly, the possibility of land reclamation within the port. Hon Members will see that there is a provision made in the Estimates for the reclamation of land in Jetty No. 3 in the port. That is a decision that is not finally yet taken by the Government but we feel confident enough in wanting to see whether this is achievable to have made a reference to it in the Estimates. The land, if reclaimed, would produce an area of about 35,000 metres.

Mr Speaker, the Government continue to look at diversification as one of the most important ways of creating new activity in Gibraltar and bringing to bear new sources of income to the Government in the medium to longer term and indeed provide more varied employment opportunities.

The conclusion of our arrangements with Cammell Laird earlier this year are undoubtedly going to be a process in that diversification. Whilst the commercial ship repair yard has been primarily dedicated to ship repairing over the time it has been commercialised, it is undoubtedly ship conversion that is going to be Cammell Laird's principal market. They are working towards achieving the required standards which will make the yard open for full conversion work; conversion being more demanding than simple repair and we are looking forward with confidence to developments on that front. There is every reason, Mr Speaker, assuming the yard is given a fair chance of being successful domestically and we want to do everything possible to support Cammell Laird, there is every chance to feel confident that Cammell Laird will be able to attract significant work to Gibraltar and increase employment levels. It was clear from Cammell Laird's visit to Gibraltar last week, certainly a few days ago, that they believe that a combination of factors augurs well for their expansion both here and in Birkenhead. High among those factors is the fact that there is a huge under-capacity of shipbuilding capacity in the world. Secondly, there is the question of the costs of new construction, even though there is under-capacity the cost of construction is very high compared to conversion. Thirdly, the whole area of health and safety at sea and other such requirements which continue to move only in one direction and that is up and therefore as health and safety standards get more complicated and get more demanding the need for conversion of ships gets all the more urgent. But the industry remains fiercely competitive, it remains one where

quality is absolutely vital. We are looking forward to Cammell Laird opening in this regard its apprenticeship facility, they are contractually bound with the Government to open the facility in September this year which will take initially 20 apprentices. They understand the importance that we give to a local workforce that will have a long-term career prospect within that industry. If indeed the levels of employment they are hoping for, which is in the order of 300 over the years, is achieved then it may not be the case that all of that can quickly be provided for from a local base but there can be no doubt, Mr Speaker, and we have certainly made it clear to them, that their priority must be to ensure that there is a process that will allow labour that is not homebred to have access to those jobs in the medium to longer term. There is also a requirement for the company to build a new steelwork facility, a new steelwork extension on the western side of the plot, in other words on the other side of the docks. Ship conversion involves a lot of steelwork and therefore the current facilities are not thought to be sufficiently adequate.

Other initiatives in terms of diversification this House is aware of. The Bottling Plant negotiations have actually been concluded. The details are all finalised. It will be opening at the end of this month. It already employs 24 people with a possibility of a further six. The export markets are identified. Generally we believe that that facility has a very good chance of doing well and again is a testimony to how Gibraltar can diversify its economic base. I remind the House that the promoters have invested in the order of £4 million which shows again a high level of commitment to the future of Gibraltar and demonstrates confidence.

The Beverage Plant has been somewhat delayed and we regret that. It has been delayed for a number of reasons, primarily the fact that some aspects of the deal required re-negotiation and also that the building earmarked for this project suffered from very extensive water ingress and until that was sorted out the prospective operators were not prepared to start their work.

I made a mention, Mr Speaker, of the sullage plant and I think I should touch on that before moving on to the next main matter. The Government are in advanced discussions with a consortium in respect of the establishment of a sullage plant. The sullage plant would be a new investment meeting EU standards, the current MOD plant does not meet EU standards. The idea is to attract to Gibraltar increased shipping that would also bring related benefits to others in the port. The basis of the agreement is that the new company would have to absorb the two to

three MOD workers that are currently employed in the sullage plant and would probably take on another two or three. That arrangement is acceptable to the Union, it is acceptable to the MOD and certainly is welcome by the Government. Needless to say, the MOD would have to arrive at commercial agreements directly with the new operator with regard to the sort of services that it would be taking but that is a matter which primarily is one for the MOD with the new company to negotiate.

Another element of diversification is the satellite projects. Again I have mentioned to the House the difficulty in bringing these to fruition. They are complicated multi-jurisdictional type arrangements but I think they have made very good progress in the last year. The current position, Mr Speaker, in respect of the three projects this House is aware of is that the GE and Actel project, (Actel being previously what was the Elcor project) will both in the course of this year start construction of their facilities in Gibraltar. The Actel project, in particular, should start by the summer. They will start first and GE certainly before the end of the year. Both those companies have indicated to Government that they will be recruiting personnel also before the end of the year and in terms of figures GE is expected to employ about 15 people, and Actel about 50. The position with the third project, the ASC project, as the House will recall is more complicated. Contractual difficulties between the company and its satellite manufacturer have given rise to delays but, as I indicated to the House the last time a question on this was put, they are back in contract now with Lockheed Martin, they were previously seeking to have a contract with Hughes, they are now contracted out with Lockheed Martin and I am seeing the Chairman of the ASC group in Gibraltar next Monday when he will be flying in to have discussions with the Government.

We are investing important human and financial resources in these projects and we think that that confidence is well placed. We think that those projects are ones that will create quality jobs, they are ones that will truly diversify our economic activity and provide a further weapon to our armoury in remaining economically viable.

I move now on to the area of the Finance Centre. In the Finance Centre, this year has been significant with regard to the repositioning of Gibraltar and the year ahead will also prove to be important. The issues we face are very similar to the issues that equivalent centres face elsewhere whether or not they are in the EU. There was an article recently by Colin Powell who is the Chief Economic Adviser to the States of Jersey commenting on OECD and G7 trends and many of the

matters that they are addressing are precisely the ones that we are addressing. It was interesting to note only last week that both the Swiss Ambassador, who was in Gibraltar, and the Head of Natwest Offshore based in the Isle of Man, had a very similar analysis of the problems facing their own particular jurisdictions and yet one is a major banking centre within Europe in terms of Continental Europe, and the other is very much an offshore centre. Our general view is that the Finance Centre is moving in exactly the direction it needs to go. We are very confident that we have embarked upon a process of transformation that will ensure a greater sophistication and quality of what Gibraltar offers. That development will be underpinned by three things. Firstly, top class regulation and reputation. It is absolutely vital that that heads the whole agenda for the future of the centre and indeed for the whole agenda of Gibraltar's general commercial development. We cannot afford to relax those standards and that importance given to repute because without that one simply does not get into the game in the first place. Secondly, the whole question of EU access. This year has seen the achievement of insurance passporting and we need to see more business coming in on the back of it but the Government's commitment will remain the single market in Europe and developing our potential within it. Thirdly, something that I have alluded to already, the move towards quality and sophistication. Even in areas where Gibraltar has traditionally been strong, like private banking and company management, clients expect greater quality, they expect more value than has been the case in the last 10 or 15 years.

Dealing briefly with tax, Mr Speaker, let me reiterate the Government's position in support of what the Chief Minister said yesterday. The EU tax code is voluntary and Gibraltar will continue to make available the tax environment which we believe is necessary to develop our industry in the short to medium term. We believe indeed Gibraltar is an important product in that context and that the combination that we currently offer is one that is attractive and that we should continue to exploit. But we are not blind to the need to address a global agenda which undoubtedly will have an impact on the way regimes such as Gibraltar are looked at and to that end the Chief Minister has indicated the Government's desire in the medium to long term to move towards a low tax area across the board which would be a fairer and certainly more defensible structure both for international and domestic business. We do not believe that any discussion on tax harmonisation will actually lead to harmonisation of rates across Europe or globally. That is not an agenda that we believe is deliverable and therefore what we do have to do is plan but not plan in a way that anticipates such a transformation

because that is simply not something that, in our judgement, is going to occur. We will therefore continue to transpose EU directives in order to ensure that our passporting rights in banking and investment services are obtained. In this context a mention of the 4<sup>th</sup> and 7<sup>th</sup> Company Law directives. The House is aware of the Government's sensitivity to this issue and the fact that we want to ensure that the transposition of these directives is done in a way which is as least detrimental to company managers as possible. Over the last year we have had extensive consultation with the industry, those consultations will continue and I can assure the House that the Government will do everything in our power to work with the industry and only to introduce the directives in a way that maximises the potential for latitude and assistance that is possible. Mr Speaker, I must say before concluding this issue, that I am bitterly disappointed at the Opposition's view with regard to our European Union market access. Whilst last year in this very debate the Hon Mr Isola, agreed with the Government, albeit with a reservation as to, "Let us see that in practice" but agreed with the Government that the basic philosophy of accessing the single market was the way ahead. Since then the Opposition have taken the view that for reasons extraneous to the finance centre; ID cards and everything else, that until Gibraltar's position in Europe is clarified that they should oppose the further transposition of directives. I simply want to place on record my lament for that because I think it is a misguided and short-term policy. I think their judgement a year ago was the correct one and I do not want to make this issue more of a political one than is necessary but it would be useful if the Opposition were to come round to seeing that it is within the context of the single market that Gibraltar's particular niche is exploitable.

Mr Speaker, this year will also see a new Financial Services Commissioner and a new Banking Supervisor and those are important appointments. I am not in a position to make any announcement but I am confident that the replacements will continue the good work that the Commission has undertaken and obviously I give thanks and credit to both Mr Millner and Jean Cooper for the work they have done in their time in Gibraltar to strengthen the regulatory framework here. Finally on the Finance Centre, the marketing thrust. We do want to and have a clear marketing strategy for this year. The Unit will be producing a snapshot report on financial services over the next few weeks part of which will identify the Government's planning in marketing. There are a couple of areas that we feel are of interest to Gibraltar; Scandinavia, Switzerland, the UK provinces, and we will be asking the private sector to join us in promoting the opportunities that Gibraltar offers. In

conclusion on this area, I am strongly of the view that there are many opportunities for Gibraltar as we grow this centre, opportunities that come from many different directions. One opportunity, for example, without labouring the matter too much, is the whole area of out sourcing. We are convinced that Gibraltar, as a lower cost base than, say, the Channel Islands or the UK, is a good place in which administration can be undertaken and this has nothing to do with direct financial services. No licences are needed, no regulatory issues arise, but the Channel Islands that are bursting at the seams and will not allow anybody else to come into the Islands for demographic reasons and for reasons peculiar to the Islands, cultural reasons to the Islands, need somewhere where the administration of their institutions can go and perversely it is now largely going to the UK. Many institutions in the Channel Islands are actually now using the UK as their out sourcing administrative base. We see no reason, why Gibraltar cannot fulfil that function at a cheaper and in a more efficient way than the UK.

Mr Speaker, turning then to general development, in construction this year will see the coming on stream of certain projects. I mentioned before some that were dependent on MOD land, those are primarily the Old Naval Hospital Project, the residential project which we want to put out to tender as soon as possible; the Cormorant area which we also want to put out, and thirdly Prince George's Block. In addition to those that are MOD driven or at least depend on MOD land, the Government have firstly a proposal to put out to tender the section of Town Range between the Legislation Support Unit and the School. That whole Barrack is tenanted by very few people and we intend to put that out to tender for owner-occupier units. We also want to develop the Police Barracks area. We have identified a large section of the Police Barracks in the Upper Town as available for development, probably as a car park with possibly some residential units. And we certainly will be looking towards some development of the site opposite Europort Hotel, the remaining site on the other side of the roundabout beside the projected Hotel.

What we are seeing, Mr Speaker, in these developments is continuing demand for middle ranged residential property. There continues to be a real market for properties in the price range of £80,000 to £120,000 undoubtedly as a result of the expansion of home ownership at the lower level. I think what is happening is that that has created a large pool of young people who have savoured home ownership, have become more confident with the concept and therefore wish to move up the property ladder and we think it is a demonstration of continuing confidence as

well in the economy, in the fact that they feel that they are able to move up and spend more money in investing in a home in Gibraltar. Some of the projects I have mentioned show the commitment we are giving to urban renewal. We have wanted to do more in this area than has been possible. Some of the projects that I have indicated, like the Town Range project and the Police Barracks project will be a stimulus in this area but more change is necessary in particular, we are looking at the area of landlord and tenant reform. We are of the view that it is not possible for Gibraltar to continue in this cycle of decline, when it comes to rents and the old town. If nothing happens, if the current structure of the landlord and tenant regime is left unchanged the viability of the old town will be condemned. There are two areas in particular that are important. Firstly, the current 45-year rule that the last administration introduced. There are now buildings that are coming into the 45-year rule that, in our view, should not be coming into a rent-controlled situation. In our view those properties that are rent controlled should be rent controlled but no more but there are properties that are actually now coming into the 45 year rule and I do not think the intention was that some of those properties should be rent controlled. We have the perverse situation, Mr Speaker, that Queensway Quay, for example, just to give an example, in theory is subject to this 45-year rule so in 45 years time a flat, a penthouse in Queensway Quay is rent controlled. If an investor really understood the consequence of that he would say, "This is simply absurd. I am paying over £500,000 for a flat in Queensway Quay only to know that in 45 years...." *[Interruption]* Yes it is, it is a 45-year rule, it used to be pre-war but it became a 45-year rule. The second issue is the basis of the protection itself. The protection now for dwellings is on the basis of succession between tenants. We are looking at how that can be improved without, of course, undermining the protection of existing tenants. We want to push ahead with these developments because we think it would be good for Gibraltar and we think our record has been good in making sure that developments do not languish. When we have had to take action we have and have done so promptly. We repossessed the Haven Shiprepair Yard project when that was going nowhere and that has given rise to the Bottling Plant facility. We recently repossessed the Superport lease. We had given the developers there, again inherited from the last administration, more than ample chance to get that project back on track. Nothing occurred, we have repossessed that and that will go out to tender very shortly. In general terms, the Government are of the view that this economy which is very much in transition is one that is coping very competently. It is one where competitiveness and quality is increasing. It is one where training is necessary and we need to do more about that and we will do

more about that but at the end of the day, we have to recognise that we are only as good as we are in terms of the people that we have. The investment that this Government believe we should make is in people, that is why whatever we spend on buildings and infrastructure will only be useful if we have people that have the skills to be able to maximise those opportunities.

Mr Speaker, the Opposition have described the Government's basic approach as a vision with a distant horizon. I have been disappointed by the contributions which really are summarised in that phrase because if their view is that our position is only a blur, is only a vision with a distant horizon, there is no alternative, there is no strategy, there is no other option that the Opposition Members have offered this community and that is bad because there should be some alternative economic strategy which the Opposition Members should be advocating if indeed they are of the view that what we believe is important, investment in our infrastructure and investment in people and investment in reputation, is not the way to go. Or is it the case, Mr Speaker, of perhaps another secret economic plan? I do not forget the secret economic plan of the late 1980's. Is this another secret economic plan that may be unveiled at some future date? But I can understand one aspect of the Opposition Members' frustration and that is, that as I indicated earlier, the last two or three years of the last administration's term was undoubtedly a disaster in economic terms. I have mentioned the complete collapse of investor confidence; I have mentioned how sustaining and bringing business to Gibraltar, in particular in the last two years of their tenure, became a virtual impossibility and the Opposition Members cannot rewrite history, that is a fact. It is a fact that drove people like myself back into politics, it is a fact that the private sector is well aware of and indeed largely explains why the hon Members lost office. History may or may not be more generous to them globally. I have recognised, Mr Speaker, that initiatives such as the joint venture on telecommunications, land reclamation and the attraction of the Europort investment, those are all initiatives that we are benefiting from and they were investments and initiatives that were good for Gibraltar. But one cannot paste over the fact that all that work was largely undermined, in particular in the second term and in the second half of the second term. When we took over in 1996, even though that infrastructural work had been done, we were starting from a base where there was great lack of confidence and great uncertainty about the direction Gibraltar had been led in. And the Leader of the Opposition says that there is nothing in this Budget to help the private sector. Well, Mr Speaker, all the infrastructural work that has been done in terms of tourism, the

Government projects that also will complement private sector projects, the marketing both in tourism and financial services, the support for business in the Finance Centre Unit and the Small Business Board. These are all real assistance to business over and above the measures that we have introduced but the hon Member does not in the event give any explanation of what sort of measures he thinks we should introduce. He does not indicate whether we should be subsidising business further, whether we should be reducing rents further and I seem to detect in him a newfound love affair with the retail trade which I certainly never discerned before. To the extent to which the retail trade would complain about frontier queues and would complain about access when Brana was up to his antics, I never understood that this fell on sympathetic ears with the Government of the day. And now all of a sudden the retail and wholesale trade are the ones that are being championed by the Opposition. No, Mr Speaker, the reality is, firstly that the retail and wholesale trade are going through difficult times largely because of the strong pound and there is little we can do about that although we have tried to help. Secondly, that the retail and wholesale trade have to change and even if there had not been a strong pound it could no longer have gone on existing on the basis, as recognised by the Opposition, that one had goods in Gibraltar that were not available in Spain or that one had a price in Gibraltar that was better than in Spain because the economies of scale simply do not allow for that. Therefore we are absolutely right in identifying the fact that people have to be brought to Gibraltar not because shopping is going to be 5 per cent or 10 per cent cheaper but because visiting Gibraltar is an experience worthwhile in itself. And on the back of that, the retail trade and the restaurant trade and the tourism trade will do well if it offers a quality product and that was something that was inevitable whether or not the pound, as I say, had been at a different level. Mr Speaker, the retail and wholesale trade, though important, will become less important because the economy has to diversify. We have all agreed with that, we have all agreed with the fact that Gibraltar has to expand the type of job opportunities it provides, it has to expand the revenue flows that it creates and the only way to do that is to create new areas of economic activity. So it is wrong to equate the private sector just with the retail and wholesale trade, important though it is, it is but one element in the overall economic cake of Gibraltar.

So concluding, Mr Speaker, I reiterate the Government's optimism. It is a cautious optimism, it is an optimism that is based on making a judgement of how we think Gibraltar is continuing to adapt. It is an optimism which is not rash, it is an optimism that understands the

vulnerability of a small economy, of a need therefore for prudence, of a need therefore to ensure that quality is not compromised. The Hon Mr Bossano and his hon Colleagues leave the House today in a cloud of pessimism. They think Gibraltar is economically embarked on a direction that is aimless. Mr Speaker, I think that is totally at variance with the feeling of commerce in Gibraltar. Notwithstanding the fact that there are challenges ahead I believe that we have created a climate of stability and a climate of confidence that gives them a real chance of expansion and prosperity way above anything that was on offer under the last administration. Thank you, Mr Speaker.

HON A J ISOLA:

Mr Speaker, we have listened over the last two days to contributions from the Government with much interest. In the vast majority of cases they have been statements, in some cases of policy or lack of policy; the answers have been on a critical basis and the message has been given, criticism of the policy that has been put forward or the ideas that have been put forward. But in one particular case, in respect of the Minister for Employment, we had yet again a vicious personal attack which has nothing to do with policy of either side of the House. It is unfortunate that these statements are made, I believe it does a great disservice to this House and to the people that he represents. The words that he has used of racism, causing a racial divide, we all know that that never existed in Gibraltar, indeed we are all very proud that in Gibraltar we happen to be a very tolerant society and we get on extremely well despite race, creed, religion, whatever difference it may be. For those statements to be made I think it is frankly a disgrace to this House and I would certainly hope that the Chief Minister will not in any way seek to support or condone those statements. They are totally uncalled for. I believe that in this House it is perfectly acceptable for Members to criticise policies and to criticise things that are said by people, not to criticise the person that has said it. It is the message and not the messenger that should be the subject of debate and discussion. And taking a leaf out of the Chief Minister's book, Mr Speaker, I have looked up racism in the dictionary and the meaning really makes the point even stronger, "hatred, rivalry or bad feeling between races; belief in the inherent superiority of some races over others, with the implication of a right to be dominant; discriminatory treatment based on such belief". I do not want to dwell on that point anymore other than to hope that we never have to be put through that again. On another point that was made by the Minister and a bit more technical, the one on supplementary funding, I was surprised to hear the Minister say that his Government's budget are very much

tighter controlled than with the previous administration and that he does not believe in supplementary funding. Perhaps he should look at his own budget and he will find that this year the supplementary funding is almost £500,000 more than it was last year, a thumping £2 million in supplementary funding. If he would care to look at his own budget and, indeed, all the supplementary funding that has been brought during the course of the year, he will see that some relate to his own department.

Mr Speaker, this budget has been called many things by many people. I think that there has been a lot of fuss about very little, frankly. We need to look at results and see what has happened in two years. The major impact in many people's minds is that this Government have brought in many experts, studies, committees, reports, reviews which we are very sceptical about in the Opposition. We do not believe that that would produce the results that are necessary to bring about the turnaround that this Government promised. In the case of the Port Study, which I will deal with later, we have the peculiar situation where, having waited a year and a half for the Port Study to come out, when it does come out we are told that it is going to be considered by a Steering Committee. I will deal with that when I get to the Port Study because this is something that was said by the Minister for Tourism himself in the recent questions and answers session. Mr Speaker, credit must be given when credit is due and it was funny yesterday to hear the Minister for Tourism saying that the Government deserve credit. The general rule of this Government seems to be that if it is good they have done it and they want the credit for it obviously, and if it is bad it is either the fault of the GSLP in Opposition or when in Government or of their own officials. This example is best in the hands of my good friend, the Minister for Tourism who last week at the GSD fun day or party rally, took the credit for the pedestrianisation of Main Street, the cruise liner terminal and Monarch. These were all GSLP initiatives and before the Chief Minister starts scribbling his notes, I would say that yes, there were changes made to them, I do not dispute that but they were GSLP initiatives. They were projects well under way and in the case of Monarch at a provisional planning stage included in our manifesto. The only observation I would make on that is that perhaps the Minister would like to take credit also for the Yogi Bear and the Mons Calpe. In looking at the facts that are presented to us and the contribution by my hon Friend, the Minister for Tourism, we are told that the cruise liner figures – this was not in his contribution yesterday but were mentioned in the Chronicle in the last few days – was the fault of the GSLP. It is interesting to see how, again, when something goes wrong or something is bad it seems to be the fault of someone else. The Chief Minister will jump up and say, "But there is a

two year lead-in time". Well, he may get away with that but if that was the case then surely he should know what bookings there are for next year by now because of the two year lead-in time. The truth of the matter is that we do not know. We are told that air arrivals are up. Well the figures in the survey, which I will refer to later, show that air arrivals are at the same level as they were in 1995. In fact, if we are going to be technical they are not the same, they are lower because in 1995 there were 83,800 and in 1997 there were 83,200. Again the Minister yesterday said yacht spending was up but he did not say that yacht arrivals were down. I will deal with the question of how those calculations are arrived at a little later.

Mr Speaker, the Minister said yesterday that tourism was growing as a direct result of Government policy. Well, let us be clear about one thing from the outset. We certainly wish it was growing and we certainly hope it does grow but the facts in the surveys that are laid on the table in this House and the information that is available to us, show that that is actually not the case. If we look at what has happened and take the House back to last year's contribution from my hon Friend, on page 54 of last year's presentation, he said, "The budget which I am presenting today represents the new emphasis that the Government wish to give tourism. This is not to say that success has not been achieved in the field of tourism during the last year" – that is 1996/97 – "I would like to highlight in particular the success of the Gibraltar stand at the London Boat Show". Again, unfortunately, the figures for 1997 were down on 1996. "In addition, the hotel industry has been given an injection of morale. One must not lose sight of the fact that almost one in seven persons in employment in Gibraltar works either directly or indirectly in the tourism industry. I believe this figure is capable of growing considerably and Government will be working to achieve this end. The catch-phrase of the day must be 'Tourism Means Jobs'." We have not seen where those jobs have come from, the only place where there have been jobs in relation to tourism is in the Ministry for Tourism. Other than that, it is difficult to find where this growth has come from. "The hotels are reporting higher occupancy figures for 1997, and the prognosis for the rest of the year is reasonably good." Let me point out there that the figures for 1997 in terms of tourist arrivals, guest nights sold was 95,000; it is the lowest figure ever since records were taken and that, Mr Speaker, is in statistics tabled in this House just a few weeks ago. So where that prognosis comes from I am not aware. "What is important to highlight is that Government inherited a tourism industry in decline, and this decline has not only successfully been arrested but we are in a position where we are starting to detect increasing signs of

growth". As I said, and I will go through the figures in a minute, we have not yet seen that growth. "During the course of this financial year Government will be setting up a School of Tourism, which will be based at Bleak House. Discussions are at an advanced stage with a United Kingdom firm which provides training for the hotel industry." Well, if they are in an advanced stage in March or April 1997, I do not know at what stage they are now, probably at a more advanced stage. We also heard last year about the different mechanisms that were going to be used to bring tourists to Gibraltar and, again, to be fair to my hon Friend, there is no secret, the only way he can bring them in is going out and finding them, be they direct marketing or through the different selling agents and tour operators.

If I could just refer briefly to the figures on the surveys that have been tabled. As I mentioned earlier, tourist guest nights sold last year at all hotels was the lowest since records were taken; 95,000 visitors. In terms of all arrivals, that figure is above last year, it went up 3,000 over 1996 but it is the same figure as 1995 so there is no significant growth despite the fact that fortunately we have an extra airline coming in. In terms of total visitor arrivals to Gibraltar, the number of people coming in by air, and obviously this means staying in Gibraltar and not directly flying out, is 73,696 which is dramatically up on 1996 as is the figure by sea which is dramatically down, from 222,000 to 104,000 and the number of people coming in by land was also down from 6.2 million to 5.8 million, with a general resulting total of 450,000 less in 1997 than in 1996. If one looks at the change we will see that by sea there is minus 14 per cent; by air plus 11 per cent; by land down 7 per cent; total average is down on 1996 by 7 per cent. It is interesting when dealing with this to note that of the air arrivals the numbers actually staying in Gibraltar was up by 4 per cent whereas those in transit was up by 18 per cent, so there are more people flying in and obviously I suppose it is logical, more people go out as well. The number of people in transit went up by 18 per cent, the number of people staying went up by 4 per cent. Also the number of private vehicles went down by 7 per cent and the number of coaches went up by 1 per cent, 80 extra coaches. When we look at the figures we have every right to ask ourselves, "Where is this success?" Again, I accept it is not easy but when we consider what has been said and continues to be said by the Minister about the lack of policy of the previous GSLP administration on tourism, we begin to wonder if the Minister is right. Is he not following the same suit? It is important to look at the figures and to accept the situation as it is, not just say that the hotel spending by visitors is up or down. Another question on the hotel spending is that in the last question and answer session we asked about

spending; how the spending of people coming to Gibraltar had been calculated. We were given a response which we did not understand, we asked the question, "Can we have the information?" We have not had the information and it is clear that the Minister was not able to answer because he was not sure, yet that same figure is being relied upon today as an expression of the success of the tourism industry. Much of last year's contribution has been repeated this year and this is indeed a trait of this Government to keep announcing things. They announced them two years ago, they announced them one year ago and they announced them again today. An interesting observation on that is the Mediterranean Race which was announced I think a year and a half ago, where there was a seminar, there were adverts in the Chronicle about attracting this fantastic race to Gibraltar, nothing more was heard. When I asked a question in this House, for the first time I learnt that, in fact, there was not sufficient interest and quite rightly the Government were not going to fund it so it did not happen. As an aside I note that now the number of cruise liners coming to Gibraltar is mentioned on a daily basis in the Gibraltar Chronicle.

HON J J HOLLIDAY:

If the hon Member will give way. In respect of the Mediterranean Race that he referred to, let me say that the race did not actually get off the mark because of the lack of interest generally. It was not specifically in Gibraltar, the race never took place. So therefore Gibraltar could not participate in a race that was not.

HON A J ISOLA:

It may have been useful in those circumstances then for an announcement to have been made that it was not taking place because if they say that something is taking place and then they say nothing more the assumption is that it will take place sooner or later, at some time. That is the same observation I have on the daily reports in the Chronicle on cruises in today. I think it is a very useful exercise for the retail trade to know when cruise liners are coming and how many are coming in on a particular day. It is also interesting for them to know if no cruise liners are coming in on the day. Perhaps there should be little things on cruise liners saying, "There are no cruise calls today", that may be a suggestion the Minister might wish to take up. As I said before much of last year's contribution has been repeated again this year. We have the same literature promotion material and I do not expect the Minister to attract tourists in any other way. But one observation I would

make is that Posedonia is not the first time, in fact, Gibraltar will be represented because I think it must be about five years ago, I know that my hon Colleague sitting on my left attended Posedonia and he remembers having a photograph taken with the Mayor of Athens. Mr Speaker, the Minister also said that every penny is wisely targeted. We have not seen anymore football adverts in Stadiums that my hon Friend, the Chief Minister, said that he thought it was a good idea and he would do it again. Perhaps we can wait and hope that in the forthcoming World Cup we will see some signs promoting Gibraltar during those Games. If it was successful and he does believe in it then I would not be surprised if he would do it again. But in respect of the Carreras Concert, a similar comment, it was a cultural event of value, there is no doubt about that but is it one we can afford? The Minister referred to that as a resounding success. Well, why do we not bring him back and do it again? [HON J J HOLLIDAY: *We will.*] I will go again and watch him again. The interesting thing about the marketing budget this year perhaps on tourism is that it is some £200,000 less than was spent last year. Do the Government consider then that they are not getting value for money on what they spent last year? If not, why is it cutting the budget of £200,000 of what was actually spent; not on what was budgeted but on what was actually spent? We expressed reservations last year at the levels of spending and we asked the question whether it would bring back the benefit, this Government felt it would. The reduction in the tourism budget can only mean one of two things; either they do not believe it has or it has failed, it is either one or the other, I do not see what other explanation can be given for that. I was pleased and I welcome what the Minister said about the tour operators coming to Gibraltar, that he now has more tour operators; some from the UK and some from Spain. That, as I said before, where credit is due it is given, requires to be recorded. The question is when we have low factors as we have of 84 per cent on GB Airways and 71 per cent on Monarch which are both very high low factors, I think that travel writers consider that a low factor in excess of 70 per cent means that people are being turned away. What hope do people who walk into these new tour operators coming to Gibraltar have of actually catching a plane in Gibraltar and obviously the statements made by the Minister about his discussions with airlines, we certainly hope that more airlines will come to Gibraltar and will support him in his endeavours to bring them in. It is interesting, on the question of the airlines, that Guernsey has recently had a problem with its Heathrow slot and the individual who is responsible for that committee is Mr Roger Berry who I know that my hon Friend who accompanied me to the last CPA Conference knows him well, he sits in the Executive Committee with him, has actually taken the decision of challenging this in court and

making a complaint to the European Union because basically the slots by the operator Air UK was sold I think to British Airways for £10 million and given alternative slots which the airline subsequently gave up. But the important point there is the importance that Guernsey attaches to the Heathrow flights that it had and its efforts to fight to get them back. I will not quote it, it was in the press over this last weekend, the importance of Heathrow to the business traveller is important, equally in Gibraltar as it is to Guernsey and I would hope that the Minister will continue in his endeavours to see if that service can be restored at some stage. On the question of airlines, there is also the reduced seats from Manchester and we hope that the Minister is successful in doing something about that.

With regard to the Hotel Assistance Scheme, the principal of targeting a sector in need and assisting it is one that we support. We have, throughout our time in the House, said that to give assistance widespread across the board does not really help those that are really in need. Therefore in the case of the Hotel Assistance Scheme we welcomed it because it was targeted at that specific industry. However, it is clear that very much of the money that has been at the end of the day borrowed from Government by those businesses has been spent in Spain, unfortunately and Government reacted I think perhaps after the horse had bolted but they reacted to see if that could be stopped. I think by the time it happened the majority of the orders had already been placed. It is important in this targeting to ensure that any support that Government are giving to any particular sector of the industry should where possible provide spin-offs for the remainder of the other industries within Gibraltar. All is not bad, the cruise liner figures that the Minister has been boasting all the while for next year and indeed for this year and we certainly hope that he is successful in that. We do genuinely hope that the figures that he comes back to this House with next year do show an increase for the benefit of the trade and Gibraltar generally. Moving to the Port, again there have been works to improve and beautify the North Mole and we welcome those as an expansion of the plans that were previously put forward by our administration. The Port Study, which the Minister for the Port has regarded as an achievement is one which requires a lot of thought. A lot of thought because many of the suggestions and recommendations it makes would, in an ideal world, perhaps make a little more sense than they do in Gibraltar's situation. The idea of saying that if we charge tonnage and berthing fees to bunkers, bunkering ships which pay nothing at the moment, we would increase revenue by £255,000. It is fine mathematically but to do that obviously would be to kill off the bunkering business, that is what the

Port Study recommended in one of its parts. The difficulties that Gibraltar faces, particularly in transshipment with regard to the competitiveness that is across the way, necessitates that the only person that can successfully create a transshipment facility must be one that has its own goods, its own containers to carry and in that regard I understand that the Minister is working towards procuring such a carrier. It is also interesting that the Minister should have said that the bunkering for 1997 was a record high, it was but it was 110 more than the previous year, 1996 which stood at 2,570 going up to 2,663; very good figures and Gibraltar continues to succeed in the bunkering sector. The Port Study, and I am not going to go into much detail because I await to hear Government's views on it before we pass judgement on it, compares the land against the sea. Again, Gibraltar has a peculiar situation because a lot of the road hauliers that come down to Gibraltar offer very, very cheap rates to come to Gibraltar, ridiculously cheap rates not because they want the business but because they are on the way to Morocco where there is a massive volume of return business back to the United Kingdom and that is where they charge the full whack and in Gibraltar's case they charge a very low rate to come here because it is more than they would get coming empty. Therefore it is difficult for sea cargo to compete and the figures reflect that, sea cargo figures are reducing and continue to reduce whereas the land transport figures continue to increase.

In respect of trade, undoubtedly Gibraltar retail and wholesale sectors and trade generally is having a tough time. Two years ago the Government told us and reminded us almost on a daily basis that we were on the brink of collapse, on the verge of ruination. Now the goal posts seemed to have moved because now it is not a question of what they said in 1996 and there were books about it, what they would do; how they were going to ignite the engine in the economy in the private sector; all the goodies they were going to bring; all the boom and under their professional management how trade was going to flourish. Two years later with no results to show they come back to this House and they say, "But we did well just to hang on to what we had". If they were to tell the people that then perhaps it would be a little bit easier today to judge their performance, certainly impossible to judge the performance when they change and move the goal posts as has been done. Since that time, two years ago, we have had the peseta exchange rate which has made matters even worse. This caused problems across the whole of the sector in Gibraltar and that is not something that Government can take credit for nor be criticised for. The Government have extended the beautification and pedestrianisation and we welcome that. They have

introduced rent cuts, rate cuts and carried out an import duty restructure, all of which we were told at the time were to boost these sectors and to create more employment by virtue of that boost in those particular sectors. But, in fact, the benefits of those cuts, if we can call them benefits, have not actually been passed on and judging the Chief Minister by his own value judgement, and I quote from his intervention last year, "The import duty restructure is not intended as a means of reducing the cost burden of retailers in order to increase their profit margins. So therefore if they do not pass the import duty reductions on the products on which they will be implemented, if they do not pass those reductions in the price tags on their products and that is a matter for them, there is no way that the Government can check this on a shop by shop basis then certainly the import duty reduction will not have the primary effect, it will not serve the primary purpose for which the Government intended. There is no doubt about that. Of course, it will always have the effect even if they do abuse it, of creating additional breathing space for their own survival. But in respect of import duty that would not be the principal intention and if it were not passed on we would regard it as an ineffective measure to have tried". I think the former of those was right, I think it has been a breathing space particularly in the light of the strength of the pound but certainly, judging the Chief Minister by his own words, in respect of import duty.....

HON CHIEF MINISTER:

If the hon Member will give way. Does he have access to information that I do not know? How does he know that shopkeepers have not passed on the import duty reductions? We know they have on cars, for example, but on what does he base that extraordinary assumption?

HON A J ISOLA:

Mr Speaker, we are aware of that reduction being passed on the motor vehicles; we certainly have not seen that in respect of anybody in the retail sector. Perhaps if the Chief Minister knows of any he can give me an example but I certainly cannot give him the example of one that has passed it on.

HON CHIEF MINISTER:

I am grateful to the hon Member for giving way. I will respond to him when I reply, thank you.

HON A J ISOLA:

In respect of the rates cuts, we have from the outset said that the rates cut should have been – it was not from the outset, it was at the time of the Committee Stage when I sought to introduce an amendment to extend that to residential dwellings as well and that, unfortunately, was rejected by the Government. But the rates cuts which I said at the time was a discount from payment, the Chief Minister got up and said, "No, it is not a discount", I said it was, he got up and said, "When is the hon Member going to learn, it is not a discount for prompt payment". Well, I am pleased to tell the Chief Minister that I have an ally on the Government benches because last year the Minister for Trade and Industry said, "The Chief Minister has indicated in general terms where we are going in that direction. I repeat that we intend to reduce these measures in the course of the next few months. The reduction in commercial rates, in particular, is one that I would highlight. This will take the form of a discount and that will not apply to commercial payers who default. In other words, it will benefit the good conscientious payer but the thrust will be to encourage prompt payment". The words are not mine. In respect of rates, I understand there was a suggestion made by small businesses that if they made payment on time the proportion of the amount that would be their discount would go towards settling their arrears. I am not aware if that is a process that has come to the Minister who deals with that but it is one certainly that we would recommend and suggest because the small business has a problem in keeping up and the gap between the business that can afford to make these payments without any difficulty and get those reductions and the ones that cannot and simply slip more and more into arrears are not able to enter into an arrears programme because they cannot afford to pay rates and the arrears programme. Therefore if the discount element could be put towards an arrears package, provided they are paid on time, it may be a way of assisting those small businesses. Another interesting aspect of the import duty restructure which incidentally took an extremely long time to come into place, I am perfectly justified in criticising the Government for that today. The statements that it was going to be revenue neutral we will have to see at next year's budget whether that in fact is the case. Another observation on import duty, it was interesting to see that after having announced the measures, almost immediately within days changes had to be made. I understand that to the extent that one cannot consult with the trade of what one is going to do with the import duty otherwise it will influence how they approach this. Despite these costs in reductions we have the training levy increase which I will not go on for too long but the example given by the Minister for Social

Affairs is a good one where the actual benefit of prompt payment on rates in a small business is actually cancelled out by that £1 increase on the training levy. Despite these measures of assistance the trade is still in difficulty. The Chamber of Commerce and the Federation of Small Businesses repeatedly stress the difficult times that their members are having and, in fact, as my hon Friend said, the pay freeze for the retail sector is an indication of just how tough a time they are having. The Chief Minister is right when he talks about the difficulty of competing with the retail sector in Spain. There has been a big change. Ten years ago there was a product difference, there was a price difference but as years go by and it has caught up very, very quickly, there is a massive quality across the way, the prices are competitive and therefore something needs to be done and the steps to attract people to Gibraltar to do their shopping here is one that we will be watching and hope that that effort succeeds.

Moving on now particularly to the Ministry of Defence aspects which were mentioned by the Minister, I think it is amusing, if nothing else, to look at what the Minister for Trade and Industry said in 1995 and in 1996. Indeed in 1995 and long before that, in speaking about the electoral position that had been taken by the Minister he went on about the Deloitte and Touche Report as finalised. "The MOD and British Government seem bent on maintaining the cuts....." and then he says, "To this end, Mr Speaker, we therefore intend to reactivate the Joint Economic Forum. As that report is not ready there is little point frankly in doing so until then and that forum, as the Chief Minister at Question Time last week indicated, will be a forum which we see will be primarily responsible to look at the MOD rundown and tackling that issue rather than the poor economic issues and the development of Gibraltar's commercial development". The Joint Economic Forum has not been constituted, has not met despite the rantings and ravings about it prior to the last election.

HON P C MONTEGRIFFO:

Would the hon Member give way? The hon Member is right in that the committee has not been reconstituted and has not met but I do not think it has been ranting and raving. I can tell him that at the time when we came into Government the basic position was, certainly as was explained to me and as I saw it, also a total collapse in communication between the Gibraltar Government and the MOD. Certainly to the extent to which the DTI was meant to be one of the departments through which contact with the MOD was established, for reasons that I cannot

understand, the regular contacts with the MOD on a whole range of matters had simply fallen by the wayside and what we did, Mr Speaker, when we came into Government is start a process of regular contacts with the MOD which, frankly, had made the JEF redundant. The JEF might have been a mechanism where it was possible to actually exchange views on a whole breadth of issues that Government and MOD and social partners might have wanted to discuss in the context of the economic impact, in particular the rundown. Frankly, the degree of contact that we have established with the MOD and the degree of co-operation with the Trade Unions, and I have mentioned that we have been working together in the latest elements of the rundown with the TGWU, frankly make a lot of the purpose of the JEF not necessary and therefore there is no need to have a formal structure when we have very regular contacts and I have to tell Opposition Members, simply was not in place when we came in. Quite apart from the fact, of course, that the Deloitte Report did anticipate much graver consequences than eventually were announced.

HON A J ISOLA:

Mr Speaker, notwithstanding that, again, nothing has been said about the Joint Economic Forum since June 1996 and again despite the rantings and ravings that we heard so much about in the election campaign of 1996 and now today for the first time we get our explanation, it could have been given earlier.

Moving on to EU funding, again there are initiatives which are mentioned this year which I think were partly mentioned last year, Bleak House and the Casemates project. Any use of EU funding is welcome, to have money there and not use it is..... *[Interruption]* Mr Speaker, we knew enough about it to bring it to Gibraltar and we knew enough about it for the Government to be enjoying the benefits of that today. It is interesting also to note that the budget or the amount in this budget for EU funding last year was greatly underspent and I would assume that that is a process that will ultimately catch up with the money that will be spent. It relies, I understand, on the private sector to take up those initiatives and I would hope that more and more will in that period of time. The Chief Minister is having an aside which I heard from here, I am not sure if that was intentional or unintentional but I will comment on it anyway. The role of the Opposition, as he has told this House on many, many occasions, is to probe questions and where necessary criticise. I would take that a step further and say give credit where credit is due, as we have done. I

cannot remember ever having heard him give any credit when he sat in the Opposition.

Mr Speaker, moving on to financial services, the position here is one where there is, undoubtedly, some difficulty. The implementation of directives has caused practitioners in Gibraltar more and more and more problems. The reason for this is that they see that at the same time as they are getting more regulations, more conditions, more forms to be filled out, more restrictions on what they can do, that the opportunities that should be there are not there. Therefore, Mr Speaker, when we say that we do not support the transposition of EU directives until such time as our position has been clarified, it is one that is made after considering what has happened and after having spoken to people in the industry; the Bar Council itself passed a resolution almost on identical terms. ATCOM has also made representations and passed resolutions, requesting the question of directives to be revamped and relooked at. The Chief Minister said to me last year in response that the 4<sup>th</sup> and 7<sup>th</sup> Directive, which is the one I spoke on specifically last year, was not a question of choice, it is a legal obligation. Well, we understand that but it is also a question of legal obligation. The products that we can use should be delivered up and until now they have not been delivered up. Even in the field of insurance which we have been able to passport and we are told we have been able to passport over the last year, the success of people who have enquired about whether a Gibraltar licence insurance company could passport or not has been questioned, and I will leave it at that.

HON P C MONTEGRIFFO:

Would the hon Member give way? I know that Opposition Members wish us all to have short memories and to that extent wish to rewrite history and to paint a different scenario to that which everybody except them see. Added to amnesia I think there is now schizophrenia which attaches to some Members of the Opposition. Frankly for the Opposition Member to stand by me shoulder by shoulder in conferences in London promoting insurance passporting and in investing private sector wealth in the promotion of that product and then to come to this House and to say there is no confidence in the product is either political opportunism, which is my view..... *[Interruption]* Well, either the hon Member thinks that the Government are spending money wisely in promoting these products within a Single European Market and I assume he must think that, Mr Speaker, if he thinks that the private sector must also think so and that he is a part of it or that the money is wrongly spent in which

case he would stop spending it himself but frankly it is a little rich to, on the one hand rubbish the efforts of the Government in an area of business development but on the other to actually support the Government in a private professional capacity in promoting. I think his judgement professionally is the right one, for people paying for services and I think his judgement a year ago, in Opposition, his judgement a year ago was actually correct. I can quote him as well from Hansard where he says, "the future is passporting in the Single Market", of course we have reservations. We know that Gibraltar is not going to have an easy ride but we know it is a ride that we want to take and a ride that will get us to a particular goal. The alternative, and perhaps he can comment on that, Mr Speaker, is we do not transpose anything and I suppose he will suggest then that we will have direct implementation of the directives from London or what is the agenda for the Finance Centre? That we man the barricades and go to a baked beans agenda?

HON A J ISOLA:

I do not suffer from amnesia or schizophrenia. I did not say that I had no confidence in the product, indeed I was not going to mention the conference but that conference that I attended with the Minister, the man responsible for insurance in the Financial Services Commission himself said that Gibraltar's insurance rights were being questioned and that is the word that he used and that is why I used this word in this House carefully – "questioned" that is what he said, I said questioned and it was him who said it, not me. To talk about confidence or say there is no confidence or rubbish or amnesia or barricades of baked beans. What we are saying is that until we resolve these issues and we know, because the Minister said so last year, that the 4<sup>th</sup> and 7<sup>th</sup> directives did not affect insurance passporting, we knew that last year. So that cannot be a burden to him after all in respect of insurance. The Opposition believe that when those questions have been answered and when those items have been clarified, then we should get on with transposing. But today the industry sees no benefits and all the regulations. The Minister will also recall at the last election when the Chief Minister on television debate said in response to the then Chief Minister, "..... you say everything is passporting" which we did at the time. We said at that time that the future of Gibraltar was in passporting, cross border activities. The Minister said, "So what, what about the Isle of Man, what about Jersey, what about Guernsey?" That is what he said in a television programme. Why did we not succeed like anybody else could have done? What is certain now is that the direction that we have now taken and as the Chief Minister has said is we are going down the European

FRIDAY 22<sup>ND</sup> MAY, 1998

The House resumed at 9.30 am.

HON CHIEF MINISTER:

I have to say that the Government are disappointed at the nature of the contributions from the Opposition in this debate. When we were in Opposition we took the view that the Opposition had two distinct roles to play. One was to criticise the Government or subject the Government's policy to critical scrutiny as part of our role then in Opposition and the second to present an alternative economic policy, an alternative vision for Gibraltar, an alternative view about how things should be run. I have to say that Opposition Members have demonstrated that they are devoid of an alternative on the basis of their performance in this House yesterday. They are not in a position to offer themselves to the electorate as an alternative Government because they have no alternative to the Government's policy and therefore their contributions, their so-called highly technical economic critiques of the budget has really been little more than a frustrated accountant's nit-picking. Opposition Members criticise the Government's policies because they are only a vision. Well, visions are objectives. Opposition Members may think that it is the wrong vision, they might think that it is not a vision that we are going to succeed in achieving and they might wish to criticise us for all of that but I have never heard an Opposition criticise a Government for having a vision because, after all, a vision is an objective of where one wants to take the community. So on the one hand we are criticised for what are called distant visions and on the other hand the Leader of the Opposition says that we have no sense of direction. Well, either one can have a vision or one can have no sense of direction but I do not see how one can be guilty of both at the same time given that a vision by definition has got to be a target to which one wants to go, a direction in which one wants to go. Certainly I can understand the Leader of the Opposition's frustration that for the first time the Government of Gibraltar are developing a comprehensive economic policy for the private sector and that it leaves him, the Opposition, with no alternative sense of direction other than the one that the Government are pursuing. But he must not confuse his own lack of vision with ours and he must not confuse his own lack of sense of direction with ours. The Leader of the Opposition speaks glibly about running down the reserves. Well, when he was investing £30 million of taxpayers money in building New Harbours we did not say that he was running down the reserves, we certainly thought it cost much more than

Union route and one which I believe, subject to the questions being answered, subject to our position being assured is the road, I have no doubt. So when we say that we do not support the directives we are not saying we are not in favour of passporting across border activities, what we are saying is let us find out first what the position is and then let us get on with doing the business. These are the concerns of the industry and the Minister has had extensive consultation on some directives and he will have heard that, I am sure, himself from many of the sectors represented in those groups. The question of the 4<sup>th</sup> and 7<sup>th</sup> directive has been dealt with by the Minister today. I agree with him, as indeed I do agree with what the Chief Minister said last year in his contribution, that they are legal obligations. But if one takes the line of certifying what one can do before one takes the final steps, then when the time comes it will have to come into play, there is no doubt about that, the industry knows that. Nobody in the industry today can reasonably blindfold himself and hope that the 4<sup>th</sup> and 7<sup>th</sup> directives do not come in. Therefore in that regard, the assurances given by the Minister today that they will be implemented, the maximum benefit or I suppose with the minimum damage towards a traditional sectors of Gibraltar is welcome. It is one that the industry is concerned about and I think they will be reassured having heard those comments from the Minister.

Mr Speaker, to conclude, a few brief comments on one or two items. The moves in respect of the harmonisation of taxes, yes it is a problem that is facing Gibraltar and indeed other jurisdictions and it is one that needs to be pre-empted and to that extent we welcome the think tank for reviewing and advising on the way forward that Gibraltar should take in that regard. In conclusion, we have no hesitation or difficulty in giving credit to this Government where it is due, we welcome a number of initiatives that they have taken but we have the right and indeed duty to make objective criticism of things when they are not quite as they should be. Mr Speaker, the statements that I began with with respect to the Minister for Employment I hope will be heeded and that we do not have to face that again in this House. Thank you.

MR SPEAKER:

We will now adjourn until tomorrow morning at 9.30 am.

The House recessed at 7.05 pm.

it should have, that is true, but this new-found view that investment by the Government when it was done by them was necessary infrastructural investment in the future of the economy but that when it is done by us it is running down the reserves, simply reflects the sort of language to which they feel they have to resort given that being in Opposition requires them simply to criticise what the Government do. The hon Member may say, when we point out that they did things in the past, "Well, the fact that we the GSLP when we were in Government did something is not a reason why the Government should do it as well". Of course it is not, and we do not do things simply because they did it but the hon Members will forgive us if when they criticise us for doing things which they have done themselves, that we point out the fact so that those who are analysing the value of their criticism will know what credibility to attach to it. On a small point, Mr Speaker, and just to correct something that the Leader of the Opposition said, we have not said that the Central Arrears Unit will add £5 million of extra revenue. *[HON J J BOSSANO: I have not said that, Mr Speaker.]* We have said that £5 million of arrears of revenue had been transferred to the Central Arrears Unit for processing. I will give way to the hon Member.

HON J J BOSSANO:

He is misquoting me and therefore he does not need to correct it. What I said was that last year he announced the creation of the Central Arrears Unit and I was quoting from his speech where he put a figure of an estimate of £5 million as what they would collect from the blitz. That is what I said, nothing to do with what they are doing this year, I have no idea of what they expect to get this year because it is not reflected in the estimates and he has not given any estimate of it.

HON CHIEF MINISTER:

Mr Speaker, I am admittedly speaking from recollection but what I recall saying was that they would process arrears, not that they would collect arrears of £5 million. The Leader of the Opposition simply made the enquiry, his less economically agile colleague, Mr Mor, made a great fuss about it, this business of the fluctuation in the income from gaming licence which was estimated. Well, £280,000 which was the estimate for 1997/98 is the then usual level of income from that Head. It rose by a sum in excess of £1 million because the Government came to terms with a particular operator who had made use of somebody else's licence and who had not been paying pursuant to a dispute that ensued the gaming tax and £1 million or thereabouts, I think it was a bit more, was collected

from this particular operation by way of arrears of the 1 per cent gaming duty on betting. The estimate of £800,000 for this year is an estimate of the recurring revenue from the source that can be anticipated together with what we anticipate might arise from new licence applications that the Government are in discussions about.

HON J J BOSSANO:

Will the Chief Minister give way? The query that I had was that in the preceding year, that is in 1996/97, the same thing happened and I have assumed that it was not that when the estimate was upped from £280,000 to £1.25 million in 1996/97, that extra £1 million must be one of arrears and that is why the £280,000 was repeated for the year that has just ended. Therefore it seems odd, now that we have the benefit of the two years, it seems odd that having collected £1 million of arrears once in 1996/97 and I think the explanation that the Chief Minister has given us is about the £1.3 million in 1997/98 and not about the £1 million in 1996/97, I take it, so this is why I was questioning how is it that if they actually were out by £1 million in one year they went and did the same thing in the following year.

HON CHIEF MINISTER:

I accept that that is a different point and I would have to seek an explanation for that which I will give him at Committee Stage but I suspect that it might have been anticipation of what subsequently happened. I will have it looked into by those who deal with that. The Leader of the Opposition also referred to the fact that debt servicing costs were now taken below the line, so to speak, in the Consolidated Fund in that they are taken, he said, from the reserve. Mr Speaker, the fact of the matter is that the recurring debt servicing cost, that is to say, interest charges, will continue to be taken in the Consolidated Fund under the Consolidated Fund Charge as before and that has not changed. And capital repayments were never taken from the Consolidated Fund, they were taken from the General Sinking Fund in his days, so the only difference now is that instead of taking the capital from the General Sinking Fund which has been collapsed into the general reserve, the capital repayments are taken from the general reserve. It was thought preferable to take it below the line out of the reserve so as not to distort the comparability year on year of recurrent expenditure by including above the line in the Consolidated Fund which we are trying to limit to recurrent expenditure, capital repayments that would not necessarily recur in subsequent years. So there is certainly no

anomaly, I think was the word that the Leader of the Opposition used, he referred to anomalies in the account as to what is probably chargeable to the Consolidated Fund and what is chargeable direct to the reserve. There is no anomaly whatsoever, the interest continues to be debited to the Consolidated Fund proper as has always been the case and the capital continues not to be charged to the Consolidated Fund as has always been the case and is now charged to the Consolidated Fund Reserve as opposed to the Consolidated Fund Charge. Mr Speaker, I will give way to the Leader of the Opposition but what I cannot do is let him respond point by point to every point in my address. I will give way to him once more on this occasion.

HON J J BOSSANO:

Given that this is the last occasion, it is not that I want to interrupt his speech, it is that he happens to be wrong and I do not have the opportunity of pointing it out. He says "as it has always been done", well it is not true that that is how it has always been done. Last year there was a capital repayment of £100,000 and that was charged to the Consolidated Fund above the line. This year, if it was decided to do it below the line, it was decided so late in the day that they actually had to replace the page to show the difference, it was not in the original printed estimates. So it seemed to be an innovation. Thirdly, when it was paid out of the Capital Fund, it was paid out of the Sinking Fund but if he cares to look at the estimates of 1987/88 he will find that there was an annual charge in the yearly recurrent revenue which was a transfer from the annually recurrent expenditure to the Sinking Fund. So if they paid off £5 million in one year it was because there had been five years of £1 million charge to the Recurrent fund. He can go back and he can see that that is the accurate figure, so what is being done this year is the first time that it has been done.

HON CHIEF MINISTER:

Yes, Mr Speaker, like so much that we are doing, having to correct, not in this particular respect, so much of what the Opposition Members used to be wrong. But what the hon Member cannot do is change his language. When he is making his initial point he uses language calculated to transmit one meaning and then when I correct him, in his comeback he modifies his language so as to try and disqualify the application of my response to his original accusation which was formulated in different language. He now calls what we have done an innovation. When he first attacked it he called it an anomaly. Well, there

is a significant difference, even to economically illiterate people, between an anomaly and an innovation. Yes, I readily and with pride admit to the fact that it is an innovation, much of what there is in this booklet and in last year's booklet is an innovation, it is not an anomaly, it is considerably more transparent than the information that he used to give given that the General Sinking Fund was a Special Fund and not dealt with in the way that this is dealt with in the estimates.

Mr Speaker, the hon Member may be proud about how he used to manage the public debt. I suppose it is easy to be wise after the event but certainly I would not have committed the taxpayer of Gibraltar to a £15 million bond at the fixed interest rate of 115/8 per cent until the next century at a time when most people were assuming that interest rates would be coming down. And I can assure him that when the time comes to service or reschedule that public debt, I am confident that it will not be costing the taxpayer of Gibraltar the 115/8 per cent that he strung around the taxpayers' neck and that if it does it will not be over a long-term locked-in basis so that we cannot get the benefit. I accept that those are matters of judgement of the time but I think that he now has to recognise that subsequent events proved his judgement to be wrong. That the taxpayer of Gibraltar could now be servicing that debt at 7 per cent or 7.5 per cent, 8 per cent at most, and that we are paying 115/8 per cent and that it is entirely due to his judgement at the time. Well, he could have got it right or he could have got it wrong, in the event he got it wrong.

The hon Member announces that the current level of Government revenue shows that the private sector was healthy when he left it. Well, this is just a repetition of his election campaign. He may have thought that the private sector was healthy but as we have heard from my hon Colleague, the Minister for Trade and Industry, and as we were saying during the election and subsequently, there were whole sectors of the private sector who would not share his view. Ask the hotels how many of them were on the verge of closure. Ask the Finance Centre what they thought the immediate prognosis for their future was notwithstanding the level of Government revenues. And it was the hon Member's failure to distinguish between the current state of public finances on the one hand and the prospects for the short to medium-term future of the private sector on the other that caused him to preside over an economic policy which was taking the private sector down a cul-de-sac at full speed. I notice the Leader of the Opposition is not normally complimentary about the present Prime Minister in the United Kingdom but I notice that he is adopting his approach to Ministerial salaries saying that how could we

possibly take pay rises whilst shop assistants are in danger of having to accept a pay freeze. Well, if he takes that logic to its natural conclusion he will presumably also want to argue that he does not want to vote in favour of pay rises for civil servants and the public sector either because, after all, he would have to argue, if he wished to be uncharacteristically consistent, that if shop assistants are not having a pay rise how can the Opposition possibly vote in favour of pay increases for public servants. So we will wait to see what he says to that on the debate that will ensue on that motion. The policy of his Government in the past was never exactly sensitive to the needs of the lowest paid in Gibraltar. When he was increasing social insurance contributions annually by 10 per cent regardless of the rate of inflation, regardless of the fact that everyone knows that social insurance contributions are a regressive tax, being a flat rate tax and therefore affects the lowest paid most, when he was doing this annually by 10 per cent whilst inflation was 3 per cent or 4 per cent, he was not then casting himself in what he now attempts to cast himself as a hero of the solidarity with the low paid shop assistants in that sector of the private sector. It is true that the hon Member made two £15 million annual contributions to the Community Care Limited. It is also true that that is not happening but it is not happening, Mr Speaker, because it is not necessary or was the hon Member proposing to continue to pump in £15 million a year to Community Care Limited regardless of whether it needed to simply so that he could go outside to the Piazza downstairs and when he passed the old folks sitting by the kiosk say, "I have given you another £15 million of security for the future". How long was he going to try and spin out that nonsense for? How long had he intended to carry on putting unnecessarily £15 million worth of overtaxed taxpayers' money into an unnecessary provision which was already properly provided for when there are many other things that this community also needs money spending on? And, of course, he was not so concerned about the Community Care financial situation that he wanted to ensure that the income from that money was maximised because he converted their holding of the £50 million debentures into cash and then allowed them to place it on deposit at the Gibraltar Savings Bank where he was paying 4 per cent when the market rate was 7 per cent, keeping the profit for the Government in the form of reserves of the Savings Bank. And I have to say also, Mr Speaker, that if the hon Member had the opportunity, for which I applaud him, let me say, I think that the Opposition Members did a service to this community by creating a fund of that sort which they were then able to make available for the purpose for which it was made available and I make absolutely no criticism of that, on the contrary, I applaud the Opposition Members for that but they also have to

understand that the opportunity that they got to accumulate that money from an activity substantially funded from an activity which the hon Members will understand the Government have decided is in the long-term interest and indeed the short-term interest of Gibraltar should be discontinued. And to the extent that the stopping of the fast launch activity has reduced the flow of monies to the Treasury, that is a price that we are happy to pay and if it means that we have got a bit less money to unnecessarily now pump into Community Care Limited, then so be it.

Mr Speaker, the Leader of the Opposition asked where the £5 million of the revolving facility had gone to. He recalls that at the time we gave the explanation that it was a facility that was on a favourable interest rate and that was going to be drawn down on before it expired and as he has correctly pointed out, the facility would not have expired until October. In fact, the facility was drawn down on and he will find that the £5 million proceeds were paid directly to the Improvement and Development Fund and it appears in the accounts to the 31<sup>st</sup> March 1997, which he will see in income from the Improvement and Development Fund whereas the original estimate of proceeds from loans was only going to be £5 million the actual revenue was £10 million and the difference is those £5 million that were drawn down from the revolving facility. Yes, the Financial and Development Secretary has just reminded me that the accounts themselves are actually not published yet but he will see them when they are published.

HON J J BOSSANO:

I will see it when it comes out but, in fact, the reason why I have kept on asking about it is because that is what I understood myself was happening a year ago and which he told me was not correct and ever since I have been trying to find where it is, if it is not where I thought it was and he has just confirmed that it was where I thought it was, that is the point. I said specifically is the £5 million increase in reserves which is the words that he used, if I can quote what he said last year, in the figure that he gave for the reserves he said there was a £5 million which they had not needed which they had not used and which they had only drawn because they would have lost it had they not drawn it in March. Since I could not find it in the reserves, I saw it in the Improvement and Development Fund, I asked him, "Is this the £5 million?" and he told me no, that it was not, that he would show me where it was in the reserves. I would not still be on the same point, in fact, if he had confirmed last year what he has confirmed now.

HON CHIEF MINISTER:

Well, that might have been the hon Member's understanding. The fact is that it is the £5 million in the Improvement and Development Fund as shown in the booklet given to him this time last year showing the forecast outturn for 1996/97. This shows the estimate of £5 million and the actual forecast outturn at £10 million. The Leader of the Opposition then asked why we were forecasting £1 million extra revenue from electricity charges. Mr Speaker, the reason for that is not that we expect demand to rise by £1 million, it is that we expect to significantly improve the system for the collection of electricity arrears and this is an amount which has been allocated as the fruit of that during this year. Hon Members will be aware of the arrangements that exist with Lyonnaise des Eaux for the collection of electricity charges to the Government. It appears that Lyonnaise des Eaux collect their own revenue with more enthusiasm than they collect the Government's and that this is reflected in very high levels of electricity arrears, alternative arrangements will be made to ensure that that situation improves dramatically. Government are also aware that a contract was entered into by them, indeed it was signed just a few days before the General Election in May 1996, with Land Property Services, for them to collect the old arrears. That part of the contract which cost the taxpayer £60,000 per year in fact has yet yielded nothing because there is apparently some difficulty with the data bases or the transfer of the data bases, or to cut a long story short, Land Property Services are not operating that part of the contract and therefore arrangements will be entered into that respect.

Mr Speaker, I will deal separately with the points made in relation to the civil service by the Hon Juan Carlos Perez. The Leader of the Opposition said that after all the hullabaloo that there were nine additional civil servants as a result of our reorganisation. As always, the Leader of the Opposition shows himself to be a master of the favourable presentation of statistics. That is to say, favourable from the point of view that he wishes to project at the time. The fact of the matter is that the figure that he is comparing my body count today is the figure in the establishment as at March 1996 but of course everybody knows that that establishment was full of vacancies that the hon Member did not and had no intention of filling and so one cannot subtract the present figure from the establishment figure when he left office and say the difference is only nine. It may only be nine on paper but there are actually many more bodies now than then because the figure in his days, although only

nine lower than the actual body count today, involved many fewer people actually in post because his estimates were riddled with vacancies. In addition, Mr Speaker, he knows that we have recruited 44 additional Administrative Assistants. We have told him that. If we have recruited 44 additional Administrative Assistants which is more than they recruited in their eight years there can be no doubt and certainly nobody else doubts that the establishment in fact, the body count of people in posts as opposed to the establishment as decided but not necessarily filled, is a significantly larger body of people today. The hon Member asked whether it was intended to fill all the vacancies, he first asked whether there were some vacancies left to fill. Mr Speaker, yes there are. The process is not entirely finished, it is finished in respect of EOs right up to Senior Officers. There is provision in the Estimates for about 25 AA/AO vacancies which the Government have not yet decided how many of which will be filled. Certainly I estimate that at least half will certainly be filled and the jury is still out, so to speak, on about another half. That is the extent to which there are some vacancies left to fill.

HON J C PEREZ:

Can the Chief Minister state whether these 25 vacancies are part of the numbers shown in the Estimates or whether money has been provided but the posts do not appear in the figures?

HON CHIEF MINISTER:

Mr Speaker, they are all provided for in the Estimates. Money is provided, they are there in the establishment figures. If they are filled, they are filled, if they are not they will disappear from the books next year. There is provision for the 25, do not hold me to the 25, it may be 25, it may be 27, but this is the last bit of tinkering at the bottom of the musical chairs process that has not yet been done. Departments have submitted bids for those vacancies to be filled and the Government must now sit to adjudicate how many of them we wish to cover but in principle that will happen shortly. The hon Member asked whether the emoluments were shown in the Estimates as at present so that pay reviews would continue to be funded from the Pay Review vote and the answer to that is yes. The Leader of the Opposition also said that we might have created a top heavy public administration by just moving people up. It is not so, as I have just indicated, not only have people been given the opportunity for promotion and not only has there been a strengthening of the middle and senior management of the service but there has also been recruitment at the bottom. Of course, the question

of promotion prospects and of creating posts for promotion prospects goes to the question of the motivation and morale in the service and motivation and morale within the service, which are equally important factors to the question of the number of bodies employed. All of those are important factors when it comes to the efficacy of the civil service. The hon Member defended his national account statistics, his GDP statistics, saying that they always worked very well in the past. After he had said that he qualified it by saying, "Well, at least to the extent that they do not work well they work consistently badly from year to year because whatever deficiencies there are in the calculations are consistently perpetrated and therefore they at least establish a trend even if they establish a trend at the wrong level". That was his subsequent qualification. Well, I have to say that that is not the advice that the Government get from our own statisticians. It is not that we have said as a matter of political policy that the Government need to change this. The fact is that there is no confidence amongst the Government's own statisticians about the quality of these figures and, I am not willing even if the hon Member was on the basis of some commitment to trends, even if they are trends established by erroneous figures, I am not willing to stand here boasting about growth in the economy which I can only justify and sustain on the basis of indefensible empirically indefensible statistics. The statistics, people tell me that there is a margin of error of up to £100 million which, given the total size of the figures, is out with the normal acceptable statistical error and margin of movement. Therefore, whatever the Leader of the Opposition's views might be about the usefulness if not the accuracy of the previous statistics, the Government decision to review the basis is driven entirely by the technicians in the area and not because the Government want the figures to reflect something that the present figures do not reflect. The hon Member asked whether the import duty estimate makes allowance for the gradual ticking of the import duty relating from the new head of import duty building materials. Mr Speaker, I think they do not. The Estimates in that respect are on a prudential basis and he will recognise in effect that what has been carried forward is last year's figures.

I will just mention in passing, that it is not that the Government have reduced the complement of an existing Central Arrears Unit from 11 to seven. Government's own restructure proposal documents were transferred to the Estimates last year but there was never a Central Arrears Unit with 11 people in it. The Central Arrears Unit was established from the outset with one or two and it has now grown to seven and there are seven because the Accountant General tells me

that that is a reasonable number needed to digest the workload that it can possibly digest at present. Eleven is the highest it has ever been. I just thought I would make that point in passing lest he should be under the impression that we had reduced an actual.... [Interruption] Seven is the highest that it has actually been, it is not that it used to be 11 and it has been reduced to seven.

Mr Speaker, I take note with regret that Opposition Members do not feel that they can support the Government in its Moroccan workers resettlement package. The hon Members' belief, shared by the Government let me say, that the United Kingdom Government have a responsibility to at the very least contribute to the cost of resettling Moroccan workers given the way that the Moroccans arrived in Gibraltar and given the attitude taken on defined domestic matters and non-defined domestic matters aspect of it by the then British Government, the alternative given that they will not, is to perpetuate the stay in Gibraltar in miserable conditions of these several hundred men. I just wish that the hon Members could have brought themselves, and indeed could still bring themselves round to the view, that when one places in the balance the way Gibraltar feels that these men should be dealt with as opposed to who he thinks should contribute to the cost of it, that even though we cannot achieve the second and that we cannot win what we regard to be a meritorious argument in that respect, that that should not lead us to conclude that we should therefore condemn the social problem and the personal problems that results from that situation indefinitely. What we have done is not relieve Her Majesty's Government of their obligations because the package that we wanted to do would have cost £3 million. What we have done is say if we were willing to contribute half of the £3 million package on the basis that the UK Government would contribute the other half, then what we will do is proceed with a package that will cost £1.5 million and this cannot be described entirely as a non-investment. The Opposition Members were amused when I described it as an investment. Of course, it is an investment even in the way that it amused him in the moral commitment of this community but it is also an investment in financial terms if that is the only sort of investment to which the hon Member attaches value because he must know that these men are in Gibraltar, that they pay no hostel fees which loses the Government substantial amounts of annual revenue, that they pay no electricity or water consumption fees, which he knows costs the Government significant annual revenue, that if they remain in Gibraltar as many of them now are at advanced years in life they will become an increasing burden on the public health services in Gibraltar. All those are cost factors which he should not be so quick to

dismiss when considering the investment value to this community of outlaying this £1.5 million. I understand that it is not a clear-cut decision that there are arguments both ways and there are judgements to be made. We have made the judgement in what is becoming an increasingly difficult human situation. It would have been I think helpful and appreciated by the whole of the community had the Opposition Members felt that they could take a different position on that matter. Of course the hon Member says in trying to defend the 1<sup>st</sup> July law and in trying to defend his whole approach to Moroccan workers that it was all a case of protecting the people who were here. Tell that to the Moroccan workers whom he systematically denied access to the labour market when they become unemployed. I do not want to get drawn into definitions of the word "racist" because it was urged by the Hon Mr Isola yesterday not to do so, so I will not, but whatever we might all think the word means let the hon Member find some other way of justifying his policy, other than by saying that it was designed to protect the position of the people who were in Gibraltar, because the people who were in Gibraltar included the very 700 Moroccans that we are now trying to financially encourage to go home, to which he is opposed, and which he, although not willing to finance sending them home was not willing to give them access to the labour market either. In other words, condemning them to abject misery, poverty and dereliction here in Gibraltar and that is not a morally tenable position for this community to sustain indefinitely.

I am delighted, Mr Speaker, to have heard the Leader of the Opposition say that part of the function of this House is to make the Government prioritise policies and expenditure. Indeed, we must look forward to the hon Member's contribution to our prioritisation. And I say I am very glad because it was not that long ago when he was sitting on this side of the House that he would openly describe this House as a waste of his time. Let me say that I do not regard this House as a waste of my time and I much look forward to the contributions that they will be able to make to the affairs of Government through this House. The hon Member said that he did not think that we could spend £28 million out of the Improvement and Development Fund for the coming year. I have to say that I share, to a degree, his scepticism but of course if we do not provide for it we cannot spend it and if we do not provide for it we cannot spend it in the first quarter of next year either because as he is aware the public accounting rules enables the Financial and Development Secretary to advance money for projects that have been approved but not for new projects. So the effect of not putting them in this budget in the Improvement and Development fund is that we could not do that

project for the next 15 months, not just for the next 12 months. Therefore, whilst the Improvement and Development Fund estimate is something that we would like to spend, if it does not happen it will be for reasons outside our control.

Mr Speaker, the hon Member said that the Government's budget address addresses none of the concerns of the community. Even allowing for the usual degree of licence that Opposition politicians are allowed to take and indeed are expected to take and have little option but to take in this exercise, I think that even by those standards I think that that is an excessively harsh analysis of the Government's budget and he should ask, for example, the long suffering Gibraltar taxpayer who once again gets a reduction in his level of taxation, whether this budget addresses any of his concerns. He should ask the long suffering resident of Gibraltar housing estates for whose benefit this budget makes substantial provision whether this addresses any of his concerns. He should ask the tourism industry for whose benefit this budget makes substantial provisions in the form of hotel assistance scheme et cetera whether this budget makes any provision. He should ask the Finance Centre for whose benefit this budget makes substantial provision in the form of expenditure to be incurred through the Ministry of Trade and Industry whether this budget makes any provision for them. It even makes provision for the concerns of the community in that area where the hon Members believe that our performance to date has been deficient, namely employment and training, because the budget provides the finance as I said for the new schemes that we are introducing in that respect. I think when he reflects on his choice of words the hon Member must agree that that is an unfair critique. I do not even say an unfair highly technical economic critique, I simply say an unfair critique of the budget.

Mr Speaker, the hon Lady, the Opposition spokeswoman for Health, appears to believe that there is some virtue in ratchetting up public health expenditure every year by more than the previous year. As I recall the debate that originated some time ago between her and my hon Colleague, the Minister for Health, it was whether we had increased by more than them. The Minister said that we had spent more than them and I suspect that they were at cross purposes because whereas he was saying that we had spent more than them, actual expenditure was more, I think what she was saying was, "Yes, but you have not increased it by as much as we would have increased it and therefore you have increased it by less than our increase". I see no virtue as they appear to see in simply increasing public expenditure regardless of

whether that increase is actually delivering additional value for money to the taxpayer, regardless of whether it is actually delivering better quality health services to the taxpayer, regardless of whether additional expenditure as might be such additional expenditure as might be required in the health service cannot be found from other unnecessary expenditure in other areas of the health service from which it can be squeezed thereby depriving the taxpayer of the need to fund both the necessary increase in health expenditure and continuing to fund wasteful practices elsewhere in the Health Service, for example, the prescription medicines issue. Therefore I make no apology for the fact that the Government's attempt to limit the amount of money that we spend on health service provided that we can do it without compromising the quality of health service and indeed provided that we can do it whilst at the same time introducing the many necessary improvements that need to be introduced into the health service and which the hon Lady failed to introduce during her eight years in office.

Mr Speaker, the Opposition spokesman for Social Affairs gave us an entertaining address, and for that he should be thanked, an element of relief is always welcome but I regret that I cannot allow some of his remarks to go unchallenged. Less informed members of the community listening might be persuaded to think that there is any merit to much of what he said. Certainly, Opposition Members can take some sort of credit for eventually and under duress finally agreeing to bring legislation to eliminate, not all fast launches mind you, simply the RIBs because the Leader of the Opposition surely will remember how he had continued to defend the distinction between RIBs that were engaged in trafficking drugs across the Straits and phantoms that were engaged in smuggling tobacco to the Spanish beaches and it was a distinction that he drew with pride and with a sense of indignation and therefore at the same time for his hon Colleague, Mr Mor, to stand up and take credit for the elimination of all launches, I think simply exposes the hon Member to a degree of ridicule that I am sure he can do without. Everybody in Gibraltar knows that the GSLP administration was not only content to tolerate the fast launch smuggling of tobacco but that indeed actively condoned its continuation. Now that it has been eradicated with public support no one in Gibraltar is going to allow the Opposition Members to take the credit for it. The hon Member is right, however, when he says that the establishment of the Drug rehabilitation Centre in Bruce's Farm Cottages has taken longer than he envisaged. The explanation for that, in case he is interested in the issue as opposed to simply the criticism, is that when eventually we are able to agree with the MOD, Bruce's Farms are freeholds and therefore they are caught up in the whole freeholds

issue. We eventually overcame that problem by accepting occupation on licence terms but when that eventually was achieved we then found that there was significant water ingress and that work had to be done to the roofs and all that took longer than we thought and it is now almost up and running.

Mr Speaker, all this brings me to the extraordinary parade, Opposition Members have queued up to try and heap criticism on the Government on questions related to the extent of the Government's over-estimation last year of expenditure in the Improvement and Development Fund. The Hon Mr Mor questioned whether the Government could claim a transformation and a revolution in public transparency simply on the basis that we had said that we wanted to spend £36 million in capital infrastructural projects and in fact time and capacity only allowed for £15 million. The Hon Mr Juan Carlos Perez actually went as far as to say that the Estimates last year were less transparent than ever before. The Leader of the Opposition who is, I recognise, more knowledgeable than his hon Colleagues on matters of public finance, was obviously, and for that reason, much more restrained in the use that he makes of that point. If I could just proffer some advice gratuitously to the hon Colleagues of the Leader of the Opposition across the bench, my advice is that they limit themselves to expressing public views on issues that they understand and that they leave matters of public finances to the Leader of the Opposition who has demonstrated that he is the only one with a modicum of understanding of these issues on the other side of the House. Mr Speaker, I have already explained the £1 million gaming licence business. Neither the Hon Mr Perez or the Hon Mr Mor presumably failed to know what the word 'transparency' means. Surely they have seen that whereas in the past Estimates and outturns of Consolidated Fund expenditure, for example, in 1994/95 amounted to £69 million that now they amount to £115 million and the difference of £50 million odd is not that I have been so successful in the management of the economy, that I have increased public revenues by £50 million, those £50 million by which the budget has now risen, are the £50 million that they took off balance sheets, that they used to manager through special funds and companies and which this House never got the opportunity to debate because they were simply not included here. They used to bring a budget containing £70 million of revenue and expenditure which amounted to about 55 per cent of the total picture. I bring, for the first time in 10 years to the House, a budget that shows 100 per cent of public revenue and expenditure and the Hon Mr Perez has the disingenuity, to put it at its least, to say that this is the least transparent budget ever. Either the Opposition Member does not

understand what is happening, did not appreciate the extent to which the financial engineer of the Government of the day had restructured public finances to make them untransparent or he is simply premeditatedly deceiving public opinion because the explanation can only be one of those two. Either he does not understand what used to happen and therefore does not understand what has happened now or he understands what used to happen then and what is to happen now and makes the absurd remark that these Estimates are less transparent than before to deceive this House and to deceive public opinion. There is no other explanation which even in a desire to be as generous to him as possible I can give him credit for. Even if in their world of distorted concepts the real criteria for transparency was the accuracy of Estimates. Even if what people mean by transparency is how accurate one is in estimated 12 months forward revenue and expenditure, I have to say that even by those perverse standards, the hon Member's record in the past, even on the basis of an untransparent budget, dealing with only 55 per cent of public revenue and expenditure, in other words, even transparency measured by their perverse standards, their performance would not entitle the hon Member to say that this budget was less transparent than ever. Mr Speaker, when they brought the Improvement and Development Fund, the one that we accepted last year, we were too ambitious in the number of projects that we could physically do in a year. In 1994/95 they mis-estimated expenditure over Estimates by 31 per cent on the Improvement and Development Fund. In 1995/96 they mis-estimated the position on the Improvement and Development Fund by 40.5 per cent. In 1996/97 they were slightly better, they mis-estimated it by only 10.5 per cent. We have mis-estimated it by 59 per cent. I am sure that when the hon Member stood up yesterday because it was only on the Improvement and Development Fund that this gross miscalculation of how much work we could actually do in a 12 month period to date, he was not making the point in reliance on the difference between 40 per cent and 59 per cent. He should not worry because nobody except them actually consider that transparency depends on the accuracy with which one foretells revenue and expenditure on the Improvement and Development Fund. Of course their performance is even worse on the Improvement and Development Fund if one excludes, as we have done, what was really recurrent expenditure in their Improvement and Development Fund – overtime costs and other labour costs which we have taken out of the Improvement and Development Fund because, of course, those are stable. On that basis their miscalculations were 41 per cent in 1994/95 and 54 per cent in 1995/96. Mr Speaker, I do not share their views that even by their own

standards the hon Member's observation yesterday was a completely nonsensical statement to make.

Now we turn, Mr Speaker, to the Consolidated Fund. In 1994/95 they mis-estimated expenditure by 4.9 per cent and in 1995/96 they mis-estimated expenditure by 2.5 per cent and by 6.5 per cent in 1996/97. Ours was within the usual historical tolerance of 4.7 per cent. Having said that the whole point is non-sensible, it does not even sustain analysis, it does not even bear scrutiny by their own performance of accuracy of estimation leaving to one side the fact that their Estimates were devoid of the completeness of the picture, of sources, let alone Estimates of Government revenue and expenditure. Then the Opposition Members queued up like lemmings to heap criticism on the Government, because one hon Member makes a point, he does not understand it but then everybody else repeats the same point, presumably with an even less degree of understanding as to why we had allegedly underspent £900,000 on the Gibraltar Development Corporation, the ESF funding vote which was £1 million and it was estimated at £1 million and only showed £100,000 and how this proved beyond all reasonable doubt as far as the hon Members were concerned that this meant that we had just sat on a pot of gold that we could have spent from ESF funding. One hon Member, I think it was the Hon Mr Isola said, "Does this mean that you have lost it?" The Hon Mr Baldachino is offering to take the blame himself, he owns up. Mr Speaker, there are several things to be said. I think what it demonstrates is that Opposition Members, even though they have been in Government for eight years, appear not to understand how this thing works and the hon Member has been the Minister with responsibility for some years for this money. Sometimes I wonder whether their problem is that now in Opposition, given that the Government have put the whole of public finances in the public domain, I ask myself whether their problem is that now, as Opposition Members of the House, they actually have access to more financial information than they had when they were Ministers in Government and that that being the case, perhaps they are just not familiar with how all this works. Mr Speaker, they only had the opportunity to put their foot in it in analysing that point because we now publish as an appendix a proforma Estimates of Revenue and Expenditure of the Gibraltar Development Corporation. Were that not the case, which is something that the Government do completely voluntarily in pursuance of our policy of public transparency, they would not have been able to make the mistake that they have made of having that information. But, Mr Speaker, do they not see that when there was an estimate of £1 million in 1997/98 under ESF funding and a forecast

outturn for 1997/98 of £100,000 that that is the revenue section, not the expenditure section, and that therefore whatever the picture that it shows in the revenue section, does not mean that that is the money that we have spent or not spent on training and wage subsidies and things like that.... *[Interruption]* ...the essence of the point being made was that the money had not been spent. The essence of the point was not that the money, although I will deal with that point as well in a moment, had not been received, it was that it had not been spent.

HON J J BOSSANO:

It cannot be received unless one spends it.

HON CHIEF MINISTER:

Exactly, I am glad that at least the Leader of the Opposition understands the point which is presumably why he was not amongst the long line of Opposition Members who queued to make the ridiculous point because he knows that ESF funding is paid retrospectively. He knows that it does not necessarily flow evenly and he knows the fact that ESF funding is received, for example, we are estimating £1.3 million in the current financial year which does not mean that that money has not already been spent in the first financial year because the ESF funding contribution is received retrospectively and the fact that we estimated £1 million of ESF funding and that we have only received £100,000 does not mean that we failed to spend the money. If they want to critically analyse our expenditure performance which they are entitled to do and they have done, they have got to limit themselves to the expenditure part of these accounts and not look at the cash flow exercise on the revenue side and base criticisms about our expenditure performance last year on the basis of the fact that the ESF money did not actually arrive. At least the Leader of the Opposition knows that ESF funding, unlike other forms of funding under the Improvement and Development Fund, some of which comes in advance and contemporaneously with matching expenditure, that is not the case here.

HON J J BOSSANO:

Mr Speaker, the point that was raised was raised because there was an estimate that £1 million would be received and an estimate that £1.2 million would be spent on training and development courses and there is a revision of both the figures that instead of £1 million being received from the European Community, £100,000 would be received and that

instead of spending £1.2 million on training, £220,000 had been spent on training. In the absence of any other explanation on the basis of those two figures, both on the same page, the question was, if the reason why one received less is because one has spent less does that mean one will be able to spend more and make up for the shortfall or does it mean that one will not be able to recover the money? That is the information that was being requested.

HON CHIEF MINISTER:

That is the re-description of the point that the hon Member now makes. The Opposition Members as they can do in fact by looking at other column figures on this page but not by looking at that figure on this page, cannot look at the figure of £100,000 forecast outturn of ESF funds and conclude from that as they did either that the monies had been lost or that expenditure had not been incurred although it is clear from the figures, and indeed, the Minister for Employment has been explaining the reasons for it throughout the year that there has been a decrease in expenditure on such things as wage subsidies but that does not flow from these figures. It does not flow from the revenue figure on the ESF. The hon Member also knows the way in which the ETB finances were structured. When we arrived in office in May 1996, what we found was a suspense account into which several years of unaccounted expenditure had simply been parked and it was practically impossible to untangle all of this into a meaningful annual estimate. What the hon Member now has for the first time and it is obvious to me that the rest of the Opposition Members are seeing it for the first time is a totally transparent accountancy exercise for the Gibraltar Development Corporation and the ETB which has never existed and if the hon Member wishes to criticise this for over-estimating in the first year when we did this exercise, the amount of expenditure, then I can tell him that there are two reasons for it. One was the one that has been explained by the Minister for Employment throughout the year and that is a fall in take-up on the cadet training scheme and other elements of wage subsidy and the other is the difficulty that there has been in establishing recurring budgetable annual expenditure to glean, to distil on that from the chaotic state of accounting that surrounded all aspects of the ETB when we arrived in office.

Mr Speaker, if I could turn to the characteristic contribution from the shadow spokesman for Education and Culture. I suppose it is not an uncommon political device but at least let all of us be aware that that is what he is doing. The hon Member has the extraordinary technique of

describing a world that does not exist and then pontificating for half an hour about how the world that he has created and which does not exist is wrong. We all sit here listening to his criticism of a non-existent situation. It is not the most unentertaining way of passing the time. I can think of less entertaining ways of passing the time but let us not delude ourselves that we are discussing the financial situation of Gibraltar. We have merged from a political and administrative point of view the education and training functions and then the hon Member says, "Well it is very dangerous to blur the distinction between education and training" and pontificates for half an hour about the differences between education and training as if anything that the Government had done was blurring the distinction between education and training. It has not blurred it in the United Kingdom. It has not blurred it in the rest of Europe, most of which countries see the virtue in continuing in putting together from a political and administrative point of view the functions of education and training. All those armies of expert officials that advice British Governments and other governments across Europe, they do not think that putting education and training together in one political ministry that this blurs, this does not mean that we are going to stop teaching our school children history and teach them carpentry instead. It does not mean that teachers will be required to become vocational training deliverers as opposed to academic curricula deliverers and of course.....

*[Interruption]* There it is, one seems a sort of phantom debate, nothing of what the hon Member says of course I would disagree with but it is just irrelevant because it is a figment of his imagination. The hon Member wearing his heritage hat, a hat which I fear he wears within a degree of discomfiture given some of the things that the GSLP Government did whilst he was Chairman of the Heritage Trust.....

*[Interruption]* Mr Speaker, it is all very well to criticise the Government in the words of one critic "architectural terrorism" inflicted on Lover's Lane and the Secretariat building but the alternative which was what the Government of which he now forms part in the Opposition, were quite happy to allow that Secretariat building to lie growing increasingly derelict for five years to the point where there would have been no alternative but to demolish it altogether. I am glad that the hon Member now has the opportunity to question whether we should have demolished that little corner, or that little arch, because at least it means that he acknowledges that we saved the rest. The alternative path that the GSLP Government was following was to demolish the building. I am astonished at so-called guardians of our heritage that say not a squeak whilst an allegedly indispensable historical monument is lying derelict as a derelict eyesore, no pressure put on the Government of the day to recover it, to retrieve it, to develop it, nothing, complete apathy and disinterest and when it is

saved for posterity in a way which everyone that I have heard express an opinion of congratulates the Government for doing, up pops the usual two or three heritage extremists fanned by the views expressed politically by the Hon Mr Gabay to criticise the Government. Let me tell the House, architectural terrorism or not, I am proud of what the Government have done in relation to Lover's Lane and I am proud in what the Government have done in relation to the Treasury Building and, frankly, I am satisfied and so will 99.9 per cent of the rest of the population of Gibraltar.

HON J J GABAY:

Mr Speaker, one of the big problems facing the Chief Minister is that he is totally unable to distinguish between creative thinking and proposals or any suggestions that might be of merit without going back into history with his usual venom. This, I think, is what is upsetting the entire work of this House. Let me tell the House that I do not live in a phantom world of education, if anybody does it is himself and I do not want actually, since he has been good enough to give me permission to talk, I do not want to develop into another criticism or to prolong it any further but simply to give him the same reply that I gave him last time. If one wants to contaminate everything that is discussed with going back into history, I shall refer and refresh his mind of my answer previously where he screamed out "liar" and it is a very simple answer, when I was working to defend the heritage of this place and arguing with the Government of it, because I feel strongly about it, he was involved actually in supporting the Party for the Autonomy of Gibraltar with Spain. That is the reality of it. I do not like to come back on to it but since he feeds on this I feel entitled to do so.

HON CHIEF MINISTER:

Mr Speaker, I can only assume that like I have done, everybody else who has heard the hon Member will interpret his outburst as conceding on the merits on the discussion on heritage. I do not have to revise the GSLP's history on heritage with venom. The facts speak for themselves. It is not venomous simply to remind people of what their own performance was in an area which they now seek to criticise the Government of the day. The hon Members think, mind you I do not blame them for wanting to try, that the history of the last eight years is now forgotten over and cannot be referred to lest anybody should contaminate their political future with their political past. That might be his view, I assure him it is not ours and it will continue not to be ours. Mr

Speaker, the history of the GSLP Government on heritage does not need to be attacked venomously. It is all very well to express romantic views about an arch over the Lover's Lane. Coming from a party that when in Government demolished the Dockyard gates during a weekend so that no one would even discover that they were going to do it, we at least had the decency of announcing it in advance so that public opinion could express a view. It does not mean, of course, that we then accept the view expressed by the minority but we at least expose Government policy to prior scrutiny. No one went to demolish Lover's Lane one long weekend so that when everybody turned up for work on Monday they drove past a marvellously re-fashioned Queensway. Coming from the Government that demolished the historical tower in the Dockyard without consulting man nor beast, coming from the party that desecrated the Moorish Castle wall without asking or consulting anybody. Even if one accepts as some people do, that it was a necessary assault on heritage because Gibraltar needs to continue to live and needs to solve traffic problems even though we are surrounded by heritage, surely the hon Members having driven a five metre hole through one of the most historic walls of Gibraltar to create a road to get out of the Moorish Castle Estate car park, surely at least a Government that has done that must at least recognise that it is sometimes necessary, in the interests of economic development of Gibraltar to do some damage to our heritage. But no, they who used to do all those things themselves now lament the disappearance of the arch over Lover's Lane. Well, Mr Speaker, they will forgive us if we do not take them as seriously and as credibly as we might had their own record not been so much worse than ours. Then he criticises the Government's allegedly token expenditure provision for archaeological digs. There have been more archaeological digs in 18 months of GSD Government than there were in eight years of GSLP Government. *[Interruption]* Yes, he did, what does he mean he did not criticise it? He referred to the token £1,000 vote for archaeological digs or am I deaf? Mr Speaker, let me tell him that what he describes as further damage to the historic Convent wall ought more accurately to have been described as further damage to the Convent wall. The Convent wall has no historical value whatsoever, and does he know why? I can tell him that because unlike the previous Government we commissioned, at taxpayers' expense, archaeological digs to establish whether something is historical or not before we tamper with it and as he well knows before the Government formulated our plans for the widening of that part of Lover's Lane which runs contiguous to the Convent Garden we commissioned, not supervised by us so that we could have contaminated it by political interference, we funded the Heritage Trust to commission their own archaeological dig underneath the Convent wall

and underneath the road and we just gave them the money that they asked. They brought experts from Cadiz and God knows where else and eventually they wrote back to the Government saying, "You may proceed, the Convent Garden wall has no historical importance". He knows that and therefore he cannot stand up in this House and refer either to the historic Convent wall or to the lack of the Government's track record, also if he has driven through Casemates Square, that even though it is at the expense of delay to the realisation of that project, that the Government have not only permitted but have funded an extensive programme of archaeological digs in Casemates at the estimated cost of £40,000. Mr Speaker, I do not address these issues because they are at the forefront of the most important issues that we should be discussing in the budget. I make these points because it is just not possible to allow Opposition Members to get away with saying the nonsense and the factually unsustainable statements that they make without pointing out that that is what they are – factually unsustainable statements. I give way to the hon Member.

HON J J GABAY:

Mr Speaker, just on the question of the perimeter wall of the Convent. There were very valid arguments presented by local experts on geological grounds, on botanical grounds and on historical grounds which he chooses to overlook. They are extremists, but he can bring people from outside and pay them and then say, "Look, we have done everything". This is one of the great drawbacks of this Government. Expert advice is a form of colonialism, of course. Expert advice from the outside for which it is paying is fine but the fact that the GONHS felt that this should not go ahead, that the Heritage Trust felt that it should not go ahead, that local geologists felt that it should not go ahead, I presume too that the Governor probably feels that way, that is of no account. The fact that a local expert even if one calls him an extremist, published prints of the time which show that it was an integral part of the context of Wellington Front since 1840, that of course is no argument. I leave it at that. All I would like to point out is that this tendency to debunk everything and to say that there is no reasoning behind it is absolutely absurd, unfair, discriminatory and typical of the Chief Minister.

HON CHIEF MINISTER:

And it will continue to be typical of the Chief Minister, Mr Speaker, whilst the Opposition Member continues with the nonsense that he utters. Not content with misrepresenting facts, as he knows them to be beforehand,

he even misrepresents facts of which I informed him less than three minutes ago. Less than three minutes ago I told him that the Government had had no role whatsoever in the archaeological dig in Lover's Lane except to provide the money. I told him that the Heritage Trust had expressed the desire to undergo archaeological digs in Lover's Lane and that the Government had agreed to fund it and that it was the Heritage Trust who engaged the experts from Cadiz, it was not the Government importing experts from abroad and ignoring local experts. I do not even know who came except when I read it in the Chronicle. It was the Heritage Trust that went rushing off to Cadiz for an archaeological expert, not the Government. What use does he make of that information? He launches into a diatribe about the Government preferring the word of experts from abroad than local experts. It is the experts from abroad that the local experts asked the Government to pay for. When the Heritage Trust conducted all these digs they wrote to the Government acknowledging that there was no historical value in the Convent Wall. That underneath the Convent Wall there was a sewer that had only been there for less than 100 years and therefore the wall could not be any older than the sewer. Mr speaker, I am not an archaeological expert but I do accept the advice of people. The role of the Heritage Trust is to advise the Government of when something is historically important but having told the Government that it is not historically important it is the Government's business and not the Heritage Trust's business to decide whether it should then go on or does the House think that because one or two individuals think that even though it is not historically important it should still not happen, that the Government should conduct public affairs on that basis? The Government are elected to exercise discretion and to make judgements and we are willing to consult and be guided by experts, not individual experts, by the body of experts consensual opinion on expert matters but, frankly, I have to tell the House that my opinion about whether Lover's Lane is prettier now than it was with the arch is no less valid than Mr Culatto's or anybody else's. these are matters of aesthetic opinion. On the matters of historical importance we refer it to the experts. In his address he did not refer to botanical and geological objections about the Convent wall, he referred to historical objections and when I demolish him on historical objections he then says, "Well, fine, it is not historical objections, there is a tree within three yards of the wall". If it is not the tree it is geological. The Government have made a policy decision on this matter which is that having taken into careful consideration the expert view which is that there is no historical value to the Convent wall, the Government's judgement is that it is in the public interest of Gibraltar to widen that road at the expense of the Convent wall and that it will be done in a way

which minimises the inconvenience and discomfort both before, during and after the works to the present incumbents of The Convent, His Excellency the Governor and Lady Luce. Mr Speaker, I have to tell the hon Member that not only because we do consult in advance unlike the previous Government before we destroy part of our heritage but also because the Minister for the Environment is about to bring to this House a new Town Planning Ordinance that will considerably open up the planning process, the people of Gibraltar will have infinitely greater opportunities in the future to influence Government decisions and planning decisions in the future than they were ever given in the past by the party of which he now forms a part.

Mr Speaker knows that I have an engagement at quarter to twelve which I cannot displace and I would therefore be grateful if the House could now adjourn till four o'clock.

The House recessed at 11.15 am.

The House resumed at 4.00 pm.

HON CHIEF MINISTER:

Mr Speaker, I will not keep hon Members too much longer. I think it was the Hon Mr Baldachino who passed the remark that the indication given by the Minister for Employment in relation to possible changes in the Social Benefit systems, were a very right wing policy. I do not know whether it is a right wing policy or not but certainly it is being implemented by all the Socialist Governments in Europe today. That is the idea that it is right for the taxpayers to sustain the people who are genuinely in need of being sustained by the community but that it is not right for the taxpayers to indefinitely sustain people who do not try to help themselves and who do not genuinely make themselves available for work and that is the distinction. There is nothing right-wing about it. If somebody is genuinely trying to seek employment and cannot, such a person is entirely meritorious of social benefit support and would continue to receive it. If somebody has grown accustomed to going round on a weekly basis to collect his cheque without making the remotest effort to obtain employment then it is not right that such a person should be sustained at taxpayers expense and the changes that the Government are contemplating are simply designed to ensure that people who are on Social Benefit are genuinely in need of it and are in

need of it notwithstanding the fact that they are available, really available, for genuine employment opportunities that arise. I reject the hon Member's description of this, to quote him "a very right wing policy" but.....

HON J L BALDACHINO:

Would the hon Member give way? If he is referring to the right wing policy which I mentioned of removing people from being registered as unemployed, that is correct. I did not say, "very right" I said, "a right wing policy". If he is referring to that then yes that is correct.

HON CHIEF MINISTER:

I will not argue with him on whether he said right wing or very right wing. I had him as having said very right wing and I do not normally make that sort of mistake when I take notes of what other people say. The unemployment statistics are a list of people who are unemployed and wish to be employed. People who wish to be employed normally attempt to obtain employment. I suppose my wife is an unemployed person, she makes no attempt to find employment neither does she seek employment. If one defines unemployment which nobody else in the world does, as people who are both unemployed, who desire to be in employment and who make every effort reasonably possible to find and accept employment, Mr Speaker, if one went beyond that, one would have to include every other old person in Gibraltar who does not have a job, whether they want it or not. Frankly, there are many people on the unemployment statistics who are there not because they are genuinely seeking employment but because it is a pre-condition to obtaining Social Security benefits.

HON J J BOSSANO:

Mr Speaker, we are not asking the Government to change the definition of anything. What he is telling us is that he wants to change the definition from what it has been until now, is that not the case? Until now the position has been that one is considered to be unemployed provided one goes once a month to the ETB to see if they have got a job that they will offer in which one is interested. That is my understanding of the criteria that is currently used. When he talks about Social Security I think we also need perhaps to ask him to clarify whether he is distinguishing between Social Security and Social Assistance because Social Security

is paid for by the person unemployed through his contributions and is not out of General Revenue.

HON CHIEF MINISTER:

Yes, Social Assistance I meant Mr Speaker. Social Security in any case is statutory. Let me tell the House that what the Government are contemplating is that it is just not enough for somebody to go along and register once a month. One has got to go along and register and be genuinely interested in accepting reasonable employment offers that are made available. Otherwise what we have is a number of people who in order to comply with rules in relation to Social Assistance go along once a month, reject every opportunity of employment that they are offered and then come again next month. Mr Speaker, such people are not what we would regard as genuine employment seekers and they are not people for whose benefit the employment service exists. The hon Member should not worry, I agree with him that any proposal by the Government to introduce changes in this respect would certainly be the subject of a discussion and debate and they will have every opportunity to express their views on it in anticipation of any radical changes that we might wish to introduce.

Mr Speaker, I regret the alarmist remarks of the Hon Juan Carlos Perez in relation to traffic flow and prejudicing of the work of the Fire Brigade. Clearly there are people who go rushing off to the Opposition to feed them tittle tattle. That is all right, I think it is not illegitimate for Opposition Members to rely or to seek to be fed information, after all we were the recipients of such information in our days but there is a difference between hearing and being told things and then coming back to this House and making assertions which suggest either that the Government are going to do something which is prejudicial to fire safety or indeed that it is the official position of the Fire Brigade. I know, as a matter of fact, that there are several well known GSLP activists amongst the junior ranks of the Fire Brigade. When he says that, "I have been told" who has he been told by? He well knows that the Fire Brigade is represented on the Public Service Commission, the Government have ordinary lines of communication open to the Fire Brigade. We get advice from them and indeed from the police on matters of traffic flow and then on the basis of the advice that we receive we will make the decisions that we will need to make and the Traffic Commission will support them or not support them or approve them or not approve them. For the hon Member to come now and just toss into the wind the announcement that the Government are going to do something which will prevent the Fire

Brigade from getting up to the Upper Town to put out fires is alarmist and I think unnecessarily alarmist and I think bordering on the irresponsible. I will give way to the hon Member.

HON J C PEREZ:

Mr Speaker, I do not make such statements lightly. I look at my facts and investigate them properly. I suggest that the Chief Minister, before repeating that he thinks it is an alarmist statement checks facts with the professionals which is what he always advocates he does and check whether what I have said is as alarmist as he claims it to be.

HON CHIEF MINISTER:

Mr Speaker, let me put it this way, I doubt very much if the senior officers in the Fire Brigade are telling him things which they do not tell the Government. What he is really saying is that the Fire Brigade sort of go along sycophantically with suggestions coming from the Government and then go rushing off to the Opposition to say that it would be disastrous from the point of view of fire safety because that is in effect what he is suggesting and I think that he does not do us a disservice, I think he does the senior officers in the Fire Brigade a disservice. I think he should assume and rely on the fact that if the senior officers in the Fire Brigade think, for example, I can recall right now that the Fire Brigade did say, "Well, for one reason or another the bit round Hargraves, currently one way and not two" and they gave an explanation as to why. Fine, that sounds perfectly sensible but no one has come along and said, "This is a disaster, if you do this the whole of the Upper Rock will burn because we will not be able to get up there" which is the insinuation. I have to say that the question of fire safety which of course is very important is something which is not new. One of the problems that we are grappling with at the moment in Harbour Views and which will add something like £1.5 million to the cost of repairing Harbour Views is the whole question of the failure to comply with fire regulations, fire resistant doors, smoke extraction systems, et cetera. It is not for me to say how that occurred but if the hon Member wants to conduct the business of this House on the basis of what some members of the Fire Brigade might be telling him, I have to tell him that when I was sitting on that side of the House people used to come to me and tell me that the hon Members when in Government were in effect forcing the Fire Brigade to issue certificates in circumstances in which the Fire Brigade was not happy. We cannot conduct the business of this House on the basis of titbits of information brought to us by members of this or that, if

they are going to do it we can do it as well. The hon Member can rest assured that the Government are not going to do anything in relation to traffic flow which places anybody in Gibraltar at more risk than they are at present. There are inherent traffic flow problems and access problems relating by the very nature of our streets. We intend to do nothing to make any of that worse. I just hope that he can accept that and other things that we might disagree when the plans are eventually produced as to whether they do make some things worse or not and if he does disagree then we will have to disagree. Certainly, the hon Member can rest assured that the Government have the security and safety aspects of the Upper Town area uppermost in our minds when we approve or do not approve changes to the present traffic flow system.

The hon Member said that it was clear to him that the Government had an agenda to run down the Road Section and that on the back of that remark he said, "and as if running down the Road Section was not enough it is to give the work to a contractor called Amey who does not employ a lot of Gibraltarian labour". Mr Speaker, certainly I would like Amey and all other contractors in Gibraltar to employ more Gibraltarian labour which is why the Government take much more seriously than they used to the whole question of investment in construction training and construction training centres. But it may be Amey today but if it is Amey today it is because they win the contracts on tender, but the people who used to get most of these resurfacing tenders before, the guys that I always used to say to the hon Gentlemen were basically painting the surface in black, did they employ Gibraltarian labour? The hon Member says yes but it was a Spanish contractor, they used to give the contract to a very well known local company that then immediately used to sub contract the whole contract to a Spanish contractor and pocket the margin. The work was still being done exclusively by Spaniards. I do not want to get drawn into arguments about racism again but if we are talking about foreigners, better British foreigners than Spanish foreigners I suppose. Mr Speaker, in any case there is no agenda to run down the Road Section. On the contrary the Road Section could not have been further run down than the hon Members left it, with two and a half people in the Road Section and five and a half people in the Sewers Section. When there was a job to do in sewers the roads had to be paralysed because the Sewers Section relied on the Road Section labour, when there was a need to do a road resurfacing there could not be any repairs to the sewers because all the sewermen had to come and push the trolley to lay the tarmac on the road and what they did was run down both the Road Section and the Sewers Section pursuant to a well publicised attempt to privatise it. *[Interruption]* The

hon Member may think it is a load of nonsense but certainly to the existing and remaining few members of staff of the Sewers Section and the Road Section he is not a very credible hero to espouse their cause. Far from running down the Road Section we are having to build it up. What we are having to do is give it additional labour resources at least to raise its complement to a minimum viable labour unit. It is not in those Estimates but I am sure that like his colleague, the Hon Mr Baldachino goes to Transport House he will be able to inform himself of the intentions there. It is not a question of running them down it is a question of saying, "Here are six or seven men who cannot possibly deal with major road resurfacing programmes and whilst they were not adequately dealing with major road resurfacing programmes nobody was doing the minor public highway maintenance in Gibraltar." Who, in Gibraltar, under the Opposition Members' administration used to deal with fixing pavements and fixing steps and simply fixing road signs? What the Government are doing is creating a viable Road Maintenance Unit around the kernel of the old Road works and giving them a degree of road surfacing but focusing them mainly on maintenance and continuing with the policy introduced by the previous administration of contracting out major road resurfacing programmes. The only difference is that we put out our major road resurfacing contracts to tender. I will give way to the hon Member.

HON J C PEREZ:

Mr Speaker, the Chief Minister has conveniently ignored the rest of what I said. The Road Section was depleted as a result of the repatriation package for Moroccan workers. That is what depleted the Road Section in 1995. The members of the Road Section had a proposal, which I mentioned yesterday, to take their activities commercially and part of the proposal was that then, when they were commercial, they would increase the gang adequately to meet the commitments and the proposals were apparently put to hon Members once we left office and they were rejected by hon Members according to the statement made last year by the Hon Mr Holliday. Therefore, all this nonsense that the Chief Minister is talking about, if it is true that there is no hidden agenda of running it down and that the hon Member is going to employ more people it would have been reflected in this year's Estimates and there is nothing in it.

HON CHIEF MINISTER:

Mr Speaker, none of what the hon Member says is recognisable to Government Members. We have had no proposals for the privatisation after the 16<sup>th</sup> May 1996. None of what the hon Member says is recognisable on this side of the House, mind you, like so much of what he said yesterday. All we have done since we have come into office is that we have tried to identify ways of rebuilding the Department, that is what we have tried. Then to demonstrate that the hon Member has no interest in the truth when he makes these assertions, not content with the nonsense about a supposed Government agenda to run down the Road Section, then he says, "The same as Buildings and Works". Mr Speaker, how does the hon Member have the audacity and disingenuity of even suggesting, let alone stating, that this Government have an agenda to run down the Buildings and Works Department which, incidentally, was their policy not ours. They are the ones who never recruited anybody into Buildings and Works. We have recruited additional labour, we have recruited scaffolders, but never mind all that, we have done what they refused to do and that is to establish minimum manning levels. It should be obvious even to the Opposition Member that if one enters into agreement to maintain minimum manning levels it becomes physically impossible to run the Department down. They used to run the Department down because when people retired through natural wastage they were not replaced, so eventually we ended up with a depleted and unbalanced labour force. If one has a minimum manning level agreement, every time somebody retires he has to be replaced and therefore the hon Member knows this. The hon Member knows that the Transport and General Workers' Union, of whom he is a member and I am not, have celebrated the fact that this so-called right-wing Government have established job security for their members in the Buildings and Works Department which that so-called Socialist Government refused in eight years to do and that the Buildings and Works Department now has a minimum manning level agreement commitment. He knows all that and knowing all that he still feels free to come to this House as if he was in some sort of scene out of Alice in Wonderland and announce, with every seriousness on his face, that it is obvious that the Government have a plan to run down the Buildings and Works Department. The hon Member will forgive us for thinking that statements of that kind make his remarks less and less credible to the Government. The Transport and General Workers' Union and now the workforce directly recognise and understand that this Government, as opposed to the previous one, do not have an agenda to run down or to privatise the Buildings and Works Department and that what we want to

do is to convert the Buildings and Works Department into value for money for the taxpayers, good service to Government housing tenants and proper job security and proper resourcing levels for the benefit of employees of the Department. We are satisfied that following negotiations with the Transport and General Workers' Union and the representative of the workforce we have the essence of such an agreement in place now which far from suggesting any agenda to run down the Buildings and Works Department guarantees its future for the benefit of the workers and for the benefit of Government tenants and taxpayers alike. Of course, everybody knows, because they are so unsubtle about it that the Opposition Members, even at the expense of the truth, have an obsession to target the Minister for Employment, my hon Colleague Mr Netto. Mr Speaker, the Ministers in this Government are not as aggressive and are not as vindictive when it comes to being exposed to criticism as the Opposition Members were when they were in Government. All that we ask is that if the Government are going to be subjected to criticism that at least they do it by reference to facts which are real, by facts which are true and not by assertions that they invent on their hoof during the course of a budget debate simply because they think it sounds good. Mr Speaker, with the exception of the few politically motivated partisan employees of the Buildings and Works Department who have been an obstacle to the Government in our first two years in office, but they are few and getting fewer by the day, with the exception perhaps of that small group of people nobody but nobody in the Buildings and Works Department regard him as their champion as opposed to us in terms of guaranteeing the future of the Department. *[Interruption]* No, Mr Speaker, the hon Member does not try to be anybody's champion but the hon Member at least likes to debate by reference to truth and not by reference to invention.

Then, Mr Speaker, the glib reference to the continued state of neglect of the cemetery. It is true that what we want to do in the cemetery is not yet finished but even what we have done so far is the source of constant positive comment in our favour and it is not just the fact that the paths have been resurfaced and the edges round the paths have been painted in white, it is not just that it is the fact that Gibraltar Community Projects now deals on a systematic basis with the upkeep, with the removal of rubbish and with a systematic progress of weed control. Everybody says it, nobody claims it is perfect, no one claims that there is not more that could be done in the cemetery but everybody that speaks to me, unless of course they just try to please me, but everybody says what a vast improvement there is in the cemetery. Everybody except the Opposition Member. I suppose we shall just have to accept the fact that it is another

example of Opposition licence but at least let us not delude ourselves into believing the things that are said which are demonstrably not in keeping with the reality.

Mr Speaker, the hon Member says that there is talk in the civil service of a Government policy to breach parity of wages. Of course, the hon Member is probably more interested in the potential disruption value that that might create if it were true, which it is not, than in the actual issue of policy but let me tell him that it is not true, that the Government are absolutely uninterested, completely disinterested in breaching the concept of parity. The hon Member must know because I think it affected one of the last pay reviews that they did that the United Kingdom has changed its system of civil service remuneration in a way that certainly makes much more complicated the application of the parity system. It is no longer the straightforward thing of saying, "Well, what are they paying people in England, we will pay them the same", because if it were that simple there would be no issue. The hon Member knows, because as he rightly says we discussed it yesterday over tea, that the United Kingdom is moving into a system of merit pay, of range pay, and indeed in the United Kingdom some civil servants may get no pay increase at all in any year. What we do, which I believe is what the hon Members did, is that we pay the average across-the-board to everybody regardless of merit. There is a view, which has been expressed to the Government, which is that the Government should increase the local spines, the local increments at every level up to the UK maxima. But, of course, in Gibraltar everybody progresses annually in increments up the scale and in England some of them progress on the basis of completely discretionary allocations of pay. What one cannot do is give the across-the-board pay rise and then on top of it give everybody a stretched scale which in England only applies on the basis of merit. Look, that seems perfectly logical to us. It is not an attempt to breach the parity system. It is simply an attempt not to have parity plus 15 per cent which is what it would amount to and that is the nature of the difficulty. It is a difficulty that arises from the fact that no longer can we say, "What is a clerk in England paid?" because there is no such thing as a standard pay in England. The good ones get paid much more than the not so good ones and all this is subjected to management discretion and I think nobody in Gibraltar believes that such a system would be right for Gibraltar. But still we can have one thing or the other, what we cannot have is both. That is, in very broad outline, the nature of the issue that exists in the context of last year's pay review but that there is absolutely no, and I hasten to put hon Members' minds at rest, there is absolutely no desire on the part of the Government to breach parity. On the contrary, there

are many cases in which claims are made that would breach parity in terms of improving on the equivalent in the United Kingdom and the Government resist it because keeping parity means keeping parity in both directions and not just in one. The Government are entirely committed to the question of parity.

Mr Speaker, moving now to the address of the Opposition Spokesman for Trade and Industry, the Hon Albert Isola, can I just correct him on the small point that he made. The Minister for Transport did not say that he was not appointing a steering committee to consider the Port Study. I am sure he will remember saying, "I have been waiting for it for two years, now it is going to be kicked into a committee for consideration". I think if he had been listening more attentively he would have heard the Minister say that he was appointing a steering committee to implement those of the recommendations that were accepted by the Government and I am sure that he will recognise that there is every difference between a steering committee to implement and another committee just to discuss and to consider. Mr Speaker, I do not believe that the hon Member.....

HON A J ISOLA:

Have Government then decided to implement the Port Study in its entirety or will the steering committee decide what matters are not implemented?

HON CHIEF MINISTER:

No, Mr Speaker, not only have the Government not decided to implement the full report in its entirety but indeed there is much in that report that we would not touch with a barge pole. The Government have accepted some of the recommendations already but the Government are presently considering the Report, are in consultation with the trade, the Government will then make a judgement on which recommendations in the Report we wish to accept and then those that we wish to accept will be implemented by a steering committee and the purpose of a steering committee is to give the port users an opportunity to participate in the implementation. Mr Speaker, I know that the hon Member cannot possibly believe that cruise companies make their decision to include or not to include a port in their schedule eight months before. He conveniently used the phrase, "They issue their brochures eight months before the season". I do not know when they send their brochures to the printer and I do not know when they actually publish them, issue them to

the travel agents, but what I can tell him for a fact, because I know that he knows it to be so as well, that it takes much more than eight months to make the decision to participate with a port in a particular season. He knows jolly well that the minimum lead in time for a cruise company to use the port is two years. If in 1998 a cruise company decided to use Gibraltar it is very likely that it will not materialise in fact until two years forward and the same applies in the reverse. The hon Member knows this. He knows jolly well that there is nothing that this Government could have done to ameliorate the 1997 cruising figures of 1999 and he may wish to pretend that they reflect the success or lack of success, as would be the case of this Government's tourism policy, but the hon Member knows that that is not so. He must know that it is not possible to reposition a destination touristically especially not one that has been so abandoned in policy terms for so long in 18 months.

HON A J ISOLA:

Mr Speaker, there are two points that arise from there. The first point is that from what the Chief Minister has said it seems that we can take the credit for every single ship that calls until at least May or June of this year, in which case part of the boom that my hon Friend, the Minister for Tourism, is claiming should really fall on this side of the House, that is the first point. The second point is, that the record number of cruise liners in Gibraltar is actually 1996, 139 ships and the nearest to that was 1995 with 138 ships so we did not do it too badly.

HON CHIEF MINISTER:

Mr Speaker, no thanks to them there were those two good years but the trend that they left was a trend of decline and they know that, and they know that it was a trend of decline, caused by all sorts of factors including the fast launch activity. Cruise business that arrives in Gibraltar in 1998 is the product of the renewed confidence that there has been amongst cruising companies internationally since 1996. The hon Member must know that from May 1996 to May 1998 is two years and therefore the point that he has made has no mathematical basis to it. The hon Member either believes that the Government's policy is enhancing the cruising industry, which everybody in the local tourist industry admits even those participants in the local tourist industries who are not known for being political subscribers to the party now in Government, but he cannot have it both ways. Either the new impetus that the Government have given to tourism and the new policies of the Government are responsible for the improvement, as everybody else

appears to recognise, or he really believes, in which case I suspect that he is a minority not of seven but of one, because I cannot believe that half his colleagues there could believe it, that the fact that there is now the seeds of a boom in cruising is the result of Mr Pilcher's well-known enthusiasm for promoting the tourism industry in Gibraltar. I cannot believe that there are more than two people in Gibraltar that might believe that. Him and Mr Pilcher, and in fairness to Mr Pilcher, I have never heard him claim that credit so we are down to just him.

The Opposition Members seem intent on minimising the policy advances of this Government in tourism and it is not just in the cruising industry that they are alone. They point to 1997 figures of hotel occupancy to demonstrate that the Government have achieved nothing. Mr Speaker, I know that we are very competent but between the 16<sup>th</sup> May 1996 and the summer season of 1997, I regret to have to admit, it was just simply not possible to transform the image of Gibraltar and the touristic confidence in Gibraltar to the point where we could fill our hotels in one year and that is the figures that he has relied on. The figures that he has relied on to demonstrate the 1997 hotel occupancy failure of the Government's tourism policy demonstrate nothing of the sort. They simply demonstrate where Gibraltar was going on the 16<sup>th</sup> May 1996 because I do not speak to a single hotelier who regards this Government's tourism policy as being rescued from the brink of catastrophe. Even those hoteliers for whom the hon Member acts professionally who are his intimate friends and who are thought to be of a different political camp, although I have no way of knowing that, even they in fairness to them, applaud the Government, thank the Government and recognise that it is this Government that have rescued the hotel sector from the brink of obliteration. Their hotels were on the verge, not of lowering their occupancy rates to 20 per cent but of closing their doors altogether. Mr Speaker, they may thank us for the cheque, which the hon Members support but the fact of the matter is that it is a policy and that is all I am saying that this Government have deployed a policy where they had none and that they are not big enough to recognise it. They simply want to use 1997 statistics which reflect their lack of policy to try and suggest that our new policy is a failure, a policy which everybody else in the sector except them recognises as being revolutionary in living memory of tourism management in Gibraltar. Even the international tourism press recognise the transformation that there has been in Gibraltar Government's attitude to matters of tourism. If the hon Member wishes to argue the contrary by all means it is his Opposition's licence to do it but I have no doubt that there is anybody out there that believes a word of it because the facts speak for

themselves. Mr Speaker, when the Government were involved in connection with the east side road widening and the question of the possible need to close the Caleta Palace Hotel rose, we were faced with a massive claim for compensation because this was the best year the Caleta Palace ever had in living memory – the first three months of 1998. We cannot both be right Mr Isola. There is no point in nodding now as if he agrees with everything I am saying. It cannot be that he was right yesterday and I am right today. One of us has got to be mistaken.

HON A J ISOLA:

Mr Speaker, the only point that I was making was that the words that we were hearing of a booming tourism sector were not reflected in the figures because the figures that I used which is from the report laid before this House is all I relied on, nothing else. Not what people tell me, just the facts, that is the only point I was making, Mr Speaker. Some of those figures were used by my hon Friend the Minister for Tourism himself.

HON CHIEF MINISTER:

Knowing that the reality on the ground is very different, knowing that the trade feels very differently, the hon Member nevertheless preferred to use historical statistics to try and disprove the reality as it occurs today. Mr Speaker, hon Members may think that that is a legitimate argumentative exercise. We will just have to agree to disagree. The hon Member is saying that as the statistics were there we use them. Fine.

HON J J BOSSANO:

We are answering a Member of the Government and the Member of the Government says that the people staying in hotels paid £14 million in 1997 and that the total visitors, tourists and non-tourists were 141,000. Then, presumably, it is legitimate for us to refer to the same record that the Minister is referring to except that we pick a different page from the one that he has picked. That is all. If he had spoken about what has happened since January we would not have been able to comment one way or the other because we would not have known.

HON CHIEF MINISTER:

Then I take great joy in the fact that the Opposition acknowledges that the Government's tourism policy is working and that they recognise the difference between the historical picture that is reflected in the historical figures as opposed to the reality as he knows it to exist on the ground. Fine, if that is the distinction I am happy to agree on that.

Mr Speaker, the hon Member announces with an authority that suggests that it is a fact that the Government's import duty review has not been a success because the retail trade has not passed the price reductions that are facilitated by an import duty reduction to the customer by reducing prices. How does he know that? Has he conducted some sort of retail survey? Has he gone into Marks and Spencer and compared what they were selling a pair of grey socks at before the import duty review and what they were selling it for after the import duty review? I do not know, but he stands up in this House and throws assertions into the wind presumably in the hope that people hearing him will believe him for which he can have no possible authoritative basis. I do not know whether it has been a success or not because I do not know whether they have in fact been passed on to the consumer and I do not know because it is impossible to find out and if I cannot find out I can tell the hon Member for a fact that he cannot either. One thing is to say we cannot be sure whether it has been a success or not because who knows which shopkeeper may or which shopkeeper may not have passed on in respect of which goods or not which goods, I could have accepted that from him but the bland assertion that the thing has been a failure because shopkeepers have in fact not done so is not a statement that I can let him get away with. It is completely unsustainable by reference to any evidence or any exercise or any enquiry that he might reasonably have made. Certainly the strength of the pound has reduced the impact that the import duty review might have had but imagine how much less or how much more uncompetitive Gibraltar would have been in those goods if import duty had not been cut. One would have had to add to the import duty reduction, the currency increase. I do not know if it has not had the full impact that one might have hoped, that would have happened in the case of a less strong pound, but had it not been for the import duty reduction prices in Gibraltar, some goods would have been up to 10 per cent higher even after rising by the application of currency factors, by up to another 20 per cent. The hon Member describes it as a failure, I have not had from any single retailer anything but thanks and appreciation for the Government and no one has described it to me as a

failure, only the Opposition Member for the purposes of crafting his budget speech.

Then, Mr Speaker, I have to deal, although my hon Colleague the Minister for Trade and Industry has done so, with the question of EU directives. Mr Speaker, the Government that started to transpose Company Law directives were the Opposition Members therefore eliminating any possible argument that Gibraltar did not have to transpose Company Law directives. They transposed some Company Law directives and therefore the argument that we do not have to transpose Company Law directives because Gibraltar companies are not listed in the annex to the directive is much weaker. I accept that that is not what he has said, I am laying some groundwork for an argument that I wish to put to him. Therefore, Mr Speaker, there are only two avenues open to Gibraltar in general and to the Government of Gibraltar in particular in relation to EU directives and the Company Law directives in particular. Either we rebel and say, "Even though it is unquestionably an EU obligation, we are damned if we are going to do it", for what might be a very long list of unrelated or partially-related counter-reasons, ID cards, Euro vote, frontier queues, lack of air links, the airport, the 350 code, might as well throw that in as well, the telephone numbering plan, either we rebel and we say, "Even though these things are obligations we do not do it for all of these reasons" or we transpose them. I think that those who somehow suggest without my saying that the hon Member falls into that category personally but those who by the posture that they adopt in relation to this dilemma send the signal to this community that there is somehow an element of choice in this, that there is somehow some third course that would be available to the Government if only they have the courage to do it, is just not true, Mr Speaker. Either the hon Member believes that the necessary international confidence in the Finance Centre and stability derives from the fact that we are seen to be compliant with our EU obligations in particular and our international obligations in general or he believes that the Finance Centre in Gibraltar can prosper with the necessary degree of international investor confidence in a situation in which the Government are cocking a hoop at the European Union and the UK Government refusing point blank to transpose directives into Gibraltar law which are our obligation. We have no doubt whatsoever which of those two courses is the only one which is prudent, viable and consistent with the need that this community has to make a success of its Financial Services Centre. We have no doubt about it and I know that the hon Member does not have any doubt about that either. Therefore, Mr Speaker, this is not about Bar Council resolutions and it is not about

what attitude people who feel that their businesses are threatened, urge the Government to take in ignorance of the consequences. The fact of the matter is this, Gibraltar has historically got away without transposing many directives including the 4<sup>th</sup> and 7<sup>th</sup> because we were not under the spotlight because the European Commission never addressed its mind to Gibraltar and no one was putting the Commission under pressure and therefore the Commission did not put Gibraltar under pressure. But the hon Members now know that the Spanish Government for the last several years have alighted on the device of shining the spotlight on Gibraltar for non-compliance and bringing non-compliance to the attention of the Commission and therefore the day when we were operating or omitting to transpose directives in a dark tunnel so that we could get away with it has finished. Take the case of the 4<sup>th</sup> and 7<sup>th</sup> directives, the European Commission has now formally commenced infraction proceedings against the United Kingdom Government for the failure on the part of Gibraltar to implement the 4<sup>th</sup> and 7<sup>th</sup> Company Law directives and the UK Government say to me, "This now becomes a judicial matter, what is the defence of Gibraltar? I want to instruct my lawyers in Whitehall to draft a defence, here is a blank sheet of paper, there is no point in telling me about ID cards, and international direct dialling codes, what cogent, legally relevant arguments are there for Gibraltar?" and there are none. There are no arguments of the sort that are relevant as a defence as to why we have not transposed that directive that exists. I am glad that the hon Member in tempering his contribution on this issue added that everybody of course understands that this has got to be done and that everybody in the industry recognises that non-transposition is simply not an option that is available and people had better start getting used to the idea. Mr Speaker, what the Government have said is that we will stretch every transition, we will stretch every possible latitude given in the directive in the most ingenious of areas to make the transposition in Gibraltar of the 4<sup>th</sup> and 7<sup>th</sup> directives as painless as possible, but it is going to be painful, one thing is to reduce the pain which does not mean that there is no pain, and secondly, to gain as much time as possible for the industry to reposition, to change the way it does business, to change its traditional market, to re-equip itself to live within the new ground rules that will be established by this new law. What I would strongly caution particularly the company management sector against is to sit on their hands during whatever transition period the Government can buy by one means or another. That period has got to be used to accommodate the change, otherwise all that the industry is doing is putting off the inevitable evil day. So, Mr Speaker, in concluding, whilst the Government hear the criticisms that the Opposition Members have levelled at this budget in

particular and our economic policies in general, I have to tell the Opposition Members that we reject their analysis and their criticism, not just because it is unsustainable criticism. In fact, we believe that the Government are actually not being clever. We do not think that we reinvented the wheel, we do not think that because we are such clever men that we have struck an economic policy from the clouds as a matter of choice or option. We actually believe that the economic policies that the Government are pursuing are the only ones available to Gibraltar and not just for that reason do we reject the Opposition's criticism but we reject the Opposition's criticism for this additional reason and that is that they proffer no alternative of their own. They accuse us of having a lack of vision when everybody else recognises that we have an economic policy and an economic vision. They may agree or disagree about whether we are going to succeed but certainly people accept that we have a policy and a vision so they criticise us for not having a vision and yet have no vision of their own. Mr Speaker, they managed to persuade the people of Gibraltar once to elect them on the basis of a secret economic plan which was too secret to inform the electorate about before voting and polling day. I seriously doubt whether they will get away with that stunt again and therefore if they wish the Government to reconsider our economic policy it can only be on the basis of proffering an alternative and if we see that there is more virtue in what they are counselling than what we are doing then by all means we will do it but it is not normal for Opposition parties to simply criticise economic policy without offering or proffering an alternative. Until that day occurs their criticisms of this Government's budget and of this Government's economic policy will be treated by the Government as what it obviously is and that is simply Opposition politicking, political opportunism, calculated simply to be a destructive criticism and not a highly technical economic critique as some journalist I think with excessive generosity recently said. Mr Speaker, the Government will implement this budget during the course of the next 12 months with the same confidence in its wisdom and its prudence as we had the day we sat down to formulate the budget several months ago.

Question put. Agreed to.

The Bill was read a second time.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today.

Question put. Agreed to.

### COMMITTEE STAGE

HON ATTORNEY-GENERAL:

I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause:

1. The Traffic Ordinance (Amendment) Bill 1998;
2. The Appropriation (1998/99) Bill, 1998.

### THE TRAFFIC ORDINANCE (AMENDMENT) BILL 1998

#### Clauses 1 and 2 and the Long Title

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

Abstained: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J J Gabay  
The Hon A J Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

Clauses 1 and 2 and the Long Title stood part of the Bill.

### THE APPROPRIATION (1998/99) BILL 1998

Clause 1 was agreed to and stood part of the Bill.

#### Clause 2

Schedule – Part I – Consolidated Fund Expenditure

### HEAD 1 – EDUCATION, TRAINING, THE DISABLED, YOUTH AND CULTURE

Head 1-A - Education, the Disabled, Youth and Culture

Subhead 1 - Personal Emoluments

HON J J BOSSANO:

Mr Chairman, I want to make a point here of which we gave notice in relation to the complement of the whole and we will therefore be repeating it in every one. In my contribution I questioned two things, one of which was not answered at all and one of which was answered on the premise that I did not know what I was talking about and I had made a mistake. So, therefore, I would like to pursue the matter further to see whether in fact I knew what I was talking about or I did not know what I was talking about. The one that was partially responded to was the information provided to us that there were 429 persons in the Estimates from the grade of typist to the grade of senior officer. That is what we were told and that this was nine more than in 1996 and in fact then the Chief Minister argued that when I had expressed my surprise that it was only nine more it was because there were lots of vacancies in the 420 but not in the 429 so that the gap between the two was not just the nine in the complement but the nine extra bodies in the complement plus however many vacant posts there were in the 420. But, of course, we pointed out that having gone through the Estimates we did not find in the Estimates the same individual grades that had been listed in arriving at the 429. For example, we were told that the 429 provided for 168 AOs. We have counted the AOs and if this is the complement and not the people in post which is what we have been told, we could understand if the Estimates provide for 225 and there are only 168 employed and the rest are vacancies but we have been told the 429 is not the

establishment, it is the people that are there. So therefore, there ought to be, if we count the number of AOs in every head of expenditure, 168 or else the information that we have been given is completely wrong. Which of the two is it?

HON CHIEF MINISTER:

Mr Chairman, the figure of 429 is a head count of what there is in the Estimates at present. At the moment, as we speak, there are 168 AOs and 44AAs. The Estimates are drawn up on the basis that when all the vacancies that there are left are filled, if they are all filled, and when the AAs that presently are still AAs and may have to be promoted to AOs to fill AO vacancies, when that is done, the configuration will alter to 220 AOs as opposed to the 168 current and to 23 AAs as opposed to the 44 current. Of course, all or some of that may happen at any time during the year. The Estimates provide a vote for the conversion of some AAs, as the hon Member knows people have to be inducted as AAs, the vacancy may be at AO level and therefore at some stage during the year they will be converted. Forty-four people who are presently AAs will result in 23 AAs and therefore the 168 goes up to 220.

HON J J BOSSANO:

Not with 21 it does not.

HON CHIEF MINISTER:

Mr Chairman, but there are vacancies, I said 25 or 27. The establishment provided for in the Estimates and which we expect to be attained during the course of this financial year, subject to a few vacancies which have been provided for but which might not as a matter of policy be proceeded with, will be 220 AOs and 23 AAs. That is the information that I have from the Personnel Manager who has collated and computed the present situation as against the plans that he knows to exist and indeed to the Estimates. The difference between the current body count and what is provided for in the Estimates has to be explained by reference to the fact that some AAs will become AOs and to the fact that there is still some more induction to be done and some vacancies to be filled. There is no other explanation but I would say this, the information that I gave them during my principal address yesterday is drawn from the Personnel Department's information but if by chance there were to be some discrepancy, some difference, notwithstanding the explanation, beyond the explanation that I have given him, between

the information that I gave him yesterday and the Estimates, which of course we are only discussing it on the basis that they may have gone through it and that they cannot make the numbers add which is an exercise that we have not ourselves done or checked and therefore we are not necessarily accepting that the current is right, then I would suggest that the hon Members should adhere to what it says in the Estimates which have been done at the time that the departmental bids were being submitted on a department by department and section by section basis. Having said that, I do not think that there is any discrepancy which is not either accommodated by the fact that AAs will become AOs during the year, but the fact that there are still somewhere between 25 and 30 vacancies which are provided for and which may be filled and which of course my head count of yesterday was senior officers, SEOs, HEOs, EOs and Personal Secretaries. I do not know, for example, what treatment the hon Members have given to messenger grades in their overnight count.

HON J J BOSSANO:

Mr Chairman, I know that the Chief Minister never likes admitting that he could have got something wrong irrespective of what arguments are put in this House but the fact is that when he gave the 429 and compared it with the 420 he did not say, "I am comparing two head counts". Obviously he must surely agree with me that to compare one figure with another figure implies that both figures have been calculated on the same basis. If the complement was 420 the implication of what he was saying was that the complement now was 429 because that is what he was comparing it with. Indeed, when he came back exercising his right of reply he specifically highlighted that saying, "The difference between the two is bigger". So, if the difference between the two is bigger it cannot have been head counts, it must have been complements. The second point is that if there is in this budget a provision for an establishment of 23 AAs, I do not see how they can employ 44 AAs in the expectation that some of those AAs will cease to be AAs and become AOs. To my knowledge there has never been an over-complement and that seems to be the explanation that is given. Of course, the third point is that he told us there were 168 AOs and that the difference between the 168 and the 220 is that some of the AAs will become AOs. In fact, all the AAs will have to become AOs and they will still need more because even if all 44 become AOs and we add them to the 168 we do not get to 220.

HON CHIEF MINISTER:

Mr Chairman, what the hon Member says is just not right. For a start, as he well knows this House is not voting at Estimates on the composition of the establishment. What this House is voting on is for a sum of money for emoluments. *[Interruption]* The hon Member disagrees with that, the hon Member thinks that he is voting for how many EOs there should be in the Youth Service at the Education Department, is that his view?

HON J J BOSSANO:

Yes.

HON CHIEF MINISTER:

Well, he is wrong. What the hon Member is voting for is for the salary bill, for the emoluments bill to provide money. This is a debate about providing money to the Government for salaries. The hon Members know because they used to do it rampantly themselves, that within the emoluments vote one can actually allocate the expenditure so long as it is for emoluments. It is voted money and one can allocate it. Mr Chairman, what I have told the Leader of the Opposition is that the Estimates are drawn up on the basis of 220 AOs as opposed to the current 168 and it is drawn up on the basis of 23 AAs as opposed to 44 and therefore the financial provision that is being required from this House is the upper limit that will be required to accommodate promotions envisaged during the year. I am not willing to stand here across the floor of the House conducting an hour long debate on the premise of his assertion that he spent the night tallying figures and that they did not add up. Let the hon Member specify which officers they have counted and then we will consider it but certainly I can tell the hon Member that there is no discrepancy whatsoever and we can debate it for as long as he likes but whilst we are discussing his unsubstantiated assertion against the combined effort of the Personnel Manager and the Accountant General and the Financial and Development Secretary he will forgive me if between those two I choose the latter and not the former.

HON J J BOSSANO:

Mr Chairman, what is clear is that if there is a mistake, the mistake is the Accountant General, the Financial and Development Secretary, the Personnel Manager and not the Chief Minister, that is for certain. That is

the umbrella with which he has just provided himself and the answer to his question is that this is not an unsubstantiated thing that we have just invented. We were given these Estimates three or four weeks ago and when we looked at the Estimates the first thing that we looked at obviously was what we have been trying to get from him for one year. We have been asking questions about this for one year and he knows or he ought to know why because last year he said, "Mr Speaker, a simple comparison between the establishment details attached to last year's Estimates and this year's Estimates....." That is what he said a year ago, "..... would give the impression but it will be no more than that, that the Government have created 103 additional civil service posts. Before Opposition Members leap to their feet to condemn this act of rashness on the part of the Government let me put them at ease that that is not what has been done. Actually Opposition Members may be interested that the number of civil servants, excluding Gibraltar Health Authority now is less than it was in May 1996". He then went on to say that these posts which were phantom posts would not necessarily be filled and he promised that even if they were, "in the middle of the financial year an accurate statement of the establishment would be provided but it has to be said that of the 103 phantom additional posts that have been included in the Estimates of expenditure the expenditure on emoluments is over-stated by that number of new posts that we do not create out of the 103". Having been given all that explanation a year ago, given the fact that in the middle of the year we were not given an updated account, given the fact that we were asking questions and we were told to be patient and to wait until we had the Estimates, we were patient and we waited and when we waited we did not see the 103 phantoms disappearing or still there. The answer that he gave me when he talked about the 429 added further inconsistency to the statements that have been made. Can he now confirm that in fact the establishment this year is inclusive of the 103 phantom posts of last year, all of which have remained? Is that the position?

HON CHIEF MINISTER:

Mr Chairman, what the hon Member says is complete nonsense.

HON J J BOSSANO:

I have just read it.

HON CHIEF MINISTER:

Not what he has read, but the hon Member's arguments are complete nonsense. This new debate started because the hon Member to whom I gave a bit of information yesterday in my budget speech then said after the lunch that he had counted up and it did not tally. I do not see what the relevance is of the fact that he has had the Estimates for a month. This whole discussion arises because the hon Member said yesterday that he could not make the information that I had given tally up. Nothing to do, Mr Chairman, with having had the Estimates a month ago or having been answered questions. The fact of the matter is that we do not accept that there is any discrepancy. They are asserting that there are and I am saying that they have not demonstrated that there is. What I am saying is that I have every confidence in the officials that have put these figures together, have put them together accurately and yes, I am saying that if there is an error in them which I do not admit, which I say there is no evidence to support, but if there were, of course, it would be the responsibility of the officials or does the hon Member think that it is the responsibility of the Chief Minister to go round every nook and cranny of the civil service doing a head count and writing in this booklet..... Is that how he used to spend his days as Chief Minister? It is no surprise to me that he got so little done. The man is a frustrated number-cruncher and if indeed there is an error in this book, which there is not, and certainly on the basis of what he has said there is not, I accept.....

HON J J BOSSANO:

I have not said there is an error in the book.

HON CHIEF MINISTER:

Yes, the hon Member has said that this book is not consistent with the.....

HON J J BOSSANO:

With what he said. *[Laughter]*

HON CHIEF MINISTER:

Yes, but Mr Chairman, the hon Member should stop clowning around. The Estimates have been put together by the Government's Treasury

officials and the information that I gave him yesterday is not something that I calculated with my wife over breakfast last Saturday. The information that I quoted to him yesterday was provided to the Government by the Government's Personnel officials, all of them Government officials and therefore if their assertion that there is a discrepancy between these sets of figures has the same degree of credibility and accuracy as part of the other nonsense that they have said here during the last two days then they will forgive me for not accepting it at face value. But if they should by chance be right and if there should be a discrepancy between the two sets of figures provided to the politicians by the officials, I am certainly willing to take political responsibility for coming to this House with inaccurate information but it would also be true to say that I am not at fault personally for the discrepancy unless the hon Member really believes that it is the responsibility of politicians to actually do the tallying of AAs and AOs in the Government service. It is not my view of Government, Mr Chairman, and he may have had no confidence in officials, he may have regarded officials as an obstacle to him running the administration, the machinery of Government entirely as he pleased. It is not the view that this Government take of officials and we do rely on officials and if they get things wrong, which certainly has not been demonstrated, validly as the hon Members have said, well then they get things wrong and that is all that there is to it.

HON J J BOSSANO:

Mr Chairman, quite apart from the fact that in order to answer that I would need to go back to almost speaking on the general principles of the Bill, I do not want to do that.

MR CHAIRMAN:

I am going to stop you if that is the intention. We are voting whether the personal emoluments of Education should be £9 million or not and there is no amendment.

HON J J BOSSANO:

Mr Chairman, presumably you would stop not just me, you would also stop somebody else that chooses to talk about how I used to govern or did not govern which has nothing to do with personal emoluments or with what we are supposed to be talking about.

MR CHAIRMAN:

I think there should be some time limit, or one of you remains silent and then I put it to the vote.

HON J J BOSSANO:

Mr Chairman, without wishing to dispute what the Chief Minister is saying about responsibility because I can go back and quote him in Hansard when he held the elected Ministers responsible for every single item in every single document that was brought to the House, all of which were done by the same civil servants in which he had no confidence then, without wanting to go into that, the point that I am making is that if the Chief Minister tells us in this House that there are in the Estimates 103 vacant jobs which will not be there a year later because they will not be necessarily filled, that presumably is a political decision. It is not because the Financial and Development Secretary will not want to fill them or the Accountant General will not want to fill them or the Personnel Manager will not want to fill them, it is because he will not want to fill them. We were promised a year ago that when that happened we would be given the information as to which of the 103 has survived and which had not. We asked questions and we were told, "You have to wait until the musical chairs stop but you need to be patient and it will all be revealed in the Estimates". In fact, he went further and he told us that if we could not wait that long he was willing to give us the information a few weeks before. We have now arrived at the Estimates so therefore what I am now going to be seeking is in respect of each position detailed in the establishment as we are presenting the personal emoluments for which there is a provision, I wish to know for each one whether it is filled by somebody already on the payroll or whether it is vacant and there is therefore a provision in the personal emoluments which is not actually being paid to somebody. Then we can start the exercise that we started a year ago all over again to discover whether they are going to be filled or not. I also want to make the point that if he cares to look at General Orders, which I understand he is very fond of, he may well find that there is in General Orders a very clear statement that the establishment in the civil service is what is approved by the House to be paid out of the Consolidated Fund. Therefore, if we are being asked to approve an establishment of 23 AAs I do not understand how he is able to employ 44, unless there is a loophole that he has found in General Orders of which I am not aware.

HON CHIEF MINISTER:

Mr Chairman, the 44 AOs, in case he had not realised, have been employed during the previous financial year not during the current financial year and what General Orders say is the maximum establishment - in other words, I cannot employ more people than I have asked the House of Assembly funds for. That is an obvious reality, Mr Chairman, but I do not have to employ that many so that I can ask for the provision and then actually not do the employing. Not once during his eight years in office did the establishment actually match the number of bodies in post. He must know this to be true. Yesterday, I gave him details of every single senior officer promotion, of every single SEO promotion, of every single HEO promotion, EOs et cetera. When I said to the Opposition Members I had here the information as to where each of these appointments had been, they said, "Oh, no, do not give it to us now". I said, but I will not take the House's time now in giving the details, the hon Member said, "No, no, I do not need it". *[Interruption]* Yes, he did. Fine, Mr Chairman, I am not going to stand here engaged in a gutter tittle tattle with the hon Member, on his conscience be it. I had the papers in my hand, I had the papers here yesterday and I said if the hon Members want it they can be made available to them but they could not wait, they wanted to rush in on a lunchtime count.... *[HON J J BOSSANO: Nonsense.]* The hon Member may think it is nonsense but it is exactly what happened, Mr Chairman. The hon Members have had the information, they have had the information that they were promised a year ago because this is when the information is now available and that is it. Now they want more information, well fine if they want more information they can have more information but it is certainly not information to which they are entitled on a debate on the Appropriation Bill. *[HON J J BOSSANO: Of course it is.]* It is not.

HON J J BOSSANO:

Mr Chairman, if we are going to be appropriating Personal Emoluments in Head 1A which includes salaries and we are told that the salaries which we are voting on have been arrived at by assuming that there are going to be either 24 people employed in the course of the year or there already are 24 people employed in the head office of the Education Department, I am asking of those 24 which of those posts in the establishment are full and which are vacant. Of course, I am entitled to ask that.

HON CHIEF MINISTER:

I have told the Leader of the Opposition that if he wants to ask that he can ask it at Question Time. At the moment what he is entitled to question the Government about is the provision of finance for 24 people in the head office of the Education Department. The Government are coming to this House saying, "I want you to provide the necessary salaries, in accordance with existing pay scales, for there to be employed during the course of financial year 1998/99 24 people in the head office of the Education Department". The question for you is, "Yes, I approve of 24 people being employed in the head office of the Education Department" or, "No, I do not approve of 24 people being employed in the head office of the Education Department". That is the nature of an appropriation debate.

HON J J BOSSANO:

Mr Chairman it is not for the Chief Minister to tell us in the Opposition what we are permitted to do or not permitted to do which is only constrained by Standing Orders. Let me say that the question that I am asking if he cares to go back over previous budgets in this House, he will have found innumerable occasions at budget time when Members of this House have wanted to know whether in fact the 24 people that the money is voted for are there already in post or not. There has been discussion as to whether in fact the money is going to be really needed if there are vacancies when they are not going to be filled from the 1<sup>st</sup> April because we have already gone past the 1<sup>st</sup> April. I have participated many times in such discussions on both sides of the House. How can he come along now and tell the Opposition what they are permitted to ask or what they are not permitted to ask when they are voting the budget?

MR CHAIRMAN:

You are permitted to ask everything, in the same way as it is permitted not to answer everything.

HON CHIEF MINISTER:

Mr Chairman, with the greatest of respects to the Leader of the Opposition, the position is that we are debating, this is not question time. What we are doing is debating the appropriation of public funds to public policy. Therefore, what the hon Member can do is certainly question

whether the Education Department needs 24 people or not. The Minister for Education will explain to him whether the 24 people are needed or not. The hon Member will see the purpose why there are comparative tables that the establishment for 1997/98 is twenty two and that we are seeking to increase the establishment from 22 to 24. That is the information being provided. If the hon Member wants information about where exactly the remaining vacancies under this establishment rests then as we have never denied this Opposition any information that they have asked then it will be made available to them when it can be obtained which is different to them believing that they can stand on their hooves demanding and expecting to be available at the moment that they ask it when it is not information that anyone could reasonably have anticipated. This is not a debate about the size of the civil service. It is a debate about how many vacancies remain in the establishment. Mr Chairman, if the hon Member wants the information I offered it to him yesterday and as I offered it to him yesterday he can assume that the offer is still available and it will be provided to him like everything else that he writes asking to be provided to him.

HON J J BOSSANO:

Mr Chairman, not only is it not true that it could not be anticipated because it was done last year and he provided it last year in the middle of the debate and I can assure him that it has been done many, many, many times before in this House before he was in Government. There used to be, if needed, people from the Department behind the Minister in case the Minister did not know. If the Minister does not know whether he has got any vacancies in the 24 he does not know. I am not saying the Chief Minister must know of the 1,500 civil servants, or 1,500 posts whether they are all full or not but surely the Minister has got an office with a complement of 10 clerks, he knows whether there are 10 people in the office or nine unless he never goes to the office. What is so mysterious about that? How can they stand up and say they do not have to provide that information? If we are going to be voting £8,800,000 we are perfectly entitled to ask at the time that we vote is it that that money is committed already because the people are already working there? If not, how much are for vacant posts? Of course it is perfectly legitimate and if they are for vacant posts, is the overtime or the allowances that are provided for people who are not there, which is a perfectly legitimate control of public spending by the House of Assembly of which he is so much in favour.

MR CHAIRMAN:

I have got to say something now. The rules are that in a debate no Member may speak more than once on any proposition except in Committee. We are in Committee but that does not mean that in Committee one might speak 20 times on the same matter. There has got to be a limit on how many times.... I do not want to stop an argument but I am quite sure before any other Member's contribution, I do not want any other Member to stand and say "I was not given a chance".

HON J J BOSSANO:

Is it that they do not know that there are vacancies?

MR CHAIRMAN:

No, no, sorry, you have already spoken.

HON CHIEF MINISTER:

As I told them an hour ago there are 25 vacancies at AA and A0 level. I cannot at this moment in time tell him exactly in which Department those vacancies are but I have told him when I addressed him yesterday that the Estimates were a body count except to the extent of twenty five or so vacancies at the lowest echelons. If he asks me right now where exactly those particular 25 to 30 vacancies fall, the answer is that that information is not readily available now but it will be provided to him.

HON J C PEREZ:

Mr Chairman, just to demonstrate to the Chief Minister the concern that we have here that the information being provided is inaccurate. If we take the figures that he has given us only for the AAs and the A0s there is a discrepancy between the A0 figure of 57 from 168 to 225 in the Estimates. If all the AAs which are 44 in post, according to the hon Member, were to be promoted to A0 there would still be a shortfall of 12. If one adds the 23 AAs in the Estimates to the 12 then there would be 35 vacancies and not the 25 vacancies which the Chief Minister is referring to. There is a discrepancy between the information provided to the Chief Minister by the Personnel Department and to the one that is available in front of us in the Estimates. That is what we are pointing out and that is what we want to clarify.

HON CHIEF MINISTER:

Mr Chairman, the Government are giving the Opposition all the information that it is going to give to it at this point in time.

Subhead 1 was agreed to and stood part of the Bill.

Subhead 2 - Industrial Wages

HON J J BOSSANO:

Mr Chairman, can the Chief Minister say whether the industrial wages of £982,000 provide for any vacancies?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, at the time the Estimates were prepared I believe the number was 24.

HON J J BOSSANO:

Vacancies?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes.

HON J J BOSSANO:

In the industrial staff complement on page 20 there is a reduction from 1997 to 1998 from 160 to 155. I take it that the 24 is obviously in relation to the 155 and, if so, can we know which are the five jobs that were provided for last year which are not repeated this year?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, the figures given for the industrial staff are given for information. They do not form part of the establishment as such and I believe that the figure of 160 may have been exaggerated last year.

HON J J BOSSANO:

We have got £977,000 provided for in last year's Estimates and £982,000 this year. The Financial and Development Secretary is telling me that the £982,000 this year is based on the Treasury making a provision for 155 bodies but in fact there are 24 vacancies in those 155. The figure for last year might not have been 160 it might have been 155 as well, is that it? If it is not the case perhaps the Member at some stage will let me know if that explanation is not correct.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I would be happy to do that.

Subhead 2 was agreed to and stood part of the Bill.

Other Charges

Subhead 3 - Office Expenses

HON J J BOSSANO:

Mr Chairman, I know the difference is not a particularly big one but I notice that although the forecast outturn for electricity and water is down, the provision for this year is up. They underspent £10,000 from last year's budget and they are now seeking £10,000 more having spent £10,000 less. Is there any reason to think that consumption of water and electricity in the next 12 months is going to be higher than it was in the last 12 months by £20,000? Obviously on the basis that we know that the rate is not being increased because we have been told that already on the revenue side.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I think there is a simple explanation here. I think in previous years we have been enjoying a billing holiday in respect of certain premises which Lyonnaise des Eaux has now found out should be billed for and started to bill us. That explains the difference.

HON J J BOSSANO:

Presumably that only applies to water, it is not that even the Government did not know that it had its own building and was not billing itself for electricity?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

As the hon Member will know Lyonnaise bill for both electricity and water.

HON J J BOSSANO:

I am well aware that they actually collect the bills but the bills are made on the basis of information provided by the Electricity Department. Surely, if the Electricity Department was providing electricity to a Government building and Lyonnaise was providing the water, even if Lyonnaise was responsible for collecting the money from both, on the electricity side the electricity would have provided that information?

HON CHIEF MINISTER:

Mr Chairman, the hon Members have had the Government explanation.

HON J J BOSSANO:

In his passion for scrutiny of expenditure by this House, that is going to be the tone?

HON CHIEF MINISTER:

Mr Chairman, the tone is that the hon Member puts a query, he gets an explanation and that is the explanation. The explanation is not going to change because he repeats the question 15 times or because he has us here for an hour on each line of this expenditure. He is entitled to seek explanations and the Government gives an explanation and once he has had the Government's explanation he can comment further on that explanation but we do not have to carry on engaging on debate on each and every point. Scrutiny means that he can identify matters that he wants explained and that the Government offer the best explanation that it can. That is what scrutiny means, Mr Chairman.

HON J J BOSSANO:

Yes, and if the explanation does not sound very convincing presumably I am entitled to query the explanation? Or is that not permitted?

HON CHIEF MINISTER:

With the greatest of respect to the hon Member, it is a debate on each explanation. The explanation may not sound persuasive to him but it does not mean that it is not the correct one. If the Government give him explanations which he subsequently is able to establish is not correct then of course we will take responsibility for the explanations that we give him.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Perhaps the answer I have just given him, if he is going to ask it on a subsequent head, then that is the answer for the subsequent head. In fact having a little more time just to look at this and reflect, it relates to St Martin's School which was previously shown in head 1B which is now a disappearing head and is now in 1A - Education.

HON J J BOSSANO:

Mr Chairman, obviously I am glad to have been given this time the correct answer and I am glad that I disregarded the Chief Minister's insistence that the original answer was the answer I was going to get and that was the end of the story. I am grateful for that.

HON CHIEF MINISTER:

It is the same answer, Mr Chairman, the only difference is that he now has the name of the building in question.

HON J J BOSSANO:

No, Mr Chairman, the record shows that I was originally told "we have got a building which had never been included in the billing because nobody knew it was there and unfortunately Lyonnaise has discovered it". That was the original answer which seemed to me odd and therefore I questioned further. If it is that it is disappearing from another head of expenditure and appearing in this one, that is fine, that is a satisfactory explanation because we are not talking about an extra cost of electricity

and water, at the end of the day the amount that is being spent is the same. It is just that there is one building there that was not there before, not because it had never been discovered but because it appeared in another page of the Estimates.

Subhead 3 was agreed to and stood part of the Bill.

Subhead 4 - School Expenses

HON J J BOSSANO:

On School Expenses the footnote tells us that the difference between the £362,000 and the £333,000 is reflected in a provision now included under the Improvement and Development Fund Head, Schools, Youth and Cultural Facilities, Subhead 5. I would like to know whether the amount that is being removed from here and put in the other one had it been here would that mean that that particular subhead is being repeated at the same level or is there an increase for this year?

HON DR B A LINARES:

It is £150,000 that now goes to furniture, computers and equipment but has been transferred to the Improvement and Development Fund, added to the £333,000 it gives us £483,000, deducting from that £397,000 it gives us an increase this year in books and equipment, looking at it from both angles, of £86,000.

HON J J BOSSANO:

On the examination expenses, where there is £100,000 outturn and £125,000 provision, is this related to the changes in the United Kingdom that may result in us having to pay, due to the means testing of students or is that somewhere else?

HON DR B A LINARES:

No, Mr Chairman, it has nothing to do with that. It is merely due to a time lapse there is between the billing of examination expenses which has to be catered for in the Estimates.

HON J J BOSSANO:

I know that it has gone down from £121,000 to £100,000 and going up again, is it in fact that it is a carry over from this financial year?

HON CHIEF MINISTER:

Yes.

Subhead 4 was agreed to and stood part of the Bill.

Subhead 5 - Special Education Abroad

HON J J BOSSANO:

Mr Chairman, on special education, the money was not provided in this head before because there are no monies for forecast outturn in the Estimates. Is there an increase in the charges? At one stage we had a supplementary appropriation which we asked a question about and we were told this was as a result of somebody establishing that we had to meet a backlog of fees.

HON CHIEF MINISTER:

That, plus recurrent expenditure because there is more than one individual case abroad and the head was previously provided for under Support for the Disabled. The provision is so much higher this year than it would have been last year for the very reason that the hon Member says, there is now a full provision for the cost of one particular individual whom it would not be right to name but I think the hon Member knows the case in question.

HON J J BOSSANO:

Has there been a further increase from the increase that was there already. It went up quite a lot last year and we had the supplementary provision from Head 14 - Reallocation of Funds?

HON CHIEF MINISTER:

What the hon Member says about whether it being higher, I am not sure whether he is talking about the level of fees per annum for that particular individual or the provision generally under this Head.

HON J J BOSSANO:

I am talking about the level of fees, not just for one individual, for however many individuals there are given that last year there was an element of backlog that was provided so I would expect that the Head need not necessarily be higher than last year. What I am interested really is, in the trend on the cost.

HON CHIEF MINISTER:

Mr Chairman, the provision last year was £459,000 because there had to be made provision last year for years of backlog. It is now reduced to £300,000 because that is the stable annual recurrent cost. One year's fee for each of the four or five persons involved. The fee level for the particular person in question has actually been negotiated down for this year than for last year. The fee level for that individual is lower. The whole Head is lower because there is no longer a need in this year's vote to provide for backlog in arrears and claims in respect of previous years.

Subhead 5 was agreed to and stood part of the Bill.

Subhead 6 – College of Further Education

HON J J BOSSANO:

Mr Chairman, on the College of Further Education, I would like to raise the question of the ESF funding which was referred to earlier in the general debate where we noted the change in the revenue and the expenditure shown in Appendix E. If we look at the College of Further Education expenditure and income in the audited accounts for 1995/96, we will see that the College received over £1 million in income and this was related to the courses that the College was doing. We have been working on the assumption that in the 1997/98 Estimates the Training and Development Courses shown in Appendix E as being £1.2 million were in fact being run at the College but that the cost was not reflected in the Education Department because it was being paid by the ETB. We would like an explanation therefore as to what the position is both in terms of the past year and what is being planned for the next 12 months in relation to those courses, that is to say, if it is not as we have understood it or as we have assumed it to be, then how are these courses being done?

HON DR B A LINARES:

Mr Chairman, is the hon Member referring to the professional courses that I in my presentation the other day referred to and which will be run by the College of Further Education?

HON J J BOSSANO:

Mr Chairman, I do not know which were precisely the subjects that were involved in those courses, but what I do know is that in 1995/96 the position was taken that the money from the ESF funding was no longer used for the vocational cadets and instead was channelled for courses run by the College for the ETB. Therefore, in last year's Estimates we assumed that the £1.2 million was in fact a continuation of that system because the 1995/96 shows that the college received £1 million of EEC money for a range of courses. I am not sure what those courses were in 1995/96, where they are today or where they have been in the last 12 months.

HON DR B A LINARES:

Mr chairman, I have to confess that I do not know the answer to that one. I can only find out from the administrators in the Department and give an answer to that at a later stage.

HON J J BOSSANO:

Mr Chairman, I am grateful for that answer that the Minister will look into it. Will he, when he looks into it, establish whether in fact the Training and Development Courses in Appendix E of the ETB which were originally programmed to cost £1.3 million but in fact turned out to cost £223,000, whether we are talking about the same thing or not? When he looks into it I would like confirmation whether we are on the right track there or in fact it is not what we think it is. If that is the case then, obviously the information on the £811,000 voted for this year would imply that there is a continuation of the system in that the College bills directly the ETB rather than the money coming through the Consolidated Fund. I would like to know if that is how it is being done.

HON DR B A LINARES:

Yes, that is true. The only bit that comes through the Consolidated Fund is the £82,000 but which courses are covered is an administration matter that I will check out at a later stage.

HON J L BALDACHINO:

Could the Minister also check if the courses that will be run at Bleak House will come out of the £811,000?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, the answer to that is no, they are not here, they actually come under Head 6-A.

Subhead 6 was agreed to and stood part of the Bill.

#### Subhead 7 – Scholarships

HON J J BOSSANO:

I asked in respect of examination expenses whether the cost of having to pay the United Kingdom fee was there or not. Do I take it that it is in Appendix G and therefore it is reflected in the money that is shown?

HON DR B A LINARES:

No, I am afraid, Mr Chairman, it is not provided under that vote. As I explained in my presentation the other day, we are very uncertain as to the real costing of the tuition fees and I explained why because we do not know how many students will be denied payment by the Local Education Authorities, given that they have a means testing mechanism now, so no provision has been made under this vote.

HON J J BOSSANO:

So it would require the introduction of a new subhead and supplementary funding, is that correct?

HON CHIEF MINISTER:

It will require supplementary funding, Mr Chairman, it may not require a new subhead but certainly it will require supplementary funding.

Subhead 7 was agreed to and stood part of the Bill.

Subheads 8 to 10 were agreed to and stood part of the Bill.

Head 1-B - Training

Subhead 1 – Personal Emoluments

HON J L BALDACHINO:

Mr Chairman, I would like to ask on salaries if the £63,000 is sufficient to cover the three persons who are actually in post?

HON CHIEF MINISTER:

Mr Chairman, £63,000 is the amount of money that the Head of Training in the Department of Education and Training has asked for. He knows that from that amount of money he has to pay the Construction Training Centre Manager, the Assistant Manager and the new Training Officer and if he has not asked for enough money he is in difficulty.

HON J J BOSSANO:

Is it that the Government do not have readily available an explanation of how the Treasury has calculated the money, whether it is so many bodies but so much each?

HON CHIEF MINISTER:

The answer to the hon Member's question is yes. I have here the Department's calculation of the amount of money required to pay each of these three individuals whose names I now have staring up at me on a piece of paper and I can tell the hon Member that the Director of Education's mathematics is not as poor as he might at first have thought.

Subhead 1 was agreed to and stood part of the Bill.

Subhead 2 – Industrial Wages was agreed to and stood part of the Bill.

Subhead 3 – Other Charges

HON J J BOSSANO:

Can I ask a question, Mr Chairman, about the whole subhead which is the total training £211,000. The printed Estimates which were circulated show that the money being spent here was reimbursed by the Development Corporation, by the ETB in Appendix E. The amended Appendix E shows £250,000 instead of the £211,000, so there is £39,000 being spent on training, not here.

HON DR B A LINARES:

It was intended to cover up to £250,000 to cover also employers' contributions, pensions.

HON J J BOSSANO:

This is not just reimbursement, the ETB is actually paying the Government a profit margin on their training with the full approval of the Minister responsible for the ETB, presumably? *[Laughter]* Mr Chairman, when we saw the original Appendix we obviously matched the two figures and we could understand that they are spending £211,000 that is what they are actually paying out and that is the explanation, the £39,000 if it is based on notional occupational pensions I would have thought was a bit much.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, the answer to it is as my hon Friend explained, that in addition to the £211,000 which is the Consolidated Fund Charges as is the case for all civil servants, there are certain pension costs and employment social insurance stamps and so the difference between the two figures, the £39,000 is simply what is coming directly from the Consolidated Fund Charges and the £211,000 is coming from voted money in the same way as it does for all employees throughout this establishment.

HON J J BOSSANO:

Except that is not in fact the case surely, because for example, if we look at the persons who are employed in the Gibraltar Health Authority, there is not a charge on the Health Authority by the Consolidated Fund for the pensions of the 600 people in the Health Authority who are on civil service pensions. I know there is a charge when one is charging a private customer because after all if a fireman does a job for a private customer one normally adds 25 per cent on his wages, or whatever, to cover all the additional non-cash labour costs but I do not think it has been standard practice to do it to yourself from one Department to another. If the chief Minister has invented it, since I have heard his whisper, then he should own up.

Subhead 3 was agreed to and stood part of the Bill.

Head 1 – Education, Training, the Disabled, Youth and Culture was agreed to and stood part of the Bill.

The House recessed at 6.15 pm.

The House resumed at 6.25 pm.

## **HEAD 2 - EMPLOYMENT AND BUILDINGS AND WORKS**

### **Head 2-A – Employment**

#### **Subhead 1 – Personal Emoluments**

HON J J BOSSANO:

Mr Chairman, the provision in Personal Emoluments which was originally £297,000 had a forecast outturn of £185,000. I assume that the £100,000 difference is because during the year the training element was moved to the Education. If that is so, perhaps I could get confirmation whether that is so or not or whether there is some other explanation?

HON J J NETTO:

My understanding from the Department is that the estimate was produced very much as an advice by the ETB auditors which prior to the first budget, as the Leader of the Opposition will know, was based on the advance accounts. So therefore I have to say that in one way it was an exaggeration of the estimate that should have been there. That is part of the explanation. The other part of the explanation is that there were also positions that had not been filled as yet, for instance, I can tell him that on the question of the three Labour Officers, there are only two in post and we have not got the third one yet and also the question that the senior officer's post has been on an acting basis done by the Careers Officer so all of that has had the effect of the actual forecast outturn.

HON J J BOSSANO:

So in looking at the £196,000 as opposed to the £185,000 we have got a situation where there are three people less in the complement but £11,000 more in salaries because the complement of the head office employment goes down from 13 to 12 and the construction training set-up goes down from two to zero, presumably 15 jobs were included in the £185,000 and now there are 13, so how come there is £11,000 more?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, the £224,000 which is being voted for Personal Emoluments reflects the 12 people that we are seeking money for and takes some allowance for the fact that we have, for instance, the senior officer post which is being done on an acting basis and a post further down is therefore temporarily not filled so there is some adjustment that is being done. But I suspect the difference is primarily to do with the fact that there may have been more vacancies carried through last year than there will be this year. I do not know whether any of these particular grades have actually received pay awards which would also explain the increase.

HON J J BOSSANO:

If they have received pay awards the Government have not yet included them in a supplementary provision from the Pay Award Vote, that I can tell them, they have only provided one of £158,000 and that covers GBC, the Police and the Fire Brigade.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

We are not talking about this, we were talking about why it has increased from £185,000 to £196,000. There may be an element of salary increases, it would also not have escaped the hon Member that people move up incrementally every year as the Chief Minister is explaining. That also explains some of the increases, so it could be a whole range of a number of factors to explain the difference that the hon Member is trying to get at which is relatively immaterial to the whole.

HON J J BOSSANO:

Whether it is a penny or a pound, if one takes one's job seriously then we will question every penny in the £144 million which is what the Government want us to do. So we please the Government, it would please the taxpayer, it may not please Mr Chairman too much but I.....

MR CHAIRMAN:

Do not worry about me.

Subhead 1 was agreed to and stood part of the Bill.

Subhead 2 – Industrial Wages

HON J J BOSSANO:

In industrial wages, in the outturn there is no provision for this year's Estimates but in the outturn there is a drop of £44,000 in basic wages compensated by a provision of £44,000 in allowances which was not there before and the allowances constitute over 50 per cent of the wages. Could we have an explanation as to what that means?

HON J J NETTO:

I think the Leader of the Opposition had better ask his hon Colleague just sitting beside him because he was instrumental for such allowances.

HON J J BOSSANO:

Mr Chairman, the hon Colleague sitting beside me was not in office at the 31<sup>st</sup> March 1998 and I am now in the Opposition and whether he agrees with the merits or not of the decision, I am asking if that decision was there at the beginning of the financial year then we would have expected that the initial figure which shows £84,000 wages and £44,000 allowances because it has been there since 1996. If it was not shown at the beginning of the year how come it appears at the end? It is a reasonable question to ask.

HON CHIEF MINISTER:

I think that the obvious explanation is that the contracts under which the Construction Training Centre instructors work have obviously been, when the Estimates for 1997/98 were done, the whole emoluments package was put under basic wages whereas when the forecast outturn, has been reported, it has been broken up into its appropriate constituent parts which is basic wage and allowances and I believe that the better reading of those contracts is to split it up into basic wages and allowances and not to have estimated it on the basis of a single £128,000 under basic wages because the contracts, as hon Members may recall, provide for basic wages plus allowances.

HON J J BOSSANO:

Are these the craft instructors who get an allowance over and above craft pay for teaching?

HON CHIEF MINISTER:

Absolutely right.

HON J J BOSSANO:

Are they now reflected in the same way in Head 1-B?

HON CHIEF MINISTER:

Yes.

HON J L BALDACHINO:

Mr Chairman, I suppose the difference on the allowance according to 1B and according to 2A is reflected on the basic wage which has gone up, is that correct?

HON CHIEF MINISTER:

The rise in basic salaries is obviously to account for an increment in basic wage costs. As to why the allowance provision should have fallen from £44,000 to £41,000 which is the question the hon Member is posing, I can get the controlling officer in question to look it up, but I cannot give him that degree of detail at this stage.

Subhead 2 was agreed to and stood part of the Bill.

Other Charges

Subhead 3 – Office Expenses

HON J L BALDACHINO:

Am I correct that this was charged before to Appendix E and now is being charged directly to the Head of Employment, that is correct, is it?

HON CHIEF MINISTER:

Yes.

Subhead 3 was agreed to and stood part of the Bill.

Subhead 4 – Operational Expenses was agreed to and stood part of the Bill.

Subhead 5 – Industrial Tribunal Expenses

HON J J BOSSANO:

Mr Chairman, the actual provision of £38,000 for 1997/98 was not all spent, although we are not talking about big sums of money, an extra £3,000 for the next 12 months for Industrial Tribunal is nearly 50 per cent increase, is it that the level of payment has increased or is there an indication that there are in the pipeline more cases of dismissals?

HON J J NETTO:

That is the case, there are more cases coming up.

Subhead 5 was agreed to and stood part of the Bill.

Subhead 6 – Contribution to Gibraltar Development Corporation

HON J J BOSSANO:

Mr Chairman, we know that we have had an explanation of how the charge is calculated to the ETB, can we have an explanation as to how the contribution of £145,000 is arrived at?

HON CHIEF MINISTER:

Yes, Mr Chairman, it really is just a balancing figure. That provision is there in a sense as a token vote to create a Head in the Consolidated Fund through which we can channel more funds for employment purposes from supplementary funding to the Gibraltar Development Corporation should our employment schemes and programmes cost more than is actually being provided. It is £145,000 as opposed to a real token of £100 in order to provide a balanced figure in Appendix E but it really exists as a channel through which money can be got out from supplementary funding through this subhead into Appendix E if we need to spend more in the ETB on whatever employment schemes are eventually arrived at.

Subhead 6 was agreed to and stood part of the Bill.

Head 2-B - Buildings and Works

Subhead 1 – Personal Emoluments

HON J L BALDACHINO:

On salaries, there is only an increase of one body in the total of Buildings and Works and there is an increase of £34,000, is it to cover that increase or is there an element of a pay increase within the £794,000? The estimated figure for salaries on Buildings and Works for 49 people was £843,000, the forecast outturn was less, it was £760,000

and now they have estimated for one more body. There is a difference of £34,000 more, is that the salary of the person that is extra or is it an element of other things in there?

HON J J NETTO:

I have not got that kind of information detailed here with me but if he wants me I will look into the difference and pass the information to the hon Member.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, the movement from £760,000 to £794,000, again the explanation is exactly the same as that I gave a moment ago, that there are a number of factors that would influence that. As civil servants move around the civil service, they are all on different incremental points and depending who one gets one could be paying more or less for one year. That would be one factor. The second factor is there may have been vacancies held by particular posts of the previous year, which providing the provision for this year, will not be there. Those are just two examples and I think there are these small, what I would call, immaterial differences. I think the hon Members could actually bear that in mind on each of these Heads, that those two factors would generally apply throughout the civil service.

HON J J BOSSANO:

Can the hon Member say whether in fact, of the 50 posts that there are between the Operations Unit and the Administration, are there currently any vacant posts, or is that information not available?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

At the time they were drawn up, as I understand it, there was just one vacancy at Executive Officer level and there may well be vacancies at Administrative Officer level but I do not have the details with me for the reasons that we talked about earlier.

HON J J BOSSANO:

And on the Operations side, the Technical Grades, 33 posts?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

As far as I am aware, Mr Chairman, there were no vacancies at the time the Estimates were prepared.

HON J J BOSSANO:

On the bonuses, the outturn was £20,000 against a provision of £145,000, is it that the £50,000 this year indicates that it is planned to do less work on bonuses compared to what was planned at the beginning of the financial year this time last year?

HON J J NETTO:

No, it is not a question that it is anticipated to do less work on bonuses. The incentive scheme got off the ground at a late stage after the introduction of the last financial year. We see a difference there of £145,000 to £20,000, that reflects that and it also reflects the fact that on the non-industrial side of the incentive scheme it has got a 5 per cent ceiling. Therefore, the lesson learnt there is that with £50,000 we will maintain the same level of work carried out through the incentive scheme and the £50,000 provision will be sufficient.

HON J J BOSSANO:

Yes, I understand what the Minister has said but is it that that ceiling was not there when the £145,000 was put in because if we look at the bonus for the industrials and the bonus for the non-industrials that we approved a year ago, in last year's budget, the relativity between the two was £145,000 and just £500 short of £0.5 million. For the next 12 months one has the £0.5 million on the industrial side but £50,000 on the non-industrial, is it that in the original figure there was no ceiling?

HON J J NETTO:

Yes, there was a ceiling.

HON J J BOSSANO:

Then I am afraid I do not understand it because if the ceiling was there before then surely there must be something wrong with the relationship now or the calculation was over-generous the last time.

HON CHIEF MINISTER:

That is it, looking at the figures in the Estimates column for 1997/98, there was very little science in that because the scheme had not yet been introduced. There was not a real idea of how much it would cost and this was therefore a provision for it and certainly of the three columns, the one that is least scientific was the 1997/98 estimate. Nor does the scheme last for a whole year given that as the Leader of the Opposition knows it was introduced last, I think it was August or September or October even.

HON J J BOSSANO:

I can understand the late start because that presumably would affect both the subhead we are talking about and the one that follows. In looking at the £20,000 compared to the £300,000 and the £145,000 compared to the £0.5 million and the £50,000 compared to the £0.5 million that is proposed for the next 12 months, it is obvious that we are not talking about the same ratios.

HON CHIEF MINISTER:

No, absolutely right, Mr Chairman. There is no change in the anticipated scheme. The share of the crafts on the one hand and the PTOs and the Work Supervisors on the other hand under the bonus scheme is as has been made public. The hon Member is right. There was a gross over-provision for bonuses in the salaried staff, in the non-industrial staff, in the Estimates for 1997/98 and the proper proportions, relativities to one another are the ones that are reflected now and the first column ended up as being a gross over-provision.

HON J L BALDACHINO:

And £50,000 bonus I suppose those entitled are the first line managers in the three depots, is that correct and nobody else?

HON J J NETTO:

For the Works Supervisors and the PTOs at the depots, yes.

HON CHIEF MINISTER:

Mr Chairman, the hon Member will recall that under the scheme as originally envisaged, the bonuses were split, 95 per cent saving went to the industrials and 5 per cent out of that 100 per cent went to the non-industrials. In the revised scheme the industrials get the whole of the 100 per cent of the saving and the 5 per cent share for the non-industrials is separately funded. That was the latest amendment that we introduced in the scheme so in effect the scheme now costs 105 per cent of savings not 100 per cent as used to be the case.

Subhead 1 was agreed to and stood part of the Bill.

### Subhead 2 – Industrial Wages

HON J L BALDACHINO:

Mr Chairman, on overtime, I understand the explanation in not providing overtime in 1997/98 even though the forecast outturn was £14,000. Can the Minister explain, he was adamant that there should be no overtime, why was that £14,000 necessary last year and why is he providing now £20,000?

HON J J NETTO:

Yes, the hon Member is quite right. In our drive to remove the question of overtime and the manner in which the overtime was paid before, we were perhaps overzealous in the sense of removing overtime philosophy within Buildings and Works. What we did find out during the course of abolishing all the overtime was that there were works, which really do not come from an operational kind but more of a maintenance side. Some people come on a Saturday to maintain the woodworking machinery or something like that and therefore the £20,000 entry for this estimate reflects that kind of maintenance as opposed to operational kind of work.

HON J J BOSSANO:

On overtime under the Emergency Housing Maintenance, there was £375,000 calculated in last year's Estimates and the outturn is £310,000 and the provision is £310,000, given that this is for the people who are on a roster, on call, how can there be a difference unless there are less people. Are the numbers in the roster the same as they were in last year's figures?

HON J J NETTO:

I have not got the information with me as to the number of people in the roster. If the hon Member wants I can find out and give him that information, but I have not got with me that kind of detailed information.

HON J J BOSSANO:

Can he confirm that there has not been a decision to reduce the number of people on the roster?

HON J J NETTO:

From the top of my head I do not think there is any difference as to the way it was being provided in the past.

HON J J BOSSANO:

On Housing Wardens the Minister in the general debate made a reference to some degree of dissatisfaction with the Housing Wardens operations. There was £327,000 provided originally and £293,000 spent and there are £309,000 for the next 12 months. Has there been any alteration in the numbers employed as Housing Wardens, are there vacancies in Housing Wardens and that is why the figure is less?

HON CHIEF MINISTER:

No, Mr Chairman, but there is the question of pay rises and.....

HON J J BOSSANO:

Not on the industrial side.

HON CHIEF MINISTER:

The same number of people cost more one year than the previous year and therefore a small discrepancy of that sort does not necessarily mean a different number of bodies of people.

HON J J BOSSANO:

Mr Chairman, I stand to be corrected, but the actual money put in last year's Estimates for the Pay Review we have only seen in this House one use made of it which was a supplementary reallocation which was for GBC, the Post Office and the Fire Brigade. I do not recall seeing any other supplementation of either wages or salaries from that block vote so we are assuming that we are still operating on the wages of last year.

HON CHIEF MINISTER:

The industrial pay settlement as the hon Member knows has gone through and what happens is and this is not the only Department, it happens in various others, where there was an over provision in the Estimates and there was therefore sufficient voted funds under emoluments to pay the Pay Review, then the money was taken up from surplus voted funds under the departmental emoluments head rather than being transferred across from supplementary funding by warrant.

HON J J BOSSANO:

Is it that if there is an excess provision under Personal Emoluments it can be vired to Industrial Wages, is that it?

HON CHIEF MINISTER:

I am told that yes it can be, with the Financial and Development Secretary's approval.

HON J J BOSSANO:

Then perhaps, not necessarily now, at some stage the Financial and Development Secretary will let us know what has been the industrial pay review cost.

HON CHIEF MINISTER:

Absolutely, but let me assure the hon Member that it is strict Government policy which is communicated in writing to Controlling Officers and Heads of Departments that they will not be allowed to vire from remuneration, because it includes both emoluments and wages, to non-emoluments and wages subheads. They would not be allowed to transfer from emoluments to Other Charges. As a matter of Government policy it would not be sanctioned.

HON J J BOSSANO:

Let us hope it does not happen then. In terms of the actual industrial staff complement, the £234,000, is that the agreed manning level?

HON CHIEF MINISTER:

The exercise to establish an agreed manning level has not been carried out except that we have agreed that it will not be lower than this. It is not quite the same thing.

HON J J BOSSANO:

Is the Minister in a position to say whether within the £234,000 he has any vacancies?

HON J J NETTO:

We are engaged in the process, as the hon Member knows, in the recruitment of some scaffolders and labourers we need to recruit. We have already got the advert out.

HON J J BOSSANO:

Are those vacancies then included in the £234,000?

HON CHIEF MINISTER:

If the hon Member is asking whether there is financial provision, those vacancies are included in this establishment figure of £234,000. I can only assume so, although if they are, it begs the question of why 1997/98 was also £234,000. The answer then is they are not. Unless, the only possible explanation that I can think of is, that there are

vacancies in the £234,000 as that figure related to 1997/98 and that therefore those vacancies are now being used to absorb the new scaffolders and the new labourers. It would be the only sensible explanation but certainly it is a point that will be looked into.

HON J J NETTO:

Yes, obviously during the course of the last financial year a lot of people have retired through natural wastage and many of the posts that will be recruited now will form part of those particular numbers or part of it.

HON J L BALDACHINO:

As a matter of fact, those recruited will not necessarily be in the same craft, they could be something else, is that correct?

HON J J NETTO:

It is correct.

Subhead 2 was agreed to and stood part of the Bill.

Other Charges

Subheads 3 to 5 were agreed to and stood part of the Bill.

Subhead 6 – Housing Maintenance – Materials

HON J J BOSSANO:

On Housing Maintenance – Materials, which is related presumably to the work under bonus schemes, we see that there is £1 million provided this year even though the bonuses are still at £0.5 million. If we look at the three years, one can understand that the materials should have gone down from £1.1 million to £816,000 because the bonuses have gone down and because the scheme started half way through the year, but it is difficult to understand why the House is providing less for Housing Maintenance – Materials than a year ago given that the rest of the operation seems to be parallel costs. Is it still the case that when the Treasury produces this they do it by assuming a percentage of 70:30?

HON CHIEF MINISTER:

No, I think it is a straightforward extrapolation. I think the £300,000 reflects more than just the fact that it started late in the year. The fact of the matter is that on the basis of the £300,000 outturn on the bonus albeit that it started in October, £800,000 worth of materials were required and it has been estimated that if the scheme is successful and the whole £500,000 of bonuses paid out they will need more materials but the difference between £816,000 and £1 million is not a scientific extrapolation of any kind, it is just the desire to provide more in the knowledge that if it is less than is necessary that is what supplementary funding vote is there for but I do not think we could claim any degree of science or formula to justify that very round figure of £1.1 million. I think it is just a provision.

Subhead 6 was agreed to and stood part of the Bill.

Subhead 7 – Housing Wardens – Materials

HON J L BALDACHINO:

Mr Chairman, there is a substantial reduction from £168,000 to £30,000 and now it has been estimated again for £30,000, is there any explanation for that?

HON J J NETTO:

Yes, over and above to what the Chief Minister has just said in relation to the calculation, the Leader of the Opposition was in his intervention saying that it is part of this percentage between materials and labour costs. One of the things that has happened in dividing the two in this particular budget is that whilst that is true for the operational side, that that sort of logic of the 70:30 relationship does not seem to hold its ground on the maintenance side for the Wardens Section and as a result of that after separating both the Wardens from the general materials before he realises that that is the reason why there is such an underspending whilst before it was not possible to find out because it was all encompassing one.

HON J L BALDACHINO:

These are materials that are used by the Wardens, more cleaning materials and maintenance materials, is that correct?

HON CHIEF MINISTER:

Yes, the provision for materials other than for maintenance, would be in the Improvement and Development Fund or in the item that we discovered earlier.

Subhead 7 was agreed to and stood part of the Bill.

Subhead 8 was agreed to and stood part of the Bill.

Subhead 9 – Small Plant and Tools

HON J J BOSSANO:

Is there a particular reason why this item is here rather than in the Improvement and Development Fund where other equipment and tools seem to be?

HON CHIEF MINISTER:

Yes, Mr Chairman, the decision was made to put them here because these were small plant and tools of the sort that are regularly replaced and cannot really be regarded as capital assets. It is rather the run-of-the-mill stuff of which the turnover is so high that it could not really be thought of as an appreciant to a capital asset.

Subhead 9 was agreed to and stood part of the Bill.

Head 2 – Employment and Buildings and Works was agreed to and stood part of the Bill.

**HEAD 3 - ENVIRONMENT, HEALTH AND CONSUMER AFFAIRS**

Head 3-A – Environment, Heritage and Consumer Affairs

Subhead 1 – Personal Emoluments

HON J J BOSSANO:

The total Environment, Heritage and Consumer Affairs complement is shown as growing from 26 to 28. The actual increase in salaries which was £20,000 down on the outturn and is now £70,000 up for the forthcoming year is that the reflection of the two additional posts, the

extra £70,000? Can they say in this case whether there are vacancies in the complement in any of the different grades, not just the clerical side?

HON K AZOPARDI:

The Leader of the Opposition is right, the complement is going up by two but the increase is actually due to a variety of factors highlighted by the Financial and Development Secretary earlier plus the fact that the SEO, the Principal Secretary, last year was being paid by the Health Authority and now falls to be paid by Environment, the same applies to the typists and the Executive officer is new. The Assistant Archivist was not being paid last year and whilst the post is not filled it is being covered in a financial sense in part by a part-time AO and there is another Process and General Supervisory grade. In relation to vacancies themselves, as I said to the Leader of the Opposition, the post of Assistant Archivist is vacant but covered by a part-time AO and apart from that in the non-industrial grades I do not have any record of any vacancies.

HON J J BOSSANO:

The typist which is in the complement this year and was not there, is that the reason why it appears, this is not because there is an extra typist but the body is there but was being paid from the Health Service?

HON K AZOPARDI:

Yes.

Subhead 1 was agreed to and stood part of the Bill.

#### Subhead 2 – Industrial Wages

HON J J BOSSANO:

On industrial wages, the Cemetery Section is down both on the outturn and on the original provision last year and so is the provision for overtime. Given that the cemetery employees have got fixed hours which is over and above the basic 39 hours, what is the explanation for that? There are, I take it, the same number of people, the total shown for industrial staff has not changed.

HON K AZOPARDI:

Mr Chairman, I can only say because I have got it in front of me that yes, certainly there are no vacancies and there are the same number of staff but I am looking at the calculations and those are the calculations made by my Controlling officer with the Treasury Department in relation to the principal basic salary. In relation to overtime again, I have got the calculation here, and it is based on the normal equation which they base this on, so I gather that it is accurate. If there is a slight displacement I am sure it will be covered but the terms and conditions of the men have not changed.

HON J J BOSSANO:

Presumably the calculation this year would have been on a higher hourly rate than last year, given what we were told about the other subheads and the Pay Review?

HON K AZOPARDI:

Yes, I assume so.

Subhead 2 was agreed to and stood part of the Bill.

#### Other Charges

Subheads 3 and 4 were agreed to and stood part of the Bill.

#### Subhead 5 – Cemeteries

HON J J BOSSANO:

The cemetery upkeep is no longer shown here obviously because it is now being done by Community Projects, but is there any calculation of comparable cost? I believe it is in the case of the hostel, for example, there is now a provision which shows what is being paid to Community Projects for the manning of the hostels.

HON K AZOPARDI:

My understanding of the sum being paid in respect of the hostels is not comparative in the sense that is the figure being paid to Community Projects for doing the work. It is materials and so on but not the labour

cost element. I suspect it can be calculated but I do not have a calculation of the labour time and materials being spent on the cemeteries by Community Projects.

HON CHIEF MINISTER:

Mr Chairman, it is absorbed by Community Projects Limited in their general budget for materials and labour.

Subhead 5 was agreed to and stood part of the Bill.

Subhead 6 – Heritage

HON J J BOSSANO:

On the Heritage subhead I note that there is a reduction for the promotion of heritage issues, not from what has actually been spent but from what it was intended to spend. Originally the Government asked the House to provide £30,000, they have actually only used £18,000 and I assume that they are only providing £18,000 this year because of what they spent but is it that they could not find enough heritage issues to promote?

HON K AZOPARDI:

He may find easier people to provoke, but I will restrain myself. The Leader of the Opposition may note that there was no item in the budget of Gibraltar to cover promotional heritage issues before we came into office and so this was a first provision. Being a first provision it was difficult for me to estimate how much we were going to spend particularly because we wanted to target a substantial amount of money or part of that money towards publication and research into historical and heritage matters in Gibraltar. We found that during the first year we were able to formulate, in principle, a plan of publications we wanted to support but arrived also at the conclusion that we did not require so much funding and that is the reason, not because the Government in any way is not supportive of heritage matters. The Government are indeed fully committed as I said in my budget speech on that issue.

Subhead 6 was agreed to and stood part of the Bill.

Subhead 7 – Environment

HON J C PEREZ:

Mr Chairman, I noticed yesterday the Chief Minister's concern about the cull of the seagulls. I presume that he is sure that he is getting value for money for the £13,000 being paid to GONHS for the cull of the seagulls which is so much tormenting him.

HON CHIEF MINISTER:

I was having this conversation with my Colleague the Minister for the Environment the other day and I said I was not satisfied that on the basis of 368 gulls culled, at a cost of £13,000 that we were getting particularly value for money. One alternative would be of course to declare an open season rather like the grouse shooting season in Scotland and sell shooting licences and let everybody go up there and take pot shots at the seagulls. I am sure instead of being a cost it would be a source of revenue and we would have much more than 368 gulls culled but I understand, seriously, that the constraints placed and this is something perhaps the Minister for the Environment might like to take over discussion, but the constraints placed by the methods that can be used for culling limit the number of gulls that can actually be culled.

HON K AZOPARDI:

Yes, Mr Chairman, my concern of course is if we did that and opened the season, apart from the fact that the Gibraltar Regiment voiced some concerns when we discussed that, is of course the safety issue and unless we start selling seagull pie in all our restaurants we might have lots and lots of corpses everywhere. But on a serious note, the methodology that we are following is supposed to be the most sympathetic to the issue. It is a difficult and uphill struggle as the hon Member will appreciate. No attempt had been made previously apart from the crushing of eggs that was being conducted on an annual basis to cull gulls. Last year a Seagull Culling Unit was formed in August, they culled about 500 gulls last year. I accept it is not a huge figure but it is an inroad which we hope to accelerate this year. If we can use more vigorous methods we shall but we are fighting an uphill battle.

HON J J BOSSANO:

In the Upkeep of Planted Areas – Green Arc Limited, the provision last year was £311,500 and this year it is £317,000. Has there been an increase in the areas that Green Arc now have to upkeep?

HON K AZOPARDI:

Mr Chairman, that is the contractual item and so there is a contractual increase which the Leader of the Opposition is looking at now. There is indeed out with the schedule of areas that Green Arc are supposed to cover, there has been an increase of the work that they have received. It has been, in part, covered by Head 10-A which really reflects the additional areas. Subhead 7(i) reflects the contract we inherited from the previous administration and those specific areas, not the new ones.

Subhead 7 was agreed to and stood part of the Bill.

Subheads 8 to 12 were agreed to and stood part of the Bill.

Subhead 13 – Consumer Affairs

HON J J BOSSANO:

The provision for General Expenses – Consumer Affairs, there is £1,000 there which the footnote shows is a token. Is it that the Government do not know how much money will be required for that particular item at this stage? Are they negotiating the cost with somebody?

HON K AZOPARDI:

Yes and no. The Government cannot assess exactly how much will have to be paid in respect of that but it is a small office, it only has two people at the moment and so we do not expect it to be a huge amount.

Subhead 13 was agreed to and stood part of the Bill.

Head 3-B - Health

Subheads 1 to 3 were agreed to and stood part of the Bill.

Head 3 – Environment, Health and Consumer Affairs was agreed to and stood part of the Bill.

HEAD 4 - GOVERNMENT SERVICES AND SPORT

Head 4-A - Support Services

Subhead 1 – Personal Emoluments

HON J C PEREZ:

Mr Chairman, although I notice that there is an increment in the Infrastructure, Engineering and Design Section of an extra SPTO, two PTOs and one HEO, I do think that the extra provision of £98,000 is a bit high to cover only those four posts.

HON LT-COL E M BRITTO:

In Support Services there are changes in the staffing levels, not just in the Engineering and Design Department but also in the Garage and in the Computer Services level. What specific item is the hon Member referring to?

HON J C PEREZ:

I am talking about what is shown in Infrastructure, Engineering and Design.

HON LT-COL E M BRITTO:

There is an extra senior officer as well. If one looks at the upper head, the senior officer is new, that is specifically in Infrastructure as well.

HON J C PEREZ:

Although it is shown in the breakdown as being under General the £30,000 under General covers one EO and one Personal Secretary and the Senior Officer is being accounted for in the vote below.

HON LT-COL E M BRITTO:

That would seem logical from the level of the figures, yes.

Subhead 1 was agreed to and stood part of the Bill.

## Subhead 2 – Industrial Wages

HON J C PEREZ:

Mr Chairman, I do notice that there has been an increase in the number of industrials, I presume in the Electrical Section and in the Garages and Workshops. Can the Minister give us an indication of the complement that is here, how many of these are vacancies? Or whether there are any vacancies at all, or have they all been covered?

HON LT-COL E M BRITTO:

I do not have that information at hand because some of the new posts are in the process or were in the process of being recruited and they are actually at the applications/interview/employment stage. There has also been some people from the Garage who have been or are in the process of being transferred to the Ministry of Transport, some mechanics, so there is a certain amount of movement. If the hon Member wants the information I can try and obtain it for him but I cannot give it to him at this moment in time.

Subhead 2 was agreed to and stood part of the Bill.

## Other Charges

### Subhead 3 – Office Expenses

HON J C PEREZ:

Mr Chairman, there seems to be an inherent attempt to spend £30,000 on telephone service even though the forecast outturn has been £12,000. We made provision for £26,500, the outcome is £12,000 and the provision is again up from last year, unless there is a purchase of mobile telephones which I presume might be the case.

HON LT-COL E M BRITTO:

No, Mr Chairman, there is a much more logical explanation to it than that, despite my personal attempts at increasing the telephone bill of the department. It is very simple, Government Services, which I explained in my contribution, essentially consists of my PA, my Personal Secretary and myself who are at present in No. 6 Convent Place. The support Services Department is at present in Europort and comes under the

umbrella of DTI and by inference the telephone bills, the same applies to electricity and water and I suspect some items in stationery and things like that our bills have been coming under No. 6 and the DTI respectively and this is an attempt now to estimate and to show them separately as a free standing unit within the new Secretariat building. The House will appreciate that they are estimates and therefore this time next year we may find that the forecast outturn might be not as accurate as in other departments.

Subhead 3 was agreed to and stood part of the Bill.

Subheads 4 to 6 were agreed to and stood part of the Bill.

### Subhead 7 – Materials and Other Costs

HON J J BOSSANO:

Mr Chairman, on Materials and Other Costs, we have got the Garages and Workshops, subhead 7(b), which shows an increase over last year's provision and over the outturn, is this related to the anticipated maintenance that needs to be done on Government vehicles by the Garage?

HON LT-COL E M BRITTO:

Mr Chairman, it is directly related to the increase in staffing levels in that section, Support services and the Garage itself and the consequent reflection it will have on the productivity of that department.

Subhead 7 was agreed to and stood part of the Bill.

Subheads 8 and 9 were agreed to and stood part of the Bill.

### Subhead 10 – City Plan

HON J J BOSSANO:

Mr Chairman, the Government asked for £30,000 last year and spent none of it, can we have an explanation of what this money is expected to be for?

HON LT-COL E M BRITTO:

This is, strictly speaking, the geographical information computer system that I referred to in my contribution. It was planned to put this into place last year. The combination of the consultancy, the co-operation with Gibraltar Nynex, Lyonnaise and other departments that are involved all added up to delay and it was not possible to actually put the system in place last year. We are at the stage now where we have had preliminary tests, where we have had the consultants out, where we have seen the products of some of the initial software that is being put into place and it is expected that the amount will be spent during the course of the current year.

HON J J BOSSANO:

Mr Chairman, there was a computer system brought in by the DTI a number of years ago which was supposed to show where all the sewers were, is that connected in any way with this or is this a replacement of that?

HON LT-COL E M BRITTO:

Yes, Mr chairman, this is a direct replacement of it. Experience has shown and I speak now a little bit from memory, but experience and the advice I have from the professionals in the field is that the system that was originally purchased is either inadequate, insufficient and certainly is not performing up to the level of expectation that presumably hon Members had when they purchased it and this is an updated version of it, much more comprehensive, much more sophisticated and is intended to replace it. I believe it is not intended to ditch the other system completely but I cannot quite remember what we are going to do with it but we are going to use it somewhere else on a more limited capacity, but I cannot quite remember where it is.

HON J J BOSSANO:

This presumably is the annual recurrent cost of that system? Is there a provision in the Improvement and Development Fund for purchasing equipment?

HON LT-COL E M BRITTO:

I think there might be an element of capital expenditure here as well as recurrent costs but I am uncertain.

HON J J BOSSANO:

I am assuming that this is the annual recurrent cost of operating that system and that if there is capital equipment it would be reflected in the Improvement and Development Fund? If the assumption is wrong.....

HON LT-COL E M BRITTO:

If the hon Member would bear with me a moment I may be able to give him the answer to that.

HON CHIEF MINISTER:

Mr Chairman, according to my hon Colleague, the Minister for Government Services, the total Government share of the cost of this project is £75,000. Whether this is part of the capital which is being parked under the Consolidated Fund where it might have been, or whether it is a provision for recurring expenditure of the on-going maintenance costs to the system, which I would doubt, I think is something that we will come back to the hon Member. It is something I would be grateful for the opportunity to clarify to the hon Members.

Subhead 10 was agreed to and stood part of the Bill.

#### Head 4-B - Electricity

##### Subhead 1 – Personal Emoluments

HON J J BOSSANO:

Mr Chairman, the salaries in Personal Emoluments is slightly up and it is against the background of the complement coming down from 75 to 72. One would not expect that there would be people moving up the ladder in that particular department because they have all been there a very long time and they would normally all be on their maximum.

HON LT-COL E M BRITTO:

Mr Chairman, I do not quite see the point being made. The level of salaries is the same as the forecast outturn. If anything, there is a difference between the Estimates rather than the forecast outturn which would indicate exactly what the hon Member is saying, no change.

HON J J BOSSANO:

The provision last year was an establishment of 75 bodies. One could expect that if there is going to be in 1998/99 72 instead of 75, one would expect the salaries to be coming down, not going up.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I think in this case there have been some people who have moved from one position to the other which I think would account for some of this and also there may be a vacancy that would also account for some of this.

HON LT-COL E M BRITTO:

Mr Chairman, I have the figures here in front of me. I have the details for the whole of the Electricity Department and it adds up to £1.235 million as in the Estimates. I assume they are correct.

HON J J BOSSANO:

We are not questioning the accuracy of the figure. It is just that if we have got a figure put last year for 75 and during the course of the year the figure has moved up but we are being told that in the forthcoming year there is going to be three people less, presumably the £1.235 million is based on the establishment of 75 in 1997/98 and in 1998/99 the same figure is based on an establishment of 72.

HON CHIEF MINISTER:

Mr Chairman, the explanation might be the composition, that whereas last year there were four HPTOs and this year there will be seven as opposed to 11 PTOs last year and eight this year and that that goes up in higher cost structure for the same number of bodies.

HON LT-COL E M BRITTO:

It is absolutely right, Mr Chairman. The average level of pay of the HPTO is round about £21,000 whilst the average level of pay of the PTO is round about £19,000.

HON J C PEREZ:

Mr Chairman, I see that the Shift maintenance Mechanical Workers are now down to 20 which is the number of the complement, there were people above the complement and there was I recall, it is not something that the Minister might have easily available but perhaps he could check back, there was an arrangement, an agreement, that at the time that the number came to 20 they would come and see the possibility of employing apprentices in that area in anticipation of other people retiring because of the nature of the mechanical work. It is mechanical work but it is not a mechanical work of the nature of a car mechanic, it is a more sophisticated one and what they were saying is when the complement is down to 20 which is the complement that has been agreed, in anticipation of other people retiring perhaps there would be room or space there for employing apprentices which might be even car mechanics that need to gain experience of the nature of the work there. I know it is not something that he could have easily available but if he could find out and let me know I would appreciate it.

HON CHIEF MINISTER:

Certainly, Mr Chairman, it may well be that such an agreement exists. The hon Member might know but certainly no one has made an approach to the Government seeking to invoke it. Following this intervention I suspect they will on Tuesday morning.

Subhead 1 was agreed to and stood part of the Bill.

Subheads 2 to 4 were agreed to and stood part of the Bill.

#### Subhead 5 – Generation

HON J C PEREZ:

Mr Chairman, I presume that there is the same amount of overhaul work envisaged to take place as there was last year because there is a progressive overhaul programme. Does the sum of £250,000 depend on what they find and what they need once the overhaul has started?

HON LT-COL E M BRITTO:

No, Mr Chairman, the finance is not that at all. The increase of £250,000 to £380,000 was due to unforeseen expenditure which was not budgeted for at the time of the Estimates last year.

Subhead 5 was agreed to and stood part of the Bill.

#### Subhead 6 – Distribution and Infrastructure

HON J J BOSSANO:

Mr Chairman, in subhead 6(b), Public Lighting, there seems to be a peculiar fluctuation between £50,000, £17,000 and £30,000 which no doubt the Minister can explain.

HON LT-COL E M BRITTO:

No doubt, Mr Chairman. In fact there are a number of reasons. The main ones are that for a period of a number of months the two hydraulic platforms were unavailable and hence this caused a consequent reduction in the amount of materials that were used and another reason is there has been a fair amount of new street lighting that has been put into various thoroughfares and this has resulted in a reduction in maintenance work because of the new infrastructure. Those are the two main reasons for that fluctuation and the new figure falls somewhere in between as an estimate of what it could be next year.

HON J J BOSSANO:

There are two elements in that subhead – materials and public lighting. Is it that public lighting is also materials?

HON LT-COL E M BRITTO:

By implication from what I have just said, yes. I assume materials are things like cables whereas when one talks about the actual lighting itself, the repairs needing the elevating platforms, it comes under public lighting. I do not have the full details but that is the explanation that I ascertained for myself for those differences.

Subhead 6 was agreed to and stood part of the Bill.

Subheads 7 and 8 were agreed to and stood part of the Bill.

#### Subhead 9 – Purchase of Electricity

HON J J BOSSANO:

It seems odd that the estimate figure for this year is lower than the forecast outturn. Is it that for part of last year we actually made greater use of OESCO than expected?

HON LT-COL E M BRITTO:

No, Mr Chairman, there are two elements to this. The hon Member is right in saying that there is a reduction in the cost of fuel and that reflects the lowering in one direction in respect to the Estimates last year but in respect to the increase in the outturn, in respect of the previous Estimates, it is due I am told to inaccuracies in readings of meters by MOD which have resulted in a certain amount of billing this year which reflect consumption in the previous year.

Subhead 9 was agreed to and stood part of the Bill.

Subhead 10 was agreed to and stood part of the Bill.

#### Subhead 11 – Commercial Projects

HON J C PEREZ:

Can the Minister perhaps explain what that is all about, given the fluctuation between the estimate and the outturn, and now coming back to an estimate of £5,000?

HON LT-COL E M BRITTO:

Yes, Mr Chairman, the £5,000 figure is really a token figure. That covers the expenditure that the department needs to go into when a new project like, for example, Montagu Crescent or some of the other projects come into being and the new infrastructure has to be put in in respect of those projects. At the moment there is no estimate or any new projects because we are not aware of any but something might happen during the course of the year and that subhead would be used as a venue for supplementary funds.

HON J C PEREZ:

So one would presume that part of a whole of the cost, depending on the negotiation, is then shown in receipts to Government from payment by developers?

HON LT-COL E M BRITTO:

Yes, Mr Chairman, that is correct.

Subhead 11 was agreed to and stood part of the Bill.

Head 4-C - Fire Service

Subheads 1 to 4 were agreed to and stood part of the Bill.

Head 4-D - Post Office

Subheads 1 and 2 were agreed to and stood part of the Bill.

Other Charges

Subhead 3 – Office Expenses

HON J J BOSSANO:

In the provision for industrial wages in the Post Office, I note there is an increase of one industrial, there would not appear to be sufficient money in the vote for an extra body there.

HON CHIEF MINISTER:

Mr Chairman, whilst I recognise the potency of the Leader of the Opposition's observation, there is no doubt about it, we do not have here the actual staff list and there are indeed five people on it and their basic wages do indeed add up to the amount it did, the question of that that begs of course is how £34,000 was spent on four last year. No immediately available explanation but we shall bring this point forward on Tuesday, Mr Chairman.

Subhead 3 was agreed to and stood part of the Bill.

Subhead 4 - Operational Expenses

HON J J BOSSANO:

In Operational Expenses, I take it the cost shown in subhead 4(a) for the supply of stamps is related to the printing? One would expect that the cost would be related to the issues, the issues to be limited so as not to oversupply the market. What is the explanation for the extra £33,000, which in relation to the £38,000 spent, is quite a big gap.

HON LT-COL E M BRITTO:

It is printing but it is not printing of stamps, it is printing of aerograms for air letters and hence the increase.

HON J J BOSSANO:

Then supply of stamps, is the printing of air letters?

HON LT-COL E M BRITTO:

No, no, it is under-supply of stamps, that increase of £3,000 is because the increased cost of printing air letters which have a stamp printed on them. It is a little bit of poetic licence, I accept, on the use of supply of stamps but the answer is that it is because of the cost of printing new aerograms or air letters.

HON J J BOSSANO:

Subhead 4(e) – transfer of Parcel Stores, where there was £3,000 provided and nothing spent, what is that money for?

HON LT-COL E M BRITTO:

Because, Mr Chairman, we have been trying to move the Parcel Post stores out of Landport Ditch, the decision in principle to move them out because of the Casemates project was taken some time back. Initially, there had been the intention to move them out last year. Then subsequent to that a policy decision was made to move the Post Office into the Health Centre building and that changed the whole concept of what to do with the Parcel Post Stores. Everything was put on hold until the decision was made so technically what we are doing is revoting the same £33,000 into this year.

HON J J BOSSANO:

Are those £3,000 really no more than a token figure or is that what it is going to cost?

HON LT-COL E M BRITTO:

I had this discussion with the Post Office management, Mr Chairman. I think it is going to turn out to be an inadequate provision. It is certainly not meant to cover the transfer of the Post Office as a whole. This is meant to be purely the cost of moving the Parcel Stores physically, the parcels, the shelving, and setting it up in a new place but in the project of the overall move of the Post Office there will undoubtedly be expenditure out of the Improvement and Development Fund eventually but that is planned for the following financial year which will include the restructure of the building and so on. This is purely the cost of moving the stuff, as it were, from one building to another.

Subhead 4 was agreed to and stood part of the Bill.

Subhead 5 – Cost of Outgoing Mail and Bulk Mailing

HON J C PEREZ:

Mr Chairman, can the Minister explain whether the decrease in expenditure there is due to less bulk mailing?

HON LT-COL E M BRITTO:

No, Mr Chairman. As the hon Member knows when we had a debate on this at this time last year, the whole issue of bulk mailing is a difficult one. I am told that the main reason is that the invoices requesting payment from other administrations are erratically received and until the invoice is received one does not know how much one has got to pay. Hence, this erratic behaviour is reflected in the figures on the Estimates.

HON J C PEREZ:

But there could be costs attributable to bulk mailing that have not yet been received and have not been paid? Some of the cost could be that? From other administrations?

HON LT-COL E M BRITTO:

Yes, basically, we have provided for £100,000. We were only billed for £200,000 and we know there are some more to come and there is a certain amount of guessing in the figure for this year.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

When we prepared the Estimates last year the amount of business was £443,000 of the business, that is what the Post Office thought it was. In actual fact we then received bills for £200,000 and in the following year the increase is mostly delayed bills.

HON J C PEREZ:

But we do not make an estimate on how much we owe? Presumably we know how much we owe although the bills are received later?

HON CHIEF MINISTER:

Yes, Mr Chairman, but the fact is that this is an estimate of the amount of cash that is going to be required to pay out. These are cash accounts. There is no point making a financial provision for a liability that one has incurred but one knows one is not going to be able to pay out. This is just cash flow management. If we get the judgement wrong when we get more than £300,000 worth of invoices in the year we shall have to supplement this from supplementary funding.

HON J C PEREZ:

I understand that, Mr Chairman. The only point I am making is that although the estimate is the estimate of the bills that have to be paid this year, I presume that the Post Office has the figure of how much is business and how much it owes, whenever the bill arrives they will pay?

HON CHIEF MINISTER:

Yes, Mr Chairman, that is so.

HON J J BOSSANO:

Could I ask on this item, is there any correlation between that and the terminal mail fees, Revenue Head 6, subhead 22, which shows an original estimate of £0.5 million and a result of £0.5 million?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Yes, it forms part of it but it is not exclusively that.

HON J J BOSSANO:

What I am trying to find out is, if we paid other people for bulk mailing £200,000, what did others pay us for the bulk mailing?

HON CHIEF MINISTER:

Mr Chairman, it is included in this but the whole item for terminal mail fees is not bulk mailing. Mr Chairman, is the hon Member content with my last response which is that the item of Revenue Head 6, subhead 22, Terminal Mail Fees of £540,000 estimated, £500,000 forecast for last year, includes the revenue received from bulk mailing but that it is not exclusively so. In other words, there are sources of terminal mail fees other than bulk mailing.

HON J J BOSSANO:

If we look at the estimated cost in the initial figure last year, given the explanation that I have been given, then if the £443,000 was the cost to us of bulk mailing and the receipt was going to be £0.5 million not totally from bulk mailing, being bulk mailing and other people, it did not leave

much of a margin from the £443,000. Of course, if we finished up with a gap of £300,000 between £200,000 and £0.5 million then the picture changes dramatically.

HON CHIEF MINISTER:

Mr Chairman, we do not mind sharing the Leader of the Opposition's information from which there could be deduced the extent of the profitability of the bulk mailing business to the Government. We are advised that it would be severely prejudicial to the survival of that business if the extent of the profitability of it to the Government were known. We do not mind sharing the information with them privately.

HON J C PEREZ:

I have been worried, that it is in Hansard ever since I was Minister for Government Services, that there was not sufficient explanation from the department whether bulk mailing was producing a plus and the figures produced by the Minister passed on by the department did not clear up my own preoccupation of it. Perhaps we might get together one day and talk about it and see if we can.....

HON CHIEF MINISTER:

Mr Chairman, the Government are happy to extract that information as I said before from management and pass it on privately to Opposition Members. That can be done whenever the hon Member wants it.

HON J J BOSSANO;

We are grateful for that, Mr Chairman.

Subhead 6 was agreed to and stood part of the Bill.

Subheads 6 to 8 were agreed to and stood part of the Bill.

Subhead 9 – Definitive Issue of Stamps

HON J C PEREZ:

Mr Chairman, I presume that the £30,000 is what will be paid for part of the printing or is not the Philatelic Bureau in any way partly costing the definitive issue?

HON LT-COL E M BRITTO:

This is, Mr Chairman, the Post Office payment to the Philatelic Bureau.

HON J C PEREZ:

Because it is a definitive issue as opposed to a commemorative one?

HON LT-COL E M BRITTO:

Absolutely right.

Subhead 9 was agreed to and stood part of the Bill.

HON CHIEF MINISTER:

Mr Chairman, this would be a good moment to adjourn to Tuesday 26<sup>th</sup> May, 1998, at 9.30 am.

The House recessed at 8.15 pm.

### TUESDAY 26<sup>TH</sup> MAY, 1998

The House resumed at 9.30 am.

MR SPEAKER:

Before we continue with our proceedings I think it is proper that I, on behalf of the House, should congratulate Monsignor Caruana for having been elected Bishop of Gibraltar. I think on two counts, first that he is a Gibraltarian and secondly, he is a very good man and I am sure you would like to join me in the congratulations.

HON CHIEF MINISTER:

Yes, indeed, Mr Speaker. On behalf of the Government benches we would associate ourselves entirely with your apposite remarks and adopt them as our own. I am sure that Monsignor Caruana will prove to be as effective a Bishop as he has been up till now the Vicar General and I am sure he will look forward to the support and loyalty of the whole of his congregation here in Gibraltar.

HON J J BOSSANO:

Mr Speaker, I am delighted to have the opportunity from the Opposition benches of adding my voice on behalf of the Opposition to what has been said. There can be no doubt that in the whole of Gibraltar there is not one dissenting voice in terms of the popularity of the choice and the fact that we consider him to be the ideal person for that job. He is going to be a very popular Bishop.

**COMMITTEE STAGE : The Appropriation (1998/99) Bill, 1998, continued.**

Head 4-E - Broadcasting

Subheads 1 and 2 were agreed to and stood part of the Bill.

Other Charges

Subhead 3 – Contribution to Gibraltar Broadcasting Corporation

HON J J BOSSANO:

Mr Chairman, the outturn is £63,000 more than the estimate, presumably as a result of normal appropriation for the Pay Review which takes part from the block vote. How is it that with higher wages the contribution is back to £800,000? Is it that there are savings elsewhere in the Corporation which are expected to absorb this?

HON LT-COL E M BRITTO:

No, there has been an adjustment in the way the figures have been treated and there has been some capital expenditure which was originally being dealt with under this Head which has now been transferred to the Improvement and Development Fund.

Subhead 3 was agreed to and stood part of the Bill.

## Head 4 –F - Sports

### Subhead 1 – Personal Emoluments

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, could I make clear, for the benefit of hon Members, what the figures are. The salary should read £110,000 because of the amendment we gave advance notice of and the total therefore would be £135,000 in that column, not £142,000. This is in the Estimates for 1998/99. The consequential amendment under Other Charges, Subhead 4(b) becomes £7,000 whereas there is a figure missing and that totals £14,000 and that therefore adjusts the total of Other Charges to £188,000.

HON J J BOSSANO:

Mr Chairman, in Personal Emoluments, is there provision included for the Sports Development Officer which is shown on the establishment?

HON LT-COL E M BRITTO:

Yes, Mr Chairman, there is.

HON J J BOSSANO:

Are there any other vacant posts in that establishment, other than that?

HON CHIEF MINISTER:

Mr Chairman, the answer is no and his intervention in relation to establishment gives me the opportunity to return to the issues which they opened their debate on the Committee Stage of this Bill. The House will recall that I asserted on Friday that unless they could substantiate the way that they had arrived at their additions, that the Government could not accept their assertion that the figures did not add up. I am happy to be able to say that both the Personnel Department and the Accountant General's staff in the Treasury have checked their figures and have confirmed that the figures that I have given this House are correct and therefore one can only assume that the Opposition Members have wrongly counted grades. The Hon Mr Perez shakes his head. He will then have to say which of the posts he has counted when he cited the figure of 500. The fact of the matter is that as I said in my opening

address the head count of administrative, clerical and executive grades, the head count as we speak is 429 and that the Estimates show a total of 461. In that figure of 461 there may be a marginal error of two posts which the Personnel Department is now trying to track down. The difference between the 461 and the 429 is what I referred to last week as somewhere in the region of 25 vacancies that we had not yet decided whether they would be filled or not. If the Opposition Members wish to know today, which they were not overly keen to know on Wednesday where those vacancies are, I can tell the hon Members that they are as follows: one Administrative Assistant in the Civil Status and Registration Office; one Administrative assistant in Customs; two Administrative Assistants in the Department of Trade and Industry; four Administrative Officers in the Civil Status and Registration Office; one Administrative Officer in the Electricity Department; one Administrative Officer in the Law Officers' Department; one Administrative Officer in the Post Office; one Administrative Officer in the Secretariat; three Administrative Officers in the Department of Social Security; one Administrative Officer in the Supreme Court; one Assistant Archivist; two Administrative Officers in Customs; one Education Adviser; it will become obvious to the Opposition Members from the last three items that this includes not just clerical, administrative and executive. If they wish just the currently administrative vacancies, I will exclude the last three, the Assistant Archivist, the AO Customs and the Education Adviser. One EO Buildings and Works; one EO Employment; three EOs Support Services, Computer Section; one HPTO Support Services, Engineering and Design Section; one PTO Environment and Heritage; one Revenue Constable in Customs; one School Secretary, although that is not clerical it will almost certainly give rise to a vacancy for a typist; one SEO in the Education Department; one Shipwright in the Port Department; one Senior Officer in the Ministry of Employment; one Senior officer in the Ministry of Social Affairs; one Sports Development Officer, which the Leader of the Opposition just asked a question about; one SPTO in Secretariat for the Procurement Section; one Telephonist in Customs; one TGI in the Ministry of Transport, Roads Section; one Typist in the Civil Status and Registration Office and one Works Supervisor in the Ministry of Transport, Roads. All that adds up to 39. This is the total including posts other than administrative, clerical and executive officers. There are 26 if he strips out the ones that do not fall into that category, he will find that there are 26 vacancies left in the clerical which is within the margins of what I said. If the Opposition Members have not made a careful note I will be happy to pass them a copy of this briefing paper for their records and information.

HON J J BOSSANO:

Mr Chairman, the Chief Minister need not have gone back to check what the Accountant General or the Personnel Manager had to say on the subject because we were basing ourselves on the information that he provided. He said there are now 429 as opposed to 420 and he did not spell out that the 429 was a head count but the 420 was not a head count. The 420 was the establishment in 1996, we take it. If one compares two figures on two dates one assumes that either they are both head counts or they are both posts but not that one is posts and one is a head count. He only told us it was a head count when we questioned the figure. Secondly, what we had been expecting to receive from previous answers during the year was what he promised a year ago. A year ago he said there are 103 phantom posts and during the course of the financial year we will produce a new establishment which will show which of those 103 have not been filled. It seems that the 103 are still in the establishment, from the answer that we have been given today but 39 of the 103 have not been filled and that in fact the establishment in this year's book is the same as the establishment in last year's book contrary to the statement he made last year that the 103 had been an over-provision. Are we right, therefore, that there has not been, during the course of the year, a reduction from the total figure that he gave us at the beginning of the year and that in fact the total figure for 1998/99 is not lower than the figure for 1997/98, is that correct from the statement he has made?

HON CHIEF MINISTER:

Mr Chairman, I will deal with his question at the end and with his assertions now. Hansard will tell because I am certainly not prepared to bicker with the Leader of the Opposition about it, but Hansard will tell the extent to which I went out of my way to make it clear that my figure of 429 was a head count. Were it not a head count there would have been no need for me to refer to the fact that there were vacancies which I did. The hon Member is wrong in asserting that I was not comparing like with like. I went out of my way to make it crystal clear that the figure that I was giving was a head count. It still does not explain the assertion made by the Hon Mr Juan Carlos Perez that the figures did not add up because he made the establishment 500 and something. Well, if he made the establishment 500 and something, Mr Chairman, and in fact the establishment, forget now head counts, the establishment as per estimates now is 461 then there is only two explanations. Either the

people in the Treasury and the people in the Personnel Department cannot count or, as seems much more likely, because I am certain that the hon Member can count as well, what seems much more likely is that he is counting in his total of 500 and whatever, I cannot remember the exact figure that he mentioned, posts which do not belong in the category clerical, administrative and executive. There is no other explanation for it. There are so many AOs, so many AAs, so many EOs, et cetera throughout the service and some of them have been transferred to other departments as a result of our reorganisation. Some new posts have been created and they have absorbed some of the vacancies that used to exist in the establishment as at March 1996. To say that these 103 phantom posts are still in the establishment or not is not a question that can be answered without an exact comparison of where each post was then and where it is now. If one compares establishments then obviously the size of the establishment has increased. I have not done the mathematics but it has increased from 420 to 461 as at March 1996. The establishment comparable to comparable counting the same number of grades for both purposes, the establishment in the financial year 1995/96 was 420. The head count today is 429. The Estimates that the House is approving today for the current financial year is 461. Therefore, there has been a growth establishment to establishment of 41 but there will have been more bodies recruited than 41 because the establishment figure of 1995/96 included many posts that were vacant. Therefore although the establishment has only risen by 41 that does not mean that only 41 new people have been newly-inducted into the service. Forty-four AAs have been recruited and there is now a selection process that has been completed which will result in the vacancies that I have just read out being filled from the new public board that has taken place. Mr Chairman, I do not know if we can stop now using the phrase "phantom establishment". That is the position, after not just the musical chairs from the promotions but also following the substantial reorganisation and transfer of functions which has resulted in posts being transferred from one Ministry to another and indeed some new posts being created. The overall effect of all of that is the figures that I have just given the hon Member.

HON J J BOSSANO:

Well, Mr Chairman, let me say that the figure of 103 that was given last year, we were told that we could arrive at that figure by comparing the total number of non-industrial posts in the year 1997/98 with the year 1996/97. We were told a year ago that the 103 was an exaggerated

figure because the ones that were being added in some areas were included but the compensating deduction in other areas was not being removed and that therefore it was a gross and not a net figure.

HON CHIEF MINISTER:

Will the hon Member give way a moment? The hon Member will recall that the figures last year were influenced by the document the Government produced for the reorganisation, for example, he himself pointed out the fact that the Central Arrears Unit was originally planned as 11 and has now whittled down to seven. The so-called phantom figure included making provision for the figures thrown up by the original restructure review document which has not necessarily been implemented in that form. Therefore, there were provisions for up to that establishment at the time when it was not known how exactly the chips were going to fall around the review. This is now subject to the vacancies and remember in the 26 remaining vacancies I indicated to the hon Member last week that the jury was still out on a few of them. It was not necessarily that all 26 of those vacancies were going to be filled. I do not know the hon Member's continuing interest in the so-called phantom figure. I would suggest to him that we just concentrate on what the situation looks like now that the dust has settled on the recruitment and restructure process.

HON J J BOSSANO:

The Chief Minister may regret having used the word "phantom" figure, that is why I wanted to correct it, but he did use them. The point I am still trying to establish is that contrary and notwithstanding everything he has just said, contrary to what was said originally, now that the dust has settled, the 103 posts are still on the establishment, that is to say, the reduction that was anticipated a year ago has not taken place. If we compare the establishment for 1998/99 with the one of the previous year, head by head, we do not find an indication, that out of the move up from 1996/97 by 103 there has now been a move down indicating which of the 103 were not filled. That in fact is contrary to the entire thrust of the speech that the Chief Minister made last year when he explained it to us. He said it would be wrong for people to come to the conclusion that these are going to be filled and therefore there is an over-provision in the Estimates which assumes that something is going to happen which is not going to happen. I think it is perfectly legitimate to question now at the end of the year whether in fact in the money we are voting

today for the next twelve months, that incorrect assumption is still being carried forward because the posts are still there.

HON CHIEF MINISTER:

He is both right and wrong, Mr Chairman. It is true that the figures last year amounted to an over-provision which was in fact not required. That is absolutely true and when I said that at the beginning of the year it turned out to be absolutely right. He will see that this time last year we made financial provision for an establishment of 463. He does not have this comparative table in front of him but I am happy to pass it to him in a moment. The Estimates for 1997/98 was 463, that is what we made financial provision for this time last year. In fact, the year ended with a body count of 429. There was an over-provision between 463, that we made provision for in the Estimates and the maximum in post, body count, during the year which was at the end 429. In respect of last year's Estimates my statement that there were provisions for vacancies in the estimates which would not be filled was entirely correct and borne out by the facts. It is true that in respect of this financial year and these Estimates, that we are now debating in this House, we foresee not so much a rise in the establishment but that the vacancies that were not filled last year, if one can call them that, are going to be filled. So whereas last year we had an estimate establishment of 463 in these departments and we only got 429, therefore bearing out what I prophesied at the beginning of the year, it is now this year going to rise to 461 which is the estimated provision. So there is a small difference which I am sure will not be the subject matter of debate between us on estimated establishment. Last year it was 463, this year it is 461, last year following on what I said it did not get up to 463 we only got up to 429, this year we will get up to 461, subject to the few of those 26 remaining vacancies which are included in the 461 which may or may not be filled and that decision will be made and I will be able to give the hon Member, hopefully by the time we next meet and he is next able to ask questions in the House, those decisions will have been made about the remaining 26 estimate. Last year's 463 which we did not get to and this year's 461 which subject to what I have just said we will get to, compare with estimates in 1995/96 of 420 and estimates in 1996/97 of 405. The hon Members can see the progression. In 1995/96 420; 1996/97 405; 1997/98 463, to which we did not get, we only got 429 body count; now 1998/99 461, to which I think we will get subject, I am sorry to repeat myself, to the outstanding issue on the minor vacancies. All of that compares to the present head count of 429, just to give the hon Members the absolute full picture.

HON J J BOSSANO:

Mr Chairman, on the basis of that information it seems therefore that the figure of 103 additional posts that were given last year were made up of 58 in the managerial and clerical and administrative side and presumably 45 posts in other non-industrial areas because when we are talking about an extra 103 we are being told now that 58 of those are going up from 405 to 463 on the establishment. It seems that of the two things that the Chief Minister predicted last year one is that the money would not all be used because the posts would not all be filled during the year and that at the end of the year there would be reductions which were unquantified but that there would be reductions that would bring down substantially the total establishment increase of 103. That second half is not going to happen. It does not seem that it is going to happen other than perhaps two or three of the 58 extra posts on the administrative side and of the 45 presumably we are talking about the same order of change, two or three. So we are likely to have seen an increase in the establishment planned for last year completed this year of something of the order of 100 new posts, is that correct? Or additional posts, not necessarily new.

HON CHIEF MINISTER:

No, Mr Chairman, I recall that my figure of 103 this time last year was not limited to administrative, clerical and executive, there were PTOs and it affected the whole service. If the hon Member wants to know, I have not got the calculations here with me but I am happy to give them to him on what has been the change on the technical side as opposed to on the administrative, clerical and executive side. I just do not have the breakdown and the additions, there has been some change but it is certainly nowhere near, for example, we have recruited some vehicle testers. We have recruited some estimators in Buildings and Works, things of that sort but it certainly does not reach the figure of 45, it is less than that. I am happy to give the hon Member that information as soon as I get a break and therefore, if subject to the hon Members checking the information that I will give them I think that they will be able to agree that the increase in establishment on the administrative, clerical and executives grades, in other words, the non-technical, the administrative side of the civil service there is a rise of 41 posts maximum against the establishment of 1995/96 and perhaps we can deal with the rest of the public service on another occasion when I have given him the information in relation to that.

HON J C PEREZ:

Could the Chief Minister perhaps state, of the five EO posts he has mentioned, whether these are all going to be filled by direct graduate entry or only some of them are being filled by direct graduate entry?

HON CHIEF MINISTER:

The hon Member puts his finger on a contemporaneously controversial issue which I suppose is not to be unexpected. No, Mr Chairman, this gives me an opportunity to explain what the Government policy on this matter is. The Government have made it clear to the GGCA that we do not reject the possibility of direct graduate entry into the civil service. We believe that that is good for the civil service. We believe that the Government have an obligation on behalf of the taxpayer to use taxpayers' money to recruit for the civil service the best skills that are available and therefore we do not as a matter of policy accept the longstanding view of the GGCA that the Government should not recruit at direct graduate entry level. Returning graduates whose studies have been paid for by the taxpayer have a right to enter the public service like everybody else and to enter the public service at a level that recognises that they have invested an additional three years or four years in obtaining qualifications. The fact of the matter is that there are now many more EO posts than there used to be for AOs in the civil service to aim for, many more, I think from the figures that I have given, I think it was 30. Government will have recourse to the direct recruitment of graduates principally in areas where specific expertise is required in the nature of expertise which is not clerical and administrative. For example, the Minister for Trade and Industry wished to recruit to provide him with executive assistance in finance centre development. He wanted two graduates, people who had gone off and studied relevant degrees and the suggestion that for that sort of job it does not matter whether one has had or has not had that additional experience, is not one that the Government are willing to agree to. We are simply not willing to constrain the public service's ability to do its job effectively by reference to historical sacred cows which are an obstacle and which in any case do not threaten the legitimate promotion prospects of anybody in the public service. Those have been in post for about a year and that was by agreement with the GGCA. Of the five EOs that I mentioned, certainly those include three in the Computer Section of Support Services and the Government have issued advertisements for those on the basis of graduates in computer science or computer studies or some computer

relevant degree. Without doing that the Government would not be in a position to manage the considerable millennium bug problems that arise from Government's existing old computer systems and certainly could not manage the substantial computerisation programme that the Government have in mind for which the hon Members will see there is financial provision in this budget. Therefore, for that reason, the Government have decided that those three EOs will be on direct graduate entry. The other two are one EO in Buildings and Works and one EO in Employment, which are not graduate entries.

Subhead 1 was agreed to and stood part of the Bill.

### Subhead 2 – Industrial Wages

HON J C PEREZ:

Mr Chairman, on basic wages I find it odd that the complement of industrial workers should be 12, remains 12 and the forecast outturn is £140,000 and the provision for next year is £10,000 down.

HON CHIEF MINISTER:

Mr Chairman, I am told that the only explanation for that is that there are more part-time workers. There is no reduction in the establishment. The hon Member will see that there is still 12 and 12 and obviously there has been no reduction in wages so the Head of Department there has bid in for £130,000 for basic wages whereas last year he spent £140,000. The only explanation that I am told exists for that at the moment is the higher incidence of part-time. The hon Members will see that there is no distinction now drawn, that the part-time workers are included there as whole bodies and that makes it slightly harder for that point to become apparent as it might have been in the past. The hon Member will also have noticed that although the basic is lower the provision for overtime is higher so that the total industrial wages figure is the same at £199,000 in each count.

HON J C PEREZ:

The point being if there are 12 people and the forecast outturn is £140,000 how is it that for the following year, for the basic wage, it should be £10,000 less regardless of the level of overtime that they might or might not do?

HON CHIEF MINISTER:

As the hon Member knows part-time workers are more likely to incur in overtime than full-time workers. The hon Member may wish to know that the basic wages arise in respect of one Head Groundsman, two Groundsmen, two full-time cleaners, some of the full-time cleaners work different hours, some work 47 hours, other work 39 hours and I can only assume that it is the number of hours that the cleaners work, it is the only variable that I can see there. It is the only explanation that I can offer but if the hon Member is interested in the particular reason for that, I am sure that the Minister for Sport would be happy to provide it.

Subhead 2 was agreed to and stood part of the Bill.

Subheads 3 to 6 were agreed to and stood part of the Bill.

Head 4 - Government Services and Sports was agreed to and stood part of the Bill.

## HEAD 5 - SOCIAL AFFAIRS

### Head 5-A - Social Security

#### Subhead 1 – Personal Emoluments

HON R MOR:

Mr Chairman, although the number in the establishment is exactly the same, there is now one typist less and one messenger less and there are two Executive Officers more in the department, though the actual number is exactly the same. Since there is no typist post, who does the typing for the department?

HON H CORBY:

At the moment we have lost the typist. The typing is done by my Personal Secretary.

Subhead 1 was agreed to and stood part of the Bill.

Subheads 2 to 4 were agreed to and stood part of the Bill.

Subhead 5 – Workers Hostels : Payments to Gibraltar Community Projects Limited

HON J J BOSSANO:

Mr Chairman, when we had the payments to Community Projects Limited I was told by the Minister for the Environment that in fact, in relation to the Cemetery, he will recall, he told me that there was no payment to Community Projects Limited. I pointed out that there appeared to be a different treatment in the case of the hostels. I think last year when there was a provision for £160,000 we were told that that did not include any payment to Gibraltar Community Projects for the wages either. This year we have got, if we look at the Casemates/Buena Vista, the position where the provision last year was £160,000, the outturn was £260,000 and the provision this year is £295,000. I would have thought this deserves some kind of explanation.

HON CHIEF MINISTER:

I am not sure what the hon Member means by an explanation. In the case of the management of the hostel it was always intended that the figure in the Estimates would include wages. The.....

HON J J BOSSANO:

When we made a provision last year we were told that the £2.3 million of wages for Community Projects included the labour they were providing the hostel and that the hostel was not being charged for that. As we have been told in the case of the Cemetery that the cost was absorbed by the block vote of Community Projects, this year, if we go to page 34 we see the wages of Community Projects is £2.4 million and we also have on this occasion £171,000 plus £111,000 which is nearly £300,000 more in wages which obviously would need to be added to the £2.4 million on page 34 in order to compare like with like from one financial year to the next.

HON CHIEF MINISTER:

Yes, Mr Chairman, I think it follows that if the hon Members were told last year that the composite figure for Community Projects wages included the hostels then that must have been an error because the two figures last year amounting to £400,000 in the forecast outturn for 1997/98 necessarily includes wages as well and that has been spent.

The hon Member will see the forecast outturn of £400,000 against an estimate of £320,000, so given the existence of all that in last year's Estimates and in this year's forecast outturn, if he was told by a Government Member, even by me, I am known not to be infallible then that must have been an error because clearly there is a separate provision. If he is comparing like with like he ought to gross up last year's £2.3 million by this amount.

HON J J BOSSANO:

Then the question that arises is the one of the increased provision, that is to say, the £160,000 figure last year of course was not divided between wages and other costs and the impression was given that the £160,000 was all other costs because there is no wages cost involved. In fact if that is not the case, does the extra cost mean a higher manning level in the hostel or has there been a regrading of the people employed to do that job?

HON CHIEF MINISTER:

Both, Mr Chairman. The whole question of the management of the hostels is something that has given the Government some concern this year. The hostels had been allowed to fall into a condition at which they nearly had to be condemned. The hon Member knows that the Government are necessarily investing money in the physical fabric of the hostels but, yes, there are upgrades of people involved in managing the hostels. There are additional bodies in not just the management but in the provision of cleaning and supervisory services in the hostels, and it is an area which regrettably the Government feel necessarily requires the focusing and the dedication of this slightly higher level of resources especially given that when we move the Casemates Hostel to the new Buena Vista Stone Block Hostel the Government are determined to stay on top of the situation in terms of who is there, whether they are paying or not, whether they should be paying or not and that will definitely require much more hands-on management, supervision and control of the Buena Vista Hostel than was ever the case in Casemates Hostel. Perhaps the hon Members might just let me add, the reason why we have split this year whereas last year there was one composite figure for wages and other expenses in relation to the hostels, as he himself has pointed out, this year in the case of each hostel we have broken the figure into wage and non-wage costs and that is to enable the Treasury to exercise greater and tighter control over the expenditure of those

monies by Gibraltar Community Projects to whom the Government have entrusted the management of the hostels.

HON J J BOSSANO:

Mr chairman, the Estimates of cost also contain a provision of £1.5 million package for the Moroccans to go. It seems strange that we should be expecting to have to spend more money on the hostels when the presumption is that there will be less need for the hostel if the other thing is successful. Has anybody thought what are the implications for the hostel if the package is taken up?

HON CHIEF MINISTER:

Yes, I am happy to be able to relieve the hon Member of his concern. Some attempt has been made to dovetail the Government's aspirations and they are no more than that, for the repatriation of as many Moroccans as possible with the number of hostel places that we might need. It is clear that even if the Moroccan resettlement package works as well as we might hope there will still be a need for the 300 or so places that the Buena Vista hostel has. What we will do is, that we will pass as many employed Moroccans as possible up to the Buena Vista given that they would pay for the facility, concentrate the non-paying Moroccans such as might be left which will hopefully be as few as possible, in the Devil's Tower Road hostel and to the extent that there is spare capacity left in the Devil's Tower Road hostel which is by no means certain, then that will give the Government a cushion for use in social cases which the hon Members know is always a problem when there are very often single unmarried Gibraltar men who need urgent accommodation and which is a great problem at the moment. If there is some spare capacity in the Devil's Tower hostel it is something that the Government would welcome as an additional facility for social services in the local context.

Subhead 5 was agreed to and stood part of the Bill.

#### Subhead 6 – Rehabilitation Centre

HON R MOR:

Mr Chairman, we have been told that the forecast outturn for this last year was £65,000 and that we are now asking for £130,000, could I ask what exactly is this money for?

HON H CORBY:

Part of it is salaries for the House Supervisor and four workers. The housekeeper supervisor will have a basic salary of £17,000 with overtime and allowances because he might be on call et cetera as is the case with Rehabilitation Centres, he has got to be there at a certain time when needed apart from his working schedule and there are four shift workers as well. There is also a provision for part-time female helpers if there are women who need the services. There is also social insurance contributions, telephones, electricity and water, insurance of building, food, cleaning materials, and all the rest. Does the hon Member want the exact figures for it? [HON R MOR: Yes.] On salaries it will be £94,451; female part-time and female residents £10,000; social insurance contributions £5,600; telephones £600; electricity and water £2,000; insurance of building £960; insurance, other public liabilities and pension scheme £12,000; cleaning materials £700; gardening £200; petrol for the cars £780; vehicle maintenance £170; vehicle insurance £700; road tax £120 and maintenance of property £9,000.

HON CHIEF MINISTER:

Let me interject here one detail that I am sure he will be interested in. This staff will not be directly recruited by the Government, they will not be public servants although the Government will keep a very close control over the activities of the Rehabilitation Centre through the Social Services Agency, through the Department of Health and the Director of Public Health to make sure that there is the whole time the correct clinical practices and safe medical practices to be pursued. The actual running and the provision of the counselling services and the rehabilitation services is being brought in by the Government from a trust which has been established by a group of established local people dedicated to that. Those contracts are in the process of being discussed. All these details and this amount of money provided for in the Estimates is in the form of a contractual payment to the registered charitable trust which will be responsible for the running of the facilities at the Bruce's Farm Rehabilitation Centre.

HON J J BOSSANO:

And it will be the trust that will be employing the people concerned, is that correct?

HON CHIEF MINISTER:

Yes, that is right.

Subhead 6 was agreed to and stood part of the Bill.

Subhead 7 was agreed to and stood part of the Bill.

Subhead 8 – Women in Need – Grant

HON R MOR:

Mr Chairman, this appears to be a new item, is this for Women's Aid?

HON H CORBY:

No, this is for Women in Need, that need both counselling and also a place to stay and they could not carry on doing the work without financial help and the Government gave them a grant of £10,000 in order to carry on their work.

HON CHIEF MINISTER:

Yes, this is not a vote generally for women in need, there is, as the hon Member knows, a particular group called Women in Need and this is a grant to that particular group.

Subhead 8 was agreed to and stood part of the Bill.

Subhead 9 – Support Benefits

HON R MOR:

Mr Chairman, could I have an explanation of what this is?

HON CHIEF MINISTER:

It is not a new item, it used to be found under Support for the Disabled, it has always been under Support for the Disabled. My understanding is that it is the place where provision is made for handicapped allowances and wheelchairs. The forecast outturn for last year is on page 24 of the book, it might have been helpful to indicate that move, but it is not a new item, it is just in a different place.

HON R MOR:

But why should it not be shown under Support for the Disabled or the Social Services Agency, for example?

HON CHIEF MINISTER:

I think the hon Member asked why is it not under Support for the Disabled. It is a payment of benefits and under the administrative reorganisation I explained to the hon Members last week, the Ministry for Social Affairs has been divided into a Social Security leg, a Social Services leg, a Housing Agency leg and as this is a provision for the payment of benefits that is generally under Social Security it has been put there, but the hon Member is right, it is just a question of choice, it could have been in the other Head as he suggests.

Subhead 9 was agreed to and stood part of the Bill.

Subhead 10 – Contribution to Gibraltar Development Corporation

HON J J BOSSANO:

Mr Chairman, is this directly comparable to the item on page 50 which has got Contribution to the Gibraltar Development Corporation Staff Services, an outturn of £70,000 and an original provision of £35,000?

HON CHIEF MINISTER:

No, it is not, it is not directly comparable to that. This is the residual Key and Anchor staff which is reduced in size. The hon Member may know that one or two of its members went off to Security and Immigration Limited. It is a reduced provision for the Key and Anchor who are now employed by the Gibraltar Development Corporation given that they are not civil servants.

HON A J ISOLA:

How many people does that relate to?

HON CHIEF MINISTER:

Four, Mr Chairman.

Subhead 10 was agreed to and stood part of the Bill.

Head 5-B - Social Services Agency

Subhead 1 – Personal Emoluments

HON R MOR:

Mr Chairman, on the establishment we notice that there is one social worker less for this year, could I have an explanation for that?

HON CHIEF MINISTER:

There is no intended reduction in the number of social workers. The hon Member knows that we have advertised for additional social workers and that we are sending our current complement of social workers to the UK for training. I think the explanation for this must be that some of the people who used to be classified as social workers, for example, the people in the Home may now no longer be. Under the arrangement with Milbury, they are under contractual obligations to provide one and a half social worker from their own complement, so not all the social workers available to the Social Services Agency are now necessarily directly employed labour by the Government. Milbury has one and a half, I say a half because one person doing it spends half his time doing something else, at least for the time being. There is no reduction in the number of social workers actually working the field as a result of this. The Government hope gradually to encourage and induce a greater number of our local school leavers to go off to the United Kingdom to take up studies in social work which is an area which the Government believe there is a great shortfall in Gibraltar and which needs to be beefed up a bit. Certainly, although I see what the hon Member says is right, he should not interpret that to mean that the Government are seeking to reduce the facilities in this area. Indeed, the Government are seeking to increase them.

Subhead 1 was agreed to and stood part of the Bill.

Subheads 2 and 3 were agreed to and stood part of the Bill.

Subhead 4 – Operational Expenses

HON R MOR:

Mr Chairman, the item here is for staff training, we were told that training would be provided by Milbury, is this some additional training?

HON CHIEF MINISTER:

Yes, indeed, Mr Chairman. The contract between the Government and Milbury commits Milbury to deliver a considerable amount of training in Gibraltar on the basis of them bringing out their experts from the UK, their own expertise and to train local persons. However, the Government are still augmenting that by continuing to send people to the United Kingdom, continuing to send people on courses and when the Government send people out on training courses that is additional to and not covered by Milbury's commitments. Milbury's commitments are to deliver staff training locally and also to incorporate some local people from time to time into their UK facilities to be trained there and all of that is free of additional cost. But when the Government place people for training either outside Gibraltar or outside Milbury in the UK that is additional and that is the provision that the hon Member has identified there.

Subhead 4 was agreed to and stood part of the Bill.

Subhead 5 was agreed to and stood part of the Bill.

Subhead 6 – Contracted Services

HON R MOR:

Mr Chairman, could we have a detailed explanation of the £897,000 given to Milbury?

HON CHIEF MINISTER:

The hon Member will recall that at the time that we announced and I think we debated in this House, I do not recall whether it was in the context of Question Time, the Milbury contract, I explained to hon Members that the remuneration under the contract to Milbury was

divisible into two: one was what we could call their fee from which they had to provide certain things at their own expense like six senior personnel, managers for the Home, head of operations, et cetera and that was to come out of their fee. That part of the £897,000, let us call it the fee part, amounts to £397,000 and out of that £397,000 they have got to provide the wages of the six people that they have got to deliver for the execution of the contract as well as training costs et cetera. The other part of the contract which amounts to £483,000 and which is completely mid-fenced and which is not available to Milbury to take away as profit are all the items that used to be scattered around in the Estimates and which used to be spent on the facilities which Milbury is now managing, St Bernadette's, the Doctor Giraldi Home, the Bishop Healy Home, all the other charges, all the items that used to appear under Other Charges which used to include wages as well. The hon Members will recall that a subvention for wages as passed to the Doctor Giraldi Home, we used to pay all the people who the Giraldi Trust used to employ, all those items that used to be before paid for by the Government and which relate to functions which are now being managed by Milbury on the Government's behalf as part of the Government's new Social Services Agency amount to £483,000 and the hon Member may want to know that it breaks down as follows: £50,000 relates to St Bernadette's; £250,000 relates to the Doctor Giraldi Home and the reason why that figure is so high is that everybody employed in the Doctor Giraldi Home is paid through this channel, none of them being civil servants; the figure for St Bernadette's is only £50,000 because the wage element of the Doctor Giraldi Home is taken under Emoluments because they are all civil servants whereas in the Giraldi Home they are not civil servants and therefore they are not provided for in the establishment; Bishop Healy Home is £163,000 and there there is some element of wages because some of the people in Bishop Healy are civil servants and others are not and then there is an item of £20,000 for contingencies totalling £483,000 in all. That breaks down therefore into a substantial part of emoluments and all the other Other Charges, all the things that one would have expected to find under Other Charges in relation to those various facilities. Then there is a provision of £17,000 for additional equipment, totalling £897,000. In summary £483,000 for the ring-fenced in the contract, they are called prescribed expenditure, and the ring-fenced those are not monies that are available to Milbury except to actually spend in the field, locally on the service. £397,000 is the fee consideration from which comes their profit but which they can only strike after paying certain wages for certain people that they are contractually obliged to deliver and £17,000 for additional equipment that they need and which is included there, total £897,000.

HON J J BOSSANO:

Can the Chief Minister say how many people are paid out of the £483,000?

HON CHIEF MINISTER:

We do know but whether we have before us the information right now. We do have it and I will give it to him as soon as it is available.

HON R MOR:

Can the Government give us an indication of what the £17,000 worth of equipment is for?

HON H CORBY:

When they moved to Hargraves they did not have any furniture, so it is part furniture, part equipment.

HON R MOR:

Mr Chairman, I understood the Chief Minister said that the £17,000 was for special equipment?

HON CHIEF MINISTER:

A provision for equipment. At the time of the signing of the contract they were obliged to employ 41 non-civil servants which were basically all the people that were there at the time. The House will recall that they were not all in full-time employment. Dr Giraldi Home in particular because of the nature of the services required there relied heavily on supply workers. I know that Milbury have since then been trying to regularise and to give contracts to as many of those people as possible and I also know that one change that has recently taken place and to which the Government have agreed to is that the House Mistress or the Assistant House Mistress, at the Bishop Healy Home has retired and has been replaced by somebody engaged locally by the Social Career Agency through Milbury, so there is one additional to the number of contractual employees that they are required to employ from 41 to 42. Basically the Government just wished to ensure that nobody lost their job and everyone was paid at least at the rate that they used to be paid before

when it was being done by the Dr Giraldi Trust. What I cannot tell the hon Members right now, as we speak, is how many of those 41 are still on supply terms and how many have actually been, of the ones that were on supply terms, have now had fixed contracts given to them by Milbury. I know that several of them have and it is Milbury's policy to have as many people on contract as possible but I could not tell the hon Members how far down that particular road they have gone.

HON J J BOSSANO:

But is it the case that there are actually 42 now employed by Milbury?

HON CHIEF MINISTER:

I do not police this on a daily basis but if there were not they would be in breach of their contract. Fourteen of these persons in the Dr Giraldi Home were on supply lists without any contractual entitlement to work any minimum number of hours. They just called in whenever needed. In fact, hon Members will recall that some of them although on supply terms were actually there working almost a full working week. What I cannot tell the hon Member is how many hours the people still left on supply are working but they are certainly being paid at the agreed rate with Milbury. To my knowledge none have gone although I think that one or two of these people may have gone voluntarily to go off to pursue studies in the UK. Some of the people who are available on supply to be called on when necessary I think have taken themselves off to follow other interests.

HON J J BOSSANO:

Can the Minister provide the wages and salaries element of the £483,000 that pays for these 42 bodies?

HON CHIEF MINISTER:

If the hon Member will just bear with me, the figure is here somewhere because it is a figure which the Government are obliged to increase annually under the contract by reference to the pay reviews that affects them so the wages element of the ring-fenced amount is readily identifiable whether readily means, as I stand here on my feet, with no notice of the question remains to be tested. No, Mr Chairman, I fear I am wasting the House's time. If the hon Members will move on I will leap to my feet as soon as I have identified the item.

Subhead 6 was agreed to and stood part of the Bill.

#### Head 5-C – Housing Agency

Subheads 1 to 3 were agreed to and stood part of the Bill.

#### Subhead 4 – Operational Expenses

HON J L BALDACHINO:

Mr Chairman, could I ask on Operational Expenses, (a) Legal Expenses, Housing, what does that mean?

HON H CORBY:

When we have a claim or let us say that somebody does something and we have to take legal advice, then we have a lawyer that gives us advice in certain cases as far as housing is concerned.

HON J L BALDACHINO:

Is there an agreement with the Government with a particular person or is it that the Government will take any advice from any lawyer at any particular time?

HON H CORBY:

No, Mr Chairman, we have a certain lawyer for it. It is the same lawyer all the time.

Subhead 4 was agreed to and stood part of the Bill.

Subhead 5 was agreed to and stood part of the Bill.

#### Subhead 6 – Contribution to Gibraltar Development Corporation

HON J L BALDACHINO:

I suppose this covers certain staff which are under the Housing Agency which I employed. Could the Minister tell us how many staff it is, what is the number?

HON CHIEF MINISTER:

Mr Chairman, he is right. It is the wages of the remaining clerks that used to be employed by Residential Services Company Limited. There is five of them left, only one was moved away from Housing and I think that particular person is in Tourism and all the others were re-engaged with the Gibraltar Development Corporation.

Subhead 6 was agreed to and stood part of the Bill.

Head 5-D - Prison

Subheads 1 to 6 were agreed to and stood part of the Bill.

Head 5 – Social Affairs was agreed to and stood part of the Bill.

## HEAD 6 - TOURISM AND TRANSPORT

Head 6-A - Tourism

Subhead 1 – Personal Emoluments

HON A J ISOLA:

Mr Chairman, may I just ask on salaries, why the increase of £23,000 over the outturn of last year?

HON J J HOLLIDAY:

The difference is accounted for by the Higher Executive officer that was transferred from the Treasury Department to the Ministry of Tourism and Transport and there was also the fact that there was a typist vacancy which was filled halfway through the year which is now obviously in the full complement this year.

Subhead 1 was agreed to and stood part of the Bill.

Subheads 2 to 9 were agreed to and stood part of the Bill.

## Subhead 10 – Hotel Training School

HON A J ISOLA:

Mr Chairman, in respect of the Hotel Training School, Training Courses, will there be a revenue side to this, people will be paying for these courses or is it a 100 per cent paid by Government?

HON J J HOLLIDAY:

No, there will not be a revenue side to this. The Training Courses will obviously involve mainly hotel training courses and some customer care courses as well.

HON A J ISOLA:

I assume this is the Bleak House School we are talking about? Is that to be limited solely to tourism?

HON CHIEF MINISTER:

No, Mr Chairman. Bleak House is a physical facility, the buildings, the classrooms, the lecture halls, with an element of administrative back-up which will be available for several new training facilities. For example, initially it will house the Tourism School. It will also house the Information and Technology School and the Finance Centre training facilities. Those are the three units but it is envisaged that it is a multi-purpose facility in which Government can run whatever course by way of training Government may wish to run from time to time over the years. Bleak House should not be associated particularly with the Tourism School but rather as a flexible training part of Gibraltar's training infrastructure.

HON J J BOSSANO:

Mr Chairman, am I right in interpreting this as a payment to the Gibraltar Development Corporation only in respect of staff services? The way that it is shown in the Estimates it could be taken to mean that £28,000 is being paid to the Gibraltar Development Corporation or that the three sub-items (a), (b) and (c) are payments to the Development Corporation.

HON CHIEF MINISTER:

No, Mr Chairman, only (a) I am told is booked through Appendix E. The hon Members can see that only the figure of £28,000 is shown in Appendix E which is the pro forma estimates for the Gibraltar Development Corporation at the back of the booklet for information. The other items have not been transferred there and remain in voted funds directly to the Ministry so that the expenditure will be incurred by the Ministry and not by the Gibraltar Development Corporation.

HON A J ISOLA:

Going back to Training, there is no provision under the Finance Centre Head for training courses, hence my question whether it was only going to be a Tourism School. Will courses run by this Training School which are in respect of the Finance Centre also have a similar charge somewhere else? The answer to the question I put last time was that it was not exclusively to tourism and there would be Finance Centre and other courses run from there. Will those courses have a similar charge somewhere else because there is nothing in the Trade and Industry section. I was wondering if there is any charge where that would be?

HON CHIEF MINISTER:

Mr Chairman, this expenditure relates to tourism and tourism-related training only. It may well be that part of the expenses that this goes to pay for can simultaneously be used for other things. For example, to the extent that there is provision there for the provision of administrative back-up, for tourism courses, then that administrative back-up might be used also for other things but the hon Members should read that as the provision for tourism-related training courses that are going to be run out of Bleak House. The other expenses such as, for example, the training officer et cetera, the hon Member knows is provided for elsewhere, in the Department of Education and Training vote.

HON J J BOSSANO:

Is the £90,000 or any part of the £90,000 actually payment for lecturers or teachers or anything like that? If so, who would be employing those people?

HON J J HOLLIDAY:

The Ministry for Tourism and Transport has been in contact with various bodies in the UK who carry out these hotel and catering and associated tourism-related courses. We selected a body in the UK and agreed a contract in principle with them to commence these courses as from September this year and these courses will actually form part of the overall hotel assistance package, part of the package has an element of training and retraining for hotels and tourism-related sectors. These courses will actually involve bringing out certain lecturers and certain specialists who will be looking at specific areas of the hotel or tourism industry and those £90,000 cover the cost of that. We will have an agreement with a body in the UK and this body as part of their contract will have certain lecturers and specialists coming over but they will not be employed by us. This will be part of their on-going contract. In fact the Gibraltar Hotel Association will be participating to a certain element in this in providing accommodation et cetera and this has been negotiated in order to reduce the cost of actually running these courses for the hotels themselves.

HON J J BOSSANO:

At what stage is this? Have the Government now entered into an agreed price for this facility and is it the whole of the £90,000 or is that an estimate of the cost because the negotiations are still being conducted?

HON J J HOLLIDAY:

The negotiations are almost finalised and there has definitely been an agreement in principle. We now have a figure to run the courses on an annual basis but obviously the final figure will depend on the number of students that are actually taken on. Therefore, there is an element of flexibility in these £90,000. But assuming that all places in these courses are taken up for one year, this would be the actual maximum figure it would cost the Government to run those courses.

HON J J BOSSANO:

Is the whole of the £90,000 for the payment to this firm who are going to provide the training, is that right?

HON J J HOLLIDAY:

There is an element of contractual commitments by this body to run these courses. I have not got the details here in front of me as to the exact contractual obligations but nevertheless I can say that in essence they will deliver the sort of training that we are looking for both for the hotel and tourism-related industries for a period of one year. I am quite happy to let the Leader of the Opposition have details of this as soon as this is concluded.

HON J J BOSSANO:

My question really is whether the £90,000 for training courses is just for what has been mentioned or whether there is a part of it that is for that and there is money to do something else, perhaps locally or whatever. This is all for that UK firm is it?

HON J J HOLLIDAY:

That is correct.

HON J J BOSSANO:

Given the element that is dependent on the number of students, is it that there is an amount per student that is part of that agreement?

HON J J HOLLIDAY:

That is correct. There is a fee attributed to each student who takes part in the course. There is a cost base which I have mentioned and then obviously it would be dependent on the number of students that are taken on.

HON J J BOSSANO:

Can the Minister say what is the estimate of the numbers involved if the whole of the £90,000 were spent?

HON J J HOLLIDAY:

About 150 students.

Subhead 10 was agreed to and stood part of the Bill.

Subheads 11 and 12 were agreed to and stood part of the Bill.

Subhead 13 – Gibraltar Tourism Board

HON A J ISOLA:

Mr Chairman, could I have an indication of the number of people these staff services relate to?

HON J J HOLLIDAY:

This relates to the full complement of the Gibraltar Tourist Board which is 22.

HON A J ISOLA:

Is the differential from the forecast outturn that people were taken on at some stage during the year?

HON J J HOLLIDAY:

The forecast outturn is not quite according to the Estimates basically because some of the bodies in place were not actually taken on until half way through the year. Traditionally I think we have to bear in mind the fact that there was a contract held by Knightsfield Holdings in terms of Information Officers which was terminated in September 1997 and therefore the actual contract being paid to Knightsfield Holdings was eliminated and the officers involved now form part of the Gibraltar Tourism Board without any cost element or increases at all.

HON A J ISOLA:

Does the figure envisage an increase, or is it the same 22 for the remaining 12 months?

HON J J HOLLIDAY:

No, there is no increase whatsoever, it is still the original 22 that was forecast when the structure of the Gibraltar Tourism Board was put in place.

HON A J ISOLA:

And is this subhead from where the Madrid Office personnel were going to be employed by?

HON J J HOLLIDAY:

No, the Madrid Office personnel will be paid out of the Madrid Office vote which I believe comes out of Secretariat later on in the Estimates.

HON A J ISOLA:

Does the Gibraltar Development Corporation employ them ultimately?

HON J J HOLLIDAY:

Yes, that is correct.

Subhead 13 was agreed to and stood part of the Bill.

Head 6-B - Airport

Subhead 1 – Personal Emoluments

HON J C PEREZ:

May I take the opportunity of reminding the Chief Minister that he said he was going to give us a copy of the chart of the establishment that he mentioned this morning?

HON CHIEF MINISTER:

Yes, I had not meant during the course of the debate but I am happy to give it if they think it would be helpful to them for the remainder of the debate. I will have them circulated.

The House recessed at 11.20 am.

The House resumed at 11.25 am.

HON CHIEF MINISTER:

Mr Chairman, I can now give the Leader of the Opposition the information that I promised him in relation to the non-civil servant pay roll in the Social Services Agency. In Dr Giraldi Home there are a total of 28 locally recruited staff. I believe they are all locals at a wage cost of £177,600. There are 12 at the Bishop Healy Home at a cost of £96,000 and that totals £273,600. That is not pay roll cost, that is wages. The social insurance and everything else is additional to that so that is the pure remuneration element. That is 40 in all and of course I emphasise, Mr Chairman, that that is the non-civil servants. The civil servants are additional to that.

Subhead 1 was agreed to and stood part of the Bill.

Subheads 2 and 3 were agreed to and stood part of the Bill.

Subhead 4 – Running of Airport

HON J J BOSSANO:

Mr Chairman, given that the amount that is expected to be collected from departure tax shows no increase, can the Minister say, given that it is now a flat rate all the year round, what is the assumption on the number of departures which is expected to produce this money?

HON CHIEF MINISTER:

Mr Chairman, subject to the rebate agreement, it is anticipated that there will be an increased number of passengers given that, for example, Monarch Airlines has now increased its frequency from three flights to four flights a week. As to why such increases might occur in revenue has not been included, it is just a question of prudential estimating. The hon Member says that it is an extra £1 but of course the flow of passenger traffic has not equally spread throughout the year but there may certainly be, it is anticipated that there will be higher numbers of passengers regardless of the question of the level, coming through the airport and that is not provided for in the Estimates.

HON J J BOSSANO:

Can the Minister provide what the £585,000 departure tax translates to in terms of numbers of passengers, given that it is a fixed amount?

HON CHIEF MINISTER:

Mr Chairman, I do not have the figure, the Minister for Tourism and Transport is searching for it but there has been no modification. We are counting on the same number of passengers as last year.....

HON J J BOSSANO:

The figure estimated at this time last year was £650,000; the outturn is below what was expected and the projection for the next 12 months is based on the outturn and not on last year's expectation.

HON CHIEF MINISTER:

The one aspect of the figure which I know has given us an element of difficulty is that this is one of the items that used to be netted before and when we did the first estimate at £650,000 there was a degree of uncertainty arising from the netting issue. Now that we have discontinued netting, so that the whole revenue is shown and the whole expenditure is shown separately, this is the figure at which it stabilises and the figure of £650,000 estimated in 1997/98 should just be put down to the first trial figure for the first year in which it was presented in this way and just amounted to an over-estimation. I will not go more into it than that.

Subhead 4 was agreed to and stood part of the Bill.

Head 6-C - Transport – Roads

Subhead 1 was agreed to and stood part of the Bill.

Subhead 2 – Industrial Wages

HON J C PEREZ:

Mr Chairman, is it that the Government are expecting less overtime to be worked in the Department?

HON J J HOLLIDAY:

Yes and no, Mr Chairman, in that there is expected to be less overtime but more in terms of bonuses as the practice in the department now is to pay salaries according to JPCs rather than overtime.

HON J C PEREZ:

Since it is not reflected under the provision for bonuses could the Minister tell me, although we are jumping a bit, whether any of the provisions made from materials and other costs has to do with any element of wages or overtime or bonuses?

HON J J HOLLIDAY:

It does not, Mr Chairman.

HON J C PEREZ:

Then could the Minister perhaps explain how it is that he says that there are going to be more bonuses when the provision for bonuses in the forecast outturn is practically the same, a difference of £1,000.

HON J J HOLLIDAY:

The estimates for the industrial wages have been worked out according to the estimated works which should be carried out during the course of the year and the element of bonuses has been incremented to meet the new structure which has been in place already for a good part of the current year. In terms of bonuses and overtime these have been set at a limit of £100,000, bearing in mind the works that are expected to be undertaken throughout the year but in no way jeopardising salaries or overtime or bonuses under the new structure.

Subhead 2 was agreed to and stood part of the Bill.

Subheads 3 and 4 were agreed to and stood part of the Bill.

### Subhead 5 – Materials and Other Costs

HON J C PEREZ:

Mr Chairman, of the £300,000 being made available for maintenance of highways, does the Minister expect any of that sum of money to go out to contract or is this solely related to work which is going to be done by the department?

HON J J HOLLIDAY:

The majority of the works will hopefully be undertaken by the workers in the department. However, there may be an element of contract work which may have to be dished out because we just do not have the capability of undertaking all sorts of works within the department. There may be an element of that but the majority of it has been earmarked towards work being carried out within the department itself.

HON J C PEREZ:

So we can expect then that at the end of next year most of it to have been done by direct labour and the lesser part of it to be contracted out?

HON J J HOLLIDAY:

Mr Chairman, this part of the estimates for the maintenance of highways and indeed the last statement are indeed correct.

Subhead 5 was agreed to and stood part of the Bill.

Subhead 6 was agreed to and stood part of the Bill.

Head 6-D - Transport – Traffic

Subheads 1 and 2 were agreed to and stood part of the Bill.

Subhead 3 – Motor Vehicle Test Centre

HON J J BOSSANO:

I should have raised it under Personal Emoluments, the Motor Vehicle Test Centre, the vehicle testers in the complement, the six that are here this year were not last year, I notice they have got a one point scale in

the scale given at the back of the Estimates which is different from the Driving Vehicle Examiner, is there not a scale for vehicle tester which is based on the UK analogue? On page 129, it says vehicle tester £12,236 and it has got blanks below it, is it a one point scale?

HON CHIEF MINISTER:

Yes, it is at the moment. At the moment it is a recruitment on a one scale basis but the matter is under review with the possibility of establishing a three point scale initially.

HON J C PEREZ:

It seems to me that the six extra bodies are not sufficiently covered by the extra staff unless some of the staff appears elsewhere but there are six extra bodies and there is roughly about £44,000 extra for the six vehicle testers.

HON CHIEF MINISTER:

Mr chairman, I am told that they were employed during the year and therefore the outturn is not a full year's provision and therefore the figures are not comparable. The forecast outturn is not a 12 month period.

Subhead 3 was agreed to and stood part of the Bill.

Subhead 4 – Traffic Security Services

HON J C PEREZ:

Mr Chairman, could I ask, as in other subheads, the number of people for which the £335,000 is being paid to the Development Corporation, how many people are actually being employed?

HON J J HOLLIDAY:

The complement is exactly the same. However, the increase of £35,000 is due to the fact that there are a lot of abnormalities in the structure of the Gibraltar Security Services where a number of employees that are carrying out the same jobs are being paid quite differently. What we are in the process of doing is putting in a proper structure so that everybody who is on the same job is getting remunerated accordingly and having a

scale increase et cetera in order to have a proper structure which will obviously do away with a lot of unhappiness that has been prevailing there for a while.

HON J C PEREZ:

But the Minister does not recall what the complement is?

HON J J HOLLIDAY:

I am afraid I cannot give the hon Member this, but there is no change, 24 is the figure I am told.

Subhead 4 was agreed to and stood part of the Bill.

Head 6-E - Transport – Port

Subhead 1 – Personal Emoluments

HON A J ISOLA:

Mr Chairman, in salaries, there is over £100,000 reduction and there is only one less AO, could I have an explanation for that?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The answer is that the Shipping Registry people are now forming a new Head 6-F. This year the Shipping Registry expenses and the people it employed were booked to this Port Head because it did not have a Head of its own. It now forms a separate Head and therefore we are accounting for those salaries separately.

HON CHIEF MINISTER:

If the hon Member turns over to page 63 he will see that there is £85,000.

Subhead 1 was agreed to and stood part of the Bill.

Subheads 2 and 3 were agreed to and stood part of the Bill.

Subhead 4 – Operational Expenses

HON A J ISOLA:

May I just ask, Mr Chairman, where if at all from this Head, the Port Study was funded from, is it under the Port Department?

HON CHIEF MINISTER:

There is a separate vote under the Secretariat head for development studies from which all these consultancy reports come out.

Subhead 4 was agreed to and stood part of the Bill.

Head 6-F - Transport – Shipping Registry

Subheads 1 to 5 were agreed to and stood part of the Bill.

Head 6 – Tourism and Transport was agreed to and stood part of the Bill.

**HEAD 7 - TRADE AND INDUSTRY**

Subheads 1 to 3 were agreed to and stood part of the Bill.

Subhead 4 – Operational Expenses

HON J J BOSSANO:

Mr Chairman, the provision of £37,000 for statistical surveys, is this going to cover the Employment Surveys that we were told earlier were going to go back to sending out questionnaires?

HON P C MONTEGRIFFO:

Mr Chairman, it is a provision for it. As has been indicated, part of the restructuring of this division will include the taking back into the statistics Office the function of collating information relevant to all Employment Surveys et cetera and this is a provision towards expenses that might be incurred in that respect.

HON J J BOSSANO:

In the figures then that will be published eventually for the Employment Surveys of the coming financial year, is it expected then that those will be from carrying out surveys of employers?

HON P C MONTEGRIFFO:

Yes, essentially we have a couple of surveys outstanding under the current system in the system that uses the Income Tax Office as the collector of information but for future financial years although there is likely to be an overlap perhaps for a year until the new system is up and running, for future financial years the new system will produce figures under this structure.

HON A J ISOLA:

Mr Chairman, might I ask what Land Management is?

HON P C MONTEGRIFFO:

As hon Members may be aware the decision-making process within Government on land matters is structured through a Land Management Committee. Last year's vote included a provision of £6,000 to settle land law and tenant related issues, usually of a small type, where some reimbursement is necessary. It is a provision for possible reimbursement in matters that might arise in the multitude of issues that occur in that area. Last year the position was covered in the case of one particular tenant who I think had to have a reimbursement due to the fact that there was a claim against Government for works to the exterior which Government chose to settle by way of a reimbursement of rent. The figure last year was £9,000.

Subhead 4 was agreed to and stood part of the Bill.

Subhead 5 was agreed to and stood part of the Bill.

Subhead 6 – Marketing, Promotions and Conferences

HON A J ISOLA:

What marketing and promotions is the Statistics Division going to carry out this year?

HON P C MONTEGRIFFO:

Mr Chairman, hon Members may have noticed that this year the marketing, promotions and conferences budget for the DTI is split into three separate sections. Last year there was a global vote of £250,000 from which all the marketing was taken. This year what we have decided to do is to split that up into three sections: the Administration and Statistics Division, which essentially is a figure which will provide for the Minister's expenses, in other words, all the travel the Minister will do and all the promotion activities I will be involved in is to come from that Head. I do not see that there are circumstances in which the Statistics Office in itself will be involved in an expenditure and similarly hon Members will see that the Commercial Division has its own Head under subhead 10 and then the Finance Centre Division has the lion's share, so to speak, and that will be dedicated exclusively to Finance Centre operations. It really is the same marketing umbrella, the same strategy overall, but divided into three separate heads.

Subhead 5 was agreed to and stood part of the Bill.

Subheads 7 to 10 were agreed to and stood part of the Bill.

Subhead 11 – Contribution to Gibraltar Development Corporation

HON J J BOSSANO:

Could I ask on this subhead and perhaps on the other two contributions to the Development Corporation – Staff Services in each case the number of staff involved?

HON P C MONTEGRIFFO:

Mr Chairman, whilst the officials confirm the information, from memory certainly the Europa Business Centre entry under Commercial Division is I believe two people, and with regard to the Gibraltar Development Corporation obviously there is the Finance Centre Development Director, one. The point, Mr Chairman, is that there are other contractual expenses that are actually covered under the figure and although the staff figure is one, it is not attributable totally to that amount.

Subhead 11 was agreed to and stood part of the Bill.

Subheads 12 to 17 were agreed to and stood part of the Bill.

Head 7 – Trade and Industry was agreed to and stood part of the Bill.

## **HEAD 8 - ADMINISTRATION**

### Head 8-A – Secretariat

Subheads 1 to 4 were agreed to and stood part of the Bill.

### Subhead 5 – Gibraltar Co-Ordinating Centre for Criminal Intelligence and Drugs

HON J J BOSSANO:

Mr Chairman, was it here that last year there was a question about the UK contribution and we were told that it was going to be reserved and put in the supplementary vote? We never heard anything more about it, there was some movement of £83,000, I know it had something to do with this but I am not very sure whether it appeared in the Estimates.

HON CHIEF MINISTER:

As far as I am aware the only UK contribution to the cost of running GCID was the salary of the previous co-ordinator. Now that the head of GCID is an established member of the RGP and indeed that all the other staff of both GCID and GFIU are either members of Customs or members of the RGP, the whole of the emoluments part of the cost of GCID is paid for locally and appears under the emoluments Heads of Customs and the RGP respectively. I am not aware of any other item, they may have given one-off contributions for a computer here or a computer there, but there is certainly no recurrent contribution from the UK as far as GCID is concerned.

Subhead 5 was agreed to and stood part of the Bill.

Subheads 6 to 10 were agreed to and stood part of the Bill.

### Subhead 11 – Private Sector Fees for Legal Advice

HON J J BOSSANO:

Mr Chairman, is this the outturn connected with the work that has been done on telecommunications, the increase from £100,000 to £140,000?

HON CHIEF MINISTER:

I think that is the principal element. There are other items as well. Telecommunications projects are the largest single item of the Government bill for private sector legal expenses but there is one running in relation to tobacco and various other things and it includes all of that but certainly telecommunications is the biggest single item.

Subhead 11 was agreed to and stood part of the Bill.

Subheads 12 to 14 were agreed to and stood part of the Bill.

### Subhead 15 – Contribution to Gibraltar Development Corporation

HON A J ISOLA:

Is this just one person?

HON CHIEF MINISTER:

Yes, it is one person. I will try and avoid referring to the person by name. Hon Members will recall the lady who used to be the Manageress of the Dr Giraldi Home. She is actually an enrolled civil servant, an established civil servant whose personal emoluments package became so distorted whilst she was seconded that it is difficult to reintroduce her into the mainstream of the civil service at an appropriate rank without representing a significant reduction in earnings. Therefore, the Government continue to pay her through the Gibraltar Development Corporation at the same rate as she was when she left. She will probably form part of the staff of the Civic Rights Agency, the Ombudsman's Office, that sort of area, which is non-civil service, she will remain seconded out of the civil service so that she can keep her emoluments package.

HON J C PEREZ:

Does the fact that she is seconded mean that she continues to accrue years of service in respect of her original salary for her pension rights or has she now resigned from the civil service and is employed by the Development Corporation?

HON CHIEF MINISTER:

Mr Chairman, we have not yet addressed the position of this person, she is at No. 6 Convent Place as Projects Officer at the moment for the Civic Rights agency and the office of the Ombudsman. I know that there are standing issues of the sort that the hon Member has mentioned and they will be addressed satisfactorily hopefully for all parties concerned shortly. But I dare not answer the hon Member's question because I know there are issues that arise there on which I would need advice.

Subhead 15 was agreed to and stood part of the Bill.

Subheads 16 to 19 were agreed to and stood part of the Bill.

Head 8-B - Personnel

Subhead 1 – Personal Emoluments

HON J C PEREZ:

Mr Chairman, I find that the provision of salaries does not reflect the fact that there appears to be nine less bodies in the Estimates. Five typists less, three AAs less and one EO less.

HON CHIEF MINISTER:

I am told that the actual typists were not bodies in post. This was a provision for bodies that did not exist. That is the explanation in relation to the typists. The hon Member will recall that it was supposed to be a sort of pool available centrally but I think it has gone out now to the departments and the posts have been filled. I think the concept of the central typing pool has been abandoned.

Subhead 1 was agreed to and stood part of the Bill.

Subheads 1 to 5 were agreed to and stood part of the Bill.

Head 8-C - Civil Status and Registration Office

Subheads 1 to 3 were agreed to and stood part of the Bill.

Subhead 4 – Operational Expenses

HON J J BOSSANO:

Mr Chairman, in Operational Expenses, EU Format Passports, where there was £45,000 estimated and nothing spent, what is the item for, is it for the actual printing of passports?

HON CHIEF MINISTER:

Yes, that is right. Basically the supply of passports which are purchased on a one-off basis is running down and the Head of that Section now wishes to buy a new stock of them. There was provision for that last year but he never actually bought them and he wants to buy them this year. I cannot remember how many passports but the number is for several years, this is not a recurrent head.

HON J J BOSSANO:

On item (c) the identity cards which nobody recognises, is that now going to be increased fourfold?

HON CHIEF MINISTER:

I am not sure whether that is to quadruple the chances of people who will recognise them or what but certainly I cannot offer the hon Member an explanation as to why that bid has been allowed. It is not that we are expecting an increase in the number of people applying for cards. I am being told that it might be the fact that they need to purchase new stocks. There is no annually recurring expenditure explanation for this. I will find out and I shall let the hon Member know what the reason for that increase is.

Subhead 4 was agreed to and stood part of the Bill.

Head 8 – Administration was agreed to and stood part of the Bill.

## HEAD 9 - FINANCE

### Head 9-A - Financial and Development Secretary

Subheads 1 to 4 were agreed to and stood part of the Bill.

### Head 9-B - Treasury

Subheads 1 to 5 were agreed to and stood part of the Bill.

### Subhead 6 – Ex Gratia Payments

HON J J BOSSANO:

Mr Chairman, in ex gratia payments the outturn was £50,000 against a provision of £6,000.

HON CHIEF MINISTER:

Yes, Mr Chairman, the reason for that is that the hon Members will recall when we introduced the import duty changes on motor vehicles that we then allowed a retrospective refund in respect of private imports during two particular dates and it was done in the form of an ex gratia payment, there being apparently no provision in the Customs Ordinance to do it.

Subhead 6 was agreed to and stood part of the Bill.

### Subhead 7 – Purchase of Gibraltar Coinage

HON J J BOSSANO:

The reduction in the purchase, is that an indication of less coins being put into circulation?

HON CHIEF MINISTER:

I think not, Mr Chairman, I think it reflects an excessive estimate in 1997/98 on the basis of difficulty in estimating from previous years. I think £90,000 is more or less standard. There is no substantial difference between the estimate and the outturn. In the previous year there has been no appreciable difference in the value or volume of coins.

Subhead 7 was agreed to and stood part of the Bill.

Subhead 8 was agreed to and stood part of the Bill.

### Subhead 9 – Insurance Premiums and Claims

HON J J BOSSANO:

Mr Chairman, the increased provision, is it that the Government are taking out insurance cover on assets previously not covered?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, perhaps I can explain that item. First of all, even though the hon Member did not ask, let me explain the difference between the Estimates for 1997/98 and the outturn. Part of that was we misestimated how many different insurance policies were around and held by former companies that we were taking over. I think that accounted for about half of the increase. The other half, we took out an insurance for the Port which had not previously been in place and we also took out some liability insurance for employees liability and third party liabilities which I think make up the difference. The increase from the outturn for 1997/98 to the estimate 1998/99, that is the provision that is being made because the Government have been looking at but have not yet decided whether to take out a comprehensive package policy for all their properties. At the moment we insure properties on an individual basis. In a sort of ad hoc manner, those that represent the most risk we insure and our insurance advisers say that this is not a very cost effective way of doing it and by actually increasing the premiums slightly we could insure all Gibraltar assets up to several hundred million pounds.

Subhead 9 was agreed to and stood part of the Bill.

Subhead 10 was agreed to and stood part of the Bill.

### Subhead 11 – Income Tax Ordinance Tribunal

HON R MOR:

Mr Chairman, can I just ask what does the £10,000 exactly cover?

HON CHIEF MINISTER:

It covers a small allowance that is paid to the members of the Tribunal for each occasion in which they sit. I think it is £30 or £50 for each case that they take. As it is a brand new body created this year we have got no way of knowing what the volume of sittings is going to be and we will get a better indication of that this time next year.

HON A J ISOLA:

Can I ask, Mr Chairman, if the fee that they get paid is a lump sum irrespective of the time it takes or is it a variance?

HON CHIEF MINISTER:

They get paid by the session not by the case. It is a question of the number of sittings, not the number of cases.

HON J J BOSSANO:

Is the fact that there is no previous provision mean that the Tribunal has not actually had any sittings before now?

HON CHIEF MINISTER:

I do not think so, I think it has had sittings. What it shows is that when it was originally set up there was no provision, it was not envisaged that there would be a payment and the members of the Tribunal asked the Government to consider that by reference to other similar Tribunals and I think it is only recently that we have agreed to do this so that is the reason why there is no provision in the forecast outturn column.

Subhead 11 was agreed to and stood part of the Bill.

Subhead 12 – Contribution to Gibraltar Development Corporation

HON J L BALDACHINO:

The estimate for 1997/98 was £20,000, the forecast outturn for 1997/98 is £20,000, the Government are now estimating for £70,000. Could we have an explanation on that and also how many staff are employed?

HON CHIEF MINISTER:

Mr Chairman, as to who they are the information is just being obtained. I can think of one lady who used to be part of Key and Anchor and is now seconded to the Central Arrears Unit. There are two people who used to be booked under Gibraltar Industrial Cleaners who I think used to do the administration for the Gibraltar Providence Scheme and things like that. Yes, it is three people who used to be booked before to Industrial Cleaners and then there is the fourth, it is the lady who I mentioned before who used to be in the Gibraltar Procurement, doing income tax business and is now in the Central Arrears Unit. There are four people in all.

Subhead 12 was agreed to and stood part of the Bill.

Subhead 13 was agreed to and stood part of the Bill.

Head 9-C - Customs

Subhead 1 – Personal Emoluments

HON J C PEREZ:

Mr Chairman, perhaps for the avoidance of any misunderstanding in the future. One would suppose that out of the administrative grades shown there only the two AOs, the one AA, the two typists and the telephonist are considered to form part of the administration and counted for figures in the establishment because there are 44 AOs who are Customs AOs and probably not counted as part of the civil service establishment as such.

HON CHIEF MINISTER:

Yes, if I can just recall what the hon Member said in his question, I think he is right. It includes the two AOs, the one AA, and the two typists.

Subhead 1 was agreed to and stood part of the Bill.

Subheads 2 to 4 were agreed to and stood part of the Bill.

Head 9-D - Income Tax

Subheads 1 to 5 were agreed to and stood part of the Bill.

Head 9 – Finance was agreed to and stood part of the Bill.

## **HEAD 10 - JUDICIARY**

### **Head 10-A - Supreme Court**

Subheads 1 to 4 were agreed to and stood part of the Bill.

### **Head 10-B - Magistrates' and Coroner's Court**

Subheads 1 to 4 were agreed to and stood part of the Bill.

### **Head 10-C - Law Officers**

Subheads 1 to 6 were agreed to and stood part of the Bill.

Head 10 – Judiciary was agreed to and stood part of the Bill.

## **HEAD 11 - POLICE**

### **Subhead 1 – Personal Emoluments**

HON J C PEREZ:

Mr Chairman, given that the numbers reflected are the same, the difference between the vote from one year to the other is £160,000.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The estimate for the forthcoming year reflects the pay increases that policemen have received.

Subhead 1 was agreed to and stood part of the Bill.

### **Subhead 2 – Industrial Wages**

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, may I draw hon Members attention here on industrial wages to the fact that the 1997/98 complement for industrials should

have read seven not eight. Just whilst on industrial wages if I may take us back to the Post Office, I think people will recall on Friday evening there was a question on the establishment shown on page 38 and in fact there was a question asked as to the change in money given in the increase. In actual fact the 1997/98 figure printed four was incorrect, it should have been five and the five is the same for 1998/99.

Subhead 2 was agreed to and stood part of the Bill.

Subheads 3 to 8 were agreed to and stood part of the Bill.

Head 11 – Police was agreed to and stood part of the Bill.

## **HEAD 12 - HOUSE OF ASSEMBLY**

Subheads 1 to 4 were agreed to and stood part of the Bill.

### **Subhead 5 – Elected Members' Allowances**

HON J J BOSSANO:

Mr Chairman, there is an increase of nearly £40,000 in Elected Members' Allowances for the coming financial year. I take it this is something to do with the revision of which the Chief Minister was previously talking. I would like to know what this is for.

HON CHIEF MINISTER:

The increase the Chief Minister has in mind is much more substantial than that. This is a provision for the allowances of Members of the House. It is a provision based on what has already happened to the salaries of people to whom Members' salaries are linked through the existing formula. This is in a sense anticipating what is going to come through the Pay Review as it affects Members of the House. This increase has nothing to do with any uprating of the basis upon which Members are paid which is what I referred to earlier. So the answer to the hon Member is, no it is not, if there is any increase in Members salaries of the sort that I was talking about as opposed to the ordinary formula that has been applied in the past it will have to be included through supplementary funding of this vote, of this particular subhead.

HON J J BOSSANO:

In terms of the ordinary annual pay review, can the Chief Minister say whether this is reflecting a percentage increase in line with what has been the norm for other people in the service? Or whether there is any element of the analogue being regraded?

HON CHIEF MINISTER:

No, there is none of the latter. The figure that originates this increase is the figure on page 120 for the Attorney-General, Financial and Development Secretary and the Additional Judge which is shown as £54,901. That is the relevant figure for analogue for purposes under the existing system and that is the figure which has predicated what that estimated figure is for, although of course, the Pay Review has not come through yet for Members of the House. It is a mathematically projected increase driven by that figure of £54,000.

HON J J BOSSANO:

Could I ask, the figure of £54,000 which shows an increase from the one that was there before which was £47,000, is this just the application of the civil service pay increase of 3 per cent or whatever per cent because it seems to be higher than that, or is it that in fact the actual point in that particular grade has been renegotiated?

HON CHIEF MINISTER:

No, there has been no negotiation or renegotiation but it became clear to the Government that four Officers, including the Chief Secretary, the Attorney-General, the Financial and Development Secretary and the Additional Judge had over the years fallen behind, in other words, the differential that they had historically maintained with other officers had been eroded by virtue of the way that the Pay Reviews were done post-1993 mainly but it may have been post-1991. Upon study, the Government saw, for example, some of them had been overtaken, Chief Secretary is a classical case of somebody who had traditionally maintained a gap over several other officers in the Government service. So, Government have uprated these salaries to bring them into line with the traditional comparables and put them at a level commensurate with the seniority of the function that they perform to and within Government.

HON J J BOSSANO:

So then it is the case that they have been regraded and that it is not the application of the percentage to the point to which they were analogued before. They have been given a new comparator in the United Kingdom civil service scales from which this figure is derived, is that correct?

HON CHIEF MINISTER:

There is no new analogue. It is not a question of having identified how somebody in the UK gets paid and analogued it with it. What there has been is a mathematical exercise to return some of the historical lost ground but they remain unanalogued in that sense and of course this problem will arise again, if the matter is not dealt with on an annual basis in an adequate manner. This is not a re-analoguing, what there is is a one-off increase in the single point scale upon which all of these people are. There is not a re-analoguing of that position to any particular person in the UK. The hon Member knows that that becomes increasingly difficult now especially at senior officer level. In the UK it used to be performance pay and then it became minima and maxima and now the UK is into equity shares and all sorts of things of that sort. This is not an analoguing. This is a one-off increase in the single point scale upon which these officers are.

HON J J BOSSANO:

Can I ask then if this has been arrived at by establishing a differential, what is the differential analogue, what grade is it?

HON CHIEF MINISTER:

I cannot tell the hon Member that from memory although I am very happy to have the information given to him. Basically it is to restore this group of officers to the same differential position to where they were, I think, but I would ask the hon Member not to hold me to this. I am very happy for the details of the review to be made available to him privately although he is quite free to use them publicly, it is not confidential.

HON J J BOSSANO:

Can I ask, Mr Chairman, in respect of that re-evaluation of the group why it was necessary for a differential to be created on a personal-to-holder basis for the Financial and Development Secretary which did not exist previously?

HON CHIEF MINISTER:

You can ask, and the answer is that this is one of the officers that we expected to see significant change in relation to the forthcoming years and the Government, whilst happy to pay a decent going rate for the right man, do not wish to increase the established rate for the post so that it might be filled in due course at those higher rates with somebody who is less useful to the Gibraltar Government. The position of Financial and Development Secretary is one that we expect to see change. The nature of the role that the Financial and Development Secretary provides to the Government is changing. It changed considerably during the term of office of the previous administration. It continues to change and we see this office transforming itself into much more of a senior financial official's role and much less of a constitutional role that it is today. The double stars next to the Financial and Development Secretary makes it clear that it is a financial package agreed by the Government for the present incumbent which will not necessarily be available for a future occupier of that post.

HON J J BOSSANO:

I accept that it follows that it will not be necessarily available to a future incumbent, that is why it is personal to holder. My question is, given the fact that the job was advertised and people applied when the salary was the same for the Attorney-General, the Additional Judge and the Financial and Development Secretary and presumably a contract was entered into, how is it that it is renegotiated in the middle of a contract so as to give a differential where none existed before? First of all we have been told that has gone up to restore a differential that had eroded the position of the three officers. This is a new differential, is it not?

HON CHIEF MINISTER:

Yes, it is and I think the differential argument that we have been using in the past, in the last 10 minutes, is less applicable to the Financial and Development Secretary. This is just a case of making available a remuneration package capable of attracting the right sort of man for the post, whilst we have got to have this post filled we want it.....

HON J J BOSSANO:

But he is already in.....

HON CHIEF MINISTER:

Whilst we have a position of Financial and Development Secretary in the present constitutional format we would much rather have it filled by somebody who can do a useful job for the Government rather than somebody who simply occupies a seat because the Constitution says it and we would much rather pay a little bit more and get the right man that can produce and can provide and do a meaningful job in support of the Government of Gibraltar rather than simply have an incumbent in office who is the Financial and Development Secretary. For the published salary attaching to this post before we would not have had somebody of the calibre that the Government think necessary and indeed let me say that if the Government succeed in altering the constitutional basis of the Financial and Development Secretary we would envisage a continuation of the salary scale of the Financial and Development Secretary at these levels – much more akin to the Chief Secretary on the financial side. That is how we see the office perhaps evolving.

HON J J BOSSANO:

I am afraid that explanation does not sound quite right, Mr Chairman, because it is not the case that in order to attract applicants to a vacant post the job has had to be made more attractive, that is not the case, unless what the Chief Minister is telling the House is that the Financial and Development Secretary said he would depart prematurely unless he got £5,000 more than the Attorney-General sitting next to him. My question is, given the fact that somebody applies for a job at a particular salary, the salary is then put up by £7,000 to restore differentials, what has produced the need for an extra £5,000? I hope the Financial and Development Secretary does not mind me discussing his pay but there is no other time at which I can do it.

HON CHIEF MINISTER:

Mr Chairman, where the hon Member has been perhaps misled is that if he looks at this booklet last year, I think he will see that there was an asterisk next to the Financial and Development Secretary and I think it was expressed as being under review. If the hon Member looks at the booklet last year where the disclosed salary for the Financial and Development Secretary was £47,227, there was an asterisk next to that to signify that it was currently under review. The Financial and Development Secretary has been on more than £47,227 from the outset in fact and certainly the Government have not negotiated the Attorney-General and the Financial and Development Secretary on the basis that they are indistinguishable.

HON J J BOSSANO:

Mr Chairman, they are not indistinguishable, they are both doing very valuable jobs for the Government and the people of Gibraltar and we are paying them from the Consolidated Fund, which we do not vote, and the Financial and Development Secretary has the opportunity of voting on what I get paid but I cannot vote on what he gets paid because the Constitution does not allow me. The only thing I can do is use this opportunity. Yes, it is a direct charge on the Consolidated Fund and does not come out of voted funds. As a specified officer we can only express views but we cannot do anything about it tangibly. Is it then that the job was advertised originally on the basis that there was a sum offered and an indication that that was going to be reviewed?

HON CHIEF MINISTER:

I think the post was advertised on terms that did not attach to it a fixed sum of money. It was not that this was advertised at £47,227 people then applied and then the successful applicant was negotiated with. I think the advert was put out on the basis that the salary was negotiable. If the hon Member is keen to have that confirmed to him, I am very happy to send him copies of the advertisements so that he can follow the developments in the matter at his leisure.

Subhead 5 was agreed to and stood part of the Bill.

Subheads 6 and 7 were agreed to and stood part of the Bill.

Head 12 – House of Assembly was agreed to and stood part of the Bill.

### HEAD 13 - OFFICE OF THE PRINCIPAL AUDITOR

Subheads 1 to 5 were agreed to and stood part of the Bill.

Head 13 – Office of the Principal Auditor was agreed to and stood part of the Bill.

### HEAD 14 - SUPPLEMENTARY PROVISION

Subhead 1(a) – Pay Settlements

HON J J BOSSANO:

Mr Chairman, I asked and I am not sure that we got an answer as to whether the extra £0.5 million for pay settlements for this year represented an estimation for back pay because in the previous financial year there were still pay settlements that had not been concluded. I was working on the assumption that the figure of £158,000 which was in one of the virement warrants signed by the Financial and Development Secretary for pay reviews from this subhead, that was the only amount that appeared to have been used out of the £1 million. I think we were told that this was not in fact a reflection of the position because underspending in other subheads had been used in some cases to meet the pay review, that is what we were told. What I asked was, could we know what has been used from the £1 million for pay review and what is the reason for the extra £0.5 million for 1998/99?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

The money actually moved from the Pay Settlements Head directly into other subheads is £158,700. The reason is that there may be one or two additional pay settlements still to filter through but most of that money in the Pay Settlements Head will not actually be used this year for pay settlements. In fact the provision of £1.5 million reflects the settlements that have still to be paid such as the administrative and clerical grades who have to be paid out of this year's monies and therefore we have increased the provision.

HON CHIEF MINISTER:

May I add to that that we are currently negotiating the 1997 review with the GGCA but that we have not paid the 1996 review to senior officers.

HON J J BOSSANO:

This seems to be confirmation of what I was told was not the case earlier on. The £158,000 is the reallocation warrant that has been tabled in the House and when I asked was that an indication of how much money had been used for the Pay Review, I was told no because pay settlements had been met in a number of areas from savings in subheads. If we look at the figure that is being estimated for the next financial year, is it that it is a repetition of the £1 million and a nominal £0.5 million for back money, is that the position?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, that is exactly the position, it is the normal £1 million plus the provision of £0.5 million for backdated pay awards that will come through this year. I should say, in addition to the £158,000 there would be other pay settlements that we are still waiting departments to give us the information which will feed through into a further warrant for this last past financial year. If it is helpful to the hon Member it is also possible, as I am sure he has divined from the figures, that we may well have to use some of the pay settlements money that was not used this year and push it into supplementary funding to cover some of the shortfalls where they occur in other departments.

HON CHIEF MINISTER:

Mr Chairman, whilst we are on this issue of supplementary funding I realise it was just an aside on his part, so I do not want to make too much of a fuss about it, but the Hon Albert Isola made a passing reference to the higher provisions under the supplementary funding provision here in this Head 14 and of course the estimate for this year is indeed higher than the estimate for last year. Both are considerably lower than the equivalent provision has been in the past. For example, in 1991 pay settlements and supplementary provisions amounted to £5.2 million together. In 1991/92 they amounted to £4.3 million. In 1992/93 they amounted to £4 million and in 1993/94 they amounted to £3.5 million. It is not a big point, I just did not want the hon Member to run

away with the idea that this was a historically high provision for pay settlements and supplementary funding combined together.

HON J J BOSSANO:

The Chief Minister is saying that pay awards used to go up by higher amounts in the past than they do at the moment, is that it?

HON CHIEF MINISTER:

The Chief Minister is saying that we both used to provide on an estimates basis at a generous level and it never all got used.

Subhead 1(a) – Pay Settlements was agreed to and stood part of the Bill.

Subhead 1(b) – Supplementary Funding

HON J J BOSSANO:

On 1(b) I asked about the £83,000 that were put there in the course of the Estimates debate last year. It was originally in the body of the Estimates. We were told it was going to be put there in the hope it would not be needed because the UK would pay a contribution. In the original Draft Estimates brought before the House a year ago the figure for supplementary funding was £1.5 million and that was amended by moving £83,000 there which we were told might not need to be used. I would like to know whether it was needed to be used or it was not needed to be used?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, as I recall, the hon Member is quite correct, we did move during the course of the debate £83,000 into the supplementary funding head, hence the reason in the Estimates there is £1,583,000. Where I think there would be a difference between us is that I do not recall ever saying that we would not necessarily use that money and I do not recall anything about a UK provision. What it was was that the Chief Minister removed those portions of the salaries that came under the Secretariat for GCID, moved the expenditure that we were providing for and rather than have to alter the entire Estimates by £83,000 it was decided to put it into supplementary funding and I moved the motion to that effect.

HON CHIEF MINISTER:

Can I just explain what the thinking behind that was. There was a bid for funds in GCID for certain posts at certain levels to which we had not signified our agreement as a Government and I was therefore unhappy to see them voted through in the House in a way which could have signified in a sense that the Government were agreeing that staff structure for GCID. So that the fund could be available in quantum should the Government agree, or whatever the Government might agree, we transferred them from the particular vote to supplementary funding so that the funds would be available but without having signified an agreement to the structure which had not at the time of last year's Estimates then been agreed.

HON J J BOSSANO:

Subject to being corrected, my recollection of the explanation that was given at the time was that this was something that it was hoped that the UK would pay for and that it had been put in the supplementary funding so that if it was not possible to persuade UK to pay it would then be brought back.

HON CHIEF MINISTER:

There was an indirect element of that in that some of the expenditure put in there related to people that the UK was paying for and what I did not want to be signifying an agreement to was that Gibraltar would take over the payment of those particular individuals. The hon Member is partially right, there was a question about who these people, this bid that came through who was it for, was it for persons who the UK Government were until then paying for? If it was, our position was that we required them to continue to pay for those persons and I did not want them at a time when there was no agreement on the matter. I did not want anybody to say, "Ah, but the House has voted funds for you to pay for them therefore pay for them". In other words, the whole thing was shunted into supplementary funding where no one could claim that the House had approved GOG paying for particular individuals as opposed to HMG. The hon Member is partially right when he says that there was an issue here about whether GOG or HMG would pay. The situation eventually resolved itself, if the hon Member would just allow me to add, by events

as they happened on the ground and that is that one of the officers was replaced by a local Police Inspector and another of the persons involved, the head of GFIU, was replaced by a local Customs Officer and therefore the question of GOG ending up paying for the salary of seconded UK officials did not arise in practice anyway.

HON J J BOSSANO:

Could I ask, Mr Chairman, the additional £0.5 million in the supplementary funding, is there a particular explanation as there was, for example, for the £0.5 million in the case of pay settlements?

HON CHIEF MINISTER:

Yes, there is. The Government envisage having to spend more on training than is available in direct revenue in the Gibraltar Development Corporation and the Government have one particular project of which the Government would not wish, for commercial reasons, to give details at this stage which may require access to voted funds and there is a provision there. The Government have sort of flagged a sum of money for this particular project and there are two particular reasons for the increase – one is potential increase, Government have not yet costed our training and employment blueprint as the hon Members keep on teasing us about how long it takes to produce. That has not yet been fully costed so that there is an increased provision in supplementary funding to cover for that and there is one other transaction which if it is done of course will be more than well signalled and highlighted before the event and the hon Members will get to know of it long before the expenditure is actually incurred and there is an element of provision here for that as well.

Subhead 1(b) was agreed to and stood part of the Bill.

Head 14 – Supplementary Provision was agreed to and stood part of the Bill.

Clause 2 was agreed to and stood part of the Bill.

Clause 3

Part II – Consolidated Fund Contributions

**HEAD 15 - CONTRIBUTIONS FROM CONSOLIDATED FUND – RESERVE**

Subhead 1 – Contribution to the Improvement and Development Fund was agreed to and stood part of the Bill.

Subhead 2 – Resettlement Scheme

HON J J BOSSANO:

Mr Chairman, we have made our position clear in respect of this vote. The Government asked us not to vote against it and in respond to that we will not be voting against it but our views are on the record.

HON CHIEF MINISTER:

Mr Chairman, I am obliged to the Leader of the Opposition for that. I think there is recognition in his position now that although there is a judgement to be made there are difficult questions for Gibraltar and that even if the Opposition Members would have taken a different decision I think that the hon Members recognise that there is a problem to be tackled and that two different parties in Government may choose to tackle it in a different way but that it is not expenditure which lends itself to criticism from any sort of political ideology. It is just a question of approach about who should fund, basically, the solution to a problem which both of us acknowledge exists as a real problem. Could I just say, I am not sure if it has been clear from the earlier contributions as to why this sum is parked here. One of the things that we have tried to do remains to be seen when there are future comparables with what degree of success we have managed it, is that we have tried to take out of the Consolidated Fund above the line items which are really not recurrent and the purpose of doing that is that from year to year, from now on, it ought to be possible in a meaningful way to compare estimates, forecast outturns, and future years' Estimates of recurrent expenditure. We could easily have included £1.5 million above the line somewhere. It would just have distorted the recurrent expenditure amount by £1.5 million. I am grateful to the hon Member for moderating his reaction to this expenditure even though I acknowledge that he would not have incurred it.

Subhead 2 was agreed to and stood part of the Bill.

Head 15 – Contributions from Consolidated Fund – Reserve was agreed to and stood part of the Bill.

Clause 3 was agreed to and stood part of the Bill.

Clause 4

Part III – Improvement and Development Fund

**HEAD 101 - HOUSING**

Subheads 1 to 5 were agreed to and stood part of the Bill.

Subhead 6 – Housing Consultants Fees

HON J L BALDACHINO:

Mr Chairman, what is meant by Housing Consultants Fees, is it that the Government are going to contract somebody?

HON J J NETTO:

Yes, Mr Chairman. What we envisage within Buildings and Works, since some of the work will be contracted out that we may have recourse to these consultant fees in order to prepare tender documents, plans, designs, which at the moment we find or historically in the department it has been done by Support Services but has taken too much time because of other priorities. This provision, therefore, will allow us if there is priority for certain work to be contracted out for the preparation by using these consultants.

HON J L BALDACHINO:

I suppose the contracts, for example, will be for structural engineers, companies that provide those sort of services?

HON CHIEF MINISTER:

Indeed.

HON J J BOSSANO:

Have the Government already got somebody or is it that it will be done on a job by job basis?

HON J J NETTO:

Yes, it will be done on a job by job basis.

HON J L BALDACHINO:

Is this something that the Government will be going out to tender or is it that it will be done directly by the department?

HON J J NETTO:

I am not quite sure. I suppose that in the general principle it would stand as going out to tender but I am not quite sure specifically on very small items whether we should.

Subhead 6 was agreed to and stood part of the Bill.

Head 101 – Housing was agreed to and stood part of the Bill.

### **HEAD 102 - SCHOOLS, YOUTH AND CULTURAL FACILITIES**

Subheads 1 to 5 were agreed to and stood part of the Bill.

Head 102 – Schools, Youth and Cultural Facilities was agreed to and stood part of the Bill.

### **HEAD 103 - TOURISM AND TRANSPORT**

Subheads 1 and 2 were agreed to and stood part of the Bill.

#### **Subhead 3 – Airlines Assistance Scheme**

HON A J ISOLA:

In the Airlines Assistance Scheme, was this a three year programme? Is it not one year to run after this current year?

HON J J HOLLIDAY:

Yes, the Monarch agreement was for a three year assistance. This will be the second year for the scheme to be in place.

HON A J ISOLA:

So there should be a balance to complete, a residue for a final year which is reducing I understand from what the hon Member said.

HON J J HOLLIDAY:

Yes, strictly speaking. There is a small balance which will be paid in the last year.

Subhead 3 was agreed to and stood part of the Bill.

Subheads 4 and 5 were agreed to and stood part of the Bill.

#### **Subhead 6 – Roads Construction and Resurfacing**

HON J J BOSSANO:

Given that they only managed to spend £34,000 instead of the £285,000, how realistic is the £1 million in the next 11 months?

HON CHIEF MINISTER:

Not as unrealistic as the straight line project of the forecast £34,000 might suggest. There has not been a great recourse in this last year to private contractors for resurfacing and I think I am right in saying that most of the road resurfacing programme has been done in-house and as the hon Member knows having recourse to private contractors does increase both substantially the amount that can be spent. I do not think we will spend the whole £1 million, let me tell the hon Member that from the outset, but I think that we will take a large bite into it certainly. The hon Member will recall what I told him last week that this means that there are projects that can straddle into the next financial year, pending the Estimates approval which otherwise would not be the case. It means that the rule that one can fund approved projects but not unapproved projects means that in effect by overproviding this year we are in a sense stretching the financial year by three months in case there are delays, projects in the pipeline and things of that sort.

Subhead 6 was agreed to and stood part of the Bill.

Subhead 7 was agreed to and stood part of the Bill.

Head 103 – Tourism and Transport was agreed to and stood part of the Bill.

HEAD 104 - INFRASTRUCTURE AND GENERAL CAPITAL WORKS

Subheads 1 to 19 were agreed to and stood part of the Bill.

Subhead 20 – Gibraltar Broadcasting Corporation – Equipment

HON J J BOSSANO:

Mr Chairman, on GBC equipment, when I questioned the subvention and the fact that there was a provision of £800,000 even though the outturn was £836,000, I recall the answer that I got was because now there was some money being given to GBC out of the I&D Fund, but the amount that is being provided out of the I&D Fund is in fact no different from the outturn, so if we look at the £800,000 the outturn was £836,000 and if we look at the actual Estimates last year it was £800,000 on the recurrent side and £350,000 on the capital side so in fact the explanation for the £36,000 not being reflected in 1998/99 is not in fact confirmed by the figures here.

HON CHIEF MINISTER:

Mr Chairman, the estimate of £350,000 in the Improvement and Development Fund last year reflects an “agreed” capital investment programme for GBC that would have taken more than one year to implement. Of the £233,000 that they in fact spent, most of that relates to expenditure envisaged under the capital investment programme but some of it is expenditure that in other years would have been put under the Consolidated Fund. This year’s estimate of £230,000 represents a slight trimming back of the £350,000. Pursuant to the request to everybody to tighten their belts, GBC contributed a slice so in a sense the figure for the approved capital investment programme that was approved actually in 1997/98 at £350,000 and I think it was going to take two years at least for that to be carried through, that has been trimmed back so that this year’s estimate of £230,000 is made up principally of the scaled down balance to complete of last year’s £350,000 and a few

items more of a recurring nature that were traditionally paid for under the Consolidated Fund subvention. Out of £230,000 the hon Members will see that there is a note there which says that it includes a revote. The revote element amounts to £130,000 of the balance of £100,000, £40,000 is new bits of equipment that they need to buy and about £60,000 is this element of expenditure that would normally have been included in the Consolidated Fund which is of a capital nature and has been transferred to the Improvement and Development Fund and I think that is the most accurate division that I can give the hon Member at this stage.

Subhead 20 was agreed to and stood part of the Bill.

Subheads 21 to 27 were agreed to and stood part of the Bill.

Subhead 28 – Employment Service Project

HON J L BALDACHINO:

Mr Chairman, this is a new item in Head 104, could we have an explanation?

HON J J NETTO:

These are for enhanced facilities for the long-term unemployed to take up projects like a job club for which long-term unemployed and other unemployed people can make use of and therefore that money makes the provision for those extended and enhanced facilities.

HON J L BALDACHINO:

Could the Minister repeat for what it was because we could not hear it on this side?

HON J J NETTO:

Yes, indeed, what I was saying is that these are enhanced facilities for the unemployed, particularly the long-term unemployed by creating a job club facility which the unemployed people can make use of on a more permanent basis.

Subhead 28 was agreed to and stood part of the Bill.

Subhead 29 was agreed to and stood part of the Bill.

Head 104 – Infrastructure and General Capital Works was agreed to and stood part of the Bill.

### **HEAD 105 - ELECTRICITY**

Subheads 1 to 3 were agreed to and stood part of the Bill.

Head 103 – Electricity was agreed to and stood part of the Bill.

### **HEAD 106 - INDUSTRY AND DEVELOPMENT**

Subhead 1 was agreed to and stood part of the Bill.

Subhead 2 – Port Infrastructure Development

HON A J ISOLA:

Mr Chairman, could we have some particulars of the developments intended under this vote? How long will it take to finish afterwards?

HON P C MONTEGRIFFO:

This is a provision we have made in respect of what we hope will be reclamation in the Port area that I indicated during my contribution. It is still subject to final Government decision because it has to be seen in the context of the Port Study. The Port Study does make certain recommendations with regard to land reclamation. It identifies the Government's preferred project as one of the options. The House will recall that this is a projected reclamation of Jetty No. 3 but we have made a provision for what will be the initial stages of the planning if we chose to proceed in this financial year. The £10 million costing is the costing that is being produced within Support Services, therefore it is a Government costing of what it will entail if the project is proceeded with.

Subhead 3 was agreed to and stood part of the Bill.

Subhead 3 – EU Konver Projects – including Bleak House and Casemates

HON J J BOSSANO:

Mr Chairman, the outturn is only £5,000 out of £1.5 million provided last year. Could I ask in terms of the use of Konver funds, how is that reflected from one financial year to the next in terms of receipts, because if we look on page 101, EU Grant Konver Projects, there was nothing last year and £0.5 million in the next 12 months and there is a provision to spend £2 million in the next 12 months. What is the relationship between the two sides, the receipts and the expenditure?

HON P C MONTEGRIFFO:

Each of the different funds have different rules with regard to receipts. Essentially whilst the Objective 2 funds are drip-fed, so to speak, in stages, my understanding is the Konver funds are in fact paid for at the end of the project so there would have been no receipts for Konver funds even though this year we are projecting expenditure. At the end of the expenditure a claim will be made and Konver receipts will be had.

HON J J BOSSANO:

Does that mean that none of the money under the Konver label has been received so far?

HON P C MONTEGRIFFO:

Yes.

HON CHIEF MINISTER:

Head 106, subhead 3, does not mean that we are spending £2 million Konver funds, it means that we are spending £2 million on projects that qualify for the Konver funds.

HON J J BOSSANO:

Presumably the ratio is not 75:25 which is what would be indicated by the £0.5 million on the receipt and the £2 million on the expenditure?

HON CHIEF MINISTER:

The hon Member is right. It is not that ratio.

Subhead 3 was agreed to and stood part of the Bill.

Subheads 4 to 6 were agreed to and stood part of the Bill.

Subhead 7 – Refurbishment of Public Market

HON J J BOSSANO:

This is a new item, my understanding was that the Public Market was not in need of £0.5 million facelift, is there an explanation for it?

HON P C MONTEGRIFFO:

Mr Chairman, nothing could be further from the truth. The Public Market Association has serious grievances with the Government arising primarily from its dealings with the previous administration in respect of the state of the public market. Essentially, the former administration changed the basis upon which the public market operated. Essentially, from having a pure licence arrangement it moved all the licensees on to a tenancy arrangement. As a result of that, rents were significantly increased and that it was on the basis that the rents would be used to fund much needed refurbishment of the public market in things like the roof, the sewers, et cetera. It must be said that that investment of the public market was not made, at least not to the extent to which the tenants had an expectation and we are keen to try and put the public market on to a firm new footing. The area has, of late, enjoyed something of a revival - more shopping is being undertaken in the public market. It is located in an important area at the entrance to the Casemates project, the coach park will be connecting the Casemates area through the public market area so this is a one-off capital investment into the public market which will significantly refurbish the area and put good a lot of historical difficulties in the facilities. Mostly it is the roof and the sewage system which has been traditionally extremely defective.

Subhead 7 was agreed to and stood part of the Bill.

Subhead 8 was agreed to and stood part of the Bill.

Head 106 – Industry and Development was agreed to and stood part of the Bill.

Clause 5 was agreed to and stood part of the Bill.

The Long Title was agreed to and stood part of the Bill.

### THIRD READING

HON ATTORNEY-GENERAL:

I have the honour to report that the Traffic Ordinance (Amendment) Bill 1998 and the Appropriation (1998/99) Bill 1998 have been considered in Committee and agreed to, without amendments, and I now move that they be read a third time and passed.

Question put.

The Traffic Ordinance (Amendment) Bill 1998:

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

Abstained: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J J Gabay  
The Hon A J Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

The Bill was read a third time and passed.

The Appropriation (1998/99) Bill 1998 was read a third time and passed.

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, I have the honour to move that this House do now adjourn to Thursday 2<sup>nd</sup> July, 1998, at 3.00 pm.

Question put. Agreed to.

The adjournment of the House was taken at 1.40 pm on Tuesday 26<sup>th</sup> May, 1998.

# GIBRALTAR

## HOUSE OF ASSEMBLY



# HANSARD

**24<sup>th</sup> April, 1998**  
**(Vol. II)**

**(2<sup>nd</sup>, 13<sup>th</sup> and 16<sup>th</sup> July, 1998)**

THURSDAY 2<sup>ND</sup> JULY 1998

The House resumed at 3.30 pm.

PRESENT:

Mr Speaker .....(In the Chair)  
(The Hon Judge J E Alcantara OBE)

GOVERNMENT:

The Hon P R Caruana QC - Chief Minister  
The Hon P C Montegriffo - Minister for Trade and  
Industry  
The Hon Dr B A Linares - Minister for Education,  
Training, Culture and Youth  
The Hon Lt-Col E M Britto OBE, ED - Minister for  
Government Services and Sport  
The Hon J J Holliday - Minister for Tourism and  
Transport  
The Hon H A Corby - Minister for Social Affairs  
The Hon J J Netto - Minister for Employment and  
Buildings and Works  
The Hon K Azopardi - Minister for the Environment  
and Health  
The Hon R Rhoda - Attorney-General  
The Hon T J Bristow - Financial and Development  
Secretary

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition  
The Hon J L Baldachino  
The Hon Miss M I Montegriffo  
The Hon A J Isola  
The Hon J J Gabay  
The Hon R Mor  
The Hon J C Perez

IN ATTENDANCE:

D J Reyes Esq, ED - Clerk of the House of Assembly

DOCUMENTS LAID

The Hon the Minister for the Environment and Health  
moved under Standing Order 7(3) to suspend Standing  
Order 7(1) in order to proceed with the laying of  
various documents on the table.

Question put. Agreed to.

The Hon the Minister for the Environment and Health  
laid on the table the Drugs (Misuse)(Amendment)  
Regulations 1998 - Legal Notice No. 45 of 1998.

Ordered to lie.

The Hon the Financial and Development Secretary laid  
on the table the following documents:

- (1) The Income Tax (Allowances, Deductions and  
Exemptions) Rules 1992 (Amendment) Rules 1998 -  
Legal Notice No. 48 of 1998.
- (2) Statements of Consolidated Fund Reallocations  
approved by the Financial and Development  
Secretary (Nos. 9 to 11 of 1997/98).
- (3) Statement of Improvement and Development Fund  
Reallocations approved by the Financial and  
Development Secretary (No. 5 of 1997/98).

Ordered to lie.

#### BILLS

#### FIRST AND SECOND READINGS

SUSPENSION OF STANDING ORDERS

The Hon the Chief Minister moved under Standing  
Order 7(3) to suspend Standing Order 7(1) in order  
to proceed to the First and Second Readings of  
various Bills.

Question put. Agreed to.

**THE TOBACCO ORDINANCE 1997 (AMENDMENT) ORDINANCE  
1998**

HON CHIEF MINISTER:

I have the honour to move that a Bill for an  
Ordinance to amend the Tobacco Ordinance 1997 be  
read a first time.

Mr Speaker, the purpose of this Bill when read  
together with the amendment that I propose to move  
at Committee Stage is to amend the Tobacco Ordinance  
1997, so that the reporting requirements for  
wholesalers in terms of the supply of tobacco and  
the import and export offences that are created

should apply only to cigarettes and not generally to tobacco products as it presently specifies. I think that this was something that might easily have been restricted in that manner at the time of the original Ordinance which was designed to deal with a particular state of affairs that really affects only cigarettes and for that matter certain brands of cigarettes but as it was impossible to target just certain brands, the next best thing is just to limit it to cigarettes. That is the effect of the Bill which really deals with the amendments of Section 22 which itself deals with.....

MR SPEAKER:

You can proceed if you want, but at this stage there is no need for you to give any explanation, it is the First Reading.

HON CHIEF MINISTER:

I beg your pardon.

Question put. Agreed to.

SECOND READING

CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time and I would ask the House to take notice of what I said on the first reading and consider that as my contribution to the second reading if that is acceptable to the hon Members. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, I wish to make a general point about the Bills we have before the House as a whole in the general principles, rather than repeat it for each one and then I will deal specifically with this Bill. We have got quite a number of Bills for one sitting of the House and I think the position in the House has been that Bills are not always taken in the same meeting. Generally speaking, when there is a need, administratively to act quickly it is taken in a sitting but quite frequently they are left

between one meeting and the next so that the explanations that are given at the second reading can be taken into account when we come to the Committee Stage. If we have 20 Bills and we go straight from the second reading into the Committee Stage of 20 Bills it seems to me that we are constrained in the effectiveness with which we discharge our obligations to scrutinise the Bills that are brought to the House. Presumably, the reason why it is being brought here is because the Government prefers to have them scrutinised. Again, we have had also a situation where the agenda of the meeting keeps on being changed and the last change was 24 hours ago and we have had a very large Transport Bill, of which the notice has not yet expired, but which clearly we cannot tell until we spend some time on it what is new and what is not new and what the effect of what is new is on what was there already. I am making this point because although the notice required is only five days, it makes a difference if we are given five days in which to look at one or two Bills or five days in which to look at many more in the same period of time.

In this particular Bill which we have had since March, the Explanatory Memorandum says that the purpose of the amendment is to restrict the application of the Ordinance that was passed last year to cigarettes rather than apply it to all types of tobacco. We cannot understand why it is that they needed to bring the Bill because in fact the amendment is being made in respect of the returns that are required under Section 22 of the 1997 Ordinance. Section 22 of the 1997 Ordinance says, "that separate returns for each day containing separately for each type of product prescribed by regulations by the Collector of Customs." So it seems to me, that is how we read it initially in October last year, that the Ordinance created the enabling power to require daily returns from every type of product and then retained the right for the Government to narrow that requirement to whatever type of product was specified in the Regulations made by the Collector. The Regulations made by the Collector which this Bill seeks to repeal specified nothing because the Regulations that were brought in in February 1998 said, "For the purpose of Section 22(1)(a) of the Tobacco Ordinance 1997, daily returns relating to tobacco shall be furnished to the Collector of Customs according to the provisions

of that Section". The provisions of that section simply said, "The Collector can make regulations", and the Collector makes regulations saying, "I have made regulations in accordance with the provisions of that Section", a totally circular regulation that took us back to the starting point. It seems to me the Government could have chosen that the Collector when he actually made use of the enabling powers of section 22 could have said, "For the purposes of Section 22 the type of product on which daily returns need to be made are the following...." And that has always been the power contained in the original Ordinance, the Government chose not to make any use of it in February. They could have made a use of it since February by bringing in a new regulation amending the February one and therefore we do not know why it is that they feel a need to change the principal Ordinance and revoke the Regulations through the Ordinance in order to achieve what the Explanatory Memorandum and what the Chief Minister's contribution says is the intention of the Bill. The further amendments that are being made, and they are amendments to section 9, provide that in sub-section (1),(3),(4) and (5), the word "tobacco" should be substituted in each case by the word "cigarettes". So we are talking there about the importation of tobacco into Gibraltar and that it is unlawful for anybody to import tobacco without a permit. We are now saying, as a result of the amendment, that it is no longer unlawful to import tobacco without a permit. It is only unlawful to import cigarettes. Why give somebody a permit to import cigars if it is not unlawful to import cigars without a permit? It is a nonsense amendment, even though we have only had ten minutes to look at it because the amendment will have the effect of changing the law so that the law will now read, "It shall be unlawful for any person to import cigarettes into Gibraltar in a commercial quantity save under the authority of a permit issued by the Collector of Customs". Is it then that permits will not be required to import cigars? In the next section which is being amended it says, "The Collector shall not issue an import permit in respect of a commercial quantity of cigarettes to any person other than the holder of valid wholesale licence". Does it mean that the valid wholesale licence is required only for cigarettes and not for other types of tobacco? If that is the case, surely there must be consequential repercussions in other parts of the Ordinance? If we look at the Ordinance

it seems fairly obvious that the Ordinance has been very badly drafted because although in the Ordinance it says that tobacco includes tobacco of every description whether manufactured or not, there are sections where the heading talks about tobacco and then the clause talks about cigarettes. If we look, for example, at the storage and transportation of tobacco in Part IV of the original Ordinance it says, "Storage of Tobacco: It shall be unlawful for any person to store cigarettes". Why is it then called "Storage of Tobacco"? "Transportation of Tobacco: It shall be unlawful for any person to transport or carry cigarettes in commercial quantities." "Possession of Tobacco: It shall be unlawful for any person to be in possession of cigarettes". It is quite obvious that at that stage whoever drafted this has forgotten the distinction between tobacco and cigarettes and was using the two terms interchangeably. But in the area of exportation, which is in Section 11, it says, "It shall be unlawful for any person to export or attempt to export tobacco from Gibraltar", not "cigarettes" and that is not being amended. Part III where we talk about importation and exportation of tobacco the amendments that are being moved by the Chief Minister do not affect the restriction on the exportation, they affect the restriction on the importation. Section 9 which is what this amendment seeks to change is importation of tobacco and we have a heading that says "Importation of Tobacco" and the clause is being changed so that it is now unlawful to import cigarettes but not other types of tobacco. However, Section 11 which deals with exportation of tobacco, is not being changed. Therefore, it will still be unlawful for any person to export or to attempt to export tobacco from Gibraltar in commercial quantities save under the authority of a permit by the Collector of Customs, because the original Ordinance was done in a way where the distinction between tobacco and cigarettes was not drawn and the amendment is seeking to correct that mistaken drafting, presumably, because it was always the intention to Bill for cigarettes and not for the rest, by amending some sections and not others, I do not think it does what it seeks to do and I would have thought that if it is a question of the daily returns then that could be put right by the use of the existing regulations which came in in February 1998. Of course if what the Government wants to do is to change not just the question of daily returns but the whole question of requiring

import permits and export permits for other types of tobacco than cigarettes then I think they need to amend more than they are doing already. At least, that is our initial reaction after hearing what the Chief Minister has said and after reading across the amendment that has been circulated against the sections of the Ordinance. In fact, I would have thought that where the question of Wholesale Licences are concerned, which is Part II, Section 3, it says, "It shall be unlawful for any person to sell tobacco by way of wholesale dealing save under the authority of a licence by the Collector of Customs". The corresponding sections in Part III are because the people that have got Wholesale Licences are the people who have got Import Permits. The way the amendment appears to function in conjunction with the original Ordinance is that all the things that would have been unlawful under the original Ordinance for any type of tobacco are not being made lawful in respect of tobacco which are not cigarettes. Some of them continue to be unlawful. I see the Chief Minister is saying yes by nodding his head but I am not sure that that is what they intend to do since it is quite obvious that whatever it was they intended to do in October 1997 was not what they put in the Ordinance and there is no indication that they are any nearer to hitting the target with the amendments that they are moving today on the basis of writing in the amendments that we have been given notice are going to be moved. I think perhaps, unless there is a great urgency for this, they should take a second look to see whether a further amendment is required to make this function.

HON CHIEF MINISTER:

Mr Speaker, if I could just deal firstly with the general point that the Leader of the Opposition made about the amount of notice of legislation. I can only say to the Opposition Members that although occasionally Bills are published with the minimum period of notice, which used to be the norm when they were on this side of the House in respect of almost all legislation, our policy is to publish the Bills as soon as possible. For example, the Tobacco Ordinance (Amendment) Ordinance that we are now debating was put into the public domain on the 19th March 1998. That is several weeks ago now, the 19th March, nor has the legislative procedure changed from what it was when they were in Government except

that we now as a matter of policy try to give the Opposition as much notice of the legislation as possible. It seems to me that notwithstanding these obvious improvements to the ability of the Opposition to do its very important function in this House, which the hon Member has not pointed out the improvements in the advance publication of legislation, it seems to me that really what he is saying is that there is now so much more legislation being brought to the House. Well that may be so, there are seven Members opposite, we will see during the course of the afternoon to what extent the burden of considering this legislation to then take it through the House has been fairly shared between the seven of them and to what extent the problem lies in the fact that the Leader of the Opposition has wanted to deal with them all himself. If that is his problem, he will understand that I am less sympathetic to it. The purpose of having seven Members on the Opposition Benches is that they should all partake in the legislative process. I accept as a matter of the workings of the House, regardless of the volume of legislation and it was my view when I was in Opposition, although of course I had to grin and bear it and that was, that although there are some occasions on which we need to get legislation through and the Government seek the indulgence of the House and often the Opposition Members give their consent to the Committee Stage being taken on the same day, in other parliaments the legislative process is stretched out over a longer period and it is very rare for the Committee Stage of any Bill to be taken on the same day. In the House of Commons it would be unheard of for the Committee Stage to be taken, but I think, Mr Speaker, what the hon Member really puts his finger on is something that the Government feel quite strongly about and are happy to form a joint commission of Members of both sides of the House. What he is really saying is that the practices and procedures of this House, not just in relation to the legislative process but indeed I think to certain aspects of question time have become antiquated and whilst they may have been suitable for the function carried out by this House in 1969, or whenever Standing Orders were looked at, that there may now be a case to revisit together the Standing Orders of the House. The Government would certainly be completely amenable to modernising these Standing Orders so that the House functions more like a Parliament does in other democracies and

less like a sort of ritualistic rubber stamp which is what tends to happen when it is wearing its legislative hat, if not its question and answer hat, which is really a product of the fact that we get legislation through the House in one, two or three days. So if the hon Members really believe that there is merit in what I am saying, that it is time to revisit Standing Orders generally I can signal to them here and now that the Government would be very happy to. In fact, I think there is a Standing Committee on Standing Orders, it is one of the few, together with the Declaration of Interests, I think it is one of the two permanent standing committees of the House which for our part we would be very happy to activate and to look at Standing Orders not just from the point of view that the Leader of the Opposition has made but indeed other aspects of the way this House does its business which we also feel needs to be revisited.

Turning now to the Tobacco Bill itself. I do not believe that the hon Member is correct. It may well be that he has spotted an occasion in which the heading does not sit comfortably with the text. I have to check to see if he was right in that assessment but on taking his word for it, as I am on my feet, he knows that the headings are not to be taken into account when interpreting statutes and that certainly if there is any contradiction between a heading and what follows on the sections underneath the headings, then it is very well established law that the heading is disregarded for that purpose. I think he is also wrong in saying that the draftsman used the words "tobacco and cigarettes" interchangeably. It may be that he will be able to spot occasions in which a mistake may have been made, if he points one out I will give him my views on it, but certainly I can tell him that there is a distinction, there should be a distinction between the word "tobacco" and the word "cigarettes". When the policies were being issued to the draftsman and the drafts were being discussed, there were certain sections of the Bill which were designed to apply to all tobacco and some sections of the original Bill, the Bill which is now the Ordinance of 1997, which were intended to apply only to cigarettes and in the latter case the word "cigarette" should have been used and in the former case the word "tobacco" should have been used. Without saying that it is not possible to find an instance where the drafter may, I can put it no more

strongly than that, certainly the point that I am making now as I speak is that the hon Member is mistaken in thinking that from the point of view of the policy of the legislation, that there is no distinction between tobacco and cigarettes, that it was always intended that there would be such a distinction and he will see that there are many sections in the Bill which use the word "cigarettes".

HON J J BOSSANO:

Mr Speaker, if the Chief Minister has got the original Ordinance with him, and he looks at pages 506 and 507, at section 13, Transportation of Tobacco, he will see that the law says, "13(1) It shall be unlawful for any person to transport or carry cigarettes in commercial quantity in any vehicle in Gibraltar" and then sub-section (3) of that same section at the top of 507 says, "Any person who transports or carries tobacco in commercial quantity in Gibraltar in contravention of sub-section (1) above shall be guilty of an offence". Here, tobacco in (3) refers to cigarettes in (1) and here it says it is an offence to do what is prohibited by 13(1) and 13(1) does not prohibit tobacco it only prohibits cigarettes. The point that I am making is that I would have thought that if they are coming in with amendments to correct the Ordinance because the Ordinance says "tobacco" where it is intended that it should have said "cigarettes" then they ought to do it everywhere where that mistake has been made and I have just given him one example.

HON CHIEF MINISTER:

Yes, so long as the hon Member acknowledges that not all the interchangeable words are a mistake. There are occasions in which the Ordinance means tobacco as opposed to cigarettes and there are occasions in which it means cigarettes as opposed to tobacco. I will have to check with the Law Draftsman but at first sight in respect of the example that he has given me then it seems to me to be an obvious error, in other words, the section creates the offence of unlawful transportation of cigarettes in a commercial quantity. Of course, this cannot adversely affect anybody, it is just inelegant drafting because sub-section (3) does not create an offence independently of sub-section (1). Sub-

section (1) says it is an offence to do what is prohibited in sub-section (3) which is where it says tobacco. It says it is an offence to do what it says in sub-section (1). Sub-section (1) refers only to cigarettes and therefore sub-section (3) cannot be effective in creating the offence of transportation of tobacco because the offence is created by reference to sub-section (1) which deals only with cigarettes. It creates no uncertainty in the sense that the offence is created but I accept at first sight there is a linguistic inconsistency here in the language which strikes me as having been avoidable and certainly I will have the Ordinance of 1997 checked to see if the instance that the hon Member has found is the only one or whether there are others. The only point I am making to him at this stage is that he should not assume from the fact that the wrong word may have been used in one section. He should not assume from that that the Bill does not intend to distinguish in certain parts between cigarettes on the one hand and tobacco on the other because there are sections in which that is an intended distinction.

If I could take the hon Member to what he said about section 22. It may well be that had section 22 been drafted differently, it has not been drafted wrongly, but had it been drafted differently, it would have been possible to take the view that the hon Member has taken. But, given the way it is drafted, it is not possible to take that view. What the hon Member is in effect saying, if I have followed his argument which I think I have, is that given that the Ordinance says in sub-section 22 that returns will only be necessary in respect of such tobacco products as the Collector of Customs may specify, well why does he not just specify cigarettes and not specify everything else that is not cigarettes? To achieve that I think the hon Member has in effect been saying it is not necessary really in the Ordinance to say "cigarettes" because although there is no harm done in the Ordinance it is unnecessary because it can be achieved through the exercise of the regulation making powers of the Collector. Mr Speaker, that would be true if the whole of the return-making requirement were contained in sub-section (a). The power of the Collector to specify the type of product in regulation is contained in sub-section (a) and therefore limited to sub-section (a). Sub-section (b), which requires a monthly return containing such

details as are necessary to show the balance of stocks in tobacco in hand, is not subject to the same discretion on the part of the Collector. Therefore, although the Collector could use his regulation-making powers to restrict section 22 sub-section (1)(a), to restrict that to cigarettes, he has no power to restrict (b) to cigarettes and that is why it has been necessary to come to the House. If, of course, the Collector's powers to prescribe had been put in at the top before (a) in the first two lines of section 22(1) in manner that would have made that power extend to the whole of (a), (b) and (c). In other words, to the whole section, then it would have been possible as a matter of legislative device to have recourse to the argument that the Leader of the Opposition has used. In the event, it is not possible and I believe the hon Member is not correct when he suggests that in respect of the whole of section 22 this could have been done by the exercise of the Collector's powers. Finally, Mr Speaker, this amendment is not to limit the whole Ordinance to cigarettes but only to limit the making of returns and the importation to cigarettes. This has been done at the request and on the advice of the Collector of Customs. He has not extended that request to exportation. I cannot tell the hon Member why. The Government did not consider it because it has not been invited to consider it. Therefore, what the Government are bringing to the House is a Bill to restrict the Tobacco Ordinance so that the reporting requirement is limited to cigarettes and so the need for an Import Licence under this Ordinance is restricted also to cigarettes. Why it is that Customs think that we should not need an Import Permit under this Ordinance to import, but that one should continue to need it to export, is a matter that I am not equipped to answer without notice.

Question put. Agreed to.

The Bill was read a second time.

HON CHIEF MINISTER:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken at a later stage in the meeting.

**THE GIBRALTAR REGIMENT ORDINANCE 1998**

HON A ISOLA:

Mr Speaker, may I just ask, before the Chief Minister starts if there is in fact an order because we have jumped from the first Bill on the agenda to the first Bill on the second new supplementary agenda which was given to us on the 29th and changed on the 30th of last month. Is there an order that we can follow?

MR SPEAKER:

I will answer that. In this House everything is done by order of seniority so if the Chief Minister is bringing a Bill, he is in first.

HON CHIEF MINISTER:

Unless the hon Member should think that that is something that I have introduced. If he had been in the House when his Leader was Chief Minister he will find that the practice has been always the case and in any case and I accept that this is confusing and it may indeed be one of the points that we can look at if we decide to relook at Standing Orders. I have always found it confusing that amendments to the agenda come in the form of supplementary agendas and one never ends up with one cumulative amended document. One has always got to be looking back at the very first agenda and adding to it. It would be much simpler, it seems to me, if every time that there was an amendment to the agenda the whole thing were reprinted showing the amendment so that Members would know what is the agenda in fact at any given time. That seems to me an obvious improvement to the procedures of the House that we could introduce and which would have avoided the hon Member being in the doubt that he is.

The hon Member would also know, if he had ever sat on this side of the House, that the disadvantage that he is under is not a disadvantage that Ministers are under. Although he only gets an agenda, being a Member of the Opposition, Members of the Government continue, as they have always obtained, something called a "Crib" which sets out the order of proceedings from beginning to end and it includes all the documents. Again, that is something that has always been the case which is not

cast in stone and should continue. It contains no secrets, it is just to remind Ministers of the ritualistic language that we have to use from time to time which is not a requirement of the hon Members but certainly it does not contain any confidential or anything that would give the hon Member a strategic or a tactical advantage or disadvantage.

Mr Speaker, I have the honour to move that a Bill for an Ordinance to provide for the organisation, duties and discipline of the Gibraltar Regiment and for matters incidental thereto be read a first time.

Question put. Agreed to.

**SECOND READING**

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill repeals the Gibraltar Regiment Ordinance 1987, whilst re-enacting most of its provisions together with a number of amendments intended to provide greater protection for members of the permanent cadre and the volunteer reserve. A central issue to this legislative measure is the question of the powers of command of the Commanding Officer of the Gibraltar Regiment over attached UK army personnel. Hon Members may be aware that until the passage of this Bill it had been and, as we speak, continues to be the case, that if a UK Commissioned Officer, in other words, an Officer bearing a Queen's Commission from the mainstream UK army is seconded to the Gibraltar Regiment, the Commanding Officer of the Gibraltar Regiment actually has no powers of discipline over such a person and that has always been in my opinion an entirely understandable and justifiable bone of contention on the part of the Officers of the Gibraltar Regiment who regard that as being an unwarranted limitation on the powers of command, call a spade a spade, a Gibraltarian Commanding Officer of the Gibraltar Regiment, and indeed a potential threat to the disciplinary hierarchy of the Regiment. I am happy to report to the House that as part of this Bill that situation has been addressed at long last and the result will be upon the passage of this Bill that the Commanding Officer of the Gibraltar Regiment obtains those powers of command and therefore of discipline over

attached UK Officers. Mr Speaker, I can tell the hon Member that Queen's Regulations have already been amended and they formally and specifically give the Commanding Officer the same power over secondees from the UK as the secondees' own UK Commander would have had over him. Any UK soldier attached to the Gibraltar Regiment will still be subject to the Army Act and will therefore retain the same rights of review and appeal as he would have if his case were being dealt with by the CO of the UK Unit. I think that is worthy of some explanation to the House. Although the Commanding Officer obtains powers of discipline internally, in a Regimental sense, if there is a Court Martial, the Court Martial takes place subject to the Army Act, it means that the first stage can take place in Gibraltar. The next stage, the Appeal Stages, the Review Stages, would then in the case of a seconded Officer take place in the United Kingdom. Whereas in the case of a Governor's Commissioned Officer the whole of the procedure is in Gibraltar and the right of appeal to the courts of law in the case of Gibraltar would be to the Supreme Court of Gibraltar. In the case of a seconded Officer it would be to the courts in the United Kingdom.

Mr Speaker, the Bill seeks to introduce the following other changes:-

Inclusion of Gibraltar Regiment personnel into the new UK Courts Martial system, including the investigation and summary dealing under the Army Regulations which now conforms to the European Courts of Human Rights ruling. I think that is a great improvement for the locally-enlisted men, that whereas the UK Army Regulations have for a number of years now been made Human Rights Convention-friendly, the local Regulations have not been and the result of this is that in making the UK Human Rights Convention friendly, disciplinary regulations apply to all Gibraltar Regiment personnel, they have now had extended to them in a sense the rigours of absolute Military discipline and procedure is now for the first time in Gibraltar made subject to the Human Rights Convention.

Mr Speaker, the other change is that it allows the application of the Reserve Forces Act of 1996 to Gibraltar thereby providing a much clearer picture of soldiers' rights and, indeed, of the Governor's rights to call Reserves out, to use layman's

parlance, in times of crisis. That is the whole area that used to be murky and which is now clearly established. The inclusion of all the relevant regulations, manuals and warrants appertaining to the Army in the United Kingdom is now achieved in the case of the Gibraltar Regiment by this Bill. This will be formally actioned shortly after the Ordinance is passed through this House by the issue of what is called a Command of Letter from His Excellency as Commander in Chief specifying exactly those publications which will apply.

The Bill gives greater protection for serving Officers and Soldiers in that their terms of service are clearly laid down in the schedules of the Bill. Whereas Terms of Condition, Terms of Bounty, Length of Commissions, used to be a matter of discretion, these things are now established in the Ordinance.

Finally, the effect of the Bill is a modern constitution for the Gibraltar Regiment which brings it as close as is possible to the mainstream British Army as has been possible.

Mr Speaker, the hon Members will be pleased if not relieved to learn that the Bill has the support of the Ministry of Defence and indeed also has the support of the Officers, the Honorary Colonel and what we call colonially, the Council of Colonels, I think its more formal name is the Regimental Council. Basically, this Bill has been negotiated on behalf of the Gibraltar Regiment by the Regimental Council which hon Members will know comprises all the retired Colonels in Council and they have recommended this Bill to the Government as being something which the Gibraltar Regiment has been seeking to achieve for many, many years.

I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, we welcome and support the Bill for the new Gibraltar Regiment Ordinance. As has been said this in fact has been in the pipeline for an incredible number of years with the problem really being at the London end, getting people there to do the changes that were needed there so that action in

Gibraltar in support of those changes could take place and there was nothing that we could do here in anticipation of London moving on this issue. Obviously, the most sensitive part of the Ordinance and the one that puts de facto the Gibraltar Regiment in an inferior position compared to other Units was the fact that a seconded Officer from the United Kingdom could not be made to answer for a disciplinary offence to the superior Officer in Gibraltar as if somehow there was an ethnic difference which made him superior by definition and that therefore he could only be tried by his own. Although the instances when this happened were insignificant because in fact the numbers of seconded Officers are very few, nevertheless it was a principle that people felt undermined the discipline for the rest of the Regiment and was in some way offensive and a relic of the past in this areas which reflected the kind of distinction that used to be wrong in many other areas in our society and which have been gradually eliminated and that it was about time that this was put right as well. This is correcting an anomaly that was long overdue and I think it is worth recording, of course, since we are debating this in the House, that as one might expect Sir Robert Peliza, when he takes on a cause shows an energy in pursuing it that is incessant, has been pushing this one and lobbying on this one with everybody that came to Gibraltar and with everybody that he met in the United Kingdom and therefore it is I think the right moment that at the time when the Regiment has been given its new Colours and it is a special occasion, at the same time this is being put right and is coming to fruition on the same day. It is very good news for the Regiment, very good news for Gibraltar and, of course, it has the support of the whole House as it should be and as it would have done if it had come earlier to the House.

Question put. Agreed to.

The Bill was read a second time.

HON CHIEF MINISTER:

Mr Speaker, I think this is one Bill that we ought to try and finish today, given that it is completely uncontroversial and I do not think that any points will arise in the Committee so that when the Gibraltar Regiment marches down on Saturday and has

its dinner tonight they will be able also to celebrate the fact that the House has unanimously passed this Bill rather than it being in the air. So on this occasion I would like the House's consent that the Committee Stage be taken later today.

HON J J BOSSANO:

May I suggest that since it looks as if we are going to be getting short of time the Chief Minister could always suspend Standing Orders so that we take the Committee Stage and then go back to the Second Reading of the Bills.

HON CHIEF MINISTER:

Yes, Mr Speaker, I shall have to do that.

I beg to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the Committee Stage and Third Reading of the Bill.

Question put. Agreed to.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

I have the honour to move that the House should resolve itself into Committee to consider the following Bill clause by clause:

The Gibraltar Regiment Bill 1998.

Clauses 1 to 24, Schedules 1 to 4 and the Long Title were agreed to and stood part of the Bill.

THIRD READING

HON ATTORNEY-GENERAL:

I have the honour to report that the Gibraltar Regiment Bill 1998, has been considered in Committee and agreed to without amendments and I now move that it be read a third time and passed.

Question put.

The Bill was read a third time and passed.

HON CHIEF MINISTER:

Mr Speaker, I beg to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with various Bills.

Question put. Agreed to.

BILLS

FIRST AND SECOND READINGS

**THE COMPANIES ORDINANCE (AMENDMENT) ORDINANCE 1998**

HON P C MONTEGRIFFO:

I have the honour to move that a Bill for an Ordinance to amend the Companies Ordinance in order to transpose into law Council Directive No. 89/667/EEC on single member private limited-liability companies; and to amend the Companies Ordinance (Amendment) Ordinance 1997 be read a first time.

Question put. Agreed to.

**SECOND READING**

HON P C MONTEGRIFFO:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill implements Council Directive 89/667 on single member private limited-liability companies. The directive requires member states to provide for the formation of a company having one member and to permit a company to be a single member company subject to certain safeguards. In relation to Gibraltar it applies to private companies limited by shares or by guarantee. As we know the Companies Ordinance already makes provision for single member companies and this Bill therefore only transposes those elements of the directive not already provided for in our Companies legislation. The principal changes to the Ordinance are as follows:

1. Section 26 is amended to include both the companies by shares and by guarantee;

2. a new section 92A is inserted imposing reporting obligations in cases where there is a change in the number of members;

3. a new section 107A is inserted providing that the quorum in respect of single member companies shall be one;

4. new sections 112A and 141A are inserted, these deal with ancillary matters such as the recording of decisions and contracts with sole members directors;

5. the Bill makes minor amendments to the Companies Ordinance (Amendment) Ordinance 1997, in order to enable that Ordinance to come into force.

I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON A ISOLA:

Mr Speaker, as the Minister has already said, indeed there is already provision within our Companies Ordinance for single member companies. I think there was a reduction from less than two to less than one and as the Minister correctly states the safeguards which are being introduced now in pursuance of the directive from 1989 have in practice been followed and the single member companies will have resolutions, board meetings, they service the minutes on themselves and they service the notices on themselves. In accordance with the policy that we have stated over a series of meetings of the House, because the legislation derives from an EU directive relating directly to financial services, we will not be supporting the Bill. We believe, as we have said before, that the legislation that is coming through on EU directives should not be transposed until such time as our position has been clarified. I have made this point before and I know that the Minister does not like it but that is our position and it remains our position.

HON CHIEF MINISTER:

When the hon Member says, "Until our position has been clarified", can he specify our position in relation to what?

HON A ISOLA:

Our position in relation to financial services, Mr Speaker, The position is that we continue to rush through directives. This one obviously has not been rushed through because it is 1989 but we continue to transpose directives which put requirements and restrictions in the hope of being able to do certain things which up to now unfortunately we have not really been able to do. That is the essence of the policy of the Opposition in saying that until such time as our position is clarified in respect of financial services we should not be transposing any further directives.

HON CHIEF MINISTER:

Mr Speaker, I know the Opposition Members take that position, but do they not see the contradictions in it? When they were in Government, they used to transpose financial services directives in order to obtain passporting and they were very cynical about whether the UK Government would ever deliver the passporting rights. They did not then take the view that because the whole situation was uncertain they were not going to proceed with the legislation. They proceeded with the legislation in the hope, which they never saw realised, that the UK would give passporting. The only thing that has changed between then and now is that since then we have actually been able to obtain passporting rights from the United Kingdom in insurance products and now that we have achieved what they used to transpose legislation in order to try and get, now they recommend to us that we should stop transposing legislation. This is not a Bill that relies on anybody agreeing to anything, this is to create law in Gibraltar and it is not a question of passporting and it is not a question of reciprocity or recognition of rights. But still the position is, that having secured what I thought everybody in Gibraltar was trying to secure and which indeed they were working hard towards, not by withholding transposition of legislation but indeed by transposing directives, having achieved it in insurance, now that we seek to achieve the same in respect of banking and in respect of investment services, the hon Members say, "No, no, no, do not do as we did, what we want you to do now, unlike what we did, is to create a situation of crisis by

withholding transposition of directives". I think the Opposition Members position apart from being indefensible in logic, I consider it to be wrong and indeed irresponsible but I have to tell the hon Members that insofar as passporting rights are concerned, in insurance which are the ones we have been able to achieve so far, we are shortly going to have our audit in respect of banking, and thereafter we will have our audit in investment services. There is no doubt, let me assure Opposition Members, in the minds of any regulator, of any member state of the European Commission still less the Commission itself, as to the competence of the Financial Services Commission to regulate and licence companies to operate on a pan-European basis. There is no doubt. No one is questioning it. Indeed, I can tell Opposition Members that as we speak Gibraltar licensed insurance companies are writing business in several European Union countries on the basis of a Gibraltar licence. What is being questioned now, which is something new but which does not prejudice the Financial Services Commissioner's ability to licence and regulate on a pan-European basis, is the ability of the Financial Services Commissioner to notify. What the other countries are saying is, "All right, we accept that the Commission is a competent authority to regulate and licence." But when it comes to notifying, regulator to regulator of something, we all think, well four or five, others are sitting on the fence, have said that they would like the notification to come via some UK authority. If the hon Member thinks that there is any doubt in our position in relation to Gibraltar licensed institutions' right to passport into the whole of the European Single Market, let me tell him that I am not aware, the Minister for Trade and Industry may confirm this when he rises, but I am not aware of anybody casting any doubt whatsoever on that position. I hope the hon Member has followed the distinction that I have made in relation to the notification as opposed to the licensing.

HON J J BOSSANO:

Mr Speaker, the position as far as we can tell is no different today from what it was before and that is that the challenge to Gibraltar's position in the European Union does not come from the competence of the Financial Services Commission but from the question of the legitimacy of the status of

Gibraltar within the UK and that position is promoted by Spain and by no one else. We have seen that reflected in areas other than financial services, but certainly in financial services, I can tell the Chief Minister that this is on the record in the meeting of Chairman of Central Banks going back as far as 1992 when the United Kingdom was arguing that in order to be able to get recognition for Gibraltar in the sense that Gibraltar should be treated as the equivalent of a separate member state, because that is what we are talking about, licences in Gibraltar would be different from licences in the United Kingdom but as good as. Spain made clear that their opposition was not based on doubts about the efficiency of the system here but was on instructions from the Ministry of Foreign Affairs because they undermined the Spanish claim to sovereignty. They put that down on record. We have here an example where in this directive for example where it lists who it applies to it says, "In the United Kingdom private companies limited by shares or by guarantee". We interpret that in accordance with the interpretation that the UK says we can put on it as being, "the United Kingdom in this case includes Gibraltar". There are other company-related directives where it does not just say, "In the United Kingdom or private companies limited by shares or guarantee" but it goes on to say "under the Companies Act 1985". That is an area where we cannot say it includes Gibraltar. We consider that there is a political issue here in that the position of Her Majesty's Government has been that at different points in time they said the recognition would happen when certain things were done and then when those things were done it did not happen and they required more things to be done. I can tell the Chief Minister that in 1992, in case he does not know it, he ought to know it, it is an argument that has been discussed in public on many, many occasions, in 1992 they promised in writing to Lord Bethell that the United Kingdom regulations transposing the Second Banking Coordination directive would make provision for Gibraltar banking licences to be recognised. At the eleventh hour they argued that there was not sufficient digress in section 2(2) of the 1972 European Communities Act to be able to do it and that a primary Act of Parliament which would have been presumably the Banking Act of Gibraltar, would have to be promoted, I do not know whether the position of the British Government has now changed or continues to be the

same. We have seen nothing in public to suggest the opposite and therefore given that the decision that we took as a matter of party policy arose at the time that the Monti proposals on tax harmonisation and the doubts were being raised about whether any progress was being made in recognising the status of Gibraltar and since then we have had further evidence of the success of Spain in isolating Gibraltar, we feel perfectly entitled to take a policy decision at any point in time in the circumstances. We are not telling the Chief Minister what he must do or he must not do, but I do not think he has got any right to tell us what we must do.

HON CHIEF MINISTER:

Mr Speaker, I am not telling the hon Member what he must do, far be it for me. I think the more of this sort of thing he does the better because what he is signalling to Gibraltar and indeed to the Financial Services Centre is that within a month of being returned to office, in the unlikely event that that should occur, he will plunge Gibraltar and the Financial Services Centre into chaos and he will undo all the progress which has been made before that and frankly it suits us admirably that the Leader of the Opposition should spell out his political position crystal clear. But I have to tell the hon Member this, he may have some doubt in his mind, I do not know whether he is still harbouring in his mind ambitions about being the thirteenth, now it would not be the thirteenth, the sixteenth member state, but no one has doubted in my earshot the status of Gibraltar within the European Union. I do not know how the hon Member can say that there is doubt about the status of Gibraltar in the European Union and if the hon Member justifies his stance on the basis of the fact that the United Kingdom sometimes says that we are part of the UK and sometimes says that we do not, the United Kingdom appears to have in the point of competent authority and things like that, an uncertain position. This has not arisen since the 16th May 1996. The United Kingdom was including or excluding specific references to Gibraltar, certainly for as far as I have been in the House and that goes back to 1992 and the hon Member did not then say, "Well, because the United Kingdom cannot decide this or cannot decide that I am not going to transpose directives". If the Leader of the Opposition thinks

that the Government are going to be in the least bit attracted by what I consider to be a reckless, imprudent and irresponsible stewardship of the affairs of Gibraltar by refusing to transpose directives, he must know what the consequences of that would be. In fact, he suffered the consequences of it and he may think that by adopting this position he may lure the Government into adopting that stance. He is going to have to keep the stance right up to voting day at the next General Election because there is no prospect of the Government assuming the stance that he appears to be recommending and then of course I do not know why he limits it to Financial Services because if he says, "I am not voting in favour of the transposition of any Financial Services directive because Gibraltar's status within the European Union is unclear..." to him, it may be unclear to him, it is not unclear to anybody else but if it is unclear to him the rational consistent thing from him to do is not to limit his opposition to Financial Services directives but indeed to vote against all directives whether they relate to Financial Services, Fresh Water, Health and Safety, or whatever else because Gibraltar's status, if it is unclear to him is no less clear in any other situation. The Opposition Members have taken a position and we take note of it and I have to tell the hon Member that it is a great source of satisfaction to the Government to be in a position to take a different position to theirs because if the hon Members were in Government today and were to implement the policy that they are now recommending from the Opposition benches, it would be, I have no doubt, an unmitigated disaster for Gibraltar which would bring consequences in its wake which the hon Member would then be powerless to rescue Gibraltar from. Of course, a very different point is the sense of anger and irritation that Gibraltar has on the question that notwithstanding that we comply with our EU obligations others, notably Spain, seek to deny the benefits and the enjoyment of the rights that go hand in hand with those obligations. The Government will take and is taking on various issues, steps to challenge that position but if the hon Member thinks that the best way to challenge that position is to put Gibraltar in a position of total breach of its EU obligations, of outright rebelliousness in refusing to transpose EU obligations, I have to tell the hon Member that I take a singularly different view as to how the

interests of Gibraltar can best be served in these difficult circumstances.

HON J J BOSSANO:

Mr Speaker, I certainly did not need to give way to the Chief Minister to know that he takes a singularly different view and he did not need to say it at such length and in such a picturesque language. The fact that he may consider our policies to be confrontational is a reflection of the fact that we consider his policies to be wrong and it is all a question of perspective and distance. Since he is gutless he considers that if you say "boo" to the Foreign Office, you are declaring a rebellion, but we know that that is the difference and we know it not because we are now in Opposition, we knew it when we were in Government because when they were in Opposition, they were as frightened of upsetting the Foreign Office, in Opposition, as they are now. If they were frightened in Opposition, heaven knows how much more frightened they must be now when they are in Government when it is quite obvious that the thing that pleases him most about the policy is that he thinks it will help him to get re-elected, which is of course the only thing that matters to him. If he thought tomorrow that being bolshie would get him re-elected, he would become ultra bolshie and outdo me in anything I have ever said. We are not suggesting to him that he should adopt our policies. I agree with him in one thing he said - we do not want to be like him and we do not want him to be like us. We want the people of Gibraltar to be quite clear that they have got a choice between two different philosophies and that there is nothing in common between the two sides of this House and that there was nothing in common when they were sitting here and we were sitting there and let it be like that. The fact that we stand up and we explain why we are voting the way we are voting is a matter that is sensible in the context of putting on in the record of the House the way that the vote is going to be taken. Of course, if he wants to have a debate about our respective political philosophy on each Finance Bill and if he is now recommending that we should do the same for every EU directive so that we can have the same debate on each EU directive as well, I am quite prepared to go down that road. I suppose the time will come when we will exhaust Mr

Speaker's patience and we will be told to cut it short.

Certainly, nothing that the Chief Minister has said convinces us that what we are doing is going to bring an end to this glorious upsurge since the 16th May that we have seen in the Finance Centre for which he is taking the credit because as far as I can tell from the statistics that are being produced, the activity in the Finance Centre today is the same as it was in May 1996. The growth that happened during the chaotic eight previous years was astronomical and the increase in employment, in bank deposits and in activity in the Financial Services industry in 1988 and in 1996 should never have happened according to his theory of us taking Gibraltar to the brink of disaster. The answer is that the directives were being done as and when we thought they should be done but not only are they spending money on drafting legislation over and above what was being spent before, they are even paying for what the UK used to pay. The Government have even abdicated the defensible position of saying to the UK, "Look, we are a small place and we can only devote so much time and so much money and so much manpower to bringing in EU legislation, and if you want it done quicker....." and here we have today on the Order Paper, Mr Speaker, a directive which is now going to be implemented from 1968. Was that that Sir Joshua Hassan was bolshie since we joined the Community in 1973 and that is why we are waiting until 1998 to implement something from 1968? Thirty years after? No, it is just that the Governments of Gibraltar have always told the United Kingdom, "Look, we have got our own priorities and our own resources" and the UK was willing to put in money which is no longer being put and when we are getting the legislation and we ask questions, what we get from Government Ministers is, "Look, we trust the expertise of the professionals who are the drafters and if it does not make sense we will have to go back and take advice", because, after all the Chief Minister if we ask him about the law he says, "Well, I am not a Law Draftsman" and if we ask him about the tax he says, "Well, I am not a tax collector" and if you ask him a question in supplementary he says, "Well, the people who write the supplementaries did not foresee where the supplementary would come from", and everything he needs notice of. We give him all the notice he wants and we put all the questions in the simplest

and the best way so that he can give us all the information which I know makes him happy because he believes in providing information. Half the time we raise these issues and we make these contributions in the House and we ask all these questions in order to satisfy the voracious appetite of the Chief Minister for providing information. We do not want him to go hungry from the House, that is why we raise these points.

HON P C MONTEGRIFFO:

Mr Speaker, let me first say that what the Chief Minister has informed the House with regard to passporting is the absolutely correct position. There is no member state that challenged the competence of the FSC. The issue at stake is purely the question of notification which has been explained. Mr Speaker, the Opposition teases us for being soft on the Foreign Office and for giving in in circumstances where they would have not. I do not think I have lived in a different Gibraltar to the Gibraltar that they lived in or that others have lived in but certainly I can, just from memory, think of a whole list of directives and measures forced upon the previous Government which they seemed unable to resist. Frankly, for example, the Financial Services Commission Ordinance, which was introduced by the last administration after an almighty hoo-hah ended up with a situation, for example, where the Gibraltar Commission has a majority of UK members, a position which has been untenable and unacceptable to this Government and that was thrust on the Government of the day and did we have demonstrations on the streets? Did we have press releases lambasting the then Chancellor of the Exchequer at the Foreign Office? No, they accepted it and that was it and that is as colonial as it could come. There is no other Dependent Territory, in Cayman, no other Crown Territory, in Jersey or Guernsey, with a situation of their Commission run by a majority of people from outside Gibraltar and that is something they introduced. The Leader of the Opposition also talks about this distinction between those directives that talk about companies limited by shares or guarantees on the one hand, in the UK, and companies incorporated under the Companies Acts in the UK as if to suggest that if legislation were to say the latter in directives, that is all the more reason why Gibraltar should have transposed. Mr Speaker, unless my memory is

failing me, that is precisely the wording of the subsidiary directive which the previous administration brought in with a great flurry.

The subsidiary directive which also ranks as another major failure of the last administration's initiatives in this area because not a single holding company has ever given rise to any business as far as I am aware. That legislation imposed the transposition of a directive which says, "This Directive applies to companies in the UK incorporated under the Companies Act", so which way are we to have it. Is it that when the argument simply satisfies him, is convenient to the Opposition, he goes one way and where it is not he goes the other, there simply is no coherence and no logic to their view. Mr Speaker, the reality is that the difference between what might have been the case in 1968 and now with regard to some directives and indeed with one directive which goes back to 1968, is that there were no infraction proceedings threatened at the time but as a result of the significant delay that we have suffered, primarily through controversy over a number of Bills, but for many other reasons, law drafting capability et cetera there are now infraction proceedings. There are now 169 letters, there are now recent opinions in respect of a whole list of directives, many of which are before this House today and, Mr Speaker, yes the Opposition can take the view that Custer's last stand should be fought today. They tried to play fair for eight years but they have now come to the sad conclusion that playing by the rules does not work and that therefore now is the time to draw the line in the sand and to say enough is enough, We do not agree with that approach. We believe that that approach is, what the Chief Minister said, confrontational, irresponsible, but frankly it is completely untenable. I cannot seriously believe that unless what the Leader of the Opposition wants is to explode the Gibraltar issue in one almighty mega explosion, I cannot believe that the Opposition Members are recommending to Gibraltar, as a tenable course of action, that what we should now do is say no to transposition of directives and of course if they were logical they should say to all directives rather than just to these and effectively declare war on Brussels and on London and on everybody else. That is simply not a tenable position Mr Speaker. If politics is to be played, it should not be in the area of Financial Services. The bankers and the

insurers and the accountants and the lawyers that are listening to this debate or who may be reading the report of it, may all feel at certain times the frustration that we have to make our way in Europe with particular obstacles but they would be aghast at the suggestion that the formal policy of the Opposition party that would become their policy if they were elected into Government is that we should simply say that we do not comply with the legal obligations of Gibraltar because if that happened, that would create a degree of uncertainty and this community's financial services could not sustain.

Mr Speaker, the Leader of the Opposition also talked about and mocked the glorious upsurge in Financial Services business since the 16th May 1996. Again, one could only go on one's own experience, but I have absolutely no doubt, and I have made that point in the House before, that the industry was on the point of collapse on the 15th May 1996 and Mr Bossano may chuckle and think that it is purely mischievous politics on my part but I think he should know me better. I and others that had experience in promoting Gibraltar up to the 15th May 1996 know that for reasons to do with the whole way that Gibraltar was being governed, let alone the Financial Services, Gibraltar had become unmarketable, Mr Speaker. That is the reality that we faced on the 16th May 1996. That we have not attracted as much business as we would have liked, we would share that view but we have been recovering from a very difficult position and we are self-congratulatory in saying that we have done a very good job in redressing the balance. We have and I can only put it down to I hope genuine ignorance on the part of some of the Opposition Members if they do not agree with my view, but I cannot believe the hon Opposition spokesman on Trade and Industry can possibly disagree because he must have also been aware of the calamitous situation in which we found ourselves prior to the last elections. There has been a glorious upsurge in the way the international community looks at Gibraltar, the way the international press reports on Gibraltar, the attitude of the UK Departments when it comes to accommodating Gibraltar's requests, although I can tell the hon Members that there are still officials in the UK bruised sufficiently by the experience of 1988 to 1996 to take a lot of persuasion that things have changed. We are making headway and it will

take a little longer before there is a glorious upsurge in substantial new business.

Mr Speaker, I do not intend to have a debate on the whole future of Europe and Gibraltar's position in it every time we have a Financial Services Bill. I simply seek to place on record the total inconsistency opposition compared to their own record in eight years. The fact that they choose to highlight the Finance Centre but nothing else and the fact that Gibraltar has no tenable cause other than to comply with its obligations and then, yes, rightly seek that our rights that derive from such transposition should be respected and achieved for the whole industry.

HON A ISOLA:

Mr Speaker, I was interjecting at a time when things were being said relating to the drawing of a line in the sand and putting the barricades up and then my hon and learned Friend went on to tell us about the lawyers, accountants and company managers. I do not know if the Minister has forgotten but the Bar Council, of all the lawyers in Gibraltar, in 1998 this year had passed a resolution calling on the Government, they must have a copy of it, saying, "No more directives until our position has been clarified" and that is exactly what we are saying, and the Government say, "Should we not implement laws?" The lawyers themselves through the Bar Council are saying, "Do not". Many other associations are saying exactly the same thing and the simple point I was saying is clarify the position, do not give us more regulations, more restrictions and more means through which our own professionals in Gibraltar cannot practice or continue to practice until such time as the position is clarified. The Bar Council resolution is very clear and very simple. There is a genuine concern in the industry and the Government should take heed of that concern and not just brush it aside as they seem to do in every House that we sit.

HON P C MONTEGRIFFO:

But, Mr Speaker, I think that the Opposition Members just do not understand the nature, frankly, of either directives or politics. Of course there may be concern, Mr Speaker. There is concern in Luxembourg, for example, that if the savings

directive on bank deposits that threatens to impose a withholding tax on bank deposits, there is concern in Luxembourg that if that is passed it will have an effect on the Luxembourg banking sector but there is not a position in the Luxembourg Government that because people are threatened by it they are simply not going to transpose a directive. When a directive is passed, a directive is passed and the obligation of Governments within the Community is to implement it and the whole Financial Services industry is in the process of reform, but is that a reason to say we are not going to implement it? Does the hon Member think that we have the choice in Gibraltar, a choice that Luxembourg has not got to say if a directive says do Y, we are not going to do it? Mr Speaker, that is simply not a tenable position. But as far as the Bar is concerned, his information may be different. My information is that the lawyers have reconsidered their position and that the resolution of the Bar is not the position of the Bar on this matter. It might have been at the time but it is not the position of the Bar then and it is surprising that this debate is being had in context of this particular Bill, let me add. This particular Bill is one that if anything is helpful to the industry. I would understand if this debate was being held in the context of the Fourth and Seventh Company Law Directives where there are issues that are challenging for the company management industry. But in this case what this does is actually provide single member companies which we, in fact they, I think are keen to actually introduce. Mr Speaker, therefore the actual substantive part of the Bill does nothing more than to actually substantiate, to add to, provisions that are entirely helpful to the industry.

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J Gabay  
The Hon A Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

The Bill was read a second time.

HON P C MONTEGRIFFO:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken at a later stage in the meeting.

**THE AUDITORS APPROVAL AND REGISTRATION ORDINANCE 1998**

HON P C MONTEGRIFFO:

I have the honour to move that a Bill for an Ordinance to provide for the approval and registration of auditors, for the establishment of the Auditors Registration Board, for the keeping of the Register of Auditors, for transposing into the law of Gibraltar Council Directive 84/253/EEC on the approval of persons responsible for carrying out the statutory audits of accounting documents and for matters connected therewith and ancillary thereto be read a first time.

Question put. Agreed to.

SECOND READING

HON P C MONTEGRIFFO:

I have the honour to move that the Bill be now read a second time. Sir, this Ordinance will implement in Gibraltar the Eighth Company Law directive. It also replaces the existing Auditors Registration Ordinance. The directive provides for a system of a pool of statutory auditors and distinguishes between auditors who are natural persons and auditors which are firms. It also provides for auditors who are qualified elsewhere in the EEA to be registered if they can show satisfactory knowledge of local

conditions. Clause 3 of the Bill establishes the Auditors Registration Board. The Financial Services Commissioner is the Chairman of the Board and he will appoint at least two and not more than four other members after consulting the Gibraltar Society of Chartered and Certified Accountancy bodies. The Board may establish committees and in particular it is envisaged that such a committee will investigate the local knowledge of an applicant from some other part of the EEA. The Board and any committee will have immunity for their actions. Clause 5 sets out the form the Register will take. Part I will contain the natural persons entitled to carry out a statutory audit, that is an audit which must be done by an approved auditor. Part II will contain firms entitled to carry out such audits and Part III will contain other auditors.

Mr Speaker, care has been taken with regard to those auditors that, whilst not being entitled to registration under Part I and II, should be able to go on to continue to work as at present by virtue of registration under Part III. There is an amendment to the Ordinance to correct a typographical error in the Schedule to make clear that that is the position that will pertain.

Clause 6 sets out the qualifications required for entering the Register. Essentially, a natural person must be qualified in the UK or with an equivalent qualification in another EEA state. In the latter case that person must show that he has adequate local knowledge. A firm wishing to be registered under Part II must show that a majority of its shareholders and directors are registered under Part I.

Clause 7 provides that audits must be carried out with professional integrity and completely independent.

Clauses 8 to 12 deal with removal from the Register, appeals and offences, and Clauses 13 to 16 provide miscellaneous and supplementary provisions.

Mr Speaker, the Bill does not make any real changes to the way in which audits are carried out and no additional burdens are placed on Gibraltar companies or firms. However, it does allow for compliance with the Eighth Company Law Directive.

I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON A ISOLA:

Mr Speaker, it will come as no surprise to the Government Members that we will not be supporting this Bill for a number of reasons, primarily the ones that we have been through in the last Bill before the House. In this case particularly more so as the last Bill was merely bringing in guidelines or rules as to how those single member companies should be run. This Bill, to an extent, is soft on understanding the difficulties that practitioners in Gibraltar have who have not been through the professional examinations and being members of the professional bodies in the United Kingdom which entitle what is not registration under Part I of the Bill. The Bill makes reference to the Auditors Registration Ordinance which I am sure the Minister knows was repealed in 1992 and refers to in certain other parts to the same Ordinance which as hon Members know was repealed in 1992. It seeks also to repeal it again, I am not sure whether there is a technical reason for that. I notice from the amendments that the Minister will be moving at the Committee Stage that indeed Part III of the Register in this Bill will be included in Schedule 2 so that under section 124(1A) of the Companies Ordinance which means basically that the company has to have an auditor and that will apply to Parts I, II and III.

The difficulty particularly in this Bill that we find is that we have this business of a statutory audit. The statutory audit under section 5 of the Bill restricts the persons entitled to carry out that business to Part I of the Register which are only those people that are professionally qualified and members of the professional body in the United Kingdom and can consequently provide or satisfy the provisions of section 6 and therefore do statutory audits. The people however, that are in Part III, do not satisfy the provisions and it is in that area specifically, apart from bringing in a whole team of restrictions and regulations which apply across the board to all parts of the practice, Part III of the Register which contains those who have many, many years of experience in this business are barred from

carrying out these audits. The fear comes from the fact that statutory audits are those that are stated by different EU directives to be statutory audits. One may have, for example, banks or financial services companies, investment services, insurance companies, that require to have statutory audits and in respect of those companies only a Part I registered practitioner or Part II firm will be able to carry out that business. The concern stems from the ability of a whole ream of EU directives which may expand the ambit of statutory audits to the extent that any company within the UK requires to have a statutory audit and the way things are moving and the speed with which things are moving that is a real possibility. It is clear that the directive states that the statutory audit can only be done by a person with the qualifications and the items in articles 3 to 19 of the directive but in Gibraltar specifically there is a finer problem which is that the people in Part III are not being added to. These people stopped in 1983 or 1992 when the Ordinance was passed, nobody else was allowed to be added to that list, so the people that are there now cannot be increased. It is a peculiar problem and one that will not be increased in terms of numbers of people. I would have thought that in respect of those members in Part III there should be a provision or a case made, I am not sure if it has been, maybe the Minister in his reply will confirm whether there has or has not been, for a specific change to be made in respect of those practitioners that will come under Part III of the Register. These are individuals that have been doing audits and are registered auditors in respect of any companies, although they do not, I understand that they probably have around 50 per cent of what I would call normal trade, retailers, wholesalers, not extending to banks and financial institutions. I think the case certainly should be made because at the end of the day when these individuals have been carrying out this work for 10, 15, 20 years, what difference is there in the ability of that individual to do the audit tomorrow, that he was not able to do yesterday simply by the introduction of law that says they can no longer do it. There is nothing about ability or competence, it is clear they have that. It is clear they are fit and proper people. It is clear they have the qualification by experience and therefore in respect of them specifically which this Bill restricts today but could put up a business tomorrow should take more

care. We certainly hope that if the case has not been put it should be put to redefine the statutory audit which will include them and therefore although excluding them from banks and other financial services institutions or investment services companies, they should be protected so that in the future if there is a statutory audit required they are within the ambit of the statutory audit. I have mentioned this to the Minister outside and again I am not aware of what representations have been made but I would certainly hope that there have been. Mr Speaker, again this may be raised at Committee Stage and I have also mentioned it to the Minister in the ante room, Part A reads "Part I of the Register will consist of natural persons entitled to carry out the following activities..." It lists 1, 2 and 3. Those are statutory audits and other audits of verification. Part II says they are firms who are entitled to carry out activities mentioned in paragraph A but in respect of Part III it merely says who they are and it does not say what businesses they are entitled to transact. I understand the consequential amendment in Schedule 2 now includes them but if it is a consequential amendment it must be a consequential amendment of something, I cannot see anything on the Bill that enables them or entitles them by definition as there is with Part I or Part II which also relates to Part III. I think if it can be referred to in Part III that they are entitled to do any other business other than that stated in Part A then that would certainly clarify that part.

HON P C MONTEGRIFFO:

Mr Speaker, I am grateful to the hon Member for his comments and let me say straightaway that I share entirely the concern to ensure that the grandfather auditors should be properly protected and dealt with. Indeed, the Government is satisfied that the Bill does that. We have had representations from the auditors. There have been communications with them both directly with myself and also with the draftsman of the legislation and we are satisfied that the Bill is entirely sympathetic to the position of the grandfather auditors, albeit within the requirements necessary to implement the directive. The hon Member draws attention to the definition of statutory audit and suggests that we should exclude the possibility of any other statutory audit definition being introduced in the

future because this would further curtail the areas of work that Part III auditors could do. Mr Speaker, we would not accept that that is a legitimate form of law making. As we sit here today the statutory audit does not include most of the work which the Government understands it is important to protect for the purposes of these professionals, but if it were to be the case at some stage in the future that there is a directive that does cover that position, then obviously the fact that we have legislation that defines today what statutory terms are, does not exempt Gibraltar from the position of having to deal with what would then be a definition of that stage. Government would rightly be concerned if the definition of statutory audit were to extend to a way that impacted upon the livelihood of this category of auditors and we would certainly consider the position at that point and react accordingly at that stage, bearing in mind the best interests of Gibraltar. We cannot at this stage seek to anticipate such a move, it would be quite unorthodox to do so, Mr Speaker.

HON J J BOSSANO:

Can the Minister explain to me, the concept of statutory audit is not something that is in the directive, is it? It is something that the Government of Gibraltar has chosen to introduce to link the role of directive to the auditor?

HON P C MONTEGRIFFO:

No, Mr Speaker, the concept of statutory auditor is a concept that derives from the directives, so for example in the context of the insurance directives, where there is a need for an insurance company to be audited the directives will say that it has to be an auditor of a certain type and Community Instruments relating to different aspects of financial services may define for a statutory audit. The matter raised by the hon Member is the fear that if statutory audits continue to be sought in respect of further matters within directives, will this not de facto cut down on that reserve of what are currently non statutory audits which are reserved also for Part III auditors to be able to undertake. The Government recognise that possibility but we do not accept that either we cure it by saying now what statutory audits are, because if we were to say they are today, if a directives comes up tomorrow, we are

bound by that directive, but secondly, if there was to be a directive that had a very serious effect on Part III auditors, the Government would then be open to representations at that stage and the Government would have to consider the position at that moment. To give the House another example, under the Fourth and Seventh Company Law directives, which is an appropriate example, a statutory audit is required for normal companies but is not required for small companies so we could star gaze into the future but the position today is that the audit of a small company which of course the vast majority of Gibraltar companies are would not be subject to a statutory audit and therefore be an audit that Part I, Part II and the Part III auditor would be able to undertake. The final substantive point made by the hon Member is with regard to the wording of section 5(1) and the fact that 5(1)(a) actually says what Part I auditors can do but there is nothing explicitly contained in 5(1) that says what Part III auditors can do. Mr Speaker, the position is made very clear by virtue of paragraph 3 to Schedule 2. The amendment introduced there makes it clear that Part I, II and III auditors will be entitled to audit companies under the Companies Ordinance unless of course then those companies fall to be one in respect of which a statutory audit is subsequently required. So we have no doubt that the matter is properly drafted and that the position is adequately protected.

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J Gabay  
The Hon A Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

The Bill was read a second time.

HON P C MONTEGRIFFO:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken at a later stage in the meeting.

#### THE DISCLOSURE OF INTERESTS IN SHARES ORDINANCE 1998

HON P C MONTEGRIFFO:

I have the honour to move that a Bill for an Ordinance to transpose into the law of Gibraltar Council Directive 88/627/EEC concerning the information to be published when a major holding in a listed company is acquired or disposed of be read a first time.

Question put. Agreed to.

#### SECOND READING

HON P C MONTEGRIFFO:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the purpose of this Bill is to transpose into the law of Gibraltar Council Directive 88/627/EEC concerning the information to be published when a major holding in a listed company is acquired or disposed of. It accordingly only applies to public companies. The Bill requires that substantial interests in the voting share capital of companies whose shares are listed on the stock exchange situated or operating within an EU state shall be disclosed. It further makes provision to facilitate companies in investigating the ownership of their shares. Clause 3 lays down the obligation of disclosure, whilst Clause 4 sets out the interest to be disclosed. It should be noted that disclosure is only required when the percentage level of a person's interests moves to one of the disclosure thresholds specified in Clause 6. This makes the legislation more transparent and follows the thresholds provided for in the directive. Clause 7 deals with the particulars to be contained in notification. Certain categories of interests can be disregarded and clause 14 deals with those exemptions. For example, open-ended investment companies which are public companies

which are investment vehicles are exempted from this obligation. There is also a power to make regulations under clause 28 regarding fees to the registrar. The legislation requires the keeping of a register by each company which is subject to the legislation and by the Registrar of Companies itself. The Registrar of Companies is made the competent authority for the purposes of this directive. It is empowered under clause 27 to cooperate wherever necessary with the competent authorities designated by EEA states for the purpose of facilitating the performance and duties of competent authorities under the directive.

I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON A ISOLA:

Mr Speaker, for the same reasons given earlier which I will not repeat again we will not be supporting this Bill.

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J Gabay  
The Hon A Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

The Bill was read a second time.

HON P C MONTEGRIFFO:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken at a later stage in the meeting.

#### THE INSIDER DEALING ORDINANCE 1998

HON P C MONTEGRIFFO:

I have the honour to move that a Bill for an Ordinance to transpose into the law of Gibraltar Council Directive 89/592/EEC co-ordinating regulations on insider dealing and thereby to prohibit insider dealing in securities and to provide for investigations into alleged insider dealing and for assistance to overseas authorities for the purposes of that Directive be read a first time.

Question put. Agreed to.

#### SECOND READING

HON P C MONTEGRIFFO:

I have the honour to move that the Bill be now read a second time. This Bill also transposes another directive into Gibraltar law, namely directive 89/592/EEC and creates a specific offence of insider dealing. As we all know there have been many difficulties in the UK and indeed other countries of the EU with regard to trading in shares with inside knowledge. The international dimension of this problem is one of the reasons that gave rise to this directive so as to make a new European wider fence. The Finance Centre Council and other interested bodies have been consulted on this draft, as indeed on others, and agree that it would not adversely affect Gibraltar. Indeed, the legislation will enhance Gibraltar's reputation in financial services. The Bill carefully defines types of duties that are covered. The House will know that these are limited or quoted securities on the various exchanges contained in Schedule 4. The Regulations accordingly do not apply to any form of private company. Clause 3 defines an insider as somebody who has and knows he has inside information from an inside source in relation to dealings in securities. If the information is public it will not be treated as inside information. Clauses 4 and

5 provide definitions of dealings in securities and professional intermediaries. Part II, Clause 6 to 7 creates the actual offence of insider dealing and provides certain defences. It is the defence, for example, for an alleged insider to show that he would have done what he did even if he had not had the information in question. By Clause 8, Mr Speaker, the offence must be committed in Gibraltar.

Finally, Parts III and IV and Clauses 12 to 16 deal with investigations into possible offences. The competent authority appointed by the Minister for Trade and Industry would have wide powers to investigate possible offences and he would also be empowered to assist other EEA authorities in their investigations.

Mr Speaker, there will be a minor amendment to the wording of one of the Schedules which lists the stock exchanges in question, it is purely typographical and therefore I will reserve that for the Committee Stage.

I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON A ISOLA:

Mr Speaker, once again as in the past, the Minister will not be surprised to hear that we will not be supporting this Bill. In respect of this Bill I would ask the Minister whether it deals solely with the requirements of the directive and the consequential amendments that follow from that or whether there is in fact any parts of this Bill which come other than it may be required from the directive. The Explanatory Memorandum suggests that indeed it is solely for the requirements but I would like that confirmation. There are a number of points in the Bill that I would raise at this stage. The question of the defences, seem a little curious unless my understanding is wrong in that it seems it is a defence to an offence under section 6(1)(a) if the individual was in Gibraltar at the time that he learns or receives the information and the market in respect of which he is dealing is one listed in Part I of Schedule 4, so if it is one of those three listed, wherever he gave the information it is not an offence. But, if the professional intermediary

was within Gibraltar at the time when he is alleged to have done anything by means of which his offence is alleged to have been committed then he does commit an offence. In other words, it seems that the individual gathers the information in Gibraltar in relation to the NASDAQ or the Amsterdam Stock Exchange and then goes home, he lives in Spain, he receives a call from a friend and he says, "Hey, here is a good tip for you, these are the shares I recommend because..." He is not actually committing an offence, it is a defence to the offence created under section 6(1)(a). I am not sure if that is intentional or whether there is something that needs to be included there. Also the same can be said of section 8(2) which deals with 6(1)(b) and (c) and I am not quite sure why in 8(1)(a)(i) it is restricted to Part I of Schedule 4 and does not indeed extend it to Part II. I assume there is a reason for that because it specifically deals with that but obviously Part II has every other stock exchange that exists within the EU. I notice it includes the NASDAQ so I do not quite understand why it is restricted to those three - the London Stock Exchange, the Liffe Administration and Management and the OMLX the London Securities and Derivatives Exchange Limited. If there is a reason I would be interested to know what the reason is because it seems to me that to give somebody a defence by simply walking across the border and carrying out what is in effect insider dealing seems to defeat the purpose of the Bill in so far as Gibraltar is concerned because of its locations and its size.

HON J J BOSSANO:

Mr Speaker, the competent authority for ensuring there is compliance with the Ordinance means any person appointed by the Minister for the purpose of the Ordinance. It goes on to say, "the persons so appointed shall be regarded as competent". Does that definition imply that it is entirely a matter for the judgement of the Minister whether a person is suitable to be the competent authority and that no specific qualifications are required? Is there in the directive a provision for notifying other people who is the competent authority in Gibraltar? My third question is, will there be a need for this person who becomes a competent authority to be permanently in post, that is to say, given that in Part III, section 12 it says, "If it appears to the competent authority that there are circumstances

suggesting that an offence may have been committed", we are not really talking about appointing somebody to investigate something because it is suspected to have happened, it suggests that the authority is all the time in office and if the authority comes to the conclusion that something requires investigation, as I read it. Could the Minister explain if that is in fact what he means?

HON P C MONTEGRIFFO:

Mr Speaker, may I deal firstly with the points raised by the Hon Mr Isola. The only provision that I can possibly suggest comes from outside the directive but I would have to revisit the directive in detail to be able to say that the objectives that fall outside the directive are the provisions of clause 20 of the Bill which basically make clear that the Financial Services Commission is given powers to effectively cancel licences and to disqualify people from operating in financial services if there is offences committed under this Ordinance. Obviously, there is a power under Section 20 when a person is convicted of an offence then the authority on the Financial Services Ordinance, namely the Commission, is able to disqualify the person from operating. That would seem to be the only possible provision that might be an extension or consequential to the directive and it would seem an entirely sensible position to have because it would simply allow the authority, the Commission, to say, "That person has been convicted of an offence under the Insider Dealing Ordinance and therefore licences held under the Financial Services Ordinance should be appropriately cancelled".

The second issue that the hon Member raised was the question of defence as drafted in Section 7 of the Bill. The Bill has been drafted in accordance with the directive and whilst it might give rise to a situation that potentially needs that indeed somebody can receive information in Gibraltar and then act on that information in another member state, it is only where the act of using information is committed that an offence is created. It is where the act has been created that gives rise to an offence. The simple act of receiving information is not the offence, it is the act of receiving information and subsequently acting on it. I think there is nothing objectionable in that wording.

Nothing that I would see as being necessary of any form of amendment or modification.

Dealing with the points raised by the Leader of the Opposition, the competent authority is one that the Minister will appoint and let it be clear that this is not a competent authority that will have a day-to-day workload most of the time. This is a competent authority that will have competence in the various areas outlined in the directive as and when the need to enforce its provisions arise. We do envisage that once appointed that person or entity will be the competent authority for the purpose of the Ordinance. We do not envisage the appointment of the competent authority for a period of time in relation to a particular issue arising from this Ordinance only to have that competent authority revoked and then have another appointment. There will be an appointment made in pursuance of this Ordinance in respect of the functions that the competent authority is required to undertake in relation to these duties. We would see that person or body remaining permanently in post subject to such revocation of the appointment as might be desirable in the normal course of events.

HON A ISOLA:

If I can just go back to the point of defence, it seems section 8(1)(a)(i) has nothing to do where the act takes place, it simply says that if one has done any act in Gibraltar forming part of the alleged dealing, I assume forming part is receiving or giving that information, one cannot give it unless one receives it obviously, the regulated market and the regulated market in which the dealing is alleged to have occurred is the London Stock Exchange, it is an offence, but not if it is the Amsterdam Stock Exchange, that is the difference I do not understand. Part I of Schedule 4 simply has the three listings, whereas Part II has all the Stock Exchanges, that is why I am saying I do not quite understand why it is just restricted to those three, surely it should be all of them.

HON P C MONTEGRIFFO:

Mr Speaker, I note the point that the hon Member is making, I can see why he might be confused by the matter. I will have it looked at and by the time we

come to Committee I shall give him a full explanation.

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J Gabay  
The Hon A Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

The Bill was read a second time.

HON P C MONTEGRIFFO:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken at a later stage in the meeting.

#### **THE LISTING OF SECURITIES ORDINANCE 1998**

HON P C MONTEGRIFFO:

I have the honour to move that the Bill for an Ordinance to transpose into the law of Gibraltar the provisions of Council Directive 79/279/EEC co-ordinating the conditions of the admission of securities to official stock exchange listing and Council Directive 80/390/EEC as amended on co-ordinating the requirements for the drawing up, scrutiny and distribution of the listing particulars to be published for the admission of securities to official stock exchange listing be read a first time.

Question put. Agreed to.

SECOND READING

HON P C MONTEGRIFFO:

I have the honour to move that the Bill be now read a second time. This Bill transposes into Gibraltar law the requirements of Council Directive 79/729 co-ordinating the conditions for admission of securities to official stock exchanges listing and Council Directive 80/390/EEC on co-ordinating the requirements for drawing up, scrutiny and distribution of the listing particulars to be published for the admission of securities to the official stock exchange listing.

Although Gibraltar does not have its own stock exchange, a person issuing securities in Gibraltar must abide by the rules of the exchange on which they are to be listed. The Bill provides for that. Clause 3 ensures that the application is made to the competent authority which usually will be the stock exchange of the place where the securities are to be listed. In addition to any particular requirements of that exchange, clauses 4 and 5 provide for a general duty of disclosure in the listing particulars and any changes in them so that investors and their professional advisers can be properly informed about the securities to be listed. Clause 6 provides that a copy of the particulars must be sent to the Registrar of Companies. Failure to do so is a criminal offence. Under clause 7 an issuer who makes a false or misleading statement in the particulars is liable to pay compensation to anyone who suffers a loss as a result of relying on that statement. Clause 8 provides there is exemption from that liability, for instance if the issuer reasonably believed after making necessary enquiries that the statement was true. Finally, Mr Speaker, I will highlight that the person responsible for issuing the particulars is more closely defined in clause 8 whilst clause 10 deals with advertisements relating to listing applications. It also creates an offence if an issuer advertises without approval. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON A ISOLA:

Mr Speaker, I thank the Minister for that explanation. But these are the requirements that a company or security wishing to be listed will have to meet in the place where the stock exchange is sited. I cannot understand, if there is not going to be a stock exchange, what the purpose of this legislation is and whether an impact on a Gibraltar enterprise, finding itself being listed in a stock exchange elsewhere. Obviously, it would require to meet the obligations and standards and rules and regulations that are required by that stock exchange to provide, I assume, the same or similar information. Therefore, I am not certain whether the Government envisage that this Bill will be required or whether in fact will be used. Is there a situation where the Government envisage that it will be necessary other than obviously the time when the stock exchange will be set up in Gibraltar? I am not sure whether there is a scenario where that may be. I would also ask, Mr Speaker, the same question that I asked in the previous Bill and that is whether this Bill is simple transposition of EU law or whether in fact there is anything added? It seems to be simple transposition from what the Explanatory Memorandum reads.

The final question and comment I would make, Mr Speaker, before indicating our intentions to our voting or support of the Bill is to raise the question of the competent authority. In the previous Bill we have just had there is the competent authority being appointed by the Minister and here we have the competent authority being such authority as may be designated by the Government and I would just be asking as to whether there is any difference in that? There must be a difference, otherwise they would both be the same and I assume there is a reason for the difference. I would be interested to hear what the reason is. For the reasons that I have given in all the previous Bills we will not be supporting this Bill.

HON P C MONTEGRIFFO:

Mr Speaker, the impact of the Bill on Gibraltar must be viewed in conjunction with the next Bill that will be taken by the House which is the Bill that will deal with prospectus requirements in respect of companies seeking to have subscriptions from members

of the public. Essentially, under the Prospectus Bill, companies wishing to be listed or indeed to receive subscriptions from the public will be required to comply with certain listing rules and this Ordinance effectively defines what those listing rules will be. Of course, Gibraltar does not at present have a stock exchange which means that the only possible relevance of this Ordinance and the Prospectus Ordinance in terms of at least listing is concerned, is a listing on a foreign exchange, an exchange in Europe, outside Gibraltar. But the reference to the competent authority in this Bill is a reference for the day when Gibraltar does have a stock exchange. What it basically is saying is that at that stage if Gibraltar were to have a stock exchange a competent authority in Gibraltar would be such competent authority as the Government then designates. There is nothing to be read into the distinction between Government in this Bill and Minister in the previous Bill. The reference to competent authority in this Bill is toothless at this stage because it can only be the competent authority that will come into existence if and when there were to be a stock exchange in Gibraltar.

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J Gabay  
The Hon A Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

The Bill was read a second time.

HON P C MONTEGRIFFO:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken at a later stage in the meeting.

**THE PROSPECTUSES ORDINANCE 1998**

HON P C MONTEGRIFFO:

I have the honour to move that a Bill for an Ordinance to transpose into the law of Gibraltar Council Directive 89/298/EEC on the co-ordination of requirements for the drawing up, scrutiny and distribution of the prospectus to be published when transferable securities are offered to the public be read a first time.

Question put. Agreed to.

**SECOND READING**

HON P C MONTEGRIFFO:

I have the honour to move that the Bill be now read a second time. This Bill transposes the requirements of Council Directive 89/298. The directive and the provisions apply only to transferable securities offered to the public and therefore do not cover private securities. Clause 3 provides that a prospectus must be published and that before publication a copy be delivered to the Minister and to the Registrar of Companies. It should be noted that where a company is listed on a stock exchange the prospectus must comply with the listing rules but the majority of this Ordinance will not apply to it. Clause 4 details who is responsible for a prospectus and clauses 5 and 6 define what is an offer of securities and in what circumstances it is made to the public. Clause 7 gives exemptions from the rules in clauses 5 and 6 so that, for example, an offer made just to members of a particular company or employees of a private company do not fall within the Ordinance. Clause 8 to 11 set out what the prospectus must contain - full details in Schedule 1. These provide for a general duty of disclosure in the prospectus so that it must contain details sufficient to give a prospective purchaser a proper overview of the company. Any changes must be the subject of an additional prospectus. The Minister may authorise

the omission of information from a prospectus in certain circumstances. Clause 12 provides that no advertisements about any offer may be made unless it gives details of the prospectus. Clause 13 and 14 provides that an issuer who gives false or misleading details in a prospectus is liable to pay damages to a person who suffered loss in relying on that information and certain defences are provided. If the issuer does not produce a prospectus or advertises without any reference to a prospectus he commits a criminal offence by virtue of clause 15. Finally, clauses 16 to 18 relate to recognition of prospectuses issued in other member states and makes consequential changes. Mr Speaker, there will be a short amendment which I will be seeking to introduce at Committee Stage which is purely typographical and therefore I will not deal with it at the moment.

I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON A ISOLA:

Mr Speaker, very briefly my comments on this are to simply ask again whether this simply transposes the EU directive. For the reasons given time and again we will not be supporting the Bill.

HON J J BOSSANO:

Mr Speaker, this is one where I have not had an opportunity of looking at the directive but it strikes me that since the provisions are that when issuing the securities in Gibraltar, in section (3) it says, "When securities are offered to the public in Gibraltar for the first time", is this applicable to people who are issuing in Gibraltar from outside Gibraltar? I thought that in the concept of the Single Market anybody that could issue securities could issue them throughout the territory of the European Union based on authorisation from their originating state. I wondered whether in fact what we are talking about here are people who are issuing from within Gibraltar as it were, or to Gibraltar residents?

HON P C MONTEGRIFFO:

Mr Speaker, in answer to the Hon Mr Isola, this Bill transposes the directive and in fact they should have asked the same question in respect of the previous Bill and I failed to confirm that in the case of the listings directive it also simply transposes the directive. What this Bill does is to provide for the requirements which a Gibraltar company or a Gibraltar issue to the public has to undertake, has to comply with, if it is to offer securities to the public. If the securities in question are of a company established elsewhere in the EEA but which are promoted within Gibraltar there are provisions for recognition of such a prospectus and indeed I made reference to this in my contribution earlier in the second reading. If hon Members will look at Section 16 of the Bill, essentially provision is made there for the recognition of prospectuses approved in the UK or other member states and essentially what it says is that a recognised European prospectus is a prospectus that is able to be promoted in Gibraltar and filed in Gibraltar without anything else being necessary in compliance with this particular Ordinance. Yes, of course, I am being reminded in regard to non-EEA companies, the requirements would apply because there would be a need to ensure conformity of standards, so to speak, with regard to the European regime being established in the legislation. There is recognition automatically by simple filing in the context of the EEA prospectus and non-EEA prospectus would have to comply with the substantive provisions of the Ordinance.

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J Gabay  
The Hon A Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

The Bill was read a second time.

HON P C MONTEGRIFFO:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken at a later stage in the meeting.

HON CHIEF MINISTER:

I beg to move that the House do now adjourn until tomorrow at ten o'clock in the morning.

The House recessed at 6.30 pm.

**FRIDAY 3RD JULY, 1998**

The House resumed at 10.05 am.

**BILLS**

**FIRST AND SECOND READINGS**

**THE COMPANIES (AMENDMENT) ORDINANCE 1998**

HON P C MONTEGRIFFO:

I have the honour to move that a Bill for an Ordinance to amend the Companies Ordinance so as to give full effect in Gibraltar to certain provisions of Directive 68/151/EEC (the First Company Law Directive) be read a first time.

Question put. Agreed to.

SECOND READING

HON P C MONTEGRIFFO:

I have the honour to move that the Bill be now read a second time. The purpose of this short Bill is to

complete the work of amending company law in Gibraltar to ensure that it gives effect to the requirements of EEC Directive 68/151 usually referred to as "the First Company Law Directive". Company law in Gibraltar has already been amended, particularly in 1972 and later in 1993 to give effect to almost all the relevant requirements of the First Company Law Directive but there is one provision to which effect has not yet been given. There are also two cases where the amendments previously made for the purpose of giving effect to provisions of the directive need clarification. Clause 1 of the Bill is formal. Sub-clause (2) of Clause 2 gives effect to Article 2.1(f) of the Directive. That sub-clause will provide that any balance sheet or profit and loss account received by the Registrar will require him to publish notice of such receipt in the Gazette. The provision does not require compulsory filing of accounts to the Registrar. It will therefore only currently apply to such companies that must deliver accounts at present, for example, companies registered under Part 9 of the Ordinance that are branch companies. I take this opportunity of perhaps addressing a specific point that the Opposition Member raised in the context of the specific wording of the directive and how this particular Bill seeks to deal with it. The hon Members that have had sight of the directive will know that under Article 2.1 of the directive, the impression is created that the disclosure by companies of, in this case balance sheet and profit and loss accounts, is compulsory and that therefore the query arises whether the transposition to be effected in clause 2(1) of the Bill actually is complete because 2(1) of the Bill simply has the effect when read with the principal section of saying that if the Registrar of Companies receives a balance sheet or profit and loss account then he is required to publish details of such receipt but it does not make clear that the delivery of such a profit and loss account is in fact supposedly compulsory under this First Company Law Directive. Mr Speaker, the matter has been looked at and I have discussed it with the drafters and I am assured that in fact the provisions of the First Company Law Directive do not make compulsory the delivery of profit and loss accounts or balance sheets to the Registrar. Reference is made in this regard to Article 3.4 of the directive which sets out the

requirements in respect of disclosure of documents and which to that extent therefore tallies with the provisions of Article 2 which I have mentioned. I can see that as far as Article 3.4 is concerned the position, if I have to look at it without being an expert draftsman, would seem to not entirely deal with the question of whether it does away with the apparent need for compulsory publication as would seem to be suggested in Article 2, but the advice received is that indeed this First Company Law Directive does not make compulsory the publication of accounts or balance sheets. Indeed, if it did make it compulsory it would seem to suggest that the Fourth and the Seventh Company Law Directives would have been redundant. There would be no need for the Fourth and the Seventh Company Law Directives to have been passed if indeed this already made that compulsory and therefore we are transposing this directive on advice and in a matter entirely acceptable to all concerned in a fashion that makes clear that the obligation to publish by the Registrar is only in the case where profit and loss or balance sheets are in fact delivered in circumstances where they apparently now require to be delivered by companies. I hope that this rather long-winded explanation has made some sense, at least to the Opposition Members who are concerned with that particular point. Sub-clauses (2) and (3) of clause 2 of the Bill amends Section 1A of the Companies Ordinance. The amendments, are simply by way of clarification. There are words in subsection (1) of Section 281A which were intended to give effect to the provisions of Article 3.5 of the directive about the circumstances in which documents can be relied upon. The words are, however, misplaced in that they appear in the middle of a series of paragraphs to which they do not belong. The new wording accordingly clarifies the position. Clause 3 of the Bill also makes a small clarifying amendment to section 90A of the Companies Ordinance. Article 6 of the directive requires the provision of appropriate penalties to deal, among other things, with an omission to include specified particulars about the company in its letterheads and order forms. The existing provisions of the legislation were badly drafted and the new wording corrects the position.

I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON A ISOLA:

Mr Speaker, the comments made by the Minister for Trade and Industry in respect of this Bill particularly the ones where he states that he has had confirmation that in fact the Bill is presented in its current form has the effect of transposing or completing the transposition of the First Company Law Directive. This causes an element of surprise in the sense that from our reading of the directive it seems quite clear that the requirement, as indeed with every other single requirement of Article 2.1, requires the compulsory disclosure not simple notification by the Registrar when he receives the document but actually requires and demands the disclosure. That position in respect of every other item which today appears in our section 281 of the Companies Ordinance, for example, the annual returns, there is a requirement here that the annual return is made and of course that is a requirement of section 100 of the Companies Ordinance. There is no such parallel requirement here in respect of the profit and loss account of the company and it is not something we want either, let me be clear about that. The position has been, I understand, since 1972 at the time during which the directives which required to be transposed when Gibraltar joined with the UK in 1973 the European Union, since that time I understand in fact that there was very detailed discussion on exactly this point at that time between the UK Government and Gibraltar Government, this was the only aspect that was specifically refused to be transposed. It would not be transposed, it was rejected by successive Governments and therefore if it comes now, in the form which has been presented by the Minister, then perhaps the years before that have misinterpreted the effects of the directive. Having said that, clearly the wording of the new paragraph (dd) and the wording of (f) are slightly different also in the sense that any balance sheet or profit and loss and the other one says balance sheet and profit and loss, I am not sure if there is any thing that turns. Certainly in the normal course of the meaning of the words there is a difference because one is "and/or" and the other one is "and", there must be some difference but I am not certain what impact or what advice the Government have received

in respect of that part. Certainly also in respect of the amendments to section 2(2) of the Bill that deal with penalty for failing to provide the necessary particulars in the letterheads that it relates to there is also in Article 6 a requirement for penalties in respect of failing to disclose the balance sheet. There are a number of things that are not quite consistent. Having said that, again if what the Minister is telling us is that in fact the passage of this Bill will complete the transposition of this directive without giving effect prematurely to the requirement to file then that is something that we would not have expected and we certainly welcome. Having said that, for the reasons that the Government are now well familiar with, we will not be supporting this Bill primarily because this is a part of a directive that has not been accepted by successive Governments and we do not believe it should be any different now and also obviously because of our position on the question of transposing EU directives within the financial services sector until such time as the position is clarified.

HON J J BOSSANO:

Mr Speaker, the Minister has said that everybody is now satisfied but this does not mean what it seems to mean and what everybody thought it meant up till now. The text presumably of our law will be transmitted by Her Majesty's Government through the European Commission because that is a requirement in the directive. Therefore, if the Commission accepts that the thing is properly transposed as far as we are concerned that is the end of the story because nobody presumably can then challenge it once they have accepted it. I wonder if it is that there is some difference in meaning between "disclosure" and "publication" because in the subsequent directives on publication it actually spells out that the accounts have to be available to the public at the offices of the company or at the offices of the Registrar, whereas in this case the Minister said that there was no requirement in Article 2 to deliver the profit and loss and the balance sheet to the Registrar. Well, there is no requirement in Article 2 to delivery anything to the Registrar. Article 2 does not say anything about delivering anything to anybody. What it says is, "that the member state" that is us, even though we are not the thirteenth member state, "shall take the measures

required to ensure compulsory disclosure of at least the following documents." We have got a Bill that says we are making it, this is the measure that brings about compulsory disclosure of the balance sheet and the profit and loss. We go then to the explanation he has given us in 3.4 and it says disclosure of the documents, that is, of the balance sheet and the profit and loss shall be effected by one of two means, either by publication in the national gazette which is presumably what happens now with all the other information which is gazetted in part 5 of the Gazette which normally has to be bought separately by those who are interested, but is available, or by means of a reference to the documents which have been deposited in the file or entered in the register. The alternatives are, as I read this, that if we take as he has suggested Article 3.4 and Article 2.1(f) together it will be possible to obtain access to the information in 1(f) by the route contained in Article 3.4. That is not true because he then goes on to say that companies who do not provide that information now will have to provide it after the Bill. There seems to be a conclusion that he arrives at which says the Bill implements the directive, one reads the directive and it says the directive requires compulsory disclosure of information in one of two ways, the rest of the information in the rest of the Article is already provided in one of the ways contained in the directive, the information that is missing will continue to be missing and we have completed the transposition. I suggest that the Minister gets to the bottom of how it is possible to comply with an obligation without having to do it so that we can do the rest with all our other EEC obligations and then we might not have the kind of problems that we have.

HON P C MONTEGRIFFO:

Mr Speaker, the hon Member has got to the bottom of what this directive is doing and I have explained what it does. I have also shared with Opposition Members my sympathy with what seems to me a layman's reading of the directive. The layman's reading of the directive would suggest the analysis that the Leader of the Opposition has articulated, namely that Article 2.1 seems to provide for compulsory disclosure. That is not the effect of the directive after taking advice from the draftsman who has stated his reputation on this. His words textually were, "That is not the effect of the directive, the

effect of the directive is not to require compulsory disclosure/publication". I think there is no distinction to be drawn in that issue at all. There is no disclosure required compulsorily by this directive. All this directive is doing is requiring the Registrar to publish yes either the full accounts or the fact that he has received accounts in circumstances where those are actually received by him and the advice the Government have is that this Bill completes the transposition of the First Directive. That explanation must surely be reinforced by the fact that there is a Fourth Company Law Directive. If the Fourth Company Law Directive provides for the publication of accounts it would be a completely redundant piece of legislation if indeed the effect of the First Company Directive was already making such disclosure compulsory. That is the point which I have also discussed with the people who drafted the Bill, to highlight the fact that the interpretation which at first sight would seem to be suggested by the First Company Directive is not the one that is correct.

HON J J BOSSANO:

Does it follow from that then that none of the other eleven elements which we make a requirement in our law for disclosure, at present, of the twelve items that there are here, eleven have already been done and the twelfth is the one that is being done today. Does it follow from what the Minister has said that in fact none of the other eleven are needed either? The fact that we had previously made provision for the eleven to be disclosed means that it was based on incorrect advice going back to the beginning because none of it should have been done or neither should have been done.

HON P C MONTEGRIFFO:

No, Mr Speaker, I cannot give the Opposition Member a history, a blow by blow account of how the different parts of the directive had been implemented in 1972 or 1993 but the section into which this amendment is inserted is the section that does not have any bearing on compulsion. Section 281 simply notes that the Registrar shall cause to be published in the Gazette notice of the issue or receipt by him of documents of any of the following descriptions and then it goes on to provide a list of documents to which we are now adding, by way of

sub-section (dd) any balance or profit and loss account. For example, in sub-section (a) of that section, it says, "Any certificate of incorporation of a company", so presumably when a company is incorporated and a certificate is produced then there is a requirement under 281A for the Registrar to have to publish that certificate. There is nothing in this section that says that it is a compulsion to have a certificate of incorporation, there is another section obviously that will say that before a company is incorporated it requires a certificate of incorporation but there is nothing in 281 itself that deals or addresses the issue of compulsion. 281A purely provides for documents that have to be published if they are received by the Registrar. Mr Speaker, the Government would not have brought this Bill to the House if the effect of the Bill in Gibraltar law would have been to make compulsory today what we are seeking to deal with great care in the context of the Fourth and Seventh Company Law Directive and that is why when this matter was raised by the Opposition Member I particularly listened to him yesterday afternoon in checking the position and of delaying the tabling of the Bill for discussion until the matter could be addressed. It has been to my satisfaction. The domestic legislation we are transposing makes clear that it is only on receipt of such information that publication is required and as normal this legislation has been seen by those that will be transmitting it on to Brussels and therefore we are confident that it will complete the transposition as I have described it.

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J Gabay  
The Hon A Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

The Bill was read a second time.

HON P C MONTEGRIFFO:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken at a later stage in the meeting.

**THE TRAFFIC ORDINANCE (AMENDMENT) (NO 2) ORDINANCE 1998**

HON J J HOLLIDAY:

I have the honour to move that a Bill for an Ordinance to amend the Traffic Ordinance be read a first time.

Question put. Agreed to.

SECOND READING

HON J J HOLLIDAY:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill makes provision for a new section 4A to the Ordinance. This amendment addresses the issue of responsibility in cases where the owner of a vehicle is a financial institution who allows and authorises the use of the vehicle to an individual under a hire purchase agreement, a loan, or overdraft. As the law stands at present a hire purchase company or financial institution as owners of the vehicle which is subject to a hire purchase agreement, loan or overdraft, could be liable for any act or omission of the person who is in possession of a motor vehicle. An offence committed by the last named category of person should be answerable by the person who has committed it and not by the hire purchase company or financial institution who are the ultimate legal owners of the vehicle. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON J C PEREZ:

Mr Speaker, although not all of the copies of the Traffic Ordinance are up to date, having checked three of them already I think that Government Members have made a grave mistake in actually creating a new clause 4A since there is already in the statute a clause 4A which has to do with the motor vehicle testing and the creation of the examiners. Clause 4 in itself has nothing to do with this and therefore if one creates a clause 4A which already exists anyway, one cannot create a clause 4A if clause 4A already exists, I think it is the wrong section completely but.....

HON J J HOLLIDAY:

The issue which the hon Member raises, I actually raised with the Law Draftsman and I was informed that Part 1 of the Traffic Ordinance would make provision which are relevant to the manner in which all other parts of the Traffic Ordinance should be read and understood. This new sub-section (a) belongs to the category of items which are of a general nature and should therefore appear under Part 1 of the Ordinance. The final section of the existing Part 1 of the Ordinance is section 4 so a new sub-section needs to be numbered 4A so that it comes under the ambit of Part 1. Part 2 of the Ordinance commences with section 5 and it is not possible to number the new section 5 without numbering the whole of the Ordinance.

HON J C PEREZ:

The Minister misses the point. There is already a 4A in the Ordinance.

HON CHIEF MINISTER:

Yes, if the point that the hon Member is making, which is the one that I have understood him to be making, that this Bill purports to create a section 4A(1) and that irrespective of the content of it he believes that there is already something numbered 4A(1) and that therefore we cannot have two sections numbered, if he is right of course he is right and this will have to be renumbered and we will

certainly look at that before the Committee Stage and correct it if indeed the hon Member is right.

HON J C PEREZ:

The Minister has certainly explained fully the problem that exists with the lenders but I do not think that this is adequately reflected in the drafting. I do not think the Bill will achieve what the Government Members want it to achieve since one is talking about lenders there without mentioning whether the car in question is registered in the name of the lender or not. We are talking about taking away the liability of the lender and there is no link between the lender, for example, I can lend the hon Member money to buy a car and why should I be liable for anything unless the car is not in my name. There is no link, there is no mention there that the vehicle is registered in the name of the lender and I think that as drafted the Bill does not achieve what the Government Members want it to achieve.

HON CHIEF MINISTER:

I agree that it is a highly legalistic point although I do not think the hon Member is right. The fact is that a lender can only possibly have liability for traffic offences committed with a particular car if the car is registered in his name. If the car is not registered in the lender's name then this cannot apply because there is no other law imposing liability on a lender in whose name the car is not registered. The Bill is designed exclusively to deal with the only permutation of facts that does exist in practice and that is, that as the hon Member knows, at least financed cars it is the practice, in order to preserve their security on the car, for lenders to keep the car registered in their name and therefore it is only those lenders, the ones who choose to keep the car registered in their name that are in jeopardy of being prosecuted for allowing the car to be used for this or allowing the car to be used for that. Therefore, the Bill effectively deals with that because they are the only lenders that are in jeopardy.

HON J C PEREZ:

Mr Speaker, if there is no specific mention of the fact that the vehicle has to be registered in the

name of the lender, I presume that a legal point could be raised that the issue is not adequately covered.

HON CHIEF MINISTER:

Mr Speaker, there is no legal obligation to register it for a lender. Indeed, some lenders do not, there are lenders who take a different view of their security interest and choose not to. There is no legal requirement that a car be registered in the name of a lender. As the law stood before this Bill, if a financial leasing company makes a loan to somebody to buy a car and chooses to keep the car registered in the name of the lender, then the Traffic Ordinance would impose, and the Criminal Offences Ordinance, would impose certain criminal liability. I cannot think of one right now but allowing ones car to be driven without insurance for example is an offence that the lender, who handed over the keys of the car to the real buyer a year ago and has not seen it since, would technically become liable for that criminal offence because he is the registered owner of the car. But if a lender chooses not to register the car in his name then he is outside the scope of all this altogether. All I am saying is that there is no need to create the link because the link is created by the choice of the lender. He either chooses to have the car registered in his name or he chooses not to. What we are now achieving is that regardless of which of those two choices he makes, he is not liable for criminal or traffic offences committed in respect of his car whereas before he was liable if he kept the car registered in his name but not liable if he did not.

HON J C PEREZ:

I understand fully what Government Members want to achieve. We agree with this but I still think that if there is no link in either Section 2 or sub-section (2) where it should state that where the car is registered in the name of the lender, then one is talking about a liability on the lender which is not specified and it is not specified because there is really no liability on the lender unless the car is registered in his name. That is the only point I am making. I understand fully what he is trying to achieve but I think that unless the specific liability which we want to exclude is not fully

spelt out it is not substantially clear what the Bill aims to do, that is the only point.

HON CHIEF MINISTER:

If the hon Member will give way, I will be grateful to him again. Two points, Mr Speaker, this section provides a blanket exemption from all offences created under the Traffic Ordinance. It says "no provision of this Ordinance..." And of course this Ordinance does not mean this Bill, this Ordinance means the whole Traffic Ordinance because this amends the Traffic Ordinance by inclusion of this Bill. What the Traffic Ordinance will read after we have put this Bill into it is that no offence under any part of the Traffic Ordinance shall apply or be capable of being committed by the lender of the car and therefore there is no need to identify the particular offences because the section makes it clear that it applies to all offences.

HON J C PEREZ:

I am not talking about all offences, I am talking about the liability that we want to exclude from the lender and I am not saying that the offences should be spelt out. What I am saying is that if the liability is not described adequately then we are excluding lenders of a liability that does not exist because unless one states that the registered vehicle is in the name of the lender then there is no liability to exclude the lender from and then the Bill does not mean anything.

HON CHIEF MINISTER:

Mr Speaker, as a matter of semantic meaning I know what the hon Member is saying. I have to tell him that in my political and indeed my legal judgement he is making a complete non-point. There is no such risk of ineffectiveness of this section as he is fearing might exist but I will tell him something else and that is that there has been very broad consultation with the finance companies who have submitted it to their lawyers and the Government have only brought this to the House after the widest process of consultation and after everybody who is affected by it has expressed a view that they are content that it is effective. The Government and its advisers think that it is effective, the Finance Companies and its advisers think that it is

effective. The hon Member thinks that it is not effective on an argument on which I sincerely believe him to be mistaken. In those circumstances he will understand that we do not take his point.

HON J C PEREZ:

Mr Speaker, the point I have been trying to make is a drafting one only. It is not that we have any wish to vote against this Bill or anything else, we support it, but the point that is being made is only a drafting one. I repeat the point of clause 4 because I think we need to go back and check that, that is all I have to say.

HON J J HOLLIDAY:

Mr Speaker, I take the point made by the hon Member and obviously the numbering of the amendment will be looked into and amended if required at Committee Stage.

Question put. Agreed to.

HON J J HOLLIDAY:

Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today or later in this meeting.

Question put. Agreed to.

**THE LICENSING AND FEES ORDINANCE (AMENDMENT)  
ORDINANCE 1998**

HON J J HOLLIDAY:

I have the honour to move that a Bill for an Ordinance to amend the Licensing and Fees Ordinance be read a first time.

Question put. Agreed to.

**SECOND READING**

HON J J HOLLIDAY:

I have the honour to move that a Bill for an Ordinance to amend the Licensing and Fees Ordinance be read a second time.

On a preliminary matter I would like to indicate why section 1(2) of the Bill provides for different implementation dates for sections 2 and 3 of the Bill. Sections 2(1) and sections 2(2) deal with the departure tax payable in respect of persons who leave Gibraltar by air. Up to the 31st March 1998 departure tax in respect of air departures had been charged at two rates, that which applied in respect of airlines on summer schedule and that which applied in respect of winter schedules. The airlines summer schedule commenced on or about the 1st April each year and hence Government have deemed it necessary that the change in the system of charging air departure tax should coincide with these significant dates in terms of air traffic charged by carriers. The tax chargeable on persons who arrive and depart by sea is a different matter. The effective date of the proposed changed date set out in section 2(3) is the 1st July 1998 as this was the date which was agreed with cruise companies to increase cruise business for Gibraltar.

Mr Speaker, let me now turn to the substance of the Bill. Section 2(2) provides that the departure tax from Gibraltar will be on or after the 1st April 1998 be a year-round figure of £7 in respect of all destinations except Morocco for which a lower tax of £3 will apply. This figure was arrived at by examining the yield to Government from air departure tax and averaging it out over a full year per passenger. What it means in real terms is that passengers who fly from Gibraltar in the summer months will pay £2 less tax per person in respect of all except Morocco departures. This makes the Gibraltar route that little more attractive as I am aware that the cost of air tickets was a key element in growing the tourism sector. The downside is the passengers who use Gibraltar in the winter months who will need to pay a higher level of tax but the general trend for airlines is to reduce their fares in the winter months when there is less demand for air travel generally. Government will therefore neither gain or lose through this change in the structure. However, I know that it is helpful to airlines that a single tariff applicable on a year round basis in respect of departure tax. Attention was drawn to this issue recently in the specialist UK travel press. This is because departure tax was previously incorporated into the price of the tickets and did not appear as a separate item. Airlines were unhappy with this because they were

having to pay commission to travel agents in respect of the cost of the air tickets and also in respect of the travelling tax. It is unreasonable to expect an airline to pay commission on a Government tax and therefore agreed with the airlines that the departure tax should be shown separately on tickets by airlines as is common practice in other destinations. Provisions for section 2(2) sets out the exclusion in respect of departure tax and these are standard exceptions.

Mr Speaker, I will now turn to section 2(3) which sets out changes in respect of tax payable in respect of passengers arriving and departing by sea. The major difference which I would like to highlight in respect of sea and air passengers is that air tax is simply departure tax whereas the sea tax is payable in respect of passengers who arrive at or depart from Gibraltar. The tax in respect of ferry passengers remains unchanged at 50p per arriving or departing passenger, the principal change in respect of passengers who arrive or depart on a cruise ship. Section 2(3) provides for a series of discounts to apply in respect of tax in cases where cruise ships have scheduled a series of visits to Gibraltar. This tax will only apply per vessel and not per company. The discount is becoming increasingly attractive with more calls of cruise ships scheduled at Gibraltar and the intention behind this change in the Ordinance is to attract a greater number of cruise calls. The Port of Gibraltar is unusual in shipping circles in that it enjoys a small number of calls from a large number of ships. Other ports are competitors, attract many more calls from a smaller number of ships. Government are now trying to bridge the gap by becoming more attractive to companies who wish to schedule a greater number of calls at Gibraltar. In this connection there will be no tax on ships which decide to use Gibraltar as a turnaround port and the off spin to the economy of having passengers joining cruises at Gibraltar or terminating their cruise here are very considerable and far outweighs the revenue which would otherwise accrue to Government through a tax of sea arrivals and departures.

Section 3 provides for the repeal of the existing provision in the Licensing and Fees Ordinance in respect of passenger tax by air and sea.

I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON A ISOLA:

Mr Speaker, the operational date of the Bill being the 1st April 1998 I am not sure in practical terms how that will operate and as to whether in fact the airlines have been charging the £7, the £9 or the £4 depending on whatever time those passengers came in. My question is in respect of the first part of the departure tax on airlines. I think that the hon Member has indicated in the past that he anticipates that this will be revenue neutral. We have in fact, my Colleague the Leader of the Opposition has been I know requesting information on passenger tax and in fact we are waiting a response in respect of the forecast outturn which has been broken down and the figures have been transferred going backwards and forwards. We still have not got clear in fact what exactly the amounts of money that are being accrued and whether those figures are correct because my Colleague's information is in fact that those figures are incorrect and we are still waiting clarification. I think the last letter was dated the 11th June and a response has not been received in respect of that. With regard to the matters in 2(3) of the Bill, we would be interested to know what in fact Government anticipates the cost to it in terms of the attractions by reductions to cruise liners in paragraphs (a), (b), (c), (d) and (e). What amounts of money this Government anticipate over a twelve-month period, I am sure the exercise is being done in terms of cost to Government by producing that incentive, it would be interesting to see if the exercise has been done what amounts of money the Government anticipate will be spent in providing that incentive. Another interesting thing from reading the wording of the Bill, I am not quite sure whether the paragraphs (a) to (e) do what they are intended to do unless the Chief Minister stands up and tells me it is another non-point, it seems from my reading of it that in fact, it says that a reduction in respect of every fare-paying passenger travelling on a vessel that calls at Gibraltar between two and four times in a calendar year shall be 10 per cent. In other words the reduction in respect of a passenger on a ship that calls between two and four times gets a 10 per cent discount. Bearing in mind the departure tax is technically due

by the passenger, I assume what the Bill is seeking to do is to say that it is the same vessel that has come here between two and four times. This is an incentive to bring the vessel back, I am not sure whether in fact the Bill has the effect of saying the passenger, if the passenger comes back in two or three, four or five times, where does the discount go? Because it should say, "travelling on...", I do not know what it should say, perhaps Government should know what it should say but it certainly seems that from reading that it does not mean that the same vessel has to come in four times and a passenger who has only been here once gets a 10 per cent discount, it is obviously the ship, otherwise it would be impossible to calculate as to which passenger has been here on what ship but the wording of the Bill is not clear.

Mr Speaker, I would also ask in respect of the first part. I know that the law has always said, "fare-paying passengers" and although it is something that has appeared in the previous Legal Notices affecting the passenger tax I would be interested to learn whether in fact fare-paying passengers includes private aircraft. I am not sure that private aircraft attracts departure tax as the owner/occupiers I suppose are not fare-paying passengers because it is a private jet. I wonder whether that situation will attract passenger tax?

HON CHIEF MINISTER:

Mr Speaker, it is not entirely a non-point, I suppose there is some pedantic logic to the point that the hon Member is making. I think that the intention of the legislation is clear. The liability is imposed on a passenger in respect of his arrival on a ship at a particular time. These are not cumulative rights, the passenger arrives, he has to arrive once in one ship and then again in another ship to accrue. It is capable of that strange interpretation but I can assure the hon Member that it is a strange interpretation and it is certainly not going to be the way that the Ordinance is administered by those who have to collect the tax. I think that the intended meaning of the legislation is clear especially when read together with the language used in the rest of the Ordinance that is being amended and that is that it relates to the particular cruise ship visit on which the passenger finds himself. In any case the hon Member

knows that in practice, I cannot tell him whether as a matter of strict legal imposition, arrivals and departure taxes are actually the legal liability of the carrier or of the passenger. He has asserted confidently that it is a liability placed on the passenger. He may be right but I would not assume that without checking it. In any case, he knows that in practice whomever the tax is imposed on the practice of it he knows it to be that the carrier is the one who pays and includes the arrival and the departure taxes in the fare or ticket in question. Whilst, certainly somebody who was wanting to create that difficulty might be willing to justify that interpretation given that this is going to be administered by the Gibraltar Tourist Board on behalf of the Government of Gibraltar that is not the way they will do it.

HON A ISOLA:

Mr Speaker, as the Chief Minister said it is not a major point and I do not think it is something that is going to be challenged but if the word instead of "every" was "each" and if the word instead of "calls", "has called", then it would make the language a little bit clearer. I was not in fact suggesting that the fare-paying passenger himself pays the departure tax, the cruise ship pays the departure tax, but in fact section 2(1)(ii) says it two lines above, "by the cruise ship", but it could I suppose at some stage, some smart individual could come and say something that is clearly not intended and my comment was simply that if one makes those two changes instead of "every", "each" and then instead of "calls", "has called", then one is specifically relating it to the ship as opposed to anything else but it is a small point and I do not think it is worth wasting too much time on it.

HON J J HOLLIDAY:

Mr Speaker, I would just like to clarify some of the points that have been raised by the Opposition Member. I would like to confirm that airlines have been collecting the new level of departure tax as from 1st April this year and that the level of departure tax to appear as a separate item on the ticket has been proposed in this Bill. I must stress that these changes have been done in full consultation with the airlines, well over a year ago. In fact, possibly more like 18 months and it

was logistically appropriate that we should introduce this on the 1st April at their request because of various changes which had to be undertaken in computer programming et cetera. The second point that I would like to make is that this exercise as far as air passenger tax is concerned is revenue neutral assuming that obviously figures remain at the same level. The figures that the exercise was carried out not based on information as appears in Government finances where they may be a lag in terms of previous years collection of actual departure tax from the Terminal Management, but that the figure and the exercise were based on the information that was supplied by the airlines in terms of number of passengers that have actually gone through Gibraltar Airport and these have obviously been checked with Terminal Management who keep their own records as to actual figures and what we have done is that we have had the exercise done based on the actual number of passengers during a twelve-month period. The hon Member questioned the exercise in terms of possible loss or increase in Government revenue and I can say that the exercise has been done in terms of passenger tax on cruise ships but I can also say that this exercise has been used as part of our marketing strategy in order to entice new operators to come into Gibraltar. I can say that already this exercise is starting to pay dividends and there is one particular cruise company who have not come to Gibraltar before who will be coming to Gibraltar 24 times next year as a result of the discount that we are offering which possibly these people would never have come. There is another company that will be coming for the first time next year and have agreed to come in 12 times, again possibly attracted by the sliding scale being offered by us. Let me tell the House that this is actually a practice that is now being carried out by a number of competitor ports in the Mediterranean so we are not actually giving them something which is new to the industry but it is certainly new to Gibraltar and I think that the amount of bookings that have been already programmed for next year shows that this marketing exercise is starting to pay dividends in itself. We are quite optimistic that the actual revenue will increase but that will be as a result of increase in number of cruise calls and passengers rather than the opposite effect.

Question put. Agreed to.

The Bill was read a second time.

HON J J HOLLIDAY:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today or later in the meeting.

Question put. Agreed to.

**THE SOCIAL SECURITY (CLOSED LONG TERM BENEFITS AND SCHEME) ORDINANCE 1996 (AMENDMENT) ORDINANCE 1998**

HON H CORBY:

I have the honour to move that a Bill for an Ordinance to amend the Social Security (Closed Long Term Benefits and Scheme) Ordinance 1996 be read a first time.

Question put. Agreed to.

**SECOND READING**

HON H CORBY:

I have the honour to move that the Bill be now read a second time.

Mr Speaker on the 5th January 1998 the Social Security (Closed Long Term Benefits and Scheme) Ordinance was amended to provide a further opportunity to pay arrears of social insurance contributions to those persons with incomplete records who were in employment in Gibraltar on the 6th January 1975 but did not elect to do so at the time. This option was also given to widows and widowers of insured persons who are eligible but are now deceased. The closing date for the payments of these arrears was the 5th April 1998. It so happens that several applications of persons who satisfy all the conditions for payment were submitted to the Department of Social Services after the expiry date. Mr Speaker, the purpose of this Bill is to extend the period of the 30th July 1998 and thus accommodate those who failed to apply before the closing date. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON R MOR:

Mr speaker, the explanation that the Minister has given is practically word by word the explanation on the Explanatory Memorandum. It is rather surprising that the Explanatory Memorandum has about 200 words just to say that the date is being extended from the 5th April to the 31st July. Given, that we are already in July, might it not be fair to extend that date further? That is one point I would like to make. Mr Speaker, it is rather strange that just that little amendment to the Bill, the extension of the expiry date, that we should have reproduced practically the whole of the Bill that was passed here on the 5th April and in fact if one goes paragraph by paragraph it is almost exactly word by word with just the amendment that wherever the phrase within three months of the date of coming into force of this Ordinance, which was the wording in the previous Ordinance, one would now have to read prior to the 31st July 1998. Practically the whole of the previous Ordinance is repeated in this amendment except that there is one little difference in page 257 where in the previous Ordinance in paragraph 7, it said, "For the avoidance of doubt a reference in this section to section 3A of the Social Insurance Ordinance, is a reference to the section 3A enacted under section 2 of the Social Insurance (Amendment) Ordinance 1973, and as amended from time to time". That was the wording in the last Ordinance. In this there is a difference, it says, "For the avoidance of doubt a reference in this section to a Section 3A of the Social Insurance Ordinance is the Social Insurance (Amendment) Ordinance 1973 and as amended from time to time". If everything else has been extracted exactly the same why this particular little bit is different now is something which we have not had an explanation on unless it is that a line has been missed out, I am not sure. In the Bill at present in this House, if one looks at sections (a) and (b) in section (a) the second line is missing from (b) as an extra line. There are three lines in (a) and four lines in (b) and on the original Ordinance they were both exactly the same.

Mr Speaker, when the Ordinance was brought to this House in January 1996 we raised the point that an anomaly would be created for some people who might be affected by the date that was set down, that is the 6th January 1975. The Ordinance says, "every

person who was required to be insured under the 1955 Ordinance on the 6th January 1975", I remember that at the time we raised the point that there could be people who had not necessarily insured on that particular day because either they may have been unemployed or because they may have been away from Gibraltar and a whole series of circumstances which could arise and I remember that after having raised this matter further we were told at one stage that there were some 77 persons who had not qualified because of the fact that they were not working on that particular day. Mr Speaker, I think it is a convenient occasion where we should ask the Government to reconsider once again and allow for persons who might be allowed to pay back their arrears. I know one of the arguments which the Chief Minister raised was the fact that Spaniards might be involved, but I doubt whether that would be the case because Spaniards were withdrawn in 1969 and practically most of them would not have been working here after 1975 in any case. Mr Speaker, those are the points that I wish to raise.

HON CHIEF MINISTER:

Mr Speaker, just starting if I could with the last point that the hon Member has made, it is not Government policy at this stage to do so. We had this debate at the time of, I do not remember, it was not at the time of the original Ordinance, but I recall that we had it at some subsequent point. The Government policy decision made at the time and reflected in the drafting and therefore in the way that the rules applied was that we wanted to create the same windows of opportunity as had already been created in the past and the hon Member knows that in the past there had always been created by reference to the 1975 date because we could be completely certain that that exercise had withstood the test of time and that no one had been able to mount a successful challenge, no one from outside had been able to mount a successful challenge to the reopening of an opportunity to pay arrears in the context of that date. Of course it would be possible for this or any other Government in the future to take the decision to give a fourth opportunity to repay arrears by reference to some different cut-off date. There is nothing to prevent a Government from adopting that position. We have not done so because we had wanted, in the context of the hon Members being aware of the whole pension

scenario in Gibraltar being under the microscope, the Government did not wish to take unnecessary risks. It would be possible for the Government to consider and take advice about whether moving the date 1st April 1975 onwards to some other date, 1976 or 1977 or whatever, and it would be possible for the Government to take advice whether that would be as innocuous in relation to possible challenges as the 1975 date has proved to be. It is just that we have done it and rather than take the risk of doing it in an ill-considered way that might bring consequences it just has not been done. There is nothing to prevent the Government from doing that but it would always have more risk because advice does not always turn out to be correct and it is much safer to rely on tried and tested events than on a lawyer's opinion that may or may not be upheld in court. Government do not discount the possibility of moving in that direction but have not so far taken a policy decision to actually move in that direction and it is not so much a question of wanting or not wanting to benefit the 77 persons. If the hon Member says there are 77 people in question as rather not wanting to open the floodgates to the whole category of people, it is just a question of looking into it. I have not given this much thought but I suppose that wherever one puts the cut-off date there are going to be people on the wrong side of it and if we do it in 1976 or in 1977 the hon Member is going to say that there are people in 1978. There is always going to be that point. I am sorry that the hon Member should not like the fact that the Explanatory Memorandum is too long. This must be another example of the obsession under which we labour on this side of the House to give as much information and explanation as possible which is clearly anathema to Opposition Members. Obviously, when these Explanatory Memoranda are drafted the Government are aware that Opposition Members are aware of what has happened in the past and are familiar with the philosophy and the effect of the principal Ordinance but of course these Explanatory Memoranda are not drafted exclusively for the benefit of this House. These Bills are published in the Gazette, they are sometimes read by ordinary citizens and the Explanatory Memorandum is also intended to give them and indeed the press as much background information as possible and the hon Member should not consider, if he regards the Explanatory Memoranda to be an unnecessarily

detailed fool's guide, that it is not that I think that his grasp of the principal Ordinance requires such detailed explanation for him. I think it is just for the consumption for those who are not familiar necessarily with the Ordinance.

As to the point that the whole section is set out again, Mr Speaker, it is a drafting technique. I suppose it would have been possible to have formulated the clause here in this Bill, however, I think that draftsmen prefer, when it is not too long to set this out because it means that people can see the effect of the amendment in the context of the principal. But the hon Member is right, it would have been an equally legitimate drafting device to have altered the date references without setting out the whole section verbatim. I think it is just a question of drafting technique and I do not think anything particularly turns on that. I think that it seems that there is a misprint and we can have this obviously checked on page 257 before the Committee Stage. Either the word "and" is superfluous at the end of the second line of (a), because it actually does not read with it there, or and I accept that without research the most likely explanation is that there is a whole line missing between the third and the fourth line of (a) as printed. I am grateful to the hon Member for pointing this out and we shall move an amendment accordingly at Committee Stage.

HON J J BOSSANO:

Mr Speaker, I agree that it is wise to take advice of any potential risk of changing the date for those people who are at present unable to pay the arrears for that period of time. In fact, it does not seem to me that there can be such a risk and it does not seem to me that in fact changing a date can leave other people on the wrong side because we are talking about a period in the past when insurance was not compulsory and the numbers of people still around who were deprived of the opportunity of paying insurance because the law said one can only pay insurance if one's earnings are below £500, those are the people that are coming in. However late we put the cut-off date, we are talking about very elderly people and we cannot bring more people in because it is not that if we have a cut-off of 1980, more people will be paying insurance up to 1980, they have only got to be paying insurance

prior to the compulsory date. Presumably, post the compulsory date, people can pay the arrears already. In fact if they do not pay the arrears they get threatened with legal action for not paying arrears. There are people getting letters saying they must pay arrears for more than one year and that if they do not pay they will be taken to court. So I do not understand how somebody can be told, "You cannot pay if you want to but we take you to court if you do not want to". The two things do not seem to sit side by side and there are letters that are going out from the Arrears Unit telling people, "You owe arrears of insurance of two or three years ago and action will be taken if you do not pay". What they cannot do is say that if one wants to pay we cannot let them pay because one can only pay one year. I think the post compulsory period, maybe there is some anomaly there that needs looking at, maybe some part of the Ordinance says one cannot pay and some part says one has to pay. That in fact shows that the scenario post the compulsory date is a different one from the scenario pre the compulsory date and therefore I can only think that the reason why the date was there in the first place was simply because that was the date when it was made compulsory so people were told initially when the first window of opportunity occurred, it is compulsory from today and obviously given the fact that one has in the Ordinance a requirement to have a minimum number of stamps to get a minimum pension which averages 13 contributions a year, and people were caught at different ages, if in 1975 it was made compulsory and somebody was 56 years old in 1975 he would only have been able to pay for nine years. He would then have found himself in a situation where he was obliged to pay insurance for nine years but was not entitled to a pension because if one contributes for less than 10 years one gets nothing. It would have been a completely unacceptable situation. It would have been a tax because one would have said to people that they were required to contribute to an insurance to which they would never be entitled. When they were made to pay they were told, "if you are working today and you are required to pay today, you are given the opportunity to pay for all the previous years". I think that is probably how it came about and I think if we are going to look at the debate in 1975, I was here then but I do not remember the exact argument but I imagine we will find that that is the nature of the argument. If that is indeed the case then there is no particular

significance other than that to the cut-off date and therefore I think that should be taken into consideration by the Government when they decide to look at this possibility. I would simply urge the Chief Minister to try and given it some priority given that the numbers are a declining number because those involved cannot increase, there can only be less of them with the passage of time.

Question put. Agreed to.

The Bill was read a second time.

HON H CORBY:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today or at a later stage in the proceedings.

Question put. Agreed to.

#### THE UNFAIR TERMS IN CONSUMER CONTRACTS ORDINANCE

HON K AZOPARDI:

I have the honour to move that a Bill for an Ordinance to transpose into the law of Gibraltar Council Directive 93/13/EEC on unfair terms in consumer contracts be read a first time.

Question put. Agreed to.

#### SECOND READING

HON K AZOPARDI:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill transposes into Gibraltar law directive 93/13/EEC on unfair terms in consumer contracts. The legislation breaks new ground in consumer protection since the main effect of this directive is to introduce for the first time into our law of contract the general concept of fairness on contractual terms. The directive prohibits the inclusion of unfair terms in standard form contracts between a supplier acting in the course of business and a consumer. The proposed legislation will allow ordinary consumers through designated bodies to challenge the validity of clauses in contracts which they personally are not

in a position to negotiate. An "unfair term" is defined as "a term which contrary to the requirements of good faith, causes a significant imbalance on the party's rights and obligations arising under the contract to the detriment of a consumer". The directive carries with it an exhausted list of terms which may be but which are not necessarily held to be unfair. Schedule 2 contains a list of some of the matters which should be considered when making an assessment of good faith. Unfair terms are not binding on the consumer. The Ordinance applies with certain exceptions to any term which has not been individually negotiated in contracts concluded between a consumer and a seller or supplier. Schedule 1 contains a list of contracts in particular terms which are excluded from the scope of the Ordinance. In addition, those terms which define the main subject matter of the contract or concern the adequacy of the price of remuneration as against the goods and services supplied are not to be subject to assessment or fairness provided that they are in plain, intelligible language. The Ordinance further provides that persons or groups of persons having as their sole or principal aim the promotion of the interests of consumers may apply to the Minister for designation under the Ordinance. Designated persons may consider complaints about the fairness of any contractual term drawn up for general use and may, if appropriate to do so, seek an injunction to prevent the continued use of that term or a term having like effect in contracts drawn up for general use by a party to proceedings. In addition, the Minister is given the power to arrange for the dissemination of information and advice concerning the operation of the Ordinance. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON A ISOLA:

Mr Speaker, there are certain differences which are originating in the directive and I am not sure if it is a question of applying the directive in a different way or it is in fact giving a different meaning to the directive in the way it is being transposed. First of all there is a question whether it is unfair or not. Obviously in accordance with part of the Schedule which are

derived from the directive, if there is a determination or a belief that it is unfair, then under Article 7, that is taken to a competent authority or the courts for that determination to be made. There is then obviously the provision under Article 7 that if it is unfair then there is provision to seek an injunction to prevent it from continuing to be applied to that or other persons. In the law that is being transposed there is a slightly different change which first of all the question arises as to whether it is fair or unfair. It then is submitted to a designated person and obviously a designated person, as the Minister has already said, is somebody who in the view of the Minister represents the interests or, for example, somebody who represents the consumers. The competence of that person or authority to determine that question is one that we will have to see when that designated person is appointed. It seems that it would be more appropriate, for example, to have a tribunal like we have a Trade Licensing Tribunal, to have a Consumer Services Tribunal which would have the competence not in name but in practice to determine questions which really apply to the law as to whether it is fair or unfair. Once that designated person determines whether it is fair or unfair there is a question mark then as to what the effect of that is. If the designated person says it is unfair what is the effect of that, where are the teeth that come to that? It is clear that once one takes the next stage then one has to go to court to apply for the injunction. It is that middle stage that is not clear as to what the effect is of the designated person designating something that is unfair. I cannot quite follow the difference in the manner in which it operates. As an example the directive states, "and in particular unfair terms, either before a court or before an administrative authority competent to decide upon complaints or to initiate appropriate legal proceedings". I am not sure whether the effect of the designated person is in fact that administrative authority competent to reach those decisions. If, for example, the Housewives' Association or any other association comes to the Minister and says, "We believe we are an appropriate person to determine whether certain aspects of consumer services and trading, we have an interest, which is a legitimate interest on behalf of our members", whether that would be sufficient for them to be appointed as a designated person. If so, and they are deemed to be designated persons

whether they are in fact competent to determine whether a part of a contract is fair or unfair. Article 7 states that, "The member state is to ensure that in the interests of consumers, adequate and effective means exist to prevent the continued use...". "The means referred to in paragraph 1 shall include provisions whereby persons or organisations, having a legitimate interest", and this is where I assume the designated persons comes in, "may take action according to the national law before the courts". When we are dealing as the Minister knows with injunctions and injunctive relief there are certain prerequisites, obviously there are undertakings and damages that have to be given but those provisions would be excluded by the provisions of this Ordinance and damages would not be a remedy. I am not sure how this interplays with those prerequisites of injunctive relief. From the reading of the Bill it is not clear to me as to what the position is but I would ask for information to clarify in practical terms how a complainant who seeks to use this Bill or Ordinance when it comes into effect to gain his protection that the directive seeks to give him, how, in practice, it operates because there is a difference between the directive and the Bill as far as I am concerned and further what the requirements are before the Minister will designate a person under clause 8(1) of the Bill, what the criteria are for the Minister to be satisfied if that person is in fact suitably qualified or has a legitimate interest to qualify him as a designated person? Clearly, the principle involves unbiased people and I would be interested to see what the criteria the Minister intends to set himself when appointing people. Again, one of the points that I have most interest in is this business of the ability of the designated person to determine a contract unfair and if they do, what happens? Does the fact that a contract or part of a contract is determined unfair, what is the relationship between the parties legally by virtue of this Bill? There is also another question, if indeed a designated person brings legal proceedings for the injunction, who would in fact foot the bill for those proceedings? In the event of the application being unsuccessful, would the citizen, that has brought the complaint be himself liable for those costs if he loses which would be the cost of the trader as well as the consumer or will in fact the designated person, in other words, the competent authority, if one wants to call it that, be required

to foot that bill? I would be grateful for those answers.

HON K AZOPARDI:

Mr Speaker, as the hon Member says, there are some slight differences between the draft prepared which seeks to transpose the directive and the directive itself because the directive as the hon Member will have noticed sets down principles of consumer protection and asks the member states to interpret and legislate on those principles. Even though our law is different to that of the United Kingdom, given that it is the most proximate member state that has similar principles to us, our Legislation Support Unit has drawn on the English transposition of the directive to base this current draft and so if the hon Member has an opportunity to look at the Unfair Terms in Consumer Contracts Regulations 1994, made under the English legislation, he will see that it is almost verbatim. That is the first point.

HON A ISOLA:

Mr Speaker, I appreciate that but obviously in this particular area of law there is a pretty big difference between ours and the UK. There is no Sale of Goods Act which there is in the UK and there is not here and that deals specifically with the areas that we are dealing with here. There is no Consumer Credit Acts, those are specifically what this Bill seeks to deal with because the Bill excludes Employment Law which is very similar in Gibraltar to the UK; Succession Rights, we know that the Succession Rights are exactly the same; Rights under Family Law; again very, very similar; the Distribution of Matrimonial Assets; the Incorporation and Organisation of Companies and certain regulatory provisions in Gibraltar on the provisions of principle. We are dealing with an area principally which is consumer trading, consumer affairs, the shopkeepers, the hire purchase contracts. These are specifically areas where our laws are very, very different from the UK and that is the reason why I am making the point because if we are going to adopt exactly the same as the UK, the law in UK is very different to what it is here on the specific areas on which this Bill will deal with and that is why I specifically raised that point because if we have to follow the UK we are going to find ourselves in difficulties because the

legal position there and here are two very different things.

HON K AZOPARDI:

I accept that the statutory provisions in consumer protection are different in the United Kingdom than it is in Gibraltar but I do not accept that basic rationale behind the law and the essence and the jurisprudence behind the concepts of equity and the remedies that are available in the Supreme Court of Gibraltar and the High Court of Justice in the United Kingdom are different. They are essentially the same and whilst the statutory provisions may be more extensive in the United Kingdom there is still consumer legislation in Gibraltar and the relationship can still be governed by similar transposition even though there may be specific statutory differences between what is the consumer legislation in the United Kingdom and what is consumer legislation here in Gibraltar. There may be more extensive Sale of Goods Act in the United Kingdom and our Sales of Goods Ordinance here is more restrictive but in essence, if this is governing the relationship between seller and supplier it will have to be seller and supplier in accordance with the law of that particular jurisdiction. The basic principles of our law are more similar to the United Kingdom and therefore allows us to guide ourselves by that transposition than they would be under French or Belgian law and so that is the point that I am making. I accept that the hon Member sees the differences between specific statutory provisions and I see them as well but they do not necessarily mean that we should not guide ourselves by this form of transposition because the basic framework will then have to be applied in accordance with the specific consumer sections in Gibraltar.

HON A ISOLA:

I hear what the Minister is saying but it would seem to me that to base our laws on what is the or to copy, basically, the member state that has the law most similar to ours which is what the Minister is saying, may not be the most appropriate way of doing it, it might be right in many other directives, we can simply transpose a directive like we have done in the Transport Undertakings or a whole list of others which also engage principles and we can

simply say that we transpose the directive as it is because I think it is safer to do that than to copy the UK law almost on a word for word basis because it is the closest to our own. I think it may be a case where the Legislation Support Unit should actually consider the directive and deal with the directive in a way which is best suited for Gibraltar's needs not simply to copy the UK.

HON K AZOPARDI:

Two points from what the hon Member is saying. In the first place I think it is quite proper for the Legislation Support Unit to guide itself and of course to depart if it sees that there is merit in departing from that framework but in this case they have felt that this is the proper framework. We cannot transpose the directive verbatim as the hon Member suggests because the directive only sets up principles and instructs the member states to enact legislation to put into effect those principles. If we transpose the directive verbatim all we would be saying to ourselves is we have got to do something about it but we would not be doing anything about it and so this Bill intends to put into place that framework which the directive orders us to do and we think that this is the proper way to proceed. Of course we should guide ourselves and not transpose everything verbatim under UK principles but there is no need we think in this case to re-invent the wheel for specific legislation in Gibraltar because the courts will ultimately have to apply this Ordinance in accordance with the Consumer Legislation in Gibraltar. So there is no difficulty and nothing in this Ordinance and nothing in the English regulations which we are basing ourselves on will prevent us to do that.

HON J J BOSSANO:

Is it not the case in fact that what is being done is being done because the Government want to do it in respect of goods because there is no requirement in respect of goods, is that not the case? The directive clearly is designed to complete one element of the single market in goods and it is under Article 100A but it also concerns the supply of services. Presumably, we are only required to make provision to transpose the directive to the extent that it concerns the supply of services which is the only thing that we can supply into the single

market. We cannot supply goods into the single market and the preamble and paragraphs in the directive clearly says that it is in order to facilitate the establishment of internal markets and to safeguard the citizen in its role as a consumer when acquiring goods and services under contracts which are governed by the laws of a member state other than his own. We are entitled to have whatever consumer legislation we want for our own citizens but this directive is to protect customers outside Gibraltar as part of the creation of the single market and it is being done under Article 100A and to the extent that this is applicable in Gibraltar at all it is only applicable because we form part of the single market in services but we do not form part of the single market in goods. Another directive affecting the free movement of goods has not been transposed previously, is that not the case? All the elements of goods we are free in fact to make provision in Gibraltar as we wish irrespective of what the law is in UK or in any other member state and of course it would make sense if we have one law already to do it for services that we also do it for goods for other reasons but it does not have to be following the UK transposition of the directive because we do not have to transpose that.

HON K AZOPARDI:

No, Mr Speaker, I do not accept that assessment. The Government received legal advice in May 1994, which the Legislation Support Unit has given me a copy of from DTI solicitors in London, which comments that even though this directive is made under 100A, and I understand all the points that the hon Member has made but this was essentially a matter of consumer protection and that in this case it should be fully transposed in Gibraltar. That is indeed the case in respect of other matters, I am told by the Legislation Support Unit, and so I cannot accept his assessment on that basis even though I understand the point that he is making.

If I could move on, Mr Speaker, to the other points being made by the hon Member, the intention is not that the designated person should assess and determine the matters. The designated person under section 8 will stand in the shoes of the person described under Article 7.2 of the directive as a person or organisation having a legitimate interest.

The directive requires two things: it requires that the domestic legislation specifies people who would have a legitimate interest or who could be designated as such and then also requires that there should be a court of competent authority seized of the matter who could ultimately be seized of the matter which could determine any application brought to it that any particular term of a contract is unfair. It is a two-stage process, there is no suggestion that a designated person will make an assessment of whether it is fair or unfair. The consumer group will have to decide whether it should bring what is essentially a class action. The consumer group will have to assess it but it is an individual person assessment they have to make on the likelihood of the success of the proceedings. Having made that decision the person or the entity that ultimately decides whether the term is fair or unfair is the Supreme Court. That is the intention behind the Ordinance and certainly we think is clearly on the face of the Ordinance. The competent authority or court talked about again under Article 7.2 is in Gibraltar the Supreme Court. The hon Member also raised the point on costs, what would happen if the proceedings go for or against the person bringing the class action. There is nothing in the directive that talks about costs and so our view in transposing this directive is that no doubt the court, of course the court will be better disposed to make that assessment in due course if it did get a case of that type but no doubt the court will apply the same usual principles that it applies in any action in any civil proceedings that reach the Supreme Court. There is nothing in the directive that asks to do something and we are not going to make a specific provision in this Ordinance, the court will make a determination of that aspect. I suspect that it will decide the costs in favour of the person in respect of whom the judgement has gone or it may take the view that in these cases there should be no order as to costs because of the particularity of the case but that is a matter for the Supreme Court.

HON A ISOLA:

If the Minister will give way? Mr Speaker, am I right in saying that if a consumer feels that there is a unilateral contract which is determined as unfair, as provided for in the Schedule to this Bill, he then goes to the designated person and the

designated person says, "Yes, I agree" but that has no impact on the seller. So it is exactly the same as if the individual consumer today goes to a designated person or goes to a lawyer, the lawyer says, "Yes, I agree, let us go to court". Is that the same? Is the only difference that we now have within our laws provisions which are deemed to be unfair unless one can satisfy the court that one is not within those provisions, is that the actual case.

HON K AZOPARDI:

Yes, my understanding is yes, that that will be the case. Section 5(1) says, "An unfair term in a contract concluded by a consumer and by a seller shall not be binding on the consumer". If the seller says, "All right, notwithstanding that that is the case I do not consider it to be an unfair term". Then the person will have to enforce his rights. What this Ordinance does is it gives the person rights that they may have to be enforced ultimately if the person with whom he has entered into a contract does not accept that the term is unfair. Yes, ultimately recourse to the Courts may be necessary to establish the point. It is the only recourse under this Ordinance but this Ordinance does not include a restrictive subsection. This Ordinance specifies a mandatory order that can be made in these proceedings but then the court is free to construe this piece of legislation in the manner that it sees fit and if it thinks that this legislation as it contains no prohibitive subsection on the remedies, that the effect of it is that other remedies are available, then no doubt that is also the case. I think I have dealt with all the points given by the hon Member.

Question put. Agreed to.

The Bill was read a second time.

HON K AZOPARDI:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken either today or later in the meeting.

Question put. Agreed to.

## THE MEDICAL AND HEALTH (AMENDMENT) ORDINANCE 1998

HON K AZOPARDI:

I have the honour to move that a Bill for an Ordinance to amend the Medical and Health Ordinance 1997 to transpose into the law of Gibraltar Commission Directive 98/21/EC and to effect other minor amendments be read a first time.

Question put. Agreed to.

## SECOND READING

HON K AZOPARDI:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this short Bill intends to do three things. In the first place it intends to make some minor amendments, some typographical errors or amendments that were intended to be made at Committee Stage during the passage of the 1997 Ordinance which were omitted such as that in sections 2A and B of the Ordinance. Secondly, its purpose is to transpose the EEC directive mentioned which amends lists of specialised medicine categories in the case of the Netherlands, Belgium, Luxembourg and Sweden and, thirdly, and of more interest domestically, the purpose of the amendment in 2C is to allow Enrolled Nurses to stand for election to the Nurses, Midwives and Health Visitors' Registration Board and to allow them to vote. Hon Members will recall that one of the changes brought about by the 1997 Ordinance was that for the first time two nurses elected from among the body of Registered Nurses were elected to be members of the Nurses, Midwives and Health Visitors' Registration Board. It was the intention of the Government to allow all nurses who were registered in any part of the Register to stand and vote at those elections. There are several parts of the Register and there are two essential categories of nurses that are on those Registers - Enrolled Nurses and General Registered Nurses. Because section 28 of the Ordinance mentions that none of the rights conferred on registered nurses would be conferred on enrolled nurses, at the time of the election last November or December, management argued, I think rightly, that enrolled nurses could not vote or stand for election at those elections. It had always, as I say, been the policy of the Government

to allow them to do so. The Government have also received representations from the Unions on this issue and the intention behind this amendment is to allow enrolled nurses to stand for election and to vote to elections at the Nurses, Midwives and Health Visitors' Registration Board. Those are the three purposes behind the Bill. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON MISS M I MONTEGRIFFO:

Just to say, Mr Speaker, that we are satisfied with the explanation the Minister has given us. The Opposition will be supporting this Bill.

HON J J BOSSANO:

Given the fact that the directive is so recent, can the Minister say when it was done in the United Kingdom and whether it was done in other member states?

HON K AZOPARDI:

The directive specifies that we have to put into place this amendment by December this year. I cannot answer the hon Member when it was specifically done in other member states, but whether it was done before or after is immaterial to the extent that it requires us to do it anyway and we would have that obligation to fulfil by December. I shall certainly look at when it was done in other member states if he is interested and pass on the information to him.

Question put. Agreed to.

The Bill was read a second time.

HON K AZOPARDI:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today or at a later stage in this meeting.

Question put. Agreed to.

#### THE SPECIFIED HAZARDOUS WASTE (INCINERATION PLANTS) ORDINANCE 1998

HON K AZOPARDI:

I have the honour to move that a Bill for an Ordinance to transpose into the law of Gibraltar Council Directive 94/67/EC on the incineration of hazardous waste be read a first time.

Question put. Agreed to.

SECOND READING

HON K AZOPARDI:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill should be read together with the Public Health Ordinance (Amendment) Bill 1998, which follows on the agenda. Together, they transpose Directive 94/67/EC into Gibraltar law. Rather than insert all the provisions of Directive 94/67/EC in the Public Health Ordinance, the Public Health Ordinance (Amendment) Bill 1998 directs the reader to the more specific provisions of the Specified Hazardous Waste Incineration Plant Ordinance 1998. This means that the Public Health Ordinance will not be unnecessarily cluttered with provisions which are very technical, detailed and specific and which may not be of relevance to our own domestic situation or of immediate relevance to our domestic situation. The objective of directive 94/67 on the incineration of hazardous waste is to ensure that specified measures and procedures are in place to prevent or reduce as far as possible negative environmental effects arising from hazardous waste incineration. The directive addresses the pollution of air, soil, surface and ground waste, together with risks to human health. It aims to achieve a high level of environmental protection. I commend the Bill to the House.

Mr speaker invited discussion on the general principles and merits of the Bill.

HON J GABAY:

Mr Speaker, generally Opposition Members welcome any steps which are taken in support of any global initiative in respect of having a cleaner, healthier

and safer environment. On that principle we find merit in the directive. As it says in the Explanatory Note, measures and procedures to prevent and reduce as far as possible negative effects arising from hazardous waste material. However, in reading the Bill and its complicated technicalities, as a layman before the Chief Minister reminds me of the quality, it seems to me when I read clause 6(2) that it says, "The following plants are not incineration plants for the purposes of this Ordinance:

- a. incinerators for animal carcasses or remains;
- b. incinerators for infectious clinical waste provided that such waste is not hazardous waste; and
- c. municipal waste incinerators also burning infectious clinical waste which is not mixed with hazardous waste".

So, it would appear really that we are not within the embrace of this legislation and therefore I wonder why there is a need to pass it at this stage since it would appear as I say from my own limited knowledge that we are just simply burning municipal waste and therefore that excludes us from the provisions of this directive.

HON J C PEREZ:

Mr Speaker, I would ask the Minister to specifically state what the actual application of this Bill means to Gibraltar, whether there are repercussions as to the emissions of the generating station, the distillers, the incinerator itself, the waste water that goes out of the distillers into the sea, whether it has any actual, physical application today or indeed whether the Minister has had proposals for some other plant which would need to comply with these regulations, or whether it is just that we want to pass it in the law in case someone applies for a plant of this nature in the future? I find it hard to believe that a Bill that was published on the 25th June should come to the House a week later to apply a directive that we have time to apply it until the year 2000 and perhaps as we read it there is no actual application to it in Gibraltar, perhaps the Minister could clarify some of those points?

HON J L BALDACHINO:

Mr Speaker, following up from what my Colleagues have said, first of all, what my Colleague Mr Perez has said and what the Hon Mr Gabay has said, that this does not apply to refuse waste, which is the only thing that we have but apart from that, if ever we have any plants that fall under this category, do we have the equipment and do we have to employ any personnel extra to monitor this? Will we have to buy any equipment to keep monitoring what is being passed today?

HON K AZOPARDI:

May I deal with the last point first. It is the view of the Government that it is not appropriate or indeed in Gibraltar's public interest to put it to the public domain or to discuss issues of Gibraltar's capability of dealing with environmental legislation which has been transposed either by this or the previous administration. We have an obligation to perform our obligations and of course it is a presumption that the Environmental Agency and the competent authority will at least comply with its obligations. The other points raised by hon Members on the need to transpose this and so on, the Opposition spokesman for the Environment cited a section and said that in his view that meant that perhaps it did not affect Gibraltar, why the need to transpose it? He is certainly right that it will not affect Gibraltar, why the need to transpose it? He is certainly right that it will not affect the incinerator and I will go on to describe why but the need to transpose arises as the need to transpose arises in many other cases where Gibraltar is not going to be affected. Last year the hon Member will recall that we transposed a directive on large combustion plants, when there are none in Gibraltar and probably will never be any in Gibraltar. We had an obligation to transpose it and that is the straightjacket that we are in. It is not, as the Hon Mr Perez suggests that we have until the year 2000 to comply with this obligation. The year 2000 is mentioned in the directive in relation to a review of emission levels. The compliance date for this is as stated in Article 18 of the directive the 31st December 1996, and so this is a directive that we need to transpose and pass into Gibraltar legislation because the compliance date has passed.

Gibraltar and the Gibraltar Government are under pressure on the infraction front in relation to this directive and so there is a need to comply with this obligation and this is what we are seeking to do on this occasion. In relation to the effects in Gibraltar itself, the Ordinance applies to incineration plants in which specified hazardous waste is incinerated and specifically excludes municipal waste incinerators. Our incinerator in Gibraltar is only licensed for the incineration of municipal waste and is therefore excluded from the provisions of this Ordinance. Should the incinerator ever wish to incinerate any type of specified hazardous waste it would have to apply for a licence under this Ordinance and comply with the listed conditions under this section, design, considerations and so on. Furthermore, specified hazardous waste as defined in this Ordinance and in the directive is not ordinarily produced in Gibraltar since such waste generally results from the chemical and other manufacturing industries and as such would also be subject to the licensing requirements of the Trans-frontier Shipment of Waste Regulations on Importation. The only other type of refuse, apart from municipal waste which our incinerator sometimes handles is our animal carcasses or clinical waste which are also specifically excluded from the provisions of this Ordinance by section 6(3) which is a direct transposition of an article of the directive which excludes the burning of clinical waste and animal carcasses for municipal incinerators. In conclusion, Mr Speaker, it is the advice received by the Government that the requirements of this Ordinance have no practical implications for Gibraltar's incinerator and serve to do two things - one to perform our Community obligation to transpose this directive, and secondly, to prevent hazardous waste from ever being disposed of at our incinerator in the future should anyone ever attempt to do such a thing. In any event, I am led to understand that our incinerator is not at present equipped to carry out this type of operation even if it wanted to do so without a licence and adaptation costs would be high. Mr Speaker, I think I have dealt with all the points made by hon Members.

Question put. Agreed to.

The Bill was read a second time.

HON K AZOPARDI:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today or at a later stage in the meeting.

Question put. Agreed to.

**THE PUBLIC HEALTH ORDINANCE (AMENDMENT) ORDINANCE 1998**

HON K AZOPARDI:

I have the honour to move that a Bill for an Ordinance to transpose into the law of Gibraltar Council Directive 94/67/EC on the incineration of hazardous waste be read a first time.

Question put. Agreed to.

**SECOND READING**

HON K AZOPARDI:

I have the honour to move that the Bill be now read a second time. I have said all I have to say on the specific transposition of the directive in my previous intervention and as I indicated the purpose of this Ordinance is to insert provisions to ensure that specified hazardous waste shall only be incinerated in accordance with the provisions of the Specified Hazardous Waste (Incineration Plants) Ordinance 1998 and to avoid the Public Health Ordinance being cluttered up in an unhelpful fashion. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

Question put. Agreed to.

The Bill was read a second time.

HON K AZOPARDI:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today or at a later stage in the meeting.

Question put. Agreed to.

## THE REVISED EDITION OF THE LAWS ORDINANCE 1998

HON ATTORNEY-GENERAL:

I have the honour to move that a Bill for an Ordinance to authorise the preparation of revised editions of the statute laws of Gibraltar and to provide for a continuing process of revision and consolidation of such laws be read a first time.

Question put. Agreed to.

### SECOND READING

HON ATTORNEY-GENERAL:

I have the honour to move that the Bill be now read a second time. Mr Speaker, anyone who has practised law in the Courts of Gibraltar, and I think that includes a number of people I see here, cannot really fail to welcome the publication of a revised edition of the laws. I think people who have practised in the courts will remember the horror of going into Court with an edition of the Laws of Gibraltar that had bits of yellow stick-on most of the pages, paragraphs stapled in and crossings out done in handwriting. One always went in with a prayer that the person who had done the crossing out had not had too good a night the night before and had in fact crossed out the right bits. Not always a prayer gave results. One also had the problem that it could well be that the bit that was stapled on had in fact come off and at the critical moment was not available. In fact, before I came in Mr Speaker, I looked at one of the Ordinances in common use, the Imports and Exports Ordinance and that particular Ordinance almost has more bits of stick-on than the original Ordinance. That is not the end of the horror story and Mr Speaker, in your previous incarnation, you must have come across this, a situation where in Court two Counsels and a Judge each of whom might be referring to a text that was not the same. Worst of all, none of the text that they were referring to might be up to date. I am told that the most up to date edition of the revised laws is in my Chamber and I hate to say it but I am afraid to say that is not totally up to date. The practice of law, of course, demands a degree of certainty and any client going to a lawyer expects that when the lawyer gives them advice the text that

the lawyer refers to is the same text that any other practitioner would refer to in advising the other side to the dispute and the same text that a judge in due course would refer to in deciding the issue. Mr Speaker, at the moment one cannot be sure of that. The Revised Edition of the Laws Bill is hoped to deal with that. The reason why legislation is needed is because under the current revised edition there is only the power to issue one annual supplement a year. There is not the power to issue a new revised edition and of course what has happened is that over the years my instructions are that only one such annual supplement has ever been produced and that now means that in order to catch up in the fall back that has occurred over the years, under the current law one could only deal with that by issuing one annual supplement. Really that would be such a mammoth task that it would be beyond the resources available to us and also were it to be done it would be completely indigestible. Mr Speaker, the new Ordinance allows for more than one supplement a year to be produced and the plan is that before the first Revised Edition is published, the new Revised Edition, supplements will be published. I know that already those supplements are under preparation and a fairly substantial number of topics have already been dealt with. The idea is that supplements will be published but in due course these supplements will be combined into a revised edition. Clearly, one would then follow that with further supplements and with the power in due course, if and when necessary to issue further revised editions. As far as the format of the revised laws go there has been a fairly wide process of consultation and a format is being settled on at the moment that allows one to identify the amendment itself and the source from whence it came. That format is not set in stone, there is a degree of flexibility and if necessary it could be changed. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON A ISOLA:

Mr Speaker, as the hon the Attorney-General has said, it has been difficult for practitioners to work with Ordinances that have bits and pieces stuck in. It certainly will be welcomed by all lawyers in Gibraltar or anybody that needs to look at the laws.

The Bill is, with one or two minor changes, identical in the terms of the previous 1981 Ordinance, so we have no difficulty in supporting the Bill. The only question of a practical nature I would ask as a practitioner is, will the laws, once prepared, be available in a computerised form, CD-ROM or discs which may be easier for the practitioners to work with?

HON CHIEF MINISTER:

Mr Speaker, Opposition Members who were in the House before May 1996, will remember that the state of the Laws of Gibraltar is an issue that we gave considerable importance to when we were on the Opposition benches precisely for the reasons that the hon Attorney-General has highlighted. It is therefore a matter of considerable satisfaction to the Government that we have been able to dedicate the priority that we believed the matter deserved. It has taken longer than I would have liked. The Bill before the House is just the enabling statutory mechanism but of course much thought has gone into the mechanics and it raises questions about computerisation, the mechanics about how the laws are going to be not just consolidated, not how the consolidation exercise is going to take place physically but indeed how the laws are going to be managed thereafter to avoid them ever falling into a state of disrepair again, what resources will be necessary for that, what expertise will be necessary for that, and of course hon Members will have noticed by now that the Government have established a Legislation Support Unit which is a dedicated and focused resource in dealing with the management of legislation and the management of the laws. There has been a very wide process of consultation. I am sure that the hon Member in his private professional capacity will have seen in his Chambers a lengthy consultation document which we prepared setting out what the Government wanted to achieve in this project and indeed what the various options were for the different forms of consolidation that were possible and that there was a review in the consultation paper of the various ways in which such exercise had taken place in various common law countries, some in the Caribbean, some in Africa and some in, for example, Australia and New Zealand. Having considered the views of the Judiciary and the views of the private practitioners and indeed the views of the Attorney-General, we have opted for a

particular presentational method for the consolidated version and that is now being worked on. I can tell the hon Member that when I last looked, I think something like 23 or 24, it may be more by now, Ordinances had been consolidated. It is now a matter of time of how and when those are published and whether they are published in dribs and drabs. The matter is being dealt with alphabetically and already there is a large measure of progress in the actual consolidation under subject matter. The Government are resourcing the Legislation Support Unit precisely so that it should be able to produce not just an efficient paper management of the laws, in other words loose leafs amending pages which then get substituted but actually a computerised version. That the laws of Gibraltar should be available on CD-ROM and that whenever an amendment is done the amendment is reflected in the information technology version of the laws and that this CD-ROM should not only be available but indeed should be networked so that courts, lawyers, Government Departments, private citizens, anybody can at any time draw from a Government-managed net an authoritative textual version of what the Laws of Gibraltar are. That is a phase two, it is not strictly part of the initial consolidation process but just to give hon Members an overview of the length and breadth of the Government's determination, not just to put the Laws of Gibraltar in a working condition but secondly to ensure that they stay in an up to date working condition and thereafter to try and put the accessibility of the Laws of Gibraltar for all its uses into the 21st century in terms of availability on the various information technology media that exist for that purpose. I know that Opposition Members support that and their support is very welcome.

Question put. Agreed to.

The Bill was read a second time.

HON ATTORNEY-GENERAL:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today or later in the meeting.

Question put. Agreed to.

**THE LICENSING AND FEES (AMENDMENT) ORDINANCE 1998**

HON ATTORNEY-GENERAL:

I have the honour to move that a Bill for an Ordinance to amend the Licensing and Fees Ordinance so as to enable fees to be levied in respect of reports by the Police on road traffic accidents and complaints of crime be read a first time.

Question put. Agreed to.

SECOND READING

HON ATTORNEY-GENERAL:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this short piece of legislation simply brings procedures in Gibraltar into line with procedures in the United Kingdom and in certain other jurisdictions. It is standard practice in the United Kingdom that the police should cover their expenses in the preparation of documents for use in proceedings other than criminal proceedings. This Bill deals with the preparation of documents for the use in civil proceedings. It relates to road traffic accidents and it relates to complaints about the commission of crime and effectively the people who will wish these sorts of documents will be insurance companies and loss surveyors and of course, Mr Speaker, these are not charitable organisations. They exist to make a profit and it is felt that it is not right that the police and eventually the tax payer should subsidise these organisations by providing the sort of documentation referred to free. Mr Speaker, there is no question of charges being made in respect of dockets for normal criminal proceedings. At the moment there is a nominal charge and there is no intent that that should be increased. This Bill applies solely to documentation for use in civil actions. I commend the Bill to the House.

HON A ISOLA:

Mr Speaker, it relates to complaints of crime, obviously that excludes criminal offences as such in terms of a normal prosecution by the police?

HON ATTORNEY-GENERAL:

Mr Speaker, there is no intention that this legislation affects in any way the right of an accused person to have a docket of evidence served upon him. It will only relate when in civil proceedings it is desired to use evidence that has been gathered in criminal proceedings. The standard thing is a loss adjustment claim perhaps after a burglary, a civil claim after a road traffic accident. It will not affect the normal criminal processes in the court in any way.

HON A ISOLA:

Mr Speaker, complaints of crime surely covers criminal offences?

HON CHIEF MINISTER:

The only point, Mr Speaker, is that there is no increase in the charge scheduled for the production of a docket to the defendant. The amount has not been increased for that.

HON A ISOLA:

I was not aware that there had actually been a provision within the... I know there is an administrative charge of £3 or £5 for a docket in the Magistrates' Court and in the Supreme Court but I am not aware that there is actually a provision within the Ordinance enabling that charge to be made. Therefore, I had assumed because this relates to traffic accidents and complaints of crime that in fact that bracket was also being brought to this in respect of offences. The Attorney-General has said that in fact it will not be applied to them but I do not see where that legal basis for that statement is being made. Is it a discretionary thing where the police will say, "No, it is criminal and we will not bother charging." Because the law, as far as I can read it, prosecution documents of 25 pages is £10 and it relates to complaints of crime.

HON CHIEF MINISTER:

Can we leave it at this? We will look at the point that the hon Member makes in connection for the Committee Stage and we will give them a full

explanation and we will deal with it then. This is really a point of detail and rather than keep the House waiting now I will look at it and will raise it in a few moments or this afternoon.

HON A ISOLA:

Mr Speaker, the only thing that hinges on that is that obviously we will accept the intention, that this does not apply to normal people accused in the Magistrates' Court or Supreme Court in respect of complaints of crime and so to that extent we support it where it affects commercial companies but were it to transpire that in fact this will apply across the board we would not support it so we will take it on the state of intention and we will support it on that basis.

HON CHIEF MINISTER:

As the Attorney-General has said there are no circumstances in which the Government will accept a position in which people have to pay anything other than the existing nominal for access to documents that they need to defend themselves from a criminal charge. That is not the intention and if by some error we found that we had legislated to that effect, which we do not think we are doing, but even if it slipped us all at the Committee Stage, the Opposition Members can certainly have my assurance that we would introduce legislation to repeal it forthwith.

HON ATTORNEY-GENERAL:

Mr Speaker, certainly as far as I am concerned the undertaking is that this will only be used in civil proceedings. I think one can go further and say that as a matter of law there is a very small nominal charge at the moment for dockets but as a matter of law a defendant has a right to disclosure not only of the docket but of any unused material that is relevant or possibly relevant to his case. If the Crown in some way tried to ensure that he did not have that, unless he paid a substantial sum, the Courts would simply strike it down, it would be totally contrary to law and the laws on disclosure. It is a fundamental right that any defendant is provided by the Crown with all the documents that are going to be used in his prosecution and any other documents generated by the Crown that are

relevant or possibly relevant. Mr Speaker, this legislation could not be used for that purpose.

Question put. Agreed to.

The Bill was read a second time.

HON ATTORNEY-GENERAL:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today or at a later stage in this meeting.

Question put. Agreed to.

PRIVATE MEMBER'S BILL

FIRST AND SECOND READINGS

**THE ABN AMRO BANK ORDINANCE 1998**

HON P C MONTEGRIFFO:

I beg to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the Private Member's Bill.

Question put. Agreed to.

HON P C MONTEGRIFFO:

I have the honour to move that a Bill for an Ordinance to make provision for and in connection with the transfer of the business of ABN AMRO Bank (Gibraltar) Limited to a branch of ABN AMRO Bank N.V. be read a first time.

Question put. Agreed to.

SECOND READING

HON P C MONTEGRIFFO:

I have the honour to move that the Bill be read a second time. Mr Speaker, the Bill has been presented to the House to ensure the smooth transfer by ABN Bank Gibraltar Limited of its business to a branch of its parent ABN Bank NV. As in the case of a similar Bill brought to the House recently in respect of another bank this legislation is necessary because the business of the bank is being

transferred to another corporate entity. The reason for the Bill is that the parent's policy is to operate through branches throughout the world. These branches give more security to bank customers since the entire assets of the bank are there to answer the bank's customers and depositors. Similar transfers of business have recently taken place in Belgium and Austria. Section 2 is the fundamental section of the Bill, transferring the undertaking of the Gibraltar Bank to its parents. The transfer is to take effect on the 1st August this year. Section 3 spells out the basic provisions, transferring property from the Gibraltar bank to its parent. Property is defined very widely to include all assets and liabilities. The rights of third parties in property transferred are preserved by the section and continue as if the two banks were one in law. Section 4 is also an important section in that it excludes certain property from the transfer whilst section 5 ensures that the employees' pension rights are preserved in the new arrangements. I should add, Mr Speaker, that as far as the employees are concerned there has of course been full consultation with the employees and that they are happy with the new arrangements that the new bank will introduce. Section 10 provides for the eventual winding up of the Gibraltar bank on a date to be fixed by the Minister for Trade and Industry by notice in the Gazette. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON A ISOLA:

Mr Speaker, we will be supporting this Bill. We have in fact received two Bills with two different numbers. I am not sure which one is the one we are dealing with or if there is any difference?

HON P C MONTEGRIFFO:

The reason for that, Mr Speaker, is that as a Private Member's Bill the requirements of Standing Orders necessitate the publication twice in the Gazette, of the same Bill. The House might recall that this issue did arise in the context of the previous Bill that I referred to and we agreed to suspend that particular Standing Order at the time.

HON A ISOLA:

I am grateful for that, Mr Speaker. Whereas in this case it is slightly different from the last one that we passed through the House with the other bank in that obviously the other bank was a non-EU parent, in the Isle of Man I recall, and a licence was obtained in Gibraltar. This case is one of obviously passporting in and therefore I assume that the deposit protection scheme would apply in Holland where the parent bank is and not in Gibraltar where the head licence would be. I would just ask, Mr Speaker, I think the Minister has clarified a number of the points that we were going to raise, are Government aware of whether any other banks will be following a similar route and becoming branches? If so, what would the impact be on the Gibraltar Deposit Protection Scheme because obviously I assume when the Ordinance has gone through, the basis of contribution of each bank is based on all the different banks together with the level of business that they would have and therefore, what impact will it have with this and possibly other banks coming through in future pulling out and therefore dropping the reserves that the Deposit Protection Scheme have available because I assume it is calculated on the basis of how many banks and what reserves they have?

HON P C MONTEGRIFFO:

I am grateful for the hon Members' support. The parent will indeed be based in the jurisdiction which will now be the one where the appropriate Deposit Protection Scheme applies. So, future depositors of this Bank will have their deposits guaranteed under the Dutch scheme rather than the Gibraltar scheme. We are not aware of any other bank that is proposing to go down this route. We were aware of this particular proposal when the last Bill was brought to the House. They were the only two the Government have been approached on and yes, the matter raised by the hon Member is a valid issue. He is right, Mr Speaker, in highlighting that the Gibraltar Deposit Scheme works for Gibraltar licensed banks and would therefore depend on the number of players falling into that category from time to time. It is, of course, an unfunded scheme, let us be clear about that. There is no suggestion that the Deposit Guarantee Scheme will acutely involve any of the banks that are licensed in Gibraltar actually contributing money to a fund

which will lie there as an emergency pot. It is only a contingent liability that Gibraltar banks will have but nonetheless in theory the smaller the pool of Gibraltar licensed banks the higher the risk individually to each of those constituent members of the degree of exposure although of course by definition if there are less banks as well there is less exposure to cover. There should be a corresponding reduction in exposure. We have no further information of any other bank wishing to do this. This arises very similar to those of the other bank that we legislated on. It is entirely in accordance with a policy in this case of the bank rather than anything that has anything to do with Gibraltar or with the Deposit Scheme.

Question put. Agreed to.

HON P C MONTEGRIFFO:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken later today or at a later stage in the meeting.

Question put. Agreed to.

The House recessed at 1.05 pm.

The House resumed at 3.00 pm.

#### COMMITTEE STAGE

HON CHIEF MINISTER:

I beg to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to enable the House to consider various Bills in Committee Stage.

Question put. Agreed to.

HON ATTORNEY-GENERAL:

I have the honour to move that the House should resolve itself into Committee to consider the following Bills, clause by clause:

- (1) The Tobacco Ordinance 1997 (Amendment) Bill 1998.
- (2) The Companies Ordinance (Amendment) Bill 1998.

- (3) The Companies (Amendment) Bill 1998.
- (4) The Auditors Approval and Registration Bill 1998.
- (5) The Disclosure of Interests in Shares Bill 1998.
- (6) The Insider Dealing Bill 1998.
- (7) The Listing of Securities Bill 1998.
- (8) The Prospectuses Bill 1998.
- (9) The Traffic Ordinance (Amendment)(No. 2) Bill 1998.
- (10) The Licensing and Fees Ordinance (Amendment) Bill 1998.
- (11) The Social Security (Closed Long Term Benefits and Scheme) Ordinance 1996 (Amendment) Bill 1998.
- (12) The Unfair Terms in Consumer Contracts Bill.
- (13) The Medical and Health (Amendment) Bill 1998.
- (14) The Specified Hazardous Waste (Incineration Plants) Bill 1998.
- (15) The Public Health Ordinance (Amendment) Bill 1998.
- (16) The Revised Edition of the Laws Bill 1998.
- (17) The Licensing and Fees (Amendment) Bill 1998.
- (18) The ABN AMRO Bank Bill 1998.

HON CHIEF MINISTER:

Mr Chairman, the Minister for Trade and Industry is not going to proceed with the Committee Stage of the Insider Dealing Bill 1998 because he is not yet ready to respond to the points raised by the Hon Mr Isola and as that one is not of desperate urgency it can stay over until the next sitting.

**THE TOBACCO ORDINANCE 1997 (AMENDMENT) BILL 1998**

Clauses 1 and 2 were agreed to and stood part of the Bill.

New Clause 3

HON CHIEF MINISTER:

Mr Chairman, I have given notice of the addition of a new clause 3 to the Bill to amend two sections of the existing Ordinance. The first is the one which hon Members have already had notice before we began the debate and that is in section 9 of the Tobacco Ordinance, the substitution in sub-sections (1), (3) and (5), the existing word is "tobacco", it should now read "cigarettes" and that will have the effect of restricting the need for an Import Permit for cigarettes.

Certainly it would have been much more elegant to have used consistent language even though the meaning might be the same in the context and that the use of the word "cigarettes" would have been linguistically more consistent with the context than the word "tobacco" and therefore there is that second limb of the new clause 3 which is to amend section 13 to substitute in sub-section (3) for the word "tobacco" the word "cigarettes".

New clause 3 was agreed to and stood part of the Bill.

Clause 4

HON CHIEF MINISTER:

Mr Chairman, the existing clause 3 should now be renumbered as clause 4.

Clause 4, as amended, was agreed to and stood part of the Bill.

The Long Title was agreed to and stood part of the Bill.

**THE COMPANIES ORDINANCE (AMENDMENT) BILL 1998**

Clauses 1 to 3 and the Long Title

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J Gabay  
The Hon A Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

Absent from the Chamber: The Hon Lt-Col E M Britto

Clauses 1 to 3 and the Long Title stood part of the Bill.

**THE AUDITORS APPROVAL AND REGISTRRTION BILL 1998**

Clauses 1 and 2

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J Gabay  
The Hon A Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

Absent from the Chamber: The Hon Lt-Col E M Britto

Clauses 1 and 2 stood part of the Bill.

Clauses 3 and 4

HON J J BOSSANO:

Can I ask why it is that the Government wish the Auditors Registration Board effectively to come under the Financial Services Commission, especially as the Minister said in the general principles of an earlier Bill that had they been in Government they would not have agreed to the composition of the Financial Services Commission which is composed of UK appointees in the majority and of course the Commissioner himself is a UK appointment. The Auditors are a defined domestic matter and I cannot understand why they want the Commissioner to be the person that appoints people to the Board or why the fees of the auditors should be going to the Commission. Surely, the auditors do a job which is not necessarily a matter related to the work of people who hold licences under the Financial Services Commission that is to say, one can be an auditor without being involved in financial services. We see absolutely no requirement for this to be done and we see absolutely no reason notwithstanding the other changes for the registration of the auditors to be taken away from the Government and given to the Commission.

HON P C MONTEGRIFFO:

Mr Chairman, the position of the Commissioner in this Ordinance replicates entirely the position of the Commissioner under the existing Auditors Registration Ordinance. There is nothing that the Commissioner does in the new Ordinance that is not the position in the old Ordinance and the view we took, Mr Chairman, is that the priority was to transpose the directive and we did not give great priority to undoing the reference to Commissioner and introducing somebody else but I can also indicate to the hon Member, if he is interested, is to ensure that matters of Gibraltar Government competence are really kept within the Gibraltar Government but in fact the new Ordinance does provide new powers for the Minister for Trade and Industry that did not exist in the 1983 Ordinance, specifically the power to make regulations pursuant to sub-sections (8) and (9) and quite significantly, the powers to prescribe fees, which under the

previous Ordinance was with the Governor, are now powers dedicated to the Minister.

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J Gabay  
The Hon A Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

Absent from the Chamber: The Hon Lt-Col E M Britto

Clauses 3 and 4 stood part of the Bill.

Clause 5

HON A ISOLA:

Mr Chairman, in clause 5 we get to part 5(1)(c) which is the part that we spoke about in the general principles of the Bill where in part (a) of 5(1) it tells us what people under Part I can do, in part (b) it tells us what people under Part II, the firms, can do but in Part III it is silent. Would it not be clearer in respect of Part III if it said they could do anything else other than the matters in part (a)?

HON P C MONTEGRIFFO:

We addressed this point at the second reading. The view that Government take is that it would not make it clearer to go down the route that the hon Member is suggesting. The position is very clear, the position is that Part I Auditors are able to do the business outlined in 5(1)(a) and Part III Auditors are able to do the business as identified in section 124(1)(a) of the Companies Ordinance which will

provide that basically auditors entitled to carry out company audits are either I, II or III and that would only be conditioned by any other piece of legislation that then says in the case of statutory audits one requires specifically a Part I or a Part II. There is no lack of clarity whatsoever. The Part III Auditors are able to do everything by virtue of Section 124(1)(a) of the Companies Ordinance other than in those circumstances outlined now in section 5(1) of this particular Ordinance.

HON A ISOLA:

Mr Chairman, the reason for raising it again is because looking back to the Auditors Approval and Registration Regulation Ordinance 1992, there is no sub-statement in respect of either Part I or Part II whereas here for the first time it is saying Part I can do this, Part II can do that and Part III it just says who they are.

HON P C MONTEGRIFFO:

Mr Chairman, this is a natural consequence of the transposition. What the transposition is requiring us to do is to provide that for statutory audits, in other words, audits defined in Community Instruments as being audits that have to be done by a certain category of auditors, the provision has to make that only that category can do those audits. That did not exist in 1983 when the previous Ordinance was undertaken. Now we do have to define in this new legislation those auditors that can only do the work that those Community Instruments say require a statutory audit. Where a Community Instrument is silent on the question of a statutory audit or whether indeed it exempts the situation of a statutory audit then Part III auditors are able to audit such companies. I gave the example yesterday of small companies under the Fourth and Seventh Company Law Directive. Under these directives the audits required would be statutory audits but there is an exemption under those directives for small companies so Part III auditors would be able to undertake audits of small companies because they are not statutory audits as defined by Community Instrument. There is no requirement for them to be statutory audits defined by Community Instrument.

HON A ISOLA:

Why the reference to Auditors Registration Ordinance in part (c) it is there and in a number of other places throughout the Bill? That Ordinance then should be repealed and replaced by the Auditors Approval and Regulations Ordinance of 1992, I just wonder why there is reference to the Ordinance being repealed here.

HON P C MONTEGRIFFO:

Mr Chairman, as far as I am aware, what we are doing is bringing into Part III those auditors listed under the Auditors Registration Ordinance which is the one currently in force. I have before me the Ordinance currently in force which has been the subject of amendment, that is true to say, there have been amendments to the 1983 Ordinance so to speak, but the Ordinance in force is the Auditors Registration Ordinance 1983, with amendments, no doubt. I can assist the hon Member perhaps, in my note it makes reference to Ordinance 35 of 1992 as amending, for example, the definition of auditor. I had an amendment introduced in 1992 extending the definition of auditor to mean the auditor of a company registered under the Companies Ordinance or of a statutory body of the Government or a Government agency. That was one of the amendments introduced by Ordinance 35 of 1992. There are others jotted up in the particular principal Ordinance.

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J Gabay  
The Hon A Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

Absent from the Chamber: The Hon Lt-Col E M Britto

Clause 5 stood part of the Bill.

Clause 6

HON P C MONTEGRIFFO:

Mr Chairman, in the Title I have given notice of an amendment here, Part II of the Bill is currently headed "Statutory Auditors - Part 1 of the Register", in fact it just does not deal with Part 1 of the Register, it deals with other parts of the Register too. I have given notice to the House that this should now read "Statutory Auditors and the Register".

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J Gabay  
The Hon A Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

Absent from the Chamber: The Hon Lt-Col E M Britto

Clause 6, as amended, stood part of the Bill.

Clauses 7 to 16 and Schedule 1

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J Gabay  
The Hon A Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

Absent from the Chamber: The Hon Lt-Col E M Britto

Clauses 7 to 16 and Schedule 1 stood part of the Bill.

Schedule 2

HON P C MONTEGRIFFO:

Mr Chairman, as I indicated previously the current wording of paragraph 3 of Schedule 2 makes a reference to Parts I and II of the Register. I move that that be changed to Parts I, II or III of the Register.

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J Gabay  
The Hon A Isola

The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

Absent from the Chamber: The Hon Lt-Col E M Britto

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J Gabay  
The Hon A Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

Schedule 2, as amended, stood part of the Bill.

The Long Title stood part of the Bill.

THE DISCLOSURE OF INTERESTS IN SHARES BILL 1998

Absent from the Chamber: The Hon Lt-Col E M Britto

Clauses 1 to 30 and the Long Title

Clauses 1 to 10 and the Long Title stood part of the Bill.

Question put. The House voted.

THE PROSPECTUSES BILL 1998

For the Ayes: The Hon K Azopardi  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

Clauses 1 to 15

Question put. The House voted.

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J Gabay  
The Hon A Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

For the Ayes: The Hon K Azopardi  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

Absent from the Chamber: The Hon Lt-Col E M Britto

Clauses 1 to 30 and the Long Title stood part of the Bill.

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J Gabay  
The Hon A Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

THE LISTING OF SECURITIES BILL 1998

Clauses 1 to 10 and the Long Title

Question put. The House voted.

Absent from the Chamber: The Hon Lt-Col E M Britto

For the Ayes: The Hon K Azopardi  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo

Clauses 1 to 15 stood part of the Bill.

Clause 16

HON P C MONTEGRIFFO:

Mr Chairman, under Clause 16(4)(a) there is minor amendment by the introduction of the word "of" after the word "listing" in the reference to the Listing of Securities Ordinance 1998.

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J Gabay  
The Hon A Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

Absent from the Chamber: The Hon Lt-Col E M Britto

Clause 16, as amended, stood part of the Bill.

Clauses 17 and 18, Schedules 1 and 2 and the Long Title

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J Gabay  
The Hon A Isola

The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

Absent from the Chamber: The Hon Lt-Col E M Britto

Clauses 17 and 18, Schedules 1 and 2 and the Long Title stood part of the Bill.

THE TRAFFIC ORDINANCE (AMENDMENT) (NO 2) BILL 1998

Clause 1 was agreed to and stood part of the Bill.

Clause 2

HON J J HOLLIDAY:

Mr Chairman, I have given notice that I wish the Bill to be amended as follows: The reference to section 4 should be substituted by reference to Section 4(H) and the reference 4(A) that should be substituted by a reference to 4(I).

Clause 2, as amended, was agreed to and stood part of the Bill.

The Long Title was agreed to and stood part of the Bill.

THE LICENSING AND FEES ORDINANCE (AMENDMENT) BILL 1998

Clauses 1 to 3 and the Long Title were agreed to and stood part of the Bill.

THE SOCIAL SECURITY (CLOSED LONG TERM BENEFITS AND SCHEME) ORDINANCE 1996 (AMENDMENT) BILL 1998

Clause 1 was agreed to and stood part of the Bill.

Clause 2

HON H CORBY:

Mr Chairman, I move the following amendment: Clause 2(7)(a) should be deleted and substituted by the following new clause 2(7)(a) which reads: "Section 3(A) of the Social Insurance Ordinance, is a reference to the section 3(A) enacted under section 2 of the Social Insurance (Amendment) Ordinance 1973, and as amended from time to time".

Question put. Agreed to.

HON R MOR:

I have a further amendment, Mr Chairman. To change the date from the 31st July to the 31st August 1998 wherever this date appears throughout the Bill.

HON CHIEF MINISTER:

I do not know if the hon Member believes that there are still people coming forward. There are not, there is nobody that has come forward now for probably a month or longer. The problem is that very soon after the end of the deadline, 10 cases have come up. We know who the people are. Extending the deadline for the cut-off date is not going to let in anybody else that is waiting in the wings to be let off. There are 10 people, all of whom came to light very quickly after the end of the first deadline. The list has not grown now for nearly two months, nobody else has come forward and said, "Oh, I am sorry I got the thing in late". It really would serve no practical purpose.

HON R MOR:

Mr Chairman, if one were to follow the argument that the Chief Minister uses when he was saying that the idea of re-writing the whole exercise again was to give it as much wide publicity as possible, then it could well be the case that more people will now come forward, that is using the same argument.

HON CHIEF MINISTER:

I am glad that the hon Member enjoys these intellectual exchanges as well. The fact is that this Bill has had a lot of publicity already, it has been published in the Gazette. It has been reported in the press and no one has come forward. The whole purpose of extending the deadline is to let in people who qualify but have just applied too late. No one has come forward for the last two months. I think the Bill makes adequate provision but if the hon Member feels that he has contributed to anybody getting this right, at the end of the day the whole idea is to give maximum opportunity to qualify to people to benefit from this. We have no interest in bringing the axe down but for administrative reasons

there has to be a cut-off date. If the hon Member feels that he would like to give 60 days instead of 30 days extension for latecomers to come in, we will go along with that but I do assure him that the experience of the Department over the last two months is that there will be nobody else but of course it cuts both ways. On the basis of what I am saying it does no harm to extend it either. We are happy to accept that amendment.

Clause 2, as amended, was agreed to and stood part of the Bill.

The Long Title was agreed to and stood part of the Bill.

THE UNFAIR TERMS IN CONSUMER CONTRACTS BILL

Clauses 1 and 2 were agreed to and stood part of the Bill.

Clause 3

HON K AZOPARDI:

Mr Chairman, I would like to propose an amendment to clause 3 sub-clause (1) be amended by the deletion of the word "provision" and the substitution therefor of the word "provisions".

Clause 3, as amended, was agreed to and stood part of the Bill.

Clauses 4 to 6 were agreed to and stood part of the Bill.

Clause 7

HON K AZOPARDI:

Mr Chairman, if I can propose an amendment to that clause, the deletion of the word "the" appearing before the words "member State" and the substitution therefor of the word "a".

Clause 7, as amended, was agreed to and stood part of the Bill.

Clause 8

HON A ISOLA:

If I can just ask one question in respect of clause 8. I actually asked a question this morning and I forgot to remind the Minister that he had not answered it. In terms of the criteria, is there any criteria the Minister has in mind?

HON K AZOPARDI:

Obviously, we will have to consider the practicalities of the particular situation in Gibraltar. In the United Kingdom the criteria they would use is to perhaps designate people who are clearly identifiable consumer groups that have been around for some time. Here in Gibraltar it makes it more of a difficult exercise. I think we will have to devise our own criteria. What we were concerned is to put this Bill into place because of the pressure we were getting on the transposition and now we will have to consider formulating specific criteria to deal with that situation. In the light of the special circumstances of Gibraltar and the persons or organisation that could want to be designated, it may be that people may want to be designated on a case by case basis for particular interests. That may also be something we should, I think, look at.

Clause 8 was agreed to and stood part of the Bill.

Schedules 1 and 2 were agreed to and stood part of the Bill.

Schedule 3

HON K AZOPARDI:

Mr Chairman, I have got two amendments here. The addition of the figure "1" in the margin prior to the words "Terms which have...". That would be numbered 1 for the whole section. Then in 2(c) of that same Schedule the deletion of the apostrophe and the letter "s" after "travellers".

Schedule 3, as amended, was agreed to and stood part of the Bill.

The Long Title was agreed to and stood part of the Bill.

THE MEDICAL AND HEALTH (AMENDMENT) BILL 1998

Clauses 1 and 2 and the Long Title were agreed to and stood part of the Bill.

THE SPECIFIED HAZARDOUS WASTE (INCINERATION PLANTS) BILL 1998

Clauses 1 to 19, Schedules 1 to 4 and the Long Title were agreed to and stood part of the Bill.

THE PUBLIC HEALTH ORDINANCE (AMENDMENT) BILL 1998

Clauses 1 and 2 and the Long Title were agreed to and stood part of the Bill.

THE REVISED EDITION OF THE LAWS BILL 1998

Clauses 1 to 17, the Schedule and the Long Title were agreed to and stood part of the Bill.

THE LICENSING AND FEES (AMENDMENT) BILL 1998

Clause 1 was agreed to and stood part of the Bill.

Clause 2

HON ATTORNEY-GENERAL:

Mr Chairman, I would move an amendment. This is not an amendment of which notice is being given but in fact deals with the points made by the hon Member. Mr Chairman, the amendment is in section, "13. Police Reports in respect of road traffic accidents and complaints of crime". The full stop should go, a comma should be inserted and the following words should be inserted, "otherwise than for use in criminal proceedings".

Clause 2, as amended, was agreed to and stood part of the Bill.

The Long Title was agreed to and stood part of the Bill.

THE COMPANIES (AMENDMENT) BILL 1998

Clause 1 was agreed to and stood part of the Bill.

Clause 2

HON A ISOLA:

In section 2(1)(dd), the point I mentioned this morning, it is only "balance sheet or profit", the directive says "balance sheet and". If we are trying to make it acceptable, I do not think for our purposes it makes any difference if we put "any balance sheet and" as opposed to "or" as "and" is the word used in the directive. I do not know whether that makes any difference to the amendment but the directive reads, "the balance sheet and the profit and loss account" for each financial year. We have put here "any balance sheet or".

Mr Chairman, I am just suggesting to the Minister that in section 2(1)(dd) put in the words, "any balance sheet or profit and loss account" and in the directive it reads "the balance sheet and the profit and loss account". Two things as opposed to one. If we are going to seek to comply with the directive it may be better if we just use the same words.

My colleague in the Opposition has explained to me that there is a difference in that the directive one thing is seeking the disclosure of the balance sheet and the profit and loss account whereas in the Ordinance, to which this will be going, it is a requirement to notify the publication of. I assume it will be either one or the other, whatever it receives. I shall leave it as it is.

Clause 2 was agreed to and stood part of the Bill.

Clause 3 and the Long Title were agreed to and stood part of the Bill.

HON P C MONTEGRIFFO:

I beg to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the Committee Stage of a Private Member's Bill.

Question put. Agreed to.

THE ABN AMRO BANK BILL 1998

Clauses 1 to 11 and the Long Title were agreed to and stood part of the Bill.

THIRD READING

HON ATTORNEY-GENERAL:

Mr Chairman, I have the honour to report that:

The Tobacco Ordinance 1997 (Amendment) Bill 1998.  
The Companies Ordinance (Amendment) Bill 1998.  
The Companies (Amendment) Bill 1998.  
The Auditors Approval and Registration Bill 1998.  
The Disclosure of Interest in Shares Bill 1998.  
The Listing of Securities Bill 1998.  
The Prospectuses Bill 1998.  
The Traffic Ordinance (Amendment) (No. 2) Bill 1998.  
The Licensing and Fees Ordinance (Amendment) Bill 1998.  
The Social Security (Closed Long Term Benefits and Scheme) Ordinance 1996 (Amendment) Bill 1998.  
The Unfair Terms in Consumer Contracts Bill.  
The Medical and Health (Amendment) Bill 1998.  
The Specified Hazardous Waste (Incineration Plants) Bill 1998.  
The Public Health Ordinance (Amendment) Bill 1998.  
The Revised Edition of the Laws Bill 1998.  
The Licensing and Fees (Amendment) Bill 1998.  
The ABN AMRO Bank Bill 1998.

have been considered in Committee and agreed to with amendments and I now move that they be read a third time and passed.

Question put.

The Tobacco Ordinance 1997 (Amendment) Bill 1998; the Traffic Ordinance (Amendment) (No. 2) Bill 1998; The Licensing and Fees Ordinance (Amendment) Bill 1998; The Social Security (Closed Long Term Benefits and Scheme) Ordinance 1996 (Amendment) Bill 1998; The Unfair Terms in Consumer Contracts Bill; The Medical and Health (Amendment) Bill 1998; The Specified Hazardous Waste (Incineration Plants) Bill 1998; the Public Health Ordinance (Amendment) Bill 1998; The Revised Edition of the Laws Bill 1998; The Licensing and Fees (Amendment) Bill 1998 and The ABN AMRO Bank Bill 1998; were agreed to and read a third time and passed.

The Companies Ordinance (Amendment) Bill 1998; The Companies (Amendment) Bill 1998; The Auditors Approval and Registration Bill 1998; The Disclosure of Interests in Shares Bill 1998; The Listing of Securities Bill 1998; The Prospectuses Bill 1998.

For the Ayes: The Hon K Azopardi  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J Gabay  
The Hon A Isola  
The Hon Miss M I Montegriffo  
The Hon R Mor  
The Hon J C Perez

Absent from the Chamber: The Hon Lt-Col E M Britto

The Bills were read a third time and passed.

#### ADJOURNMENT

#### HON CHIEF MINISTER:

I have the honour to move that this House do now adjourn to Monday 13th July 1998, at 3.00 pm.

Question put. Agreed to.

The adjournment of the House was taken at 4.15 pm on Friday 3rd July 1998.

MONDAY 13TH JULY 1998

The House resumed at 3.00 pm.

#### PRESENT:

Mr Speaker ..... (In the Chair)  
(The Hon Judge J E Alcantara OBE)

#### GOVERNMENT:

The Hon P R Caruana QC - Chief Minister  
The Hon P C Montegriffo - Minister for Trade and Industry  
The Hon Dr B A Linares - Minister for Education, Training, Culture and Youth  
The Hon Lt-Col E M Britto OBE, ED - Minister for Government Services and Sport  
The Hon J J Holliday - Minister for Tourism and Transport  
The Hon H A Corby - Minister for Social Affairs  
The Hon J J Netto - Minister for Employment and Buildings and Works  
The Hon K Azopardi - Minister for the Environment and Health  
The Hon R Rhoda - Attorney-General  
The Hon T J Bristow - Financial and Development Secretary

#### OPPOSITION:

The Hon J J Bossano - Leader of the Opposition  
The Hon J L Baldachino  
The Hon A J Isola  
The Hon J J Gabay  
The Hon R Mor  
The Hon J C Perez

#### ABSENT:

The Hon Miss M I Montegriffo

#### IN ATTENDANCE:

D J Reyes Esq, ED - Clerk of the House of Assembly

BILLS

FIRST AND SECOND READINGS

HON J J HOLLIDAY:

I beg to give notice under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the Bill.

Question put. Agreed to.

**THE TRANSPORT ORDINANCE 1998**

HON J J HOLLIDAY:

I have the honour to move that a Bill for an Ordinance to amend and consolidate the law relating to public transport and road haulage: to make provision for the establishment of the Transport Commission: to make further provision for the regulation and licensing of services supplied to the tourism sector of the economy: and for matters connected thereto be read a first time.

Question put. Agreed to.

**SECOND READING**

HON J J HOLLIDAY:

I have the honour to move that the Bill for a Transport Ordinance be read a second time. Mr Speaker, this is a voluminous piece of legislation. In essence, it re-enacts with important amendments and additions provisions currently found in the Traffic Ordinance which impact on transport matters. They include the provisions in the old Traffic Ordinance which govern the regulation and licensing of taxis, omnibuses, lorries, horse-drawn vehicles, self-drive hire cars and road haulage contractors. Provision is made for extending the licensing and regulation of private hire cars under the category of chauffeurs and chauffeur-driven hire cars.

Government perceived that there was a need to extend existing legislation in the field of transport following the inability to arrive at a Memorandum of Understanding with the providers of public transport for the regulation of all matters which relate to transport in the field of tourism. Government consider it important to do away with outmoded practices and to open up the field of tourism transportation to allow customers a meaningful

freedom of choice in order to encourage the growth of Gibraltar as a centre of tourism excellence and to develop Gibraltar's potential as a cruise port of call. At the same time, Government recognise that the transport industry in Gibraltar has legitimate commercial rights and expectations and this is reflected in the Bill before this House. The bottom line nevertheless has to be that quality services need to be available, that the range of Gibraltar's tourist product should not be undersold and that there should be an end to unfair commercial practices. Tourism provides jobs for Gibraltarians and any practice that reduces Gibraltar's tourism potential puts jobs at risk. Government will not permit this. The role of the Government under the new legislation will be to control and supervise the manner in which transportation is provided and to ensure high standards are maintained in all areas which impact on transportation and public transport, whilst at the same time ensuring that dominant positions are not used to destabilise any sector of the transport industry. Advantage is taken of this exercise to consolidate all existing transport legislation, particularly in relation to road haulage and to make it available in a more readily accessible format. Mr Speaker, allow me to go through the Bill and highlight some of the features which are important to Government.

Part I essentially contains definitions. At this point, Mr Speaker, I wish to give notice that I will seek at Committee Stage to correct the definition at section 2(1) of the different categories of motor vehicles. These are amended late in 1997 and are a result of a clerical error. The former definitions were included in this Bill.

Part II establishes the Transport Commission and Transport Inspectors. The Transport Commission does not replace the Traffic Commission, there is a continuing role for the Traffic Commission. What this part of the Bill seeks to do is to focus the responsibilities of the Transport Commission. The Traffic Commission will continue to deal with all matters which appertain to traffic. The Transport Commission will have the functions prescribed by section 4 of the Bill. These are matters which relate to transport.

Mr Speaker, I would particularly like to pay tribute to Mr Brian Clark who has been a member and lately Chairman of the Traffic Commission for many years. I would like to thank him and members of the Traffic Commission who have worked with dedication over many year. The members

of the Traffic Commission are not paid for their duties and they always give freely of their time for the good of the community. Theirs is sometimes a thankless task. However, their sterling work ought to be and it is hereby publicly recognised.

I will now turn to the Transport Commission. The most significant change in the composition of the Transport Commission when compared with that of the existing Traffic Commission is that the Chairman will be the Minister with responsibility for Transport. The Government have been unhappy for some time that there should be a statutory body, the Traffic Commission, whose decisions can bind Government and who can take decisions without a Government steer. These decisions could even be taken to further a strategy or policy which is contrary to Government wishes and this is unacceptable. This matter has now been set right insofar as the Transport Commission is concerned.

The powers of the Transport Commission are similar to the existing powers of the Traffic Commission and reflect section 55A of the Traffic Ordinance. Section 6 simply makes provisions for matters consequential on the removal of responsibilities from the Traffic Commission to ensure that there is continuity in respect of matters which were before the Traffic Commission on the date of the commencement of the Transport Ordinance and which subsequently falls under the preview of the Transport Commission. Section 7 contains another innovation - the provision of Transport Inspectors. These inspectors will be crucial for ensuring that standards are maintained. On the one hand there needs to be legislative authority for inspections. Equally important is that the authority should be converted into effective policing. Transport Inspectors will enforce compliance with the terms of issue of licences, the quality of services offered to the public and the condition of vehicles. They will have extensive powers of examination of vehicles and enforcement, including the temporary suspension of licences but they will not be able to revoke licences.

Part III of the Bill deals with public service vehicles generally. Sections 8 to 10 are general clauses which apply to all public service vehicles. Sections 11 to 24 contain specific provisions in respect of taxis. Sections 25 to 43 contain specific provisions for buses and lorries. Provision for horse-drawn vehicles is contained in Sections 44 and 45 and for self-drive hire cars in Sections 46 to 50. This Part concludes with

sections 51 to 56 in respect of chauffeur-driven cars which include private hire cars.

Allow me now to expand on Part III. Sections 8 to 10 contain provisions which were not in the Traffic Ordinance. They reflect the need for certificates of fitness for public service vehicles. This will ensure that minimum standards are maintained in respect of all public service vehicles. The Government believe that the general public and visitors to Gibraltar should be able to expect a proper standard in respect of all public service vehicles. This is not to say that no vehicles are presently up to standard. These sections merely provide the mechanism to raise standards of those vehicles that are presently unacceptable. Section 8(6) makes it an offence for a public service vehicle to be used if it is not up to scratch and a certificate of fitness or authority for operating as a public service vehicle has been suspended. Naturally, there is a mechanism for appeal to the Magistrates' Court by anyone who feels aggrieved in respect of a decision of a Transport Inspector who suspends a certificate of fitness or an authority for operation of a public service vehicle.

Section 9 is, to my mind important. A public service vehicle may be in excellent condition when it is examined and a certificate of fitness issued. The validity of such a certificate is for one year. At some stage during the course of the year the vehicle may develop a fault or may no longer comply with the conditions which are required for the grant of a certificate of fitness. Section 9 allows for a Transport Inspector to ensure that a public service vehicle is re-examined at any time provided that the inspector has reasonable grounds to believe that the re-examination is justified. This is a safety measure as well as one which will improve matters. The Government are keen to ensure that safety standards are not only maintained but enhanced.

Section 10 empowers the Traffic Commission to add a rider to the public service licence to ensure that the public is properly served at all times. This is particularly important in respect of taxis. There are complaints which have often been voiced by the general public that there are no taxis available for a city service on certain occasions, especially when two cruise liners are in port at the same time. This section will allow the Transport Commission to direct on specific days and times that taxis will be made available to ensure that the needs of the general public and of visitors arriving are

properly serviced. Mr Speaker, this section is not intended as a weapon with which to bash taxi drivers, nor should it be construed as such. The taxi service needs to provide for the demand made on it by different sectors of the market. The size of Gibraltar and its population indicates that there should be 30 taxi licences. There are, in fact, 112 current licences. A mechanism will need to be put in place to ensure that approximately 30 taxis are earmarked at any one time for services other than Rock tours. It would be wrong to give the impression that the Taxi Association does not already make provision for a city service. This has been in existence for a number of years. However, what is now thought, is for the Transport Commission to regulate the manner in which this service is provided by limiting the activities that taxis may carry out on specific days and times.

I will now turn to the specific sections which deal with taxi road service licences. These are contained in Sections 11 to 24 and substantially re-enact provisions to the existing Traffic Ordinance. I wish to comment first on section 11 which deals with the issue of a road service licence when read together with section 8 which provides for the issue of certificates of fitness for public service vehicles. Mr Speaker, the intention is that both the road service licence and the certificate of fitness should be issued simultaneously as a result of a single application. This is obviously an issue for the Transport Regulations which will follow once the Transport Ordinance is in place in the statute books and for administrative procedures which are to be put in place. What I would like to emphasise at this point is that the Government do not wish to create administrative monsters, rather than to simplify procedures as much as possible whilst not compromising on standards and safety.

Section 17 introduces a new measure in respect of taxi licences which were first issued after the commencement date of the Transport Ordinance. This provides that only the registered owner of a taxi may operate a taxi. For the future, therefore, once the current generation of taxi licences are spent, there will be a new regime. This section reads together with section 23 on transferability of licences and will service to usher in a new climate. I would nevertheless like to highlight that existing taxi licences will continue to be renewed on the terms under which they were originally issued. I am aware that members of the Gibraltar Taxi Association are concerned that the provisions of sub-section 17(5) make it appear that as a result of sub-section 17(3) that

only existing licence holders will be subjected to restriction on their road service licence to provide, for example, for a city service for taxis. I therefore welcome the opportunity to clarify that section 17(5) applies only to existing licence holders and a parallel provision contained in section 10 implements a similar restriction for holders of new road licences if and when they are issued. This means that there will be a level-playing field and all road service licence holders will be subjected to the same restrictions on their licences. Sub-sections 17(8) and 17(9) contain new provisions, that only fit and proper persons who have no employment other than that of taxi driver may be granted a road service licence or be classified as a named driver for an existing road service licence.

Section 18 substantially re-enacts the provisions of section 66 of the Traffic Ordinance but hones down the condition when a vehicle can be licensed as a concessioned taxi. This concession is intended to apply for the future in respect of taxis which need to undergo extensive repairs. Formerly, vehicles could be licenced as concession taxis if the taxi driver was ill or absent from Gibraltar on holiday. The Government do not consider these as sufficient grounds for allowing a vehicle to be licenced as a concessioned taxi for the future. There is a further matter which arises in respect of the concessioned taxi. Further to the publication of this Bill, Government have decided that the provisions of the old section 66 of the Traffic Ordinance discriminates unnecessarily between vehicles licenced as taxis which were imported into Gibraltar free of import duty and those taxis upon which import duty has been paid. The benefit of section 18 of the Bill only extends to duty-free taxis, and the Government believe that they should be available to all vehicles which are licenced as taxis. I will therefore be seeking to amend this section accordingly at Committee Stage.

Section 20 provides two new grounds for which a road service licence can be revoked or suspended. They are section 20(1)(a) and (d). The first of the new grounds follows from the grant of certificates of fitness and roadworthiness which were not covered by the old Traffic Ordinance. The grounds of sub-section (d) are totally new. It is quite unacceptable for Government that an operator or a driver of a public service vehicle should use his vehicle as an obstacle on the public highway in order to further a grievance or dispute. If there is unhappiness with regard to any area that impacts on the provision of services by public service vehicles, this

should be resolved through dialogue. If dialogue does not achieve results it is up to the persons concerned to consider whether they wish to withhold their labour. What cannot be allowed is for an individual or a group of individuals to take the law into their own hands and create major disruptions through road blockages. If this is attempted for the future the persons involved may have their road service licences or operator licence revoked or suspended by the Traffic Commission.

Section 23 deals with the transfer of road service licences. At sub-section 23(1) it is now provided that licences first issued after the Transport Ordinance comes into effect shall not be transferable. Previously this was a permissive section. Section 23(2) refers to licences which were first issued prior to 1st November 1990. The significance of this date is that provisions were added to the Traffic Ordinance by the previous administration which made licences non-transferable on or after that date.

Mr Speaker, the main body of Part III relates to Operator Licences for buses and lorries. Many of the sections which refer to buses are the mirror image of similar provisions which relate to taxis. Once again most of the provisions of this element of Part III are a re-enactment of provisions which are currently found in the Traffic Ordinance. I only wish to highlight the provisions of section 43. This now provides that the Minister for Transport may determine the maximum number of operator licences that may be granted for any type or type of public service vehicles. This reflects the provisions of section 14 of the Bill now before the House, which in turn mirrors section 62 of the old Traffic Ordinance. I consider it anomalous that there should be a mechanism for setting a ceiling on the number of road service licences that can be issued and not allowing for the setting of a similar ceiling for operator licences for buses, or indeed, for chauffeur-driven hire cars. This omission is now being set right.

The provisions of Part III which relate to horse-drawn vehicles continue unchanged from the Old Traffic Ordinance. In so far as self-drive hire cars are concerned, there are significant changes to the former section 77 of the Traffic Ordinance which are incorporated into section 46 of the Bill. Sub-section 46(3) grants the Transport Commission discretion to grant, renew, refuse, revoke or suspend self-drive operator licences. This is an extension of the powers which were formerly provided under section 77 of the old

Traffic Ordinance. Section 46(4) provides that the minimum number of cars which should be available for hire by a care hire firm will be prescribed by notice in the Gazette. Previously, this number was prescribed in the Traffic Ordinance which makes it unwieldy in case amendments to these numbers become necessary in the light of unchanged circumstances. Section 49 now provides that self-drive operator licences shall not be transferable. The opposite was previously the case. There is no reason why this licence should be transferable. The other innovation of note in connection with hire cars is that Section 50(2) which now provides that self-drive cars need to have roadworthiness certificates and certificates of fitness. Again, this is a safety matter. Part III concludes with a totally new section on chauffeur licences. The Public Service Vehicles Regulations previously provided for private hire cars but this concept was not reflected by the Traffic Ordinance - the principal Ordinance from which PSV Regulations stem. This anomaly is now corrected.

Section 51 to 56 are therefore totally new provisions which cover, in addition to private hire cars, the concept of chauffeur-driven limousines, offering another range of public service vehicles. The regime for the issue of chauffeur licences is clearly set out and it is highlighted that the controls are only in respect of chauffeurs who offer their services for hire or reward and not for persons who are employed by private individuals as their personal chauffeurs. Essentially, the conditions which govern the issue of licences for chauffeurs or chauffeur-driven limousines mirror that as already applied in respect of other categories of public service vehicles.

Mr Speaker, Part IV of the Bill covers community authorisation and is a transposition of sections 83(a) to 83(k) of the Traffic Ordinance. The final provisions are contained in Part IV of the Bill in Sections 67 to 77. There are a number of new provisions contained in this Part. Section 67 provides a vehicle for appeal in certain matters on a point of law to a Judge of the Supreme Court. Regulation 67 sets out the new catalogue of measures in respect of which the minister for Transport may make Regulations for the purpose of carrying the Transport Ordinance into effect. Many of these matters were previously prescribed by the Traffic Ordinance. I would like to highlight a couple of new matters, Mr Speaker. These include sub-sections (n), (o), (p), (q), and (r). They are particularly designed to assist in cementing a better image for Gibraltar as a

tourism centre. The licensing of guides was previously a matter provided for in the Licensing of Tour Guides Rules 1989. As drivers of public service vehicles can also be licenced as guides, it would make more sense if these provisions in this area should be contained in the Transport Ordinance and Regulations. I am particularly interested in the introduction of a code of dress for licence holders of all descriptions under this Ordinance. This is not to say that there will be a uniform imposed on public service drivers or drivers of taxis or tourist coaches. However, there is a need to prescribe minimum acceptable standards of dress. The Transport Regulations will also contain provisions for the licensing regulations of Rock tours. Government firmly believe, following research in this field, that there is a need to develop and enhance the Rock tour experience which visitors to Gibraltar are presently enjoying. On the one hand there is a need for a wider range of tours. This is a clear message from the cruise industry. In cases where cruise ships who are frequent callers at Gibraltar and bearing in mind that many cruise passengers enjoy taking sea cruises with their favourite operators, a large proportion of passengers do not take Rock tours in Gibraltar because they feel that they have already seen all our sites. The Regulations which are being drafted in this area will provide for two distinct range of tours. The tours that will be offered to visitors from the coach park and those that will be offered to visitors of cruise ships. This recognises that there are different markets which are attracted by different experiences at different prices. The basic aim of the exercise is to make available to visitors a wider range of sightseeing options than is presently the case. The first stage in this process is the dismantling of the so-called traditional Rock tour as this sends the wrong signals to our customers. The implication of having the single official Rock tour is that once this has been done there is nothing else to see and do. I consider that the dynamic range of new products will include walking tours, tours which will be offered exclusively by taxis, tours which will be exclusively offered by coaches and tours which will be offered by a choice of either taxis or tour buses which will greatly enhance our tourist product. The Regulations will also provide for a complete freedom of choice in respect of transportation on all aspects in respect of the tourist movement and transfers be it from hotels, the airport or the port. This will do away with the unacceptable practice in this field in the past.

Sections 70 to 75 mirror existing provisions of the Traffic Ordinance. Section 76 provides for the repeal of

the Traffic Ordinance and for subsidiary legislation of those sections which have now been incorporated into this Bill and of matters which will be provided for in the Transport Regulations which will shortly be published. Section 72(2) of the Bill repeats some of the provisions of section 76 and I will be moving at Committee Stage that sections 66 and 72 be amended to avoid unnecessary repetitions. I would also like to add that there are a couple of typographical errors in the Bill and these will be corrected at Committee Stage.

Schedules 1 and 2 to the Bill mirror existing Schedules of the Traffic Ordinance and I do not believe I need to comment further on these as they do not contain material changes. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles of the Bill.

HON J C PEREZ:

Mr Speaker, the Minister issued a press release on the 13th June in which he said that the object of the Bill before the House was to introduce a wide ranging system of control from transportation used by visitors to Gibraltar. Indeed, he has repeated the same argument this afternoon, which he had tried to implement by a consensus between the different sectors of the transport industry but which he has failed to achieve. The Minister is wrong. He need not bring this Bill to do what he said this afternoon or what he said in the press release he wanted to do. He could have done so by making Regulations under the existing Ordinance. Indeed, nothing in the Bill is directly connected with the interests of different sectors in the coach park or at the cruise liner terminal. That control of which he talks about will be the subject of Regulations to be made later as the Minister has said and one can only judge whether he is as equally fair to all interested parties as he says he will be when these Regulations are published. The fact that he has failed to reach a consensus between those parties will indicate that some of these sectors do not agree already that he is being fair to them. Mr Speaker, as long ago as 1985 the then AACR Government did away with the then Transport Commission by stripping it of many of its responsibilities related to traffic matters and later by removing its independence as a quasi-judicial body. They changed the name to Traffic Commission and placed the whole question of licensing regime in the hands of the Minister for Traffic and three top civil servants. The

effect of this was to politicise matters relating to licensing and transport which created a lot of controversy at the time and bitterness and resent in the sector with the Minister in the middle of every conflict and row. Soon after the GSLP took office in 1988 we restored an independent chairman and appointed representatives of each sector to serve on the committee and although the decision-making became more prolonged, the chairman of the Commission has always managed to achieve a consensus on most matters, having first aired this out with each sector, inside and outside the Traffic Commission. Indeed, I join the Hon Mr Holliday in commending Mr Brian Clark for his patience and his know-how and his magnificent work during the years since he became Chairman when we appointed him as the independent chairman.

What we are seeing today with this Bill, Mr Speaker, is not a Bill to do things which could not be done under the old Ordinance. This is a complete reversal of the policy that was put in in 1988 giving the Minister wider powers than the Minister had in 1985 when the AACR first changed the legislation. According to the Government press release and indeed the Minister has again repeated this, this afternoon, the role of the Government will be to control and supervise the manner in which the transportation is provided to ensure standards and to ensure that no one sector within the Transport Industry is able to destabilise the whole industry. For that the Minister is seeking to transfer all powers of licensing regulations and control to himself who will then become the Chairman of the Transport Commission, who will then appoint members to the Commission of his choice and in turn the Commission will appoint Transport Inspectors to do what the Minister wants them to do when the Minister wants these things done. The Minister says that that is not the intention and that might not be the intention but this is what the law gives the power for the Minister to do. When we are looking at the Bill in the House of Assembly we are not looking at the intention of what the intention is now or who the incumbent is but what the powers that are being extended to one individual in one area are. This is what I am talking about. Mr Speaker, these Transport Inspectors will be political appointments since they are appointed by the Minister himself, they definitely cannot be civil servants given that civil servants are appointed by the Governor on the recommendation of the Public Service Commission and there is nothing said in the Ordinance about the Public Service Commission employing people. The power of appointing these Traffic Inspectors are solely the responsibility of

the Minister and of those that the Minister chooses in the Commission to serve with him. The Inspectors in turn are given wide powers, not only to control and inspect transport, but any other duties as the Minister sees fit. Again, Mr Speaker, whilst that might not be the intention this is the powers that are being given to the Minister for Traffic in this Ordinance. Indeed, in section 7(2) he has even afforded, that is the Traffic Inspector, the power of entering premises where vehicles are kept, presumably for inspection which is ridiculous because any vehicle which is outside the public highway, be it a public service vehicle or a private vehicle, cannot be in breach of any law because it is outside the public highway and in a private garage. To give the Inspectors powers to go into a private garage to inspect a car when that vehicle is not on the public highway. Section 4(c), by the way, and this is a point we made in 1985 and which we repeat today, it says that one of the functions of the new Commission is to advise Government on matters relating to transport. So here we have the Minister advising himself on matters for which he has absolute powers. Again, a ridiculous notion. If we look at section 8, we will find not the introduction of the certificate of fitness, the re-introduction of the certificate of fitness which was part of the old law or at one stage was part of the old Traffic Ordinance. If hon Members would have cared to look back long enough they would have noticed that it was repealed by the AACR Government because on the introduction of the MOT Test Centre in Gibraltar there were regulations made which still exist today governing the MOT test for taxis and other public service vehicles which extend far greater than the normal MOT test for a private vehicle because it takes into account the appearance, the colour, the size, the sitting capacity and everything else. All the standards that the Minister says he wishes to see introduced are already law and supposedly already being enforced by the MOT Test Centre. Although he says that the intention is to incorporate this in the MOT test so as not to duplicate, that already happened when the first MOT Inspector Mr John Zayas opened the MOT under an AACR Government. That happened at that time and continues to happen today. So what he says he wants to introduce in respect of standards supposedly is happening today. What has not happened since then is that the Traffic Commission, the independent Traffic Commission, could have always appointed an MOT Test Centre operative or inspector as a Traffic Inspector to check that those standards were being applied. That has not happened.

Mr Speaker, the Government are clearly, in this Bill, drawing a distinction between existing taxi licences and new licences. Although I am told that the Minister is saying that it is not the policy or intention to issue new licences and indeed he has repeated this this afternoon, the fact that he is placing in this Bill a distinction between an existing licence and a new one leads people to believe that that policy or intention could change at any time. Indeed, he has said this afternoon, that section 17 which talks about the owner being the driver of the vehicle will be a spent thing once the present generation of taxi drivers go out and a new regime comes in. That is contrary to the spirit of the continuance of transferability of existing licences which the Minister defends in another clause in the Bill, because if they are going to be transferred on present conditions, unless the Minister is saying "no, they are going to be transferred, but once they are transferred only an owner will be able to drive the taxi" and then it will not be a licence as the one that is presently in force today but that licence, once transferred, will have certain restrictions which the old one has not. All this, of course, has an impact on the value of the licences today. Indeed, when there is a clear statement of protection of existing licences in section 23(2) where it provides for a continuance of transferability of existing licences, there is also a statement in that same clause that the Minister may, at his discretion, make new licences transferable as well although the statement of intent is that they will not be. In section 22, and the Minister knows this because we have discussed this outside the Chamber, in our view the fact that the clause says that every application for renewal must be deemed as a new application for the licence, seems to limit the protection afforded in 23(2) only up to the time of renewal, that is to say, although one section says that licences before November 1990 will continue to be transferable, section 22 in turn says that every application for renewal will deem to be an application for a new licence. I think that unless section 22 does not refer directly to the part in section 23(2) where that protection is afforded, the Ordinance could be construed to mean something different than what the Government might want it to be.

Mr Speaker, in section 10 the Hon Mr Holliday has said that the intention of section 10 basically is in order for the Commission to enforce a city service when the need arises. I put it to the Minister that the power that he is giving himself under section 10 is wider than that of providing a city service and that there is a

wording in the existing legislation and in the existing regulations on city service which should limit those powers to city services because it says that "in particular for securing that on such days and at such times as shall be notified from time to time by the Commission to the registered owner" the vehicle to which the said licence refers "shall not be used to ply for hire or reward within the limit of such areas or undertake such activities as may be specified". The Minister could, at any given time say "today this public service vehicle will not be able to ply for hire anywhere in Gibraltar", whereas the measures contained in the Regulations when the city service was first passed relate the clause to a city service and define it better. I think this is again too wide-ranging a definition which gives the Minister wider powers than certainly necessary for what he says he intends to use it for.

In sections 51 and 52 Government are introducing a new category of licences for chauffeurs and for chauffeur-driven hire car operators. The Minister seems to think that there is a demand for limousines in Gibraltar with chauffeur driven cars. Certainly, with the chaotic traffic situation as it is I do not see how we can afford huge limousines with chauffeur-driven cars on our roads. But he also seems to believe that the existing private hire cars and their drivers ought to come under this category of licences rather than be a taxi licence restricted under regulation as it is in the Traffic Commission at the moment. Let me say that if the intention of Government Members is really to protect existing licence holders and to protect the value of those licences today, that one must take into account the provisions of the chauffeur-driven hire car operators if one is serious about protecting those acquired rights and the value of the existing taxi licences. The House I am sure will recall that the historical controversy with taxi drivers arose over the licensing regime on private hire cars way back in the middle of 1980.

Mr Speaker, section 69 again gives the Minister powers to make regulations pertaining to any aspect of transportation from A to Z. I say from A to Z because there are defined from A to Z and then ZAA and ZBB because that was when there were not enough letters in the alphabet, says that anything that we might have not forgotten to define he can also have the power to regulate upon, that is to say, a blanket power to regulate about any aspect certainly relating to the Ordinance but the Bill is so open to absolute power by the one person that controls it which is the Minister for

Traffic that he is giving himself absolute powers to do what he likes, when he likes, in what area he likes. Although we might have a Ministerial commitment today on the intentions of the Minister and that might well coincide with the thinking and aspirations of the industry today the new law does not provide and does not afford protection even for a period of reflection if the Minister changes his mind overnight on these matters. For a Government that have repeatedly claimed a "hands-off" approach over departmental affairs with the dependence on expert advice, the Government Members are now doing what they accused us of doing when we were in Government, when it was not true, we were not doing that. Here is an example of the complete opposite of what they claim politically to want to achieve. The Minister in the front line, issuing licences, revoking licences, appointing Inspectors, summoning people to answer him with absolute powers over people's livelihood in some cases. This is totally unacceptable to Opposition Members and we will not support the Bill, Mr Speaker.

Let me say that on a minor technical point I have gone through some of the sections that are being repealed and some of the sections that are being amended in the Traffic Ordinance and I believe that because the draftsman is still working with an old copy of the law, he is repealing some sections that are already repealed and amending some sections which might not be the correct ones, but as I have not gone through all of them, I certainly found a couple of inaccuracies there.

In conclusion, Mr Speaker, I would remind the House that there is no need to introduce this Bill, giving such draconian powers to the Minister for Traffic in order to be able to regulate traffic and transport matters even to the extent that the Minister has explained this afternoon. This could well have been done with the existing Ordinance and with an independent Traffic Commission. Again, that the Bill is basically about transferring these powers to the Minister other than that the amendments are a subsidiary of the basic issue that the Bill addresses which is that and that the supposed protection afforded to holders of existing licences, although we take at face value that this is what Government Members wish to do and wish to achieve, is not there in law because the law leaves loopholes for this to change at any time in the future. There could be a promise by the Minister and that promise can be broken and we cannot depend, as legislators, when drawing a Bill as important as this to the House, on the promises or intentions of people. This is just not good enough, Mr

Speaker, and we will vote against the Bill on the general principles of it.

HON CHIEF MINISTER:

Mr Speaker, it does not seem to me that it is any harder to break a promise than it is to change a law. What the hon Member is really saying is that the Government must not be trusted with powers because it might exercise them in circumstances that they have said that they will not, and that the hon Member does not think that that is a safe situation because we might break our promise, well, what makes him think that excluding the power from this Bill protects the victims of a broken promise because it is almost as easy to break a promise as it is to bring a new Bill to this House at some future time to give us the power which he now argues we must not have in case we break our promise. I have never heard it said before in a Parliament in a democracy. I have heard it said before that governments bring bad legislation to Parliaments but I have never heard it said before in a Parliamentary democracy, even in a colonial Parliamentary democracy that Ministers must not have powers because their promises and their undertakings may not be reliable. Like much else of what the hon Member has said, it really does beg the question of how the hon Member would survive intellectually if he was not living in a colony. The extent to which he criticises things which are normal everywhere else in the democratic world except in a colony I think his colonial status is a security blanket which he dares not let go of and this is in sharp contrast with the macho, asserted, almost independent style of Government that they used to advocate when they were in Government. Either the hon Gentleman is politically schizophrenic or he is simply not happy for us to exercise powers and to pursue agendas which they were apparently, let me say with my support, always attempting to bring about. Indeed a lot of which they did successfully and happily for Gibraltar achieve in bringing about in terms of extending the executive powers of the democratically-elected Ministers of the people of Gibraltar as opposed to the unaccountable exercise of powers by colonial administrators. I take note of the hon Gentleman's change of direction and I will bear it in mind. Nor can he have his cake and eat it. He cannot at one and the same time argue and criticise us for bringing to this House a Bill which he says gives the Minister too much power and in the very next breath say that of course the Bill is quite unnecessary because the Minister already has all the powers that he needs to do it. Either he has already got the powers to do it, in which case the

Bill is unnecessary, or he does not already have the powers to do it and in which case he cannot criticise us for bringing an unnecessary Bill but he certainly cannot argue both. He will have to select one of those two arguments. Either we are bringing in a Bill which is a novelty in that it transfers draconian powers to the Minister or we are bringing to this House an unnecessary Bill because all the powers that it seeks are already provided for in the existing legislation. It has got to be one or the other, I just do not see how it can be both.

Mr Speaker, the hon Member can tell it to the marines if he would have this House believe that when he was Minister for Government Services with responsibility for Traffic, the Transport Commission was the sort of independent, politically-untainted, arm's length entity with which he never interfered. It is certainly not the feedback I get from the Commission members of the time. It is certainly not the impression that they were labouring under. But still, the hon Member is trying to suggest that when he was Minister with responsibility for Transport, the Government of Gibraltar took no lead and no responsibility and no active participation in matters relating to Transport, all I can tell him is that he was even in grosser dereliction of his duties than even he has admitted to. I do not see what makes the hon Member think that it is illegitimate, or rather, that it is unnecessary for the Government of Gibraltar to involve itself in these matters, since in every meeting of the House of Assembly he says "the chaotic traffic situation", holding the Government responsible for matters of traffic and then when we try to take political control of things for which he is quite rightly going to hold us politically responsible, he accuses us of interference. Either he believes that traffic is something which the Government of Gibraltar should interest itself in or he does not but if he does not he must stop accusing the Government of presiding over a chaotic traffic situation because the Traffic Commission is still operating as it was when he left it to us. Therefore, I am very happy that he should hold me politically accountable for the state of the traffic but then he must not seek to deprive me of the mechanisms to have the authority to implement my traffic policies. Rather like what the Foreign Office says to its colonies "we cannot have responsibility without power" and therefore I am sure the hon Member will agree with me that if he is going to seek to hold us responsible he cannot at the same time criticise us for wishing to have a sufficient degree of interest over the body responsible

for that. I do not see why the hon Member, even if one were to accept, which I certainly do not, that in his day the Traffic Commission was arm's length from him and that he had to wait until the meetings finished to find out whether the Commission had done things that he liked or things that he did not like. Fine, he can crack jokes like that if he likes, but I am not going to buy them. But even if that were the case, I do not see why the hon Member should believe that it is illegitimate for the Government to have a role, given its responsibility. If there is chaotic traffic in Gibraltar people do not say "oh, Mr Clark" or "oh, the Chairman of the Traffic..." People rightly say "what is the Government doing about traffic jams and about traffic lights and about roads and about public transport systems". When people get into a taxi and it is tatty or into a bus and the smoke is coming out people do not say "what is the Traffic Commission doing about this?", people rightly say "what is the Government doing about this?". He obviously does not agree but I do not see what distinction he draws between the regulation, for example, of transport matters which he thinks Government Ministers must not touch with a bargepole, and development and planning matters. He must know that for the eight years that he was in Government the Chairman of the Development and Planning Commission was the Minister for Trade and Industry and that three other Ministers were members of the Commission and that they sit in judgement over people's development rights and licensing applications and whether they can do this or whether they could paint their house in pink or whether it would have to be in blue, or whether they could put up this partition or not. I do not see this sort of philosophical distinction that the hon Member makes in his mind to justify to himself saying all that he has said about a statutory Commission, chaired by one Minister, when his own Government was happy to preside over an equally powerful statutory Commission, chaired by one Minister and membered by three others. These are inconsistencies with which the hon Member will have to come to terms himself but the idea that what the hon Member now seeks to do in matters of transport which is more or less, less in fact, in the area of transport than has been the standard model for some time in the area of, for example, development and planning. Anyone would think that the Minister is trying to invent the wheel again. Of course, the hon Member speaks about things being at arm's length from the political Government as if there was some virtue in this. Mr Speaker, the public interest of Gibraltar cannot always be left to consensus. The fact that Mr Clark has spent the last eight years trying to resolve the very serious problems that afflict

the public transport sector in Gibraltar by reference to consensus amongst people with conflicting commercial interests, probably explains why we have the most decrepit buses in the whole of western Europe, why we have a taxi system that works well when there is not a cruise liner in port but does not work at all for residents when there is and why we have such a bad public transport system in Gibraltar. The public interests of Gibraltar cannot always be addressed and settled by reference to the seeking of consensus. Leadership is often required and really all the hon Member is saying is that during the eight years that he had ministerial responsibility for this he was unwilling to provide that leadership and the result is clear for all to see. It is because the result is now clear for all to see that it is necessary for the Government now to take these radical steps. In matters of public importance such as this, I do not believe that it is legitimate for the hon Member, were he in Government, to take the view "well, this is the Traffic Commission, we do not want to politicise it, we do not want a Minister at the thick of it as I might have to make difficult and unpopular decisions, let me create a sort of quango that I can control from behind the scenes but do not have to take any of the public political responsibility for its decisions." Mr Speaker, the position of this Government is that we are prepared to provide political leadership. We are prepared to preside over the implementation of the policy and take the political responsibility for it and not try to deflect the political responsibility for the implementation of Government policies to some chairman. I do not see why the hon Member has got to be quite so critical of Ministers having powers or the Ministry of Transport having a hands-on approach and responsibility in matters of regulation of transport. Who does he think does this in the United Kingdom? He does not do it here, because the statute responsibility for awarding licences and for doing all the things that the hon Member keeps on saying is the Minister's absolute power is the statutory responsibility of the Commission, unless what he is saying is that because it used to be the case in his time he assumes it is also going to be the case in our time, that people that they appoint to committees are party yes men and that they are really just names and bodies to sit in chairs to say "yes bwana" to Ministers which is presumably what used to happen with committees when they were in Government. I do not see why he should assume that everybody that the Minister is going to appoint to these committees is necessarily going to fall into that category. He speaks as if he is more comfortable if these appointments were made by the Governor because if

these appointments were made by the Governor then they would not be political and then the democratically-elected Government of Gibraltar would not be in the driving seat and we can all relax. I expect that there are at least some Opposition Members who, judging by some of their forthright public statements in this regard, will be much happier to see powers of this sort in respect of defined domestic matters exercised openly by their elected Government. Indeed, I think it is common ground on both sides of this House that in respect of defined domestic matters when a piece of legislation says the "Governor" that that really means "Government" anyway and that the Governor simply has to rubber stamp whatever nominations are put up to him by the elected Government. And so it should be so. In England, Ministers make appointments and I do not see the Opposition saying "no, it should not be the Minister, it should be..." I cannot think of anybody, it should be somebody else, not the man responsible for this area of public affairs in the democratically-elected Government of the day because that is too political. We ought to give the power to somebody else who is presumably even less accountable to the electorate of Gibraltar than the Minister and I have great difficulty squaring the hon Member's remarks in this respect with what I know to be his general political philosophy generally speaking. I do not know whether it is for the benefit of the Members of the House or for the benefit of taxi drivers that may be listening over the radio, that he says these things. All I can say is that when I attended at our own request on Friday evening the general meeting called by the taxi drivers to discuss this, which I attended in the company of my Colleague the Minister for Tourism and Transport, Mr Holliday, to explain to them the effects of this legislation, not one of them made the point that the hon Member is making about whether it should be the Minister this or whether it should not be the Minister that. People in a democracy submit to Government, by the Government that they have elected and I do not see that public transport regulations should be an exception to that. The hon Member also made the point that Transport Inspectors will be political appointees. I do not know whether he harbours nightmares about political appointees meaning appointments by politicians or does the phrase "political appointee" mean that we are going to appoint party political hacks presumably so that we can choose the taxi drivers and other motorists who we know to be supporters of the other Party and use our statutory powers. It is a long time, I do not know how many months have elapsed since, 16th May 1996, but it is since 16th May 1996 that the people of Gibraltar have felt much less exposed to

that sort of "Uncle Sam is looking at you" than they do now, much less. It is a long time since anybody expressed the view that we must not do this, we must not say that, we must not challenge that, because of what the Government might do to us in return. The hon Member says that the Minister has absolute powers. I assume that the hon member has read the Bill before making his speech. There is nothing in this Bill that gives the Minister absolute power over anything. But of course what he means by absolute power is the right on the part of the Government to nominate appointees to the Commission which then has the statutory power and the statutory authority to regulate and to licence. The hon Member's definition of "absolute power" is powers that can be exercised by the democratically-elected Minister of the Government and therefore what he presumably wants is such powers exercisable by somebody other than the democratically-elected Government. The hon Member says and I do not really believe that he is mistaken, that all standards that my colleague the Minister for Transport now seeks to introduce into the transport sector, that they are now already law and supposed to be implemented. That does beg a question, does it not? If this has been law for so many years as he claims and if the implementation of it has been so demonstrably lacking, then it should not surprise him that the Government seeks the opportunity to tackle it by a different means.

The Minister for Transport said that it was not his intention to issue further licences. Mr Speaker, there is to be no statutory maximum of licences and, of course, it would be up to the Commission to issue licences within the bounds of such statutory maximum as the Minister may impose. The Minister may impose a maximum number of licences and the Commission would then not be able to issue more licences than the maximum but the issue of licences will be a matter for the Commission and I suppose that the Commission will indeed issue new licences if the Commission takes the view at some point in the future that the public interest of Gibraltar in the area of public transportation requires it. What the Commission presumably will not do is issue licences when they are clearly not required by the amount of business in the marketplace. I am sure that the Commission is not going to use its statutory powers to issue new licences to simply flood the market with licences to the commercial and economic prejudice of the people who are presumably earning their living in that line of trade.

I do not think the hon Member is right when he said that section 23, when read with section 22, has the effect of

depriving the security given to licences already in issue. The reason for that, Mr Speaker, is that section 23 makes it very clear that the provisions that limit transferability do not apply to licences first issued and therefore they do not lose that status because they have to be renewed and each renewal is deemed to be a new application. It is precisely for that reason that the language used is that the following does not apply to any licence first issued before the coming into effect of this Ordinance. That automatically leaves permanently safe, in the context of the hon Member was raising the point, those licences that exist prior to the coming into force of this Bill. The hon Member continually refers in this House to chaotic traffic. The "chaotic traffic situation in Gibraltar" he likes to say. I realise that there is no procedure in this House that allows me to ask him questions but if there were I would be minded to ask him what he believes that this Government have done which has resulted in a chaotic traffic situation? Given that we have not yet introduced, with the exception of King's Yard Lane and Victualling Office Lane, we have not yet introduced our traffic flow change plans. The hon Member will have plenty of opportunity which he will take whether it is justified or not, I am sure, to accuse us of having caused chaos in the traffic situation when we have introduced our traffic flow plans. If by "chaotic traffic situation" he means the inescapable and inevitable divert consequences of traffic diversion resulting from the Government's intense public infrastructure renewal programme, then I think that that element of inconvenience is well worth suffering for the excellent results that we expect at the other end when it is all finished. I really do wish that the hon Member would not keep on saying that the Minister will be issuing licences. The Minister will not be issuing licences any more than the Chairman of the Development and Planning Commission, who is also a Minister, issues Building Permits. If the hon Member wants people who may be listening to him to subscribe to the view that he is advocating, I think the proper thing for him to do would be at least to use language which was intended to misrepresent what this Bill says, what this Bill contains and what is the effect and consequences of this Bill.

Mr Speaker, Government do not say that everything that it will do pursuant to this legislation it will get right from the very beginning. There are many deep-seated problems, not just in relation to the cruise terminal and to the coach terminal but indeed to the condition of public transport or buses in Gibraltar. It is a matter of embarrassment to see the third world conditions,

indeed I think to describe them as a third world is a gratuitous, an unprovoked insult to some buses that I have seen in some third countries and the Opposition Members did nothing to assist the matter by changing the law as they did in their last year in office, I think it was to increase the maximum age to 50 years. Increased the maximum age that buses could be licensed, or does he not remember saying that in London they used to have double-decker buses from after the war and why should we not have them here in Gibraltar as well? Does that sound as decreasing to him? Therefore, such is the state of public transport and public transport regulation and issues in Gibraltar that the Government do need to take a bold approach. I suspect that everybody in Gibraltar, except the Opposition Member, applauds the Government's intention after years of dereliction to get to grips with the public transport system in Gibraltar so that at long last the people of Gibraltar can have the system of internal transportation to which we believe they have always been entitled.

HON J J BOSSANO:

Mr Speaker, referring to the last remark made by the Chief Minister, the hon Member is not the only Member that holds the views. I also hold them so at least he is wrong by one so the rest of Gibraltar excludes me and I think quite a number of other people. Let me say that he has spent a great deal of his contribution talking about a totally irrelevant matter because obviously he has not understood what has been said. He said he had great difficulty in equating the remarks about the Governor making appointments to the Commission. I have no doubt he had great difficulty, those remarks were never made. When the Hansard is produced and the Chief Minister has the opportunity to read it he will find that there are no such remarks in the contribution of the hon Member who spoke earlier. The reference to the Governor was not in respect of appointments to the Commission but in respect to the fact that civil servants are appointed by the Governor on the advice of the Public Service Commission and that on this occasion we had what may well be the first law which says "the Minister will appoint as a Transport Inspector", not the Commission, "the Minister, any person..." That is to say there is no requirement in the law as to qualifications or anything else, the person that is appointed by the Minister does not have to have a qualification about having a good character but the law then says he decides on the character of the people who drive buses, lorries and taxis, however bad his own character may be. Since there is no definition in the

law of what is good character, what may be good character to them may be bad character to somebody else. I can tell the Chief Minister that there are several notorious characters in Gibraltar who walk up and down Main Street very well dressed and it does not make them any better because of their dress. We certainly do not share the hang up that the Government Members have always had for appearances, perception, optical illusions. I do not think the Chief Minister can be as happy now about what happens with perceptions after the perception of the editor of the Financial Times about what he said in Madrid. Certainly this is not a Bill for an Ordinance to decolonise Gibraltar, though some people listening in might have thought so from the amount of time that the Chief Minister spoke about decolonisation as if in fact we were seeking to obstruct a new Constitution for Gibraltar in the Bill which brings to the House what is in fact a radical measure by his own admission. He says that they have had to take radical steps because we failed to act. What are the radical steps? The radical steps are to give a range of powers without the checks and balances that used to worry him when he was sitting here so that people will do what is required of them by the elected Government on the basis of either they agree to do it or they get thumped over the head until they do it. Nobody is saying they cannot do it, of course they can do it they have got the majority in the House. The reason why they bring a Bill to the House is so that those of us who do not agree with it can put forward our views and have an opportunity to debate an issue and point out what we think is inconsistent, of flaws in the approach that they are taking. In fact, the Chief Minister mentioned that at his own request he addressed the General Meeting of taxi drivers on Friday to reassure them. He did not go there to tell them "you will do what I tell you or else..." he went there to tell them "you do not have to worry about the Bill because the Bill is good for you and we are not going to abuse the powers in that Bill to hurt you". If the things that are in this Bill and the powers that it creates are good for the industry why is it that the press release of the Government says they have had to do it because they could not get the agreement of the people in the industry. Is it that the people in the industry prefer to be in third world vehicles which is even an insult to third world countries that they like going around dressed in rags instead of being well dressed, that they want to put off tourists because they do not want any more tourists to come to Gibraltar and they do not want to earn more money. If the benefits are social evident how is it that the people who stand to benefit most, the direct providers of the

service, have not been persuaded of the wisdom of going down that route? This does not tell us precisely what the route is. It says that the Minister can make regulations for anything and specifically for anything as my hon Colleague has said from A to Z and because they run out of letters in the alphabet, they might have used the Spanish one and they could have put "n", but they did not, they went into AA and BB and CC. Let me say that since we were not persuaded in 1985 that it was a wise thing to remove the Commission, made up with chairman, who may be appointed by the Governor on the advice of the Government and that is not what we are questioning but he has a degree of independence, in that in fact in 1985 one of the things that the AACR got upset over was the fact that the Commission actually challenged the Government in court because the Commission did not agree with what the Government wanted to do. Obviously, that can never happen with the Commission chaired by the Minister, with people hand picked by them. What we are saying is that on paper it gives him absolute power because he is the chairman of the Commission, he then decides in his absolute discretion who he appoints to that Commission, he then appoints the Inspectors who will implement the policy and report to the Commission and he then uses that to advise the Government which presumably in respect of transport means himself. He then tells his Colleagues in Government what it is that they have decided in the Commission which he chairs with the people that he has put in there on the advice of his appointees as Transport Inspectors. I think this is a first in terms of appointing people who are going to be taking on duties that in some areas are duties currently done by police officers and in the new Ordinance will be done by police officers or transport...

HON CHIEF MINISTER:

It may be the first time that it is referred to clearly in legislation but I do not know who gave the Leader of the Opposition when Chief Minister the authority to appoint the persons who under the cover of the Employment and Training Board presently act as Labour Inspectors.

HON J J BOSSANO:

Mr Speaker, the people who were acting as Labour Inspectors were already in the service at the time. They were simply transferred from one Department to the other, they were not employed...

HON CHIEF MINISTER:

Civil servants, he appointed them Transport Labour Inspectors.

HON J J BOSSANO:

No, no, Mr Speaker, the Chief Minister is wrong. The people that were appointed in the ETB to carry out what the law said were appointed because they were transferred there from existing employment somewhere. This creates a group of inspectors with police powers to declare on the fitness of vehicles and the point that we are making is of course that the idea of having a standard of fitness for public service vehicles came about before the MOT testing came in. The MOT testing superseded that. We are now going into a situation where the MOT says a vehicle is road worthy and fit to be on the road and fit to carry passengers and fit to carry boxes from the stevedores to the customer and the Transport Inspector says "I do not agree with what the MOT Inspectors have done, so I declare that I am going to suspend you and remove you from the road". I do not know whether the MOT answers directly to the Minister or the Traffic Commission has anything to do with it because the other incredible thing about the contribution of the Chief Minister is that he divided his contribution into two halves - one half was his decolonisation credentials which he defended with a fervour here which has been notably absent in his meetings with Mr Cook and the other thing was that he went on to explain that it was completely wrong for my Colleague to hold him responsible for traffic chaos and traffic jams and traffic lights and the state of traffic and then not want to give the Minister the power to do it. The law does not give the Minister the power to do it. If I am to believe the Explanatory Memorandum, Mr Speaker, the Explanatory Memorandum says "the Traffic Commission established under the provisions of the Traffic Ordinance will retain responsibility for the regulation of traffic." All his contribution about traffic chaos has nothing to do with this Bill. As I understand it from the Explanatory Memorandum the Traffic Commission remains with responsibilities for traffic and what this does is to regulate the licensing of operators, the appearance of the vehicles, the state of the vehicles in terms of how fit they are to be carrying people or carrying goods in addition to their road worthiness, how presentable they are, totally subjective valued judgement.

HON CHIEF MINISTER:

Would the hon member give way? In the first place he must know that the persons who are discharging various functions, not just Labour Inspector in the ETB were mainly craftsmen in GSL which he decided to appoint to the function of Labour Inspector. If he wants people to believe that that is almost as innocent as the Public Service Commission recruiting a civil servant, he can then invite people to believe whatever he likes. The hon Member must also know, if he was listening, I do not think he was because he spent most of his time chatting with his Colleague, but his Colleague the hon Mr Juan Carlos Perez who threw in the quip about traffic chaos and that the point that I was making was that one could not at one and the same time argue that Government should be politically accountable for matters that were the responsibility of a statutory commission and at the same time criticise them when they try to bring statutory commissions further in. It was not a debate about the Traffic Commission, if the hon Member knows that the Traffic Commission is statutory and that it is independent from the Government why does he consistently make a quip about the traffic chaos that the Government is creating? That is the point that I was making. I know that this Bill does not alter the status of the Traffic Commission. It does not deal with traffic at all it deals with transport but he must know the context on which that exchange took place which is completely irrelevant to the twisted purpose to which he is now seeking to put it.

HON J J BOSSANO:

Yes, Mr Speaker, precisely, he knows that it is completely irrelevant so in defending the Bill he is so incapable of producing rational arguments that his defence of the Bill has been divided into two sections, one dealing with colonialism and the other dealing with traffic chaos. He spent more time talking about traffic chaos presumably on this semantic point that if the Government is questioned in this House about traffic chaos then we should not be complaining about the fact that they are taking over powers. They are not taking over powers, the powers of traffic remain with the Traffic Ordinance and if he thought that there was any rationale in what he was saying then the logic of that rationale should have been to say we are repealing the Traffic Ordinance and the new Transport Commission will

be responsible for everything including making sure that there is no traffic chaos because it is quite right that the Government should hold us responsible but one cannot have responsibility without power, that is what he said. [Interruption] Perhaps, Mr speaker, I hope I have not provoked him into doing it in that area because we will have to vote against the next one as well. Certainly, his remark that one cannot have responsibility without power is totally irrelevant to this Bill because this Bill is about giving power precisely without responsibility because they are not accountable to anybody other than themselves and we will vote against it.

HON J J HOLLIDAY:

Mr Speaker, a number of issues which I was going to raise have already been raised by the Chief Minister although I think for the sake of clarity there are a number of issues which I would still like to comment on.

One is the comment that was being made by the Leader of the Opposition when he states in his intervention that the Chief Minister and myself went to the meeting of the Gibraltar Taxi Association on Friday to reassure them and tell them that there was nothing to worry about. This is simply not correct. What the Chief Minister and I did was offer to attend the meeting in order to clarify various issues which were of concern to them. There were some of the answers that they got which they did not feel satisfied with and others were but I think the most important point to make was that we went there to clear a lot of malicious rumours that were being circulated amongst taxi drivers and mini-buses operators which were clearly not true. This was clearly pointed out at the meeting and I think there was satisfaction as to the clarifications which were given at that meeting.

The other point which I would like to make is in respect of the Memorandum of Understanding. Since coming into office in May 1996 I have dedicated a lot of time and effort both with the Gibraltar Taxi Association, taxi drivers that are not members of the Association and public service vehicles mini-buses operators to try and reach an agreement and a structure which would enable us to deliver a proper infrastructure for transport to meet the requirements of the public and the tourism sector. Unfortunately, agreement has not been possible on all issues and therefore we had no option but to proceed with this legislation and the Taxi Association themselves were in agreement with this sort of procedure because they

could not be held responsible for the acts of all their members. They, as an Association, or the Committee, may have agreed with the Government on a number of issues but they could not be held responsible as to how all the members would react in respect of agreements that were reached. Therefore, we had no option but to go down this road. The issue of certificates of fitness and road worthiness certificates, I think within the tourism environment that we now live I think we need to have a certificate of fitness in place because we have to ensure that the standards of the inside of cars that provide public transport are in order. It is not just a matter of mechanics which is covered by the road worthiness certificate but actually the certificate of fitness would deal with the standards of the inside of the car. Obviously, we will be looking at the logistics of this in order to try and streamline both certificates in order to create as less bureaucracy as possible in this respect. The Chief Minister has obviously raised the issue of new licences but I think because I have been in constant contact with both the Taxi Association and the public service vehicles, mini-coaches, I think I need to reiterate that there is no intention whatsoever at this stage to have any additional licence granted. If they are, it would be as a result of growth in the market which will mean it would be a matter of supply and demand. Therefore, there is nothing to worry about.

The point I would like to make in respect of the chauffeur and chauffeur-driven cars, I think the structure that we are trying to create for this particular sector of the transport issue is in no way meant to undermine the taxi operators. I have discussed this with the Taxi Association, they recognise that there may be the need for this but obviously we will be making sure that the type of vehicles that we accept as chauffeur-driven cars and the minimum prices for these services will be in no way in conflict with the taxi service. Therefore, Mr Speaker, in concluding, the objectives of this Bill is to create an appropriate structure to regulate and licence transport operators with the establishment of the Traffic Commission, with Transport Inspectors, to ensure a high standard in transportation which allow for regulations to be formulated for an improved transport sector to meet the needs of the public and the tourism industry and at no time is it meant to be to destabilise the current operators, be it taxis or mini buses.

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J J Gabay  
The Hon A J Isola  
The Hon R Mor  
The Hon J C Perez

Absent from the Chamber: The Hon Miss M I Montegriffo

The Bill was read a second time.

HON J J HOLLIDAY:

I beg to give notice that the Committee Stage and Third Reading of this Bill be taken later on in this meeting.

#### COMMITTEE STAGE

HON ATTORNEY-GENERAL:

I have the honour to move that the House should resolve itself into Committee to consider the following Bill clause by clause: The Insider Dealing Bill 1998.

#### **THE INSIDER DEALING BILL 1998**

#### Clauses 1 to 7

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J J Gabay  
The Hon A J Isola  
The Hon R Mor  
The Hon J C Perez

Absent from the Chamber: The Hon Miss M I Montegriffo

Clauses 1 to 7 stood part of the Bill.

Clause 8

HON P C MONTEGRIFFO:

Mr Chairman, I did promise the hon Gentleman Mr Isola some clarification on the provisions of Section 8(1)(a) which hon Members will recall is related to the question of territorial scope of the offence of insider dealing. The query raised by the hon Member was why the offence was effectively limited by virtue of sub-section 8(1)(a)(i) to an offence that took place on a UK regulated market rather than any other European market. Mr Chairman, the directive requires as a minimum condition the fact that an offence should be created within the member state in respect of which the offence takes places. The view taken is that although Gibraltar does not have its own stock exchange or regulated market, that we are required to make it an offence in Gibraltar for a dealing that is undertaken from Gibraltar on a UK exchange. We are required to make that an offence for the directive to be properly transposed in Gibraltar, otherwise the situation whereby in fact we create an offence which is then no offence at all because there is no stock exchange or regulated market in Gibraltar at all. The relevant provision, Mr Chairman, is article 5 of the directive and the second sentence of Article 5 is the one that actually identifies the minimal needs that must be adhered to in the transposition of this directive. The position is unusual in this respect, Mr Chairman. It is unusual that as a matter of general jurisdictional convention we will not be creating in Gibraltar an offence which has as one of its elements an activity conducted outside Gibraltar but I am advised by the hon Attorney-General that extra territoriality is indeed the basic ambition of the directive and other member states that have civil law systems will be moving towards extra territorial application of these provisions at some future stage. In the case of Gibraltar and the UK it will be limited to offences within member state UK

and I have asked also, for the purpose of clarification to this House, I have asked also what the position is in the UK were Gibraltar to have a stock exchange or some other form of regulated market in the future. This would presumably use the same logic required in UK to make an offence in the UK of activity undertaken in the UK with regard to insider dealing on the Gibraltar exchange. Indeed, it has been confirmed to Gibraltar, in the event of a Gibraltar stock exchange being set up, UK law would have to recognise that because it would be part of the same member state for community purposes and the same logic would apply in reverse. Mr Chairman, it is a somewhat unusual position but nothing that we believe is in any form of concern. We believe that in this case the transposition of the directive is well made in this fashion and that there is no room for any further concern. Indeed, if I remember the hon Member's comments when the issue was raised by him, I think his concern was not so much the point that I had articulated and sought to give an explanation on but I think the reverse, I think the hon Member's concern was "why should it not be the case that if you are dealing from Gibraltar and, say, the Amsterdam Exchange, it should not be an offence?" Surely, it is desirable, and that is the way I read these comments that it should equally be an offence. It would be consistent in a pan-European system of offences that some provision should be made for that type of situation. In other words, one can now happily sit in Gibraltar like one can happily sit in Birmingham and insider deal on the Frankfurt Exchange and be quite free of any possible prosecution. What we have done in Gibraltar is to recognise that we are part of UK member state for the purposes of this directive and therefore any activity undertaken in Gibraltar on the UK Exchanges would be covered by our criminal law.

HON J J BOSSANO:

Mr Chairman, I think the revelation that the Minister has made in fact is quite fundamental because to my knowledge this is the only occasion when this has happened. I do not recall ever, perhaps he can confirm whether this is so or if he has not got the information he can find out if there is any other example, to my knowledge, in every single other transposition the United Kingdom has treated Gibraltar and Gibraltar has treated the United Kingdom as if they were separate member states in respect of each other's obligations and rights. Therefore, if we were treating the United Kingdom as another member state as we have done with every other directive then we would be saying here "anybody in Gibraltar that deals in any other

stock exchange in any other member state including the United Kingdom is guilty of an offence". In fact, in every other piece of transposition that I am aware of we deem Gibraltar to be a member state in its own right and this is why all our legislation is in fact the meeting of the requirement that we should transpose into the national law of the member state whatever it is the directive requires us to do. I do not think there is any other occasion when his interpretation has been put that we and the United Kingdom are one and the same indistinguishable member state and this raises important issues about, if the mechanism is okay for this one then why is it that it has not been possible to think of using that as an alternative methodology in so many other areas? We would certainly welcome more information on that because it is a new argument and it certainly was not the answer we were expecting.

HON P C MONTEGRIFFO:

Mr Chairman, I am not sure I can give the hon Member much more except perhaps to add that I think the view might also be taken that if Gibraltar did not transpose the directive in this way there would then be within UK member state as viewed from third parties, namely other member states that do view Gibraltar and UK as one member state, the view could be taken that there was therefore a part of the UK member state that had not criminalised an activity within UK member state, namely there was a little point in UK member state as seen from Frankfurt, Milan and Paris, where it was possible to insider deal in the UK without an offence being created and I think the concern is that therefore this would be an insufficient transposition of the directive from the UK member state point of view. I am not aware, I should tell the hon Member, of any other example that falls into this category. Indeed, I raised the issue with the draftsman, with the hon Attorney-General, and I am not aware of any other issue but we have certainly come to the view that in the context of this directive and of course whilst one is vigilant about these things, Mr Chairman, that it is a reasonable way to proceed.

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares

The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J J Gabay  
The Hon A J Isola  
The Hon R Mor  
The Hon J C Perez

Absent from the Chamber: The Hon Miss M I Montegriffo

Clause 8 stood part of the Bill.

Clauses 9 to 21 and Schedules 1 to 3

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J J Gabay  
The Hon A J Isola  
The Hon R Mor  
The Hon J C Perez

Absent from the Chamber: The Hon Miss M I Montegriffo

Clauses 9 to 21 and Schedules 1 to 3 stood part of the Bill.

Schedule 4

HON P C MONTEGRIFFO:

Mr Chairman I have given notice of a minor typographical amendment. In the list of exchanges in Part II to the schedule, one of the exchanges is the exchange known as the "Nouveau March" which should be "nouveau Marche".

The Capital 'N' should be a small 'n' and the 'e' added at the end of what is currently "March".

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J J Gabay  
The Hon A J Isola  
The Hon R Mor  
The Hon J C Perez

Absent from the Chamber: The Hon Miss M I Montegriffo

Schedule 4, as amended, stood part of the Bill.

The Long Title stood part of the Bill.

#### THIRD READING

HON ATTORNEY-GENERAL:

I have the honour to report that the Insider Dealing Bill 1998 has been considered in Committee and agreed to with one formal amendment and I now move that it be read a third time and passed.

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J J Gabay  
The Hon A J Isola  
The Hon R Mor  
The Hon J C Perez

Absent from the Chamber: The Hon Miss M I Montegriffo

The Bill was read a third time and passed.

#### ADJOURNMENT

HON CHIEF MINISTER:

I have the honour to move that the House do now adjourn to Thursday 16th July, 1998 at 9.30 am.

Question put. Agreed to.

The adjournment of the House was taken at 4.55 pm on Monday 13th July, 1998.

THURSDAY 16TH JULY 1998

The House resumed at 9.30 am.

PRESENT:

Mr Speaker ..... (In the Chair)  
(The Hon Judge J E Alcantara OBE)

GOVERNMENT:

The Hon P R Caruana QC - Chief Minister  
The Hon P C Montegriffo - Minister for Trade and  
Industry  
The Hon Dr B A Linares - Minister for Education,  
Training, Culture and Youth  
The Hon Lt-Col E M Britto OBE, ED - Minister for  
Government Services and Sport  
The Hon J J Holliday - Minister for Tourism and  
Transport  
The Hon H A Corby - Minister for Social Affairs  
The Hon J J Netto - Minister for Employment and  
Buildings and Works  
The Hon K Azopardi - Minister for the Environment  
and Health  
The Hon R Rhoda - Attorney-General  
The Hon T J Bristow - Financial and Development  
Secretary

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition  
The Hon J L Baldachino  
The Hon A J Isola  
The Hon R Mor  
The Hon J C Perez

ABSENT:

The Hon Miss M I Montegriffo  
The Hon J J Gabay

IN ATTENDANCE:

D J Reyes Esq, ED - Clerk of the House of Assembly

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

I beg to move under Standing Order 7(3) to suspend  
Standing Order 7(1) in order to proceed with the  
Committee Stage of a Bill.

Question put. Agreed to.

HON ATTORNEY-GENERAL:

I have the honour to move that the House should resolve  
itself into Committee to consider the Transport Bill 1998  
clause by clause.

**THE TRANSPORT BILL 1998**

Clause 1 stood part of the Bill.

Clause 2

HON J J HOLLIDAY:

Mr Chairman, there are amendments here. Clause 2  
requires to be amended in that the definition of  
categories B, C, C1 and D are not correct. These have  
been amended in order to bring these in line with the  
latest definition of the various categories.

HON J J BOSSANO:

Is this definition derived from the EEC, from the UK or  
some other source?

HON J J HOLLIDAY:

The amendments introduced in clause 2 do take into  
account the amendments of the Traffic Ordinance  
introduced by the Traffic Ordinance (Amendment) EEA  
Driving Licence Ordinance 1997. The effect of these  
amendments is to alter the definition of the different  
categories of motor vehicles in respect of which a  
driving licence is needed. The amendments were required  
to give effect to Community obligations and are as  
follows:

"category B" means a motor vehicle with a maximum  
authorised mass not exceeding 3,500 kilograms and having  
not more than eight seats in addition to the driver's  
seat: motor vehicles in this category may be combined

with a trailer having a maximum authorised mass which does not exceed 750 kilograms;

combinations of a tractor vehicle in category B and a trailer, where the maximum authorised mass of the combination does not exceed 3,500 kilograms and the maximum authorised mass of the trailer does not exceed the unladen mass of the tractor vehicle;

"category C" means motor vehicles other than those in category D and whose maximum authorised mass is over 3,500 kilograms: motor vehicles in this category may be combined with a trailer having a maximum authorised mass which does not exceed 750 kilograms;

"category C1" means motor vehicles other than in category D and whose maximum authorised mass is over 3,500 kilograms but not more than 7,500 kilograms: motor vehicles in this sub-category may be combined with a trailer having a maximum authorised mass which does not exceed 750 kilograms;

"category D" means motor vehicles used for the carriage of persons and having more than eight seats in addition to the driver's seat: motor vehicles in this category may be combined with a trailer having a maximum authorised mass which does not exceed 750 kilograms.

Clause 2, as amended, stood part of the Bill.

### Clause 3

HON J J HOLLIDAY:

Mr Chairman, Clause 3 sub-section (5) should be amended by substituting the word "their" by the word "there", this is just a typographical error.

Clause 3, as amended, stood part of the Bill.

Clauses 4 to 7 stood part of the Bill.

### Clause 8

HON J J HOLLIDAY:

Mr Chairman, sub-clause 2 should be amended by inserting after the word "cancelled" the words "by the Commission". Basically, this amendment is to allow the Commission to be able to revoke certificates of fitness. This amendment basically reinforces the view that it is the

Commission and no other party who should be able to revoke or cancel a certificate of fitness.

HON J J BOSSANO:

Mr Chairman, as I read it the amendment does not say "a certificate of fitness may only be revoked by the Commission", what it says is "that if it is revoked by the Commission." We are putting "a Certificate unless previously revoked or cancelled by the Commission." Is not the certificate of fitness given by the Inspector? Are we saying then that the Inspector can give it but he cannot cancel it?

HON J J HOLLIDAY:

Mr Chairman, that is correct. I think that this amendment to clause 2 should be read in conjunction with the amendments that are subsequently being produced in sub-clause (3) where the powers of the Inspector to revoke a licence are being removed and therefore it is only the Commission who would have the powers to be able to actually revoke and cancel a particular licence.

HON J J BOSSANO:

Mr Chairman, we are voting against the Bill as a whole as a matter of principle because we do not agree with the system but obviously we want to know what the Bill is going to be precisely doing. Clearly that is why we are interested on the information, not because of any other reason.

HON J J HOLLIDAY:

Mr Chairman, under sub-clause (3) under clause 8 the word "revoke" is being deleted from the Bill and we are inserting after the word "suspend" the words "or the Commission may revoke or cancel". Basically what we are trying to achieve is what I have previously said under sub-clause (2) and that is to remove the powers for an Inspector to be able to revoke the licence and solely give these powers to the Commission itself. If we move to sub-clause (4) again we will be deleting the word "revoked" or "revokes" and inserting after the word "suspends" the words "or the Commission revokes or cancels" again following the same line of thought.

HON CHIEF MINISTER:

Mr Chairman, if I could just explain that to the Opposition Members. As presently drafted the Inspector has the power to revoke or suspend. Consequential on these amendments the Inspector will only have power to suspend. The Inspector's power of revocation has been eliminated and the power of that revocation has been added to the Commission's power which previously was just suspension. Now the Inspector only suspends and the Commission can suspend or revoke.

HON A ISOLA:

Is the position then that under 8(1)(a) the Transport Inspector does not give a certificate, under sub-section (b) the Commission can give an authority and under 8(3) the Inspector can get his own back and suspend the licence that the Commission has given an authority for and the Commission would do nothing about it.

HON CHIEF MINISTER:

There is a difference between a certificate and authority but the certificate of fitness continues under 8(1) to be issued by the Inspector. So the Inspector has powers to issue and powers to suspend the certificate of fitness but not powers to permanently revoke or cancel. He issues but he does not also have the power to withdraw permanently. He can suspend but only the Commission can revoke altogether.

HON J L BALDACHINO:

Mr Chairman, if that happens and the Inspector has suspended a licence, what happens after that? If the thing happens as the Chief Minister has said, the Inspector can give a certificate of fitness but he cannot revoke it and only suspend because it is the Commission who probably has the decision of revoking, what happens in between that the decision of suspending, how long will it take before a decision is taken whether the licence is given back or revoked?

HON CHIEF MINISTER:

The intention is that the suspension should relate to the need to remedy a specific, unidentified defect. It is envisaged that these will relate to safety issues. If I could go back to the question that the Hon Mr Isola made before, as he knows, the difference between an authority

and a certificate is that an authority is in effect the Commission giving a certificate of fitness even though the vehicle does not strictly comply with the requirements. The Inspector gives the ordinary communal garden vanilla flavour certificate of fitness. If there were circumstances in which the whole Commission felt that even though a vehicle does not strictly comply with every requirement and therefore would not qualify for a plain vanilla certificate of fitness, the Commission nevertheless feels that the vehicle ought to be allowed to be used, the Commission but not the Inspector, can give an authority for the vehicle to be used as a taxi even though, then the Inspector can suspend and only the Commission can revoke.

HON A ISOLA:

The point I am making is that I appreciate the difference between a certificate and the authority, but where a Transport Inspector refuses to issue a certificate because he does not believe that that vehicle meets the requirements of the law, the Commission takes a different view and says for a series of reasons, whatever they may be, we believe the vehicle does either comply or is sufficiently close to the requirements of the compliance that is needed and it issues an authority and then the Transport Inspector inspects the vehicle again and says "no, I do not believe this complies with the law" which is his legal obligation to do, and he suspends the licence. What does the Commission do then? Does the Commission have the power to interfere with that suspension or is it only the applicant, or the holder of that licence, that can on a point of law appeal?

HON CHIEF MINISTER:

Mr Chairman, the powers of the Inspector to suspend the authority is limited to breaches of conditions contained in the authority itself. The Inspector cannot override the decision of the Commission but if the Commission says "I give you authority to use the vehicle on condition a, b and c..." the Inspector can then police those conditions and may suspend for breach of the conditions under which the authority was issued but it cannot be a vicious circle. That is not either what it is intended or how it will work nor indeed the inevitable consequence of the language but if the hon Member feels that that is not so we are happy to hear his arguments on it.

HON A ISOLA:

It is not a question of arguing, Mr Chairman. I am simply saying that the requirement in 8(1)(a) is that if the provisions of the Ordinance and subsidiary legislation made under the Ordinance for the requirements of the fitness, size, fittings, colour, which is what is laid down in law are not complied with, the Transport Inspector would not issue a certificate. Under 8(3) if on the inspection of a public service vehicle it appears to the Inspector that the vehicle is not complying with any provisions of this Ordinance, the same criteria that he set in 8(1)(a) then he can suspend the authority that the Commission has given. What I am simply saying is that test made in 8(1)(a) and 8(3) are exactly the same and in between 8(1)(a) and (3) yet the Commission issues the authority but in law the Transport Inspector can say "to hell with the Commission I am going to get my own back on them, I am going to suspend this driving licence" and there is nothing the Commission can do about it. The Commission cannot interfere.

HON CHIEF MINISTER:

On a reading of sub-clause (3) I can see that there is room for that interpretation that the hon Member places on it. These are matters of course for administrative guidelines at the end of the day to the Inspectors. We do not envisage that it will operate like that. What the hon Member is saying is, if I understand him correctly, is that the Commission may decide to give an authority which by definition involves some non-compliance with some other requirement of the Ordinance or of the Regulations and that the Commission, having given such an authority, there is nothing in clause 8(3) which prevents the Inspector from saying "well, even though the Commission has given you the authority, my powers of suspension are not limited, are not constrained, by the fact that the Commission has allowed this and therefore even though the Commission has allowed it, I am going to suspend the authority". If we could move on I will confer to see if the draftsman agrees with that and if not perhaps suggest some amendment that makes it clear that that is not what is envisaged.

HON A ISOLA:

It is a real possibility in the sense that all Transport Inspectors when they see a vehicle may not be fully aware of all the terms and conditions that may have been made under that authority from the Commission itself. I

assume that they will have a licence on each vehicle that will say "the conditions if any" and that might make it a bit easier but I would have thought that if one puts in 8(1)(3) or 8(3) "subject to the provisions..." or "subject to compliance with the authority issued by the Commission under 8(1)(b)" then they can do that.

HON CHIEF MINISTER:

On reflection Mr Chairman we do not think that there is sufficient merit in the hon Member's observation because reading the whole section together it is sufficiently clear that the Inspectors' powers are indeed limited in relation to overriding the conditions of the authority and if he will bear with me I will just read the point where I think that happens. It says "if on the inspection of a public service vehicle it appears to a Transport Inspector that the vehicle does not comply with any provisions of this Ordinance or of subsidiary legislation made under this Ordinance, or the requirements of the Commission..." and then it says "or where an authority has been issued with the terms and conditions of the authority". In other words, we think it is sufficiently clear that the words after the "or" are clearly establishing a separate regime in respect of vehicles the subject matter of an authority. Therefore, we do not think that there is the danger that the hon Member highlighted. I accept it is a subject matter of judgement about the interpretation of the words but we just do not think...

HON A ISOLA:

I understand what the Chief Minister is saying, it is simply that the way it is drafted it enables anyone of those items to be picked up upon.

HON CHIEF MINISTER;

But the hon Member is reading the bits that "or where an authority has been issued" as being part of the list of items that precedes it and it is not. The "or" then goes on to establish a separate category.

HON A ISOLA:

Let me just give the Chief Minister an example. If a vehicle is issued with an authority by the Commission and the condition is that it fixes its two front lights within a period of 30 days, or whatever it may be, and two days later the brakes fail, is the Chief Minister

saying that because he has an authority the only thing that can happen is that the brake lights are actually fixed and not the brakes themselves because surely that would not comply with the first part which is any provision of the Ordinance because it would not be fit and therefore they have the power to suspend.

HON CHIEF MINISTER:

The first four lines applies to every vehicle including vehicles the subject matter of an authority except to the extent that the authority gives an exemption, temporary or permanent. Obviously the Inspector can enforce the law in relation to the matters not the subject matter of the authority but in respect of issues specifically covered by the authority, the Inspector can police compliance with those conditions contained in the authority but not himself override them. That is the regime. If there is a certificate issued notwithstanding the fact that one has not got headlights one can still use ones vehicle as a taxi, and the Commission gives 20 days or a month to remedy that defect and during the course of those, 20 or 30 days that the Commission has given to remedy the defect, an Inspector finds the taxi without the headlights, he cannot for that reason suspend the authority but if he finds the vehicle with some other breach of the regulations which is not the subject matter of a specific exemption, then of course he can withdraw the authority because the authority presupposes and requires compliance with all the applicable laws except the ones being specifically exempted. So, certainly the Inspector cannot suspend the certificate for a reason that is the subject matter of an exemption on the face of the certificate but he can for any other reason. He also polices the conditions of the certificate so if after 30 days the headlights have not been fixed then he can also suspend the certificate for failure to have headlights.

HON A ISOLA:

I appreciate the difference there, but the only point I would make is that the words the Chief Minister has read to me were "an authority or certificate has been issued". It is as if those words were not there because they apply to the only two forms of licences, a certificate or an authority. They do not add anything to the previous definitions of the other three parts. It should simply say "or when the terms and conditions of any authority or certificate" because it does not add anything by putting them both in, if he had said "or where an authority has been issued with those terms and conditions" but by

putting "authority" and "certificate", I do not think it adds anything. It is a question of judgement as the Chief Minister says and if he is not persuaded...

HON CHIEF MINISTER:

I accept that the hon Member makes his suggestions in an attempt to improve the legislation and that he is not making any political point and I hope that he accepts that our rejection of his points is in the same spirit. Of course, as to the use of the word "certificate" as well as "authority" here, I am not sufficiently familiar with the details to be able to tell him at this point whether it is possible for the Inspector to apply conditions to the issue of a certificate as well as. When the Inspector issues the certificate of fitness he may have power, I cannot on my feet tell him whether this is so, I may be mistaken but in those circumstances it would be relevant for the word "certificate" to appear there as well.

Clause 8, as amended, stood part of the Bill.

Clause 9 to 11 stood part of the Bill.

Clause 12

HON J J HOLLIDAY:

Mr Chairman, clause 12 should be amended in sub-clause (3) by deleting the words "or elsewhere". This is mainly to avoid foreign companies from applying for taxi licences.

HON J C PEREZ:

Mr Chairman, if that is the object of the Minister, unless there is something specific in the clause where it says "licences from companies incorporated outside Gibraltar shall not be entertained by the Commission", I think that the removal of "or elsewhere" would make the clause read "that only companies incorporated in Gibraltar shall be signed by all the directors" but it does not exclude other companies automatically from applying if they are incorporated outside Gibraltar.

HON CHIEF MINISTER:

The hon Member is right and indeed reflects entirely the amendment that the Government wanted, it has not been sufficiently set out there. What should be deleted are

the words after the "company". The words "incorporated in Gibraltar or elsewhere" should be deleted so that it just reads "an application for a road service licence for a company shall be signed by all the directors". That is the intended amendment, indeed that is the amendment that we have agreed in writing with the Gibraltar Taxi Association to introduce and indeed it is just that the amendment that has been moved does not reflect what it is intended to do. I am grateful to the hon Member for pointing it out.

HON J J HOLLIDAY:

Mr Chairman, what we would like deleted are the words "incorporated in Gibraltar or elsewhere". Sub-clause (3) should now read, "An application for a road service licence by a company shall be signed by all the directors...".

Clause 12, as amended, stood part of the Bill.

Clauses 13 to 16 stood part of the Bill.

Clause 17

HON J J HOLLIDAY:

Mr Chairman, clause 17 sub-section (6) should read "without prejudice to the provisions of sub-section (4)" and not sub-section (1) as it appears in the draft. This is basically a typographical error.

Clause 17, as amended, stood part of the Bill.

Clause 18

HON J J HOLLIDAY:

Mr Chairman, clause 18 shall be substituted for the following clause:

"Temporary replacement of taxis

18. Where a vehicle licensed as a taxi is undergoing extensive repairs the Commission may grant a road service licence as a taxi (in this section called a substituted licence) in respect of another vehicle in place thereof subject to the following conditions -

(a) the period of the substituted licence shall not exceed three months in the first instance, but may be extended for successive periods not exceeding three months;

(b) satisfactory evidence shall be produced to the Commission as to the relevant facts; and

(c) the use of the substitute vehicle shall have been approved in writing by the Commission,

and a condition that another vehicle shall not be used in substitution for a licensed taxi except in accordance with the provisions of this section shall be deemed to be incorporated in every road service licence."

Basically the change is to allow second-hand broken down taxis to be replaced in the same way as the ordinary taxis that have not paid any import duty at the time of importation into Gibraltar as new vehicles. This amendment creates a level playing field for all taxi licences, be it for new cars or for cars that have been purchased second hand.

Clause 18, as amended, stood part of the Bill.

Clause 19 stood part of the Bill.

Clause 20

HON J J HOLLIDAY:

Mr Chairman, clause 20(3) should be amended by substituting for the words "a new opportunity to be heard" by the words "thirty days to show cause against the revocation or suspension".

HON CHIEF MINISTER:

Mr Chairman, this amendment reflects a concern that has been put to the Government that because road service licences, let us call them taxi licences, can be revoked for breach of the condition of the licence but that many of these licences are not actually used in fact by the owner of the licence but rather by a named driver, that if the named driver commits a breach, it is not necessarily fair for the licence owner to lose the licence immediately and this clause is intended to give the owner of the licence the opportunity to show cause why the licence should not be revoked even though an

infringement has been committed, maybe by somebody other than the owner, that is all.

Clause 20, as amended, stood part of the Bill.

Clauses 21 to 26 stood part of the Bill.

Clause 27

HON J J HOLLIDAY:

Mr Chairman, in order to show consistency with the amendments that have been made earlier today, I would like to propose that we amend sub-section (3) to read: "an application for a road service licence by a company" rather than "for a company" and delete the words "incorporated in Gibraltar or elsewhere" so that we do read this clause in the same way as we agreed to amend sub-section (3) of clause 12.

Clause 27, as amended, stood part of the Bill.

Clauses 28 to 58 stood part of the Bill.

Clause 59

HON J J HOLLIDAY:

Mr Chairman, in clause 59, sub-section (2), I would like to insert the word "in" prior to the words "paragraph 1 of Schedule 1".

Clause 59, as amended, stood part of the Bill.

Clauses 60 to 68 stood part of the Bill.

Clause 69

HON J J HOLLIDAY:

Mr Chairman, in sub-clause (1)(s) I wish to make an amendment by inserting the word "by" prior to the words "licence holders" in order to let it read properly. It is a word that is missing.

Clause 69, as amended, stood part of the Bill.

Clauses 70 and 71 stood part of the Bill.

Clause 72

HON J J HOLLIDAY:

Mr Chairman, clause 72 is to be amended as follows:

- (1) In sub-clause (2) by inserting after the reference "(2)" the following words "without prejudice to section 66(1) and (2)", and the capital letter "W" in the word "were".
- (2) After sub-clause (2), there shall be inserted the following sub-clauses -
  - "(3) Without prejudice to section 66(3), a fine imposed on an unincorporated association on its conviction for an offence shall be paid out of the funds of the association.
  - (4) Without prejudice to section 66(4), where an offence committed by a partnership is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of a partner, he as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly".

Clause 72, as amended, stood part of the Bill.

Clauses 73 to 75 stood part of the Bill.

Clause 76

HON J J HOLLIDAY:

Mr Chairman, in clause 76(2) paragraph (a) shall be amended by deleting the words "Transport Manager". Paragraphs (b) and (c) should be deleted and paragraphs (d), (e) and (f) shall be respectively renumbered (b), (c) and (d). In the newly numbered paragraph (c) this should be amended by substituting for sub-paragraph (III) the following "(III) by deleting paragraph (I)." These are typographical proof reading errors which as amended should update the position.

Clause 76, as amended, stood part of the Bill.

Clause 77, Schedules 1 and 2 and the Long Title stood part of the Bill.

Question put on all the clauses including amendments. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon A J Isola  
The Hon R Mor  
The Hon J C Perez

Absent from the Chamber: The Hon Miss M I Montegriffo  
The Hon J J Gabay

Clauses 1 to 77, Schedules 1 and 2 and the Long Title  
stood part of the Bill.

### THIRD READING

HON ATTORNEY-GENERAL:

I have the honour to report that the Transport Bill 1998,  
has been considered in Committee and agreed to with  
amendments and I now move that it be read a third time  
and passed.

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon A J Isola  
The Hon R Mor  
The Hon J C Perez

Absent from the Chamber: The Hon Miss M I Montegriffo  
The Hon J J Gabay

The Bill was read a third time and passed.

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, I have the honour to move that this House do  
now adjourn sine die.

Question put. Agreed to.

The adjournment of the House was taken at 10.30 am on  
Thursday 16th July 1998.

# GIBRALTAR

## HOUSE OF ASSEMBLY



# HANSARD

**11<sup>th</sup> September, 1998**

(adj to 21<sup>st</sup> September, 13<sup>th</sup> November,  
3<sup>rd</sup> and 17<sup>th</sup> December, 1998)

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Twelfth Meeting of the First Session of the Eighth House of Assembly held in the House of Assembly Chamber on Friday 11<sup>th</sup> September 1998 at 9.30 am.

PRESENT:

Mr Speaker.....(In the Chair)  
(The Hon Judge J E Alcantara OBE)

GOVERNMENT:

The Hon P R Caruana QC - Chief Minister  
The Hon P C Montegriffo - Minister for Trade and Industry  
The Hon Dr B A Linares - Minister for Education,  
Training, Culture and Youth  
The Hon Lt-Col E M Britto OBE, ED - Minister for  
Government Services and Sport  
The Hon J J Holliday - Minister for Tourism and Transport  
The Hon H A Corby - Minister for Social Affairs  
The Hon J J Netto - Minister for Employment and Buildings  
and Works  
The Hon R R Rhoda - Attorney-General  
The Hon T J Bristow - Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition  
The Hon J L Baldachino  
The Hon Miss M I Montegriffo  
The Hon A J Isola  
The Hon J J Gabay  
The Hon R Mor  
The Hon J C Perez

ABSENT:

The Hon K Azopardi - Minister for the Environment and  
Health

IN ATTENDANCE:

D J Reyes Esq, ED - Clerk of the House of Assembly

PRAYER

Mr Speaker recited the prayer.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 24<sup>th</sup> April, 1998, having been circulated to all hon Members, were taken as read, approved and signed by Mr Speaker.

DOCUMENTS LAID

The Hon the Minister for Trade and Industry laid on the table the Report and audited accounts of the Financial Services Commission for the year ended 31<sup>st</sup> March 1998.

Ordered to lie.

The Hon the Minister for Employment and Buildings and Works laid on the table the Employment Survey Report - October 1996 and April 1997.

Ordered to lie.

The Hon the Financial and Development Secretary laid on the table the following documents:

1. The Annual Accounts of the Government of Gibraltar for the year ended 31<sup>st</sup> March 1997, together with the Report of the Principal Auditor thereon.
2. Statement of Consolidated Fund Reallocations approved by the Financial and Development Secretary (Nos. 12 to 14 of 1997/98).

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 11.40 am.

The House resumed at 11.55 am.

Answers to Questions continued.

The House recessed at 1.15 pm.

The House resumed at 3.05pm.

Answers to Questions continued.

The House recessed at 5.10 pm.

The House resumed at 5.20 pm.

Answers to Questions continued.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Monday 21<sup>st</sup> September 1998 at 10.00 am.

Question put. Agreed to.

The adjournment of the House was taken at 7.35 pm on Friday 11<sup>th</sup> September 1998.

MONDAY 21<sup>st</sup> SEPTEMBER 1998

The House resumed at 10.00 am.

PRESENT:

Mr Speaker.....(In the Chair)  
(The Hon Judge J E Alcantara OBE)

GOVERNMENT:

The Hon P R Caruana QC - Chief Minister  
The Hon P C Montegriffo - Minister for Trade and Industry  
The Hon Dr B A Linares - Minister for Education,  
Training, Culture and Youth  
The Hon Lt-Col E M Britto OBE, ED - Minister for  
Government Services and Sport  
The Hon J J Holliday - Minister for Tourism and Transport  
The Hon H A Corby - Minister for Social Affairs  
The Hon J J Netto - Minister for Employment and Buildings  
And Works  
The Hon K Azopardi - Minister for the Environment and  
Health  
The Hon R R Rhoda - Attorney-General  
The Hon T J Bristow - Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition  
The Hon J L Baldachino  
The Hon Miss M I Montegriffo  
The Hon A J Isola  
The Hon J J Gabay  
The Hon R Mor  
The Hon J C Perez

IN ATTENDANCE:

D J Reyes Esq, ED - Clerk of the House of Assembly

ANSWERS TO QUESTIONS

The House recessed at 12.45 pm.

The House resumed at 3.00 pm.

Answers to Questions continued.

The House recessed at 5.00 pm.

The House resumed at 5.20 pm.

Answers to Questions continued.

The House recessed at 8.35 pm.

The House resumed at 9.00 pm.

Answers to Questions continued.

BILLS

FIRST AND SECOND READINGS

**THE BANKING (GIBRALTAR AND UNITED KINGDOM PASSPORTING)  
ORDINANCE 1998**

HON P C MONTEGRIFFO:

I have the honour to move that a Bill for an Ordinance to amend the Banking Ordinance 1992 so as to facilitate the carrying on of deposit-taking businesses by United Kingdom regulated credit institutions in or from within Gibraltar and by Gibraltar regulated credit institutions in the United Kingdom be read a first time.

Question put. Agreed to.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Friday 13<sup>th</sup> November 1998 at 10.00 am.

Question put. Agreed to.

The adjournment of the House was taken at 1.35 am on Tuesday 22<sup>nd</sup> September 1998.

FRIDAY 13<sup>TH</sup> NOVEMBER 1998

The House resumed at 10.00 am.

**PRESENT:**

Mr Speaker.....(In the Chair)  
(The Hon Judge J E Alcantara OBE)

**GOVERNMENT:**

The Hon P R Caruana QC - Chief Minister  
The Hon P C Montegriffo - Minister for Trade and Industry  
The Hon Dr B A Linares - Minister for Education,  
Training, Culture and Youth  
The Hon Lt-Col E M Britto OBE, ED - Minister for  
Government Services and Sport  
The Hon J J Holliday - Minister for Tourism and Transport  
The Hon H A Corby - Minister for Social Affairs  
The Hon J J Netto - Minister for Employment and Buildings  
And Works  
The Hon K Azopardi - Minister for the Environment and  
Health  
The Hon R R Rhoda - Attorney-General  
The Hon T J Bristow - Financial and Development Secretary

**OPPOSITION:**

The Hon J J Bossano - Leader of the Opposition  
The Hon J L Baldachino  
The Hon Miss M I Montegriffo  
The Hon A J Isola  
The Hon J J Gabay  
The Hon R Mor  
The Hon J C Perez

**IN ATTENDANCE:**

D J Reyes Esq, ED - Clerk of the House of Assembly

**DOCUMENTS LAID**

The Hon the Financial and Development Secretary moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the laying on the table the Statement of Consolidated Fund Reallocations approved by the Financial and Development Secretary (No. 15 of 1997/98).

Ordered to lie.

**MOTION**

HON J J NETTO:

Mr Speaker, I beg to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with one Government motion.

Question put. Agreed to.

HON J J NETTO:

Mr Speaker, I beg to move the motion of which I have given notice, namely that:

"This House:

1. takes note of certain unemployment statistics published by the previous GSLP Government;
2. condemns the Opposition for its totally unjustified statements accusing the present Government of distorting and misrepresenting the facts and manipulating the presentation of figures to give a false picture;
3. considers that these remarks in fact actively describe the practices of the GSLP when in Government; and
4. condemns the previous GSLP Government for such practices."

Mr Speaker, over the last few months several of the Opposition Members have made totally baseless, unfounded and unjustified allegations against the Government for giving incorrect information to the House. On the 10<sup>th</sup> August 1998 the GSLP issued a press release accusing my Colleague the Minister for Tourism and Transport of doing precisely that in answers to questions in this House and in the Tourism Survey Report tabled in this House. Indeed, on the 4<sup>th</sup> August the GSLP issued a press statement saying that the tourism figures published by my hon Colleague were "pure science fiction and a complete fabrication". The GSLP also pointed out in that press statement that "Ministers are responsible for the accuracy of the information they present to the House of Assembly and indeed to the public".

Mr Speaker, unlike this Government which, as a matter of policy, publishes unemployment statistics as a matter of course, quarterly, the hon Members when in Government did not distinguish themselves for their inclination to publish the information. In fact in eight years of Government the Opposition members only gave unemployment figures on 14 occasions and then always and only because the then Opposition asked for them in questions in this House. Still, Mr Speaker, on the rare occasions that they did provide unemployment figures the hon Members systematically presented false figures and real science fiction to this House.

The hon Members then turned on me, accusing me on the 21<sup>st</sup> August 1998 of "misleading the public and trying to manipulate" the unemployment figures and of "distorting and misrepresenting the facts to give a false picture". On the 14<sup>th</sup> July the GSLP accused me of a "deliberate attempt to mislead and give a false picture". Mr Speaker, the irrefutable evidence available here in front of me, the raw unadjusted figure, the head count, which I have brought to this House and for which I will make available to members of the public in order to corroborate that I am saying the truth, clearly shows that the unemployment figures given by Opposition Members when in Government in answer to questions, often did not bear any resemblance to the ETB's record of figures of the same date. Of course, in this respect the ETB records were the only source of unemployment statistics available to the hon Members. For example, in Question 172 of 1992, the then GSD Opposition asked for the Gibraltar unemployment figures as at the 30<sup>th</sup> June and 30<sup>th</sup> September 1992. In answer, the then GSLP Minister for Labour and Social Security the Hon Robert Mor said that as at the 30<sup>th</sup> June there were 217 under 25s unemployed. ETB records show that the true figure was 253. He said that there were 302 over 25s unemployed. ETB records show that the true figure was 320. Mr Mor's total figure, 519; ETB's total figure, 573; overall difference 54 or 10 per cent. As at the 30<sup>th</sup> September 1992 he said that the under 25s numbered 222; the true figure was 235. He said that the over 25s numbered 298; the true figure according to ETB records was 418. Mr Mor's total figure was 520; ETB total figure 653, a difference of 133 or 20 per cent.

Similarly, in Question 12 of 1993, the then GSD Opposition asked for the Gibraltar unemployment figures as at the 31<sup>st</sup> December 1992. In respect of under 25s the Hon Mr Mor said that there were 264; the true figure was 275. He said that there were 327 over 25s;

the true figure was 443. Mr Mor's total was 591; the true total according to ETB records was 718, a difference of 127 or 17 per cent.

In Question 117 of 1993 the GSD Opposition asked for the same figures as at March, June and September 1993. In respect of March the Minister for Employment Mr Moss said that there were 254 under 25s; spot on he was. ETB figures show 254. In respect of over 25s he said 334; the true figure according to the ETB records shows 446; difference in the over 25s of 112 or 25 per cent. In respect of June, 268 for under 25s which again coincided with ETB records but in respect of over 25s he gave the figure of 381 whereas ETB records show 486; a discrepancy of 105 or 21 per cent. In respect of September 1993, he gave the figure of 301 for under 25s, whilst ETB records show 319; for over 25s he gave the figure of 351 whereas ETB figures were 536. Mr Moss total 652; ETB records show 855; a difference of 203 or 23 per cent.

Mr Speaker, in Question 22 of 1994 the Opposition asked for the same information, Gibraltar unemployment as at the 31<sup>st</sup> December 1993 and for the 31<sup>st</sup> March 1994. The then Minister for Employment the Hon Mr Moss said that as at the 31<sup>st</sup> December 1993 there were 302 under 25s unemployed; ETB records show that the true figure was not 302 but 342. He said that the figure of over 25s was 368; ETB records show that it was 555. Mr Moss total figure was 670; ETB total was 897, a difference of 227 or 25 per cent.

At this time ETB figures show the total unemployed Gibraltarians of 897, the highest ever in Gibraltar's history. When I quoted this figure recently the Hon Mr Baldachino responded in a press statement issued on the 21<sup>st</sup> April that "Mr Netto is also wrong as quoting the figure of over 800 unemployed in 1993 since he is comparing the unemployment figure, including Moroccans, with the figure now published which only shows Gibraltarians". What the Hon Mr Baldachino was saying was that the figure of 897 included Moroccans unemployed and that I was wrongly citing it for Gibraltarians only. The Hon Mr Baldachino is incorrect. ETB records show that there were indeed 897 unemployed Gibraltarians as at the 31<sup>st</sup> December 1993. There were in addition 415 unemployed Moroccans giving a joint total of 1,312. Returning to Question 22 of 1994, the answer for March 1994 and recorded in Hansard, was 298 under 25s when ETB records show 236; for over 25s the answer was 356 when ETB records show only 331. There are several occasions when the answer given in this House overstated the figure

shown in ETB records. This situation arises on the latter part of the GSLP term of office and the answers given by the Hon Mr Baldachino. One can only speculate as to the reasons why the hon Member would wish to do that. What could then explain the fact that the then Government systematically brought to this House information different to what was in the Government own records. Could they have channelled their figures from another source? The answer is that no other source exists. Furthermore, in answer to Question 118 of 1993 the Hon Mr Moss said that "the unemployed figure for Gibraltar consists of all those who are registered with the ETB as seeking employment". In addition to this, in his public statement of the 16<sup>th</sup> July 1998 the Hon Mr Baldachino said "the GSLP is not questioning the number of persons registered in any given month which is the head count by the staff of the ETB of those who call at the ETB to seek employment". It is therefore clear that the hon Members pretended that they were giving ETB figures when in fact they gave different figures to those disclosed on ETB records.

Mr Speaker, there is another issue of deliberately misleading the House. In Question 107 of 1995 the Hon Mr Vasquez asked the then Government for Gibraltarian unemployment figures as at the 31<sup>st</sup> December 1994 and 31<sup>st</sup> March 1995. The Hon Mr Baldachino gave the figures for 31<sup>st</sup> December 1994 but he said "the figures for the 31<sup>st</sup> March 1995 are not yet available". The reality of the matter is that they were available in the ETB records. Indeed, I have the paper that the ETB passed to No. 6 Convent Place with the answer to the draft answers written on it and it contained information for both December 1994 and 31<sup>st</sup> March 1995. It is therefore clear that the hon Member said that the information was not available to him when in fact not only was it available to him but indeed he had it as it had been drafted for him by the ETB. Mr Speaker, what we have seen today is hypocrisy in its highest manifestation by the GSLP accusing this Government of practices they themselves had adopted as routine habit during their period in office. It is therefore clear to any open-minded person that when the GSLP was in Government it was them and only them that manipulated the presentation of figures to give a false picture. In fact, they continue to do so. For example, in his public statement of the 16<sup>th</sup> July 1998 the Hon Mr Baldachino said "the facts are that the GSLP brought unemployment down to 331 by April 1996 and that it had been higher than this ever since. He will only be able to claim he had reduced unemployment when it dropped below this figure of 331." I do not know, Mr Speaker,

why and how the Hon Mr Baldachino now subscribes to the figure of 331 at April 1996 when his Party's last Election Manifesto also published in May 1996 in reference to Gibraltarians unemployed stated "we have set ourselves the target of getting this figure down back to the 300 level that existed before 1992. At present the level is under 450".

Mr Speaker, I would like to quote from a man from whom I draw inspiration - "if you once forfeit the confidence of your fellow citizens you can never regain their respect and esteem. It is true that you may fool all of the people some of the time. You can even fool some of the people all of the time but you cannot fool all the people all of the time" - Abraham Lincoln. Or perhaps if hon Members prefer it in modern day language, people in glass houses should not throw stones.

Finally, Mr Speaker, I most energetically condemn the previous GSLP Government for this systematic production and presentation of false information to this House. This constitutes, amongst other things, a most serious contempt of this House. Given such an abysmal record of real manipulation, it is most shameful that the Opposition Members should now adopt concern and preoccupations with the Minister's responsibility to the public for the accuracy of the information given to this House. It smacks of nothing less than cheap and vulgar hypocrisy. I commend the motion to the House.

Question proposed.

HON J L BALDACHINO:

Mr Speaker, let me first clarify the distortion that the Minister has just committed. I never gave the figure of 331 in this House or anywhere else. He did, in the first meeting of the House. He was the one that quoted 331, not me. I never said it anywhere and the reason why my figures were higher than those that he got from the ETB is because we used to include the lapsed people as well. He has not quoted in this House that when I took over the Ministry the figures were lower. He says that they were higher. Of course they were higher because the lapsed people were included. He mentioned our manifesto of the last Election. Well I could have gone to the people and said that there were under 350 unemployed instead of the 450 as the Manifesto says and I could have been right but we thought that it was better to put the lapsed in and therefore give that information. He cannot accuse me of trying to mislead because I have given higher figures.

On the other figures that he has quoted, seeing that he is going to make it public, well we have to look at the records and see where he has gone wrong. Mr Speaker by coming here and putting this motion attacking us on this he cannot get away from the fact that he did not do whatever he did, and he has done it in the past, he has done it and I will prove it to him and therefore whatever he has said in relation to those figures, we have to take it with a pinch of salt. Let me start by saying that in October 1997 the Minister said that he could not give me the figures because I think after questioning him here in this House he said that this was because women were going down to the ETB and registering because they had heard that there were two supermarkets opening and those people were not genuine job seekers. How can the Minister, who has just come back from Brussels and in a question in GBC in an interview when asked if women were discriminated he said that women were discriminated in Gibraltar like anywhere else. He was the first one to discriminate them. Does he not understand that women and especially married women and single parents look for those type of jobs because of the conditioned hours which actually suits them in their private lives or socially? And he wanted to take them away, that is what he said here, that we were looking at a system where we were taking them away so that it would reduce unemployment figures, for no other reason. It is surprising that the Minister who has no time to seek members of the public, has such spare time to take him through old files which appears to be a pastime of his, he does it all the time.

I do not know if he is doing it to boost his political image, seeing that he is held in such low political esteem even within his own party, or could it be a propaganda exercise to hide his incapability to bring Gibraltar unemployment down. Whatever it is, his true reason for this motion is clear. As recently as the 2<sup>nd</sup> October in a Government press release No. 161/98, one could ask why was the figure of 79 per cent underlined? Why stress that that was the percentage of local residents filling up the vacancies? Why? Why was it underlined? Because if one underlines something in a press release it is because one wants to draw the attention of the person that is receiving that. Why did he do that? I will tell the House why he did it, because in reality local residents means any nationals that live in Gibraltar including those that require work permits. That is what he means, that of course they reside here, all those under that category. The reality is that since he took office the Gibraltarians filling up jobs is just over 50 per cent, that is the reality, that is what they

were trying to hide in that press release. Why did they not say Gibraltarians filling up jobs in Gibraltar is 53 per cent in that case? Why say 79? Is that not distorting and manipulating the figures to give a wrong impression? He has not defended that.

On 17<sup>th</sup> April in Government Press Release No. 70/98, the second paragraph states "falling trends during the quarter was as a result of new business coming into Gibraltar..." and gave us the example of Cammell Laird and the Bottling Plant. When asked in this House how many of the March vacancies had been filled at the bottling plant and how many at Cammell Laird the Hon Mr Netto replied that he did not have the information and needed notice of the question. How can the Minister say he did not have the figures when a few days after the press release and prior to the question, a few days only, he had stated it in a press release and his comments in a GBC interview. That is what he said and he told this House he did not have the figures. How then did he know that the downtrend then had been because of the bottling plant and Cammell Laird? But that is not the only thing, Mr Speaker. On the 14<sup>th</sup> September, having given him almost six months notice, because he said he needed notice at the time, we put the question again. His reply then was that he did not wish to provide the answer in public but would provide it in writing privately and confidentially even though he had used the names of the two employers in a press release and in a GBC interview back in April. On the 15<sup>th</sup> September in a letter addressed to me and signed by the Minister it stated that none of the vacancies filled in March were at the bottling plant. Was he not distorting the figures and giving a misrepresentation back in April? And he did not answer the second part of the question that we asked him, how many of those were filled by unemployed Gibraltarians? He did not answer that and we are still waiting for the answer from the 15<sup>th</sup> September. Is that not a misrepresentation and a distortion of facts? What is true and what we know is that of the 10 vacancies open on the 22<sup>nd</sup> April at Cammell Laird, because he specified it in his letter, they were filled by one Gibraltarian, three Spaniards, three Moroccans, two Portuguese and one British and I suppose all those form part of people who are resident in Gibraltar. That is what I suppose they are and therefore I suppose that the Minister is happy, he should be happy that 79 per cent in the last quarter is going to local residents. I do not know why in the same press release and in all press releases as a matter of fact, the Minister still keeps on urging local employers to employ more local residents. Local

residents, what does he mean? It does not mean Gibraltarians alone, I suppose? If they are happy with that 79 per cent, that 21 per cent is going to frontier workers because if I work out his last figures I do not know who stays out, I suppose it is the frontier workers, about 40 who stay out because they are frontier workers and I suppose they are Spaniards. Everybody else I suppose lives here and the Minister should be happy about that and therefore when he accuses us of being racist I suppose one can accuse him of being a racist because he wants to discriminate frontier workers to other workers who reside here immaterial of nationality because they are happy that people who reside here should find work. Of course, people might come in, the Spaniards might come in, might reside here and then they are happy that they should be employed equally as Gibraltarians.

Mr Speaker, in June the Hon Mr Netto stated that unemployment was down. When this was challenged by us he had no other option that in a second interview in GBC admitting that it was not down, that it was up. Is that not a misrepresentation and distortion of the figures? In the last question in that interview he was asked a specific question "is unemployment up or down?" and he said "up" after having said before that it was down. I do not know what else to call that Mr Speaker, that the Minister comes first and says it is down and then he retracts and he says it is up, to me it must be a misrepresentation of the figures. He is right when he says that we are not questioning the figures, we are questioning his interpretation of the figures. That is what we are questioning. As a matter of fact when he said it was down in June the figures of unemployment of Gibraltarians had actually risen by 34. Therefore, Mr Speaker, we maintain what we have said all along that the Minister has distorted and misrepresented the facts and manipulated the presentation of the figures to give a false picture. Of course, this motion will be passed, not because he is right but because they have a majority in this House. The true fact is that Gibraltarians taking up jobs since he took office is over 50 per cent. When we were in office in the last count it was 68 per cent. He can check that one as well and from these facts he cannot shy away, nor distort, misrepresent or manipulate any of these figures. Therefore, we have maintained what we have said and we will look at those figures because if he is going to make it public obviously we would like to have the right to look at them equally as they did but he cannot come here and put a motion and say the Opposition did that in the expectation that whatever he did and whatever he has done in the last

year he has not done. We cannot accept that. He has done it and I have proved it, it is in press releases, in interviews that he has made and of course I can say that we left him with unemployment of Gibraltarians at 331, short of 300 which was our target and I have never quoted that figure. He was the first one that quoted that figure in this House when I asked him the question and therefore on that one he cannot say that we have distorted those figures because he was the one that gave them, Mr Speaker.

HON CHIEF MINISTER:

Mr Speaker, I think that rarely will such a serious Parliamentary charge have been laid and such an inept defence proffered. I hope that some of his colleagues will now rise and shore up the defence. Anybody listening to this debate might think that this was a debate about employment in Gibraltar. It is not a debate about employment in Gibraltar. This is a debate about the hon Members bringing false information to this House, it does not matter whether it is about employment or about the weather. There is no attempt to explain the basis of this motion and I just do not understand how the hon Mr Baldachino can stand up and say "I have never quoted the figure of 331 anywhere, here or in the press, it is him", that is what he said the first time, the last thing he said which is a bit more accurate is that he quoted it first. Of course he quoted it first because this Government only quotes ETB figures. The point is, how can he say in this House that he has never quoted that figure. Mr Speaker, people in Gibraltar know how to read and people in Gibraltar know what words mean when put one in front or one behind the other. On the 16<sup>th</sup> July of this year the hon Member put out a press release in which he says "the facts are that as he (Mr Netto) himself now admits, the GSLP brought unemployment down to 331 by April 1996...". The hon Member cannot put out a public statement saying that the Government have now admitted that the GSLP brought the unemployment figure down to 331 if it is not his position that the figure was 331. He might have said "The Hon Mr Netto is a fool to think that I was as successful at my job as he thinks I was in bringing the figure down to 331. In fact he is completely mistaken, I was not that successful, it was only 450". But if the hon Member says in public the facts are that as he now himself admits the GSLP brought unemployment down to 331 by April 1996 and that it has been higher than this ever since and he goes on to say "he will only be able to claim that he had reduced unemployment when it dropped below this figure of 331".

How does the hon Member now dare get up in this House and say that it is only Mr Netto that has quoted the figure of 331 and that he has never quoted it, either here or anywhere else.

Mr Speaker, we still do not have an explanation why the figures in the ETB records which are contained in those computer print outs, the hon Member still has not given an explanation as to why the figures in the ETB records are different to the figures that he and some of his Colleagues brought to this House. He says in passing, as if it were an incidental matter to this debate, and not the central issue, "well, it is because we have included the March figures". Mr Speaker, we do not accept that explanation because the ETB figures already make provision for the lapsed but even if this is wrong, even if we are wrong, which we are not because as I say the ETB figure already made provision for lapsed, Mr Speaker that might explain the rare and the few occasions in which his figures were higher than the ETB's but it does not explain the many more cases in which his figures were lower than the ETB. If he is saying that the ETB figures do not include the lapsed but that the figures that he brought to this House were so honest that they included the lapsed, which the ETB did not, then his figures will always be higher than the ETB and what we are saying is that for many of those months they were lower. He cannot explain away the lower figures, the instances in which his figures were lower than the ETB's. He cannot explain that in the same way as he explains the higher ones. Again, how can he claim that there was that difference between the fact that the ETB figures did not include the lapsed and the fact that his did or his Government, it was not always him that brought the figures to the House. On some occasions the figures were identical. How can they be identical the Government's and the ETB's figures some months and then 20 per cent different the month before and the month after. This suggests that there is just complete casual choice of the figures that are brought to this House. I can imagine that the hon Member much regrets that the Minister had time to delve into his historical records, like so much of what used to happen in the days when the hon Members were in Government. I suppose that they were hoping that no one would look over the papers and expose what they were doing. I regret to say to the hon Member that in this as in many other areas that he is not going to have his wish in that respect. It was not the Minister who delved. The fact of the matter is that there are officials in the ETB whose job it is to delve to make sure that the public get the information of an accuracy to which they are entitled.

Mr Speaker, I do not know if the hon Members have now adjusted the position of their threshold of integrity that whereas before they seemed quite content to bring inaccurate information to the House now they regard as manipulation and distortion and misrepresentation the failure of the Government to answer a question. I am glad that the hon Members have set their standards at such a high level. Better, I suppose, late than never. How does the hon Member dare equate what he has heard this morning with a Minister standing up in the House and in answer to a supplementary question saying "look, you have asked me information about Cammell Laird, I do not have the information here. I need notice of the question." Or do you think that the Ministers come to this House with every statistic? Does he really think that the Minister saying "look, you asked me for information in a supplementary, I have not got it with me, I therefore need notice of a question". Why should it surprise him that two days later he has the information. He would have had the information in the House if it had been the subject matter of his original question. The fact that a Minister does not have information requested in a supplementary question hardly falls into the category of distortion and misrepresentation. Frankly, I hope that the hon Members will have more to say in answer to this motion than this. Therefore, Mr Speaker, if the motion is carried it will not just be because the Government have a majority, it also has to be because as yet we have not heard an explanation for the facts tabled in the House by my hon Colleague.

HON J J BOSSANO:

Mr Speaker, nothing could be more evident in the total hypocrisy of the presentation of this matter in the House than the last remark made by the Chief Minister that the motion might not be passed because it is not a question of Government majority but a question of an explanation. Does he really expect anybody in Gibraltar who is listening to us to believe that irrespective of whatever explanations I give today there is the remotest possibility one out of a million that everybody in the Government benches will vote with the Opposition and against Mr Netto. That is in fact the giveaway that this has nothing to do with statistics and this has nothing to do with employment although one would have thought so given that it is being moved by the Minister responsible for Employment. It has to do with a strategy of manipulation of information which is what has been going on in the House since 1991 when the Chief Minister

arrived as a result of a by-election. Let me say that if the figures that we have been given today were accurate which we do not accept they are, it would mean that between December 1994 and April 1996 we had been successful in reducing unemployment of Gibraltarians from nearly 900 to 331. We do not think we were successful in doing that. Had we been successful in doing that we would have presumably done what the Minister for Labour now does which is to issue press releases saying that it is a huge downtrend because he claims that there was a downtrend in the first six months of 1998 because of the figure of one month having said in this House that one should not judge trends by the figures of one month. That is misrepresentation. If it goes up in one month, one month is not relevant. If it comes down in one month, one month is a downtrend. It is the utilisation of information that we are talking about. Obviously we stand by the answers given in this House to those questions as the level of unemployment that existed in Gibraltar as far as the GSLP was concerned giving the House the accurate information that the House is entitled to have. What we have never done, either in respect of unemployment or in respect of tourism is to pick a figure and claim that this is evidence of our success because, of course, as the Minister has said we did not make a practice of issuing press releases on this or on anything else. We have provided the information when they asked for it in this House. He in fact has not provided a single figure on Moroccan unemployment since he was elected. Why? Is it because he does not care about Moroccan unemployment? No, because we have not asked for it and because we have not asked for it he has not provided it. When did he start providing details of lapsed people, of people entering into employment, of vacancies being filled, did he do it of his own initiative? No, he did it in answer to questions. Why did we not do it? Because they did not ask the question, that is the simple answer. The information that he has provided is the information that has been requested, that is what we have been doing. That is why he has not given a figure of non-Gibraltarian unemployment once since the election of May 1996. Before he used to argue that it was very important to have monthly figures when we used to produce the figures every three months. Now he wanted to move to produce them quarterly and of averages. Of course, from an average of three months there is no way of knowing whether the three months have been the same or whether the first month has been much higher than the second and the third month much lower than the second. He used the explanation when he decided to shift from monthly to quarterly figures that this was because there

had been a sudden influx of people into the Register of Unemployed and that therefore a blip like this could produce a distortion of the picture. We accept that explanation but we do not accept that that can be a blip about people getting jobs or that there can be a blip about vacancies, but he then moved on every single other statistic to a quarterly provision. We have had Ministers in this House not answering questions on unemployment or on numbers in employment because they were not sure of the accuracy of the information they had. When we asked about the number of people getting Unemployment Benefit and the number of people registered with the ETB, we have been given different answers. When we have asked about people employed, if it has been answered by the Minister for Labour we have been given the number of open contracts, if being answered by social insurance records we have been given a different figure and of course if it is a question of the PAYE records one gets a third and a different figure. The Government Members recognise themselves that the statistics that they provide in this House are not in fact as accurate as they could be if it was all centralised and they have said that it is their intention to try and improve on that situation and centralise it. Why is it that the Minister gives figures for 1992 and 1993 and then says nothing about 1995 and 1996? Why? Is it that he has not looked at those years? He has looked at those years, then why is it that he suddenly stopped in 1994? Is it that he cannot make the same case for 1995 and 1996 as he makes for 1992 and 1993? And if they cannot make the same case why? Could it be that the original figures needed to be put right because they were grossly inaccurate and that as they became more accurate with the passage of time he stopped quoting them because it does not suit him? We would, of course, want him to provide us with copies of those printouts for the whole of our four years and of course if the Chief Minister wants to have a more detailed explanation then I suggest what he should do is defer the voting on this motion because of course there is nothing in the motion that we could answer to. We did not know what the motion was about. What statistics he was talking about. If he had given us at the same time as he gave notice of the motion, copies of all that he might have had a more detailed reply about the specific figures for each one of the quarterly reports that he has used so far and the ones that he has not quoted. If we were to believe the Chief Minister, which we do not, that there is a possibility that giving a detailed answer to those figures might get them to vote against the Minister that is moving the motion, then it is impossible for us to give that answer until we have

the material that he is using which, of course, contains the name and addresses of people which he is going to make public which we find peculiar that he should make available to the public the name and address of the people who are on welfare, on supplementary benefits, and unemployed going back to 1992. I am not sure that they have got the right to do that but we certainly have the right to have access to that information given that that is the information on which the criticisms in the motion are based. Of course, it is not normal to be defending oneself against a censure motion when one is in Opposition, it is normal to do it when one is in Government and I think it may well be that the Chief Minister in sanctioning the bringing of this motion to the House realises that he is really in the wrong place, that we ought to be there defending policies and he should be here attacking because he is a prosecutor by inclination and by temperament. That is why he addresses you Mr Speaker sometimes as if we were in a Court of Law and he has prefaced his remarks today by saying he hopes there will be a better defence because as far as he is concerned what is right and what is wrong depends on what one can persuade the jury is right or wrong irrespective of reality. It does not depend on the truth because it is not true, Mr Speaker, that there are £70 million spent in Gibraltar mainly because of people getting off the ferry from Morocco. The fact that the figure is dubious is unimportant, unless one picks that figure as evidence of ones success. If the figure is there and that figure has got the same limitations as many other statistics that we look at and have looked at for many years, both when the GSLP was there now and before the GSLP was there, then if one does not try and drum up euphoria about the success of the policies based on a dubious figure, the Opposition will not question the figure. We will take everything with a pinch of salt which is the normal thing to do. This motion by the Minister for Employment, which has nothing to do with employment we have now found out, is of course irrelevant because the point that the Minister should be defending in this House is the degree to which he has been successful in bringing down unemployment since May 1996, that is what he is paid to be doing here. We reject the accusations, we do not accept that anything has been exposed and we demand to see that information and the information for the remaining years. The Chief Minister says one cannot expect the Minister to answer a question and remember something that happened six months ago. You expect the Opposition to have thousands of names going back to 1992. We did not take anything with us after May, we left all the records behind and all the records that were there

before us. I suppose the Chief Minister feels no need to go beyond 1992 to see what the figures were like before 1992 or to question their accuracy when questions were being asked in this House about unemployment and peculiar figures were being produced.

HON CHIEF MINISTER:

Mr Speaker, the hon Member appears to miss the point. What we are saying is very simple, that the figures that he brought to the House were not the same as the figure of the Government Department responsible for collecting them. This is not about names and addresses of people. He must at least remember why when the ETB sent him a figure that said that the unemployment was 350 before sending the answer to the Clerk of the House, he crossed out 350 and put 176 and even if he cannot remember he must know this is systematic behaviour, he must know what the explanation is for the fact that he did not do what we now do which is bring to the House... The figures come from the ETB and they pass straight from the Ministers to the House. He must at least remember why that did not happen. Nothing to do with names and addresses and remembering a thousand of them.

HON J J BOSSANO:

Mr Speaker, I will not let the Chief Minister get away with that misrepresentation. I have not said I do not remember the names and addresses, what I have said about the names and addresses is that the Minister has announced that they are public and that I questioned whether one can make people's names and addresses public. The figures for 1992 and 1993 and 1994, which presumably are in those print outs we will study to see the discrepancy that he claims exists and we want also to study the 1995 and 1996 because what they have deliberately omitted to say today, deliberately, because it is impossible for the Minister to have started in 1992 and stopped in 1994 and not looked any further, what they have deliberately withheld is the fact that the figures were inaccurate originally and have become more accurate precisely because we were questioning what was being produced and they have done the same in answer to questions in this House. Mr Speaker, they have done the same. We have had questions in this House some months ago about the numbers getting Unemployment Benefit, the numbers getting Supplementary Benefits and the numbers not getting any benefits at all and when the time came for the answer to be provided it was not provided because they were not satisfied with what the Department had

produced so it did not come straight through and it is on record we were not given the answer and that was the explanation given. We did not challenge that explanation. If in fact when the information on tourist expenditure was produced if the Minister for Tourism had looked at that figure of numbers coming from Morocco and said to himself there seems to be something strange about these figures and had then rechecked and redone and changed to give a better and more accurate picture than the raw data with which he had been provided, we would not have criticised him because we would have thought was what he has trying to do was to make sure that the figure reflected the position in Gibraltar. It is not possible for the number of people that have been quoted to be unemployed given the fact that the total volume population of Gibraltar taking the people in work and the people out of work would not be big enough to coincide with those figures. So those figures that are being quoted today are wrong and the correct figures are the figures that were published at the time they were done. I am sure that once we have access to all that we will be able to give the Minister an explanation but if he is able to do his job better because in fact what he is saying here today is that my Colleague succeeded in bringing down Gibraltarian unemployment from 897 in December 1994 according to him to 331 in April 1996 and therefore, if anything, since the job of the Minister of Labour is to reduce unemployment what he ought to be doing is bringing a motion congratulating Mr Baldachino for having reduced unemployment from 900 to 330, according to him.

HON LT-COL E M BRITTO:

Mr Speaker, since I have been in this House since 1988 I have not heard such a serious charge being brought against one Member or a number of Members, never mind one Minister or more than one Minister. The motion accuses Opposition Members of misleading this House. That is a serious offence under any parliamentary procedure and in some Parliaments would be tantamount to resignations. Not only have we not heard a defence. Not only have we heard a smokescreen but the Leader of the Opposition has in fact admitted that what my hon Colleague has said is true because he has said that in essence when they did not like or did not agree with the figures that the Statisticians were providing they changed them and given them here as changed. That is in fact what the motion says, that the figures have been changed and given different to what they were presented to Ministers. I have no doubt it is correct if those figures that my

Colleague has given are right then the charge, as far as I am concerned, and I have no conscience about voting in favour of the motion, the charge is proved because it has been admitted on the other side that they have misled the House.

HON J J NETTO:

Yes, Mr Speaker, it was actually predictable the line of defence of the Opposition. When faced with the kind of accusations that I have been able to put forward they could either go on the path of trying to rubbish me on a personal basis, which we have seen in the main by the contribution of the Hon Mr Baldachino, or as we know the ability of the Leader of the Opposition in his skills as the artful dodger to try and move away on a tangent and not address the issues. The issues are very simple. The issue is that there is a system in place, a system which I never introduced, a system that has been there to the best part of my recollections from what I have been told, from 1990 or 1991 or 1992. The system is that it accounts for people as they themselves have said and recorded in Hansard, people who come and sign and therefore it is a head count of people registered seeking employment. The system that they introduced is the system that allows for people to be lapsed. It allows for people to be employed and it allows for people to move within different age bands. That is not the system introduced and the reason why I had to take a lot of time to research this is because I wanted to ensure that the same system that I inherited was the same system and that no administrative or procedural changes had taken place from their time to my time. The point is this, the point is that when a question is served by Members of the Opposition to the Minister responsible, in this case me as Minister for Employment, that question obviously comes to the Ministry of Employment and I do not deal with it, my officials deal with it in the same manner that it was their officials who dealt with it and as they have said and recorded in Hansard. I do not go getting these printouts across my table and saying, "well, Smith has not got a Gibraltarian name so I will cross Smith". The figures that the officials give me is the figures that I stand up and say in this House. This is the issue. The issue is that there are two figures, the integrity of two figures, not figures that pass on from the Ministry of Employment, then the ETB, via the House of Assembly, via 6 Convent Place or wherever and where then people are crossed or are removed or added or taken away. He cannot get away with that. The fact of the matter is that even the lapsed is not something that I introduced. They

introduced it, it is a common practice, not just in Gibraltar but in any other place so therefore lapses have taken place, sometimes it is an average, sometimes it is below a 100, sometimes it is over 100 and we have the situation where in January 1994 it was 400. The month after December 1993 when the unemployment figure was at 897. Obviously, Mr Speaker, the fact of the matter remains that if one is going to lapse 400 which is more than the average, the Minister at the time should have stood up there and should have made an explanation as to the reasons why there was something like 400 lapses in January 1994 following the highest point of December 1993 and even if as now accepted by them that they actually handled and manipulated the figures once they were passed on from the officials, the fact of the matter is that the information or whatever either the Minister at the time or the then Chief Minister should have informed the official that they had crossed out certain names so that they would not continue to reappear in the following months but such notice, such information, was never translated so the fact remains that they have said in this House that these were the people who registered in the ETB and the information was provided by the people who work in the ETB and this is what I do and this is what they said they were doing but they were actually not doing it because we have seen and I have demonstrated and I can demonstrate that the figures that they stood up and said in the House do not tally with the head count, the raw unadjusted figures and he can go on talking about anything he wants. He can talk about whether the unemployment statistics are passed on from a month to a quarterly basis but even there, Mr Speaker, he is not being honest with what he himself used to say when he was in Government because I can quote time and time again when he stood up here and he said that it was better to have quarterly figures because they were unforeseen circumstances. He said that and it is recorded in Hansard. I can look for it and I can quote him but the fact of the matter is that they have the information here even on a monthly basis and they said, and recorded in Hansard, that they would only give the figure on a quarterly basis but I have given the figure, despite of giving the figure on a quarterly basis, I give them on every single month. People can interpret a statistic in a different way but they are true, integral figures. No mishandling, no misrepresentation and I can stand up and say that but they cannot and they cannot run away from the central issue. He can keep on with all his red herrings, with all his smokescreens but he has to address the central issue which he has not done this morning, Mr Speaker, so I commend the motion to the House.

MR SPEAKER:

Before you commend the motion, you said you were going to give way.

HON J J NETTO:

I beg your pardon, Mr Speaker, I give way to the Leader of the Opposition.

HON J J BOSSANO:

Mr Speaker, he has just said that the figure for January 1994 was 438 less than the figure for December 1993 which is what he said in the first place and which he got an answer to. There was no figure published for January 1994 so how can anybody remove 438 from the figure of December when there was no figure for January?

HON CHIEF MINISTER:

Mr Speaker, one can see it is symptomatic of the attempt to confuse the issue in the hope that the central issue will go away. What is the relevance of saying that there cannot have been 438 lapses between December and January 1994 because no figure was published for either of those two months? The question is not whether the figure was published, the question is what happened in the office? We know that the hon Members never published figures. We do not have to stand up here three years after the event and we know he never published the figures. The fact of the matter is that when he stands up as he did towards the end of his own contribution to the debate and he said "the Minister should be moving a motion to congratulate Mr Baldachino because according to the Minister he has reduced the level of unemployed Gibraltarians from 840 to 331." Mr Speaker the reason why the figure dropped from 840 unemployed Gibraltarians in December 1993 or thereabouts to 331 later was not because the hon Member had found employment for the 500 odd people in between, it was because in December 1993 or rather after the 31<sup>st</sup> December 1993, and before the figure for the next months were totted up, never mind whether they were published or not, they were totted up in the ETB records, the hon Members lapsed, that is to say... [Interruption] the hon Member may say it is not true but it reflects it in the Department's record, 438 of the 840 odd people were removed from the list at the stroke of a pen, not because they had found work but because they were deemed to have lapsed.

MR SPEAKER:

I am sorry, to give way is to elucidate some matters but not to make a speech.

HON CHIEF MINISTER:

Mr Speaker, I have finished but I am elucidating on a matter in which the hon Member, I think, tried to cloud the issue, it is exactly what I am doing, I am addressing only the matter of his last intervention, but indeed I have made my point, I am obliged to you Mr Speaker.

HON J J NETTO:

Yes, Mr Speaker, just one very little point in relation to the legal position. That is that he talks about the fact that I am not producing figures for 1995 and 1996. The print-outs are there just as these print-outs were there at the time so I have got no problem with that. Mr Speaker, I commend the motion to the House.

Question put. The House divided.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J J Gabay  
The Hon A J Isola  
The Hon Miss M I Montegriffo

Absent from the Chamber: The Hon R R Rhoda  
The Hon T J Bristow  
The Hon R Mor  
The Hon J C Perez

The motion was carried.

BILLS

FIRST AND SECOND READINGS

**THE BANKING (GIBRALTAR AND UNITED KINGDOM PASSPORTING)  
ORDINANCE 1998**

SECOND READING

HON P C MONTEGRIFFO:

I beg to move that the Bill be now read a second time. Mr Speaker, the Banking Ordinance in its present form gives effect to the European Union requirements for passporting of credit institutions. The matter of passporting between the United Kingdom and Gibraltar is of course not a matter for the European Union as such. However, it is the policy of both the Government of Gibraltar and the United Kingdom that passporting between both Gibraltar and the UK should be governed by the same rules as apply to passporting between territories of the different Members within the European Economic area. At the moment, the Banking Ordinance, the 1992 Ordinance, does not achieve this and therefore the Bill before the House seeks to make the necessary amendments to Gibraltar law. Sub-clause 2(1) sets out the purpose of the detailed amendments which follow. Sub-clause (2) of clause 2 makes fundamental changes by ensuring that as a matter of Gibraltar law references to the Banking Ordinance, 1992, to the territory of a member state do not, in the case of the United Kingdom, include Gibraltar. This change reflects the provisions already made in relation to financial services by section 2(3) of the Financial Services Ordinance, 1998. This theme is carried through then in sub-clause (3) of clause 3. This amends the 1992 Ordinance to make clear that the rules which are intended to apply to applicants from outside the European Economic area do not apply to applicants from the UK. The amendments made by sub-clause (4) of clause 2 ensure that Gibraltar licensees proposing to carry on a business in the United Kingdom do so on the same basis as any other proposal to passport into another territory of the EEA. These amendments will therefore allow the Gibraltar Financial Services Commission to give the appropriate notices to the UK regulatory authorities.

The other important provision in the Bill is sub-clause (6) of clause 2 which amends section 71 of the 1992 Ordinance. That section effectively provides that European-authorized institutions cannot passport into Gibraltar in respect of any activity unless it is

authorised to carry on that particular activity in any EEC state. Again we are doing the same change here. We are changing "EEA state" to "territory" thus enabling UK-authorised institutions to passport into Gibraltar on the same basis as an institution authorised in another territory of the EEA. Mr Speaker, this Bill does not change the practice of banks that have been coming to Gibraltar from the UK. All it does is rationalise the basis upon which they come here, namely, they are now to be established in Gibraltar and vice versa, Gibraltar banks in the UK, as if they were European banks established in a territory of the EEA. It is a change of form rather than of substance but it is important in regularising the passporting regime which we have put into place. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, the Bill is unusual in that the title of the Bill, which is Banking (Gibraltar and the United Kingdom Passporting) Ordinance, would give the impression that we have got a law as a result of which people will be able to passport into the United Kingdom, which of course is not the case. Nor is it the case that only after the law comes in will people from the UK be able to passport into Gibraltar because they have already been doing that, we have got here branches of UK banks. In fact, in the last meeting of the House we actually had a situation in which what was a branch of the bank from the United Kingdom became a branch from the Isle of Man. In fact, we were changing from one branch to another branch and that has always been possible. So to the extent that what the Ordinance is doing is to make clearer what was already happening then obviously we have got no problem with the Bill. I think we have difficulty in understanding why it is that we need to be talking about the territory of an EE state instead of an EEA state because as far as we are aware the only EEA state that has a territory which is distinct as a jurisdiction from the state is the United Kingdom with Gibraltar where we have got two Licensing Authorities. Everywhere else, irrespective of whether Spain has got a territory in the middle of the Atlantic or in North Africa, any banks operating in those territories are deemed to be operating on the mainland because the license comes from Madrid and from the central bank. To my knowledge that is what happens throughout the other EEA states. It is not clear to me why it is that there is a requirement to talk about the

territory of an EEA state in substitution of the present position which is an EEA state since, as far as I can see, it is only Gibraltar that has got a territorial jurisdiction distinct from the national one, to my knowledge, I do not know of any other one. In fact, that is essentially the problem that we face because the argument that has been used consistently by Spain is that one cannot have two Licensing Authorities issuing identical licences, or purporting to issue identical licences which happens in Gibraltar with the FSC issuing Gibraltar Banking Licences and the Bank of England issuing UK Banking Licences. The question of applying to the United Kingdom the same criteria that we apply to credit institutions seeking to passport into Gibraltar from any other EEA state was something that in the discussion with the United Kingdom the UK accepted we should do even though it was one way and not reciprocal. Of course, since we are interested in having branches, even though we may not be able to passport into the United Kingdom it is in Gibraltar's interest that people should passport into Gibraltar and we support that. I think it would be important to know whether now that we are actually putting on the statute book the provision of equal treatment for UK banks as compared to other EEA banks, whether in fact this is an indication that the United Kingdom will be doing the same to banks from Gibraltar because the provision in the UK regulation when they were brought in in 1992 left Gibraltar out because in the definition of a credit institution it stated that a credit institution was either one licensed by the Bank of England or licensed by the equivalent of the Bank of England in another member state and Gibraltar fell between two stools because we were neither licensed by the Bank of England nor licensed by the central bank of another member state. I think our law at the time was silent on the question of the United Kingdom licences being valid in Gibraltar and in practice they were already being treated and, indeed, a number of them were already here even before we joined the EEC, so it would have been absurd to, for example, remove the licence from Barclays Bank because we had joined the EEC; they already were here with a branch from the United Kingdom. We are supporting the Bill but we would like to know whether this is an indication that now the United Kingdom is going to accept Gibraltar Banking Licences the same as other member states are required to do because the argument that was used was that in fact the United Kingdom was not obliged by Community law to accept Gibraltar banks and we are not obliged by Community law to accept UK banks. We want UK banks to come to

Gibraltar so I think we will have no problem in accepting this.

I also would like to ask whether the fact that we have a wording here which compares the procedures that need to be followed by the United Kingdom branches to come in to those coming in from another EEA state, whether that could create a problem if we have difficulties with other EEA states. If there is a problem of getting the other EEA state to accept branching into Gibraltar, could this affect the ability of UK banks because we are mentioning in the law that they will be treated in the same way?

HON P C MONTEGRIFFO:

Mr Speaker, if I deal firstly with the point on definition of territory of the EEA that the hon Member has raised. I fear he may not have understood the mechanics being used in the Bill to achieve the aim that we have been discussing. Essentially, the replacement of the phrase "EEA state" by "territory of an EEA state" is precisely to get over the difficulty of the UK/Gibraltar position, namely that if the Banking Ordinance 1992, were to remain as presently drafted, it would retain the references to EEA state there would be no way in which Gibraltar and the UK could interact under the Banking Ordinance structure in passporting because we are not two separate EEA states. We are territories of an EEA state and therefore the wording that has been put in has been specifically the mechanism to get round that problem, the replacement of "EEA state" by "territory of an EEA state" so that between ourselves and the UK we can each regard ourselves as territories of the EEA state. That has been the main reason for the change. There may indeed be other EEA states and I think Gibraltar and the UK are not the only examples, there may be other states within the EEA that actually have a number of territories and therefore... Greenland is an example, Finland and Aarland is another example that comes to mind and other examples which the definition will help but let us be clear, the reason the change is implemented is precisely to give effect to the difficulty that arises from the wording of an EEA state that simple phraseology would not allow passporting between Gibraltar and the UK because we are not two separate EEA states. The whole mechanism of the Bill has been to replace those references of EEA states, references of territory of an EEA state.

The main issue is the question of...

HON A ISOLA:

Mr Speaker if the Minister will give way, may I just ask, if we are changing the law in Gibraltar to provide for that work that there are two within one, and the bank were to seek to passport into Gibraltar from the UK, what is the position in the UK? Would they not also require to change the law to provide similarly that the territory of Gibraltar is not a member state but can come within in exactly the same way as is being provided here. Passporting from there to here is no problem because we have done it once this Bill goes through the House, what is the position going backwards, from Gibraltar to the UK, will this not require a change in their law as well to allow for exactly the same mechanism.

HON P C MONTEGRIFFO:

Mr Speaker, I am grateful, this is the second issue I was dealing with. I was moving on to the issue of reciprocity. It is indeed intended that there will need to be reciprocal arrangements. This is not just an attempt to have UK banks established in Gibraltar or to regularise their position. It also is an attempt to once and for all get over the difficulties that have existed with Gibraltar institutions passporting to the UK. This would complement the rest of the passporting regime which we are putting together. There is indeed a view that changes to UK legislation is required to give effect to this and I say it in that form, because the opinion is not entirely definite. There is a view as well that under existing UK law, provision could be made for such passporting within the regime that we are putting in and because of parliamentary time in the UK being so difficult to obtain this is an alternative that we have been keen to explore. In any event let us be clear, we are talking about reciprocal arrangements. We are talking about Gibraltar putting into place its own piece of the jigsaw today and we expect the UK to put into place its own piece so that it completes the picture.

The last point made by the Leader of the Opposition is whether the fact that we are now equating the UK/Gibraltar position with other member states of the EEA, might complicate passporting arrangements. Mr Speaker, there is no evidence or reason to suppose that will be so. Certainly our experience in insurance where we have had more fortune with some member states as opposed to others does not give rise to any anxiety. Regulatory authorities, within members states, take a

certain view and applications are processed quite normally irrespective of the position taken by regulatory authorities in other territories so I have no reason to believe that that will cause any difficulty.

Question put. Agreed to.

The Bill was read a second time.

HON P C MONTEGRIFFO:

I beg to give notice that the Committee Stage and Third Reading of the Bill are taken today.

Question put. Agreed to.

**THE INSURANCE (MOTOR VEHICLES) (THIRD PARTY RISKS) ORDINANCE (AMENDMENT) ORDINANCE 1998**

HON J J HOLLIDAY:

I have the honour to move that a Bill for an Ordinance to amend the Insurance (Motor Vehicles) (Third Party Risks) Ordinance be read a first time.

Question put. Agreed to.

**SECOND READING**

HON J J HOLLIDAY:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the Third Motor Insurance Directive 90/232/EEC was transposed in Gibraltar last year. The directive requires that policies issued in member states should cover liability for injuries to third parties arising anywhere in the territory of the European Union. However, the directive does not require motorists to carry documentary proof of that. This Bill will provide clarification that the motor insurance policy issued in other member states in the European Union will meet the requirements of this directive unless documents point to the contrary. In other words, the Bill introduces a legal presumption that EU vehicles comply with the terms of the directive 90/232/EEC. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, the Minister has said that this provides for a presumption that the insurance issued in another member state will comply with the terms of the directive. In fact, there is also the reference to a relevant foreign state and the directive does not cover relevant foreign states as far as we can tell. There has been no explanation given as to why non-member states are also included in this. The other point, of course, is that the directive itself, as the Minister has told us, does not provide for a requirement that there should be documentary evidence. I am afraid I am not able to understand why it is that by us presuming that it does, it is sufficient safeguard because we could presume that it does but it may not. As far as I recall the directive puts a responsibility on the member state to ensure that vehicles that have accidents in its territories are complying with the criteria of minimum cover for passengers. In fact, in our own legislation we provide for cover to all persons which goes beyond passengers, that means to say, somebody could have an accident and the injured party could be a pedestrian. The directive in fact talks about passengers other than the driver. Our law talks about all persons. It talks about non-EU states and as I said perhaps he can explain how it is that it is sufficient in law that we say we presume the insurance cover is there and then that makes the insurance cover be there even though the premium may not have been paid and the insurance policy might not have been there. I would have thought that it would have been necessary for the documentary evidence to be there if we as the relevant member state have got an obligation to ensure that a driver using our roads has got comprehensive insurance to protect somebody who then wants to claim damages which in fact in our case I seem to remember also deals with damages to property which is not in the directive either.

HON CHIEF MINISTER:

Mr Speaker, I believe that our law talks about insurance cover for injuries to third parties and that of course the law has, for a long time, defined third parties as including obviously a pedestrian or somebody knocking your vehicle and a passenger, but not the driver. The driver is not regarded as a third party but his passengers are, which is why third party insurance covers passengers and people outside the vehicle but does not include the driver and to obtain insurance cover for a driver one needs to get a comprehensive insurance policy

because the driver is not deemed to be a third party but he is the only one who, under the law, is not deemed to be a third party. I cannot tell the hon Member right now what the reason for the reference to relevant foreign state is, except that it appears also in the principal Ordinance to which we are referring which dates back some time. I think that the reason for that is that this might be one of those European measures which in fact is rather like the ones which extend to the EEA and some others extend to EFTA. As an international obligation it extends beyond just the member states, for example, in 1997 we passed a Bill to delete from the definition of relevant foreign state as it then was Austria, Finland, the German Democratic Republic and Sweden. I can only assume that that was because they had passed from some other category of state into the EEU category. Although I am surmising and I do not profess to have researched the point, it suggests, to me at least, that that is the reason for it. As we will not be taking the Committee and Third Reading stage of this Bill today this is the one that we will be leaving over on the agenda, I will have an opportunity to give a fuller explanation for that to the hon Member at the next sitting of the House.

Question put. Agreed to.

The Bill was read a second time.

HON J J HOLLIDAY:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken at a later stage in the meeting.

#### **THE DRUGS (MISUSE) (AMENDMENT) ORDINANCE 1998**

HON K AZOPARDI:

I have the honour to move that a Bill for an Ordinance to amend the Drugs (Misuse) Ordinance to substitute the Public Health Director for the Director in section 25 of that Ordinance be read a first time.

Question put. Agreed to.

#### **SECOND READING**

HON K AZOPARDI:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this is a very short Bill and

the purpose of this is to amend section 25 of the Drugs (Misuse) Ordinance as has been stated to substitute the Public Health Director for the Director of Medical and Health Services as the person who may designate persons to give evidence of analysis for the purposes of proceedings for an offence against the Drugs (Misuse) Ordinance. This amendment should have been included in the schedule to the Gibraltar Health Authority Ordinance 1987, as one of the consequential amendments when the post of Director of Medical and Health Services was abolished. Hon Members will be aware that some of the roles of the Director of Medical and Health Services were transferred to the Chief Environmental Health Officer, the General Manager, now Chief Executive, and others to the specialists in community medicine, now Public Health Director. The Public Health Director has various other roles and responsibilities within the provisions of the Drugs (Misuse) Ordinance and it is considered appropriate that this responsibility should be transferred to him. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

Question put. Agreed to.

The Bill was read a second time.

HON K AZOPARDI:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today.

Question put. Agreed to.

#### **THE MEDICAL (GROUP PRACTICE SCHEME) ORDINANCE**

HON K AZOPARDI:

I have the honour to move that a Bill for an Ordinance to amend the Medical (Group Practice Scheme) Ordinance be read a first time.

Question put. Agreed to.

#### **SECOND READING**

HON K AZOPARDI:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the Government announced some

controls that were to be introduced into the GPMS scheme some months ago when the Department drew up what it thought were the difficulties that the Scheme was facing. It also considered, not only financial measures that could be taken, but also structural and administrative ones and it drew up the possibility of establishing a statute which would provide in the way that this statute before the House does certain provisions which would better regulate the Scheme. This Bill seeks to establish a Statutory Board which will replace the decision which is taken, at the moment by the Government or the Minister on whether pharmacies can join the GPMS scheme and dispense prescriptions under it. The Statutory Board which is established through this Ordinance will receive applications for membership of the Scheme by pharmacists. Apart from dealing with applications, it will also administer and regulate the scheme and it has powers under section 12 of the Ordinance, the proposed amendment, which allows it to do so. I draw the hon Members' attention to that section. The Board will also have wider power to summon witnesses and receive information which will assist it in determining applications to join the Scheme and indeed when regulating the membership and administration of the Scheme. Section 22 of the proposed amended Ordinance also allows the Minister to have wide powers of enacting or prescribing regulations to better control the Scheme. The intention is that this Ordinance, once enacted by the House, should be followed by regulations which will set out the procedure for applications for membership. This Ordinance will allow applications to be made but the procedure itself will be in the regulations. It will also provide criteria which the Board will apply when determining applications. It will set up conditions of membership and duties. Will provide disciplinary powers of the Board and it will replace the contractual arrangements which are in place with statutory terms of service, effectively putting the contract into statutory form. I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON MISS M I MONTEGRIFFO:

Mr Speaker, Opposition Members, will not be supporting this Bill for various reasons. As far as we are concerned we believe that the Health Authority is quite capable of entering into an agreement with the pharmacies that provide a service under the Group Practice Medical Scheme without the need of having to constitute a new

board and a board, which, furthermore, is separate from the Gibraltar Health Authority. We can understand that if, for example, nurses are going to be registered, or doctors, then one needs a Board with professional input. But this board, Mr Speaker, is being constituted for different functions which, as I have said, we believe can be undertaken by the Health Authority. More so, functions for which the Minister lays down his criteria. So much, Mr Speaker, for the independence of the Health Authority that this Government has preached so vehemently in the past. On the other hand, Mr Speaker...

HON K AZOPARDI:

Will the hon Member... It is just that I did not follow the point, if you could repeat it?

HON MISS M I MONTEGRIFFO:

I am saying, Mr Speaker, that so much for the independence of the Gibraltar Health Authority which this Government has preached so vehemently in the past. The Board will not be independent of the Government. It will do what the Government wants because the Minister decides who is on the Board, how it works, the terms and conditions of membership, the pricing of medicinal products, et cetera. So this Bill, in effect, is taking away more powers from the Gibraltar Health Authority and passes it on to the Minister. Also this Bill as the Minister has said, is only creating enabling powers, so really without the regulations, this Bill cannot work, which means that until we see the regulations and the procedures to be implemented that the Minister has spoken about, we are unable to make a realistic assessment. Therefore, Mr Speaker, for all these reasons we are abstaining.

HON K AZOPARDI:

Yes, Mr Speaker, I asked the hon Member to repeat a point. She repeated her analysis but not the point. I am afraid I cannot reply because I do not know what exactly she said to prove the analysis which she repeated. I will reply to the points that she made generally. I understand that the rationale of the Opposition, when deciding not to support this Bill is because it believes that the GHA is capable of enforcing proper controls in relation to the Scheme. Let me say that this is not the Government who have suddenly decided one day that to remove such control from the GHA and to replace it in the hands of this Board or in the hands of

a statute, it is the GHA precisely itself who have, best placed as they are, because they are dealing with this on a day-to-day basis, come to the conclusion that this is a better way of proceeding and that it is better for there to be a statute regulating the terms of membership so that there can be larger, more stronger, disciplinary powers that can be applied in relation to pharmacies should the need arise. So, I cannot accept the analysis that the GHA, they feel, are capable of doing it if the GHA management are telling me that they themselves feel that this is an appropriate measure to take and that this will better regulate the scheme.

HON J J BOSSANO:

Is it intended then that this body should employ people to do that work if the GHA management have said it is better that they should not take it on? Is the Board then going to have its own employees to do this?

HON K AZOPARDI:

No, I do not understand the point the Leader of the Opposition is making. The GHA management's position is that a statute is better in the sense of clarity. It will provide more extensive powers which can then be applied but it is not intended that this Board should employ people. The Minister will appoint the members of the Board in the same way that when drafting this legislation, consideration was given by the Legislation Support Unit to similar regulations enacted under the National Health Service Act in the United Kingdom. There are particular 1992 regulations there which effectively also provide for a Board to determine applications to join the regional schemes and for terms of membership instead of being placed in a contractual form, to be placed in statutory form. We have used that as a basis for that idea and really the rationale is not to better incorporate the powers that the Board will have. It is not intended that this should be entirely separate from the GHA because as the hon Members point out the Minister will appoint the Members of the Board, but this is a scheme run by the Authority. The Authority, if I can put it this way, are the client. We are the client, and therefore it is right that there should be regulation of the scheme in accordance with the client's needs and the needs of the community and that is the rationale behind this statute. The fact that this used to be in contractual form before and now will be in statutory form, really frankly, does not reveal that the statute will be more or less influenced by the Government of the

day than the contract. The contract used to be negotiated by officials of the Authority or the Government with the pharmacists in accordance, presumably, with principles laid down by the Government of the day and the statutory terms will be the same and so there will be no difference in that respect and I do not accept the point that the contract would be less influenced than the statute for those reasons. Mr Speaker, I have nothing further to add.

Question put. The House voted.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J J Gabay  
The Hon A J Isola  
The Hon Miss M I Montegriffo

Absent from the Chamber: The Hon J J Holliday  
The Hon R Mor  
The Hon J C Perez

The Bill was read a second time

HON K AZOPARDI:

I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today.

Question put. Agreed to.

#### COMMITTEE STAGE

HON ATTORNEY-GENERAL:

I have the honour to move that the House should resolve itself into Committee to consider the following Bills, clause by clause:

The Banking (Gibraltar and United Kingdom Passporting) Bill 1998

The Drugs (Misuse) (Amendment) Bill 1998

The Medical (Group Practice Scheme) Ordinance (Amendment) Bill 1998.

**THE BANKING (GIBRALTAR AND UNITED KINGDOM PASSPORTING) BILL 1998**

Clause 1 was agreed to and stood part of the Bill.

Clause 2

HON P C MONTEGRIFFO:

Mr Chairman, in sub-clause 2(1)(b), I have not given notice of any amendment because it is of a typographical nature. It is a reference in the final line of that sub-clause (2) of the European Area, and that should really of course be to the "European Economic Area". There is a reference earlier in the Ordinance to the European Economic Area as well. I wish simply to correct that typographical mistake.

Clause 2, as amended, was agreed to and stood part of the Bill.

The Long Title was agreed to and stood part of the Bill.

**THE DRUGS (MISUSE) (AMENDMENT) BILL 1998**

Clauses 1 and 2 and the Long Title were agreed to and stood part of the Bill.

**THE MEDICAL (GROUP PRACTICE SCHEME) ORDINANCE (AMENDMENT) BILL 1998**

Clause 1 was agreed to and stood part of the Bill.

Clause 2

HON K AZOPARDI:

Mr Chairman, I have noticed a couple of typographical errors there under clause 2. If Mr Chairman goes to section 11, under clause 2, the definition of "Minister", I think the "the" there is superfluous. It means the Minister with responsibility for Health. I wish to delete the "the". If Mr Chairman would then go to 18(2)(a) it should read "the neglect or refusal by a Scheme Member", so "refusal" should be correctly spelt

and "a" should be inserted. I would be obliged if those amendments could be made.

Clause 2, as amended, stood part of the Bill.

The Long Title stood part of the Bill.

Question put on the Medical (Group Practice Scheme) Ordinance (Amendment) Bill 1998.

The House voted.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J J Gabay  
The Hon A J Isola  
The Hon Miss M I Montegriffo

Absent from the Chamber: The Hon J J Holliday  
The Hon R Mor  
The Hon J C Perez

THIRD READING

HON ATTORNEY-GENERAL:

Mr Chairman, I have the honour to report that the Banking (Gibraltar and United Kingdom Passporting) Bill 1998; the Drugs (Misuse) (Amendment) Bill 1998; the Medical (Group Practice Scheme) Ordinance (Amendment) Bill 1998, have been considered in Committee and agreed to with amendments and I now move that they be read a third time and passed.

Question put.

The Banking (Gibraltar and United Kingdom Passporting) Bill 1998; and the Drugs (Misuse) (Amendment) Bill 1998; were agreed to and read a third time and passed.

The Medical (Group Practice Scheme) Ordinance (Amendment)  
Bill 1998

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

For the Noes: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J J Gabay  
The Hon A J Isola  
The Hon Miss M I Montegriffo

Absent from the Chamber: The Hon J J Holliday  
The Hon R Mor  
The Hon J C Perez

The Bill was read a third time and passed.

ADJOURNMENT

HON CHIEF MINISTER:

I have the honour to move that this House do now adjourn  
to Thursday 3<sup>rd</sup> December 1998 at 10.00 am.

Question put. Agreed to.

The adjournment of the House was taken at 12.05 pm on  
Friday 13<sup>th</sup> November 1998.

THURSDAY 3<sup>RD</sup> DECEMBER 1998

The House resumed at 10.02 am.

PRESENT:

Mr Speaker.....(In the Chair)  
(The Hon Judge J E Alcantara OBE)

GOVERNMENT:

The Hon P R Caruana QC - Chief Minister  
The Hon P C Montegriffo - Minister for Trade and Industry  
The Hon Dr B A Linares - Minister for Education,  
Training, Culture and Youth  
The Hon Lt-Col E M Britto OBE, ED - Minister for  
Government Services and Sport  
The Hon J J Holliday - Minister for Tourism and Transport  
The Hon H A Corby - Minister for Social Affairs  
The Hon J J Netto - Minister for Employment and Buildings  
and Works  
The Hon K Azopardi - Minister for the Environment and  
Health  
The Hon T J Bristow - Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition  
The Hon J L Baldachino  
The Hon Miss M I Montegriffo  
The Hon A J Isola  
The Hon J J Gabay  
The Hon J C Perez

ABSENT:

The Hon R R Rhoda  
The Hon R Mor

IN ATTENDANCE:

D J Reyes Esq, ED - Clerk of the House of Assembly

DOCUMENTS LAID

The Hon the Financial and Development Secretary moved  
under Standing Order 7(3) to suspend Standing Order 7(1)  
in order to proceed with the laying of various documents  
on the table.

Question put. Agreed to.

The Hon the Financial and Development Secretary laid on the table the following documents:

- (1) Statement of Consolidated Fund Reallocations approved by the Financial and Development Secretary (No. 16 of 1997/98).
- (2) Statements of Consolidated Fund Reallocations Approved by the Financial and Development Secretary (Nos. 1 to 3 of 1998/99).
- (3) Statement of Improvement and Development Fund Reallocations approved by the Financial and Development Secretary (No. 1 of 1998/99).

Ordered to lie.

#### MOTIONS

HON J J NETTO:

Mr Speaker, I beg to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with a Government motion.

Question put. Agreed to.

HON J J NETTO:

Mr Speaker, I beg to move the motion of which I have given notice which reads: "That this House approves the Statistics (Employment Survey) (Amendment) Order 1998".

Mr Speaker, the Employment Survey has been carried out by the Government Statistician since April 1971 under the provisions of the Statistics Ordinance 1970, and the Employment Survey Order 1971, of that Ordinance, as amended in 1977, 1985 and 1993. The purpose of the survey was to collect statistics on employment and hours worked by all employed persons in Gibraltar as at April and October of each year and therefore constituted an important tool for the Government's assessment of the labour market. Between April 1971 and October 1984 all employers had been required to complete questionnaires in respect of their employees, specifying for each, their occupation, nationality, sex, whether adult or juvenile, whether full-time or part-time, total earnings and benefits. In addition, in respect of weekly-paid

employees, information on total and overtime hours worked and on overtime earnings was also collected with effect from the 1<sup>st</sup> April 1985 and as a result of the full opening of the frontier the Employment Survey Order was amended to able the Government Statistician to obtain data on the country of residence of employees. Since then, figures have been published showing the number of frontier workers employed in Gibraltar as declared by their employers. With effect from October 1992, the Employment Survey was no longer carried out on a questionnaire basis. Income tax deduction cards submitted by employers at the end of each tax year in respect of each employee were revised to include a section where most of the statistical information necessary for the Employment Survey was to be included. This information was processed in the Income Tax Office computer. At the same time all the necessary steps were taken to preserve the confidentiality of each individual tax record. The objectives of conducting the survey from the Income Tax Office records were threefold: Firstly, the response rate and consequently the level of accuracy was improved since there appeared to be a higher propensity for employers to submit deduction cards and questionnaires. Secondly, the business community welcome the decrease in the amount of form-filling which they felt was already abnormally high. Lastly, there could be a marginal improvement on timing regarding availability of the final report. The main drawback, however, was that information on hours worked including overtime in respect of weekly-paid employees and overtime earnings could no longer be obtained. The deduction card system could not cater for this. As a result the Statistics Employment Survey Order was amended in February 1993 and the Government Statistician would no longer require employers to provide this data. The position at present is that the Employment Survey will continue to be compiled on this basis up until and including that of April 1998.

Mr Speaker, the Government have decided that it wishes to move away from this system and revert to the survey being carried out by the Statistics Office where it will once again command a high priority in the functions of the Department. Experience has shown that it now takes longer than ever before for the Employment Survey to be completed in any given year. The submission of deduction cards at the end of the tax year by private sector employers which spreads over a number of months, together with the delay in submissions of records of Government employees as a result of on-going pay negotiations have led to unacceptably long delays in the completion of the

survey. The survey will be conducted directly by the Statistics Office via questionnaires and, where relevant, assistance will be provided to employers with a view to improving the rate of returns of the information. The Employment Survey can boast of an excellent response rate in the past and it is not envisaged that a move away from the deduction card system will seriously undermine its accuracy or validity. On the contrary, it is intended to broaden the scope in several ways. Employers will once again be required to provide information on hours worked and overtime earnings of weekly-paid employees. In addition, with the collection of data on the age group of employees and with a more detailed analysis of their occupations. The Government's perspective on the labour market will be greatly improved. Furthermore, the new employment Survey will be carried out on an annual basis and only in respect of October of each year. As such, it should not be a cause for concern by those required to complete the questionnaires. The Employment Survey will complement other labour market statistics currently being compiled by the Employment Service. As a snapshot of employment levels, or to be more precise, of the number of jobs as at October in each year, it will continue to serve as a useful check on the state of the job market in Gibraltar.

Mr Speaker, I commend the motion to the House.

Question proposed.

HON J L BALDACHINO:

Mr Speaker, we will be abstaining on this motion. Taking into account what the Minister has just said, we believe that this will not produce more accurate statistics than what are being compiled at the moment using the PAYE returns. This will be based on the goodwill, in some cases, of employers returning the forms and as the Minister must know in many cases what they submit is not accurate because of people that might have left employment and so on. It must be clear that it is the Government that is responsible for whatever figures they publish. Nevertheless, what they intend to change does not produce what the Explanatory Memorandum says in the Legal Notice that they propose to change. If he looks at the Explanatory Memorandum it says "the requirement of the statistic to be collected by the Government Statistician, the number of hours worked completed by both weekly, monthly and monthly-paid employees". If he looks at Part 3 of Schedule 2 he will see that it is not included there for the monthly-paid. Why, Mr Speaker?

Simply because what they have done is that the 1985 Amendment Order has been copied into this. Obviously, either the Explanatory Memorandum is incorrect or what they intend to do will not be able to be done according to the Legal Notice.

We believe for statistics purposes that it is better if we have it in six monthly periods, to see how employment and wages have progressed. There are other things which I would like to enquire. Why is it not relevant for statistic purposes that the collection of information of weekly-paid employees should be different to that of the monthly employees? The monthly, as I have said before, even though the Minister said the hours worked during the week is scheduled to part B for the monthly, there is also nothing on overtime worked for monthly paid workers. Is it that the Government does not consider that to be important statistic information? As I have said before, Mr Speaker, I understand that they are going back to 1985, even though 1985 it was produced in April, they now intend to produce it in October. The Government are keeping paragraph (3) of the principal Order after 1993 which is when we changed it. Therefore, by what I have said, Mr Speaker, and if we could have an answer if the intention is to change Part B or that the Explanatory Memorandum as I have said is incorrect, which of the two is it? We will be abstaining on this motion because we believe that it will not be reflecting accurately the statistic information when we get the next Employment Survey.

HON J J BOSSANO:

Mr Speaker, can I just make one additional point on which we would like an answer. When we were given notice by the Government of their intention to go back to collecting the information by service of employers, I asked about the comparability with the previous statistics. I think we had an indication then that the information currently collected through the Tax Office will continue to be so collected. We would like confirmation of that because presumably, there is nothing to prevent the existing system being available as well and I think it would be a useful thing then to have the two things cross-referenced.

HON CHIEF MINISTER:

Mr Speaker, just two small points that occurred to me as I was hearing the hon Gentlemen and that is, that the Hon Mr Baldachino makes the point that they would prefer the

figures to be six-monthly, April and October as they now are. I think he said so that they could see how employment and wages were progressing. I think it is important just to point out, so that no one should misinterpret his remark, that of course, the figures are currently published only once a year. It is not that at the moment they get figures twice a year and that now we are only going to provide them once a year. The figures at the moment are only published once a year but they relate to two separate dates during the year, April and October. Now, he will get the information also once a year but it will relate to one date in the year instead of two dates in the year. We hear what he says, but we disagree, we think that he is now going to get that information more quickly than he used to get it before and that he will therefore get it at a time where it is more relevant to whatever use he wishes to make of it to criticise Government on its policy, rather than the present situation which I am sure they find, as we found when we were in Opposition, that by the time the Employment Surveys were published, following the handing in of PAYE cards, the information was so historical that it was relatively easy for the Government to slither out from whatever criticism might be due to it by suggesting that the situation had of course radically moved on since then. That is really just by way of clarification.

In answer to the question posed by the Leader of the Opposition I should say that it is not presently the intention of the Government, except as far as April 1998, to continue to publish two sets of statistics, one of which, in any event will have necessarily to come much later than the other. The Government have no objection provided the information is reasonably available and provided it does not mean the two systems have to be operated in parallel with a significant administrative burden, the Government would be available if the income tax information is readily available, the Government have no objection to continue to provide it to the hon Members in answer to questions or howsoever the information is available, if it is readily available. The Government do not regard it as helpful to provide statistics on the same issue produced by two different statistical methods to do it when they cannot both be provided simultaneously. Necessarily, one would have to be delayed more than the other because of the delay in...

HON J J BOSSANO:

Can I ask, Mr Speaker, whether in fact the element of the return that the employers now make under the PAYE is not

going to be changed? Will the information continue to be provided to the Tax Office irrespective of the fact that it will not be used to compile the survey, or is that being changed?

HON CHIEF MINISTER:

Mr Speaker, the answer is that no irrevocable steps have been taken in respect of that issue. It is not presently the intention that the Commissioner of Income Tax should continue to ask for information that would no longer be needed. On the other hand, there is no reason why he should not continue to ask for it. In other words, there is nothing in the Order that we are debating here today, that would prevent the Commissioner of Income Tax from deciding to continue to ask for the information as a second resource of statistical information for the Government. It is not presently the intention that that should be done but certainly the Government are willing to consider the point and perhaps leave that source in place for whatever use it might put to it in future. I will give that matter some consideration and come back to the hon Members.

HON J J NETTO:

Mr Speaker, I heard the Hon Mr Baldachino say that the Opposition intends to abstain on this motion. In answering some of the points that they have raised, I would like to persuade them to change their abstention and to vote in favour because I feel very much that in this debate we are trying to relive the debate that took place in 1993 when the previous amendment took place. The spirit in that debate, recorded in Hansard, was very much to try and improve the system that was there before. The debate was centred on the question of the length of time in tabling the Employment Survey but despite the statement made by the hon Robert Mor, the then Minister for Labour and Social Security, in which he said that the then Government would address that time in order to reduce it to have the information more readily available, the fact of the matter is that ever since then it has basically taken more time. If one looks at the October 1993/April 1994 Survey, it was tabled almost 16 months later; if one looks at the October 1994/April 1995 figures, it was almost 21 months later; if one looks at the October 1995/April 1996, it was 21 months later. One can argue that we have gone full cycle in this particular debate but things have changed, it is not exactly that we are going back to the situation, neither in 1985 or the situation in 1990/1991 because it is true to say that

1985, as I am informed by my colleagues in the Statistics Office, in those days they were working on cards, ledgers, everything was manual, that was the situation. Then, as we moved into the early 90s it was the first wave of computerisation that took place in Government Departments, but even the packages that were introduced at the time had a lot of teething problems and that is one of the reasons why they actually moved to try and do the Survey from the Income Tax submission records. The fact is that despite the intention of the then Government in 1993, it has not been possible and I am told by members of the Statistics Office that steps have been taken to really try and improve the situation both on the mechanical side and on the conceptual side of the actual Survey. On the mechanical side, in the sense that they have now particular software packages, particularly designed for the kind of exercise and survey that they intend to do and obviously we also know from the past that the response rate, when it used to be a Survey, was pretty high. On the conceptual side, the Leader of the Opposition might be aware that because of certain information that had to be taken out as a result of the previous amendment in 1993, we have been getting criticism, we, collectively in the sense from the ILO, because the ILO have been saying that they wanted the kind of information that because of the system, that prevailed in 1993 was not able to give it any further. By coming back to the Survey we will be addressing as well the kind of criticism levelled by the ILO but at the same time be able to share that further bit of information. I know, in that kind of design that they intend to do, that they will address those particular areas as well.

Gibraltar will not be doing anything different as a result of this than what is actually happening in the UK. Let us not forget that in the UK they have also an annual Employment Survey which is basically the equivalent of what the Statistics Office intend to do in Gibraltar. Something which really has never been applied, at least I am not aware of, is that as far as the Order is concerned, historically speaking, the Order has always said that if there is a delay of more than six months, that a statement should be made as to the reasons why such delay. The fact of the matter is that we have delays beyond the six months period but we have never had any explanations for such a delay. Obviously, one intends, in a positive spirit, that if there were to be any kind of delays beyond the six months, we would be able to know. We might be able to have a delay on this particular occasion given the fact that since we are

going retrospectively to the 1<sup>st</sup> October, obviously there might be a delay because they have not got the legislation in place so in the first one there might be a slight delay. It may well also be the case that this one, under the new system, might be able to be tabled here in the House even before the old one under the current system. That is something to take into account.

Mr Speaker, the hon Shadow Spokesman for Employment also raised the issue of the problems that we have had in Employment Surveys historically in relation to termination of employment and as a result of that why our figures, in our data bases in the Ministry of Employment are inflated as a result of the notice of terms of engagement not being handed over by employers. That is another issue which we are concerned and we will be doing something about it, particularly to be able to give both the Government, the Opposition, Unions, employers and the media, the opportunity of cross-referencing with other data bases to see, not exactly how much is the actual amount of people in employment or unemployment, but the actual trend as they follow from particular areas. The kind of thing that we will be doing from the Employment Survey side is, if one likes, a carrot and stick philosophy in the sense that as far as the 1<sup>st</sup> April from next year we will be introducing a system whereby it will be more employer-friendly by cutting down on the administrative side. We will be giving employers the opportunity to be able to get credits on a pro rata basis of the period during the particular year which will be an encouragement for them in terms of the financial side. The stick situation is, that when we are in a position to bring legislation to the House in relation to the employment offences regulations which we intend to do, one of the areas which will be attached to the schedule in terms of a fixed penalty fine amongst many other things will be the question of the termination of employment. So it is very much a question of doing an exercise to try and get our information as accurate and available and accessible as possible to be able to share ideas. We will have that opportunity as the Leader of the Opposition was saying of cross-referencing. I think that I have addressed those particular issues, and I could not add anything else other than what the Hon Robert Mor said in the previous amendment in 1993, it is that we ought to give it an opportunity to be able to see whether they can be able to produce the information as they intend and I know they will be giving a lot of priority to this so I think that I would try to appeal to Opposition Members to try and change their abstention and vote in favour. Thank you, Mr Speaker.

HON J L BALDACHINO:

The point he has not addressed, Mr Speaker, which I brought up was, is it the intention for monthly paid employees, for the information to be provided also on hours worked as the Explanatory Memorandum states or is it that that is not the case? For the accuracy of information, we will have to wait to see once they produce the information as a result of what they intend to do to the results that we had before. I do not want to abuse but I wanted to bring up the point, is it that the Explanatory Memorandum, the way explained was incorrect and that was not the intention of the Government or is it the Explanatory Memorandum is correct and it has not been included in Part 3 of the Schedule?

HON J J NETTO:

The information I have is that it has not been the practice in the past and it is not the intention to do it in the present or in the future either.

Question put. The House divided.

For the Ayes: The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon T J Bristow

Abstained: The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J J Gabay  
The Hon A J Isola  
The Hon Miss M I Montegriffo  
The Hon J C Perez

Absent from the Chamber: The Hon R R Rhoda  
The Hon R Mor

The motion was carried.

BILLS

FIRST AND SECOND READINGS

**THE PUBLIC SERVICES OMBUDSMAN ORDINANCE 1998**

HON CHIEF MINISTER:

Mr Speaker, I beg to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with two Bills.

Question put. Agreed to.

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to make provision for the appointment of an Ombudsman for the investigation of administrative action taken by or on behalf of the Government of Gibraltar and providers of certain services to the general public, to regulate the functions thereof, and for purposes connected therewith be read a first time.

Question put. Agreed to.

SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill responds to the Government's manifesto commitment to introduce a public services ombudsman into Gibraltar for the purposes set out in the Bill and which I will describe in general terms now. The Government believes that this Bill represents a radical development in the public administration of Gibraltar in the relationship between the citizen and the public administration of Gibraltar and will contribute immeasurably to the transparency and accountability which the public administration will be exposed to. The Government have already completed its exercise in ensuring public transparency of the administration in matters financial and this Bill is intended to achieve the same result in respect of other matters administrative. Notwithstanding, uninformed public comment to the contrary, this system, the regime established by the Bill is directly equivalent in almost every respect to the office and legislation supporting the office of ombudsman in practically every democratic Commonwealth country in the world. It is no more and no

less than that. It appears that some people do not know how to distinguish between courts of law, elected government and administrative ombudsmen. Those who think, by their public statements, that an administrative ombudsman is somehow the government in an acolyte form or that it is the courts in an acolyte form, then has not understood what the ombudsman is intended to be, what the ombudsman is everywhere else in the world and therefore what the ombudsman should be here in Gibraltar. To describe the office created by this Bill as a toothless tiger suggests either that the Bill has not been read or if it has been read it has not been understood or that if it has been understood it has not been understood in the context of the powers available to administrative ombudsmen everywhere else where there is an administrative ombudsman.

I think that we should also beware that we do not deprive our democratic institutions, in particular this House, of the functions that are attributed to parliaments in all other Commonwealth democracies and thereby diminish the democratic value of this institution. The ombudsman will be nominated by the Chief Minister. It has to be nominated by somebody but it is not an appointment made by the Chief Minister regardless. The appointment of the ombudsman, rather like all the appointments made, for example, by the US administration of importance needs to be ratified by this House. Therefore, ultimately the appointment is one which will have the approval of this House, hopefully by unanimity, that depends on whether the Opposition Members are content that the choice put forward by the Chief Minister genuinely is what the Ordinance obviously requires the nominee to be, that is to say, somebody in whom the whole community can have confidence regardless of partisan political considerations. This is how ombudsmen are appointed everywhere by support and sanction of the parliament. To suggest that the Parliament of Gibraltar simply because the Government have a built-in majority should not exercise that function is to diminish the statute of this Parliament. Governments, by definition have an in-built majority in every parliament. It is not impossible for there to be a minority government, but most governments in democracies enjoy majority support in parliament. That is what governments are in a parliamentary system.

Mr Speaker, the ombudsman will be a statutory office, independent of the government administrative machinery. He will have his own staff and his own budget, provided for by vote in this House. The staff will not be civil servants, they will be recruited separately. The removal

of the ombudsman before the expiry of his term of office will similarly need a resolution of this House. The Bill provides for wide powers of investigation and although usually an administrative ombudsman deals only with the public administration, that is to say, Government Departments, because so many functions which will have historically been Government Department functions in Gibraltar, have been privatised or commercialised, and citizens still look at them as semi-public services, quasi public administration services, this regime has been extended to all those authorities. Hon Members will have noticed that in addition to applying to all Government Departments and agencies, the public services ombudsman legislation will apply to all statutory bodies - the Gibraltar Health Authority, the Gibraltar Broadcasting Corporation, the Gibraltar Development Corporation, which obviously includes the Employment and Training Board, and the Tourism Board, the Development and Planning Commission, the Transport Commission and the Traffic Commission. It also applies to any company which provides on contract to the Government, or on licence from the Government, any of a long list of services to the general public. Therefore, it applies to all those companies that provide telecommunication services, water services, any company that collects monies, payable by the public to the Government, any registry operated by a private company, any company that provides public health control, environmental health control services, any company that provides clamping, towaway or traffic management, any company responsible for the cleansing of the public highway or the maintenance of public areas, the collection and incineration of refuse, any company that provides car parking services, any company that manages gardens, public halls, museums, air terminals and any other site belonging to the Government, any company that manages the Government's property interests, any company that provides immigration services of any sort; philatelic supplies, and any company that provides emergency and transport or ambulance services. It also has been extended to Calpe House in London operated by the Calpe Trust and to the Gibraltar Government Offices in London and Brussels.

Mr Speaker, the authorities whose administrative acts and omissions the ombudsman will be entitled to investigate using his very wide powers of investigation, are almost every organisation in Gibraltar that delivers an administrative or quasi public administrative service or utility to either the Government or to the public at large. Any person that has a complaint that is aggrieved by an act or omission of any such authority may lodge a

complaint. The Ombudsman may investigate all such complaints where a member of the public claims to have sustained injustice in consequence of maladministration in connection with action taken. It is important at this point to make perfectly clear because that is what an administrative ombudsman is, that everywhere in the world where there is an administrative ombudsman it is an ombudsman to investigate administrative acts and omissions. Ombudsmen, nowhere in the world exist for the benefit of assessing the merit of Government policy. It is how that policy is administered that ombudsmen exist. The people who decide whether the Government policies are to their liking or not is the electorate when they come to vote at elections. The idea that somehow one should have somebody unelected, over and above the heads of the elected Government, who somehow forces the Government of the day to alter its policies is an extraordinarily naïve concept which enjoys no precedent anywhere, not even in our neighbour, which apparently suddenly becomes an attractive comparison for some people.

Mr Speaker, I referred earlier to the substantial powers of investigation which the ombudsman has. This man, whom some allege is a toothless tiger, has... [Interruption] Yes, indeed, man or woman, hon Members should not thereby draw any indication of the candidate that the Government may have in mind for the first appointment. This so-called toothless paper tiger who exists apparently, who is alleged to exist mainly as a sort of imaginary propaganda exercise by the Government, has all the powers to call and cross-examine witnesses and to demand production of documents as are enjoyed by the Supreme Court of Gibraltar. The Government cannot endow an administrative ombudsman with more powers than it has done, namely, given them all the powers enjoyed by a court of law when conducting a judicial enquiry into matters, and to produce documents and that includes demanding that documents be produced by Ministers and it includes questioning Ministers, summoning Ministers to give evidence if necessary about matters of administration. I do not know if this is a toothless wonder or a toothless tiger or a propaganda exercise or not but if it is a propaganda exercise and if it is a toothless tiger, it is a jolly effective one to ensure transparency in the public administration. It is true that there are limits as there must be in any system of transparency to curtail the putting into the public domain of information which is against the public interest and which will serve no purpose in the interests of Gibraltar and arm Gibraltar's many detractors and opponents, but even in those respects there is no wide

power of censorship as has been said by those who have only given this Bill apparently a cursory reading.

Mr Speaker, not only are the powers to eliminate information from the report listed specifically but indeed when those powers are exercised the report has to say this particular information has been excluded for this particular reason. So although information is excluded in the public interest, there is transparency even in the exclusion in that the fact that it has been excluded and the reason why it has been excluded has got to be the positively and clearly stated in the report. Countries in the world, even the ones with freedom of information legislation, which this is not, but even those with freedom of information legislation, have restrictions about a small residue of information which would not be in the public interest to put into the public domain. I do not see why anybody should think that Gibraltar should be different to the rest of the world in that respect. The assurances available to the members of the public in dealing with the Ombudsman as to confidentiality are total. The Ombudsman will have a statutory responsibility to treat in confidence any information given to him by a member of the public who therefore need not feel that possibly any complaints to the Ombudsman the Government will know about, except to the extent that information will eventually find its way into the Ombudsman's Report.

Mr Speaker, the reports of the Ombudsman and ombudsmen all over the world, what they do is investigate and report because the purpose of an ombudsman is to expose the public administration to transparency and to pressure from transparency. The whole object of a public ombudsman is that by putting administrative incompetence, by putting administrative inefficiency, by putting administrative unfairness, sharply into the public domain, it makes it harder for it to happen and it puts the Government in a position where it has to explain all these things away and rather like the nuclear deterrents, the ombudsman system is designed to be precisely fundamentally a system of deterrence. The fact of the matter is that public administrators presumably will be less reluctant to treat people badly if they know that the result of that treating people badly is that they might find themselves mentioned in the next Ombudsman's Report. That is the purpose. It is not the purpose of an ombudsman to adjudicate, to eliminate the courts of Gibraltar as the place where citizens go to assert their legal rights and to obtain remedies. The whole system of public ombudsman is one in which administrative, in which

evidence of maladministration, whether positive or negative, whether by act or whether by omission maladministration is ventilated in public for the purposes that flow from that ventilation. Therefore, as is the case with ombudsmen all over the democratic parliamentary world, what this ombudsman must do, is file a report to this House. As the Ombudsman is not a member of this House, something that perhaps the House should consider when it reviews itself, whether the Ombudsman should be a member of the House, I do not say a Member of the House for the purpose of sitting in the House but as hon Members know in the United Kingdom several office holders are members of the House to the extent that they are able to come themselves to lay documents in the House as opposed to Members of the House like Mr Speaker and the Members of the Government and the Opposition. The Ombudsman cannot come to this House to lay the report himself, then the system that has been chosen, in common with other jurisdictions, is that the report is submitted to the Chief Minister who is statutorily obliged to bring it to this House and lay it within 60 days of having received it from the Ombudsman. It is appropriate, in the Government's judgement, that the Government should have an opportunity to consider the Report before it has to publicly defend itself as to its contents and that was why the 60 day rule is justified. The Report is entirely a matter for the Ombudsman but he is required by the legislation which the hon Members have before them, to include in his Report all his investigations, all the matters that he has seen fit to investigate and the results of his investigation and his recommendations.

Mr Speaker, in addition to annual reports the Ombudsman, it is entirely a matter for him, may publish special reports of injustices if he considers them sufficiently important to public special reports of and, of course, that Report also must be laid before this House. Needless to say, all Reports of all complaints go immediately to the complainant. This is not to say that the Annual Report goes to each complainant. If somebody makes a complaint at any stage during the year to the Ombudsman and the Ombudsman investigates that complaint his report about that complaint goes to the complainer as soon as his report is ready. Therefore, his full report is additional to the fact that individual reports have gone out to the complainer and when each individual report of each individual complaint has been prepared by the Ombudsman. To ensure that no one interferes with the carrying out of the work by this alleged toothless tiger there are criminal offences created of obstructing the Ombudsman in the execution of his duty equivalent to

those of obstructing a Police Officer in the execution of his duties, equivalent to those of interfering with the administration of justice when that is exercised by the Court.

Mr Speaker, the reality of the matter is that this Bill is a complete application to Gibraltar of every known modern principle of public administrative ombudsman, that he has all the powers available to him required to hold the public administration and all those other authorities that I mentioned earlier to account. Of course, it will depend on the skill and approach of the particular individual who is Ombudsman. Of course it will depend on the extent to which he is properly staffed and properly resourced but that is the case everywhere and that might be a criticism in due course that it happens of how the system works but certainly the criticism is not available from the simple reading of the Bill which says everything that it should say and contains everything that it should contain. I therefore have not the slightest hesitation in commending this Bill to the House as a radical modernisation of the rights of citizens as against the state in a modern western European democracy.

I commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, I think the Chief Minister should first of all have expressed his gratitude to the Liberal Party for their press release because otherwise he would have been left without a speech today since he has devoted 90 per cent of his contribution to the House to answering the only reaction that there has been to the publication of the Bill. Let me say that in evaluating the contents of the Bill, we have not come to the conclusion that it is a toothless tiger or tigress or a nuclear deterrent. It is clearly as legitimate to exaggerate its uselessness as to exaggerate its effectiveness which I think has been done today and which will need to await the implementation of the law and the complaints received and the action taken to see whether in fact it meets a need in our community and that the way that it has been done satisfied that need. I do not think it is enough to say "what we are doing is what everybody else is doing" or to say that "the President of the United States has to go to Congress" and that therefore this is the equivalent of Gibraltar. Even in my wildest dreams of grandeur of

which the Chief Minister used to accuse me of being the thirteenth member state, I never thought we were the second world power after the United States.

The law, of course, is not the exact parallel of the law anywhere else and it should not be. I think it is perfectly legitimate to look at what other people are doing and then to tailor-make things to our own requirements and size. It is not the case, of course, that in the United Kingdom the Parliamentary Commissioner makes an annual report to the Prime Minister from which the Prime Minister then deletes the bits that the Prime Minister thinks are not the public interest, that is not the case. The Parliamentary Ombudsman in the United Kingdom is covered by the Official Secrets Act and he can be asked not to make public documents with which he is provided by government departments on the basis that they have got defence implications or other matters affecting the public interest, but not after the event as I read it, before the event. It says "presumably" because that can mean providing information on an individual that the Commissioner of Inland Revenue can say "this document cannot be made public" if the document is provided to the Parliamentary Commissioner because it is a matter which the Commissioner of Inland Revenue has subject to the Official Secrets Act and the Official Secrets Act applies to the Commissioner. The report here does not follow that. I am just making the point because we have been told that everything that is being done here is what everybody else is doing everywhere else. If the Government of Gibraltar wish to have the annual report examined for possible dangers to the national interests of Gibraltar, which the Ombudsman might not have been conscious of and which the Government, in the exercise of its political judgement, considers that it is not in Gibraltar's national interest and they should be eliminated, then, of course, since they are there to exercise judgement and answer for it, then there is no reason why they should not do it, but it is not the case, as I read the Ordinance, that the report will identify what has been taken out but simply that something that has been taken out, as I read it. The Report presumably will say "this is the full version" or "this is the edited version from which things have been removed in the public interest" but only the Ombudsman and the Chief Minister will know what is the thing that was there originally which, according to the Chief Minister, but not according to the Ombudsman, would not be in the public interest to mention. Obviously, it would be possible in the House to try and seek more information as

to what it is and why the public interest would be harmed by information being provided.

I am not sure that this is what people have been looking for when they have said they needed or wanted somebody to redress grievances. It may well be that we find that what works in a nation state with these constraints will not work in Gibraltar and that the Ombudsman may find that a lot of the things that he gets asked by people to look into he will not be able to look into. I think we will have to see how it works in practice before we see whether the terms of reference which have been provided in the law are going to meet a need from the public for protection against the application of administrative actions which they feel lead to an injustice, because at the end of the day this is not about information, this is not about transparency, this is not about people knowing more about how the system works, it is about people feeling that the system is failing to work. That is what they complain about, they complain because they have got a grievance, because they feel that either they are not getting the service they are entitled to expect or they are not getting the attention that they are entitled to expect or they are being shifted from pillar to post. That is the kind of thing any Member of this House knows, that that is the kind of thing that the public complains about because we have been effectively the ombudsman in this House for years. That is what people come to the House to complain about. If in fact this, in addition to the continuing right that people will have of course, to approach Members of the Opposition and, indeed, Members of the Government when they feel that Departments are not giving them the service, members of the Government get stopped in the street and they are told so by citizens and they are in a position, I think, in a way which is not available to citizens elsewhere. They are in a position to go back and do something about it straightaway, so I think we have got a level of accessibility in Gibraltar's political system from the average citizen that enables things to be redressed quickly if there is a genuine case to be addressed. Clearly, if this provision is now going to produce an enhancement to that system, a more effective way of doing it, then it will be something that it will be seen to be functioning like that and I think it will be something that will be welcomed. At this point in time, we are not either rushing to welcome it or criticising it before we see how it works. I think we will reserve our judgement until we see it operating in practice.

HON K AZOPARDI:

Mr Speaker, I just wanted to make a brief intervention in support of some of the things the Chief Minister said, but perhaps I could first deal with some of the things the Leader of the Opposition was mentioning. I think there is a distinction to be made between the decision taken by the Opposition Party outside this House which I think is fundamental and misconceived and I intend to address it and the rather more sensible approach taken by the Leader of the Opposition to reserve judgement on this matter. Essentially, that should be the approach taken. We have looked at models in other jurisdictions to try to assess what model should be adopted in Gibraltar and we have looked at the concept and the powers and remedies that other people have in other jurisdictions and we have adopted a broad concept of it. The people who have drafted the legislation have drawn from various legislative sources so it is true that the Leader of the Opposition analyses the legislation. One will not see an exact transposition of, say, the Parliamentary Commissioner Act, because it is not intended to be that because, of course, the powers of the Ombudsman in a place of 50 or 60 million may not relate to a community of our size and so those who have drafted the legislation have also looked at smaller communities. The Maltese legislation, for example, has been utilised also in that process. I have had a conversation with the Maltese Ombudsman. Malta, admittedly, is more of a size to which we can relate even though it is much larger than us. The population is 300,000 and so the Maltese Ombudsman, who used to be the Permanent Secretary in the Office of the Prime Minister there, tells the same anecdotes of people stopping Ministers in the street, of people stopping the Ombudsman in the street, the people going to the house of the Ombudsman to tell him about a problem. We have used different legislative sources and we do not pretend to think that this is going to be a panacea but we intend it to be a good step forward to address what we think what the community desires and indeed a good solution to what the community was looking for.

I want to address myself to the concept of the Ombudsman. There has not been sufficient public debate on this and I am not sure if people in Gibraltar are aware of the intricacies of the powers that other ombudsmen in other jurisdictions have so I want, for the assistance of anyone who is listening to this debate, to perhaps just cite a couple of paragraphs from a couple of reports I have got with me, so that it is clear what the ombudsmen in other places can and cannot do and with your

indulgence, Mr Speaker, if I can first refer myself to the report of the Maltese Ombudsman when he talks about the concept of the Ombudsman and addressing myself to the point of the Leader of the Opposition of "will this deliver what the community wants?", he says and I will adopt his paragraphs, "representation is a fundamental value in a democratic society. Therefore, citizens expect those who exercise power in their name and over them, to be accountable for their actions. Modern democracy seeks more than an electoral rendering of accounts. Given the size of Government, power and authority are shared among Ministers, Members of Parliament and public administrators. It is not enough that officials can be asked to render accounts to parliamentary committees. For a stable relationship between the Government and the public, the Government must display a degree of transparency and direct responsibility towards the people who are entitled to know, to understand and to assess its decisions. It is said that the Ombudsman serves as a thermometer of public administration. The complaints received from the public reflect the degree of satisfaction given by public agencies in meeting the people's expectations of improved Government services. As a critical collaborator, the Ombudsman provides guidelines to agencies for improving their service. The institution also serves to cultivate the necessary trust and confidence between the Government and the governed, which not only improves the health of a democracy but also improves the quality of life."

The concept of the Ombudsman that we intend to introduce into Gibraltar through this statutory vehicle really is meant to deliver that to people. A check on the Government and we will have to see how it works in practice. The Ombudsman is empowered to look at maladministration and now, and I appreciate that maladministration is a concept perhaps difficult to grapple with, defined in the courts but not specifically defined elsewhere, but I think it would be useful to direct our minds to what that means. The Health Service Ombudsman's Report or Explanatory Booklet defines maladministration as this, it refers to the fact that it is not defined in statute and then remarks that the relevant Government Minister at the time of the passing of the Parliamentary Commissioner Act 1967, indicated that it would cover bias, neglect, inattention, delay, incompetence, ineptitude, perversity, turpitude, arbitrariness and so on. A lot of the things that the Leader of the Opposition has said, the passing the buck and so on, that all falls within that same definition. In his Annual Report, the Health Service Ombudsman in the

UK added to that list rudeness, unwillingness to treat the complaint as a person with rights, refusal to answer reasonable questions, neglecting to inform a complainant in respect of his rights, knowingly giving advice which is misleading or inadequate, ignoring valid advice or overruling consideration which would produce an uncomfortable result for the overruler, offering no redress, showing bias, omission to notify those who lose their right of appeal, faulty procedures, failure by management to monitor compliance with adequate procedures and a cavalier disregard of guidance which is intended to be followed in the interests of equitable treatment of those who use a service. That is what maladministration means. Maladministration is not taking a view on specific aspects of government policy. It deals with the treatment of the individual at the floor level by specific public officials and public servants and that is what it intends to address.

The Ombudsman in Gibraltar will have wide powers. He will have wide powers as the Ombudsman does in Malta and in the United Kingdom. He will have the powers to summon people that a Judge at the Supreme Court has, that is the same power that the Health Service Ombudsman, for example, has in the United Kingdom, powers for someone to summon evidence and request evidence in the same powers as the High Court of England and Wales, the Maltese Ombudsman has similar powers to request information and summon people to give evidence. Those are very wide powers. At the end of the day we are the elected representatives of the people. When I say we, I include the Opposition as well and the fact that someone external that is appointed by this House has the power to summon us to give evidence and request and we cannot refuse to give information is, I think, a very wide power indeed to give to someone external to this House and it is a question of constitutional accountability because he will be ratified by this House and so therefore he will be the representative elected by the elected representatives.

Mr Speaker, I just wanted to say a couple of things on remedies that the Ombudsman has. The Ombudsman, wherever I have seen it, I have not trawled through every single piece of Ombudsman legislation or every single Ombudsman report, but wherever I have seen the office of the Ombudsman I have seen that he has the power to make recommendations and not to enforce those recommendations. I think that is an important distinction to make and people should be aware of that distinction. The legislation in Malta has been described as very progressive by the former Chief Ombudsman of New Zealand

and New Zealand and Denmark were two of the countries that first introduced this concept. In relation to remedies themselves, as I say, it is clear from the report, for example, of the Health Service Ombudsman in the United Kingdom, that the Ombudsman can ask for an apology to be made but that the NHS body, as the health service provider, need not act in respect of the recommendation. The only power that the Health Service Ombudsman has is, and I quote from his report "if it appears to the Ombudsman after conducting an investigation that the aggrieved has suffered an injustice or hardship which has not been and will not be remedied the Ombudsman may lay a special report before both Houses of Parliament clearly envisaging the fact that people may ignore that report". The reality is, of course, that that does not happen. The reality is that public embarrassment for governmental institutions is the most powerful weapon that someone can have. To illustrate the same point and if I can refer to the Maltese Ombudsman's Report which I rely on quite heavily because of the comparative size comparisons that I make with Gibraltar, and I quote from his report, he says, "Addressing Government's deficiencies may take the form of a recommendation to correct the particular action. The Ombudsman has not executive powers. His mandate is to make recommendations and Government is free to accept or reject such recommendations. The experience in countries where the institution has been long-established is that non-acceptance of a recommendation is exceptional." Mr Speaker, the same point is made in the leaflet of the local government Ombudsman in the United Kingdom where, and I cite from that leaflet, it says "in most cases where the Ombudsman finds injustice, councils remedy the grievance of the person who complained. Sometimes a council response does not satisfy the Ombudsman. The Ombudsman then issues a further report saying what should be done. The council must consider this Report and say what they intend to do. The Ombudsman cannot force a council to act if they decide not to but can arrange for a statement to be published in a local newspaper about the council's refusal. I am sure that will make the council act." My final example, Mr Speaker, is citing the leaflet of the Parliamentary Ombudsman in the United Kingdom when he says that "the powers of the Parliamentary Ombudsman are to recommend redress if he finds a complaint justified by asking the government department or other body concerned to put right anything he finds wrong. That includes, where appropriate, a financial remedy. His recommendations are almost always put in practice. He has no power to stop a department taking an action, only a court can do that".

Mr Speaker, I hope I have illustrated to Opposition Members and to this House the wide powers that the Ombudsman will have in this statutory vehicle which draws from legislative sources from which we can relate and I hope that I have also illustrated to this House the remedies that people have in other jurisdictions in relation to ombudsmen. There is a power to make recommendations, not a power to enforce, but that is a powerful weapon. Mr Speaker, the tiger or tigress created by this statute does not require dentures. He or she will have perfectly good teeth of his or her own. Public embarrassment is the largest weapon that someone can have to make a government act and I think that will be achieved by this Ordinance.

HON CHIEF MINISTER:

Mr Speaker, I am sorry that the Leader of the Opposition should have had to draw the distinction that sharply between himself and the Liberal Party but he will forgive us for the fact that it is becoming increasingly difficult to distinguish between the views of both parties. It now requires a very careful examination of press release letter headed paper to know when one party is speaking by himself and when both parties are speaking together. The distinction between the two parties are far from sharply focused these days.

Mr Speaker, I hear what the hon Member says and it is a valid distinction. Indeed, it is a distinction that I thought to make between the effectiveness of the legislation and the effectiveness of how the legislation might be made to work once it gets up and running. It is not that I exaggerated the effectiveness of the ombudsman system, that would be the second bid which we both agree needs to be seen. What I did was to extol the virtue of the legislation which I did not exaggerate. The legislation says everything that it needs to say for the system to work as well as any such system can make and therefore there was no question of my exaggerating the effectiveness of the legislation. I was not exaggerating the effectiveness of the legislation. Everything that I said is a fair comment about the effectiveness of the legislation. What I was drawing the distinction is between comments on the legislation which cannot be exaggerated and comments by others about how it might work or might not work which is not what they have sought to do but which the Leader of the Opposition has more fairly distinguished between and that is the legislation

which, frankly, is pretty standard vanilla flavour in terms of such system.

Mr Speaker, just for the record and I would not want the hon Member gradually to change the record by any unfair means in this respect, he did say, I am sure it was a slip of the tongue but he did say, referring to me, he said "when the hon Member used to accuse me of being the thirteenth member state..." Let us be clear, it was the hon Member himself that used to say that Gibraltar was the thirteenth member state. We used to spend our time pointing out to him that in fact this might not be true, in fact it was not true, but the only chap who went strutting round the world saying that Gibraltar is like the thirteenth member state and then eventually dropped the "like" word which at least offered some element of defence and just uttered asserting that it was the thirteenth member state was him. The hon Member will recall that the Opposition used to take a different view on him on that issue.

HON J J BOSSANO:

The point I was making is that even I never sought to compare the office of the Chief Minister of Gibraltar with no other than a President of the United States which he did in the context of the Bill. Even when I used to say we were the thirteenth member state, I never thought we were the second world power, that is the point that I made.

HON CHIEF MINISTER:

Mr Speaker, if I had compared Gibraltar to the United States I would not have been suggesting that we were the second world power, I would have been suggesting that we were the first world power, which is what America is. In any case, I am sure the distinction must be obvious even to the hon Member between saying we are the thirteenth member state and saying, in answer to criticism of the way we choose to make an appointment, this is not an unusual system. There are other leading democracies in the world where office-holders are nominated by the executive and ratified by the legislature, for example, the United States of America. I do not think the hon Member can reasonably draw the inference from that, that I am comparing myself to President Bill Clinton or that I think that he is the equivalent of the minority leader in the House of Congress neither of which is a reasonably drawable inference from anything that I have said.

Returning now to some of his serious comments, the hon Member in making his comments on this business of the public interest and exclusion of material by reference to the public interest, he said "that of course it remains to be seen why something might be in the public interest according to the Chief Minister but not according to the Ombudsman", that is what he said. It is not a correct formulation because it is not that the Ombudsman himself has a duty to take into account whether the publication of material is or is not in the public interest so that if he thinks it is not in the public interest he can leave it out but if he thinks it is then he can put it in and then along comes the Chief Minister and says "I have a different view". This is not a competition of judgements between the Chief Minister and the Ombudsman about what is in the public interest or what is not. There is no contest. The public interest is not a criteria that the Ombudsman is required to take into account at all and therefore he will not have exercised any judgement on that and the fact that the Chief Minister exercises his judgement in deciding that publication of something is not in the public interest is not a contrary view to the one that may have been exercised by the Ombudsman because the Ombudsman will not have exercised a judgement or come to any view about whether publication is in the public interest or not. More specifically, the hon Member said that the act of exclusion would be put in the report but not what it excluded. Mr Speaker, obviously if one had to give full details of what had been excluded one might as well include it. What the Bill says and I think it is worth reading out this section, just for the record, it is on page 659 of the Bill, at the bottom, section 20 subsection (5), "In the event of the Chief Minister directing the exclusion of any material in the Annual Report pursuant to subsection (4)..." that is to say in the public interest, "...the Annual Report shall, nevertheless, contain a reference to the investigation and the fact that material has been excluded pursuant to subsection (4) on the ground of public interest at the direction of the Chief Minister pursuant to the section". The Ombudsman would say "I investigated whether the..." I cannot give an example because somebody might take offence, but "I investigated this or that issue, the results, I have the report but material..." it is not that he cannot report on it at all, this is excluding material, not excluding reports, so from his Report he might have to exclude some material, not the whole Report, which is against the public interest and then would say "and I have been directed by the Chief Minister, under subsection (4), to exclude material from

this part of my Report, in the public interest". It is not possible to give more indications than that of the fact that this power of exclusion has been exercised without actually going on to give details of what the exclusion is. The hon Member asked, rhetorically, in a sort of reviewing attitude, whether the Ombudsman will be able to look into things that people want looking into. Mr Speaker, the Ombudsman is not supposed to be the panacea of everybody's problems. The Ombudsman legislation is not designed to eliminate everything that is wrong with the system of government in Gibraltar. It is designed to be a very substantial contribution, a very large piece of the jigsaw that will eventually radically improve that system. Notwithstanding the Ombudsman doing this job, there may still be matters about things which people will have to continue to complain about. He who has sat on this side of the House for eight years will be aware that very often people define a grievance, an injustice, at not having got the result that they wanted. Of course, the Ombudsman is not there as an appeal court to review a decision taken by the public administration on application by a citizen. Therefore, to the extent that people are aggrieved that they have not got what they asked for, that is not a grievance for the Ombudsman. What would be a legitimate grievance for the Ombudsman to look at is if people thought that their application had not been heard properly or that their matter had not been dealt with according to law or that their matter had not been given proper and full efficient sensible and courteous consideration. The procedural aspects, the administrative aspects of it. As to whether it is an enhancement, the hon Member said it remains to be seen whether it is an enhancement. Mr Speaker, I think it must be an enhancement. It has been an enhancement wherever else the system has operated with similar powers and of course the great advantage that the Ombudsman has over, for example, Opposition Members of the House is that the Ombudsman has the power to get answers, to go beyond answers, because the hon Members can get answers in the House, factual answers to their questions but then they have to accept the answer as it is given. Whereas, the Ombudsman can say "look, this answer is not persuasive, I do not think it is right". I can be cross-examined and can summon civil servants to cross-examine them and say "now produce your file of correspondence, I want to see your file, I want to see why, for example, it took the lady with her planning problem in New Passage, whose name I will not mention in the House, why it took her two years to get anybody to look at her place." There is no fobbing off to be done there by the public administration because he has the

power of investigation whereas Opposition Members only have the power to ask questions in Parliament.

Mr Speaker, it is bound to be an enhancement, not just in the resolution of particular grievances, of particular citizens in a particular case but it is bound to be an enhancement in the approach of public administration. This is what I meant by the deterrent approach, it is bound to have an enhancement in terms of the approach that public administrators will in future have to the way they deal with the public, because they now know that it is not just their superior who can call them to account, but indeed it is a public statutory officer, official, exercising statutory powers through a Report that will be made public. Therefore whilst obviously all good systems, however, well designed, just as here we are legislators in this room, we are not in our present capacities administrators and therefore all we can do is to ensure that the legislation is adequate, is correct for the purpose. Like all things they can be perfectly well designed and then in its implementation it is not as effective as the legislation enabled it to be and I think that is a matter in which it would be legitimate, not just for the Government but indeed for Opposition Members to keep an eye to see that this system operates as parliament expects it to operate on the assumption that the hon Members will support the Bill. I give way to the hon Member.

HON A ISOLA:

Mr Speaker, there is just one question. The Chief Minister said earlier on that the complainant would receive an individual report as opposed to the annual report. The power to exclude material which may not be in the public interest in the view of the Chief Minister under clause 24 seems to limit itself to the Annual Report, does in fact that power extend to the individual complainant's report which he will receive, assuming at the conclusion, of the investigation? What will happen to that Report? Will that Report contain those exclusions? From the reading of the Bill it seems that the power to exclude material is limited to the Annual Report but I assume that the Annual Report comprises the individual reports. The Clause says "that the Annual Report consists of a report of...". So it is not a full report, it is a report of the report, a summary I assume?

HON CHIEF MINISTER:

Mr Speaker, I would have to look at the draft to see whether there is some drafting error there. The intention obviously is that the omission should be from both reports because once it is delivered to the individual citizen, he is then free to put it into the public domain and that would simply defeat the issue. It has got to be clearly understood that the public interest is very different from the interests of the government of the day. When the legislation speaks of it not being in the public interest for something to be put into the public domain, we are talking about things which damage Gibraltar, not things which damage the party in government at the time, not things which damage the political prospects or the electoral prospects of the government of the day, we are talking about things related to the public interest of us all in Gibraltar just as in the past the hon Members with the support of the Opposition when they were in Government, withheld the publication of statistics in one or two areas and we continue to do it because we recognise, as they recognised at the time and we supported them at the time, that that information in the public domain would not be used for any innocuous purpose, it would simply be used by Gibraltar's enemies to do battle against us in an unfair way. That is what is meant by the public interest and of course it is entirely legitimate for the hon Members to ensure that this power is used for that purpose and similar purposes and not to protect the government of the day from the publication of information which may just be politically uncomfortable to the government of the day but actually does not raise any matter of national public interest. I do not think the hon Members should assume that because a power exists for perfectly good national reasons, that they should criticise its existence simply because it is capable of being abused. Every reasonable power is capable of being abused if the holder of the power is so minded and no one exists to hold him to account for it.

Question put. Agreed to.

The Bill was read a second time.

HON CHIEF MINISTER:

Mr Speaker, I will need to leave one Bill on the agenda just for a few more days before this meeting of the House finishes. I can indicate to the Opposition Members that the House will adjourn until the 17<sup>th</sup> December, at which

time I envisage it concluding. Therefore, one of these three Bills needs to stay behind. If the hon Members prefer it, I am very happy to take all the further stages of this Bill today but if the hon Members prefer it I do not mind leaving this one until the 17<sup>th</sup> to discuss the Committee Stage otherwise I would leave one of the others. Perhaps we can test it this way I would say that I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today and the hon Members can answer.

HON J J BOSSANO:

We Agree.

Question put. Agreed to.

**THE DRUG TRAFFICKING OFFENCES ORDINANCE 1995 (AMENDMENT)  
ORDINANCE 1998**

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend the Drug Trafficking Offences Ordinance 1995, be read a first time.

Question put. Agreed to.

SECOND READING

HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the purpose of this Bill is to amend the Drug Trafficking Offences Ordinance 1995, in a number of ways but really do not more than rectify errors and clarify ambiguity in certain language. I do not believe that any of the amendments proposed have the effect of altering the legislative regime in any substantive way. Clauses 3 and 4 amend section 2 by correcting a minor drafting error in the definition of the word "satisfied" and by clarifying the language in the definition of the phrase "subject to appeal". The definition of the word "satisfied" as it presently stands in the Bill refers to subsection 16 whereas it should read "subsection 16(b)" and the amendment has the effect of introducing the "(b)". The amendment to the definition of the phrase "subject to appeal" is to eliminate what really is nonsensical language in that it presently reads, "subject to appeal" in relation to an Order means disregarding any powers of a court to grant

leave to appeal out of time that there is no further possibility of an appeal on which the order could be varied or satisfied. Whereas the definition that it now introduces is an order is subject to appeal until disregarding any power of the court to grant a leave to appeal out of time, there is not further possibility of an appeal on which the order could be varied or set aside. It is really a semantic amendment to ensure that the proper meaning as intended originally is clear.

Mr Speaker, clauses 6 and 8 amend sections 27(3) and section 37 respectively by substituting a reference to section 9 of the same Ordinance that is a reference to section 11 for section 9. At the moment the law in those two sections erroneously refers to section 9 whereas the reference should be to section 11 of the Ordinance. Clause 11 amends section 68(1) by consolidating paragraphs (a) and (b) and does not alter their sense. Then there is an amendment to section 60 which is designed to eliminate a duplication in sub-paragraph numberings and subsequent renumbering of sections as a result of what is a duplication of numbers. I believe that the hon Members may be in a position to agree that what this Bill raises is a tidying up exercise and introduces no changes of principle or of substantive provision into the original Ordinance. I therefore commend the Bill to the House.

Mr Speaker invited discussion on the general principles and merits of the Bill.

HON A ISOLA:

Mr Speaker, we would agree that the changes proposed in the Bill, with the exception of one and which we want to consider them further, they are in fact tidying up and correcting anomalies and errors from its First Reading. The part that I am referring to is clause 11 which in the Explanatory Memorandum it states that finally clause 11 amends section 68(1) by consolidating paragraphs (a) and (b). Not understanding the reason for the need to consolidate (a) and (b), but putting them aside, there is a reference in section 68(1)(b) which reads "giving effect to any other relevant legislation of the European Union" and in the Bill we have "giving effect to Council directive or any other Community obligation". We do not know why there is that change in the language if one is consolidating the two we do not understand why there has been a need to change the language and we would frankly be happy with what was there before which is the relevant legislation of the European Union. It would seem that

the interpretation that has been given to Community obligation could extend, why then the relevant legislation of the European Union and so what we would seek to do and bearing in mind that the Chief Minister asked as to which Bill we would prefer to leave over, we would proposed to make an amendment to clause 11 of the Bill to put back in the words "relevant legislation of the European Union" in lieu of "Community obligations" and we could give notice to Government of that proposed amendment which would give them then time to consider the amendment and perhaps determine why there has been that change in the language. Apart from that we have no difficulty in supporting the Bill.

HON CHIEF MINISTER:

Mr Speaker, I have to say I do not understand in the existing legislation the reference to giving effect to any other relevant legislation. Legislation of the European Union is directly applicable. The word "legislation" means regulations of the European Union. The other thing that there could be is directives and then I would use obligations as opposed to legislation which would require some legislative act here in Gibraltar, whether primary or subsidiary legislation. Mr Speaker, giving effect to Council directive or any other Community obligation on the prevention of the usual financial system for the purposes of money laundering, I am happy to leave this Bill over but I just do not see, perhaps the hon Member if I give way to him could explain why he thinks one is relevant. What is the difference between relevant obligation and simply spelling out what relevant means which is use of financial systems for the purposes of money laundering. The Ordinance is about money laundering and therefore relevant legislation, which is a phrase used in the existing legislation, has got to be legislation relating to that. One is a generic term, the other specifies the generic. I think the use of the words "relevant legislation" in the print is probably accurate but I am happy that we should further discuss this.

HON J J BOSSANO:

Our concern is that the change in the wording may, unintentionally perhaps, lead in the future to somebody coming along with "obligations" that are not legal instruments in terms of standards, or code of conduct, or whatever, where the exercise of choice on the Government may be constrained inadvertently by a change in the terminology and therefore as we see it, what was

originally agreed was that if there was a legally-binding requirement on Gibraltar, that legally-binding requirement would be transposed into our national law. I am not sure that the words "of a Community obligation" have got the same rigid limited meaning as a "legally binding requirement". If it has not then if it is not the intention to widen the scope of the original provision, then what we are suggesting is that it is safer to stick with the original provision. In any case, what we are signalling at this moment is that that is the one element where we can see a difference between what was there before and what is here now which may contain a possible matter of substance and that is why we are drawing attention to it.

HON CHIEF MINISTER:

Mr Speaker, if that is the hon Member's hypothetical concern, I am very happy to immediately accommodate it by adding the words, when we come to Committee Stage, amending it so that it should read "Community legal obligation" and not just "Community obligation" and thereby making it clear that this is not a device by which others who might be able to publish subsidiary legislation other than the Government, presumably the hon Member would not mind the Government doing it, so that others could not use this means to legislate non-legally binding, for example, politically binding but not legally binding. The word "obligation" does not necessarily, by itself, imply mandatory legal. It could be a political obligation, it could even be a moral obligation and therefore if that is the point the hon Member is making I think it is well made and if he thinks that adding the word "legal" which is what I intend certainly, that is all that I would expect the Government to be achieving by this, then I am very happy that either he or I should move an amendment to add that word.

HON J J BOSSANO:

Mr Speaker, can I just say that it is not that others may do it but the point we are making is that if it is capable of any interpretation other than the narrow one that it is a legally binding requirement of the Government, then the Government might find itself in a position of being asked to do something on the basis that the law that we have passed in this House places them in that situation. It has not been unknown to happen and therefore we are simply pointing it out so that we pre-empt any possible risk of that developing. Therefore, it is along the lines that the Chief Minister has responded

that our thinking is going and we hope that we can put it right at the Committee Stage.

HON CHIEF MINISTER:

Yes, I am perfectly content to go along with that Mr Speaker. Of course, the hon Member does not sufficiently distinguish between what the House is asked to do and what the Government is able to do. The fact that the Government have available to it the legislative mechanism to do something does not compel it to agree to use the power when it is not bound to do so. The hon Member has heard the Government, for example, in relation to the tax code where we have said we acknowledge the United Kingdom's entitlement to ensure that Gibraltar complies with its legally-binding international obligations but the tax code is not such an obligation and therefore the Government of Gibraltar do not consider itself bound by it and have not accepted it. It will not implement it and therefore the existence or not of a legislative mechanism to do something is not the factor that determines whether a Government of Gibraltar, the last one, this one or the next one, is able to resist external pressure to do what it does not otherwise want to do. I think the resisting of the pressure has got to be done in another basis and we cannot just say we are not doing that because section 68(1) of the Ordinance does not allow us because we will just say "introduce a new Bill in the House" or something. Having said that, I think it is a legitimate observation, Mr Speaker. I think it is important that Gibraltar continues to distinguish between legally binding international obligations and obligations of other types because I think our constitutional ground is different in respect of the different categories.

Question put. Agreed to.

The Bill was read a second time.

HON CHIEF MINISTER:

Mr Speaker, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken today.

MR SPEAKER:

I thought you were going to leave that to the 17<sup>th</sup>?

HON CHIEF MINISTER:

I would have left the Insurance one. I thought that we had disposed of the proposed amendment and therefore we could safely assume...

Question put. Agreed to.

COMMITTEE STAGE

HON CHIEF MINISTER:

I have the honour to move that the House should resolve itself into Committee to consider the following Bills clause by clause:

The Public Service Ombudsman Bill 1998.

The Drug Trafficking Ordinance 1995 (Amendment) Bill 1998.

**THE PUBLIC SERVICE OMBUDSMAN BILL 1998**

Clauses 1 to 23 were agreed to and stood part of the Bill.

Clause 24

HON CHIEF MINISTER:

Mr Speaker, not to propose any amendment but just to deal with the point raised by the Hon Mr Isola in relation to the distinction between exclusions from the annual report as opposed from exclusion. I think he will find that section 23 would enable any exclusion that would need to be made in the public interest to also be excluded from the report transmitted to the individual complainant.

HON J L BALDACHINO:

Mr Speaker, does that mean that when the Ombudsman makes a report which will then go to the person who has made the complaint, does that mean that all reports will then go to the Chief Minister?

HON CHIEF MINISTER:

All the reports come to the Government because the Government are one of the parties to the complaint. Most of these complaints will be against the Government so the Ombudsman will investigate the matter and will send a

report to the complainer and a report to the party complained against. It is not the case that the Ombudsman requires that all the reports be cleared prior to dealing with the reports, sending it to the complainer. The Government will know during the content of an investigation what areas touch on issues which... and will enter any public policy reservation, any public interest reservation, at that stage.

Clause 24 was agreed to and stood part of the Bill.

Clauses 25 and 26 were agreed to and stood part of the Bill.

#### The Schedule

HON CHIEF MINISTER:

Mr Chairman, in respect of the Schedule, under "Other Bodies" it refers to the Gibraltar Government representative office in London and Brussels. Of course, there is now an office which is not a Gibraltar Government office but a Gibraltar Development Corporation office in Madrid and therefore it is clear to the Government that that would also be covered because the Gibraltar Development Corporation, in all its functions, is covered particularly the Tourist Board, even though that is not an office.

The Schedule was agreed to and stood part of the Bill.

The Long Title was agreed to and stood part of the Bill.

#### **THE DRUG TRAFFICKING OFFENCES ORDINANCE 1995 (AMENDMENT) BILL 1998**

Clauses 1 to 10 were agreed to and stood part of the Bill.

#### Clause 11

HON A ISOLA:

Mr Chairman, I propose an amendment by inserting the word "legal" after the word "community" in line 2 of paragraph (a).

Clause 11, as amended, was agreed to and stood part of the Bill.

The Long Title was agreed to and stood part of the Bill.

#### THIRD READING

HON CHIEF MINISTER:

I have the honour to report that the Public Service Ombudsman Bill 1998 and the Drug Trafficking Offences Ordinance 1995 (Amendment) Bill 1998, have been considered in Committee and agreed to with amendment and I now move that they be read a third time and passed.

Question put. Agreed to.

The Bills were read a third time and passed.

ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, I have the honour to move that this House do now adjourn to Thursday 17<sup>th</sup> December at 10 o'clock in the morning.

Question put. Agreed to.

The adjournment of the House was taken at 12.10 pm on Thursday 3<sup>rd</sup> December 1998.

THURSDAY 17<sup>TH</sup> DECEMBER 1998

The House resumed at 10.05 am.

PRESENT:

Mr Speaker.....(In the Chair)  
(The Hon Judge J E Alcantara OBE)

GOVERNMENT:

The Hon P R Caruana QC - Chief Minister  
The Hon P C Montegriffo - Minister for Trade and Industry  
The Hon Dr B A Linares - Minister for Education,  
Training, Culture and Youth  
The Hon Lt-Col E M Britto OBE, ED - Minister for  
Government Services and Sport  
The Hon J J Holliday - Minister for Tourism and Transport  
The Hon H A Corby - Minister for Social Affairs  
The Hon J J Netto - Minister for Employment and Buildings  
And Works  
The Hon K Azopardi - Minister for the Environment and  
Health  
The Hon R R Rhoda - Attorney-General  
The Hon T J Bristow - Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition  
The Hon J L Baldachino  
The Hon Miss M I Montegriffo  
The Hon A J Isola  
The Hon J J Gabay  
The Hon J C Perez

IN ATTENDANCE:

D J Reyes Esq, ED - Clerk of the House of Assembly

CONDOLENCES

MR SPEAKER:

There is an empty seat in the House today. The seat belonged to the Hon Robert Mor. He is no more. We miss him today and we will miss him for many, many years. He was a good man, that is the highest praise anyone can receive. I am sure all the Members of the House will want to join me in recording in Hansard our condolences to his wife Carmen and to his family.

HON CHIEF MINISTER:

Yes, Mr Speaker, in associating everybody on the Government Bench with your words, I would just refer Members to the statement that the Government have already put out following the death of our Colleague Robert Mor in which we have fully recognised the significant contribution that he has made, not just to the conduct of Gibraltar's affairs during the eight years that he was a Minister, but indeed to its parliamentary affairs as a Member of this House. I think for many reasons politics in Gibraltar gets intense, very intense, and I think that perhaps amongst all the Members of this House, Robert Mor was a man who never lost his sense of humour and he never lost his good nature, regardless of the extent to which he found himself involved in partisan political exchanges. I imagine that with that nature and that commitment he must have been a valuable attribute to the Party of which he formed a part. He was the sort of loyal foot soldier that every political party needs if it is to be in a position to maintain its organisation, its cohesion and its commitment to its political ideology and philosophies. I believe notwithstanding the significant differences that separated us politically, that Gibraltar, and this House, will be the poorer for his loss and in a sense Robert Mor typifies the commitment to Gibraltar and its interests which has to be the hallmark of every Member of this House whilst we face threats from abroad.

HON J J BOSSANO:

Mr Speaker, I appreciate the words that have been said in respect of our Colleague. Clearly, on this side of the House we have been devastated by the sudden loss of a dear friend, that has been with us virtually since the Party was formed. He has served in the House since the 1984 Election, in Government after two elections in 1988 and 1992 and again in Opposition since 1996 and, indeed, his approach to political controversy in retaining a sense of balance and a warmth towards people with whose views he might not have agreed, has been there all the time. He attended the House of Assembly on the 13<sup>th</sup> November and I think that it is the first time that within the sitting of a meeting of the House we suddenly find ourselves with the absence of somebody and that suddenly brings home to all of us just how tenuous the link with life is and how vulnerable we all are. It will take us a long time to get over his loss and I appreciate the words that have been said. He deserves that kind of praise and much more. Thank you, Mr Speaker.

MOTIONS

HON CHIEF MINISTER:

Mr Speaker, I beg to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with Government motions.

Question put. Agreed to.

HON CHIEF MINISTER:

I beg to move the motion standing in my name and which reads as follows:

"This House -

- (1) Notes that the salaries of Members of the House were set in 1979 at a reduced percentage of the salary attributable to the offices of the Attorney-General and the Financial and Development Secretary (currently £54,901) as follows:-
  - (a) The Chief Minister at 75% of that salary (ie currently £41,175)
  - (b) Ministers at 50% of that salary (ie currently £27,450)
  - (c) The Speaker and the Leader of the Opposition at 37.5% of that salary (ie currently £20,587)
  - (d) Other members of the House at 25% of that salary (ie currently £13,725).
- (2) Notes that the said reductions were intended, principally to reflect the fact that Members and Ministers were not full time.
- (3) Considers that Ministers, who now work a full day on the conduct of public affairs, should receive a salary that reflects that fact.
- (4) Considers that the salary of members of the House (including the Speaker but excluding the Attorney-General and the Financial and Development Secretary) should be composed of a salary attributable to membership of the House (to be known as "a Member's salary") and in the case of the Chief Minister, an additional salary to be known as "Chief Minister's

salary", in the case of a Minister, an additional salary to be known as "a Ministerial salary", in the case of the Speaker, an additional salary to be known as "the Speaker's salary", in the case of the Leader of the Opposition, an additional salary to be known as "the Leader of the Opposition's salary".

- (5) Resolves that the salaries payable to Members of the House (excluding the Attorney-General and the Financial and Development Secretary) be structured and fixed with effect from 1<sup>st</sup> January 1999 as follows:
  - (a) All Members of the House, (including the Speaker but excluding the Attorney-General and the Financial and Development Secretary), a Member's salary in the sum of £15,000 per annum.
  - (b) The Chief Minister an additional salary (the Chief Minister's salary) over and above the Member's salary in the sum of £41,000 per annum.
  - (c) Ministers an additional salary (the Ministerial Salary) over and above the Member's salary in the sum equivalent to 68% of the Chief Minister's salary (ie currently £27,880).
  - (d) The Speaker an additional salary (the Speaker's Salary) over and above the Member's salary in the sum equivalent to 17% of the Chief Minister's salary (ie currently £6,970).
  - (e) The Leader of the Opposition an additional Salary (the Leader of the Opposition's salary) over and above the Member's salary in a sum equivalent to 25% of the Chief Minister's salary (ie currently £10,250).
- (6) Notes that the salaries of the Members of the House (excluding the Attorney-General and the Financial and Development Secretary, but including, where applicable, additional salaries, shall as of 1<sup>st</sup> January 1999 be as follows:-

(a) The Chief Minister	£56,000
(b) Ministers	£42,880
(c) The Speaker	£21,970
(d) The Leader of the Opposition	£25,250
(e) Other Members	£15,000

- (7) Resolves that all the above salaries shall be increased by the same percentage as any increase from time to time in the established salaries of the offices of Attorney-General and Financial and Development Secretary."

Mr Speaker, the motion, its effects and the justification for it in the Government's view, is self-explanatory and contained on the terms of the motion itself. The fact of the matter is that Ministerial salaries and salaries of other Members and office holders in this House, were last fixed, located under the terms of the Report by Mr David Pring in August of 1979. That Report makes it clear that the reduction reflects the fact that Ministers then were not engaged full-time and that the 50 per cent in the case of Ministers was deemed then to be a proper remuneration for the extent of time and responsibility commitment then engaged by the Ministers. To the extent, therefore, that Ministers now work full-time this is really not an increase in the rate of salary but rather the application of less than the rate then fixed but applying it to a full-time basis. Frankly, I have to say that the idea that Ministers who, as hon Members know, now have full responsibility for the conduct of Gibraltar's affairs should be remunerated at a rate which is in many cases significantly lower than, not just the most senior officials in his Department, but indeed, many lower officials in his Department and indeed many industrials in his ministry, is, in the judgement of the Government, inappropriate. We do not subscribe to this romantic notion that politics is a vocation and that one should do it for nothing. We have a view about that issue and it is a view which appears to be shared by most democracies in the western world and that is that conducting the affairs of government is a job like any other and that like any other job it should be remunerated in a manner appropriate to the responsibility and status of the job that it is. Hon Members will, at a glance, be able to see illustrated the essence of the points that I am making by referring to Appendix I in the Estimates of Revenue and Expenditure. They will see that in addition to the fact that, for example, the Chief Justice's salary is currently £64,000; that the Commissioner of Police's salary is currently nearly £61,000; that the Chief Secretary's salary is nearly £58,000; Deputy Governor, that part of his salary which is paid locally, £55,000; that the Attorney-General and the Financial and Development Secretary's and the Additional Judge's established salary is £55,000, £54,901; that the Deputy Commissioner of Police is on a scale from £43,600 to £46,258; that the Director of

Education and Training is on a point at over £44,000; that Head Teachers, depending on the size of their schools and the group therefore into which they fall earn from £25,400 to £43,443; that a Superintendent of Police earns on a scale between £38,123 and £41,393; that the Chief Fire Officer earns £40,578; and that indeed the senior officers in the civil service earn a scale between £25,392 and £39,324. Incidentally, these figures are subject to the 1998 Pay Review, which are not yet reflected in them. The Deputy Chief Fire Officer earns between £32,395 and £35,482; that a Deputy Head Teacher earns up to £34,969 and so on and so forth. Even a qualified teacher, after sufficient number of years service, goes to the scale up to £31,306; a Chief Inspector of Police from £28,024 up to £31,173. One really has to go down to the position of an Inspector of Police, through the office of Senior Youth Worker, it is really not until you get to an Inspector of Police... no, even an Inspector of Police earns more than Ministers, at £28,024 at the top of his current scale and it is only below that that the top of the scale is comparable to the salaries currently earned by Ministers. Of course, everything that I say about Ministers applies, but albeit to a mathematically lesser extent, to the office of Chief Minister.

Mr Speaker, the anomalies of the extent to which Ministerial salaries have fallen behind what the Government consider to be their proper level, in a sense can be further illustrated by some of the amounts that are being earned at both industrial and non-industrial level. Admittedly, in many cases subject to overtime, much lower down in the echelons of Government. Let us consider these figures against the backdrop of the fact that Ministers currently earn £27,450. Taking just one section in the Ministry of Tourism and Transport, the SPTO has earned, in 1997/98 sums in excess of £30,000; the PTO has earned sums in excess of £30,000; the Works Supervisor has earned sums in excess of £32,000. In the Electricity Generating Station, mechanical section employees have earned sums ranging between £26,000 and £27,500. PTOs in the Electricity Department have earned sums between £24,000 and £34,000. Employees in the Post Office have earned sums between £24,000 and £36,000, and the number of examples that one could give, obviously without identifying individuals, is legion. The fact of the matter is that it is the Government's view that if as Gibraltar must in its long-term interests, if Gibraltar is going to attract into the field of politics and through the field of politics into these ventures people of the right calibre to govern Gibraltar they have got to

be paid adequately, otherwise Gibraltar will be condemned to be governed either by people who have enough private capital to do it on a charitable vocational basis, in other words the stinking rich, or those people for whom a salary of £27,000 amounts to an improvement in their salary which of course was the case with most of the Opposition Members when they became Members of Government. It is the view of the Government that it is not in Gibraltar's interest for the categories of people who can afford to go into politics should be limited to that. The point is to give the electorate the choice of every category and not to use quite wrongly the system of remuneration to keep the competition out until eventually people offer themselves, regardless of the conditions to do something about it. The hon Members are entitled to their views, which of course are as respectable I am sure as our own but I have not heard it articulated anywhere in Western Europe that those that govern should somehow not be paid a full and proper salary because there is some romantic value under-paying them because somehow it demonstrates their commitment to the people and it demonstrates their sense of sacrifice and their sense of commitment to the affairs over which they are responsible. That is not a connection that is made anywhere else and Government policy is that it will cease to exist here as well.

Mr Speaker, I believe that the restructure of salaries and also the increase, but not just the increase, the restructure as well, creates a basis upon which a proper distinction can be made in the future between the salary that we all get as parliamentarians and the salaries that those of us that have duties outside get in respect of those additional duties. I commend the motion to the House.

Question proposed.

HON J J BOSSANO:

I am not surprised that they have all clapped, Mr Speaker. They have something to clap about. I think, without my having to say so, that Government Members realise that this motion does not have our support. Not because of any romantic notions that the Chief Ministers may wish to attribute to us because let me say that the structure of salaries that exist today, which was introduced in July 1980, was the product not of romantic notions of ignorant workers who for the first time were going to earn more money but of Sir Joshua Hassan, Peter Isola and myself, who between the three of us agreed what

the structure should be. So presumably all three of us in 1980 were equally romantic and it is a romance that the present Members of the Government do not share. We did not introduce the system in 1988 because we felt that it was getting more money for us. Certainly, there is at least one Government Member for whom this means getting much more money than he would ever have hoped to have got if he had stayed as Branch Officer and he seems to have been as enthusiastic about clapping as the rest so he does not have any problems with romantic notions. It is true that there are many people in the public service who get paid substantial salaries as has been mentioned but it is also true that none of the three persons who are retired from previous jobs and on pensions would be able to be either Chief Inspectors or Chief Fire Officers or mechanics in the Generating Station or anything else because they have already completed a career. There is a counter argument for any one of those arguments that have been put but, of course, there is an even more serious deficiency and an even greater objection to what is being done and since the Chief Minister is so fond of comparing himself with what everybody else is doing in the whole of Western Europe he must know that it is not normal in the whole of Western Europe for a Government arbitrarily to determine what they earn, what Mr Speaker earns and what we earn without any process of involvement of anybody else and that is what they have done. That is not acceptable, that is not the way Parliaments determine the salaries of Ministers or Opposition Members or anybody else and that is not what happened the last time. Let me say that the last time, even though the GSLP only held one seat in this House, the then AACR Government gave the GSLP an equal say in being involved in making representations and in putting its views forward as they have as the majority party with eight seats and the DPBG had with six seats. We actually were given the same opportunity to make representations and I think all the arguments that the Chief Minister has put in this House given how strongly they feel about this it is not something that they felt so strongly about that they felt there was a need to give priority to it in the manifesto when they fought the Election in 1976. Obviously, they only realised how badly paid they were when they started getting paid. They had not realised it before.

Let me also point out that to talk about the salary being brought down to 50 per cent may give people the impression outside that what happened in 1980 was that there was a salary reduction. That was not the case. What happened in 1980 was that because parity came in in 1978 it was felt proper to conduct an in-depth review to

see how the new structures that were being created in both the public and the private sector in Gibraltar altered the relativities which existed at the time. In doing that they looked at a number of things including whether the salaries should be tax-free or gross and liable to taxation. Let me say that when Sir Joshua presented the motion in the House introducing the recommendations of the Pring Report he actually drew attention to the fact, with a sense of pride, that in his case the move from an untaxed to a taxed salary meant that his net pay went down and he did not feel that that made him undignified because he was actually reducing his pay. He actually made a point, I suppose that made him even more romantic than the rest of us, that whereas everybody else in the House was going to get a pay increase he was actually going to get a pay cut because he was better off with a lower salary, untaxed, than with a higher sum taxed, given his marginal rate of taxation. The position that was adopted by Mr Pring following the views that were put to him, and let me say that the procedure that was followed was that the Government or the Speaker contacted the Clerk of the House of Commons and asked for somebody knowledgeable in this to be invited to come to Gibraltar to conduct a review and to take the views of the Parties in the House and of other people who might want to make representations. We all felt at the time that it was invidious for us to be raising our own pay without reference to anybody else and what was needed was that we should follow what has been the position in the United Kingdom. At that time it was the Top Salaries Review Body that looked at Ministers' and Parliamentarians' salaries. If the Chief Minister wants to compare himself with the rest of Western Europe he needs to go no further than the House of Commons to find that if the United Kingdom Ministers do not come along, they say "well, we think we ought to earn £40,000 more than anybody else and that is what we are going to give ourselves because that is what we think we deserve because otherwise we feel undignified if we earn less. They do not do that. They have the Senior Salaries Review Body which makes recommendations, those recommendations are then taken to the House, there is a debate on the recommendations and then the House decides, as it is free and as this Parliament is free to do to either accept, reject or amend the recommendations. But the basis of what the House is debating is not what the people in power at any given time think is the proper relativity between anybody but what somebody has with a degree of objectivity, by looking at comparatives decided. I am glad that the Chief Minister kept on saying that this is the view of the Government because

the motion says it is the view of the House and it is not the view of the House. The Government have decided to justify the level and I think that the level may well be justified but it needs to be said by somebody who is not going to be the beneficiary. That independent person will look and will decide whether in fact the level that is being put is fair and whether the level that is being put needs to be put to attract the right calibre which has not been needed until now because we are all presumably in agreement that we are all of the right calibre so far. So we have all managed to get here notwithstanding the deterrents and we have had to compete and fight each other and insult each other to persuade people that we were of the right calibre and keep others out. Certainly, by the logic of market economics there has never been a shortage of supply for this particular job. The laws of supply and demand do not seem to substantiate the arguments of the Chief Minister. Nor does the philosophy of the Government which apparently is that we have a private sector led economy. Not that we want to have a private sector that wants to have a pay freeze for shop assistants which is the single biggest group in the private sector and which finishes up giving the people one and a half per cent over two years. What kind of example are we giving the rest of Gibraltar in which are reasonable pay demands when already since the Election our pay has gone up by more than anybody else's in Gibraltar, except the regradings that the Government has done in the civil service? It is all very well to say "well, look we are going to give the Financial Secretary 26 per cent and now look how badly paid we are compared to the Financial Secretary". Well, take the 26 per cent away from the Financial Secretary and then the relativities are restored. We can all outvote him here. I imagine I can even persuade the Attorney-General who only got 17 per cent to vote for removing the 26 per cent. In fact, if we look at the distribution of average annual earnings of all employees in Gibraltar tabled in this House, not so long ago, what we find is that the pay of a Minister which compares so badly with all the people that the Chief Minister has pointed out in the public service is actually in the top 10 per cent. That is, that according to the Government Statistics established in the survey, 90 per cent of full-time employees in Gibraltar earn less than Ministers. Only 10 per cent earn more or the same and therefore presumably a big chunk of that 10 per cent must be in the public sector given the long list that we have been provided today. If we were to compare on the basis of those figures the new level of salary, I calculate, we will have to wait for the next Survey and we will have to wait for a session of

the House when I can ask questions because I will be asking questions on this but I calculate that we will probably be having a situation where 95 per cent of Gibraltar will earn less than a Minister and 98 per cent of Gibraltar will earn less than the Chief Minister. It may be that that is what is required for the job of a Minister or a Chief Minister to be dignified, fair and just, that 98 per cent should earn less but why 98? Why not 99.9? Or any other percentage. It is an arbitrary relationship. Nothing has been said in the House by the Government how they arrived at £15,000. Not that we are complaining about the £15,000 but I can tell the Chief Minister what Mr Pring said in 1979 when he decided what should be the basis salary of the Member of the House that was in Opposition. He said that taking into account what the Chief Minister has said about the calibre of people we want in Parliament and the view that in politics it is just like any other job and one has got to be paid to do the job as a professional and one has got to be of a certain capability. I think that is really what the civil service do. The civil service provides a career structure and when the people get to be Financial Secretary or Attorney-General he is not going to come straight out of university, stood for election and got elected. They get to the top of the salary structure through a very long apprenticeship in life like Members who had a previous career. Dr Linares did not get to be the Headmaster overnight and possibly if he had come in younger he would have got to be the Director of Education but should he then say "well, because I am not the Minister of Education, why should the Director get paid less than me?" Well, look, because if the Director were to retire tomorrow and stand for election which he is entitled to do he would have already got to the top of his career and this is the second opportunity in life and I think it is a good opportunity for people because I believe it is important that we should have in the House a cross-section of our community. Given the fact that pensioners are now 30 per cent of the community, it is quite appropriate proportionately that we should have 30 per cent of the House made up of pensioners and we should have manual workers. I think it is valuable in taking decisions in Government and indeed in looking at problems from the point of view of the role of parliament, it is right and proper that there should be somebody with a background as a craftsman, as Mr Netto, as well as having businessmen and having lawyers. I think that is what Parliament should be. It should be a reflection of our society and that is what we should aim for and therefore we should make sure that the salary structure that we have got is one that provides a balance so that

it is attractive to people from all walks of life and not just attractive to some and not to others. I certainly do not agree that there is absolutely any evidence at all since the 1969 Constitution has come in, that only the very ignorant who stood to gain financially by being elected to this House because their capacity did not enable them to earn more money outside the House, or the very rich who could afford to do this as a hobby are the ones who have been elected. There is nothing to substantiate that that is what has been happening. And if that had been happening then there would be a serious problem of imbalance in the representativity of this House and we would need to cure it.

I have to say, Mr Speaker, that in the context of our approach to this we feel that the Government would do better for the dignity and the status and the fairness of all the Members of the House, to go back and repeat the exercise that was done in 1979. That is our view and it may well be that as a result of that exercise we could finish up with a structure that may be no different from what they are proposing and which we then might be able to support on the basis that we have had an independent assessor looking at the situation, listening to the arguments and obviously all the arguments that have been put here can be put to that person and we would be putting the arguments against because we do not agree with the actual relativities and structures and levels that have been determined, in our view, arbitrarily because nothing has been said to explain the specific amounts. Why a Minister 68 per cent of the Chief Minister? Why the Chief Minister £41,000 over the basic parliamentary salary? Why the £15,000? Mr Pring said then, and I imagine that that is still applicable today and I think the £15,000 meets that criteria that a Member of the House, particularly a Member of the House that was not a professional or a businessman, should be able to be full-time and not have to take on a job but that the basic salary should be enough to enable him to have an average standard of living and not to live in luxury. I would say that £15,000 meets the criteria and indeed the £13,000 which was the amount before met the criteria but it is possible because notwithstanding the figures that have been produced the average wage in Gibraltar of a manual worker is around £14,000 and even a monthly paid worker, the average pay is about £18,000. The basic salary that was fixed in 1980 was to enable Members, and I can tell the House that I was in that position, I was elected to this House in 1972, Mr Speaker, and I had a family to support and I was earning £500 a year and it was very difficult to get anybody to employ me. I

remember that at the time the Health Centre, the GPMS was set up for the first time and they wanted a night telephonist and I thought "well look at night I can work as a telephonist and still do my constituency work during the day" and when I applied for the job the Attorney-General of the day ruled that there was a conflict of interests because of my political loyalties between being a night telephonist in the Health Centre and being a Member of the House, as if I was going to say to people when they 'phoned up for the ambulance "who did you vote for?" before I sent the ambulance. At the time 70 per cent of the jobs in Gibraltar were barred for Members of the House because there was a totally undemocratic system in place where nobody in the official employers, MOD, DOE, Gibraltar Government, was allowed to stand for the House of Assembly without resigning in 1972. Therefore one was left to compete with the 30 per cent in the private sector and particularly if one had political views that were seen to be not very friendly to the business community, ones chances of getting a job were very limited. Therefore, Mr Pring looked at all those arguments which were put by us, they were put by me as the only Member of the GSLP in this House and he said "it is true, a Member of the House in Opposition, should not be forced to have to work... But that does not mean he should have a standard of living better than anybody else" and therefore he fixed the sum of something like £4,000 or £5,000 then as the basic salary and that turned out to be a quarter of the Financial Secretary. Yes, Mr Speaker, if the Chief Minister cares to read the debate of the Hansard of the time he will find that that is included in the Report and it is included in the debate. Mr Pring said "it should not be assumed that membership of the House can always be combined with another job and hence with another income". Therefore, the idea that Members of the Government were part-timers was at the same time combined with the idea that it was possible for Members of the Opposition to be full-time and that the basic salaries should be enough. I am saying that because I do not think there is a conflict between that and the salary that has been put. I am not saying that £15,000 is too little to be full-time. What I am saying is that the report of Mr Pring went into all sorts of different combinations and arguments as a result of the representations that were made.

Mr Speaker, I am going to move an amendment to the motion which I will now circulate in which I propose that sections 3 and 4 of the motion should be amended to insert the words, at the beginning of each of those sections before the word "considers", "Notes that the

Government considers" because, of course, as the Chief Minister has said in his opening address these are the views of the Government and not the views of the House and therefore the amendment reflects that it is the Government that consider that Ministers who now work a full day on the conduct of public affairs should receive a salary that replaces that fact and it is the Government that consider that the salary of Members of the House and so forth, so I propose that that should be amended to more accurately reflect the position and that section 5 should be amended by deleting the proposed salary levels and instead introducing the words to read "resolves that the procedure adopted in 1979 by this House to conduct an in-depth review should be repeated and that the office of the Clerk of the House of Commons should be approached with a view to obtaining the services of a person qualified to conduct such a review in 1999". I therefore propose the deletion of sections 6 and 7 as consequential amendments. There is no reason why the results of that in-depth review once it has been conducted and being brought to the House and is adopted by a resolution of the House should not be back-dated to the 1<sup>st</sup> January which is the date that Members want to introduce them. I am not asking them to remain in their present undignified position beyond the 1<sup>st</sup> January, although they will have to continue to appear undignified a bit longer and then retrospectively become dignified. I commend the amendment. I believe it is good for the House and it is good for public life in Gibraltar that we should be able to deal with this as it has always been dealt with previously in the past which is by an approach which is not based on the Government imposing its view on the House by the exercise of its majority but by accepting that the system that has been adopted before and certainly as far as we are concerned, Mr speaker, we saw no need, not for any of the reasons that have been given, but simply because we thought the system that had been put in 1980 have stood the test of time and therefore there was no compelling reasons as far as we were concerned to review it. It is a long time since that review took place. It is 19 years and the structure of Gibraltar has changed. The relativities have altered in many jobs, certainly the jobs that the Chief Minister was talking about in places like the Generating Station and the mechanics he was referring to are now non-industrial workers, salaried staff, before they were manual workers and on different methods of payment. All those changes may need to be looked at in the context of a study and it would mean that we would have an opportunity to put our views and so would you, Mr Speaker, and everybody else that has got an interest in this matter and I think that

would produce a result which would be more acceptable to all of us and I would venture to say, more acceptable to the people who have to pay us outside who themselves are not going to be as fortunate as being in a position that they can determine what they should get paid and vote it for themselves. I commend the amendment to the House.

HON CHIEF MINISTER:

Mr Speaker, speaking only to the amendment. I have to say that I find the Leader of the Opposition's sudden conversion and liking to the views by people from the UK about the conduct of local affairs touching and it is regrettable, of course, that he was not persuaded to the virtue of such exercises during the eight years that he was in office. The last review that was done by somebody from the UK about matters of Gibraltar's affairs were by accountants nominated by the British Government to order him to unscramble the network of untransparent companies that he set up in order to keep public finances away from this House. [Interruption] It is a shame, but true nonetheless. He is absolutely right, it was a crying shame but true nonetheless. Mr Speaker, it is a pity that when he compares his new found commitment to doing things in the same way as they are done in the House of Commons did not extend to his commitment sacrosanct in the House of Commons, of course, that 100 per cent of public finances should be deployed to the House at Estimates time. He did not need an expert from the United Kingdom to teach him how to restructure public finances so that 45 per cent of public revenue and expenditure disappeared from the Estimates and from the debate and from the Appropriation mechanism of the House. He will forgive me if I take with a more than just a pinch of salt his sudden conversion on the road to Damascus to the notion of having people come from the United Kingdom to tell us how we should do things. Of course, thanks in some measure to him, much water has flowed under the bridge in Gibraltar since 1979 and I think that since 1979 the constitutional emancipation of Gibraltar has progressed beyond the point where we need to send for the Clerk of the House of Commons to come and tell the elected representatives of the people of Gibraltar what is a proper salary for them to be paid. If the Leader of the Opposition believes that that is the way that it has always been dealt with in the past, always of course means once... I do not want to get technical, yes, before the Pring Report parliamentary salaries were set in an even less attractive way. Mr Speaker, always in the past suggests that there is some

established course of action in relation to ministerial salaries and I do not believe that there is.

Mr Speaker, the Government is not imposing its own view by majority except to the extent that that is what happens everywhere in the world. Every motion that has been passed in this House by Government majority, including the ones that he moved and passed by the Government majority are motions of the House. The hon Members appears to have some difficulty coming to terms with the fact that he is a Member of the House but a Member of its minority and it is normal in parliamentary democracies for the House to speak through the voice of its majority and that the voice of the majority then becomes the voice of the Parliament and this distinction that he wants to draw between the House and the Government is one which he can draw at a Party level. He is free to say outside this House "look, we voted against the motion and the GSLP Opposition does not agree with it" but that does not make it not the motion of this House or are we only now going to be able to adopt in this House motions with which the hon Member agrees. His first amendment is not acceptable for that reason. Mr Speaker, the idea that we should adopt the same procedure as was adopted in 1979 is not acceptable to the Government. I believe that if we are going to be a grown up, mature, parliament we have got to have the confidence in ourselves to do things even if they may be unpopular but to do them for ourselves. If I believe, as I do, that Ministers should earn more than £27,000, I propose it and then I take the political responsibility for it. I do not go rushing off to London to bring a Clerk of the House of Commons to cajole him into recommending the highest possible increase so that when it then materialises I have got to say "oh no it is alright, Bwana said that I could have it and as Bwana said that I could have it, it is now politically acceptable". Mr Speaker, that might be the hon Member's new found philosophy to the conduct of public affairs in Gibraltar. I have to tell him that it never has been, is not and will not be the philosophy of this Government. We as a Government take full responsibility for the actions that we propose and for the measures that we implement, including when we are the principal beneficiaries of it. If there is anybody in Gibraltar who feels that Ministers should earn £27,000 as opposed to £41,000 they will have ways of bringing their views and of making the Government pay whatever political price they feel a Government ought to be made to pay for having done this. Therefore Opposition Members will not be surprised to learn that the Government will not support the amendment.

HON J J BOSSANO:

I regret, Mr Speaker, the tone and the content of the reply of the Chief Minister which is, of course, typical of him and what we have come to expect of him in this House when he is incapable of defending any course of action intellectually he lashes out with the viciousness which he is so well equipped to try and create a diversion on an issue. We are not here talking about going on the road to Damascus or the road anywhere else, of conversions, of Bwanas or anything else. I do not know when the last time he went to see Bwana she told him but whatever she told him he said preciously little about it when he got back except that it had been very courteous, very interesting. That is, after my experience, when things are described as very courteous, and very interesting, and very this and very that and they are totally devoid of content, it does not mean that Bwana has been very nice. But that is irrelevant, we are not talking about that. Presumably, I have to tell my friend Tony Blair that he should stop having the Senior Salaries Review Body looking at the salary of the Prime Minister because that means that Bwana has now got another Bwana, according to him. We are not suggesting that somebody should come from the United Kingdom to tell us what we have to do or what we do not have to do, what we are suggesting is that we should have somebody to look objectively and independently simply because it is natural that if somebody is going to be the principal beneficiary of something he is bound to be more subjective about the correctness of it than if he is looking at what somebody else should be earning. I am sure that the Chief Minister may have a very high opinion of his own code of conduct and a very low opinion of everybody else's. He normally talks as if that is what he thinks of himself and of everybody else. He thinks he is better than all the rest of us put together but most normal people would think that if one is deciding how much one is worth one is likely to have a higher opinion of oneself than somebody else might have and that having somebody looking at it independently and impartially has nothing to do with Bwana or conversions or experts or anything else. It is just that that is a fairly normal device because as Sir Joshua Hassan said in 1980 it is invidious for people to have to take decisions increasing their own salaries and that is why in 1976 we voted in this House the recommendations of the Morgan Report which was a previous one to the Pring Report, which obviously the Chief Minister did not think had existed, which actually linked the pay of a Minister to a Senior

Executive Officer and what Pring did was to carry out an in-depth study and as Sir Joshua said the matter now before the House was not being raised hastily or recently. This is being raised hastily or recently, so hastily Mr Speaker, that we received notice of the motion at the same time as the Press Release was being delivered in GBC, that is how hastily it has been decided. It said "indeed it was the 1975/76 Constitution Committee which agreed that once the Morgan Report was implemented", which is the one that linked the pay to a Senior Executive Officer, "a further and this time an in-depth study was required". The matter was left temporarily in abeyance until the negotiations on parity were concluded in 1978. There was a reason for doing it then and that was the fact that the introduction of parity had meant an alteration in the relativities and that therefore the Members of the House ought to have the benefit of having the impact of parity reflected in the way they got paid. That is how it has been since and I am saying that although we would not have initiated this, so it is not a question that we have been converted, we are responding to a Government initiative. Obviously, we did not suggest bringing somebody out from the House of Commons because we did not propose to raise them. What we are saying is that our response to the Government is not simply to say "no", although obviously we did not think there was a need to do this otherwise we would have done it but given that the Government feel there is a need, have put the argument in the House and of course the views in the motion are the views in the Government, although they may become the views of the House once the motion is voted. When the House gets the motion it is the view of the Government that is in that motion, not the view of the House. To try and meet the Government part of the way we are suggesting that they have nothing to lose if the strength of their convictions are such that they feel that a very formidable case can be made for these relativities, why not put them to somebody that is experienced in these things. Why not ask the British Government for somebody from the Senior Salaries Review Body if they do not want to go to the House of Commons? But what we are saying is that the argument ought to be put to an independent person and that we ought to have an opportunity of putting other arguments. If we are doing an in-depth review and there are things about this House that we should be looking at I have not raised the question, for example, of the allowance for secretarial assistance which was fixed at £500 in 1979. I am not saying that it should or it should not but presumably if we had an outsider looking at it, just like Mr Pring proposed £500 in 1979 and it has been like that ever

since, somebody else might propose that what we need to do is to have some money devoted to providing facilities to enable Members of the House who are not in Government to provide a service to constituents. We do not think it is a matter that we should decide ourselves because it is better that somebody should look at the whole issue of how the House is remunerated, how Ministers are remunerated, and how the facilities are provided if there is in the Government's view a need for a review, let us review the whole thing. Should we not look, Mr Speaker, at the beginning of the session we made reference to the sad loss of our Colleague should we not look at whether in fact there ought to be some kind of life insurance cover provided for Members of the House who may unexpectedly find that they are bread winner in the family. What I am saying is that the idea of a review would then enable more things that simply what the Ministers get paid and how much more they should get paid than the Opposition or than you, or me or anybody else to be looked at. All these things can be looked at, given that the Government want the matter reviewed and that they feel strongly that there is a requirement for it and that it is necessary and that it is in the public interest. Because we do not agree with the way that they do it, surely their response is not the kind of things that the Chief Minister has said about us being told by accountants what to do and untangling and commitment to parliamentary democracy. That is a reflection of the fact that he is unable to explain why he does not want to do it this way. He has not made one single defence to explain how he arrived at any of the figures. If the Member had said "well, what we have decided to do is like you said when you brought the Bill for the Ombudsman" he said "we have looked at New Zealand and we have looked at the UK 1967 Act and what we have decided to do is we have taken what we think is the best from this one and the best from that one and that is how we have come to these conclusions". Our view was to say "we will give them the benefit of the doubt and we will wait and see how it is in practice". But the Member has not said "we have decided it should be 68 per cent because we feel that the present Ministers work 68 per cent as hard as the Chief Minister and that is why it should be 68 per cent". What is the rationale for this 68 per cent? It is totally arbitrary, presumably because nobody has said where the figures come from. There is no reference anywhere in the motion or in the contribution to say "look, we have done a study ourselves, we have looked..." other than the mention of what people get paid in the civil service. The only argument that has been put is an argument that regrettably does not hold water unless one can

demonstrate that the comparability with all those grades did not exist in 1980. I do not think that that is true except perhaps in a few cases. In most of these cases most of the grades were there then if we look at the salaries then. I regret very much that the approach which we decided when we discussed it on our side of the House of rather than trying to make party political capital as we could have chosen to do and vote against this and accuse them of giving themselves big pay increases we came up with what we thought was a constructive alternative which need not cost them any money and I suppose the only reason that they are not prepared to accept it is because they did not think of it themselves. I regret that the amendment is going to be defeated, Mr Speaker.

Question put. Agreed to.

HON J J BOSSANO:

I do not really think that there is really any more that I can add if I have not been able to persuade the Government.

HON CHIEF MINISTER:

Mr Speaker, the Motion to increase ministerial salaries may not have the hon Members' support although it is not clear whether what does not have his support is the increase or the way it has been done.

HON J J BOSSANO:

Neither.

HON CHIEF MINISTER:

Neither, right neither. Well, to the extent that it is about the way that it has been done he has one view and the Government have another and we simply have to agree to disagree. To the extent that we do not have his support to the concept of paying Ministers more than they currently earn I have to say that I know that it is his view, it has been his view for several years, but it was not the view of his Ministers who used to go around openly advocating for higher ministerial salaries, openly speaking about how they were trying to persuade the then Chief Minister to raise ministerial salaries to a reasonable level and how the Chief Minister doggedly refused. Mr Speaker, I realise that he has as much power over his Colleagues in Opposition as he had over his

Colleagues when in Government. He is not describing the views of his Colleagues, he is describing his own because his Colleagues, excepting those who are there now who were not in the previous House, his Colleagues openly spoke of the view. Fine, I am not saying that I heard it from all eight of them, but certainly from more than two or three of them. These were discussions that used to take place frequently between themselves. At the end of the day it is a matter of opinion. I am leaving to one side his objections to the way it has been done and I am only speaking at this moment to the concept of raising ministerial salaries. Therefore, Mr Speaker, that is what I mean by a romantic notion. The hon Member has, and has had for some time, the notion that when he was in the Opposition he had to get a night job as a telephonist in the Health Authority in order to make ends meet...

HON J J BOSSANO:

I did not get it.

HON CHIEF MINISTER:

Fine, because it was necessary for him to try to get it, well that is his notion. It is part of his background, it is part of his political ideas, it is part of his views, fine. I do not say that they are not worthy, I am sure it will strike a very good chord amongst many people in Gibraltar who take that view. The Government do not. The Government do not take the view that the salaries of Ministers should be fixed by reference to the notion that this is somehow something that one does out of love and commitment, although certainly I can tell the House, that whatever the salary is, one still needs love and commitment to do the job and that simply paying a salary of £41,000 to Ministers or £56,000 is not a substitute, he well knows that. Mr Speaker, having said all that I have to say to the hon Member that I think that except for his views about whether we should have gone down the Pring Report type route or whether we should not have, except for that fact, I accept that he obviously thinks that my own view is wrong and his is right and I believe the contrary, but there is an issue there. Except for that, the rest of his address really has been based on a false premise. The hon Member speaks about establishing salaries at a new level. Mr Speaker, the Government are not establishing Ministerial salaries at a new level. The Government are not increasing, although obviously the effect is more money in the pay packet, but the Government are not increasing the rate at which the labour of a Minister should be valued. Indeed the

Government have not even gone as far as the 1979 Pring Report to justify it. The 1979 Pring Report said that because Ministers are part-time they should be paid 50 per cent of the then category of people that included the Financial Secretary and the Attorney-General, fine, Mr Pring thought that that was OK in 1979 because indeed in 1979 Ministers, including the Chief Minister, would go about their business during the working day and then at three o'clock in the afternoon, except in times of crisis, would amble into the office and see what papers there were to sign. Mr Speaker, that is what ministerial life was in 1979 and if Mr Pring thought that in 1979 that was worth 50 per cent of the salary of somebody who was there all day, all the Government are saying is "we are there all day" and if we are now there all day unlike Sir Joshua Hassan and Mr Isola when they were in Government, why should we not be paid the same as Mr Pring thought other people who were there all day should be paid. This is not a question of saying "Ministers were paid at £5 an hour and I think that they are worth £25 an hour and therefore I increase the rate of salary". This is simply saying the salary of a Minister was set by Pring in 1982, having set the salary he in effect cuts it in half to reflect the fact that they only played the first half of the match and I am now saying that Ministers now play the second half of the game as well and as we play both parts of the game we should get both parts of the salary. This is not an increase in the salary rate, this is not the Government deciding how much we are worth. Mr Pring decided how much we were worth by reference to the Attorney-General and the Financial Secretary and he thought that for a half a day's work we were worth half their salary and I say "fine, I will settle for that, if we were worth half their rate for half their time, if we work the full time we must be worth the same", which, incidentally, is not what we have done. We have not been quite so bold as to take a 100 per cent for Ministers of that salary, but frankly, Pring, of which the Leader of the Opposition appears to be a supporter, the concept of Pring would have justified, the philosophy of Pring would have justified raising the level of Ministerial salaries to the level of Attorney-General and Financial and Development Secretary and it is still not that, they are still 30 odd per cent adrift. Therefore, I think it is important to be aware of that distinction, that the Government's motion does not depart from the principles established by Pring as far back as 1979.

Mr Speaker, it is the Government's view by which I am happy to stand and a view which I am happy to defend that

at £27,000 a Minister of the Government is underpaid. Not just by reference to the responsibilities that he discharges not just by the hours that he puts in, not just by reference to the status of the office but by reference to comparables. I have not yet met anybody who thinks that a Minister should earn less than a police inspector, why should a Minister earn less than a police inspector? Why? Because the hon Member thinks there ought to be an element of vocation in this? Whoever set the salary of the Prime Minister of the United Kingdom, at somewhere in excess of a £100,000 did not think that he should take the view that his job was a vocational love affair. Everywhere around Europe people are paid an executive salary for what is an executive job. I am quite happy to acknowledge that the hon Member takes a different view of it. Fine. We disagree on that as on so many other things. The hon Member says that these increases are arbitrary and that we have done them without consulting anybody else. Mr Speaker, arbitrary would have been for us to sit in our offices and just award ourselves a pay rise. I do not know if he takes the view that bringing the motion to this House which we are now debating is not consultation, whether this does not give him the opportunity to fully express his views and to vote against them. I cannot cure the fact that he is in a minority and because he is in a minority as I was when I was sitting in his chair, as in all other parliaments the minority succumbs to the view of the majority. It does not render the process illegitimate. The fact of Opposition in minority not making their opinion prevail over the majority, does not make it non-consultation, does not make it arbitrary, and does not make it the Government doing what they please. I am not responsible for the fact, as indeed he was not when he was in office, that our constitutional system, is such that everybody on the Government side of the House is in the Government and there is no back bench on this side perhaps to inflict the occasional defeat on the Government. That is one of the, in my opinion, unsatisfactory characteristics of our electoral and our parliamentary system which we nevertheless have to live with and the fact that it exists should, I would urge the hon Members not lead us to treat ourselves in this Parliament less seriously than other parliaments treat themselves simply because we have that structural characteristic.

The hon Member spoke of his view that salaries should be one that provides a balance. In our judgement, that is exactly what these proposals are. It is a balance between what we regard as a fair and reasonable

remuneration for the job that is done. It is a balance between that and other factors which have not been recognised a 100 per cent in the Government's proposals. If he wants to know how we came at the figures, there is no magic, scientific formula. These things are a view of how much is reasonable for the Chief Minister to be paid and how much is reasonable for a Minister to be paid in comparison to what the Chief Minister is paid and one works down like that. It all started with the view that the Chief Minister should receive a salary of £56,000 and all the percentages, I agree that 68 is a very clumsy figure, it used to be 75. The reason why it is 68 is because having fixed the quantum amount for the Chief Minister, having then decided relative to that what the quantum amount of a Minister's salary should be, that was the nearest percentage figure to what it worked out. We did not make the decision in percentages, we made the decision in number of pounds and then those figures were given the corresponding percentages to each other. I accept it is arbitrary, I accept that the choice of figure is a judgement about what the Government believe is the correct salary structure. Government might have taken the view that it should have been 50, or 65, it is a view, it is a proposal, it is the Government's judgement of what each of us should be paid for the respective jobs that we each do.. For the record I just want to say that the hon Member should really resist the temptation to alter my words. I say this lest the headline writers should inadvertently attribute to me his misrepresentation of the words that I actually used. I did not say that with the present system we were condemned to the rich or the ignorant, the very ignorant, as he attributes to me. I said that we were condemned to the very rich or to that category of people for whom the old ministerial salary was an improvement in their salary. I never used the word "ignorant". I never introduced any offensive criteria, he did. One does not have to be ignorant to earn less than £27,000 a year, one does not have to be ignorant so I do not know what connection he makes between intellectual capacity and salary but I know many people who are very far from ignorant who earn less than £27,000. I just say that lest he was hoping that the report of this debate may somehow.. because people of course will believe what he says I say.. unless that should happen, let us make it perfectly clear that the only person that has insinuated that people who earn less than £20,000 are ignorant, very ignorant, is him and not me.

Question put on the motion. On a division being called the following hon Members voted in favour:

The Hon K Azopardi  
The Hon Lt-Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon P C Montegriffo  
The Hon J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

The following hon Members voted against:

The Hon J L Baldachino  
The Hon J J Bossano  
The Hon J J Gabay  
The Hon A J Isola  
The Hon Miss M I Montegriffo  
The Hon J C Perez

The motion was carried.

HON CHIEF MINISTER:

I beg to move the motion standing in my name jointly with the Leader of the Opposition and which reads as follows:

"This House -

1. Notes that Fr (as he then was) Bernard Devlin arrived in Gibraltar on the 29<sup>th</sup> June 1946 from his native country of Ireland to serve as a Roman catholic priest in Gibraltar and that he was made a Monsignor by His Holiness the Pope on the 14<sup>th</sup> November 1984.
2. Recognises Fr Bernard Devlin's tireless work and dedication as a priest in Gibraltar since June 1946 (a total of 52 years), not least the establishment of the Church and Parish of St Theresa's.
3. Notes that Monsignor Devlin was appointed Bishop of Gibraltar on the 6<sup>th</sup> January 1985 and served devotedly in that position until earlier this year, and that he is now Gibraltar's first ever Bishop Emeritus.

4. Notes Bishop Devlin's contribution to inter religious tolerance and harmony in Gibraltar.
5. Notes and shares the love and affection in which Bishop Devlin is widely held by the people of Gibraltar.
6. AND in recognition thereof resolves to bestow on him the highest honour that this House can bestow on a citizen of Gibraltar, namely the Honorary Freedom of the City of Gibraltar",

Mr Speaker, as the motion says, Bishop Devlin is a native of and was born in County Cork, Ireland, in March 1921 and like so many Gibraltarians here in Gibraltar he was educated in Ireland by the Loreto Convent and the Christian Brothers. That might explain why he developed the affinity that he has done with us here. He was ordained a Roman Catholic priest in December 1945. He arrived in Gibraltar as a young priest in June 1946 and he has therefore devoted his entire priestly life to the service of the people of Gibraltar. His first appointment, when he arrived, was as Chaplain of St Bernard's Social Club, a club which he still maintains close links of friendship. He was later appointed curate of St Theresa's which was then a small nissen hut where the Government Hostel in Devil's Tower Road is now situated. Through his hard work and effort he acquired the current site and a new larger hut which we all came to know to be erected on the new site. He was appointed Parish priest of St Theresa's in 1974. In that position he was pastor to a whole new community that grew in the northern end of Gibraltar with the building of Glacis, Laguna and other parts of the north district. In 1975 he was appointed Vicar General of the Diocese and in 1984 he was made Monsignor by His Holiness the Pope. On the 6<sup>th</sup> January 1985, following the death of our then Bishop Monsignor Rapallo, he was ordained Bishop of Gibraltar by Pope John Paul II in Rome. He has never claimed miraculous powers for the fact that on the very day that he was ordained in Rome it snowed in St Peter's Square for the first time in 45 years. A few days later he was installed in his Cathedral here in Gibraltar.

Mr Speaker, such is the formal curriculum vitae of Bernard Devlin but needless to say it does not tell his story here. He is the only non-Gibraltarian to have established such strong bonds with the people of Gibraltar. Bernard Devlin's priesthood and episcopate is characterised by a simplicity of faith and manner, a humility and warmth to all with whom he dealt that

endeared him to all people in Gibraltar, Roman Catholics and other Christians and non-Christians alike. He is certainly a man of firm and forthright views and opinions and certainly not reluctant or shy to tell them you straight, even when they are about you or about an opinion that you hold. This plain speaking and direct nature is another of his characteristics which endeared him to the people of Gibraltar. His episcopate was a great success in other respects as well. He ordained more priests than any other Bishop of Gibraltar had ever done before. His episcopate provided the most fertile period of Gibraltarian vocations to the Roman Catholic priesthood ever. He presided over the restoration of the Cathedral and he presided over the rededication of the Shrine of Our Lady of Europe in a ceremony which both in civic and religious terms was a spectacular success and achievement, not just for the Roman Catholic Church in Gibraltar but, indeed, for Gibraltar as a whole. He has always had a special concern for the poor and underprivileged and needy in our community. Everyone was important enough to him to merit his attention and his thoughts and his personal touch. He was responsible for the establishment of the first soup kitchen in the Community Centre which was subsequently developed into a much more comprehensive service in Nazareth House. He was a tolerant Bishop, critical, forthrightly of things in the Catholic Church locally and outside Gibraltar with which he did not agree but tolerant in the sense, that notwithstanding his views, he made place in the Church over which he presided in Gibraltar even for those movements and views with which he was personally not in agreement or comfortable. Having expressed his views he is not the sort of man that imposes them on others from the lofty position from which he could have imposed them, his Episcopal Chair. I think that, too, has contributed to the affection in which the people of Gibraltar come to hold Bernard Devlin.

My Speaker, the Freedom of the City is the most Gibraltarian of all awards that someone in Gibraltar can receive. He may be Irish and proud of it but he has also become a Gibraltarian and I believe that he is proud of that as well. He has spent over 50 years of his life in Gibraltar. He has made Gibraltar his home. He has dedicated all his working life and effort to us. He has served us in the highest spiritual and pastoral office of this community. He has done so with complete commitment, humility and love, with a total lack of selfishness. He has touched almost everyone in Gibraltar personally. He has a special relationship with the people of Gibraltar. Today, as the Elected

Representatives of the people of Gibraltar we recognise all those facts. We recognise his life's work for Gibraltar, his support for our aspirations as a people, his defence of our rights and of our interests as a people both spiritual and in other walks of life. We give him the Freedom of what we all hold most dear, our City. I commend the Motion to the House jointly with the Leader of the Opposition.

Question proposed.

HON J J BOSSANO:

Mr Speaker, I want particularly to welcome the fact that we have been given the opportunity of moving the motion jointly. I think it is the first time that the Granting of the Freedom of the City has been done on a joint basis, although of course it has always been carried unanimously.

I believe that the outstanding quality that Father Devlin, as he always enjoyed being called even when he was a Bishop, had and has was his humility, if one wants to describe it that way or I would put it in another way, his lack of concern about position of status. He really was the classic image of the parish priest close to his parishioners and he never stopped being that and his parishioners included people who never went to his Church, it included the whole of Gibraltar. He was able to develop an approach to dealing with not just people of different religions but people who were agnostic. The same kind of relationship that one expects to find in a pastoral relationship in the Catholic Church and he was an example of the best that one can look for in that direction and that was recognised by everybody and everybody loves him because of his simplicity and his approach and his down-to-earth manner which has been his hallmark throughout his life. I think we have been enormously fortunate to have had him in Gibraltar for most of his life and that indeed any country would have been proud to have had Father Devlin as one of its sons, as one of its people. Certainly he continues to be dearly loved by our people and he is one of us and I am sure that the whole of Gibraltar will be warmly identifying itself with the decision that we are taking today in this House.

HON J J GABAY:

Mr Speaker, I was always under the impression that Santa Claus, round about this time of the year, came with presents for children. To me it has been quite a revelation that he also comes with magnificent presents for adults. Let me say, having heard the discussion on the motion which of course dealing with price tags and so on is an extremely materialistic one, I find it is refreshing to move into this motion which has more spiritual connotations and, indeed, deals with what we somehow demeaned in the previous motion the degree of non-monetary sacrifice for the benefit of the community.

The honour that this House is about to confer on Bishop Emeritus Devlin reflects both the personal and the transcendental. Not only does it recognise the fine qualities and calibre of the man, it also reflects through and beyond his episcopal role an exemplary concern and love for the general community of Gibraltarians. The ideals of justice and love are best measured in the way that they are applied to minorities and indeed to the more vulnerable members of the community and indeed the alien, as part of the concept of the brotherhood of man, a concept of true justice that is global and embraces humanity at large. As St Augustine proclaimed, "take away justice and what are kingdoms but mighty bands of robbers". We can document this in history and indeed in many societies the world over. Father Devlin, as he is still referred to endearingly by so many of us, irrespective of our denomination, has made a singular contribution to the inter-denominational harmony that characterises our society and which should be one of our most treasured assets. To become a father figure within one's domain, within one's religion is difficult enough, to become a father figure as well as a personal friend to those of other denominations verges on greatness. His approach and his vision have left no room for the evils and bigotry, racism and sectarianism. A man of outstanding intellect and yet humble and kindly in his ways. When I sometimes see him sitting all on his own on one of the benches that line Main Street, with a kindly word or a smile to any passer-by, I recall the apt words of St Theresa of Avila "Tambien entre los pucheros anda el Senor".

Mr Speaker, I feel deeply honoured to be a Member of this House as it bestows on Father Devlin its greatest honour - the Freedom of the City. Thank you.

HON DR B A LINARES:

Mr Speaker, I am in the position where I can speak of Father Devlin not only as all of us as a parishioner of his to re-use the word expressed by the Leader of the Opposition, he married me, he baptised my children, he has been a loveable parish priest to me, but I am also in a position that I can speak of him as a colleague, as an ex-colleague, as a fellow priest. In that respect I welcome this opportunity of voting for this motion because in a way it expresses at that level the warmth and the companionship and the friendship and the support and the counsel which I always received from him and I have the happy opportunity now of acknowledging this on a personal score by voting for this motion.

HON J L BALDACHINO:

I also have a personal gratitude, about 25 years ago he also married me and it was difficult at that time when one was marrying somebody from a different religion. When we went to see him, he had because of the system of the Catholic Church, there was a problem before he could marry me but the way he resolved that for the benefit of myself and my wife was something special of the man that we are now talking about, Mr Speaker, who is Father Devlin. I would like to identify myself with everything that has been said here on the man as he is and how human he is, rather than somebody who wanted status. He was always there and I suppose he will still be there for anybody who has a problem, whether it is a Roman Catholic or from another denomination. It is a great honour for me to be able to vote to give the Freedom of the City to Father Devlin.

HON CHIEF MINISTER:

I suggest, with the co-mover, that we should leave it at that and I see no need to add anything to what everyone else has said.

Question put. The motion was carried unanimously.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

I have the honour to move that the House should resolve itself into Committee to consider the Insurance (Motor Vehicles) (Third Party Risks) Ordinance (Amendment) Bill 1998, clause by clause.

**THE INSURANCE (MOTOR VEHICLES) (THIRD PARTY RISKS)  
ORDINANCE (AMENDMENT) BILL 1998**

Clause 1 was agreed to and stood part of the Bill.

Clause 2

HON CHIEF MINISTER:

Mr Chairman, the Leader of the Opposition will I am sure remember that when we took the Second Reading of this Bill, an issue arose about the reference to this phrase "relevant foreign state" and although I gave him an explanation at the time off the top of my head, I told him I would seek confirmation of it and give it to him during the Committee Stage which I now do. I am happy to say that my explanation at the time was accurate. The Insurance (Motor Vehicles) (Third Party Ordinance), as it stands today, before it is amended by this Bill, dates back to 1986. Earlier versions, for example, that originally appearing in 1984 Laws of Gibraltar, made no reference to the phrase "relevant foreign state". Such reference was included for the first time in the 1986 Ordinance to give effect to a series of bilateral agreements extended by the UK to Gibraltar between the UK and certain non-Community states regarding motor insurance. The effect of those references was to place relevant foreign states on a par with Community states. Thus, in Section 10, vehicles from Community member states or a relevant foreign state are given a special derogation from the requirements to carry a Certificate of Insurance and in Section 12(1)(a)(I) vehicles from relevant foreign states are given the same rights as vehicles from Community states in that their drivers do not need to produce evidence of third party insurance when entering Gibraltar. Therefore, the point is clear, relevant foreign state is added to member states to the extent that other states have, by agreement, extended to them the same right as member states.

Clause 2 was agreed to and stood part of the Bill.

The Long Title was agreed to and stood part of the Bill.

THIRD READING

HON ATTORNEY-GENERAL:

I have the honour to report that the Insurance (Motor Vehicles) (Third Party Risks) Ordinance (Amendment) Bill

1998, has been considered in Committee and agreed to without amendments and I now move that it be read a third time and passed.

Question put. Agreed to.

The Bill was read a third time and passed.

PRIVATE MEMBERS' MOTIONS

HON J J BOSANO:

I beg to move a motion of which I have given notice, namely that:

"This House calls on Her Majesty's Government to formally reject the Matutes proposals of the 10<sup>th</sup> December 1997 without further delay".

Mr Speaker, there really should have been no need for this motion in the House, given that Her Majesty's Government was formally requested to do so in January of this year and that in fact at no stage have they given any public explanation in answer to questions in the House or in other ministerial statements as to why they claim to be continuing to study something which they know is unacceptable and was unacceptable indeed from the first day. The actual proposals which, of course, is only a small part of a statement which included a lot of other things which are equally objectionable, have already been put informally and verbally to the previous Conservative administration and rejected on the spot by Mr Malcolm Rifkind when he was the Foreign Secretary. I think it is even worse for the Labour Government to be saying that what they are doing is studying something because they are obliged to look at the proposals that are put by Spain under the terms of the Brussels Agreement, which is what they have said, when those proposals have previously been floated informally and rejected on the spot because the whole purpose of floating something informally is in fact so that one does not go through the procedure of tabling something. This is a fairly normal thing in any negotiating process, people are sounded out and if something has got no mileage whatsoever, no prospects whatsoever, rather than finish up with a conflictive situation, the proposals are not formally tabled. The only explanation that one can think of was therefore that the Spanish Government decided to proceed with something which they had already had signalled to them was not going to get anywhere because they must have thought there was greater

receptivity as a result of the change of Government. Of course, it is very bad from our ideological position, quite reprehensible, that a Labour Government should permit such a misconception to continue for so long. Frankly, I would have hoped that in the meeting the Chief Minister recently had with Joyce Quinn when he raised the matter he would have been able to get a categorical assurance that the rejection will take place and I hope when he speaks to the motion in the House he will be able to inform us, and through us the people of Gibraltar, whether in fact such a categorical assurance has been given or any explanation has been given to him as to why it is they still think they have something to study after all this time. Certainly, in the answers he has given to questions in this House on this particular subject, he has himself expressed an inability to comprehend what it is that the studying consists of when really there is nothing there which would suggest that there is an alternative which one can respond. The whole purpose of starting proposals in a negotiating process is because there is enough common ground so that one can then come back and say "Well, look, I do not agree 100 per cent with what you have proposed but I have got an alternative counter proposal to make". For a proposal to be under consideration and being studied for nearly a year and then to be rejected flat, is in our judgement, not conducive to improving relations with Spain but in fact we are doing the very opposite, that is to say, bringing a deterioration because in fact what one is doing, is whether one wants to or not by that approach is raising unjustified expectations. Consequently, the fact that those expectations will not be met create more resentment than if the expectations had not been raised in the first place.

We all know that the basis of the proposals of Sr. Matutes are really no different from that of Fernando Moran made in 1985 to coincide with the opening of the frontier. The Moran proposals were never brought to this House or debated in this House or raised in this House because initially they were put forward under confidential cover and they were provided to the Government of Gibraltar, to the Chief Minister of Gibraltar in October 1985 on a confidential basis. There was no knowledge in Gibraltar as to what had happened to those proposals or what they contained until Sr. Moran, without bothering to tell his British counterpart decided to include them in full in his autobiography. The British were still saying they were confidential when everybody could go and buy in any bookshop and read the whole thing. It was then that we became aware of their

existence. Certainly, the British Government had at no stage asked us what we thought of those otherwise they would have been rejected flat but we did not even know they were there. The position of the British Government then was that they were sort of shelved, they were not under active consideration and that it was better not to raise it on the basis of letting sleeping dogs lie. It was shelved and forgotten and as long as they are forgotten they are okay. If we raise it then what we are going to be doing is rocking the boat and that is going to be worse for us and they were against that. The advice of the experts in the Foreign Office was that it was not in our interests to revive the matter, We disagreed with that view and on our insistence we were given a political commitment that they would be rejected at the earliest opportunity and when the earliest opportunity came, which was the next round of talks, we asked for confirmation that they had been rejected and we were told "yes, they have been rejected" and when we asked for the record of the meeting at which they had been rejected we were told that they were rejected in the corridors. So then we said "Okay, as far as you are concerned they were rejected in the corridors but we want it rejected "on the record" and then they went back again and they rejected it on the record. I am putting this in the context of this motion because the reluctance of the United Kingdom in the past even though, to be fair to the Conservative Government of the day, they never actually said they were studying them or considering them or doing anything with them other than shelving them and that they thought that as long as they were shelved nothing else would happen and that was the best way to deal with it. We believe that Spain, in terms of its propaganda about the reasonableness of its position has been handed gratuitously a weapon in being able to say to third parties "Well, look, we have made proposals on such a date and they are being studied and we are waiting for the study to be over" but obviously the longer somebody is studying something the more optimistic one tends to become that it is going to lead somewhere. Therefore, we believe that Her Majesty's Government first of all is failing, frankly, to carry out its constitutional obligations to the people of Gibraltar and in particular to the Government of Gibraltar. I think it has no option if it is told "We want this rejected" then the British Government has got no choice but to do what it is required to do because we believe that the nature of the constitutional relationship, particularly in an area which is linked to the Preamble to the Constitution in terms of respecting our wishes is that even if they think that what we wish them to do on our behalf is not what is

best for us, they must limit themselves to giving advice and then doing what it is we want them to do for us. We have to live with the consequences of those decisions and I hope that by carrying this motion in the House and having it transmitted to the United Kingdom Government this will be another plan as has been the delivery of the petition to the Prime Minister's Office that will finally persuade the British Government to do what they should have done last January and then none of this would have been necessary because they should have responded to the Chief Minister's letter immediately agreeing to his request. I commend the Motion to the House.

Question proposed.

HON CHIEF MINISTER:

Mr Speaker, the Government will support the Leader of the Opposition's motion. I think that it is a subject matter which is important enough to be debated in this House and indeed to be made the subject matter of a motion. I say that because the same was true between 1985 and 1994 of the Moran proposals and of course it is worth just recording that nobody, including the Leader of the Opposition, thought it necessary or appropriate to bring a motion calling for the formal rejection of these proposals which were agreed should be rejected. The Leader of the Opposition has given an explanation about why it was not debated, the Moran proposals themselves could not be debated, this confidentiality business but certainly we all know that they existed, at least Governments between 1985 and indeed the Leader of the Opposition at the time may not have known that they existed, I do not know, he did not make that clear whether Sir Joshua Hassan informed him of the existence of the proposals albeit not of the details, but in any case, even when he discovered their existence he limited himself to doing what I am now doing which is to try and persuade the British Government to reject them and he did not consider in 1992 or 1993 that it was necessary to arm himself with a motion in this House and I do not say that in any sense. I think to be armed with a motion in the House helps, whether it would be sufficient additional plank to add to the petition, to add to the fact that every political party in Gibraltar has called for it, as if all of that were necessary, given that the British Government already know well what the position of everybody in Gibraltar is.

Mr Speaker, I think it is instructional to consider the terms in which Douglas Hurd eventually formally rejected

in November 1994 the Moran proposals of 1985. He was asked by a Member of the House of Commons "if he would clarify HMG's policy over the 1985 Moran proposals on the future of Gibraltar following recent Spanish statements and if he will make a statement" to which he answered "we told the Spanish Government at the last Brussels Process meeting in March 1993 that we could not accept the proposals put to Sir Geoffrey Howe by Mr Moran in 1985, the Moran proposals, as a basis for talks because of their pre-condition that sovereignty would be transferred. That position has not changed. Our commitment to the people of Gibraltar is clearly set out in the Preamble to the 1969 Constitution. We will never enter into arrangements under which the people of Gibraltar would pass under the sovereignty of another state against their freely and democratically expressed wishes". In other words, what Mr Hurd was saying without using the word "reject", without saying that they are not acceptable to the UK, what he was actually saying was that the UK could not accept them because of their commitment to the Gibraltarians. Mr Speaker, I believe that is the very least, which is the same, that needs to be done in relation to the Matutes proposals which as the hon Member says are very similar. It is interesting that the hon Member says that the basis for the proposals are no different. I am not sure he has had access to the whole document, if he has not I would happily give him one, but if he has he will have noticed that Sr. Matutes claims that what is new precisely is the basis because what he says is that this is the first time that the proposals have been put in the context of the legal base of the Spanish Constitution. That is what he alleges in the document constitutes the novelty as opposed to the Moran proposals which had just been a general floating of the concept without anchoring them in particular clauses of the Spanish Constitution and without explaining the organic nature of the Spanish Constitution that would permit the incorporation of these proposals in the context of specific Spanish constitutional provisions.

Mr Speaker, the Matutes proposals are intrinsically and exclusively about a transfer of sovereignty and I think the point has to be made that although Sr. Matutes delivered a four-page speech on the 10<sup>th</sup> December 1997, the so called proposals themselves are three lettered paragraphs and everything else is comments and are not to be regarded as part of the proposal. Given that the Matutes proposals are intrinsically and exclusively about a transfer of sovereignty there is no other aspect, no other content in the proposals. Given that Her Majesty's Government is committed to respect our wishes on the

question of sovereignty, given that we have made our wishes clear, all of us here in Gibraltar have made our wishes clear, it is not therefore possible for HMG to square a circle other than by indicating at the very least what Hurd indicated was that the UK cannot accept them because of the sovereignty commitment, because of the commitment to respect our wishes which wishes have been articulated. And given that those are things that the British Government say frequently anyway, albeit in isolated bits and pieces... the United Kingdom is constantly reminding us about its commitment to the Preamble, it is constantly reminding us about its commitment to our wishes and therefore all it needs to do is put the three sentences that it habitually says anyway in one paragraph, Hurd style, and that would amount presumably to the same comfort and satisfaction as indeed Gibraltar derived from the Hurd style of "rejection".

I think, Mr Speaker, since we are debating the matter generally, why it is that we consider it important that these proposals should be rejected in the sense of Britain making it clear that there is no mileage against the wishes of the people of Gibraltar and that therefore Britain cannot accept them. We have expressed the view, in the past on several occasions, that leaving them on the table is not dangerous because of any risk that they might be implemented, because Mr Speaker, it is important to take account of what the United Kingdom's position actually is in relation to the Matutes proposals. We think that the damage, the danger, of Britain not indicating in unambiguous language its non-acceptance, is not that there is a danger that they might be implemented, but rather the danger that time is being wasted because as the Leader of the Opposition has articulated in a slightly different way, Spain is entitled to believe that at least it is in the right ball park to play the game if its parameters are allowed to lie on the table and it is not indicated to them that they are not parameters which, if they lie on the table, that it is not possible that such parameters can lead to constructive, reasonable, fruitful dialogue. In a sense it is a destruction. It delays the day when Spain might be persuaded to take a more moderate view of her position and her aspirations in relation to Gibraltar. It needs to be also borne in mind that the position put by the Foreign Secretary on the doorstep on the 10<sup>th</sup> December 1997 with Sr. Matutes standing by his side, he said "I can certainly confirm that Mr Matutes presented the proposal in full detail and that he presented the Spanish case with vigour. I think Mr Matutes will also agree that I was equally firm in stating the British case and

the British position is restated in the Declaration we have read. Both before and during the meeting I have made it clear that Britain will not compromise on the issue of sovereignty against the wishes of the people of Gibraltar. Both Britain and Spain are democratic countries with strong democratic institutions, that is why we take the firm principle that the future of Gibraltar must be one that is decided by the people of Gibraltar themselves". He was then asked by an ingenuous journalist "Could the Foreign Minister please give a message for the people of Gibraltar, the heroes of the long-standing Gibraltar problem" and he answered "I think I have just done that in my very last answer in which I made it very clear that for Britain there can be no compromise on the principle of sovereignty against the wishes of the people of Gibraltar and I have repeatedly expressed the view that it is important that the people of Gibraltar should never again be put under siege and that we should try and build a positive relationship. That is why, as part of the process, Britain would wish to table proposals that will assist in economic cooperation and help in building confidence and trust". Therefore, there is in fact no question of these proposals being acceptable to Britain. Mr Cook has, in effect, said as much on the doorstep of Carlton Gardens and I think all that is now required is for the same sentiment to be put by way of a formal response to the proposals at the next round of talks.

More recently the British Ambassador to the United Nations, in answer to the Spanish statement in October of this year said "British sovereignty over Gibraltar was clearly established in the Treaty of Utrecht. This legal fact is incontrovertible. Moreover, the British Government stands by the commitment to the people of Gibraltar contained in the Preamble to the 1969 Constitution of Gibraltar which states..." and then he goes on to say "Spain's offer to integrate Gibraltar into Spain which Sr. Matutes restated here earlier today can only prosper with the freely and democratically expressed support of the people of Gibraltar". In a sense, that is what Douglas Hurd said when he said, of the Moran proposals "look, whatever we think of them, we cannot accept them". Therefore, I think that Britain's position in relation to the text of the substance of what its commitment is is the correct one. What it now needs to do is to convey that position, not on the doorstep of Carlton Gardens, not in the United Nations, helpful as that is, but in the same process and as part of the same process in which the proposals were put formally to him. I think it is worth, for the benefit of those persons who

have not read the Matutes proposals, just summarising what the proposals are. People may be labouring under the misapprehension that they are a long and detailed and full of bits that are better than others. The reality of it is that the proposals as put in the 1997 Brussels meeting and as subsequently repeated in the "Cortes" in Madrid subsequently by Sr. Matutes is limited to just three essential points. One is that they propose an autonomous statute for Gibraltar, within the Spanish state and under the Spanish Constitution, similar in political and administrative autonomy to the Spanish autonomous regions, that is point one out of three. Point two, is that they are willing to negotiate a preferential regime for Gibraltarians so that we as individuals, not as territory, as individuals could choose British nationality, Spanish nationality or dual nationality. That is the second of the three points in the proposal. The third and last point in the proposal, and there are no others except those three, is that as a guarantee of compliance with these principles, Spain would be willing to accept a transitional period during which sovereignty of Gibraltar would be exercised jointly by Spain and the United Kingdom, prior to the definitive transfer of sovereignty to Spain. When I say that in a nutshell is the proposal, I think a nutshell is unnecessarily derogatory, that is the proposal. There are then six lines which explain what each of those things mean but that is the proposal. There is no other part of the proposal. During the speech in which he formally outlined these proposals Sr. Matutes also restated Spain's formal and traditional claim which he described as "permanente and irrenunciable", permanent and irrenounceable. He asserted in the speech that went with the presentation of the proposal that as Spain is now a democracy it is no longer necessary or appropriate for Her Majesty's Government to continue to respect its commitment to the wishes of the people of Gibraltar. He recognised that there was no solution that could be imposed by force or could be imposed on the people of Gibraltar, the so-called principle of consent and of course that is a helpful first step. To the extent that Spain's position until that time had been that Britain should hand over Gibraltar to Spain whether or not the people of Gibraltar consented, that Sr. Matutes should now say that he recognised that there could be no solution to the sovereignty claim which was imposed on the people of Gibraltar, that was a welcome novelty. But of course it has got to be remembered that whilst it is a helpful, apparent commitment to the principle of democratic consent, it was not part of the proposal. The proposal itself was inevitably and inescapably an

immediate jointly Spanish Gibraltar followed by an inevitably wholly Spanish Gibraltar. Therefore, his apparent adherence to the principle of consent did not extend to the ultimate outcome which would need to be a Spanish Gibraltar and helpful as though the adherence to the principle of consent as a principle is, and I recognised publicly at the time, and I recognise again here today, that it is an interesting novel constructive step but no more than that in the right direction. Its full democratic value was somewhat demonetised, somehow diminished by the fact that it came in the company of threats as the consequences of non-acceptance of these proposals. If Sr. Matutes had said "Look, there can be no change in the sovereignty of Gibraltar without the consent of the people but our claim is not going to go away and they can either consent to our proposal or not and if they do not they have to stay as they are", we would not have liked that either but at least it would have been a genuine adherence to the principle of consent. Regrettably, Sr. Matutes could not resist the temptation to spell out in detail what would be the consequences of us failing to exercise our newly-given right to consent in the manner in which they expect and the Matutes document itself actually spells out the consequences of non-acceptance by Gibraltar of these proposals. It is a recognised valuable contribution to the future that Sr. Matutes should adhere to the principle of consent. It is diminished in its value to the extent that it comes coupled with a threat. Mr Speaker, I think we would all in this House subscribe to the view that in a democracy, unacceptable proposals do not become acceptable simply because they are accompanied by threats. I do not know if the time will come when some future generation of Gibraltarians will be left with no alternative, having been brought to their knees, to capitulate to the Spanish ambition over Gibraltar. But if it does, and if it does happen, no one should delude themselves into believing that they have participated in a democratic process, still less one in which the genuine concept of consent had been recognised.

Mr Speaker, the Government have urged Her Majesty's Government to indicate to the Spaniards that the proposals cannot be accepted by the United Kingdom. That they are unacceptable to the United Kingdom and they should do so in language similar in effect to that used by Mr Hurd when rejecting the Moran proposals and that that would suffice. The Government of Gibraltar remain ready, able and willing to participate in talks with Spain provided that this is on the terms that we have issued which are that they should be safe, meaning that

nothing can be agreed at those talks in relation to any matter affecting Gibraltar, not just sovereignty, over our heads and that they should be dignified by which we mean that we should have a proper voice, separate voice, of our own to speak for ourselves at those talks. It is not reasonable for Spain to pre-ordain the parameters of talks by conditioning them to her proposals. Nor is it reasonable to regard rejection of her proposals as an act of provocation or an obstacle to talks. Even if one does not call them talks, even if one wants to go further and call them negotiations, I have not been a negotiator all of my life but I am not aware that it is a conventional technique of negotiation that the parties start the process without asserting what their position is in relation to the opponent's opening position. In a negotiation what normally happens is that one party comes to the table with its proposals and the other says that is not acceptable to me and the other says well this is my proposal and the other says that is not acceptable to me but nevertheless we are going to talk. For Sr. Matutes to say, as he has recently said in respect of my interview in ABC, that it was provocative simply because I asserted our desire and our right to exercise jurisdiction and control over our waters, is not reasonable. What is provocation is that Spain should not limit herself to stating her position, which is not provocation, what is provocation is that she should accompany a statement of her position with the threat of Plan B. It is the threat of Plan B that is a provocation and not the simple assertion of our position in the matter which ought to be a provocation to nobody even though they may disagree with it.

Mr Speaker, the search for a solution must be based on the foundation that the principle overriding factor is the consent and wishes freely and democratically and without pressure expressed by the people of Gibraltar and that only the people of Gibraltar can decide their own future as the Foreign Secretary told Sr. Matutes on the 10<sup>th</sup> December 1997. Those are the democratic parameters of dialogue and I much look forward, if possible, to participating within those parameters in constructive dialogue with Spain.

HON J J BOSSANO:

Clearly, Mr Speaker, the latter part of the contribution of the Chief Minister is one with which we are not in agreement, but of course, that is not required in order to support the motion. I do not want to dwell a great deal on that part but I feel that we have to respond

since the points have been made. I do not know whether they are now going to be better equipped to attend the talks in a dignified manner after the 1<sup>st</sup> January, given that their salaries are going to make them more dignified that they have been until now. Being dignified obviously is something that carries a great deal of weight with the Chief Minister.

The fact that these proposals have been made and are not rejected is serious because they are not proposals that the Spaniards have made out of some whim. The British Government, in answering the last time the matter was raised in the House, Joyce Quinn, in answering, said that they were studying the proposals as they are required to do by the terms of the Brussels Process. Therefore, attending the Brussels Process, whether in a dignified or non-dignified manner or whatever label one wants to put to it, is accepting that one is participating in a forum which requires one, according to Joyce Quinn, to study proposals for the transfer of sovereignty, because the issues of sovereignty have to be discussed. It is all very well for the British Government to say as the Chief Minister has quoted they said in the United Nations in October that their legal title under the Treaty of Utrecht was not in doubt, but of course, by saying their legal title under the Treaty of Utrecht is not in doubt they conveniently forget that for the first time ever they accepted in 1984 the Spanish view that there were issues of sovereignty not covered by Utrecht and that is why the issues were in the plural. This is what the Spaniards are able then to use against us when they question whether we have got a title which is legally enforceable in territorial waters or a title which is legally enforceable in the isthmus. The Moran proposals from the beginning drew attention to the fact that the issues were more than one and so do these proposals. That had never been there before 1984, the British Government had never considered that point before 1984, they considered it for the first time then. We will always remember, those of us who were around at the time, how the Convent issued a press release where it appeared in the singular and when they were challenged as to why it was that the Spanish version that had been published in Spain had "issues" in plural and the British version that had been issued in Gibraltar had it in singular the explanation, which was rather hard to swallow, was that it was a typing error. Some typing error. That was in 1984. The fact that the proposals in the terminology used by Douglas Hurd are not acceptable to the United Kingdom because they are not acceptable to us, one can argue that that is the democratic principle but the

British Government's democratic principles and the British Government's commitment to respect our wishes is constrained and limited only to respecting our wishes in terms of a transfer of sovereignty. That is what the Preamble to the Constitution says. The fact that the proposals are not acceptable even as a starting point is not something over which they accept that we have got any right to tell them what to do because there is a conflict. There is a conflict between a requirement to accept and study proposals which ought to be turned down flat on the spot. In our view there is a conflict between the terms of reference of the Brussels Agreement based on UK Resolutions which are unacceptable to us and the commitment that the United Kingdom gave our people after the 1967 Referendum. There was a shift in the British position post the Referendum, post the UK Resolutions. Therefore, when the British Government say in the context of receiving proposals for joint sovereignty as a transitional position before full Spanish sovereignty is attained, that they are going to put counter proposals for economic cooperation and to produce confidence-building measures, what do they mean by that? Against the background and against that context it is only capable of meaning one thing. It can only mean one thing to the Spanish side that is listening to that. If I am putting proposals in a negotiating forum and I know that the problem is how does one sell the proposals to the Gibraltarians, because unless we can sell it to a majority of the Gibraltarians, we are not going to be able to implement this and the other side says "Well, why do we not have proposals for economic cooperation to build confidence and trust?" For what purpose? For the purpose of brainwashing our people into accepting what they are not prepared to accept now. That element is the element that continues to be there and continues to keep the Spanish hope alive. When the Spaniards react as they do is when the Government of Gibraltar say, on occasions, that there is no possibility whatsoever that these proposals are unacceptable. Then when they see that the door is being totally shut they move from trying to persuade us of how well off we are going to be with them, to threatening us with how badly off we are going to be without them. But that is when one shuts the door firmly on their noses but as long as one gives them the slightest hope that then maybe with the passage of time and by talking and by dialogue and by getting to trust each other, then maybe enough of us can be persuaded to sign on the dotted line. Then that alternative route which they defend on the Government side as being perfectly consistent with democracy, well all I can say Mr Speaker is that nobody ever suggested

that there should be periodic referenda post integration to opt out. The decision that is taken is a one-way ticket which is irreversible. We cannot stop any future Gibraltarians if they choose to do so from handing over our country to our neighbour, because as far as we are concerned, this is not a question of Spanish proposals to reintegrate us, it is a question of Spanish proposals to annexe us. We cannot stop people in the future deciding to give up their country if they want to, there is no way of stopping it, but certainly our job as far as we are concerned, is to campaign to persuade people not to do that and to do everything in our power to dissuade them and to support all the measures that make it less likely that that will happen because we do not want it to happen. Because we do not want it to happen, we are not going to make it easy for it to happen. We are going to do everything in our power to make it difficult. If the Government Members are as committed to seeing that this does not happen as we are, then it is not a question of saying "well, if the majority want it, so be it". If the majority wanted to integrate with Morocco tomorrow, what? So be it? Or if they want to integrate with Portugal? It does not arise. We have got a claim from a hostile neighbour, nobody can guarantee in Gibraltar what would happen to our people if they got away with what they have been trying to do for so long. We have seen hundreds of cases in history of people not having their rights respected once they sign on the dotted line. Is it not the case that the rights of the people of Hong Kong depend on the goodwill of China and that the United Kingdom can do absolutely nothing and will do absolutely nothing except written moans if in fact their civil rights are suddenly removed. What are they going to do? Sanctions against the Peoples Republic of China? We all know that in the real world, this is the reality, people are abandoned and betrayed and have been throughout human history. Therefore, we must not put ourselves in a vulnerable position by wanting to appear to be more reasonable. Without wanting to go further down the route of the area where there are disagreements between us, at least we ought to concentrate on whether there is agreement and I sincerely hope that the strength of feeling that is reflected in my having to bring the motion to the House which I wish would not have been necessary, I would have much preferred, frankly, that the Government would have been able to announce that I put a question some months ago, that they had had a reply from the United Kingdom Government and I note that although in my initial remarks I said I hoped that the Chief Minister would be able to tell us whether in fact Joyce Quinn...

HON CHIEF MINISTER:

Yes, it is true he did ask me if I could say whether I had had any explanations as to the United Kingdom's position and I will tell him. I will tell him the explanation that has been given to me. I think I have said so publicly before but the hon Member may not have heard me.

The British Government's position is simply that the Matutes document contains two options - keep talking and we will carry on being nice, although carry on being nice is an extremely relative term, but if our generosity is snubbed the alternative is Plan B. That is why when I was asked recently by journalists in Algeciras whether I doubted that Plan B actually existed, I said no. They may not have noticed, but the details of Plan B was actually announced by Sr. Matutes on the 10<sup>th</sup> December 1997, both in London and in the Spanish Parliament. The United Kingdom's position is "Well, what can we do, what position can we adopt which at the same time enables us to honour our commitment to the people of Gibraltar without provoking what they regard as an inevitable backlash from Spain in the event that they..." to use the hon Member's words "...shut the door completely on their face". That is the dilemma that London thinks it faces and that is the reason why they do not. At the end of the day as the hon Member has said to himself this community makes choices and then is required to suffer to live with them. The fact is, however, that in a democratic Europe involving three democratic countries the consequence of exercising a choice should not be Plan B. The consequences of exercising your choice should be "I recognise that you have exercised the right of consent which I generally recognised in your favour in the last part of my speech to your Foreign Secretary on the 10<sup>th</sup> December 1997".

HON J J BOSSANO:

Mr Speaker, I am grateful for that explanation. In fact, I have to say my view is and has always been that if we want to be given the right then the United Kingdom must limit itself to giving us advice of what they think is best for us but at the end of the day they must act as we want them to act. Therefore, the United Kingdom must necessarily reflect what we want them to be even though they may point out to us all the risks that that entails. We take those risks on with open eyes. Let me say that I agree that it is the first time that the Spanish Government has said that they recognise that changes in

our sovereignty require our consent but in fact that is not what Sr. Matutes said. What Sr. Matutes said was that it had always been the position of Spain, that it was a myth, he said in his statement, to suggest that Spain had ever wanted a solution imposed on the Gibraltarians.

HON CHIEF MINISTER:

I think the reference to "myth" related to interests, not to wishes. That is my reading of the document. He obviously has it, I am quite happy to sit with him and go through it together, but my understanding of it is that what he was saying was it is a myth that we would not take your interests into account, but in so far as wishes are concerned, my understanding of it is that it is the first recognition, but it is a matter of interpretation.

HON J J BOSSANO:

I believe, Mr Speaker, that what Sr. Matutes said in his statement was that that had always been the Spanish position although I do not believe it to be true. I believe he said it but I do not believe that it is true that that has always been the Spanish position. The closest that Sr. Moran came to that position was to say, in a public statement, that if the British were prepared to hand over Gibraltar to Spain on a plate, without the consent of the Gibraltarians, he would accept it as Foreign Secretary but that he did not think it would be a good business for Spain to get it in those circumstances. That is the closest that I have ever heard a Foreign Secretary before Sr. Matutes mentioned the involvement of the Gibraltarians in the decision-making process. I agree that the Spaniards have got absolutely no right to take the view that the choice is that either we accept what they want or they get nasty with us and that that is a respect for the democratic process. But it is not something that the Spaniards have ever hidden. They have always made it very clear that their policy in terms of Gibraltar was the stick and the carrot, on the premise that they genuinely believe that the British agreed in 1984 to implement the UN Resolution of 1973 and whether we like it or we do not, if the Spanish Government believe that there is a UN Resolution... look at the business that we have been witnessing in the last few days on the news over people defying UK requirements and resolutions. As far as the Spaniards are concerned, 25 years ago they got a Resolution from the United Nations, non-binding of course, but they got a Resolution from the United Nations which the United Kingdom supported. The

Resolution of 1973 was co-drafted. It may not be binding but if I agree a text tomorrow on a motion and we all vote in favour in this House, if we have got a motion as we had before on Father Devlin where we are co-sponsoring it, this is what happened in the United Nations in 1973. The Spanish Ambassador and the British Ambassador co-sponsored a consensus motion on negotiations over Gibraltar's future. It may not be binding, but it is certainly not an unusual expectation on the part of one of the co-sponsors to believe that the other co-sponsor intends to deliver, intends to genuinely pursue that route. Therefore, what the Spaniards are saying is, after 25 years they happen to believe they have been generous with us in opening the frontier and in letting traffic flow across, on and off, across that frontier, they believe that they have been making the gestures. The fact that we do not share their views is neither here nor there, that is how they see it from there. They believe they have been doing all the good things and we have not done anything in exchange and the United Kingdom has not done anything in exchange and consequently the Spanish approach, which I think is so dangerous for us is that they are able to go round the world telling people "Well, look, we are the only ones that make proposals". The Chief Minister said if one wants to call it negotiation, if one side rejects the proposal, yes, but if one side rejects the proposal the normal thing is that they make counter-proposals and the United Kingdom is not in a position to make counter proposals. The United Kingdom is not in a position to say "well, look, we propose that the autonomous statute should be changed and that instead of being like the Basque country, it should be like Geneva in the Swiss Confederation, that is our counter-proposal". They are not in a position to say "we believe the joint sovereignty should be not indeterminate but indefinite or that it should be subject to referenda..." All those things, if they happened, would be in my view totally consistent with the commitments that the British Government has given to the Spanish Government going all the way back to the 1973 Resolution. But it is not something that they ever had the support of people in Gibraltar to give and I think that is the problem. The problem is that on the Spanish side they genuinely feel that the British side have been leading them up the garden path for a quarter of a century and if they decide that they have had enough, they are going to decide and they are going to make us pay the price for it and not anybody else. It is all very well for the United Kingdom to point out the risk that exercising our freedom of choice involves but they are naturally responsible for putting us in this predicament. When they landed the

AACR Government with the Brussels text in 1984 the Government of Gibraltar were not in a very strong bargaining position to tell them what to do with the Brussels proposal. They had major problems like the MOD closing the dockyard down at the same time. Therefore, I think that the sooner we can get the United Kingdom to put an end to the whole damned system once and for all the sooner we are going to extricate ourselves from the difficult situation we are in. If it was not for those parameters, Mr Speaker, then everything that the Government say about wanting to develop dialogue and understanding and good relations and good neighbourly relations and all the rest of it with which nobody has ever disagreed in Gibraltar, all of that would be tenable and defensible except as part of a process which has already got the final landing point marked and has had it marked from day one. These proposals are not proposals of Sr. Matutes in a vacuum. They are the direct, logical, inevitable consequence of the rejection of the 1967 Referendum by a vote of two to one in the United Nations and of a Resolution, sponsored by the United Kingdom and the Kingdom of Spain, calling for a joint negotiating process leading to our decolonisation. Obviously the Spaniards are going to be miffed if they see that what they thought they had gained 25 years ago, not only has not given them the goods that they expected it would deliver but they are slipping from their fingers altogether. If they see they are going to be losing what little advantage they think they had gained initially and which has produced so little for them, they are bound to make threats to constrain our right of choice. We must send the message back, through the British Government, that the Chief Minister sent recently when he spoke in Cadena Ser. If the position of the Government of Gibraltar is to say to Sr. Matutes that he either shuts up or carries out his threats, then the best way to make that known to him is to have a complete rejection of his proposals and then let us see what he is capable of doing. I will now give way to the Chief Minister.

HON CHIEF MINISTER:

Just to clarify the point that we were debating about the content, if Mr Speaker will allow me to translate loosely, rather than read in Spanish: "The Gibraltarians can rest at ease and forget the absurd propaganda about the supposed intention of Spain to force a solution against their interests." Then in the next paragraph it starts talking about wishes and therefore if that is the sentence to which the hon Member was referring, then it

is by reference to interests and not wishes... I am grateful to him for giving way.

HON J J BOSSANO:

Thank you, Mr Speaker, I have nothing further to add and I commend the motion to the House.

Question put. The motion was carried unanimously.

Absent from the Chamber: The Hon R R Rhoda  
The Hon T J Bristow

#### ADJOURNMENT

HON CHIEF MINISTER:

Mr Speaker, as we have ended on a constructive note it becomes easier for me to rise to my feet and wish all Members in the House a happy Christmas. The Chronicle has already pointed out this morning that it will be a prosperous new year so I will not bother to repeat that. We can convene again in the new year, can I now therefore move that the House do now adjourn sine die.

Question put. Agreed to.

MR SPEAKER:

It has always been traditional for the Speaker also to wish the Members of the House a happy Christmas and a prosperous New Year. Whether traditional or not I wish jointly with the Clerk and the staff of the House to wish the individual Members the very best but I would also like to include the members of the press, the media and the public who attend these proceedings, I think it is only fair.

The adjournment of the House was taken at 1.05 pm on Thursday 17<sup>th</sup> December 1998.