

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

8TH MARCH, 2000

(adj to 13th, 19th, 29th April; 8th May;
31st May, 1st, 2nd June (Budget);
and 29th June)

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Second Meeting of the First Session of the Ninth House of Assembly held in the House of Assembly Chamber on Wednesday 8th March 2000, at 3.00 pm.

PRESENT:

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

GOVERNMENT:

The Hon P R Caruana QC – Chief Minister
The Hon K Azopardi – Minister for Trade, Industry and
Telecommunications
The Hon Dr B A Linares – Minister for Education, Training,
Culture and Health
The Hon J J Holliday – Minister for Tourism and Transport
The Hon Lt-Col E M Britto OBE, ED – Minister for Public Services,
the Environment, Sport and Leisure
The Hon H A Corby – Minister for Employment and Consumer
Affairs
The Hon J J Netto – Minister for Housing
The Hon Mrs Y Del Agua - Minister for Social Affairs
The Hon R Rhoda QC – Attorney-General
The Hon T J Bristow – Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano – Leader of the Opposition
The Hon Dr J J Garcia
The Hon J L Baldachino
The Hon Miss M I Montegriffo
The Hon Dr R G Valarino
The Hon J C Perez
The Hon S E Linares

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 23rd February 2000, having been circulated to all hon Members, were taken as read, approved and signed by Mr Speaker.

DOCUMENTS LAID

The Hon the Chief Minister laid on the Table the Financial Services Commission Annual Report and Financial Statements for the year ended 31st March 2000.

Ordered to lie.

The Hon the Minister for Trade, Industry and Telecommunications laid on the Table the Town Planning (Environmental Impact Assessment) Regulations 2000.

Ordered to lie.

The Hon the Attorney-General laid on the Table the Revision of the Laws (Supplements Nos. 12 and 13) Order 2000.

Ordered to lie.

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

1. The Accounts of the Government of Gibraltar for the year ended 31st March 1998 together with the Report of the Principal Auditor.

2. The Report and Audited Accounts of the Gibraltar Broadcasting Corporation for the year 1997/98.
3. Statements of Consolidated Fund Reallocations approved by the Financial and Development Secretary (Nos. 2 to 4 of 1999/2000).
4. Statement of Improvement and Development Fund Reallocations approved by the Financial and Development Secretary (No. 2 of 1999/2000).
5. Statement of Supplementary Estimates (No. 1 of 1999/2000).

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 5.30 pm.

The House resumed at 5.50 pm.

Answers to Questions continued.

The House recessed at 8.30 pm.

The House resumed at 8.40 pm.

Answers to Questions continued.

The House recessed at 11.10 pm.

The House resumed at 11.20 pm.

Answers to Questions continued.

The House recessed at 11.55 pm.

FRIDAY 10TH MARCH 2000

The House resumed at 9.35 am.

Answers to Questions continued.

The House recessed at 11.00 am.

The House resumed at 11.10 am.

BILLS

FIRST AND SECOND READINGS

HON CHIEF MINISTER:

Mr Speaker, before we move on to the next Question, I would like to take this Bill before the recess, so I beg to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the First and Second Readings of a Bill.

Question put. Agreed to.

THE SUPPLEMENTARY APPROPRIATION ORDINANCE 2000

HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have the honour to move that a Bill for an Ordinance to appropriate further sums of money to the service of the year ending with the 31st day of March 2000 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. The Bill deals with further sums to be appropriated in the current financial year. Part 1 of the Bill seeks the appropriation of an additional £1.8 million from the Consolidated Fund and Part 3 of the Bill an additional £19,016,000 from the Improvement and Development Fund. The requirements that give rise to the need for the further sums to be voted by the House are set out in the Statement of Supplementary Estimates No.1 which were laid in the House earlier this week.

Mr Speaker, with regard to the Improvement and Development Fund Head 101, I have given notice that I will be moving an amendment at the Committee Stage. The amendment was to increase the amount of money in Head 101 in respect of Subhead 3 Harbour Views from £750,000 to £1 million. I need to revise this figure now and in fact we will be seeking £1.5 million in that Head. Unfortunately, in the Treasury we have no control over the flow of invoices from contractors and I have seen the architects certifying the bills who are aware that we are putting a motion to the House. They have been very quick on their feet in presenting their bill.

The total Improvement and Development appropriation as a consequence of the amendment will be that we will be seeking £19,766,000. Provision is made in Part 2 of the Bill for financing the increase in the Improvement and Development Fund expenditure and consequent to the amendments I have just made we will be seeking in Head 15, Part 2 of the Bill, £20.5 million. The final part of the Bill, seeks to regularise two small excesses of expenditure of £1,411 and £60,583 in respect of the financial years 1996/97 and 1997/98 respectively. This excess expenditure, as the Principal Auditor states in his Reports on the Accounts for those two years, requires to be approved by way of Supplementary Appropriation.

Before giving way to the Chief Minister to explain in more detail the Government's proposals, I would like to just make three small points which may be helpful to hon Members in their consideration of this Bill. First, from the statements I laid in the House earlier this week, hon Members will be aware that we have used up about £0.5 million of the supplementary funding head in the Consolidated Fund which leaves a further £2 million to be allocated. The reason why we require the additional appropriations in the Consolidated Fund is the remaining £2 million are already committed for other purposes and we are simply waiting the finalisation of figures before actually awarding the re-allocation. Second, should all the £1.8 million be required this would largely be offset by higher revenues than estimated and anticipated savings within some Heads of Expenditure and so at the year ended 31st March 2000, I estimate that the surplus of revenue over expenditure will be broadly the same as set out in the Government's Approved Estimates. My third and final point, Mr Speaker, is excluding the two new projects which the Chief Minister will be addressing, the latest indications from all the Government Departments are that the total Improvement and Development expenditure for the year will be broadly around the size we provided for in the Estimates, around £25 million.

I commend the Supplementary Appropriation Bill 2000 to the House and give way to the Chief Minister.

HON CHIEF MINISTER:

Mr Speaker, I ought to say, for the benefit of the hon Members and of the House that the reason for having to suspend Standing Orders and interrupt Question Time to advance the House's consideration of this Bill is that under the terms of the agreement that the Government entered into both to settle the incinerator litigation and to purchase that part of Europort which the Government intend to use for the hospital, payments had to be made by 15th March and that the Government do not have appropriated funds with which to do it, hence the need to appropriate the funds before that date.

Mr Speaker, under the Consolidated Fund the £1 million in Head 3 relates to the Health Authority. Every year the Health Authority under budgets or spends more money than is envisaged. Normally this is dealt with through a suspense account and then it is corrected in the following financial year. As we were bringing a Supplementary Bill to the House anyway for the purposes that I have just described, on this occasion we have dealt with it on that basis. This is the provision through the mechanism of a Supplementary Appropriation Bill of the funding that the Health Authority is going to need extra for this financial year which would normally have been provided after the event in a following financial year. Head 4, Government Services and Sports - £400,000, relates to the purchase of electricity. That in turn arises from three different reasons. One is that there has been higher demand for electricity this year than the Department had estimated in Gibraltar. I think we estimated for 118,000,000 units of consumption and I think we have had 123,000,000. So there has been a higher purchase from OESCO. The massive rise in oil prices in the world has meant that OESCO have the contractual rights to do the FCA formula in the OESCO contract to recover that extra cost from Government and some of the increased demand for electricity has been provided by purchases from the MOD. The total of those three Heads explains the need for that supplementary funding. The increase in cost is more than the £400,000 than is thought. The extra is £656,000 but we are only seeking £400,000 by way of supplementary because the extra £256,000 can be met from supplementary funding funds already available. The hon Member should not think that because the figure that we are seeking is £400,000 that that is the excess expenditure over Estimate, it is not. The actual excess is higher.

Mr Speaker, the Head for Social Affairs relates to the Elderly Care Agency and here the figure sought is hybrid. Part of it is, in effect, what would have been the John Mackintosh Trust shortfall in subvention had they carried on running the Home to the end of the financial year. Part of it is increased costs in running the Home - extra staff that has been employed, capital equipment expenditure, one-off set up expenditure that has originated from the Elderly Care Agency taking over.

Mr Speaker, I would like to mention and I am sure it will be obvious to Opposition Members but just for the record I would say that when we say we are taking £20 million from the Consolidated Fund and we are seeking to spend £19 million in the Improvement and Development Fund, that is not £20 million worth of expenditure, that is just a funding mechanism to get the money that is being looked for in Part 3. The £20 million in Part 2 is just a way of getting the money from the Consolidated Fund to the Improvement and Development Fund.

Mr Speaker, moving then to Part 3 of the Bill, the need for this supplementary funding, the Financial and Development Secretary has already alluded to Head 101 which is Housing. The hon Members are aware that the Government, through the mechanism of loans to Gibraltar Homes Ltd, are providing the funding for the execution of the building works under what is in effect a contract between Gibraltar Homes Ltd and Pitchmastic PLC, the company doing the works. Therefore, the Government, although keeping very close control of the works that are being done and the design specifications, but in the financial aspects the Government are just a funder of Gibraltar Homes. We are not in control of the certification of the contract works which is done by the architects appointed under the contract. Therefore, it is difficult, as the Financial and Development Secretary has explained, for the Government to programme, for the purposes of the Government's own appropriation mechanisms exactly when the Government are going to be called upon to provide funds to pay for all of that. What has happened here is that bills have come in which need to be paid before the end of the financial year and the Government do not have appropriated funds left that we can channel into Gibraltar Homes for the purposes of paying that. Of the new money that the Financial and Development Secretary has mentioned, the £1.5 million, we do not envisage all of that going out before the end of the year but in case new bills come in we are allowing ourselves a small amount of cover in case new additional bills, additional to the ones we already have in hand on our desks, come in before 31st March this year. The supplementaries on Head 102 are basically as a result of unforeseen structural problems in St Joseph's School that had to

be rectified immediately and which cost £250,000 when in fact we had only earmarked £25,000 for ordinary run-of-the-mill remedial annual works. That accounts for that and also the Laguna Social Club and the Adventure Playground cost more than was estimated. Under Head 104 the £17.9 million is made up of the £12.5 million that relates to the incinerator settlement, £5 million is the first payment for the purchase of Blocks 1 to 4 at Europort. The agreed purchase price is £8.5 million, £5 million is payable on 15th March. The balance is payable over three and a half years by three instalments of £1 million and one fourth instalment of £500,000 at 6 per cent interest rate. It may well be that that deferred payment does not survive because when the Government resolve how we are going to fund the hospital generally it may be refinanced and therefore we may pay down that deferred purchase price to the vendors sooner than three and a half years from now. There is £100,000 of elderly care equipment there for the Elderly Care Agency and the other aspects included in that figure is the cost overruns in relation to the Casemates projects due to the extension of that project. Of the amounts being sought in that figure £300,000 of it relates to the Casemates project of that figure of £17,900,000.

Finally, Mr Speaker, I would just wish to say that of course the existence of excess expenditure over appropriated funds which is Part 4 of the Bill is of course regrettable. Government take the view that Controlling Officers should not spend unappropriated funds. The hon Members know that it nevertheless happens historically every year. We are tightening up even further on that. What has happened in the past is that it was not corrected by a Supplementary Appropriation Bill so although the excess expenditure has taken place, the last time it was corrected by an Appropriation Bill after the events, so to speak, was 1989. In subsequent years it was not done. The Principal Auditor appears to believe that it should be done and as we are bringing an Appropriation Bill anyway we thought that we would do so. It is the view of the Principal Auditor that excess expenditure, in other words money spent without the appropriation of this House in excess of the monies voted by this House in the Budget which is technically of course a breach of Financial Regulations

nevertheless needs to be corrected in addition to any other consequence and it is corrected in this way and therefore if that is the Principal Auditor's view then we see no reason why we should not go along with it. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, can I just say first of all that as the House knows, because we made the point the last time a Supplementary Appropriation Bill was brought to the House, we do not believe that the procedure that is being adopted which the last time it happened we were told was in accordance with established practice is in accordance with established practice because it was a procedure introduced the last time for the first time. The previous Supplementary Appropriation Bill was taken by the Financial and Development Secretary and I spoke on the basis that I was speaking as one hon Member and not that the Financial and Development Secretary was giving way to me as happens at Budget time. I made that point the last time and I am repeating the point because since the last time I have checked what happened in the past and that is what happened in the past so I am just saying that for the record.

HON CHIEF MINISTER:

But the hon Member still welcomes the new procedure?

HON J J BOSSANO:

Well, it does not bother me. When we have got notice of the House the first notice said that the Bill was going to be moved by the Chief Minister and we would not have objected to that. Subsequently it was changed to being moved by the Financial and Development Secretary. I am just pointing that it is not a procedure that existed before and my own judgement of the rules was that the rules made an exception for the Budget and not for any other time of the year and that is how it has been working in

practice until the Supplementary Appropriation Bill that was brought the last time. But of course there is nothing sacrosanct about the rules. The rules are made by the House and the House can make different rules if it wants to.

Coming now to the Supplementary Appropriation Bill itself, we will be wanting to ask more detailed information in the Committee Stage when we come to specific items as we would normally do if it was Estimates time. But on the general principles can I say that we will not be supporting the expenditure on the Europort Building because we do not believe that it should be used for a hospital. It might be worth buying it for that money but we do not agree with the use so we will be abstaining on that particular subhead. We accept that if there is a contractual agreement to make the payment it has to be made but we do not support the use for which the Government intend to put the building. I would have thought that it would be possible to make the payment, if it was that urgent, from Advances because the Bill would still be passed within the current financial year by 31st March. If Government feel more comfortable by doing it this way then fine. We have again no difficulty in interrupting Question Time in order to approve the money so that it can be paid on the 15th March if they have a contractual obligation to do so. When we come to the Incinerator subhead, I am giving advance notice that we would like to have a breakdown of what is involved in the payment which is the settlement of the difference of opinion with the contractor and what is involved in the actual purchase of the plant out of the £12.5 million because sometimes it is being called one and sometimes it is being called the other.

Coming to Part 4, and the comments that have been made, let me say that we accept that it is something that does happen and we accept that it is something that is regrettable and I would agree with the description that has been given on this occasion to the need to correct the oversight by approving the funds in the House. Certainly, we do not think that this is in fact unconstitutional or that it is illegal or that it is as awful as the Chief Minister thought in 1995 when he spoke in the 1995 Budget and he said "the Education Department where an excess expenditure has

occurred of £26,280 is the Executive without the sanction of the House has illegally, unlawfully and in breach of the Constitution spent £26,280 and the overall responsibility lies with the Chief Minister". All I can say is that if it was that awful that the Police and the Supreme Court should now be doing the same thing might be even worse but we do not see it as such an awful thing. We realise that people do this without any intention of criminal.....

HON CHIEF MINISTER:

I am not convinced of that.

HON J J BOSSANO:

I do not think they do it with criminal intent and I think it is right that we should correct it and we certainly do not think that the Chief Minister should be seen in as bad a light as he wanted to paint me when the Education Department did it for half the amount. We will be supporting obviously the element that corrects the anomaly.

HON CHIEF MINISTER:

Mr Speaker, starting with the last point first. I do not share the hon Member's views. I take a very strict view of Departments and Controlling Officers that spend money in excess of Vote, that we have reduced it to one or two items a year. It used to be a few more. This is a slow process. I am not convinced that it is an oversight. I believe that Controlling Officers have got to understand that they cannot spend money in excess of that which Parliament has provided. The law actually imposes severe sanctions on the Controlling Officers that break this rule which are never enforced against them, of course, but I completely endorse and adopt against myself all the things that I said against him when I was in Opposition. My only regret is that we have only been able to reduce it to two instances, one in 1996/97 and three in 1997/98. Our target is that there should be no instances and it is not acceptable to the Government to take the view that it is not

particularly serious and that there is only one or two. Controlling Officers cannot go about their business in the expectation that unauthorised expenditure will simply be corrected as a matter of routine course. It prejudices financial discipline. It prejudices financial transparency, all the things which we have invested and devoted much effort and resources in the last four years. We have in fact met our target in respect of the 1998/99 financial year in which there are zero cases of excess expenditure for the first time in many, many years of public accounting in Gibraltar.

Mr Speaker, I do not know whether the hon Member wants to do it at Committee Stage, there is not a breakdown as such. The settlement was not divided into purchase of plant and damages. We have had this out in press releases. The fact of the matter is that the Government were not after buying the plant. Hon Members described it as an investment to renew its condition and the amount of money that it needs spending on just to make it safe to operate he would not regard it as an investment. What the Government have done is two things, one is we have seen fit to settle what is a £35 million damages claim in respect of lost revenue up to now. In addition to that, the Government have taken the view that this is a contract that has 13 years left to run and it is simply too onerous for Gibraltar. It makes us pay for the burning of refuse that we do not burn at rates which are rising every year way in excess of the rate of inflation and we thought that it would be worthwhile buying that contract back, the contract which commits the Government to buy the water, buy the electricity and burn the refuse at those prices. All of that, that is to say the historical damages claim and the buying out of the contracts for the future so that we do not all have to carry on grappling with it for the next 11 or 12 years, all of that has been acquired, obviously with the plant because by buying out the contract for the next 13 years one can only achieve that by buying back the plant, otherwise by ending up with the plant in one's hands it is what is envisaged to happen at the end of the contract. At the end of the existing contract the plant would have reverted to the Government so by buying back the contract in a sense the plant comes with it. Otherwise the owner would have to keep the plant and have no revenue stream for it, but there is no

breakdown. All of that, the £35 million litigation plus the buying back of the contract which brings the plant with it and a lot of headaches, all that has been settled for the sums of money that the hon Members are now aware. Therefore, Mr Speaker, it would be wrong and I do not think the Government ever said anything publicly that could have led the hon Members to believe that there is somehow a breakdown of the figures. There is not a breakdown of the figures as such. What there is is a global settlement which results in the plant coming back.

Question put. Agreed to.

The Bill was read a second time.

HON CHIEF MINISTER:

Mr Speaker, with the leave of the House I would like to proceed to take the Committee Stage now.

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 Supplementary Appropriation Bill 2000, clause by clause.

THE SUPPLEMENTARY APPROPRIATION BILL 2000

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

Clause 3

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I beg to move that Clause 3(1) be amended by deleting the figure "£20,000,000" and inserting the figure "£20,500,000". Consequential to the changes of Clause 3(1) it is necessary to change the Schedule as well and so in changing Clause 3(1) to £20,500,000 we also need to change Part 2 of the Bill to £20,500,000.

Clause 3, as amended, was agreed to and stood part of the Bill.

Clause 4

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, the second amendment I referred to at the Second Reading arises in Clause 4 and I beg to move that clause 4(1) be amended by deleting the figure "£19,016,000" and substituting the figure thereof of "£19,766,000". If I can just explain so that we are all clear, the consequential amendment, in Part 3 of the Schedule Head 101 Housing, delete the figure "£750,000" and insert the figure "£1,500,000". In the total delete the figure "£19,016,000" and insert the figure "£19,766,000".

Clause 4, as amended, was agreed to and stood part of the Bill.

Clauses 5 and 6 were agreed to and stood part of the Bill.

Schedule

PART 1 - Consolidated Fund Expenditure 1999/2000

HON MISS M I MONTEGRIFFO:

The Leader of the Opposition stated in the general principles of the Bill that the Opposition would like the Government to provide us with a breakdown of the £1 million for the Gibraltar Health

Authority under Head 3 and also a breakdown of the £400,000 under Head 5 Social Affairs.

HON CHIEF MINISTER:

Mr Chairman, the hon Lady is experienced in these matters and therefore she is not allowing herself to be misled. These figures are selected, we could have bought any items, in other words, there is a shortfall in Health Authority of Revenue over Expenditure. Some of it is dealt with by the application of supplementary funding. Some of it we need to ask for additional funding by way of this Bill. We have chosen at random, it is not particularly important which items were paid out of supplementary and which increased expenditure was paid for out of supplementary funding which is not in this Bill, this is supplementary appropriation, there is a supplementary funding vote in the ordinary Budget. The £400,000 worth of Health Authority revenue will come out of the supplementary funding Head of the annual budget. This is in addition to that but I will give the hon Member the information that she seeks. I just do not want, in receiving the information, to think that this is the only items of expenditure in respect of which there is expenditure in excess of the Estimate. Does the hon Member follow me?

HON J J BOSSANO:

If we look at the contribution to the Gibraltar Health Authority, the Approved Estimate was £5,184,000 and the revised is £6,184,000 and that is £1 million difference, so if in fact £400,000 has been paid out of the block vote of supplementary funding, then the revised contribution would be higher?

HON CHIEF MINISTER:

No, because that part of it which is being funded from the supplementary funding head presumably goes directly.

HON J J BOSSANO:

No, it cannot.

HON CHIEF MINISTER:

We have appropriation for it already.

HON J J BOSSANO:

Yes, but if there is an appropriation already in the Estimates and that appropriation is increased then there would be a revised amount shown.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, I apologise if I did not make the point clear at the Second Reading of the Bill. I did explain that I laid in the House on Wednesday reallocation statements from the Supplementary funding Head which totalled about £495,000. Government still have a further £2 million of supplementary funding to allocate which is fully committed. Of those commitments we are expecting the Health Authority to consume, give or take, £400,000 worth in addition to the £1 million that we are seeking in this Bill to appropriate. The total excess expenditure over Revenue of the Health Authority in 1999/2000 when we looked at this in February we expect to be around £1.4 million.

HON CHIEF MINISTER:

This mechanism is about appropriation not about expenditure. Having said all that, Mr Chairman, this particular £1 million is earmarked for pay awards £600,000; GPMS prescriptions £300,000 and Ambulance Service an additional £120,000.

HON MISS M I MONTEGRIFFO:

Mr Chairman, can I just ask the Chief Minister whether the £600,000 pay award includes the administrative grades of the Gibraltar Health Authority?

HON CHIEF MINISTER:

That is accounted for under the Civil Service pay settlement section, also in Head 15 of the ordinary Estimates.

HON J J BOSSANO:

Mr Chairman, the Personal Emoluments in the Gibraltar Health Authority shown in Appendix C of the Estimates, in the Salaries will be included, presumably, the salaries of the administrative grades as well? Therefore, if the payments comes out of that there must be a receipt in the contribution from the Government to the Health Authority for the payment to come out of that.

HON CHIEF MINISTER:

Yes, but the reason why the answer to the first supplementary was no, was because they had not had their pay award yet and will not get it this financial year now. Had it happened it would have happened as the hon Member was getting at in his supplementary.

HON J J BOSSANO:

That is right, it would come presumably from Head 14 Pay Settlements as a reallocation of those Funds to the Head that is the contribution to the Health Authority. The GPMS prescriptions, the amount that was put in the Estimates was £4 million. What we are getting then is really a sum which is very close to the forecast outturn of the preceding year, is that correct? Given that the savings in the cost of that subhead was supposed to be the introduction of the new generic prescribing, is it that it is now more or less stabilised at that level?

HON CHIEF MINISTER:

Yes, subject to telling him that one of the reasons there is this increased expenditure is that the scheme was introduced just before the beginning of the financial year. It took a little bit of time to settle down. The payments for March were not made until this financial year and in effect therefore in this financial year they have absorbed 13 months' worth of prescription payments.

Mr Chairman, it is very much a transitional time for the Elderly Care Agency. One must remember that in this financial year we have had nine months' worth of running of the Home by the John Mackintosh Homes and that that requires Government subvention. In respect of the nine months that they were running it they overspent. They needed more Government subvention than had been provided for. The Elderly Care Agency then took over at the beginning of the year. There was additional staff recruited. There was some staff seconded from the GHA. There was some expenditure incurred which would not be of a recurring nature and therefore the hon Members should not draw any conclusions from how that £400,000 was earmarked but they should draw no conclusions from it as to the cost of operating the Elderly Care Agency on an annual basis. They know that in the new presentation of the Budget booklet even though the subvention to the Health Authority, the contribution from the Consolidated Fund to the Health Authority is not a Departmental expenditure and therefore we do not have to set out a breakdown of how the Revenue and Expenditure of the GHA, that we are doing so on an Appendix basis. It is our intention to do the same in respect of the Elderly Care Agency so that when they get the Budget booklet for the forthcoming financial year there will be an Appendix to it which will in effect contain the annual operating budget for the Elderly Care Agency presented in the same way as that of the Health Authority. That is really the opportunity that the hon Members should take to address the question of costs. All that said, the £400,000 are actually allocated as £200,000 which was the expected deficit on the basis of the way that the John Mackintosh Homes were running the Homes. If the John Mackintosh Governors had carried on running the Home on the basis that

they were running it, with the cost structures that they were bearing, until the 31st March, they would have needed an additional £200,000 subvention from the Government. Therefore, we are going to need that as well because we have increased the cost, not decreased the cost, so that is £200,000 of it and £200,000 is enhancement of services. Not all of that is recurring. If the hon Members will accept that information for now in the knowledge that they will have the full picture of the Elderly Care Agency as soon as they get copies of the Estimates.

Part 1 of the Schedule was agreed to and stood part of the Bill.

Part II - Consolidated Fund Contributions 1999/2000

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, in Head 15, Contributions from Consolidated Fund – Reserve, delete the figure “£20,000,000” appearing therein and insert “£20,500,000”.

Head 15, as amended, was agreed to and stood part of the Bill.

Part II, as amended, was agreed to and stood part of the Bill.

Part III - Improvement and Development Fund 1999/2000

Head 101 Housing

HON J J BOSSANO:

The question of the provision of loans to Gibraltar Homes, where the payments that were made before, not out of the I&D but of the companies, were they also loans?

HON CHIEF MINISTER:

We did provide £1 million in the current year's Budget for this but before that £1 million, company balances were being used.

HON J J BOSSANO:

My question is, was the use of those company balances also by way of loans?

HON CHIEF MINISTER:

Yes, all the funding that flows out of Government and Government-owned companies is channelled through the Westside Co-ownership Ltd. From wherever it comes it goes into that Government owned company first and then there are very comprehensive loan agreements between that company and Gibraltar Homes Ltd.

HON J J BOSSANO:

So in fact the money we are voting now initially goes to the Government-owned company and then from the Government-owned company to Gibraltar Homes and then to the contractor?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, an amendment in Head 101, delete the figure "£750,000" and insert "£1,500,000".

Head 101, as amended, was agreed to and stood part of the Bill.

Head 102 - Schools, Youth and Cultural Facilities

HON S E LINARES:

Mr Chairman, can we have a breakdown of why there has been this doubling up of expenditure on St Joseph's School?

HON DR B A LINARES:

As the works of painting the School which is part of the minor works programme ensued they found there were structural problems particularly to the rendering of the walls that was falling off so before painting they had to repair the structural side and that is the increased expenditure.

Head 102 was agreed to and stood part of the Bill.

Head 104 - Infrastructure and General Capital Works

HON J J BOSSANO:

Mr Chairman, we are abstaining on Subhead 22(a) in Head 104 Infrastructure not on the rest of that Vote.

HON CHIEF MINISTER:

If the hon Members want to abstain they should. I heard the hon Member saying that he was abstaining not because he minded the Government buying the building but because of the use it would be put. We are not voting on the use, we are voting on the acquisition.

HON J J BOSSANO:

But presumably the Government would not buy it if they did not intend to use it for a hospital. If I can be told that it may be used for something else we shall review our position.

Subheads 15, 17A and 25 were agreed to and stood part of the Bill.

Subhead 22A (new) Hospital – Europort

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 Mrs Y Del Agua
 The Hon J J Holliday
 The Hon Dr B A Linares
 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 Dr J J Garcia
 The Hon S E Linares
 The Hon Miss M I Montegriffo
 The Hon J C Perez
 The Hon Dr R G Valarino

Subhead 22A (new) Hospital – Europort stood part of the Bill.

Part III, as amended, stood part of the Bill.

Part IV - Consolidated Fund Excess Expenditure 1996/1997 and 1997/98 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 Supplementary Appropriation Bill 2000 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. Agreed to.

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 Questions.

Question put. Agreed to.

ANSWERS TO QUESTIONS continued.

MOTIONS

HON CHIEF MINISTER:

Mr Speaker, I have the honour to move the motion standing in my name and which reads:

“There be hereby constituted a Select Committee of this House comprising three Members nominated by the Chief Minister, namely, the Hon P R Caruana, the Hon K Azopardi and the Hon B Linares and two Members nominated by the Leader of the Opposition, namely, the Hon J J Bossano and the Hon J Garcia to review all aspects of the Gibraltar Constitution Order 1969 and to report back to the House with its view on any desirable reform thereof.

THURSDAY 13TH APRIL 2000

That the said Committee be at liberty to adopt and continue the work of the Committee of the House constituted by motion dated 7th July 1999”.

Mr Speaker, as the Leader of the Opposition has indicated I do not think there is any great need to debate this. The first paragraph is identical language to the motion we adopted last year and the second paragraph is just to give cover for us picking up where we left off.

HON J J BOSSANO:

Obviously we are supporting the motion.

Question put. The motion was carried unanimously.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Thursday 13th April, 2000, at 10.30am.

Question put. Agreed to.

The adjournment of the House was taken at 1.25 pm on Friday 10th March, 2000.

The House resumed at 10.30 am.

PRESENT:

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

GOVERNMENT:

The Hon P R Caruana QC – Chief Minister
The Hon K Azopardi – Minister for Trade, Industry and Telecommunications
The Hon Dr B A Linares – Minister for Education, Training, Culture and Health
The Hon J J Holliday – Minister for Tourism and Transport
The Hon Lt-Col E M Britto OBE, ED – Minister for Public Services, the Environment, Sport and Leisure
The Hon H A Corby – Minister for Employment and Consumer Affairs
The Hon J J Netto – Minister for Housing
The Hon Mrs Y Del Agua - Minister for Social Affairs
The Hon R Rhoda QC – Attorney-General
The Hon T J Bristow – Financial and Development Secretary

OPPOSITION:

The Hon Dr J J Garcia
The Hon J L Baldachino
The Hon Miss M I Montegriffo
The Hon Dr R G Valarino
The Hon J C Perez
The Hon S E Linares

ABSENT:

The Hon J J Bossano – Leader of the Opposition

IN ATTENDANCE:

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

DOCUMENTS LAID

The Hon the Chief Minister moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the laying of various accounts and documents on the Table.

Question put. Agreed to.

The Hon the Chief Minister laid on the Table the Gibraltar Land (Holdings) Limited Accounts for the years ended 31st December 1997 and 31st December 1998.

Ordered to lie.

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

- (1) The Air Traffic Survey 1999.
- (2) The Tourist Survey Reports 1998 and 1999.
- (3) The Hotel Occupancy Survey 1999.

Ordered to lie.

The Hon the Minister for Employment and Consumer Affairs laid on the Table the Employment Survey Report – October 1997 and April 1998.

Ordered to lie.

The Hon the Attorney-General laid on the Table the Revision of the Laws (Supplement No.14) Order 2000.

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 (No. 5 to 7 of 1999/2000).
- (2) Statement of Improvement and Development Fund Reallocations approved by the Financial and Development Secretary (No. 3 of 1999/2000).

Ordered to lie.

MOTIONS

HON CHIEF MINISTER:

I beg to move the motion standing in my name and which reads:

“That this House approves by resolution the making of The Indonesia (Supply, Sale, Export and Shipment of Equipment) (Penalties and Licences) (Revocation) Regulations 2000”.

Mr Speaker, these Regulations revoke the Indonesia (Supply, Sale, Export and Shipment of Equipment) (Penalties and Licences) Regulations 1999, which were approved by resolution of this House on 18 November 1999. Those Regulations were made to give practical effect to Council Regulation 2158/1999 in the form of making it an offence to infringe the prohibition in the Council Regulations providing for the licensing of sales, supplies, exports and shipment of equipment in accordance with the Council regulation; and making provision for enforcement.

Mr Speaker, Council Regulation 2158/1999 was in operation until 17 January 2000 and consequently, there is no longer a need to keep our local regulations, which gave the Council Regulation practical effect, in operation. I commend the motion to the House.

Question proposed.

HON DR J J GARCIA:

Mr Speaker, Opposition Members will be supporting the motion, although a number of points have to be made. When the original motion seeking approval from the House for these regulations was brought on 18th November 1999, Opposition Members voted against it. The Leader of the Opposition explained then that this was not out of solidarity for the actions of the Indonesian regime against the people of East Timor, but for other reasons.

The first thing we questioned was the procedure. This was the third time that we were asked to vote on a motion approving a European regulation which had direct effect in all the territory of the Union anyway, whether we passed the motion or not. The Opposition expressed reservations at the time at the use of this methodology.

Mr Speaker, the EU Regulation included an expiry date of 17th January 2000 in which the measure ceased to have legal effect. Perhaps the same expiry date could have been written into our own regulation so that the same thing happened.

The position, Mr Speaker, is that we are now being asked to vote on a measure which ceased to have legal effect nearly three months ago in the EU.

The second point we wish to make relates to the question of competent authorities. Annex II to the original regulation listed the competent authorities in the European Union and it did not include the Gibraltar Collector of Customs. The suggestion was made that it could be ultra vires to name the Collector of Customs in our regulation when the EU Regulation only named the Export Policy Unit of the Department of Trade and Industry in respect of the United Kingdom. The suggestion, Mr Speaker, is that the House could now be putting right what was done wrong then. In Question No. 274 of 2000 last month the Leader of the Opposition asked whether the European Commission had now been notified that

the competent authority for Gibraltar was the Collector of Customs. In reply, the Chief Minister said that the UK had notified the Commission on 23rd November 1999 but that the listing of the Collector of Customs had still not taken place. It would be useful to know whether that has now happened.

The last news Opposition Members have and perhaps it would be pertinent to find out exactly what has happened is that the United Kingdom did request the Commission to include Gibraltar as a competent authority and the last time when the Question was asked on the 6th March 2000, there was no news as to whether the Commission had actually included Gibraltar or not. I think it is important to make the point that the issue is not academic. It is a matter of principle which is very topical and very relevant at present. When the original Regulation was being discussed in November the Chief Minister said that Spain attaches an overriding importance to the question of competent authorities in Gibraltar, not being recognised, much more so than to the substance of the measure. For the record, the Opposition also attaches overriding importance to the recognition of our competent authorities and although we will be supporting the motion I think that these points needed to be made. The Chief Minister said at the time that we should find other issues on which to make our political stand in relation to this question of competent authorities. We know what those issues are and we hope that a political stand is being made. We will be supporting the motion.

HON CHIEF MINISTER:

Mr Speaker, I am delighted to hear that Opposition Members are supporting the motion. As to the rest of what the hon Member has said which is a repetition of the speech made by the Leader of the Opposition at the time that we last debated this, it may or may not be of general academic interest. It certainly is entirely academic on a debate on this motion which is to debate the approval of the revocation of a Gibraltar piece of legislation that does nothing more than impose criminal sanctions in Gibraltar for the breach of directly applicable EU sanctions on Indonesia. Therefore, nothing

of what the hon Member has just spoken about arises on a debate on this motion but I am nevertheless grateful for the hon Members' support on the motion.

Question put. The motion was carried unanimously.

BILLS

FIRST AND SECOND READINGS

HON CHIEF MINISTER:

I beg to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the First and Second Readings of Bills.

Question put. Agreed to.

THE CRIMINAL OFFENCES ORDINANCE (AMENDMENT) ORDINANCE 2000

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend the Criminal Offences Ordinance and for matters consequential 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, the Bill is very short, as hon Members will have noticed and its effect is very straightforward. It is the policy of the Government of Gibraltar which hon Members that sit on the Select Committee on Constitutional Reform will have noticed that the death penalty should be abolished in Gibraltar in all its

applications. There are death penalties in Gibraltar still theoretically on the Statute Books for three things. One is for treason and the others are for piracy and arson. The extension of the criminal sanction of the death penalty for piracy and arson in Her Majesty's Dockyard does not arise from any law of Gibraltar. It arises from the laws of the United Kingdom and the Government of Gibraltar have requested the United Kingdom to repeal those United Kingdom instruments that extend the death penalty to Gibraltar for those two. The only instance where the death penalty exists in the law of Gibraltar is under the Criminal Offences Ordinance for treason. The effect of this Bill is to repeal the availability of the death penalty for treason and its replacement with the slightly less painful but almost as draconian penalty of imprisonment for life. I hope hon Members will resist the temptation to ask me what is meant by treason for these purposes. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON DR J J GARCIA:

Mr Speaker, it is very welcome that this Bill is being brought to the House because certainly those of us in the Opposition and obviously the Government because they are bringing the Bill agree on the principles of the right to life, as well as in other Parliaments and places like the United States and the United Kingdom. There is great controversy on this particular point. I think here there is a measure of unity on it. It is something which in a sense is long overdue. It is anachronistic that this should still be on the Statute Books and it is a question of human rights in a general sense.

The Chief Minister has remarked on the question of piracy and on this UK Instrument. It is also very interesting because obviously it is something which is in line with this and we would like to see it removed completely. We therefore will be supporting the Bill and although we will not be asking what treason is, we certainly hope

they are not introduced in this amendment because any Government Member plans to do anything which may seem reasonable.

Question put. Agreed to.

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 INCOME TAX ORDINANCE (AMENDMENT) ORDINANCE 2000

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend the Income Tax Ordinance and for matters consequential 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, although this Bill is short it deals with a highly technical matter which I will do my utmost to explain to hon Members in terms that simplify it as much as possible. Hon Members will recall that at the last year's Budget we introduced a small company rate of tax. The Income Tax Ordinance also provides that when a company pays a dividend the receiving shareholder, in effect, gets a tax credit at the rate of Corporation Tax. If the company has paid tax at 35 per cent that money is not taxed at 35 per cent again in the hands of the shareholder. It is

deemed already to have been taxed at source, namely in the hands of the company through Corporation Tax. Otherwise the same income would be taxed twice. Once when it is earned by the company and then again in the hands of the shareholder when he receives it as dividends. But of course that begs the question of at what rate does a shareholder get that tax credit. In circumstances where a company pays dividends from a pot of distributable reserves some of which has paid tax at 35 per cent and some of which has paid tax at 20 per cent because of course a company could switch from being a smaller company or not a smaller company from year to year depending on the size of profit that it has made. A company could make more than £35,000 profit less profit than the other and therefore it will have in its accounts profits distributable as dividends some of which will have paid tax at 35 per cent in the year in which it was earned, some of which will have paid tax at the smaller company rate of 20 per cent in the year in which it was earned. The company then distributes this as a dividend to shareholders. Question? Then at what rate should the shareholder get a tax credit? In the terms that I explained at the outset. The device that this amendment introduces is in effect the first in first out rule so that when a company distributes a dividend it will be deemed to have distributed from the income that has been in the pot for longest. The Commissioner of Income Tax looks at when that income was earned, at what rate of tax that income was taxed and gives the shareholder credit for it at that rate. That is the effect of the Bill. Then there is a section which simply allows the Commissioner to give the company such information as in the opinion of the Commissioner may aid the company with its duties under the provisions of this section. Basically it allows the Commissioner to give information back to the company to enable the company to calculate the first in first out rule. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON J C PEREZ:

Mr Speaker, first let me say that whereas the Opposition have no problems in receiving Bills in time when they come from the House of Assembly, when the Bill is sent to us through any other Department it seems to take a long time in getting and this has only met the five days' notice criteria by, I think, half an hour, notwithstanding the fact that it was published a week before we received it. I would like the Government Members to look at that mechanism because we have no problems when receiving things from the House but when they come from either the Attorney-General's Chambers or wherever it comes from there seems to be a slight delay.

Secondly, Mr Speaker, I understand exactly what the Chief Minister is saying in respect of the withholding tax by the company on dividends paid to shareholders but the net effect to the Tax Office is the same in that although the tax is withheld at the rate which the company is paying tax, the difference between that and the rate that the individual shareholder pays is then retrieved by the Income Tax Office, that is to say, that if the company withholds 30 per cent tax and the individual is taxed at 50 per cent then the Income Tax Office assesses the individual and takes into account the tax that is already withheld by the company. So in effect the net effect to the Tax Office should be the same. Secondly, I think that the wording of Clause A opens up the Bill to interpretation in that for the first time since I have been in the House of Assembly we are talking about taxing income and there is no definition of income in the Income Tax Ordinance. Therefore, unless we do not describe that as taxable income or as profit, taxable income seems to me to be a fairer definition, then what would happen, for example, with companies with non-taxable income because they have got a Development Aid Licence or because the company might have money in Government Debentures and the income from that is non-taxable and if they then pay dividends out of that money? If one describes that as income alone and not taxable income then there is no distinction and I think that if one looks at Section 39 it does not talk about income or profits and we are talking about taxable or

assessable income. I think that that needs to be explained better or perhaps the hon Member can explain to me what happens in respect of the other company. At first hand I would have thought that it is an explanation of the mechanism to withhold tax but it is very explicit in saying that the rate paid or payable by the company of the income and I think that that needs to be looked at.

HON CHIEF MINISTER:

Mr Speaker, just so that we do not lose the thread of that quite technical point, perhaps it would be helpful if I start with the last point that the hon Member makes. I think except for his very last words the hon Member has been misreading the Section. This is a mechanism, it is not a charging section. This section does not charge tax. Almost the last words that the hon Member used he made a reference to the rate payable. This section does not impose a tax on anybody. He is absolutely right when he said towards the end of his contribution that this is purely a mechanism. When a company pays a dividend, as a matter of law it can only be paid out of what is called "distributable reserves". Distributable reserves is necessarily income that has already been taxed in the hands of the company. There is no question of this subjecting to tax any income that would not otherwise have been subjected to tax under Section 39 which the hon Member mentioned which is the charging section. This section does not charge anybody to tax, either the company or the receiving shareholder. All it says is that it is a section that causes a withholding of tax from the shareholder, not from the company. The withholding is for the benefit of the shareholder. It is not for the benefit of the Income Tax Office. The Income Tax Office has had all the tax that it is going to get from this situation when it subjected the company to Corporation Tax before the company dropped what was left into the basket called "Distributable Reserves" out of which it then pays the dividend. This regime exists for the benefit of the receiving shareholder who gets a credit. The hon Member is absolutely right when he said at the beginning of his contribution that it made little difference to the Income Tax Office because they had already got or would get in any case all the tax when the company eventually pays its tax,

that it was going to get and that is absolutely right. Of course, it is not all the same to the shareholder who wants to get a 35 per cent deduction. The hon Member may not understand exactly how this works. Although the receiving shareholder gets a credit he still has to declare it with his income because he may be liable to tax at a higher rate than 35 per cent. But, of course, in calculating that balance on which he has got to pay tax, it is very important for him that he gets the right level of set-offs. The receiving shareholder will always want to get 35 per cent as opposed to 20 per cent and therefore ultimately it does make a difference to the Tax Office not vis-a-vis the company as a taxpayer but vis-a-vis the receiving shareholder as a taxpayer because if the receiving shareholder is paying tax at the marginal rate, at a higher rate of 50 per cent, if he gets a deduction from his company dividend at 35 per cent his own personal tax bill will then be lower than if he gets the deduction at 20 per cent and therefore in the first case the Income Tax Office gets more money than it would from the personal receiving shareholder than in the previous case.

I am sorry to hear that the hon Members have had this Bill late. I was not aware that Bills are sometimes distributed to them through Departments. I thought that they always came to them through the House. Certainly I will ensure that that shall always be the case in the future so that the hon Members have as long as possible and certainly the minimum which for some Bills..... I remember when I was sitting in the Opposition that I thought - I am not sure that the hon Members were terribly sympathetic then when the boot was on the other foot - but I recall thinking that certain Bills, especially the longer Bills and the Bills that deal with technical issues, seven days really is very short notice to digest, consider and prepare for a debate on a complicated Bill. As far as the Government are concerned, this is one of the issues that we will be happy to look at jointly with the Opposition when and if, and I have already made the suggestion to the Leader of the Opposition, we get together to see whether the Standing Orders of the House can be improved which I am absolutely certain they can and should be improved.

Question put. Agreed to.

The Bill was read a second time.

HON CHIEF MINISTER:

Mr Speaker, at the Committee Stage I intend to move a short amendment to that Bill. Hon Members may have not have noticed that the commencement date has been given as the 1st July 2000. That, of course, should be the 1st July 1999 to make it co-extensive from the date that the Small Company Tax Rate was introduced, which was on 1st July 1999. Subject to that, I beg to give notice that the Committee Stage and Third Reading of the Bill be taken later 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 Criminal Offences Ordinance (Amendment) Bill 2000, and The Income Tax Ordinance (Amendment) Bill 2000, clause by clause:

THE CRIMINAL OFFENCES ORDINANCE (AMENDMENT) BILL 2000

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

THE INCOME TAX ORDINANCE (AMENDMENT) BILL 2000

Clause 1

HON CHIEF MINISTER:

I beg to move the amendment, and I apologise for not having given notice in writing, that the commencement date in the title be amended to read on the second occasion that the figure "2000" appears that that should read "1999".

HON J L BALDACHINO:

Mr Chairman, we are giving effect to this Bill backdated to 1st July 1999. Is there any reason why we are doing this on this occasion?

HON CHIEF MINISTER:

Yes, Mr Chairman, it is not so much that we are giving effect to it backdated but rather that it should be deemed to have come into effect. The hon Member knows that most income tax techniques are divided into two different things. One is called the period of assessment and the other is the period on which the income arises. It is very important to the enforcement and administration of the Small Company Tax Rules that the Commissioner of Income Tax has available to him the necessary law to deal with the issue of at what rate to deduct tax in respect of the same period. In other words, commencing from the same date as companies are able to pay tax at a lower rate otherwise there is a gap in between during which he is unclear as to how to deal with that problem. It is not that we are giving anybody a benefit which is backdated. No one will have yet paid tax on a dividend received under the Small Company Rules because no company will yet have reported since 1st July and paid the dividend and the shareholder sent in his assessment. It is not that we are giving anybody a backdated benefit but we are starting the benefit in respect of the income period which is co-extensive with the coming into force of the Small Company rate of tax.

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

Clause 2

HON J C PEREZ:

Despite the Chief Minister's explanation of this, he was not able to explain to me what happens on non-taxable income. That is to say, if there is a dividend payment to shareholders deriving totally from non-taxable income then the tax paid by the company is zero and one would presume that this would not give any credit at all to shareholders on the dividend paid and therefore they would be liable for the whole of the income tax on a personal basis because there would be no withholding whatsoever because the clause says that the amount paid would be the amount paid by the company in that year and if the company pays zero in that year then they would have no credit whatsoever. Can the Chief Minister understand what I am trying to say?

HON CHIEF MINISTER:

I think I can understand what the hon Member is trying to say. The hon Member is saying what happens if the company pays a dividend out of income that has not been taxed.....

HON J C PEREZ:

No, not taxed, non-taxable income that does not need to be taxed.

HON CHIEF MINISTER:

There is no income that is exempt from tax in the hands of a company except under the Companies (Taxation and Concessions) Ordinance, in other words, tax exempt companies and that deals separately with what happens to shareholders with dividend income. This does not override that exemption or the company could have income which enjoys Development Aid

protection and the Development Aid Ordinance and the Income Tax Ordinance also says what happens to such income in the hands of shareholders and this does not override that either.

HON J C PEREZ:

It does not override that either in respect of the tax that the company pays but if we are relating what the company withholds from the shareholder at the time of the dividend payment in relation to what the company pays and it could be in a given year that the company pays zero tax because of Development Aid Licence or because it has got investments in Government Debentures the income of which is tax free, then there is no withholding on dividends paid from that money as the law stands now.

HON CHIEF MINISTER:

Mr Chairman, if the point that the hon Member is making is valid, it has been valid all these years because as far as I am aware there is no change in this part of the Ordinance. This establishes the same regime as there was. If a company, for any reason, enjoys income that is not subject to tax because it is the beneficiary of tax free Government income. It has not paid tax on that. Therefore there is no credit for the shareholder in respect of that income. The Income Tax Office only gives a shareholder credit for income that has already suffered tax in the hands of a company unless some other law or some other part of the Income Tax Ordinance also protects that income from tax when the company passes it down to the shareholder. That is absolutely the intended situation. I hear what the hon Member is describing but I do not think it is an unintended situation.

HON J C PEREZ:

Fine. Mr Chairman, the other point I wanted to make is that I understood perfectly what the Chief Minister said in respect of the credit that the shareholders get. The point I was making in the second reading of the Bill was that the net effect to the Tax Office

is the same whether the deduction is by the company 20 per cent or 35 per cent on the income that the shareholder receives because then there is an adjustment made in relation to that withholding tax on the shareholders' personal income by the Income Tax. Therefore, if there is benefit initially in that less tax is to be deducted by the individual the only difference being that the Tax Office would get the company withholding tax quicker and that the residue of the individual's tax would take a bit longer and might be more difficult in recovering. I think that the benefit really is to a shareholder that is not resident in Gibraltar and would therefore not be liable to personal taxation in Gibraltar but that in effect the equation is the same one because the individual's tax is then assessed depending on whether the withholding tax has been 20 per cent or 35 per cent.

HON CHIEF MINISTER:

No, Mr Chairman. I regret that the hon Member I do not think is right because in the hands of a shareholder who pays tax at 50 per cent that is higher than the 35 per cent rate which is the highest that the company can be made to pay. Therefore, the amount of credit that the shareholder gets or does not get determines how much of it is subjected to tax at 50 per cent not at 35 per cent. So by the mechanism that the hon Member describes it does not leave the Income Tax Office because in the case of a 50 per cent taxpayer the amount that does not get credit is then taxed at 50 per cent, not at 35 per cent. Therefore, there is an issue here of quantum for the Income Tax Office.

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 Criminal Offences Ordinance (Amendment) Bill 2000 and the Income Tax Ordinance (Amendment) Bill 2000, with amendments, have been considered in Committee and agreed to 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.

PRIVATE MEMBERS' BILL

FIRST AND SECOND READINGS

THE ABBEY NATIONAL ORDINANCE 2000

HON K AZOPARDI:

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 Abbey National (Gibraltar) Limited to Abbey National Treasury International Limited 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 the fourth time that these Bills have come before the House. My predecessor Mr Montegriffo had presented similar Bills in relation to BBV, NatWest and ABN Amro. Again, this stems from similar reasons. Those had been fully ventilated, certainly the conceptual reasons had been fully

ventilated in this House before so I will not really go at length on that because hon Members have had the benefit of hearing at least the conceptual side to the reasons for these types of Bills coming before the House before. What I would say is in relation to Abbey National specifically is that certainly the purpose of the Bill is self-explanatory in the Memorandum, to transfer the business of Abbey National (Gibraltar) to Abbey National Treasury International which is a Jersey company. The basic reason for that is the decision of Abbey National to restructure all its offshore business through the Jersey operation. It is not jurisdiction driven in the sense that it has taken a particular decision to downgrade operations in any other jurisdiction. The restructure is affecting Abbey National operations in all jurisdictions where they conduct offshore business and so, for example, they are doing so also in the Isle of Man and elsewhere.

The reason that the Bill is before the House is because it is easier to restructure in the sense of securities. If I give the hon Members a flavour of what type of business we are talking about, Abbey National currently operate two licences out of Gibraltar, Abbey National Gibraltar and ANTIL had a licence, most of the deposits now are held through ANTIL and there is only about 350 accounts and deposits totalling about £1.6 million which are held through Abbey National Gibraltar. So that degree of transfer is fairly small. The more important transfer in respect of which this Ordinance is necessary is the mortgages. I am told that there is about 750 mortgagors with mortgages totalling about £33 million and the reason, of course, as has been explained before, is that this Ordinance is necessary because were the House not to pass legislation automatically transferring the business of Abbey National (Gibraltar) to ANTIL on a certain date, Abbey National would need to seek the consent of every individual mortgagor, get them to sign Deeds of Transfer and of course the cost to the operation and inconvenience to the mortgagors would be fairly substantially when all that is happening is really a paper transfer and the customers are dealing with the same people. The finance jurisdictions in other territories have taken the view of course that is a good method of transferring undertakings and Gibraltar takes the same view as we have done so previously.

Hon Members may be interested in the consequences of this and I can tell and assure the House that Abbey National have assured the Government that there are no employment consequences from this. No one is going to lose their jobs as a result of this transfer of undertakings. Indeed, Abbey National point out that the contrary has been the case. Since the time that they have been lobbying the Government for the transfer of undertakings from Abbey National (Gibraltar) to ANTIL the total complement of Abbey National has risen by eight, to about 31 and indeed they are creating different posts.

The second point the House may be interested in is in relation to tax. ANTIL are tax exempt. Abbey National (Gibraltar) Ltd are a qualifying company and pay a certain amount of tax. Again the Government have obtained an assurance that this transfer of undertaking will not represent a loss of revenue to the Government and that Abbey National, notwithstanding the transfer, will continue to pay an equivalent amount of tax to the Government so that the revenues of Gibraltar do not suffer as a consequence of this transfer. Other than that, Mr Speaker, on the general principles, I think the sections in particular are quite clear because they are fairly similar to other previous occasions and I would commend the Bill to the House with the caveat that because this Bill has not been taken prior to the 31st March and that is the change of the date that the Government identified with Abbey National, certain amendments are necessary purely to clarify that matter but it has no substantive effect.

Discussion invited on the general principles and merits of the Bill.

HON DR J J GARCIA:

Mr Speaker, Opposition Members will be supporting the Bill. The Minister is correct when he says that it is a procedure which has been used before so it is a straightforward measure. But there are a number of questions which arise from this which perhaps the Minister might care to answer. One of them is that being a transfer of undertaking, the terms and conditions of the workforce, might be a pertinent question to ask. Secondly, the hon Member

mentioned the restructuring of the offshore business to the Jersey operation and that what is happening here today has happened already in the Isle of Man and in similar jurisdictions. Does the Minister have any information as to why it is that they chose to do this from Jersey over the other jurisdictions and how long have Abbey National been lobbying the Government for this to happen? Generally, as I said, we will be supporting the Bill. It is a straightforward measure and it has happened before.

HON K AZOPARDI:

Mr Speaker, I will answer the questions the hon Member puts with a degree of inside information. My wife works at Abbey National so I know that the employees have all received a letter telling them that the company's intention is to transfer its undertaking to ANTIL, that it does not affect their current terms and conditions and that their new employer will be ANTIL in name but that they are not affected. I think that has been done with most employees and I would suspect that there is no consequence on that. There have been letters to that effect. Why Jersey? Well, it is a corporate decision. My information, and I am aware indeed that Abbey National has for many years run the substantial and principal amount of offshore business through Jersey and I think they have just taken a decision to restructure on that basis purely as a result of convenience. The letter that one of their Directors sent to the Government explaining the reason stipulates that the reorganisation is to bring the many legal entities of the offshore group under the more efficient corporate structure. That they want to give it a consistent public face regardless of location which provided consistency of contracts for staff et cetera. ANTIL have for many years been the Jersey-based bank that have operated as a branch in Gibraltar and I think they have chosen Jersey because of their principal business but it does not mean anything in relation to the employment, the tax revenue or, indeed, Abbey National have been at pains to point out that no jurisdiction should think that because they have taken a purely corporate restructure decision for this transfer of undertaking that any particular jurisdiction is being downgraded in that effort because their commitment, and they have gone down in writing to state that, to

particular jurisdictions continues, in particular to Gibraltar and that is evident by the fact that they are indeed increasing their employment complement in Gibraltar.

How long have they been lobbying the Government? I am aware that there is correspondence with the previous Minister going back to June last year. That is when they first started to discuss the terms whether Government would support a Private Members' Bill on that basis. A decision was taken to do so. The drafting was done substantially by Abbey National's lawyers so that the cost would be borne by them. A Bill was fairly ready to be presented just after Christmas and the delay has been because of the intervening election which has meant that we needed a bit more time to get things together. Of course, as the hon Member knows, the Private Members' Bill also has to be published twice which also involves a degree of delay under Standing Orders. I hope that that answers the question that the hon Member raises and perhaps we can deal with the issue of the dates at Committee Stage.

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.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

I have the honour to move that the House should resolve itself into Committee to consider the Abbey National Bill 2000, clause by clause.

Clause 1

HON K AZOPARDI:

Mr Chairman, I had given notice of certain amendments. A lot of them are fairly innocuous. In relation to Section 1, I would move the amendment standing in my name of leaving out "and comes into operation on 31st March 2000" and inserting paragraph 3 which reads: "(3). Insofar as the changeover date falls before the passing of this Ordinance, any reference in the following provisions of this Ordinance to something occurring (whether it is expressed as vesting, becoming, continuing or otherwise) on or by reference to the changeover date shall be construed as a reference to that thing being deemed to have occurred on or by reference to that date".

The background to this is, indeed the changeover date is still 31st March in the sense that the restructure arrangements were put in place for that purpose. Because we are taking the Bill subsequent to that the legal advice of both Abbey National's lawyers and, indeed, the Legislation Unit, has been to replace that to give it legal effect without any serious consequences.

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

Clause 2

HON K AZOPARDI:

Mr Chairman, I wish to put an amendment in subsection (1) to delete the word "is" and insert the word "was".

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

Clause 3

HON K AZOPARDI:

Mr Chairman, an amendment to subsections (1), (2), (3) and (5), delete the word "is" and insert "was".

Clause 3, as amended, was agreed to and stood part of the Bill.

Clause 4

HON K AZOPARDI:

Mr Chairman, in subsection (1)(a) delete the word "is" and insert "was"; in subsection (1)(c) delete the word "has" and insert "had"; and in subsection (2) delete the words "passing of this Ordinance (whether before, on or after the changeover date)" and insert "changeover date".

Clause 4, as amended, was agreed to and stood part of the Bill.

Clause 5

HON K AZOPARDI:

Mr Chairman, delete the words "pension scheme which is in existence immediately before the changeover date" and insert "existing pension scheme".

Clause 5, as amended, was agreed to and stood part of the Bill.

Clauses 6 and 7(1) were agreed to and stood part of the Bill.

Clause 7(2)

HON K AZOPARDI:

Mr Chairman, delete the first "is" in the second line and insert "was"; and delete the word "is" in the third line and insert "was".

Clause 7(2), as amended, was agreed to and stood part of the Bill.

Clause 8

HON K AZOPARDI:

Mr Chairman, in subsection (4) delete the word "are" and insert "were"; and in subsection (5)(b) delete the word "is" and insert "was".

Clause 8, as amended, was agreed to and stood part of the Bill.

Clauses 9 to 11 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 Abbey National Bill 2000 has been considered in Committee and agreed to with amendments. 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.

The House recessed at 11.35am.

The House resumed at 11.50am.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to a date to be notified.

Question put. Agreed to.

The adjournment of the House was taken at 11.55 am on Thursday 13th April 2000.

WEDNESDAY 19TH APRIL 2000

The House resumed at 10.00 am.

PRESENT:

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

GOVERNMENT:

The Hon P R Caruana QC - Chief Minister
The Hon K Azopardi - Minister for Trade, Industry and Telecommunications
The Hon Dr B A Linares - Minister for Education, Training, Culture and Health
The Hon J J Holliday - Minister for Tourism and Transport
The Hon Lt Col E M Britto OBE ED - Minister for Public Services, the Environment, Sport and Leisure
The Hon H A Corby - Minister for Employment and Consumer Affairs
The Hon T J Bristow - Financial and Development Secretary

OPPOSITION:

The Hon Dr J J Garcia
The Hon J L Baldachino
The Hon Miss M I Montegriffo
The Hon Dr R G Valarino
The Hon J C Perez
The Hon S E Linares

ABSENT:

The Hon J J Netto - Minister for Housing
The Hon Mrs Y Del Agua - Minister for Social Affairs
The Hon R Rhoda QC - Attorney-General
The Hon J J Bossano - Leader of the Opposition

IN ATTENDANCE:

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

OATH OF ALLEGIANCE:

The Hon Albert Trinidad took the Oath of Allegiance.

MINISTERIAL STATEMENT

HON CHIEF MINISTER:

Mr Speaker, I wish to make a statement to the House in relation to the mooted discussions leading to agreement on several issues relating to Gibraltar on the European Union which have been ventilated in the local press in recent weeks and months.

As is already well known, discussions have been taking place to try to resolve the difficulties that have arisen over the years relating to three issues - Gibraltar ID cards, formal police co-operation with Spain and the recognition of Gibraltar's own competent authorities within the European Union. I am pleased to inform the House that agreements which the Gibraltar

Government have been happy to support, have been concluded this morning on all these issues. From the very outset of the discussions, the British Government made it clear to me that it would not enter into agreements on these issues without the Gibraltar Government's support. We have therefore been very closely engaged with the United Kingdom Government at all stages of these very intense negotiations. The Gibraltar Government are well satisfied with the outcome.

From the very outset, also, the Gibraltar Government made it clear to the British Government that we were happy to negotiate solutions to practical problems affecting Gibraltar subject to certain overriding conditions. The principal conditions were firstly and obviously that the agreements should not affect Gibraltar's sovereignty in any way, and secondly, that the arrangements should not roll back our Constitution, that is to say, that Gibraltar should continue to issue documents, make decisions and implement EU directives and other obligations acting exclusively through our own local, constitutional authorities, and that our level of self-government should not be diminished. These have been the key issues for us. We have not, however, tried to uphold the false proposition that Gibraltar is somehow what was referred to in the past as "the 13th Member State of the European Union", or a separate Member State in its own right. We fully recognise the indisputable political and legal reality which is that the United Kingdom is the Member State responsible for Gibraltar within the European Union and that the European Community Treaty obligations are ultimately the United Kingdom's. But, of course, this does not make us administratively or politically part of the United Kingdom, so our objective has been to ensure that this distinction is properly saved, that is to say, the fact that we recognise that the United Kingdom is the Member State responsible for Gibraltar within the European Union does not mean that our Constitutional autonomy to govern and administer our own affairs can be diluted or reduced, or that the United Kingdom can take over competence for the implementation of EU directives in Gibraltar. I am delighted to be able to say that the agreements fully uphold and respect our political and

constitutional position and that they bring for us important benefits without conceding any constitutional ground whatsoever.

Some people have asked me, if these agreements are good for Gibraltar, why has Spain agreed to them? The answer is simple. Spain, as well as the UK, is under enormous pressure from its EU partners to overcome these and other Gibraltar-related difficulties within the European Union. Other Member States are no longer willing to allow European Union measures to be blocked indefinitely because of the Gibraltar issue. It is therefore in everyone's interest, including Spain's, to resolve these issues in a way which works for all three sides. It is worth remembering though that it is not just Spain that has had difficulty dealing directly with our competent authorities or recognising our identity cards. The majority of the other Member States have adopted a similar position, albeit as a result of Spanish lobbying.

In addition to these three agreements, I can now also announce that the way is clear for Gibraltar to be included in all parts of the Schengen acquis in which the United Kingdom is itself opting to participate except, as already announced, the Schengen Information System and an article relating to cross-border police surveillance. Whilst welcoming Gibraltar's participation in the Schengen Convention, we have expressed to the British Government our disappointment at and objection to our exclusion at this stage from one part of it, namely the Schengen Information System. The Schengen Information System is a computer network relating to law enforcement and border controls. The Gibraltar Government's objection to our exclusion is not based on the practical importance of this system to Gibraltar but on the principle that we should not be excluded from any EU measure against our will, especially not under pressure from Spain. In this case Spain's objection to our inclusion in the Schengen Information System reflects her general position in relation to Gibraltar and external frontiers even though the United Kingdom is not joining the external frontiers part of the Schengen Convention and is itself not participating in the Schengen Information System for frontiers purposes. It is, nevertheless, welcome that the United Kingdom has been able to overcome

Spain's veto in respect of our inclusion in the great bulk of Schengen.

So, Mr Speaker, what are the agreements that have been reached? There are three agreements and I would like to explain each of them to the House in some detail. The first agreement relates to the recognition of Gibraltar identity cards as valid travel documents in the European Union. Of the 15 EU Member States, only the United Kingdom and Sweden presently recognise our identity cards as valid travel documents, that is to say valid for use instead of a passport. The reason that they give for this is that the cards are not associated or connected with the EU Member State responsible for Gibraltar, that is, the United Kingdom. Government had made it clear to the United Kingdom nearly two years ago that we were very happy to associate our ID card with the Member State UK which properly reflects our status within the European Union as we did of our own volition with our driving licences in January 1997 but that we would not under any circumstances give up the right to issue the identity cards ourselves as a local document issued under our own law, namely the Civilian Registration Ordinance, nor would we agree to make our identity cards a United Kingdom-issued document, nor a document issued in Gibraltar but on behalf of the United Kingdom. This position has been fully upheld under the agreement concluded today. The card will continue to be issued in Gibraltar by the Gibraltar Government under the laws of Gibraltar. We have agreed to introduce some slight changes to the card. The words "United Kingdom" will be placed over the word "Gibraltar" on the front of the card, in the same way that they appear on our driving licences issued after 1st January 1997. The card will also state that it is issued by the Civilian Registration Officer, Gibraltar, who is the person who has in fact always issued them under our Ordinance. Finally, the card will state that it is validated for EU travel purposes under the authority of the United Kingdom. Following these minor changes, all Member States, including Spain, will accept Gibraltar's identity cards as valid travel documents which means that holders may use them for travel to Spain and throughout the European Union instead of a passport. From now on, identity cards will be issued by the Gibraltar

Government in the new format. Existing cards will remain valid for all local purposes but will not be accepted instead of passports in other EU countries. If any existing card holder wishes to change his card for the re-formatted card so that it can be used for travel in the European Union instead of a passport, the Gibraltar Government will exchange it free of charge. A public announcement will be made when we are ready to do this. We have therefore achieved our objective to secure full recognition of our ID card which will continue to be issued by us here in Gibraltar and on our own behalf.

The second agreement, Mr Speaker, relates to police co-operation. For many years Gibraltar has sought formal police co-operation arrangements with Spain. Gibraltar has always been willing to co-operate fully with Spain on police matters. The obstacle has been Spain's refusal to formally recognise the Royal Gibraltar Police. Our only precondition for a police co-operation agreement has been that it must recognise the Royal Gibraltar Police as the constitutional police authority of Gibraltar. Article 39 of the Schengen Convention provides specifically for cross-border police co-operation agreements. Accordingly, terms have been concluded under that Article agreeing arrangements for co-operation between the Royal Gibraltar Police and the Spanish Police, the Guardia Civil and the Policia Nacional. Under Article 39 of the Schengen Convention such agreements must be signed by the responsible Minister of the Member State. The agreement has accordingly been entered into on our behalf, at our request, and with our agreement by the Home Secretary. The arrangements envisage full co-operation in all those crimes identified by the European Union Heads of Government at their Tampere summit in 1999 as being of common interest and concern to all throughout the European Union. The arrangements also envisage the appointment by each police force of a formal liaison officer and the establishment and maintenance of direct telephone, radio, telex and other secure communication links between the Royal Gibraltar Police and the Spanish Police. The Gibraltar Government would very much have wished to enter into such arrangements at a much earlier date.

Mr Speaker, the third agreement relates to competent authorities. By far, the most far-reaching of the three agreements is the one relating to our competent authorities. "Competent authorities", as hon Members will know, is European Union jargon meaning Government department or other official authority with responsibility to implement and administer a particular law or activity. As is now generally known, Spain and other Member States, usually as a result of Spanish lobbying, have raised difficulty about recognising the competence of Gibraltar's constitutional authorities in the implementation of EU measures. As I said, it is obviously very important for Gibraltar that we should be able to implement EU directives and other obligations in Gibraltar ourselves, acting by our own competent authorities. Otherwise our EU membership would mean that we would go constitutionally backwards in time which is obviously unacceptable. Furthermore, it is important that when under an EU directive or agreement the act or decision of a competent authority has a direct and automatic effect in another Member State the acts and decisions of our competent authorities here in Gibraltar should also be recognised and accepted as having direct and automatic effect in any other Member State. An example of this is in financial services. Under EU directives when a bank is licensed in one Member State it can establish a branch in any other Member State without a separate banking licence from that other Member State, a process called "passporting". That is to say, the licence of the authorities in one Member State is recognised as effective in all the Member States. The agreement that has been concluded means that the United Kingdom will be able to designate Gibraltar's own authorities as the competent authority in Gibraltar for the purposes of EU measures and EU and related treaties without any other country raising objections. All other countries will recognise and accept the acts and decisions, that is to say, the competence of the Gibraltar competent authorities. We will thus be able to implement EU measures in accordance with our own constitutional self-government without others blocking the arrangements. Of course, even though we are a separate jurisdiction and have our own separate competent authorities whose acts, decisions and competence is recognised and accepted abroad, that does not

mean that we are internationally within the European Union a separate Member State from the UK. We have therefore agreed that when our competent authorities need to communicate formally with their opposite numbers in another Member State they will physically channel their letters and other written communications through a special office in the Foreign and Commonwealth Office known as the "post box" which will pass them on to the competent authority in that other Member State on behalf of our authority. Also, when the decisions of a Gibraltar authority are to be directly enforced by the Courts or other enforcement authority of another Member State without the need for such formal communication, the United Kingdom post box will certify the authenticity of the document containing the decision of the Gibraltar authority. The important point, of course, Mr Speaker, is that in all cases the acts and decisions, the letters and documents and the exercise of authority are exclusively those of the Gibraltar competent authority. The United Kingdom post box will not re-open or have any input into those acts and decisions. The new arrangement therefore simply establishes a procedure for conveying formal communications and decisions between Gibraltar authorities and their counterparts in other EU Member States. Annex 2 of the Competent Authority Agreement sets out the text of the language that Her Majesty's Government in the United Kingdom will use to designate Gibraltar authorities as the competent authorities for the purposes of EU directives and other measures. There is, therefore, Mr Speaker, no question of the United Kingdom taking over competence. This agreement is expressly about the very opposite. It is about the designation of our own authorities as competent and the acceptance of that by all the other Member States.

Mr Speaker, going back to my financial services example. This now means that all Member States will recognise the banking licences issued in Gibraltar by the Financial Services Commissioner who is our competent authority in this matter. Gibraltar banks and insurance companies will therefore and at long last be able to enjoy passporting rights into the rest of the European Union providing a significant boost to our Finance Centre and employment prospects in it without any loss

whatsoever of competence on Gibraltar's part. Our constitutional, jurisdictional and self-government position is therefore totally safeguarded and upheld and it will now be possible for us to exercise it without obstacle in the case of all EU directives, regulations and related treaties. Of course, as has always been the case, the Gibraltar Government recognise that the United Kingdom retains overall and ultimate Member State responsibility for Gibraltar in respect of treaty obligations. The Gibraltar Government are delighted with these agreements that resolve several long-standing problems, bring benefits to Gibraltar as well as to all other EU Member States without having to concede any political or constitutional ground. We obtain recognition of our own competent authorities to implement EU directives in Gibraltar as well as recognition of the external consequences of the acts and decisions of our competent authorities. In exchange, we agree to channel our formal communications to other Member States through a UK "post box". We obtained recognition and acceptance of our ID card for travel purposes within the European Union by all Member States. The card remains issued in Gibraltar, by Gibraltar and on behalf of Gibraltar. We benefit from a formal police co-operation agreement that recognises the RGP and establishes normal police co-operation arrangements. Finally, we participate in all parts of Schengen that the UK is joining except the Schengen Information System computer and cross-frontier surveillance.

Mr Speaker, these Agreements do not in any way affect passports or driving licences. Pre-1997 driving licences which do not say "United Kingdom" therefore remain valid as they have always been despite regrettable and isolated incidents which we have asked Her Majesty's Government, once again, to take up with Spain to ensure that they do not re-occur.

Mr Speaker, I am tabling the text of both the English and Spanish language versions of the Agreements with a copy of the Statement in the House for the benefit of hon Members. A great deal of work on the part of the Gibraltar Government has gone into securing these agreements. We have no hesitation whatsoever in commending them to the House as good

agreements for Gibraltar. I wish to take this opportunity to thank Ministers and officials in the Foreign and Commonwealth Office for their help and support in obtaining these agreements for Gibraltar. Thank you, Mr Speaker.

HON DR J J GARCIA:

Mr Speaker, although a lot has been said on the text of the Agreement both inside the House and outside it, I think there are areas of clarification which need to be raised by the Opposition Members. Firstly, let me just say the Opposition's views on some of the issues raised are well known. Secondly, that we would like to reserve our final judgement and position on the Agreement until we have had the opportunity to study it and we have not seen the text of the Agreement yet, it is only the Chief Minister's address and version of it. I would certainly like to take them away and study them before coming to a final judgement on the three Agreements. But there are certain areas of clarification and questions which we would like to raise. One of them is whether any of these agreements will require a change in the law so that the House will get an opportunity to debate aspects of the Agreement and to actually vote on them which we think would be important. Also, I think it is important to establish who will be entitled to the new identity card. I think it is another important area which needs to be addressed. We already know they will be re-issued but who will be entitled to them? Also it follows from that whether the United Kingdom's complaints before the European Commission because Spain does not recognise the existing identity card will now be dropped. Perhaps if we had clarification on these issues we would be able to then move on to other questions which I may have, or any of my Colleagues on the Opposition, may have.

HON CHIEF MINISTER:

Mr Speaker, I am delighted to answer the hon Member's questions but I take great heart from the fact that on a thorough reading and hearing of that statement he has not leapt to his feet to register immediate political objection to the terms of the

agreement which, if they were loud and clear, would have struck the hon Member immediately on a hearing of them. I understand what he says, that he wishes to reserve judgement until he has seen the detail and that strikes me as entirely reasonable.

Mr Speaker, the only sense in which any of these Agreements require a change in the law is that there will be a need to amend the regulation publishing the format of the local ID card to change the content in it. But that is a regulation and I believe does not require amendment to the principal legislation at stake. However, the hon Member has been in the House long enough to know that he does not need a change in the law to debate issues in this House and to cast his vote in favour or against. The hon Member is perfectly at liberty whenever he chooses to do so to bring a substantive motion, either praising or condemning the Government as he prefers on the basis of his views of these Agreements and he would have the opportunity to fully express his views and to cast his vote in accordance with it.

As to who is entitled to the new ID card, Mr Speaker, it is the same people who are presently entitled to benefit from freedom of movement within the European Community, namely British nationals resident in Gibraltar. They are the same people who presently get the red ID card. Nobody else gets the red ID card, everybody else gets ID cards of a different colour. Whether the UK's complaint will now be dropped, the answer is obviously yes. In the real world, when parties get together around a table and solve a dispute on terms that each says is acceptable to them they do not then carry on bickering about it in any other place. The answer is that the United Kingdom, with the Gibraltar Government's full support, will drop its complaint in respect of the present ID card non-recognition.

HON J C PEREZ:

Mr Speaker, can the Chief Minister state whether, when he said that the card would carry the authority of the Civil and Status Registration Officer in Gibraltar, whether those words will

supplement the words "Government of Gibraltar" where it says "authority" in the present ID card?

HON CHIEF MINISTER:

No, they will not supplement, they will replace because the present ID card is actually wholly incorrect. Under the Civilian Registration Ordinance the statutory authority for the issue of the card is the Civilian Registration Officer not the Government of Gibraltar but of course, as everybody knows the Civilian Registration Officer is part of the Government of Gibraltar and therefore the card will continue to be issued by the statutory authority of the Government of Gibraltar by whom it has always been issued except that he will now be properly described.

HON J C PEREZ:

But the words "Government of Gibraltar" were objectionable to Spain and that is why they have now been removed.

HON CHIEF MINISTER:

The words "Government of Gibraltar" were thought to be one of the inaccuracies that affected several parties, let me say, not just Spain I think the hon Member may wish to polarise this in relation to Spain but I would remind him that only two Member States of the 15 accept the card as it was issued and that was the United Kingdom and Sweden. The others may have been lobbied by Spain but they came to their own conclusion, albeit under lobbying from Spain. Yes, the hon Member is right that is instead of not in addition to.

HON J C PEREZ:

Mr Speaker, on the police co-operation agreement, will the Chief Minister say once we have got the telephone links subject to the availability of numbers, whether there is any provision in the agreement for police authorities on either side chasing a person into the territory of the other one and whether any provision has

been made on this and can he clarify whether the position of Spain in relation to their recognition of the Gibraltar Courts has changed? If this is not the case whether this will make the police co-operation less effective than it would?

HON CHIEF MINISTER:

Mr Speaker, the answer to the hon Member's questions are that there are provisions in the Schengen Agreement for what is called "hot pursuit". But, of course, it does not apply to controlled borders. Hot pursuit is when one strays from France into Belgium, across a field, where there is not a border. The Schengen Convention provisions relating to hot pursuit do not apply to this border just as they do not apply across the English Channel. A French policeman cannot hot pursue into the United Kingdom. There are, however, provisions in the Schengen Convention, not in the Agreement, the Agreement contains nothing about hot pursuit but there are in the Schengen Convention provisions relating to seeking each other's assistance to continue the pursuit of suspects under observation in each other's territory. The strict answer to the hon Member's question is that the Agreement does not say anything about hot pursuit. The hon Member will have noticed, I realise it was a small detail in the context of the overall statement but the hon Member may have noticed that one of the bits of the Schengen Convention into which we are not participating is precisely the cross-border surveillance provisions.

HON J C PEREZ:

As a result of the Agreement it is not possible, for example, for a Spanish launch to be in pursuit of another launch that comes into the Bay of Gibraltar and we finish up with an armed Guardia Civil on Eastern Beach, that is not possible?

HON CHIEF MINISTER:

Absolutely not. There are, as the hon Member knows, international understandings, not Gibraltar-related about that but certainly this Agreement would most certainly not permit that to

occur. If that is the hon Member's concern, I have to say that my view of whether we ought to allow Spanish police forces to chase criminals into our waters would depend on the gravity of the criminal and the gravity of the crime. Frankly, there are certain types of criminals in respect of which I would gladly allow the Spanish police to chase them in our waters if that would improve the chances of bringing them to justice. I take the hon Member's political point in relation to this Agreement and the answer is that it does not have the effect that the hon Member suggests.

As far as recognition of our Courts is concerned, these Agreements have not addressed that issue as indeed they have not addressed many other issues in relation to Gibraltar and Spain both inside and outside the European Union which also need addressing.

HON J L BALDACHINO:

Mr Speaker, the changes that we are making in our driving licences and identity cards is that it will carry the letters "UK". Yet, in his statement the Chief Minister said that the current driving licences do not need to have those letters and it is still valid. Why is it that we have to change now to the new ones? I am asking this because a lot of people are paying a lot of money to change their driving licences.

HON CHIEF MINISTER:

Mr Speaker, as I know that the hon Member never sets about trying to confuse public opinion I will assume that he has simply failed to understand or cohere what I had specifically inserted in my statement to clarify that very confusion. I have said that these arrangements do not in any way affect driving licences. The insertion of "United Kingdom" in the driving licences was done in January 1997. For the last three years we have been issuing driving licences with United Kingdom and this new format of driving licences was gazetted with the whole picture of the driving licence, all pages of the new driving licence, in the Gazette and anyone who has either renewed their licence or exchanged it

because they have lost it or taken out a new driving licence because they have just obtained their driving tests since the 1st January 1997 have obtained one in the new format with the "UK". But, of course, the hon Member and I who had our driving licences before 1997 still have the old GBZ format. That is unaffected by these Agreements and because they are unaffected by these Agreements they remain perfectly valid as they have always been. It is not the policy of the Spanish Government to withhold recognition from GBZ driving licences. It is, however, true and regrettable that individual officers in Spain occasionally - there has been one recent incident - subject holders of GBZ licences to completely unacceptable and outrageous harassment as if it were the policy of the Spanish Government to withhold recognition of GBZ. Thousands and thousands and thousands of Gibraltarians cross the frontier every day and show their GBZ driving licences and they are perfectly acceptable. If any Gibraltarian wants to change his GBZ licence for the one that has been issued from the 1st January 1997 he is free to do so. I would not encourage people to do that because our driving licence is not an EU document. Our driving licence is issued under international agreements and although there is going to be an EU format it is not necessary for people to change their driving licences in order to secure its acceptability.

HON DR J J GARCIA:

Mr Speaker, there are three more areas which I would be grateful for clarification. The first is whether the actual text of licences issued in Gibraltar by the Financial Services Commission to banks, for example, will change in any way as a result of these Agreements.

The second is, the Chief Minister mentioned that the Government wished to participate in the Schengen Information System and that we are not participating in it, what were the grounds for the Spanish objection on that particular area?

The third one was regarding the jurisdiction of the Supreme Court of Gibraltar, is their recognition in the Agreements when we finally

get to see them of the jurisdiction of the Supreme Court of Gibraltar?

HON CHIEF MINISTER:

Mr Speaker, there is absolutely no domestic change whatsoever in the licences or the exercise of competence by any domestic authority. These arrangements relate to how the documents, decisions, acts, exercises of competence, exercises of power or authority by our local authority how they are physically delivered to counterparts in other Member States. Therefore, there is no change in the text of a banking licence or in the text of a Supreme Court Judgement or in the text of the Health Authority Form E111, the one that we all take with us in case we fall ill in Spain, et cetera. There is absolutely no change in the way local authorities will carry out their competence. None whatsoever.

In respect to the hon Member's question where he said that the Gibraltar Government wished to participate in the SIS, I thought I had indicated that it is not so much that the Government wished to participate in the SIS. We do not think it is a particularly important thing. In a larger country perhaps, but our position is not based on the practical importance of this to Gibraltar. It is not the equivalent of financial services passporting or something which is of great value. The importance and the reason why the Government take the position is as a matter of principle. The hon Member will recall that I had explained to this House already in the past that the reason why the Government attach importance to this point is twofold. First of all as a matter of principle that we should not be excluded from any EU measure against our wishes and certainly not under pressure from Spain and this I have said again this morning. When we broached this subject last in the House I also said that it was clear to us, although they have not said so, that Spain's objection is based on the fact that these computers are external frontiers sensitive and that if the United Kingdom agree to exclude us from this because it is linked to external frontiers, it might set an unhelpful precedent if and when, which is not yet the case, the United Kingdom decided, although they are constantly saying they will never decide to do it, but

when they decide to join the External Frontiers Regime in Schengen. The reason why we have come to that conclusion is that it is envisaged that these computers will be located principally at external borders. Because they are to check fingerprints or asylum seekers and they are to identify the identity of people gaining access into the Schengen area. Therefore, the Spaniards objection to Gibraltar participation in the Schengen Information System must relate to the fact that this bit of kit has all the trappings of an external border post and that if we locate one at our airport and if we locate one at our harbour they would think that this is losing ground in terms of their contention that our airport and our port are not external frontiers of the European Union. That is why the Gibraltar Government, although we have happily agreed to the three Agreements and although we are very happy that the United Kingdom has been able to overcome Spain's veto in respect of Schengen generally, we have therefore not agreed and indeed expressed our deep disappointment and have recorded our objection to the fact of our exclusion from the Schengen Information System which we think Gibraltar has the right to be offered participation in together with everything else and then it would be up to us to decide whether we wanted to participate in it or not as opposed to not being given the choice.

Amongst the many good effects for Gibraltar of these Agreements is that Judgements of the Supreme Court will be fully recognised and enforceable under the applicable international and EU-related Conventions relating to the mutual recognition of Judgements.

HON DR J J GARCIA:

Just to make a final point, the Opposition are reserving their position until we have actually seen the text of the Agreement.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Friday 28th April 2000, at 10.30 am.

Question put. Agreed to.

The adjournment of the House was taken at 10.45 am on Wednesday 19th April 2000.

FRIDAY 28TH APRIL 2000

The House resumed at 10.30am

PRESENT:

Mr Speaker.....(in the Chair)
(The Hon Judge J E Alcantara CBE)

GOVERNMENT:

The Hon K Azopardi - Minister for Trade, Industry and
Telecommunication
The Hon H A Corby - Minister for Employment and Consumer
Affairs
The Hon J J Netto - Minister for Housing
The Hon R Rhoda QC - Attorney-General
The Hon T J Bristow - Financial and Development Secretary

OPPOSITION:

The Hon Dr J J Garcia
The Hon Dr R G Valarino
The Hon J C Perez
The Hon S E Linares

ABSENT:

The Hon P R Caruana QC - Chief Minister
The Hon Dr B A Linares - Minister for Education, Training, Culture
and Health
The Hon J J Holliday - Minister for Tourism and Transport
The Hon Lt-Col E M Britto OBE ED - Minister for Public Services,
the Environment, Sport and Leisure

MONDAY 8TH MAY 2000

The Hon Mrs Y Del Agua - Minister for Social Affairs
The Hon J J Bossano - Leader of the Opposition
The Hon J L Baldachino -
The Hon Miss M I Montegriffo

The House resumed at 12.10pm.

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 a document on the Table.

Question put. Agreed to.

The Hon the Financial and Development Secretary laid on the Table the Draft Estimates of Revenue and Expenditure 2000/2001.

Ordered to lie.

ADJOURNMENT

The Hon the Minister for Trade, Industry and Telecommunications moved the adjournment of the House to Monday 8th May 2000 at 12 Noon.

Question put. Agreed to.

The adjournment of the House was taken at 10.40 am on Friday 28th April 2000.

PRESENT:

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

GOVERNMENT:

The Hon P R Caruana QC - Chief Minister
The Hon K Azopardi - Minister for Trade, Industry and Telecommunications
The Hon Dr B A Linares - Minister for Education, Training, Culture and Health
The Hon J J Holliday - Minister for Tourism and Transport
The Hon Lt-Col E M Britto OBE ED - Minister for Public Services, the Environment, Sport and Leisure
The Hon J J Netto - Minister for Housing
The Hon Mrs Y Del Agua - Minister for Social Affairs
The Hon R Rhoda QC - Attorney-General
The Hon T J Bristow - Financial and Development Secretary

OPPOSITION:

The Hon Dr J J Garcia
The Hon J L Baldachino
The Hon Miss M I Montegriffo
The Hon Dr R G Valarino
The Hon J C Perez
The Hon S E Linares

ABSENT:

The Hon H A Corby - Minister for Employment and Consumer Affairs
The Hon J J Bossano - Leader of the Opposition

IN ATTENDANCE:

J L Alvez Esq - Clerk of the House of Assembly (Ag)

COMMUNICATIONS FROM THE CHAIR

MR SPEAKER:

I would like to welcome Members of the European Parliament who are present in the House today.

MOTION

HON CHIEF MINISTER:

Mr Speaker, I beg to move the suspension of Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with a motion.

Question put. Agreed to.

HON CHIEF MINISTER:

Mr Speaker, I beg to move the motion standing in my name and which reads:

“This House –

(1) Notes with satisfaction the judgement of the European Court of Human Rights declaring Gibraltar’s disenfranchisement from elections to the European Parliament to be a violation of the European Convention on Human Rights.

(2) Notes the provision in the judgement that “The United Kingdom, together with all the other parties to the Maastricht Treaty is responsible *ratione materiae* under Article 1 of the Convention and, in particular, under Article 3 of Protocol No.1, for the consequences of that Treaty”.

(3) Therefore records the expectation and entitlement as a matter of human rights of the people of Gibraltar to vote in Gibraltar in the next European Parliamentary elections for the election of an MEP whose constituency will comprise Gibraltar.

(4) Resolves that in the meantime the following British Members of the European Parliament, having expressed their willingness to represent the interests of the people of Gibraltar in the Parliament, are formally recognised by this House, on behalf of the people of Gibraltar, as representing their interests:

Lord Nicholas Bethell
Mr Roy Perry
Mr Charles Tannock
Baroness (Emma) Nicholson
Mrs Mel Read
Mr Brian Simpson

(5) Wishes to express the thanks and appreciation of the people of Gibraltar to the aforesaid Members of the European Parliament for their interest, for their goodwill and for their initiative in ensuring that Gibraltar is represented in the European Parliament, as an interim arrangement, in an indirect way.

(6) Warmly welcomes those Members of the Gibraltar in Europe Representation Group who are currently visiting Gibraltar”.

Mr Speaker, it has been Gibraltar’s good fortune since the early 1980s to always have enjoyed the support of a group of British Members of the European Parliament who, despite the democratic deficit represented by the fact that we are not included in elections for the European Parliament ourselves, have nevertheless taken it upon themselves to support and look after the interests of Gibraltar in the European Parliament. A particular word of gratitude is owed because even at its most cynical, voters, citizens, think that politicians pay most attention to those issues which favours them electorally under which they have to gain personally at an election level. Here is a group of people who

have absolutely nothing to gain personally by dedicating time and energy to the representation of Gibraltar's interests because none of us are able to vote for them in their constituencies in their elections for the European Parliament. It is therefore important to recognise the selflessness and the lack of self-interest that motivates the group of British MEPs that provide this invaluable service for us.

It is well known by everybody in Gibraltar, not so well known by others in the United Kingdom and still less well known by many in the European Union itself, including amongst its institutions, the extent to which Gibraltar is in need of representation and minding of our interests in a European Union context. This House knows well the extreme burden, both financially and economically and administratively, legislatively, that membership of the European Union represents to this small country of ours. We also know that we are compliant Europeans in the sense that it is the policy of the Government to comply with the spirit as well as the letter of our European Union obligations. That gives us a moral legitimacy to demand that as a quid pro quo others honour their EU obligations towards us and respect our EU rights and when the United Kingdom Government rightly look to us to honour our EU obligations to avoid embarrassment to the British Government and we do so, it gives us a renewed moral and political entitlement to expect Her Majesty's Government to discharge her political and constitutional duty towards us to ensure that our own EU rights are respected and that when other Member States systematically flaunt our EU rights and their obligations towards us, they should be brought to task. When EU institutions, primarily the European Commission, but also the Council of the Parliament, turn a blind eye to the systematic breach of our EU rights, that they should be aware of their obligations and their duty to ensure that the treaties are applied evenly and fairly throughout the entire territory of the whole Community and that includes Gibraltar. There are no exceptions to the universal applicability of European Union Treaty obligations and laws that flow from it. It is a matter of regret to us all in Gibraltar that in these circumstances all too often our neighbour, Spain, is allowed to get away with impunity, with the most un-European of behaviour. Border regimes, even

allowing for Spain's undoubted legal rights to exercise immigration controls because the UK and Gibraltar are not in the frontiers bit of Schengen, and even allowing for our right to exercise customs controls, because Gibraltar is not part of the Customs Union, they still do not apply those rights that they have in a manner consistent with their overriding Community obligations which are not negated, still less superseded, by the Schengen right that Spain has which is not to interfere with the right of free movement of peoples under the European Union Treaties which is supreme over the Schengen provisions that gives Spain powers to exercise frontier controls and customs controls. Therefore, customs controls, yes but for goodness sake, how many customs controls in Europe are there without a Red and a Green Channel where every single vehicle is systematically subjected to a ritualistic routine search simply to chalk up a few more minutes of delay? I have never been, not even when I travelled to Hungary when it was still on the wrong side of the Iron Curtain, I have never been through a Customs post that does not have a Red or a Green Channel and that is something the European institutions need to look at. By all means immigration controls because we are not in Schengen but immigration controls that are allowed to carry out are immigration controls to ensure that the holder is an entitled person. In other words, in this House we are all British passport holders and therefore European Union citizens. The immigration control that Spain is allowed to carry out is a measure to establish that I am a European Union passport holder or not. But if I am, they cannot impede my entry. Therefore, any system which either goes beyond those minimal requirements or which are deployed and implemented in a way which causes delay because of lack of resources applied or implemented then is a breach of our European Union right of free movement. Single file across the Customs post. Single file across the immigration post. Therefore, even though we recognise Spain's right to apply immigration and customs control to the proper extent, in the proper measure and in the proper manner, there is still much about the way she does it in fact at this border which should attract the interest of European Union institutions and which should cause Her Majesty's Government in the United Kingdom in discharge of her constitutional obligations to look after our

external affairs to ensure that maximum pressure is brought to bear on Spain to ensure that she discontinues behaviour which is unjustifiable in the context of the European Union and possibly even otherwise.

There is the question of the lack of maritime and the lack of air links. Here we are, creating a single market, and one cannot fly or catch a ferry between two integral bits of the European Union. There is the telephone numbering issue which we so often debate in this House. The refusal of the Spanish Government to enter into allowing telephone operators to enter into a mobile telephone roaming agreement with the result that their telephone company can compete in our territory but ours cannot compete in theirs. These are basic anti-competition measures. I am sure DGIV in Brussels has formed the view that there is a flagrant breach of competition regulations. For three years now they have been on the verge of taking Spain to court, but has it ever happened? No, because the moment it gets to the Commission it becomes politicised and the question is whether the Commission wishes to sanction legal action against Spain given that there is the political problem? What is not acceptable to Gibraltar is that we should not have justifiable rights in the European Union. When Spain joined the European Community and she signed up to the Treaty of Rome, she did not enter a reservation. She did not say "well, hang on chaps, I am signing the Treaty of Rome but I am not bound by it if I think that what I have got to do or not do under it prejudices my sovereignty claim over Gibraltar". European Union institutions have an obligation to police, not only the respect for our European Union rights but also the discharge by Spain of her European Union obligations towards us generally. It is not just Gibraltar residents that get snarled up in that border. It is not just Gibraltar residents that pay an economic price for the telephone numbering problem, or for the lack of maritime and air links, it is also European Union citizens of all nationalities who have the right to free movement, who have the right to unrestricted travel and who have the right to exploit commercial opportunities throughout the whole territory of the European Community without impediments of the sort that Spain erects in our path.

These are just some of the reasons why we need the support of all institutions, including the Parliament and within that context the support of a group such as this, to help abate many of these issues which constantly affect our day-to-day life in Gibraltar.

In expressing our endorsement to them and our gratitude for their efforts on our behalf I know that as democrats through and through, each of them, they do not begrudge us the fact that we describe these as interim arrangements in an indirect way because they understand what we understand and that is that there is no substitute for the respect for the principle of participation in direct elections. This is not a question of having a minder in the European Parliament. I believe that we will always have as many minders as there are British MEPs and eventually we will have as many minders in a greater number than British MEPs because when one has right on ones side eventually it prevails. Democrats throughout Europe will increasingly see the Spanish aspiration to take Gibraltar contrary to the wishes of its inhabitants as an untenable aspiration to be espoused by any member of the European Union democratic family. Therefore, we say to our colleagues from the European Parliament here present and to the world at large that Gibraltar will not countenance another European Parliamentary election in breach of our European Convention of Human Rights. Nor do we think it is conceivable, Mr Speaker, that the United Kingdom should wish to persist with its violation of its obligations under the European Convention of Human Rights about which the UK and other Europeans literally lecture people from all over the world, need and importance of compliance of human rights and here is a human right that the United Kingdom is in violation of. We fully expect, as is our right and the United Kingdom's obligation, to have been fully enfranchised before the next European Parliamentary elections which are scheduled to take place in 2004. It will not be enough for us to be enfranchised as people in a United Kingdom constituency. The territory of Gibraltar must be enfranchised and we can talk about whether the mathematics works, about whether Gibraltar can have its own MEP to the exclusion of other territories or whether the mathematics do not work. Even if the solution is ultimately that we have to join forces

with the United Kingdom for electoral purposes, it has to be in a constituency the territorial definition of which includes Gibraltar so that people in Gibraltar vote in Gibraltar in what is part of the physical constituency which includes Gibraltar and we do not vote in the United Kingdom as part of the United Kingdom constituency which does not include the physical territory of Gibraltar. It is absolutely essential that these matters are dealt with in good time. The United Kingdom Government have already given notice to its European partners that it wishes to amend the European Union Act on Direct Elections of 1976 to amend its Annex II, to add the words "and Gibraltar" where it says that in the case of the United Kingdom these provisions will only apply to the United Kingdom itself. The United Kingdom has therefore said the right thing. Gibraltar now awaits for those words to be converted into action.

Finally, of course, in relation to European voting I will just say one more thing. We will only accept to participate in European elections as part of the British Member State, as part of a British constituency. I say that or I just flag the issue because I notice that there is in its infancy a European proposal to allow for cross-border constituencies in future European Parliamentary Elections. I think that cross-border constituencies are fine in the Benelux countries and other places where they do not have territorial sovereignty disputes. It would obviously be wholly unacceptable for some bright spark to come up with the idea that the way to resolve the Gibraltar enfranchisement problem is that when these cross-border constituencies are invented that we should just be tagged on to the nearest Spanish constituency. That would be an act of extreme provocation, unacceptable. I have absolutely no reason to believe that anybody in the United Kingdom would even contemplate such a thought but it is just as well that this House is aware that that proposal for cross-border constituencies is on the radar screen. That it will emerge one day pursuant to the regionalisation as opposed to the nationalisation of Europe and that we have to be on our guard to ensure that no one harbours Machiavellian thoughts in that respect when it comes to Gibraltar.

I hope that the motion will enjoy as is traditional, the support of all Members of the House. It is obviously to be noted and regretted

that the present group of visiting Members of the European Parliament does not include its two Labour Members who are otherwise engaged on commitments that they could not re-schedule but everybody in this House knows Mel Reed and Brian Simpson and they know the extent of their personal and political commitment to Gibraltar and its cause. They are well known to the Government, to the other Members of the House from the days that they were on this side of the House and to many people in Gibraltar. I therefore commend the motion to the House.

Question proposed.

HON DR J J GARCIA:

Mr Speaker, certainly it is an honour to be able to support the motion on behalf of the Opposition Members who will gladly vote in favour. Although I think there is one point which needs clarification which I will come to later on. The Chief Minister has already touched upon it at the end of his address.

We are grateful to the group of Members of the European Parliament those here now and those in the past who so generously give and have given of their time to keep an eye on the interests of Gibraltar. In the name of the Opposition I take the opportunity to thank those friends of ours present in this House today. Having said that, Mr Speaker, I need to make clear that the effect of this motion represents as has already been said an interim arrangement. The preferred option for all of us here is for the people of Gibraltar to elect their own MEP here in Gibraltar. Nevertheless, we remain grateful. The issue of voting rights for the people of Gibraltar in Euro Elections is a fundamental, democratic, principle. It is a right exercised by citizens of the European Union all over the Continent and also in certain overseas territories which are not even in Europe. Tomorrow, and it is quite pertinent that this should be the case, is Europe Day. It is therefore very appropriate that on the eve of that Day this subject comes before this House once again. In its literature on Europe Day the European Commission says it is a day to celebrate the fact that the people of Europe co-operate together in

order to solve problems and create peace. I do not think that whoever wrote that has been to our part of the world nor does the hostile neighbour to the north seem aware of this as they remain in serious need of a lesson in peacemaking.

The House will forgive me, Mr Speaker, if in going back to the motion I concentrate on a historical exposition of this case, though some of the points have already been well covered before. As we know, the European Parliament was initially made up of appointed representatives of the national parliaments of the individual Member States. In December 1974 the go-ahead was given for direct elections to the parliament to take place and the first of these took place in June 1979. The citizens of Europe were given a direct say on who their MPs were going to be for the first time. There have now been a total of five elections, the most recent of which took place eleven months ago. When the system of representation was changed from a nominated to an elected one, Gibraltar was left out. The people of Gibraltar have been unable to vote in any of those five elections even though two of those took place before Spain joined the European Community. This, in itself, Mr Speaker, was a glaring act of omission. A national of any other EU country who resides in Gibraltar cannot vote in Gibraltar either and this is, as the Chief Minister has already explained, because it is a territory and not the people that is disenfranchised. Any of us could go to Britain or to any other Member State and vote but that is not the point. As the Chief Minister has already said what we wish to do is to vote here in Gibraltar, in our country.

Mr Speaker, this is a territory of the Union and we are citizens of the Union. Therefore the case could not appear to be simpler. However, I am sorry to say that whenever it comes to Gibraltar and EU matters, as recent events will testify, everything is far from being simple. From 1976 to 1986, for 10 years before Spain joined the European Community as it was then, no attempt was made to correct this travesty of democracy. A call by the Petitions Committee of the European Parliament that all EU citizens have a right to vote in European Elections fell on deaf ears. Moreover, there were plenty of opportunities to right this wrong both before

and after Spain joined the EEC. Firstly, and perhaps most obviously, the position of Gibraltar in Europe was not safeguarded before Spanish entry. Another opportunity arose with the redistribution of seats that followed German unification after the Maastricht Treaty when Britain was allocated six new seats. This would have been the ideal time to grant Gibraltar a separate seat from within those allocated to the Member State UK without necessitating a general redistribution of British seats. This opportunity was also missed. It is worth noting that the German Government made provision immediately for 18 observers from East Germany to be present in Strasbourg and Brussels soon after the unification of Germany. We were not given our own seat. We were not given an observer status and the opportunity was also missed. The history of this case is a catalogue of failures and of blunders of which the people of Gibraltar are and continue to be the tragic victims. Not surprisingly, the people of Gibraltar are now fed up. The prime responsibility for this exclusion rests with the United Kingdom. The reason given by the mandarins in Whitehall and echoed by the political masters were as varied as they were interesting and at times even comical were it not for the seriousness of the matter at stake. We were told that Gibraltar could not participate in European Elections because we did not belong to the Customs Union or because we did not levy VAT, never mind the fact that Britain itself to this day continues to participate in Europe a la carte. They told us that geographically it was very difficult to find a British constituency to which Gibraltar could be tagged as we had no strong cultural or historical links with any of them. This ignored the point that during World War II thousands of Gibraltarians were evacuated to London and to the south east. The Foreign Office then unabashed also paraded the numerical argument which the Chief Minister has already referred to saying that size was a problem as our electorate was too small and could never aspire to an MEP of our own. They conveniently looked the other way instead of looking at Luxembourg, then with six seats, at the Portuguese Atlantic island of Madeira with two seats, at countries like Malta and Cyprus on the verge of EU membership which no doubt will also be well catered for in this department. Then, quite unexpectedly, all these poor excuses were exposed for what they were when Britain departed from the

traditional constituency system into regional lists and proportional representation for electing MEPs. What then could possibly be the reason for excluding Gibraltar from such reforms? What imaginative excuse will they think of next? It was then that they found the Acts. The infamous EC Act on Direct Elections of 1976 which the Chief Minister already alluded to which declares in Annex II that it applies only in respect of the United Kingdom. This new argument, which had never really been paraded before, now became the new stumbling block being used to deny the people of Gibraltar their legitimate right to vote and to participate in elections to the European Parliament, never mind democracy, never mind human rights, never mind anything. Here, then, Mr Speaker, was a new obstacle. It was then that the Government, led by my hon Friend the Leader of the Opposition backed a Court case accusing Britain of being in breach of our human rights. It is that Court case to which this motion refers. Gibraltar, in the person of Miss Denise Matthews, took Britain to Court and won. Our exclusion was declared illegal. The Customs Union, the VAT, the geographical argument, the size argument, were all thrown out of the window in that landmark judgement by the European Courts of Human Rights. Soon after the judgement the UK tabled the amendment to the Act and there it remains tabled to this day nearly a year later. We understand that Spain is already blocking the implementation of that judgement and of that amendment in the EC General Affairs Group.

Mr Speaker, on the voting rights issue we have seen it all and we have heard it all. It is shameful that it has taken a court battle for the Foreign Office to act and to table the necessary amendment, yet for the cynics amongst us the current stalemate hardly comes as a shock. The European Commission passed the buck to Britain. Britain pleaded innocence in turn and pointed to the Act whilst it has come as no surprise to us that all the time the real reason lurking behind the scenes was the shadow of the Palacio de Santa Cruz, the Spanish Foreign Ministry in Madrid. This blockage of our democratic right to vote by Spain does little to enhance their supposed democratic credentials and is an issue which our friends in Europe could pursue. This goes along with our long catalogue of unfriendly, un-European and undemocratic

actions undertaken against us by Madrid, amongst which are maritime and air restrictions which remain in force, restrictions by land which also continue to operate. Even last week the Spanish team at the international fishing event that took place in Gibraltar withdrew on instructions from the Spanish Government. Mr Speaker, Madrid does not recognise the existence of the Government of Gibraltar as a distinct entity or of the Gibraltarians as a distinct entity and they seek to undermine that at every possible opportunity.

I said at the beginning that the Opposition would seek to clarify one aspect of the motion and it was something which the Chief Minister has already referred to and perhaps this is the appropriate place to air those concerns. Without wishing to be controversial, Mr Speaker, in the light of recent events where a bilateral deal between Britain and Spain was decided that a whole range of European issues should apply to Gibraltar and Opposition Members are concerned that this may be extended to the voting rights issue as well which is something which the Chief Minister has referred to to which there would appear to be general provision in those agreements.

Clause 2 of the motion, Mr Speaker, in the view of Opposition Members reflects the view of the judges in the Strasbourg Court but the Judgement was binding on all parties to the Treaty. This includes Spain. Therefore, in order that we end up voting in a constituency of the Member State that is responsible for our external affairs and not of the Member State that continues to pursue its territorial claim over us, we would urge that Clause 3 of the motion be tightened up. The Opposition would therefore like to see the addition of the words "United Kingdom" inserted before the word "Constituency" in Clause 3 of the motion. This would make it clear that this House wishes that the Gibraltarians exercise their right to vote with one of the British constituencies as opposed to with those of any other country. As far as we are concerned the MEP must be a UK MEP which the Chief Minister in any case has already said. However, for the avoidance of doubt I repeat that this is in itself a second best to a dedicated Gibraltarian MEP. If this small change could be done by

agreement I would be very grateful to the Chief Minister when he replies.

Mr Speaker, in conclusion, the powers of co-decision given to the European Parliament and the increasing say which it continues to have in the light of the nationals who live in Gibraltar means that the present situation has become untenable. We cannot continue to have no direct voice in the Parliament that has an influence in decisions that affect us and Britain cannot allow Spain to continue to block the judgement of the Courts. This goes against the very foundations on which the European Union is built. There are suggestions that Gibraltar could be enfranchised by amending British law alone. Indeed, the Gibraltar Government have claimed in the past to have a Legal Opinion to that effect. Perhaps that Legal Opinion could be made available to all of us so that in addition we can now push for that as another possible way forward.

Mr Speaker, we thank our friends present here today and look to them to support the cause of Gibraltar and its people in the new battleground of Europe. A front that has been opened by Spain. From the moment they joined the EU 14 years ago Spain continues aggressively to use it as a vehicle to advance their claim to Gibraltar. Against this background we urge our friends here to bear in mind that Europe cannot be just about the national interests of the 15 Member States. Europe, Mr Speaker, is about people. The Opposition will be voting in favour of the motion and would welcome if the small change that we have highlighted could additionally be taken on board.

HON CHIEF MINISTER:

I am grateful to the hon Member for his support of the motion. I assume that when he said that he would support it if his amendment was agreed, he did not mean that. What he meant was that his support for it would be even more enthusiastic if his amendment was agreed.

It is actually an issue that we very nearly put in ourselves and early drafts of this motion have a number of formulae to cover precisely that point. In the end I decided not to include it so as not to concede at this stage the principle that Gibraltar might be entitled to a constituency of its own, given that we are not part of the United Kingdom for EU purposes. If we now pass a motion calling to be included in a UK constituency we are converting what is a fall-back position into our original demand. Having said that if the House is minded to cede that point which in my opinion is unnecessary I have no objection in including it, I would suggest that the point be covered by converting the full stop after the word "Gibraltar" substituting it for a comma and adding the words either "in a constituency of its own" or "as part of a constituency comprising Gibraltar and part of the United Kingdom" which at least has the virtue of asking for both things and not only for one of them. Paragraph 3 would read, "Therefore records the expectation and entitlement as a matter of human rights of the people of Gibraltar to vote in Gibraltar in the next European Parliamentary Elections for the election of a Member of the European Parliament whose constituency will comprise Gibraltar..." either "in a constituency of its own" or "as part of a constituency comprising Gibraltar and part of the United Kingdom". I am happy to move such an amendment, Mr Speaker.

The other point that I would make because of course none of this is necessary because the only thing that happened last week was what he calls bilateral agreements. I notice that he mentions in passing that for which there is general provision in the Agreement. I shall explain this to the hon Member in relation to other aspects of the Agreements. There is no provision in the very good agreements that the Gibraltar Government have supported, entered into during the last few weeks. There is nothing in them, however, which consists of a general provision that is capable of extending to frontier controls or to voting rights or to the shape or size of even the national colour of constituencies. The arrangements, and I assume that the hon Member is not talking of identity cards or police co-operation but he is talking about the competent authority arrangement, the

competent authority arrangements are limited in their application to those aspects of EU measures which require the transfer, the conveyance, of formal communication between the competent authority in one Member State to the competent authority in another Member State. That is the beginning and the end of the arrangements. The Government of Gibraltar are delighted that it is of universal application within that limited context, in other words that never again will Gibraltar's competence to act through its own constitutional authority in the implementation of EU measures acting by its own constitutional authority never again will this be challenged by any other Member State of the European Community. This is a very significant step forward because at last it has been possible to reconcile our bilateral constitutional relationship with the United Kingdom with the multilateral legal structure of which the United Kingdom is a part within the European Community and frankly the hon Members may wish to find minor faults with it and I suppose it is understandable that they would wish to do that given the role that they need to serve as an Opposition but they ought not to make wild generalisations of an inaccurate nature about what the agreements relate to. There are no general provisions in the agreements capable of impacting positively, which would be positive, or negatively even on any of the issues that he addressed in his contribution to the House. Nor is our enfranchisement now a matter for bilateralism between anybody. It is not even a European Union matter any more. It is now a matter of the compliance by the United Kingdom with her obligations under the European Convention of Human Rights. It has even been taken out of the European Union context altogether.

The hon Member gives me a welcome opportunity, albeit unexpected, to repeat that the important thing for Gibraltar in the European Community is not to pretend that we are the 13th, 14th or now the 16th Member State or a separate Member State of the United Kingdom. If the hon Members wish to waste their time in continuing to run with that proposition as they used to when they were in Government, it is an unsustainable, disreputable proposition which nobody in Europe or even in Gibraltar is going

to take seriously. They can do so. They will not succeed in distracting the Government from the fact that the real issue is not to try and pretend something that we are not but to prevent Spaniards from eroding what we are and what we have under the guise of European Unionism. These Agreements completely achieve that goal. Not only does it achieve it defensively but it achieves it pro-actively because it finally secures what the hon Members say does not secure but the fact of the matter is that the Spaniards have now agreed that they will accept Certificates, Licences, decisions of the Gibraltar competent authorities designated as such on the face of European Union Instruments. From now on, when a European Union directive says the competent authorities are listed in Annex II it will say "for the United Kingdom, the Department of Labour and Social Security and for Gibraltar, the Department of Labour and Social Security" of Gibraltar. That is an important step forward. The hon Members may not wish to recognise it but it is a vital step forward in achieving recognition by the European Community, including Spain, of the realities of a bilateral constitutional relationship with the United Kingdom which creates a separate jurisdiction, which creates separate institutions, which creates a separate government and, frankly, I do not think it is a price at all because it only reflects the reality of our position in our international status. But if the hon Members want to consider it a price to pay that we get all that in exchange for the simple expediency of channelling our communications physically through a unit in the Foreign Office, I do not think it is a price at all but if it were a price I want the hon Members to understand that it is a price that the Government consider a very small price and which we will happily pay to solve many more issues of that sort. We will happily pay to solve as many such issues as we can resolve because they may think that there is virtue in Gibraltar constantly living under the strife of unnecessary problems but we do not. We regard our function as protecting the fundamental interests of Gibraltar in terms of our Constitution, in terms of our sovereignty, in terms of our European Union rights, but then to solve as many issues as possible in a way that does not prejudice that fundamental goal that I have just described. We think there is a virtue in problem-solving. The hon Members think that there is not because they

think that by having Gibraltar constantly emersed in perfectly soluble problems, that this creates the political oxygen which they think favours their political approach to the conduct of Gibraltar's affairs.

I think that the hon Member rightly draws a distinction in political policy and approach and philosophy between that side of the House and this side of the House in the proper conduct of Gibraltar's affairs and at least for the next four years it will be conducted in accordance with ours.

Question put on the motion, as amended. Passed unanimously.

ADJOURNMENT

The Hon the Chief Minister: moved the adjournment of the House to Wednesday 31st May 2000, at 3. 00 pm.

Question put. Agreed to.

The adjournment of the House was taken at 1.00 pm on Monday 8th May 2000.

WEDNESDAY 31ST MAY 2000

The House resumed at 3.05 pm.

PRESENT:

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

GOVERNMENT:

The Hon P R Caruana QC – Chief Minister
The Hon K Azopardi – Minister for Trade, Industry and
Telecommunications
The Hon Dr B A Linares – Minister for Education, Training,
Culture and Health
The Hon J J Holliday – Minister for Tourism and Transport
The Hon Lt-Col E M Britto OBE, ED – Minister for Public Services,
the Environment, Sport and Leisure
The Hon H A Corby – Minister for Employment and Consumer
Affairs
The Hon J J Netto – Minister for Housing
The Hon Mrs Y Del Agua - Minister for Social Affairs
The Hon R Rhoda QC – Attorney-General
The Hon T J Bristow – Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano – Leader of the Opposition
The Hon Dr J J Garcia
The Hon J L Baldachino
The Hon Miss M I Montegriffo
The Hon Dr R G Valarino
The Hon J C Perez
The Hon S E Linares

IN ATTENDANCE:

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

DOCUMENTS LAID

The Hon the Attorney-General moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the laying of a document on the Table.

Question put. Agreed to.

The Hon the Attorney-General laid on the Table the Revision of the Laws (Supplement No.15) Order 2000.

Ordered to lie.

BILLS

FIRST AND SECOND READINGS

The Hon the Financial and Development Secretary moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed to the First and Second Readings of a Bill.

Question put. Agreed to.

THE APPROPRIATION (2000-2001) ORDINANCE 2000

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 31st day of March 2001, 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.

I will, as usual, Mr Speaker, be confining my contribution at this stage to an outline of the content of the Appropriation Bill for the financial year 2000/2001. The Chief Minister will then present the Government's budget.

The Appropriation Bill is in three parts. First, the House is being asked to appropriate an amount not exceeding £105,897,000 for departmental expenditure as set out in Part I of the Schedule to the Bill. A further £21,331,000 of Consolidated Fund charges, not requiring a vote of the House, brings the total estimated expenditure from the Consolidated Fund to over £127,000,000. Hon Members will see from the Government's detailed estimates laid in the House previously that the recurrent revenue for the year is projected to be in the region of £143.5 million producing a surplus in excess of £16 million.

This takes us, Mr Speaker, to the second part of the Bill. The Government are seeking the appropriation of £16 million as set out in Part II to the Schedule from the Consolidated Fund reserve. This is to finance the Improvement and Development Fund and a small provision for any residual spending on the Moroccan resettlement scheme.

Part three of the Bill seeks to appropriate an amount not exceeding £26.8 million from the Improvement and Development Fund for capital and economic projects. The sources of finance include the £15.9 million of the £16 million I referred to earlier; £6 million of borrowing and the remainder coming from various receipts including EU grants.

I will be content to deal with any queries on the estimates at the Committee Stage. With that said, Mr Speaker, I conclude and give way to the Chief Minister and in so doing I commend the Appropriation Bill to the House.

MR SPEAKER:

I now call on the Chief Minister to proceed with his speech.

HON CHIEF MINISTER:

Mr Speaker, in the Government's view the condition of the Gibraltar economy is currently very good and this assessment of the economy made by the Government is shared by many other objective observers in the community. The Chamber of Commerce President said in his report out earlier this year in respect of 1999, "The Gibraltar inc is on the crest of a wave"; the Chairman of the Finance Centre Council said that in 1999 Gibraltar had its best ever year in financial services; Cammell Laird reports strong and growing activity and the statement that the economy of Gibraltar is currently in good shape is also reflected in such economic indicators as exist. The employment market and employment prospects, unemployment levels are at levels which are historically low. Increasing income tax yields to the Government, personal taxation yields have risen from £45 million in the year ended March 1998 to £49.6 million in the year ended March 2000, despite the substantial cuts in taxation that the Government have delivered during each of the last four years. The yields to Government from company tax has risen from £10.5 million in the year to March 1998 to £13 million forecast to be the outturn in respect of the year to March 2000, and there is rising international telecoms traffic. The reasons to which the Government attribute the state of the economy is a number of things. Firstly, it is the fruit of Government's reputational repositioning of Gibraltar over the last four years. Secondly, it is the fruit of Government's investment in Gibraltar's physical fabric - streets, roads, squares, terminals et cetera, et cetera. Thirdly, it is the Government's focus on tourism and financial services, promotion, quality and marketing. It is also the result of the growth

in the offshore gaming industry, and of the success of the Cammell Laird operation in Gibraltar, and of the success of the Government's focus on quality training programmes. There is, however, no room for complacency and Government are well aware of the need that there is to stay on-the-job to continue the policies that have, during the last four years, delivered this success.

The objective of Government's economic policy is two-fold; the first objective is to create the climate in which the private sector can prosper thus not only creating new jobs but equally important protecting the security of existing jobs and in that way ensuring the prosperous personal economies of the citizens of Gibraltar. The second objective of Government's economic policy is to use the revenue and the wealth created to invest in the physical environmental and social improvement of Gibraltar and the quality of life here. Everyone therefore has a stake in the success of the private sector which is the sole creator of that wealth in our community and in our economy. This twin-track objective approach is reflected in our manifesto at the recent general election as it is in this Bill which is to move Gibraltar forward steadily on a broad number of fronts. Investments to ensure our continued economic prosperity; investments in upgrading educational and health infrastructure and services; investment in the urban renewal of Gibraltar, in housing estate refurbishment, in lift installation programmes, in things that affect the quality of life of ordinary citizens; in the elimination of all manner of discrimination at work; in sport and in leisure facilities; in green and open spaces and in recreational facilities; in a new public transport system; and in the social infrastructure of Gibraltar, care for the elderly, improved social services, improved probation services, care for the disabled, children with special needs and improved social security support for the most vulnerable members of our community.

Government are failing some sector or other of this community if we do not move Gibraltar's position forward in all of those areas. This generates a competition for the limited financial resources that are available to the Government and it is therefore necessary

for people who rightly have had their expectations raised by what the Government have already done, it does require patience, there is a need to pace and to programme the unfolding of the Government's programme of policies, package of policies in this wide fronted areas. It must be done in a prudent manner consistent with not making public finances vulnerable to economic downturn or external influences and consistently also with the policy of gradual reduction in the personal tax burden. Ours is a four year programme and much as we would like to deliver it all immediately, the reasons that I have indicated, the need to marshal the resources in a prudent manner to couple it with reduced taxation burden and to move forward on a broad front of issues means that it will take four years to implement the whole of the programme. In devising our policies and indeed in the implementation of our policies, the Government recognise the importance of the role of our social partners, the Trade Unions, employer representatives, health education and social services professionals and other Government officials. We rely on their help, guidance and support; they participate actively, meaningfully and constructively in the Economic Advisory Council, in the Labour Advisory Council, in the Trading Advisory Council, in the Sports Advisory Council, in the Arts Advisory Council, in the Tourism Advisory Council, through these mechanisms there is a genuine process through which not only do social partners get the opportunity to make their views known to Government, but actually to participate in a direct and meaningful manner in the formulation and Implementation of Government policies, in addition of course to numerous bilateral meetings that I and other hon Colleagues in Government have with all the representative organisations in Gibraltar. It is the policy of the Government to factor into our policy as much as is possible and affordable of the legitimate agendas of our social partners. We have considered their pre-electoral manifestos. In our own election manifesto we said, "We have read and heard with interest the views of the 'Trade Unions and the employers' representatives as to the concerns and interests of their members, we will in Government be committed to continue meeting regularly with them to pursue such of their suggestions as are legally viable, financially affordable and politically acceptable", these, Mr Speaker, are not

just empty words. The Unions and the employers' representative organisation and other social representatives are not regarded by the Government as opponents or threats, we regard them as genuine social partners, invaluable sources of guidance and advice in the economic and social engineering of the new modern Gibraltar. Many of our policies respond to their agendas and to their requests and that will continue to be the case in what all parties will hopefully regard as a genuine and worthwhile partnership.

The Government will legislate this year to provide for a new statutory minimum wage for all workers established at £3.75 an hour, this will apply regardless of whether employees are weekly or monthly paid or at any other interval of time. This measure will provide an impetus to address genuine aspirations of the lowest paid workers in our community and in our economy. We will also legislate this year to establish statutory redundancy payments and insolvency fund cover for all workers in the economy. Government are committed to continue our policy of product development, marketing support, promotional work and investment in all sectors of the private sector as we have done hitherto - in tourism, in financial services and in the port sectors. We will continue to work closely with those sectors to deliver a continuing and improving climate for prosperity in those industries. We are no less committed to the vital small business wholesale and distributive and retail trade sectors which are vital to our economy. We will this year engage business representative organisations in detailed discussions to identify things that Government can reasonably and affordably do to help those sectors which are suffering particular problems of international competitiveness in the climate that presently prevails. Government are not in favour of erecting protectionist trade barriers which we believe would ultimately operate contrary to the interests of Gibraltar. However, it is important that competition works both ways across the border, we are therefore especially committed this year to take measures to ensure that as far as possible an international level playing field exists for port operators, road hauliers and wholesale and distributive trades operating in Gibraltar. With effect from the 1st January 2001, the payment of social insurance contributions

will move from a stamp system to a cash system and will be unified with the PAYE and income tax system therefore considerably reducing the administrative burden that administering those two systems separately presently imposes on business and especially small businesses. We will also this year be introducing legislation to update our alcohol sale licensing hours and laws. Import duty will be reduced within the next few days from 12 per cent to 6 per cent on all items remaining at 12 per cent in Chapter 63 of the tariff namely fabrics, beds, kitchen and table linen, awnings et cetera, as also it will be reduced to 6 per cent on footwear. These particular items have been selected on the basis of representations made to the Government over a period of time by traders in those commodities who consider that they are particularly adversely affected by the uncompetitive position in which the strong pound, or more accurately put, the weak peseta and euro has placed them. Finally, in relation to business, with effect from today and for a period of seven months ending on the 31st December 2000, import duty on commercial goods vehicles for use exclusively in trade will be exempted from import duty. This will give local businesses a window of opportunity for seven months to renew their fleets of commercial vehicles at very substantially reduced cost. Hon Members will know that import duty on commercial vehicles is presently 18 per cent which represents a considerable cost to all businesses in the replacement of that important part of their plant and equipment.

We warmly welcome in Gibraltar the leading gaming companies that have set up here. Government will sympathetically consider applications from them to expand their operations here and the gaming products that they can offer. However, Government will not allow Gibraltar to become a free for all jurisdiction in international gaming. The number of operators will be strictly controlled as well as their quality. We will only host reputable established blue chip responsible operators in this industry. We believe that that is necessary not just to protect Gibraltar from developing an economic over-dependency in this activity but also to protect the good name of Gibraltar as a jurisdiction.

The Finance Centre is a vital sector of our economy. There is a tendency in some quarters, Mr Speaker, of our community to regard it as the detached preserve of a privileged elite. We have recently announced with considerable satisfaction the conclusion of what we regard as favourable arrangements relating to what is commonly known as post boxing. I take this opportunity to repeat what I have said on numerous occasions, that the post boxing arrangements do not give to her Majesty's Government in the United Kingdom or any department Ministry thereof or any other authority in the United Kingdom, any role or say whatsoever in the regulatory process in the decision-making process of Financial Services Regulatory Authorities or any other executive or administrative or governmental authority in Gibraltar to which the post boxing arrangement may be applied. But when Government announced the post boxing arrangements which this and the previous Government of Gibraltar at least insofar as the ultimate objective is concerned which is passporting have been trying to achieve for many years, post boxing delivers that which is valuable and long awaited benefits to the Finance Centre. One local journalist wrote in commentary to the post boxing agreements in terms which suggest to me that there is a misunderstanding of the importance of financial services to this Community. "There is always the nagging suspicion that behind all this political 'palabreria' this agreement is merely the vehicle which opens up the lucrative finance market for locally based banks and insurance companies whilst the frontier queues which affect normal people are set to continue. It can be considered the typical 'pasteles' where political engineering becomes the instrument to accommodate and further the interests of the big financial and corporate interests, the finance industry, the focus of constant negative publicity and headaches for Gibraltar is being sold to public opinion as the panacea for all our ills. Ask yourself, is it right that we the residents of Gibraltar should be paying 30 per cent or 40 per cent tax on modest salaries whilst high net worth individuals or wealthy non-residents outsiders pay meaningless sums whilst generating astronomical profits?" Mr Speaker, this is, with the greatest of respect to the author of those comments, a seriously misconceived view. If, which is not the case, but if it ever came to a choice between slightly shorter

frontier queues and the continued existence in Gibraltar of a Finance Centre frankly, I think there is no choice and I would unhesitatingly choose the survival of a prosperous financial services centre in Gibraltar. The Finance Centre provides about 2000 direct jobs in this community. It has become infinitely more important than the Ministry of Defence as an employer in Gibraltar; the Finance Centre provides 2000 direct jobs and probably as many again in indirect support jobs. It provides an important slice of Government revenue, it also generates activity and therefore jobs in hotels, shops, restaurants and other businesses. Without it the Gibraltar economy is not viable at current levels of personal prosperity. Without it Government would lack the financial resources to maintain the public services and to invest in physical and social projects in Gibraltar. Everyone in Gibraltar, whether they work in the Financial Services sector or in related industries or not, has a crucial stake in the Finance Centre and its success. Everyone should regard it as an important part of what is important to the community of Gibraltar and should hope and work for its continuing success. The Finance Centre, Mr Speaker, is currently buoyant, it faces however in common with all other Finance Centres many threats and challenges as well as opportunities. The Government have no doubt that the Gibraltar Finance Centre based as it is on international compliance, good reputation, good regulation and excellence of professional expertise, will emerge successful and prosperous from the various international initiatives and agendas that are in progress. The Government are determined to reposition our Finance Centre, and to the extent that it may be necessary, our tax system to ensure that the Finance Centre survives and prospers. We will not trailblaze, we will not move ahead of our reputable competitors, we will do everything possible to protect our business, however we must ensure that we take the action necessary to prepare ourselves for change if it must happen. Central to the Finance Centre's survival will be the elimination of tax discrimination between residents and non-residents for this lies at the root of all the international initiatives which are presently in progress. This, Mr Speaker, will require wholesale change and reform to our tax system and to the way in which Government raise the revenue that we need. It will require

boldness and imagination as a community and as a Government we must show boldness and imagination or pay a massive price in years to come in terms of jobs and economic prosperity. The post boxing agreement as I have said publicly already, becomes operative on the 1st June 2000. It will provide Gibraltar licensed banks and insurance companies at last with full access to the European Union Single Market and Financial Services. Government will now prioritise efforts to obtain passporting rights in investment services which is, in practice, the biggest prize of them all.

Mr Speaker, the estimates book shows salaried staff in the public sector numbering 1,612 compared to 1,595 last year, an increase of 17 posts. It also shows 578 industrial staff compared with 580 last year, a decrease of two. The Gibraltar Health Authority has 649 employees as at April 1st this year compared to 636 at April 1st last year. The Gibraltar Development Corporation is not part of nor analogued to civil service or the public service, their terms and conditions of employment are different even though the Gibraltar Development Corporation is committed to pursuing best employer practices for its staff which now number 143 as at the 1st April compared to 124 as at 1st April last year. These 143 employees are mainly ex-employees of Government companies and contractors who have been transferred to the GDC in the restructuring of activities that took place in the last two or three years.

Mr Speaker, the 1999 pay review for clerical and administrative grades is providing a complex challenge to both Government and the Staff Side. Given the new UK pay and grading system that is now so different to ours in Gibraltar, mainly due to our lack of an assessment and performance pay system which is how all pay increases are now delivered in the UK. Mr Speaker, hon Members may not be aware that in the UK Civil Service, I think it is true of the whole of the UK Civil Service, it is certainly true of the MOD to which we are analogued, there is no longer such a thing as an automatic annual pay review to civil servants nor are there incremental scales at which officers progress on a year-to-year basis. What happens in the UK is that the Government put on the

table a sum of money, this year 4.7 per cent, which they are willing to spend in increased pay for the civil service, that is then distributed in accordance with a system of box marking, in other words, assessment of officers, some officers could get up to 11 per cent, other officers may get zero, the bulk of the officers get somewhere in between. No officer gets an automatic annual pay review. The problem that we are now facing in Gibraltar is that whereas both the Government and the Union are committed to the principal of parity, that to which we seek parity now arranges pay in a very different way to that which is our system here in Gibraltar. As I have said, both the Government and the Staff Association remain completely committed to the principal of parity of wage levels and constructive discussions continue, Mr Speaker, to find a fair way of matching the UK pay awards to our very different circumstances here.

The Government remain committed to the modernisation of our public services, the programme of computerisation, upgrading of offices and workshops and working conditions in offices and trading opportunities will continue in the vein that they have already been in process during the last several years. This year should see the Orange Bastion Distribution Depot, the Buildings and Works North Depot, and the Road and Sewers Section move to new depots. Work can therefore start on accommodating the Customs Department in proper facilities at British Lines.

Mr Speaker, the community rightly looks to ever increasing efficiency and quality of service on the part of the public sector, the Government, the staff and the Trade Unions are committed to this objective. With Union support and participation, complete and in-depth reviews are being carried out of the Electricity Department, the Buildings and Works Department and the Post Office. The electricity review is in process of discussion leading to implementation, it will eliminate all discriminatory conditions of work that have developed in that department over many decades as well as secure the future of the electricity industry for the future. All three departments will emerge in a modern form that delivers the best possible service to the community, value for money to the taxpayer and a secure and prosperous future for the

workforce in a well resourced, well structured publicly owned organisation.

The Transport and General Workers Union, Mr Speaker, has pointed out to Government that there exists in Government unfair conditions affecting long-term supply workers in Government, we will entertain entering into discussions with the Union to redress any such prevailing unfair practices that may exist and we commit ourselves to doing that this year.

Mr Speaker, as set out in his report to the 1997/1998 accounts, Government have agreed to various measures to strengthen the audit function and to enhance the independence from Government of the Principal Auditor. Since Gibraltar's audit capability was last reviewed there have been seen changes in the principals of public auditing in almost the whole of the rest of Western Europe. It is the Government's view, not in accordance with best modern practice, for the Principal Auditor to be an ordinary department of the very organisation which it is his statutory duty to audit. In addition successive Principal Auditors have complained that because the office of the Principal Auditor has been regarded for the purposes of staff transfers as just an ordinary Government Department like Trade and Industry or Tourism or Health, there has never been that degree of permanence and continuity of staff necessary to ensure that the Principal Auditor has available to him in sufficient quantity the necessary expertise to exercise his function in accordance with modern principles in this very complex and technical area. Therefore the Government have agreed, not only to substantially increase the human and technical resources available to the Principal Auditor but indeed to ring fence the Principal Auditors Department so that the staff in it, who of course are all volunteers, are not regarded as transferable civil servants, are not open to apply for promotion out of the department and in exchange for that the staff who, as I say, have all volunteered for this are being compensated by being made the subject of a special remuneration regime which compensates them for the obviously reduced promotion prospects that flow from being in a small department which is ring fenced in that way. The Government are

also looking at new audit legislation which the Principal Auditor considers would further enhance the modernisation and independence of the audit function in Gibraltar and finally the Government are looking to re-accommodate the Principle Auditor in offices which are separate to the Treasury which is the principal department that he audits. It is a matter of satisfaction to the Government that the Principal Auditor has commented in his report this year so favourably of the Government's willingness and approach to accommodate this ambition on his part to modernise the public audit function in Gibraltar.

Mr Speaker, the Consolidated Fund forecast out-turn for the year ended on the 31st March 2000 shows a forecast out-turn for revenue of £139 million. The Bill before the House estimates that Government will, during the current financial year just after the 1st April 2000, spend in the order of £143.5 million. We forecast to have collected £139 million this year and estimate that we will collect £143.5 million this year, we are therefore estimating an increase in revenue to the Government of £4.5 million which represents an increase of 3.2 per cent. On the expenditure side we forecast that we have spent in the year ended 31st March £121.9 million, we estimate that we will spend in this financial year the subject of this Appropriation Bill, £126.7 million, that is an increase of £4.8 million which represents an estimated increased expenditure over forecast outturn of 4.6 per cent. Making allowances for a forecast out-turn debt repayment of £0.9 million in the last financial year debentures, and a provision for about £0.6 million in this financial year of debenture repayments, there is a forecast outturn surplus of £16.2 million in respect of the last financial year and an estimated surplus of the same order for the current financial year.

Mr Speaker, the Improvement and Development Fund expenditure forecast outturn for last financial year is £42.2 million and hon Members have to bear in mind that that includes two one-off items of capital expenditure, namely £5 million down payment on the purchase of blocks 1 - 4 Europort for the new hospital and £12.5 million for the incinerator settlement. Hon Members will recall that we had estimated this time last year that

we would spend a figure in the order of around £25 million and if one strips out the two extraordinary items that I have just described, hon Members will find that for the first time in four years, last year we managed to spend almost all, if not all, the capital projections that we had estimated at the beginning of the financial year. The estimated expenditure on capital projects this year is £26.8 million and as hon Members will have seen from the booklet, that breaks down into £6.2 million on housing projects which includes of course the continuing funding of the Harbour Views repairs; £1.6 million on educational and cultural facilities; £5.5 million on tourism and transport projects; £10 million on infrastructure and general capital works; £0.8 million on electricity capital projects and £2.7 million on industry and development projects.

Mr Speaker, the Government's reserves at the 1st April 1999 stood at £48.8 million, at the 1st April 2000, they are forecast to stand at £30.8 million and of course the reduction is due almost entirely to the £17.5 million that I have just described in the incinerator and in the hospital although not entirely because part of that was also funded out of an increase in public debt. The public reserves projected at the end of the current financial year, that is to say, at the 1st April 2001, we are projecting that public reserves will stand at £31.2 million. Insofar as concerns public debt it stood at the 1st April 1999 at £61.4 million, we forecast that on the 1st April 2000 they stood at £70.6 million and that on 1st April 2001, that is to say, at the end of the current financial year just started, they are expected to be at £76 million, that is to say, we are expecting to partly finance part of our capital investment programme this year to the tune of £6 million from an increase in public debt. Mr Speaker, the House should be aware.....

HON J J BOSSANO:

If the Chief Minister would give way.

HON CHIEF MINISTER:

Mr Speaker, it is most unusual to interrupt in the middle of the debate but I am happy to give way.

HON J J BOSSANO:

Mr Speaker, since the term 'public reserves' is not one that he has been using before I would like to know how he gets from the Consolidated Fund balance to the public reserves?

HON CHIEF MINISTER:

Mr Speaker, the hon Member is not free to interrupt me in order to initiate a process of cross examination. If he wishes an answer to that question he should raise it in his own address on the Second Reading and I will be very happy to respond to him when I wind up the debate. Alternatively, he can raise it at the Committee Stage which is what it is for and therefore that will give him the opportunity to engage in that sort of detailed discussion which is not what my speech of Second Reading of the debate is about.

Mr Speaker, the House should be aware that there are major calls on public funds in the pipeline. There is not just the continuation of the Harbour Views repair projects but there is also the new hospital project and the incinerator which now requires very substantial capital works on it and there is a need for Gibraltar in the not too distant future, indeed we will soon be in arrears of it, to build an urban waste water treatment plant which complies with the applicable EU Directives in that regard. Therefore, Mr Speaker, the Government's budget surplus policy coupled to our capital investment programme the first as reflected in the Consolidated Fund, the second as reflected in the Improvement and Development Fund is calculated to keep powder dry and to operate the sort of surpluses that we judge will be necessary if this community is to afford the major investment in public service infrastructure that it faces during the next four years.

Mr Speaker, moving into the area of taxation, the Government are committed to a prudent policy balancing sound reserves in public debt, public investment, improvement in public services and social services and the gradual reduction in the high level of personal taxation. In May 1996, we committed ourselves to restoring the value of personal allowances to 1988 levels. Hon Members will recall that because the administration then in office, specifically the Opposition Members between 1988 and 1996, did not increase personal allowances in line with inflation, the value of these in relation to earnings was eroded, therefore in effect delivering annual increases in taxation. Between 1988 and July 1999 the retail prices index in Gibraltar had risen by 45.7 per cent that is from 1988 to 1999. During the last four years of our first term in office we have increased the value of personal allowances by between 45 per cent and 50 per cent, it varies between one personal allowance and the other, and therefore we have now already restored the value of personal allowances to their real 1988 levels, and in keeping with our on-going commitment to ensure that personal allowances will at least keep up with inflation, all personal and other allowances are increased this year by at least 2 per cent rounded upwards as follows:

A single person by up to £50; The married couple by £85; The child allowance by £20; And all other allowances by 2 per cent.

Mr Speaker, in our recent election manifesto we promised to exempt from tax all old age pensioners with an income less than £7,600 per annum which is the new statutory minimum wage. As of the tax year commencing the 1st July this year therefore all men aged 65 years or over and women aged 60 years or over with incomes less than £7,600 will be totally exempt from income tax. There will be a tapering off system of relief for those over £7,600 income who will therefore still benefit from significant but gradually reducing reductions. The details of the scheme will be announced prior to the 1st July but it will be delivered through the PAYE system to ensure that those who until now have suffered deductions of tax from their occupational pensions and who are now eligible under this new exemption will benefit immediately by not having the tax deducted and will not, as they do now, have to

wait years for a tax refund when the Income Tax Office eventually gets round to working out their assessment, calculating their refund and sending them a cheque. Measures will of course be included in the scheme to ensure that income is not sheltered by other taxpayers under this allowance by transferring it to their elderly relatives. Mr Speaker, with effect from the tax year commencing 1st July 2000, a parent will no longer lose a child allowance because that child, being in full-time education, has income of his own from temporary employment during holidays. Further, Mr Speaker, in relation to the child studying abroad allowance and the first child allowance, hon Members may be aware that at present if one's first child is also the child that is studying abroad so that the parent is in receipt of the child studying abroad allowance, the parent cannot transfer the first child allowance to another child living and studying in Gibraltar so that a parent could opt either for the child studying abroad allowance or for the ordinary child allowance but if he had some children abroad and some children in Gibraltar, he could not have both. This will change with effect from the 1st July 2000 so that a parent will be entitled to a child studying abroad allowance in respect of a child studying abroad and in addition to an ordinary child allowance in respect of a child who is living and under education here in Gibraltar. Hon Members may recall that the child allowance is £725 and that the child studying abroad allowance in respect of the first child studying abroad is £810, in respect of the second child studying abroad is £650 so that in effect for a taxpayer with a child studying abroad and with younger children or older children for that matter not studying abroad, they will receive in effect an additional child allowance of £725 increased by the 2 per cent that I have just announced.

Mr Speaker, in addition with effect from 1st July 2000, medical and health insurance premiums paid in respect of a tax payer his or her spouse and dependent children up to the sum of £300 per annum will enjoy tax relief. If paid by the employer they will not up to that amount be regarded as a benefit in kind.

Mr Speaker, in respect of private estate management companies also from effect of 1st July 2000, the investment income enjoyed

from the investment by private estate management companies of their accumulated fund derived from service charges paid by home owners will be exempt from tax therefore maximising the amount of invested and accumulated service charges that will be available to management companies for investment in their property.

Mr Speaker, in the sphere of family support, maternity grants with effect from 10th February 2000, that is to say, the date of the general election, be increased to £350 from the present level of £36 and that will apply to any child born after midnight on the night of 9th and 10th February and it will apply at the level of £350 to parents on joint incomes below £30,000. The allowance will be paid on a reducing basis to tax payers on joint incomes above that level, the level of the grant will reduce by 35 per cent for every £1,000 earned jointly above £30,000 and therefore at the joint income level of £40,000 no amount of grant will be payable. Therefore it is £350 for people on joint income of below £30,000 and reducing at the rate of £35 per £1000 for people on joint incomes between £30,000 and £40,000 and in case any of the hon Members may be wondering whether I have backdated this maternity grant in order to benefit from it myself in respect of the recent addition to my family, they should be aware that the salary increase which we awarded ourselves and which they so much criticised me, has put me beyond the scope of entitlement to receive this allowance at any level.

Mr Speaker, the death grant which is currently and has not been changed since 1979 at £72, will also be increased to £350 with effect and therefore in relation to deaths occurring after midnight on the night of 9th, and 10th February 2000. Finally, Mr Speaker, hon Members will recognise in all of these announcements which I have made, compliance with specific election manifesto pledges and the last announcement that I make today is also in deliverance of an election manifesto pledge and it is this, as of the 1st September 2000, additional social assistance payments will be available to ensure that every old age pensioner household can enjoy an income of at least 75 per cent of the new statutory minimum wage of £7,600. That is to say, £110 a week income for

a married couple; £85 a week minimum income for a single person after taking account of their income or potential income from all other sources. Details of how to apply for this social assistance will be announced shortly and during the summer.

Mr Speaker, in our recent election manifesto I said that ours is a realistic and affordable package of policies that represent a prudent balance between improvements in public services; social care; necessary investment in our city and in our future; increased help to those who really need it; and a continuation of our policy of cutting taxation.

Mr Speaker, the announcements that I have made today, others that will be made by my hon Colleagues in their addresses to the House and this, our first budget since we made those election pledges, represents another important step in all those directions. It gives me the greatest pleasure therefore to commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON J J BOSSANO:

Perhaps I can start, Mr Speaker, by dealing with the interruption which so upset the Chief Minister that he described it as cross examination. Let me say that I was seeking clarification of the term 'public reserves' because the term 'public reserves' does not appear anywhere in the printed book in front of us and I was not sure what he was talking about and it seemed to me entirely reasonable that if he says, "The public reserves are going to be £31.8 million at the end of the year", I should ask him if the public reserves is the forecast Consolidated Fund reserve of the 31st March which is shown as £28.65 million plus something else, what is the something else? Obviously if I have to wait later on in the proceedings to find out the answer I will have had to wait until everyone has spoken and I will not be able to take that figure into account. So I will now proceed to ignore the figure and stick to what there is in the book.

Mr Speaker, the Chief Minister has spent less time this year than he did last year on the technical side of the estimates in terms of the figures that it contains particularly on the revenue side, but he has made some references to it. I, last year, spent quite a deal of my contribution in analysing the figures as we read them and in trying to assess the kind of picture that they painted and I will be doing the same this year. But since he has raised some of the issues of the recent election and obviously the election result means that the Government that have been elected have got a mandate to carry out their manifesto and not ours, we are not asking them to overrule the electorate by giving them things they do not want. However, we started in the debate we had the day before the election what was almost a pre-budget debate which I think fits into the picture we have got today and fits into the picture we had 12 months ago when we debated last year's estimates.

The importance of the figure of the reserves is that, of course, what we have shown on page 4 of the estimates is that the Consolidated Fund balance as at the 1st April this year is estimated to have been just over £28 million and that it is estimated to be not very different a year from now. That would indicate that the Government consider that £28 million which must be the equivalent of two months of expenditure is a very prudent and safe level but £14 million, which is the equivalent of one month of expenditure, is irresponsible, foolhardy and catastrophic because when we used to quote the figure £14 million a few months ago it was described like that and here we have got a figure of £28 million over which nobody is having nightmares. Of course, the Hon Mr Azopardi actually thought it was even worse than that because he thought that the £14 million represented one month's wages never mind one month's total expenditure but I accept that it was a slip of the tongue.

In the debate we had on television just before the election, Mr Speaker, I said that in fact the expectation of finishing with reserves of £14 million ought not to be seen as such a horrifying prospect because in fact it was in the Government's budget, the first budget they presented in the House which was of their making which was the 1997/98 budget when they projected a

figure of £13,940,000 as the estimated Consolidated Fund reserve for the year ending March 1998. In fact, the Minister insisted in that debate that this was not the case because it was before they had restructured Government finances. If he looks at the relevant page of the estimates for that year he will see that the figure of under £14 million was projected after the transfer into the Consolidated Fund of the Special Fund balances and of the reserves of the Savings Bank. So that, in fact, it is not correct and I am saying it simply for the record, that the Minister was wrong and I was right when I said in that television programme that he had projected £14 million before and he had not thought it was such an irresponsible thing when he had projected it and that therefore all that we were doing was saying that within the parameters of never allowing it to fall below £14 million it was possible to have a more adventurous attitude to reducing taxation than the one we have seen today which is giving people a £50 allowance a year. Because certainly if he is going to close the gap between the tax that residents pay and the tax that high net worth individuals pay, which he says requires boldness and courage at £50 a year is going to take half a lifetime. So I think he needs to be a bit more adventurous than he did if he really wants to close the gap. *[HON CHIEF MINISTER: At least we have started.]* Yes, at least they have started. Let me say that certainly our approach is that people are better off not by £50 increases in their tax allowances but giving them tax incentives which produce economic activity and that therefore if they reward home ownership by improving the tax deduction for home ownership they are helping the home owner just like they are protecting the Government tenant by freezing their rents, so one they help through the consumption side of the equation and the other one they help through the income side of the equation. Effectively they are forsaking potential revenue by freezing rents and forsaking potential revenue by giving capital allowances. It so happens that that goes directly to the residents of Gibraltar and that therefore if they have got a pool of money they are concentrating the pool of money on the people who are paying their money here. We believe that is a better approach in order to produce the benefit that was produced in those years when, as the Chief Minister has said, the tax allowances as personal deductions did not go up but

a £10,000 deduction for home ownership produced a huge increase in the level of home ownership and, of course, had its effect as has been demonstrated in successive Auditor's Report of reducing the tax yield. We have today a position where the amount of income tax being paid goes up and this is now a virtue instead of being a sin. Is it that the amount of tax is going up because there are more people in the workforce as we are being told and have been told now for a number of years or is it that they are paying more tax because there are huge pay reviews taking place? The evidence is neither one nor the other and therefore it can only be that the incidence of tax, notwithstanding the 2 per cent increases and the £50 a year is being more than offset by the loss of the huge amount of money that was involved in the support for home ownership. It is difficult to see what other explanation one can come up with. In looking at this we really are interested in being able to obtain an answer to how this is happening from the point of view of being able to assess what is the performance of the economy because, frankly the fact that the Chamber of Commerce thinks that we are on a crest of the wave is not sufficient to substitute for hard figures in support of the evidence of what is happening economically. Nevertheless I am sure that the Trade Union will be delighted to know that the business community thinks we are on a crest of a wave when they need to negotiate the pay review and they will not pay any attention to the argument that we need to have pay freezes in the middle of crests of waves. If we look at the state of the public finances today, and we have always accepted that the state of the public finances today are a reflection of the economy although not 100 per cent relationship, it would appear that whatever may be influencing Government revenue has been of very recent and of that the only thing that we can identify is the influx of the gaming operations that came in the latter part of 1999 which have not yet worked their way through the statistics that we get so late in the day. Certainly if indeed the Finance Centre is prospering it is something that we welcome very much and let me say that I do not know why the Chief Minister thought that particular article by whoever that particular journalist may have been merited so much attention. I can say that we certainly do not share the view that there is anything wrong with attracting people who would not

otherwise come here by giving them tax breaks. They do not have to live here, this is our home, we have to live here and we pay the taxes that are necessary to maintain the public services but if we want people to come here instead of going to Bermuda or going to the Channel Islands or going somewhere else, then the only way they are going to come here is if we make it attractive for them to come here. Indeed, that was our view in Government and indeed we introduced the high net worth individual legislation precisely based on that idea and as far as I can remember, the only people who rubbished the high net worth individual concept were the GSD members in the Opposition in the House of Assembly who argued the same as in that article that there was discrimination and why should the residents pay 30 per cent or 40 per cent whilst fat cats from outside were coming in and being told that they could pay a flat rate of £5,000 or £6,000. That was said, it must be in Hansard in one of those years, by a Member of the GSD from the Opposition so maybe if the writer of that article is writing under a pseudonym for all we know it may be one of the former colleagues of the Government who has expressed similar views in this House when the GSLP was in Government. But certainly to put his mind at rest let me make it absolutely clear that the expansion and the protection of the finance centre comes with our full support. That does not mean that we agree necessarily with the way they go about it, sometimes we may and sometimes we do not but as a matter of philosophy, in terms of what is good for Gibraltar it is good for Gibraltar to have a strong viable effective finance centre and if it requires that the people who are coming here as opposed to going somewhere else have to be given fiscal incentives then either we give it to them or we do not get them, it is as simple as that.

We are told, Mr Speaker, in that same contribution by the Chief Minister that the finance centre employs 2,000 directly and probably the same number indirectly. I must say I am surprised at those figures because the whole of the private sector, including Government-owned companies and including Government finance contractors which are an extension of the public sector, not the private sector which is supposed to be the engine of the economy, all those jobs come to less than 9,000. Therefore if the

finance centre alone is 2,000 direct and 2,000 indirect, we are really talking about a situation where 50 per cent of the private sector is the finance centre and I am surprised it should be that large if that is indeed the case. Let me say that the figures that I am quoting as to the size of the private sector, of course I am relying on the Employment Survey for April 1998 which finally has been tabled in this meeting of the House. Better late than never and I regret that it will be the last time that it is tabled in the format which reflects the numbers employed who pay PAYE because it means that when we eventually get figures for 1999 they will not be directly comparable with the 1998 ones because they will have been arrived at by a different methodology and consequently, regrettably, because the Government – I remember that in answer to a question the Chief Minister almost gave me the impression that it had been discontinued not as a policy decision but because somebody had decided to discontinue it, well if that is indeed the case I urge them to reinstate it because I think it would be valuable, at least for a couple of years, to see what the response of the employers in survey show and what the return of PAYE shows, they ought to show the same figure but unless we have the two sources for the same date we will never know. Therefore if we get as a result of the survey, less people or more people than we had in 1998 we will not be able to make a scientific objective judgement as to whether that reflects a real change, unless there are other factors which support one view or the other, or whether it simply reflects that whereas employers have no choice but to declare who they have got paying tax because they are paying tax, they are less likely to be so rigorous in the filling in of questionnaires. So we take that the last survey based on PAYE returns that we have is the one that was tabled earlier in the House. That shows, Mr Speaker, that in the month of April 1998 there were 12,840 persons in employment in Gibraltar and that is less than there were in 1997 and less than in 1996. So, in fact, in the budget of a year ago I was saying I had to rely on 1997 figures in the year 1999 and this year I have to say I have to rely on 1998 figures in the year 2000 because that is the last set of figures which have been finally put together and all the information prior to that is based on estimates given in answer to questions which always carries the caveat that it may be subject

to changes. So we have a position where between April 1996 and April 1998 the economy did not increase the numbers in employment and therefore the increase in PAYE between 1996 and 1998 cannot be because more people were employed because these people are the people paying the PAYE. There were less people paying PAYE in April 1998 than in April 1996, according to the Employment Surveys tabled in this House, produced by the Statistician on the returns received by the Tax Office. We have to be accurate because it is the return that has the numbers and the return that has the money so the same return that produces the £40 million-odd produces the number of people who pay for it. So the position is that certainly up to April 1998 there is no evidence, in fact, the contrary is true; there were less people employed at the end of the two years than at the beginning of the year within that total, in fact, the private sector shrunk more than the total. That is, the percentage of persons employed in the private sector in April 1998 is smaller than the percentage employed in 1996. So we may all agree here that the engine of the economy is the private sector, that it has to give the impetus to grow, that it must be buoyant and all the rest of it but it was certainly a stalled engine for two years. That must have been when we were all being repositioned no doubt. But then all the claims that were being made in the previous budgets were all totally wrong about the growth that was taking place because it was not taking place. We welcome that in the figures that were published recently, in the press release of the employment and unemployment statistics for January, February and March, on this occasion unlike all the previous ones, we just had the figures produced without an evaluation of its significance. Of course, as long as we do not get an evaluation of its significance we do not feel that there is a need to challenge that evaluation. We think that putting the figures is fine because we have never challenged that the figures are what it says they are. If the ETB says that in the first quarter of this year, 1,242 contracts were opened then we accept they were opened. What we cannot accept is the implication drawn from that in previous occasions. For example, where in April 1999 we were told that the fact that 1,160 vacancies were opened and 898 were filled represents an expansion of the economy. Well, what we found when we looked

at 1998 was that in the course of the statistics produced by the Tax Office up to April there were less people employed than in April 1996, two years earlier. So therefore if there had been an expansion in January, February and March 1998 it would imply that the figure in December 1997 must have been even lower and there is no indication of that. What there is an indication of is that there is an enormous turnover of labour. We have, in the answer given to a question earlier in the House, that the position in 1998 was that 4,021 persons became employed in 1998. We have already established that in April 1998 there were 12,840 having previously been at the level of 13,000. So in fact we have a situation where the number of jobs in the economy was down by 160 at that stage. Is it that it recovered in the rest of 1998? Does that explain the results of the outturn for the financial year 1998/99? Well, the evidence is against that according to the ETB, according to answers given to questions in this House. During 1998, 4,021 people started working and 3,995 got sacked or retired or left so the net result was that 26 people more were employed at the end of 1998 than at the end of 1997, according to those statistics, 26 and to increase the workforce by 26 took the starting and the finishing of 4,000 in an economy that we are told half of the 9,000 are in the stable finance industry which is so solid and growing therefore they cannot be sacking people every other day. That represents almost 100 per cent turnover in the remainder of the private sector because certainly this kind of turnover does not happen in Government services, does not happen in JBS, does not happen in Government companies. So if in fact, Mr Speaker, we have a position where in April we are employing 160 less than two years before and during the whole year the ETB confirms that the excess of people commencing over people terminating is 26, it means that at the end of 1998 we are still below April 1996. How has that changed in 1999 as we get closer to the figures we have before the House on PAYE. In January 2000 the Government Press Release No.2/2000, gave us an analysis of what had happened during 1999. An analysis that would suggest that whoever drafted it does not have a clue because we were told that during 1999, 5,267 vacancies were filled as compared to the 4,021 the previous year. As I have already pointed out, the 4,021 the previous year meant 26 jobs

being filled because it was plus 4,021 and minus 3,995. And then we are told that in the case of 1999 the terminations came to 3,158, a figure that I have no doubt will be revised upwards. But taking the figure that was given in January this year just before the election, we were told that the difference between the 5,267 commencements and the 3,158 terminations, which of course is the difference of 2,109, represented a combination of new jobs and staff turnover in existing jobs. Well that is nonsense, it cannot possibly be that, it is quite simple because, Mr Speaker, if instead of talking about thousands we talk about units, if I say, five people have started work this week and three have terminated the staff turnover is the three that have terminated and restarted and the new jobs are two, the two cannot be staff turnover because that is already part of the three because the 3,000 that have ended have ended and started because we are not talking about 5,000 new people coming into work in Gibraltar or 5,000 leaving school; what we are really talking about is somebody working three weeks and then being unemployed two weeks and then working another one week and then losing his job a week later and therefore when we talk about 1,000 jobs have been filled in the first three months of this year and there will be another 1,000 jobs filled in the second three months but it is quite possible that 800 of the people who fill the jobs in the second quarter will be the same 800 who got employed and laid off in the first three months. That means that there is a level of turnover and a level of insecurity in employment in the private sector which has never existed before in those high numbers. *[Interruption]* Mr Speaker, I am sure the Minister will have an opportunity to address these questions when he has his opportunity to speak although I will give way to him if he prefers. If the Minister wants me to give way I am happy to do so.

HON J J NETTO:

Yes, Mr Speaker, the Leader of the Opposition seems to be giving the impression that this is a new phenomenon in terms of staff turnover resulting in the last three years. He has been here long before I have and knows much more on the economy than I do and he knows that ever since the date of the dockyard closure in

1984 there has been in Gibraltar, an enormous amount of staff turnover, it is nothing new.

HON J J BOSSANO:

Mr Speaker, I will tell him what is new in case he does not know it. The staff turnover in 1998, according to the release which he issued of the 6th January this year, was 4,000 and the staff turnover in 1999 was 5,000 and that is a 25 per cent increase in the volume of staff turnover. I am not saying it never existed, I am saying it has never existed in such numbers and that therefore to try.....

MR SPEAKER:

No, sit down, unless he gives way you have got no right to stand up.

HON J J BOSSANO:

Good advice that, sit down and shut up. The corollary to that is before you put your foot in it. So we have, Mr Speaker, an increase in the level of staff turnover and in the first quarter of this year, in fact, what we have is 1,242 vacancies being filled. Frankly, we would like to see Gibraltar being able to employ 1,000 extra people every three months although I do not know what we were going to do with them if it kept going at that rate but the evidence that we have got is that in 1998 the margin was 26 between people starting and people finishing and we cannot possibly believe that from 26 in 1998 the margin increased as the Government would have it to 2,109 in 1999 because that would mean that the figure for the next Employment Survey would show that the workforce had increased from under 13,000 to over 14,500 by 1999. But, of course, we will never be able to judge that because the figure of under 13,000 is the people who pay PAYE and the figure we are going to get the next time round has got nothing to do with the people who pay PAYE, it is the people that are put down in the surveys and I regret that whether that figure is up or down we will no longer be able scientifically, statistically to

compare one with the other. Let me say that in that debate the Minister had with me when I questioned why this particular year's survey was taking so long to come out and when I was saying I have to rely on the 1997 figures but I am assuming that the position has not changed and really it has not changed all that much. A drop of 100 jobs in the economy or one way or the other on a year-to-year basis is not an indication of the trend one way up or down. So although it is perfectly legitimate to make the point politically that the figure is lower than the year before and that it only increased by 26 according to those statistics, it does not mean that we are suggesting that the economy was collapsing. What we are suggesting is that whatever was happening in the economy it was not being reflected in more jobs. There is no doubt that there has been a change in the composition. That is to say, that there have been, perhaps, expansion in some areas which have compensated for decline in others and that we will finish up with a relative stable figure because the movement through the private sector of people in and out will also no doubt be a reflection of some areas of economic activity contracting while others are expanding and that necessarily requires a level of movement but not of this magnitude. But the explanation I was given in that debate by the Minister was that the reason for the delay was because the Statistician was going to be producing the report in a new way. Let me say that the report is exactly the same as it was in all the previous years so the fact that it took him almost a year longer to produce in a new way he has put an awful lot of hard work and effort into the new way and has very little to show for it.

If we now look at the other elements, Mr Speaker, in the extra revenue that is coming into the Government coffers this year and unless we have got a surge very recently, I would say since last October because of 300 or 400 jobs or whatever it is that now exists in the gaming industry which did not exist before and even that, I would say, that kind of level might produce maybe £3 million from PAYE. We are now talking about collecting £52 million in income tax in the next year. This compares with £40 million in 1996; we are now talking about the 'hard pressed taxpayer', to use the terminology of the Chief Minister, forking out

£1 million more every month as compared when they were paying tax through my draconian administration, it is quite extraordinary. There is now a virtue in paying £1 million more. I think if there is an element of extra collection of arrears then it would be useful to know that because then that would indicate where the level is on a recurrent basis. When I have asked questions in the House, Mr Speaker, and I have asked for breakdowns I have always asked for the two bases, what is the yield in the financial year and what is the tax due in the tax year. Invariably the answer that we have got has been that we have been seeing a collection on a fiscal year basis running slightly above a tax due on a tax year basis. For 1996/97 and 1997/98 we have been running, speaking from memory, at something like £1 million more in collection for the fiscal year than the tax due in respect of the preceding tax year ending in July. I know that there is a nine-month gap and therefore that there will be an element of higher yield due to the fact that it is for nine months of the current one but nevertheless the pattern seems to be a slightly higher collection. If that is part of the explanation for this trend then obviously that is an explanation that necessarily carries with it its own death, as it were. Once one has caught up with arrears, this is what happened with company taxation in the year 1994/95 when it peaked at £15 million and it peaked at £15 million because there had been a backlog of assessments which were then all brought up to date and then it settled at a level of about £12 million. The other element from answers to questions that seems to be included there which may be showing a bigger increase than PAYE is the tax assessment made on the self-employed and on individuals which is shown as a separate figure in the audited accounts and I think an indication whether in fact the projected or the forecast outturn is more on the PAYE side or on the individuals would be a useful piece of information to have in order to try and assess what this revenue streams indicate of what is happening in the economy as a whole. It is difficult to extrapolate from this what is the total value of the output of Gibraltar. In 1996, in the first budget after the 1996 election, the Chief Minister said that the closest estimate that was available for the year 1995/96 of the gross domestic product was something like £330 million but that in fact he was not satisfied with the way that the calculations

were being made because the statistical information that went into the calculation was not reliable and that therefore he was having it looked at so as to produce more reliable and accurate figures. That is fine. But of course, if the alternative to not very accurate figures is no figure at all and that is the position that we have been in now for five years and if we were told a year ago in the budget, which has not been mentioned in this year's budget, that the Government were now bringing in consultants to do an input/output study, although I am not sure that an input/output study is necessary in terms of the methodology of national accounts, it may be necessary for other things, for building an econometric model but certainly not for national accounts but if it was a policy decision in 1996, if it was announced in the 1999 budget and if there was a press release recently then it seems to me we will be lucky to have the GDP figures just in time for the next election provided they are pointing in the right direction, presumably. I do not know, Mr Speaker, what the consultants that are coming are going precisely to be doing but certainly we would welcome, once they start working, an opportunity to have an input into the information gathering which they are doing to the extent that we can contribute from our knowledge of the situation it would help them in building in the parameters. Let me say that the previous attempts at an input/output model have proved to be worse than useless. They have given totally incorrect results with huge variations, they have assumed relations between different factors in the economy and from those assumptions, I think based on the UK methodology and on much bigger economies than ours, they build in consequences through assumptions about direct and indirect effects on the economy of income streams and they have said, "If an MOD worker gets sacked because he has spent so much of his disposable income that has this effect and that in turn means that two people will be sacked in the private sector" and at the end of the day there was hardly anybody left working by the time they finished. Fortunately those catastrophic pictures which frightened a lot of us and worried a lot of us because we did not know how we were going to deal with the situation never actually materialised in reality. I was sceptical when in last year's budget the Chief Minister said that it was the people who had been doing it before and I urged caution in using

the same people with the same method because the last time round – and it goes back to the dockyard closure study made by PEIDA which was the first input/output model – it was a complete disaster. The latest press release where the Government have said that the people who are going to come in and do it, we do not seem to be talking about the same people that were mentioned in last year's budget and I would welcome confirmation of that when the Chief Minister exercises his right of reply.

Mr. Speaker, the corporation tax, as I have mentioned, increased at one stage to £15.6 million or £15.4 million and I think it was in 1994/95 and then it started coming down and, in fact, the Auditor's Report mentions that it was because it was the collection of a backlog of arrears, eventually that was now running out of the system and there was a level of stability. What we have seen in answers to questions in fact was that in the tax year 1996/97, there was not much difference between the position that had been in existence in the tax year 1995/96. I think we are talking about something like £14 million or £15 million of original assessments with £3 million-odd of those tax liabilities discharged, presumably as a result of companies producing audited accounts which satisfied the department that in fact the assumed profits were not being achieved and that it settled at around the £11.5 million to £12 million mark. In all the years the collections have meant that there has been money collected over several years. In looking at the outturn we find that the estimate for last year was £11.5 million, I can only surmise that in the normal Treasury procedure that is because there is at the time the estimates were produced that is what was happening and therefore they projected a continuation of that. I take it that the fact that £13 million has been achieved in the last 12 months is what has led to the projection of £13 million for the next 12 months. However, in answer to a recent question the original assessments had, in fact, reached £18 million which is higher than it has been in any other year but, of course, that will still be subject to discharged assessments because of accounts coming in. I do not know whether that indicates that there is recent evidence of an absence in the profitability of the private sector which is why they are all on a crest of a wave because they like

having profits and which means, of course, that the private sector must be now having increased turnover if they are making more money. The import duty is higher than it has been for many years and the £28 million from the recent figures that I have been getting of the breakdown shows that the outstanding star export still continues to be the commodity that it has always been and that is in good and healthy shape and bringing us money which we all welcome being available and being put to good uses.

In looking at the revenue projections as a whole, it is quite obvious that it is in the field of direct and indirect taxation that the bulk of the change takes place. If we look at the results both between last year's estimates and the forecast outturn on the one hand, where we have got direct and indirect taxation, instead of £61 million, £66 million and instead of £25 million, £28 million, we have got there £8 million difference in Heads 1 and 2. The £8 million difference in the outturn for this year means that the explanation for the change from the draft estimates of last year where the revenue was shown at £133 million and this year is £139 million, it is quite obvious that the tax and import duty alone more than account for the whole of the change. Looking at other items in terms of revenue yield, I would like to point to some of them and ask the Government to give us an explanation either at the end of the Second Reading or if it is not possible then at some point in the Committee Stage although it is difficult at the Committee Stage since I am talking about revenue figures.

I would like to draw attention to the Head of revenue dealing with adult education fees because it seems peculiar that the fees for adult education in 1998/99 should have been £14,000; that in last year's budget the estimate was £15,000 which is close to the £14,000 and that the result was £20,000 and that for the next 12 months the Government are expecting to charge people who take adult education classes £100,000 which is five times the amount that they collected last year and seven times what they collected the year before that. *[Interruption]* Well, if it is expansion then, Mr Speaker, I would like to have the explanation that it is a 500 per cent expansion and not a 500 per cent increase. *[Interruption]* I would not have thought that training generated adult education

fees. My understanding of adult education fees is people going to evening classes, that is what it has always been. Training has been provided free, one does not charge the trainees, at least the practice used to be that one did not charge the trainees. So I would have thought that vocational training for unemployed people would hardly generate £100,000. If the unemployed people have got £100,000 to pay why do they need to be trained if they are so well off? So I think that although much of that might be the prepared answer, it may well not be the accurate one. I suggest checking the information before it is volunteered.

We have pointed out in previous years' estimates, Mr Speaker, the question of the collection of electricity and here there is an outturn which is in fact below the estimate of £9.2 million and a forecast of £9.8 million. Is that an indication of a 9 per cent increase in consumption or is it that the arrears have now, once again, started going up and it is the expectation that it will be brought down?

In Head 8, subhead 37, the Judiciary – and let me say I do not intend to go into any controversial ground in relation to the judiciary. *[Interruption]* Well, because there are so many other people doing it, why should I join the fray? The court fees, Mr Speaker, which were estimated to be £210,000, it shows that the outturn is more than double what was estimated originally and that that new level is expected to continue into the next year. It is, I think, the House will agree a significant enough change to warrant an explanation.

Finally, on the revenue side, Mr Speaker, the Head 7, subhead 20 – Circulating Coinage Surplus which presumably is the result of the profit we make by minting our coins and putting them into circulation instead of having UK coins circulating which one would have expected to be a relatively stable amount was £500,000 in 1998/99; it was estimated to be lower than for the last year but in fact it was only £5,000. £5,000 is an extraordinary small sum in the year 1999/2000 if it is compared to £500,000 in the preceding year and we are only expecting £50,000 in the next 12 months. Frankly, I would have thought if we make £5,000 by circulating

our own coins it would raise the question of whether it is worth the bother at all of circulating our own coins if the end result at the end of the year is a £5,000 profit. I am sure that there is going to be an explanation forthcoming which explains why there is that level of change from one year to the next. I take it, Mr Speaker, that the royalties on coin sales are unrelated to the circulating coins in that they are both special issues that are made and it is not that there is a shift between one subhead and the other because one is down and the other one is up. If we look at subhead 19 the trend of royalties on coin sales by Pobjoy Mint is on the uptrend in subhead 19 and downward in subhead 20. I do not know whether that is an indication that, in fact, some of the money was being shown in one subhead before and is now being shown on the other but certainly the royalties on coin sales would suggest to one that they are the commemorative sales that are sold to collectors.

The position in relation to the expenditure side of the estimates is that, of course, there has been no mention of renewed funding for Community Care and there is no provision for this in the Social Assistance Fund which is where we would expect to find it and obviously we regret this and we would welcome an indication as to whether the position in Community Care at the moment is that the investment income, I think this was something that we discussed in that debate we had where I said on the basis of the information that was available to us in the Opposition, we were projecting that they would start running into problems of having to eat into their capital this year and the Chief Minister said that that was not the case but that they were looking at it and since, in fact, it has not materialised I would welcome being told, when he exercises the right of reply, whether it is the case that in the next 12 months they will still have enough investment income.

The Chief Minister mentioned the pay review and the complex challenge that it raises and how both the Government and the unions are trying to find a way of dealing with the translation into pay reviews in Gibraltar of the system that has been introduced in the United Kingdom. It is a matter for the unions, who represent their members, to reach whatever agreement they think is in their

best members' interests, it is not the role of the Opposition to do that. But as a matter of policy, we are opposed to the system in the United Kingdom and the business of box markings determining performance and determining pay. This may be a tenable system in large countries or in large organisations where there is a degree of anonymity, we think in Gibraltar it would create enormous problems and lead to a serious deterioration in relations because it is very difficult, we all live so close to each other to say, "You are no good but the other one is now good and your job is going to get zero" and the other one is going to be able to say, "I am not expected to have to pay a price for that kind of judgement". So although the decision is not ours, for what it is worth, our view is that this would be a serious mistake which would not be in anybody's interest, in the Government's or in the union's or in the community's interest and we decided when that was first introduced in the United Kingdom and was introduced in the MOD in Gibraltar, we decided that we as an employer did not want it and therefore there was no problem with the union because we negotiated a way of giving people pay rises which satisfied them without setting up a system which pits one person against another. Obviously in the United Kingdom it does not find universal favour as is quite obvious from the reaction of the teaching profession to the attempt to introduce something like this into the educational system.

The announcement that has been made about the payment and the threshold of £7,600 for starting tax presumably has already been costed into the revenue and expenditure figures of these estimates because there is no indication that what has been announced today would require any change to the Bill before the House. So they must have an idea of what sums of money are involved and we would welcome that information if it is available to the Government although we accept that it can only be an estimate based on what we think is likely to happen because until it starts happening nobody will really know. I would just like to have confirmation that, or if it is not correct, I would welcome being corrected, as to what the threshold means in terms of the income that is included in arriving at the £7,600. Is the £7,600 starting point for paying tax inclusive of income that is currently

tax free or only in respect of income that is currently taxed? I think that makes a big difference. I do not know whether I need to elaborate it or whether the point has been understood. It would mean that the £7,600 would be, if it was all inclusive, inclusive of presumably Community Care payments, social security pensions and tax free debenture interest from the pensioner bonds which is already tax free. If these are not included then, of course, it means that the effect would be much greater and would reach many more people but I think it is important to know whether it is one or the other both for our benefit and certainly for the people who have been made aware of the introduction of the system and who may be listening. I note that in the case of the pensioner household it was specifically said that the 75 per cent means-tested social assistance related to the £7,600 is on the basis of income from all sources.

HON CHIEF MINISTER:

Mr Speaker, if the hon Member wants to give way I can answer that question now so that he does not develop the point. I think I did make this clear when I announced it, it is an income from all sources, this is pensioners with incomes, not taxable incomes, less than £7,600.

HON J J BOSSANO:

I think if my memory serves me right I think the Chief Minister said all sources when it came to the means-tested benefit but did not use the word "all sources" the first time round because I made a note in one place and not in the other. In looking at this question of income from all sources I think there is a problem particularly when one is talking about means tested benefits, not at all in the case when one is talking about taxation but when one talks about means-tested benefit somebody will have to decide whether if people have got a combination of tax free and taxable income whether the net or the gross amounts are taken into account. In cases where they may not be caught by the other element of the £7,600. I think that people could be in a situation where, I know that this happened with other means-tested benefits but at the

end of the day they go over the threshold because the income that they receive by the methodology used pushes them out of eligibility but in fact there is, what in the United Kingdom is sometimes called a poverty trap where the effective incidence of moving from one category to another is the equivalent of almost 100 per cent marginal rate of taxation and all I am doing is pointing that out so that the people who have to look at the technicality of the system may perhaps bear this in mind if it has not already been looked at or thought of.

HON CHIEF MINISTER:

Mr Speaker, I am grateful to the hon Member for giving way. It is precisely for that reason that I had announced that there would be a tapering off system so that the exemption does not slam shut in anybody's face at £7,600, that would make a person who earns £7,500 infinitely wealthier than the person who earns just a couple of hundred pounds more. That is why there is a tapering off relief to ensure that there is a gradual exit from the exemption so that people earning more than £7,600 will also be enjoying a decreasing higher exemption. In answer to the first point, it is income from all sources, it includes social security, et cetera, the whole range. This is a tax exemption specifically targeted at people on "low" income regardless of the source. It is not a general elderly persons exemption, it is an exemption for people on incomes from all sources less than £7,600 which is the other measure that I announced the Government would make up from social assistance subject to the tapering off precisely to avoid the problems that the hon Member identified.

HON J J BOSSANO:

In looking therefore at the expenditure, Mr Speaker, the provision for wages that was mentioned in the point made in the Chief Minister's contribution that the 1999 pay review is still going on and therefore presumably this means that the personal emoluments in many of these Heads may still be reflecting salary levels that will need to be eventually updated with retrospective effect. If that is the case then I think in the estimates, when we

have put the supplementary provision I seem to remember that in one of the previous meetings of the House some of the money was vired from pay settlements to the supplementary funding and then relocated to different heads of expenditure. Is the fact that we have got £1.5 million in the next 12 months being voted for pay settlements, in fact is that a reflection of the retrospective effect and therefore we are not talking about the anticipating increase in the annual wage and salary deals being £1.5 million? We are talking about the £1.5 million being what is a ballpark figure for more than one year, is that correct?

In the area of the Gibraltar Development Corporation, Mr Speaker, I note that the money from the Social Assistance Fund which was £1 million in 1998/99, estimated to be – I am talking now to Appendix B on page 116 - £1.8 million in the year just ended, actually we received £1.1 million less than estimated. That is, the ETB, the Gibraltar Development Corporation from the European Social Fund expected to be getting £1.8 million and only got £700,000. That is a tidy sum of money and I think that requires an explanation and presumably it is not something that may be arriving late because the estimate for the next 12 months is £1 million less than in last year's budget. So what we are talking about is receiving less money from the European Union and not simply the money coming in at a later date and therefore flowing into one financial year as opposed to another financial year, this is two years running. I see that it would appear that the consequence of the non-receipt of this money has been that the Government did not claw back previous years' expenditure as they had intended to do to which we objected very strongly in last year's budget and although we still object to the philosophy of clawing back money from the ETB from previous years' expenditure, in particular expenditure that took place even before 1996, I have to say that if the reason why it is not being clawed back is because the ETB were short of money because the European Union gave us less money then we regret that it should be for that reason although we are glad it did not happen. It would have been better for the ETB to have had the money and to have had it available for training and then maybe if the Chief Minister is right and the adult education fees as a result of training then they

might have been able to waive the adult education fees if it had the money there. The Gibraltar Development Corporation, Mr Speaker, we have been told, employs people who are not civil servants but who are clearly people who are nowadays doing virtually the full range of duties in terms of desk specific speciality that civil servants might be doing. I do not know whether their recruitment criteria are different, I know that most of them are people who were inherited because there was an obligation to give them continued employment but given that we have heard from the Government that they continue to be committed to the principle of parity, who precisely is the Gibraltar Development Corporation in parity with in the United Kingdom? That is, how are the salaries..... [Interruption] So the Gibraltar Development Corporation, notwithstanding the fact that we are voting the money to pay their wages and salaries like we are doing it for the rest, are not part of the public sector. Therefore I take it that the proposed conditions of service which purported to treat them as civil servants in what they could do or could not do, surely they cannot not be part of the civil service and part of the public sector when it comes to getting paid but still be part of the public sector when it comes to writing letters to the Chronicle. I am sure that frankly, popular though the Chronicle is, most people would be prepared to be paid more than write these letters but the very least if they cannot do one they should be able to do the other. I do not know, Mr Speaker, to what extent the salary structure of the employees of the Development Corporation is now a coherent one which has been developed for them but I imagine that since people were brought together into the Development Corporation from previously different employed entities which were unconnected when they first arrived, they must have brought with them different pays and conditions from their place of origin. If it is the case then that if they are not treated as part of the Government service and are not on civil service pay and conditions they have Gibraltar Development Corporation uniform pay and conditions or are they still with whatever it was they had when they came in the first place? I think it is useful to have that kind of information because when we are looking at the movement in the costs of the Development Corporation and the amount that is being provided by the money we are voting in the

House, then we want to know whether here there is still a payment due which has to go back over previous years. We know now that the £1.5 million that we are voting in this year's budget for the pay review of civil servants is not for one single year but it is intended to be for one single year plus whatever settlement is done in respect of the 1999 review which has not been finalised. Is the case of the Development Corporation analogous or are they, because they are not part of that structure, on annual pay reviews which they negotiate with the rest of the private sector or JBS or whatever their closest counterpart is and therefore when we are looking, for example, at a provision for salaries of £1,316,000 as opposed to a forecast outturn of £1,220,000 does that reflect the fact that the provision for the next 12 months is on the estimate of what salaries are going to up by in the next 12 months? Or is it based on static salaries and will the pay review funding, I suppose that in the Pay Settlements Head under supplementary provision I do not know whether the mechanism is still being used but it used to be the case that GBC pay awards were funded out of the Pay Settlement Vote. I do not know whether that would apply, for example, in the case of the Gibraltar Development Corporation or whether the figure that is being shown in the estimates for the salaries for the next 12 months means that their pay reviews are independent of the block vote and that provision is already there. We would like to know whether it is one or the other in order to make an assessment of those costs. Obviously, Mr Speaker, by signalling some of these things at this stage what I am seeking to do is to give the Government an opportunity to try and provide that information at the Committee Stage if it is not possible to do so before but clearly there may be other points that we may want to raise when it comes to that.

In terms of the overall assessment, we believe certainly that the level of revenue that is coming in which is above what was known to be coming in, at least by us, a few months ago indicates that more can be done and it can be directed more at particular sectors within Gibraltar so as to benefit the sectors which in turn will, in our view, generate income for the economy and income for the Government. We think that opportunity has not been taken

and it is, of course, the responsibility of the Government to exercise their judgement on these things and of us to scrutinise what they are doing and this is precisely the job that we are carrying out. But in evaluating this the fact that we are again working with 1998 figures as we were a year ago with 1997 means that it is only by piecing together the information we get from different questions that we can try to build up a picture. Obviously the words of caution with which these figures were introduced and the fact that we were being told that we must not be complacent would suggest that the buoyancy in tax collections and import duty yields is not something that is anticipated to continue on the same trend line upwards because if it was then certainly much more than is being done could easily be done without any worries. If it is not, then I submit to the House that it is only by establishing to what degree the element of recurrent revenue is really recurrent and to what degree it is more efficient collection, can we really project not just for the next 12 months but for the time after that the extent to which more can be done than is being done both on the reduction of payments in some areas and on the granting of benefits in others. But my hon Colleagues will be pointing areas where it seems to us that there is money that is being devoted in some areas do not appear to be consistent with the revenue yields and the level of reserves that exists and that therefore it is not even consistent with the objectives that have been marked by the Government and they will be dealing with that in their own contributions. As an overall thing all that we can say is that given that more tax is being paid than ever before today and that we are going to be hitting the £1 million a week mark in income tax collection over the next 12 months then the bits and pieces that have been announced collectively do not amount to very much because it seems to be the case that it is after these changes that there will still be a collection of £1 million a week and with an economy that yields £1 million a week in income tax, £28 million in import duty, and £13 million in company tax they should be able to do more than is being offered to the public on this occasion.

MR SPEAKER:

We are going to have a 15-minute recess.

The House recessed at 5.25 pm.

The House resumed at 5.40 pm.

HON J J NETTO:

Mr Speaker, in this new financial year, and in this new term of office, lie some significant changes and reviews taking place in the Housing Ministry. These events are intended to improve the quality of our services to tenants and the working environment of my staff.

The first of these changes is the reunification of the Housing Agency and Buildings and Works. In this short period in which I have been the Housing Minister, I have found many friends who have commented that such pooling together is common sense and natural, "the two sides of the same coin." I would as an aside, welcome in private to learn why the previous administration decided to split up this Ministry. But considering that politics is not about simple logic, but rather how the two departments integrate to provide a better service to its users, better value for money to the tax payer and satisfaction to Government over its allocation of resources, are key questions that a Housing Minister will be judged in retrospect.

Mr Speaker, there are quite a number of changes and reviews taking place at different levels. One decision will be to concentrate both the staff at the Housing Agency, and the Buildings and Works Head Office (currently in Town Range) under one roof at the City Hall. This makes sense (simple logic again) if we are to have a proper fusion of both departments within the Housing

Ministry. Such intermingling of staff will help to develop one common strategy and one set of priorities within the Ministry.

Unfortunately though, such transfer of staff will not happen overnight. At the moment we still have quite a number of public servants that need to be transferred out from the City Hall to their respective Ministries. Even then, as most hon Members of the House will know, the conditions of the offices have been allowed to deteriorate over the years. The offices and interior of the City Hall are in need of substantial restoration. This, of course, will need to be done taking into account the historic character of the building and the requirement of my staff to perform their duties in an environment comparable with other Government offices.

Mr Speaker, as Members of the House are aware, Buildings and Works is currently under review by a UK consulting firm, H L B Kidson. The need for such a review follows a mutual recognition by both Government and the TGWU during the course of a meeting held at the Chief Minister's office with the department's shop stewards just before the General Election. It was unanimously agreed to carry out a complete, in-depth review into all aspects of the department, including but not limited to management structure and methods, working practices, staff structure, terms and conditions, incentive scheme, productivity measurements, quality control et cetera.

Mr Speaker, it is true to say that with the introduction of the Incentive Scheme, Government have become aware that for some time now, moreso since the proper recording of works, that the department has been unable to meet its obligations. This is particularly apparent when the unquantified inherited backlog of outstanding works are taken into account. This plus the constant scheduling of new works into the department's programme means that the waiting time for some works have become unacceptable. It is therefore, Mr Speaker, the Government's main aim to seek advice with the aim of changing the structure and culture of Buildings and Works, thereby turning it into an efficient service orientated organisation. I do once again wish to take the opportunity to reassure the staff of the Government's policy

towards the Department. That is, that the Government are committed to maintain the department's Housing Maintenance functions and workload in the public sector. I might add that the Union recognises the need for the Department to contractorise major structural works and the refurbishment of pre-war housing.

Mr Speaker, when examining the financial year 1999/2000 and 2000/2001, there are a number of important features that need to be mentioned. Earlier on I made reference to the backlog of inherited works which is now being accounted for in the department's programme of works. Given that there has not been a thorough maintenance programme of works over the last 30 years or so, and that the housing stock is progressively getting older, this has placed a heavy burden in our capacity to provide an adequate response, amongst other factors. Additionally, over the last 12 months there has been a higher turnover of flats being allocated. In this process there has been a corresponding increase in the number of flats to be refurbished, thereby increasing the overall workload of the Department. Notwithstanding, the department has continued to deploy its in-house resources in responding to the ever-increasing requests for day-to-day minor repairs. Additionally major planned maintenance has been carried out on a number of buildings within estates in order to protect the fabric of the buildings.

We have seen for the third year running that no supplementary funds have been requested to finance overspending in the Buildings and Works Head. This yet again has been achieved by my senior management as a result of their strict financial control which they have exercised in the Department, thereby continuing to improve the use of its resources in order to achieve better value for money. In this context, Mr Speaker, it is significant to note that the Annual Accounts for the financial year 1997/98 laid before the House on the 8th March of this year, contained no 'mention at all by the Principal Auditor of previous years' criticisms of lack of financial and management control over labour and resources. May I take this opportunity to congratulate my senior management for their hard work and dedication in transforming

the finances of the department into a disciplined, transparent and accountable example to others.

In matters of major contracted works, we have seen the completion of Sandpits House and MacFarlane House. Works are also nearing completion on Willis's House and Edinburgh House, including the conversion of flats for disabled persons. During the course of this financial year we will see the completion of the beautification of Glacis Estate, including the installation of a number of lifts, and the construction of a purpose built brand new depot to replace the current North Depot. This will release the Landport ditch site for redevelopment. Work will commence this week on the replacement of balconies and general refurbishment of Anderson House. This entails an enormous amount of work, spread over into two financial years.

As regards Information Technology the Housing Agency over the last few years has undergone a period of updating its computer systems. The main reason to do this was principally because the system that was being used for the calculation of the waiting list was not Y2K compliant. Therefore the opportunity was taken to upgrade the computer system and integrate it with the rent collection programme. To date, the allocation programme is fully functional and totally Y2K compliant. This is a very flexible programme superseding in quality the previous one. The data will be interpreted more clearly so that trends can be assessed and will enable the Department to be able to predict the needs of the community much easier than now.

Additionally, since the Ministry of Housing now also encompasses Buildings and Works, a study is being undertaken into the possibility of integrating both Departments' computer systems. Hopefully, the benefits of this initiative will be that all data in respect of all Government properties ranging from rents, tenancy agreements, works orders et cetera will be held centrally. This will hopefully further streamline procedures in an effort to offer the public in general a better and more efficient service.

Mr Speaker, there are currently a number of projects that are being looked into. Shortly the Housing Ministry will proceed with the sale of flats that have become vacant at Sir William Jackson Grove. These flats will be sold under the Government shared home ownership scheme originally on a 50/50 basis. The advert to be drawn up for the sale of such flats, will state that it will be open to all persons entitled to be on the waiting list. Credit will be given to anyone surrendering a Government flat. Mr Speaker, in addition to my previous point regarding the sale of vacant flats in Sir William Jackson Grove, Government will also address the difficulties that are being encountered by Option C licensees at Sir William Jackson Grove. Firstly, there is a desire by some of the Option C licensees to be allowed to convert their Option C agreement into a 50/50 purchase. Government will make this possible. Secondly, there is a problem of those Option C licensees encountering financial hardship. They will be the subject of a thorough financial assessment. If it is ascertained that they are genuinely encountering financial hardship Government will allow the allocation of Government post-war accommodation. At that stage a filtering system running alongside the normal allocation to applicants on the waiting list will have to be established, depending on the fluidity of each corresponding list. The flats that will be released at Sir William Jackson Grove, will then be sold on a 50/50 basis with priority being given to those that release Government accommodation. Finally, on the aspect of arrears that are owing, these will be carried over by those moving into Government accommodation and be paid off by instalments as part of their weekly rents.

Mr Speaker, earlier on in my speech I made reference to the last annual accounts laid in this House. Hon Members would have noticed that rent arrears has been in the increase. This no doubt poses another challenge to my Ministry. Already we have had preliminary discussions with members of the Treasury Department and the Central Arrears Unit. We already have an outline strategy to ensure the recovery of such arrears. However, this is a subject in which new thinking and new methods are required to ensure that the overall size of what is owed to Government reduces in subsequent years.

Mr Speaker, as hon Members are aware, at the time of the General Elections the GSD made a commitment to the people of Gibraltar through our manifesto to review the Housing Allocation Rules. This is another area where a re-evaluation is taking place in my Ministry and by the Housing Allocation Committee members to assess the adequacy of the current rules, and any new factors which today manifest themselves by way of needs or pressures for social housing. This is something that we do not intend to rush through until we have fully exhausted the consultation process. Such review would also cover the Housing (Special Powers) Ordinance 1972.

Mr Speaker, there are indeed other manifesto commitments that we are reviewing at the moment. What has been very popular and innovative has been the construction of purposely built flats for the elderly. Credit goes to my predecessor my hon Friend, Hubert Corby, for recognising the need to house the elderly citizens of our community. It is unfortunate that the number of flats at Bishop Canilla are not enough to cater for all the deserving senior citizens who are in need of such type of accommodation. It is therefore our intention to investigate the possibility of further construction of this type of accommodation.

Equally, Mr Speaker, there appears to be a need for more 50/50 schemes to be developed by Government. Moreso, given the current state of prices in the housing market that clearly denies the opportunity for the first time buyer to climb the first run of the property ladder.

Mr Speaker, it is interesting to note some of the issues that have remained constant since the enactment of the Housing (Special Powers) Ordinance in 1972. Hon Members will note that when the Bill was debated in the House in 1972, the Hon Maurice Xiberras described the need for such an Ordinance. In his speech he described the swelling demand for Government housing as a result of the border closure in 1969 and the sudden influx into Gibraltar of the many Gibraltarians who had until then lived in Spain. According to him, at that time there was a total of 1,700 applicants who qualified for accommodation. Furthermore, the

Minister was not of the same opinion as those at the time who thought that with the coming on line of the new Varyl Begg Estate it would break the back of the housing problem in Gibraltar. It is ironic to note that today applicants in the various Government waiting lists plus those in the pre-list still amount to 1,200 despite the fact of the development of new private housing estates. Earlier on in my speech I have already alluded to the kind of demands and pressures from all directions that are placed on the Housing Ministry. The reality is that the supply of houses remains a scarce resource in comparison to the demands. It is for this reason that the Housing Ministry has two main goals: (i) to continually improve its services and (ii) to be seen to be fair to everyone. However this is not an easy task, since there is so much anti-social behaviour that affects all the staff in the Housing Ministry on a day-to-day basis. Is it right and normal that the Housing Allocation administrative staff is subjected to constant abuse, threats and harassment? Is it normal to have the Housing Manager's car vandalised or even someone knocking at the Minister's home at 10 o'clock at night in order to seek a flat without first bothering to fill in the forms at the Housing Agency? Manifestation of anti-social behaviour is also reflected in some of our estates be it vandalism, litter, dog fouling, incidents of drugs abuse or even nocturnal noise pollution. All of these are issues that are not normally aired or dealt with in a collectively responsible manner. Nevertheless, as we continue to evolve and mature in a modern society these are themes and issues that impinge on the whole of our community and which need to be addressed so that we may continue to live in a more harmonious and peaceful society.

Finally, Mr Speaker, I wish to take this opportunity to thank my previous staff at the Employment Ministry, for their dedication and loyalty in assisting and undertaking collectively the overall improvement which has benefited tremendously the services given to employers, unemployed and employed service-users. I am quite sure that the staff there will respond in the same positive manner to my successor. Thank you.

HON DR R G VALARINO:

Mr Speaker, speaking on the general principles of the Bill, on page 9 of the Draft Estimates it will be noted that Government's estimates of revenue for income tax and import duties alone will be £80 million for the coming year, an increase over the forecast outturn and estimated figures for 1999/2000 and that receipts from income tax, which was at £45.05 million for the financial year 1997/98, a decrease of £0.89 million from the previous year's figures, see page 29 of the Report of the Principal Auditor, are set to reach £52 million for the year 2000/2001. This means that despite Government income tax relief, the money has been clawed back through direct taxation.

In my opinion a major part of this is represented by the fact that the £10,000 tax relief given to homeowners has now been exhausted and that the amount of tax payable by them has risen accordingly. Our suggestion of increasing this tax by £1,000 per year over the next four years both to new and old purchases, hence makes sense considering, amongst other things, the depreciation of the pound since this measure was first introduced.

On house rent collection and arrears, the Principal Auditor states, pages 25 to 27 of the Report, "I have cause to raise for the fourth year in succession, serious concerns about the deterioration in the level of house rent arrears. Notwithstanding the fact that there have been no rent reviews since 1984 and no significant movement in the Government housing stock, rents owing continue to rise at an alarming rate". For the financial year ending the 31st March 1998, which are the latest figures we have, an estimated £1.5 million was owed. The increase in arrears of house rents is a longstanding problem. On average arrears have grown over the years by about £100,000 a year suggesting a static number of tenants failing to pay their rents. Since 1996 the growth in arrears has increased dramatically. This would indicate that more people have stopped paying rents after 1996. Is it that changes in the rent collection system have resulted in a poorer collection record? Is it that more Government tenants are facing problems even with frozen rents and cannot make ends meet? It

is important, and I agree with the Minister, that from a policy point of view it is important to know the causes. If we look at the estimates we see a projected revenue of £2.4 million for the last year and receipts of £2.2 million. This suggests that arrears continue to rise by £200,000 yearly. The rate of collection of £2.2 million is the same as for the year 1997/98 when arrears went up by over £200,000. I would welcome an indication of what the position is on arrears at the present moment. What is the current rent roll and whether the £2.4 million revenue projections this year assumes a reduction in arrears?

In particular, I would ask for the amount of revenue for rents of Edinburgh House and also confirmation that there are no plans to bring in rent increases in any other estate in the current financial year. Again on Edinburgh House, little was said about housing at the budget debate last year. The Opposition have complained both about Government's different tenancy agreement to those tenants living in Edinburgh House and the high level of rents which are not in keeping with rentals in other buildings of a similar age in Gibraltar such as Laguna Estate. Housing exchanges have already taken place and there are more in the pipeline as families who are being allocated flats at Edinburgh House cannot afford to pay such rents. Furthermore, there are, I believe, a host of families who are not paying rent and waiting to meet their landlord to discuss this question. I sincerely hope that Government listens to them and to Option C tenants at Gib 5 who are experiencing genuine difficulties in keeping up with their payments. Government have to understand that people need to live in adequate housing accommodation but that there is a section of society that need help with these payments. This has become evident with the passage of time and the issue must be addressed notwithstanding the fact that we remain committed to extend the scope of home ownership to all those who want it and can afford it. In the light of experience, we know that a proportion of those who take the opportunity to buy, even with an interest free loan which is really what Option C amounts to, many subsequently find they are unable to continue to pay and a safety net needs to be provided so that they can opt out.

Last year the Minister said, "Another landmark in this Government's social housing policy will unveil itself during the course of the year when Bishop Canilla House will be completed". In their manifesto the Social Democrats said in February, "Bishop Canilla House – 86 flats specially designed for the elderly have now been completed and will shortly be allocated". It is now almost summer and the veil has not yet been lifted. No allocation has taken place and at this rate we are now looking towards late summer or winter before any definite action is taken on this matter. In the meantime our senior citizens suffer in silence.

Talking about silence, I notice that noise control legislation is to be introduced. I hope that this is done as soon as possible, informed sources have told me that drafting is at an advanced stage. This will greatly help those people living in the neighbourhood of the MOD power station as the noise level and pollution emanating from this source are a constant cause of complaint and a health hazard especially to children living in these areas. Despite Government's refusal to acknowledge either of these problems, I know they have been drawn to the attention of the Chief Minister.

The present Government, in their manifesto, said they would implement a new means tested 50/50 scheme for low cost home ownership, the development to be carried out directly by Government as the developer. I can find no evidence of this in this year's draft estimates of revenue and expenditure. It seems that many of their manifesto promises have been frozen at least for this year or maybe longer, only time will tell. I have noted what the Minister has had to say about the lack of houses that still exist today. Well, Mr Speaker, he should be thankful for the impetus the GSLP gave to housing during a period of eight years otherwise his situation today would have been short of a nightmare.

My area of responsibility in the Opposition benches also covers the environment, heritage, urban renewal and beautification. On the Theatre Royal refurbishment, I notice that £550,000 under Head 102 of the Improvement and Development Fund with £2

million to complete. I understand that Government are to appoint a multi-disciplinary team to develop a design proposal for the refurbishment. Government have stated that the time limit for completion of the contract is for a period of three years and will commence this year on the 1st September. However, I notice with disappointment Spain's objection to Gibraltar being included in the UK Heritage List to bid for World Heritage Status. As has been said, "This is a measure of the extent to which consequences of Spain's political aspirations concerning Gibraltar pervades other areas". The Government have to stress to the British Government that it is time to stand up and be firm with the Spanish Government and not to give way again to them on the premise of progress which is what has happened of late with the wholesome support of the Chief Minister.

On the Moorish Castle, the Minister reaffirmed that Government was supportive of the project to relocate the Prison so that Moorish Castle can be dedicated as a purpose site. I sincerely hope that he means what he says and that both the Moorish Castle and the whole of the Upper Town of Gibraltar, under the heritage umbrella, will undergo the changes necessary to return this part of our city to its former character and use.

To finish, Mr Speaker, much has been promised for the next four years. We can only hope and pray that these schemes and promises will take place and be honoured. Thank you.

HON H CORBY:

Mr Speaker, as Members of the House are aware, I have recently taken over responsibility for employment from my hon Colleague, Mr Netto. I hope to be able to build upon and develop the tremendous good work that he accomplished during his four years as Minister for Employment.

Following on and working from the solid foundations set during this period, it will continue being the top priority of my Ministry to afford every possible assistance that will enable unemployed persons to take up their due position in the labour market. To this

effect I should wish to refer to two related initiatives on which much time, effort and funding has now been invested in order to offer the unemployed increased prospects of future employment.

The Jobclub is now a reality, having been officially opened by the Chief Minister earlier this year. Even if still not 100 per cent operational, given its relation to the introduction of the Job Seekers Agreement, it is nevertheless now able to offer and has indeed offered some of its resources by way of work groups and workshop sessions as well as work with individuals often arising from referrals from other Government agencies. The Jobclub is thus set to offer enhanced job seeking facilities and resources to the unemployed especially the long-term unemployed. For its part the Job Seekers Agreement has presented much work on aspects relating to changes required to the existing legislation. It is now almost complete and will be brought forward to this House in due course. It hardly needs pointing out that the introduction of the Job Seekers Agreement likewise meant a review of the procedures and working practices currently in place in order to assist job seekers into employment. Employment service staff in preparation for the introduction of the Job Seekers Agreement, are consequently also having to adapt to such a change involving, of course, no small measure of training. No doubt and not least, job seekers themselves will need to adapt to the new system. All in all, and as previously announced by my hon Colleague, the introduction of the Job Seekers Agreement will mark a new beginning in Gibraltar's employment history, moving from the current passive labour market policies to active labour market policies that will help ensure a more direct and comprehensive job search assistance programme while at the same time ensuring that the job seeker fully understands and fulfils the conditions for any possible receipt of social assistance. The whole initiative is one that certainly cannot be devised, let alone implemented, overnight. I therefore hope all will understand the necessary time factor.

As regards vocational training and wage subsidy measures as further assistance to job seekers, both measures have continued and continue to serve their dedicated purpose. The traditional

Vocational Cadet Training Scheme as had been operating in the past, is indeed now a thing of the past but such an aspect together with the broader vocational training concept and programmes I will allow my hon Colleague, the Minister for Education and Training to address.

In matters relating to wage subsidy measures, the already well-known and often stated Government policy on such an issue remains unchanged. Whilst forever considering possible new wage subsidy measures with a view to enhancing employment prospects of the long-term unemployed or other disadvantaged group, spending will continue being prudent and contained, as in recent years, with the aim of maintaining wage subsidy levels always in tune with real demand and, of course, long-term sustainable employment.

Mr Speaker, I have already referred to the legislation that will need to be brought forward in relation to the introduction of the Job Seekers Agreement, yet it is far from the only legislation that will need to be considered in terms of employment.

Just as this House fairly recently debated and transposed into our own legislation the EU Working Time Directive, further EU employment related legislation will require attention. Two examples of such a kind of legislation would be the Parental Leave Directive and the Part-time Workers Directive. Other legislation is also to be introduced as a result of Government's previously announced changes to redundancy payments and the statutory minimum wage. Government have further announced our commitment to bring about equalisation of pensions, gratuities and retirement age in the public sector as well as occupational pensions for private sector employees. In this connection appropriate legislation as may be required will also need to be considered. Still, any reference to employment legislation would not be complete without mention, at least, of the fairly recently introduced Employment Regulation (Offences) Ordinance brought about as a direct consequence of Government's commitment to combat illegal or unregistered labour, it has already enabled direct punitive action against a number of offending employers. It is still

more important, however, to consider the intended deterrent effect of this legislation achieved in no small measure by the enforcement powers that have been vested on Employment Inspectors and which reflect the seriousness with which the phenomenon of unregistered or illegal labour is generally viewed.

On the administration side, Mr Speaker, I should like to make mention of two important changes brought about as a direct result of the partnership approach adopted through the Labour Advisory Board with the business community and trade unions. Firstly, as from the beginning of this year, employers are no longer required to effect the annual contribution payment for each of their employees towards the Insolvency Fund which meant in most instances individual payments for each employee depending on start date of employment and on each anniversary. Instead such a contribution is now collected as part of the weekly social insurance contribution stamp. Much legislation has required amending and changes have had to be adopted, both these aspects should not be underestimated. The changes, which might otherwise seem simple and straightforward, do emphasise this Government's commitment to accommodate and facilitate business needs in relation to its set-up, whenever the possibilities allow. Secondly, very much in tune with the above commitment and again coming through the forum of the Labour Advisory Board, the announced and much awaited 'one-stop-shop' is also now a working reality. Employment registration, social insurance registration and PAYE registration is now possible, in most cases, through a single point, namely, the Employment Service.

Mr Speaker, I have already referred to the need for the unemployed and Employment Service to adapt to the changes that will be brought about with the introduction of the Job Seekers Agreement. Indeed the need to adapt to changes generally, particularly as a result of our own internal change and the self adapting local economy, hardly needs emphasising. Change affects us all to a lesser or greater extent. To this effect, I should like to insist on the need for both employers and employees alike, and indeed those unemployed as prospective employees, to make every effort possible to accommodate each other in terms

of flexibility and adaptability. I fully realise that this needs to happen in the face of often adverse circumstances brought about through no fault of the employer or the employee. Our diversifying and evolving economy cannot demand anything less. It is in Gibraltar's interest and to its direct benefit that local resources, including of course our resident labour resource potential, be maximised to the fullest. Of course, Government will endeavour to create the best possible conditions for businesses to thrive, for the economy to grow and for the creation of wealth and employment for the community at large. However, greater or lesser success will depend on the degree of flexibility of the labour market – and that means employers and employees being able to meet each other's expectations. Evidently then employers must, generally speaking, be more prepared to offer opportunities for employment to the local resident labour force and the local resident labour force must itself too, again generally speaking, be more prepared to take up such employment opportunities. The need for greater all round flexibility and adaptability must surely involve the social partners to the degree that together we may help achieve the awareness and sensitivity that is demanded by this prevailing climate of general change. Gibraltar, its community and its economy can ill afford to have it any other way.

Finally on employment, Mr Speaker, and as you no doubt are well aware yourself, much debate is provoked in this House as a consequence of unemployment figures. Not that I intend here to provoke any such debate and more so knowing full well that you would have none of it, at least during these proceedings of the House. I still wish to note that unemployment figures, as recently made public, continue to represent lowest ever unemployment levels over the last 10 years and quite simply speak for themselves.

Mr Speaker, turning now to other responsibilities under my Ministry, I should like to briefly report firstly on Bruce's Farm Rehabilitation Centre. The centre was officially opened on the 30th September 1999, has capacity to cater for 15 patients at any given time and with a complement of 14 members of staff, each employed in different capacities ranging from counsellors to

carers, cooks and house manager. The counsellors all hold professional qualifications and are responsible for specific parts of the programme offered. During the past six months, since the opening we have had 32 admissions, 26 of which have completed their programme. The programme consists of an eight to 12 week course but has been extended from 12 weeks to 20 weeks to cater for some patients who would benefit from further treatment. The counselling team have also offered their advice and guidance both in person and through telephone calls from distressed relatives in connection with drug misuse within their family circle. The centre has now established links with the Prison Board, Prison Officials, JPs, the Judiciary, Social Service, the Health Service and other bodies. The Health Authority provides nursing cover, easier access to the Primary Care Centre, communication with the psychiatrist, who attends at Bruce's Farm on a regular basis and who has been instrumental in the smooth running of the facility. I would like to take this opportunity to thank doctors, management and nursing staff for their co-operation with the centre. After-care is a very important part of rehabilitation and we are looking forward to having our own premises in the centre of town. However, we are now providing an extra evening of an After-Care Programme for those who have completed their treatment, where group therapy and personal counselling is provided. Ninety per cent of those who have left continue to attend on a weekly basis. On completion of their rehabilitation programme they are encouraged to liaise with the employment service and to attend courses to improve their skills in order to help them secure meaningful employment.

As regards my other distinct Ministerial responsibility as relating to consumer affairs, evidently this is an area which has been identified by this Government as one requiring much attention and development and has been publicly declared to be one of Government's new commitments. Our own national legislation in this domain would appear to be in need of review and even more so in the light of EU legislation which requires transposition. Preliminary work in this area is being undertaken in order to enable Government to introduce the necessary legislation in the

not too distant future alongside provision for the corresponding resources required.

To finish, Mr Speaker, I should just wish to place on record my gratitude for the valuable assistance that I have been afforded during this short period in my new Ministry, especially from my Director and all the staff at the Ministry of Employment. My thanks too for the dedication and most worthy work undertaken by the staff of Bruce's Farm Rehabilitation Centre.

HON MRS Y DEL AGUA:

Mr Speaker, pride and humility are considered to be as opposite to each other as black is to white, or for the sake of an even more appropriate comparison in these circumstances, as Opposition is to Government. Yet it is with a mixture of these two emotions that I deliver my first ever budget speech to this House. I feel proud and privileged to form part of this hon Institution, and to stand alongside all the members who form part of it. Some people might find this hard to believe, but there is something of much greater significance to me than occupying a red leather seat in this House: the knowledge that my fellow Gibraltarians have seen it fit to entrust me with the governing of their affairs. It is this realisation and the immense responsibility which it carries, that has taught me the meaning of humility and which, I feel no shame in admitting, has led to more than one sleepless night. Thankfully, during these first months in my new role, I have been able to count with the invaluable advice and guidance of my ministerial colleagues, whose integrity and sound judgement have proved to me beyond doubt that honest politicians do exist, despite the popular belief to the contrary.

My Ministerial portfolio gives me responsibility over Social Security and Social Assistance, Social Services, Care for the Elderly, the Disabled, Drugs and the Prison, the majority of which are very sensitive areas that require a very humane approach and delicate handling.

There is always a need to prioritise in order to work within the budget, and this in itself is no easy task when all the cases and projects appear to be as deserving as the next. There are two subjects, however, which are particularly close to my heart and to which I devote a large proportion of my time, and these are Care for the Elderly and the Disabled.

Mr Speaker, as this House is already aware, the end of 1999 saw the establishment by this Government of a statutory Elderly Care Agency. Since the 4th January of this year, the Agency has been delivering the service at both Mount Alvernia and the Jewish Home, funded by the Gibraltar Government at an annual cost of £2 million. This has been the first step in this Government's commitment to implement Gibraltar's first ever comprehensive, co-ordinated and managed elderly care provision, which will include a residential home, a nursing home, a day care centre, a short stay respite facility and a base from which to deploy extended community services, including domiciliary care and a meals on wheels service. Recruitment of new staff has already taken place in the form of six staff nurses, six nursing assistants, a nursing manager, an administration manager, a personnel officer, and a finance officer. Unfortunately, the post of Consultant Geriatrician has had to be re-advertised, but it is envisaged that this post will be filled very shortly. Interviews are being held next week for the new post of catering manager and the successful applicant will, assisted by the dietician, be introducing special and varied menu plans to cater more adequately for the dietary needs of the residents. New specialised equipment has been purchased, and in five short months residents are already visibly enjoying a much better quality of life. Works will be going out to tender next week for major refurbishment and modification of the internal layout of Mount Alvernia which will enable all currently unused parts to be brought into use. A nursing wing will be set up with a view of transferring patients from the geriatric wards in St Bernard's and other long-stay elderly patients, thereby significantly alleviating the current shortage of beds at the hospital. These adaptations will increase the bed capacity at the Home from 90 to 130 or 140. In short, the major refurbishment and brightening up programme of the site, the provision of staff

training, more dynamic management and different working practices will help break the institutional feel of the current residential home and will provide for a new, expanded, modern elderly care service.

On another topic relating to the elderly, the issuing of Senior Citizen Cards by my department is now in process. The card, which will be issued to women 60 and over and to men 65 and over, resident in Gibraltar, will aid identification and certification of that status and will enable the Senior Citizens Association to negotiate discounts and other benefits within the private sector. I am very happy to say that my department has established a good and cordial working relationship with the Association. I have met with the committee members on two occasions and will continue to do so on a quarterly basis. Also, as promised in our manifesto, and as part of our commitment to improve the quality of life of senior citizens, a free mini-bus service to and from the town centre will soon be in operation to assist elderly people who live in the upper town area.

I now turn to social services and the disabled. The advent of a single co-ordinated Social Services Agency brought with it a more generic professional and multi-disciplinary response to social care needs and prevention. Social Services encompasses the Dr Giraldi Home, Bishop Healy Children's Home, St Bernadette's Day Centre, Social Work and Probation Services and I am pleased to report that good and solid progress has been achieved in all these areas in the last few years.

Works for the unitisation of the Dr Giraldi home will be completed by August. The total cost, including the purchasing of new furniture, will be in the region of £235,000. Unfortunately, completion will take longer than envisaged due to unforeseen works which have been identified along the way. Unitisation will result in the establishment of three self-contained living units which will enable existing residents and users of the residential service to live more appropriately within normalised small group home environments. It will provide for an expanded service for respite care of up to three places, with separate respite units for

adults, children and sitting services. It will also allow for more specialist services for people with different degrees of learning disability and a more focused and specialised service provision to meet individual needs.

There are some individuals living in the Home and others in placements in the UK, whose challenging behaviour needs cannot be met within a mainstream residential environment for people with learning disabilities. A number of other persons still living at home and in some cases attending St Martin's School, have also been identified as needing the services of a specialist unit in the future. Whilst a highly professional and needs led service has been established for people with learning disabilities within Gibraltar, it is recognised that the current service is unable to provide specialist provision for people with extreme challenging behaviour. I am very pleased to say that Government have approved the establishment of a Challenging Behaviour Unit and that a possible location has already been identified. We will shortly be in a position to give more accurate details about the establishment of this much-needed service.

A fostering service for children and young persons in Gibraltar has also been approved by Government, which will provide six to 10 fostering placements initially, in addition to professional foster parents, at an approximate cost of £100,000 per annum. The relevant legislation, which has already been drafted and is very near completion, will allow for more contemporary and appropriate care arrangements for younger children and will better meet the demand for the care provision of adolescents who are deemed by the Courts to be in need of Care.

It is clear that the existing residential care unit for children, that is, Bishop Healy Home, has outgrown its purpose. It is currently full to capacity and provides for children of a wide variety of ages. Although this will be partially alleviated by the implementation of the fostering scheme, we are also exploring other options with a view to improving the current situation.

An area which has undergone considerable deterioration due to many years of neglect, and which this Government are committed to tackle, is the Government Hostel at Devil's Tower Road. Plans are already under way to re-site the hostel, and it is envisaged that the residents will be able to move to a newly refurbished building within a 12-month period. The site identified for relocation is in the area of the Buena Vista Hostel.

Another innovation in Gibraltar will be the availability to the Courts of Community Service Orders. This Order will require an offender to undertake unpaid work within the community, for example, outdoor conservation projects, painting and decorating for the elderly and other tasks as may be defined as appropriate. This will be undertaken in lieu of a prison sentence. The person concerned has to agree to accept Community Service as an alternative to prison. The working of the order falls to the coordinator of the scheme who will be based in the Social Services Agency. If the person fails to maintain the Order, he/she can be brought back to the court and sentenced for the original offence. Implementation of this scheme has been greatly welcomed by many sectors of the community, including the Courts, the Police and Probation Officers and will be beneficial to the community as a whole. Legislation has been completed and it is hoped to be enacted shortly. The cost of running this scheme will be in the region of £28,000 per annum.

The Social Security Department and the Department of Social Services have now moved to the newly refurbished Sergeant's Mess in Governor's Parade, catering for much improved pensions collection facilities. It is also hoped that facilities will also be made available for pensioners to pay house rents, electricity, water and telephone bills under the same roof. August of this year will see the commencement of the process towards the introduction of a modern and efficient computer system to service the Ministry of Social Affairs. Social Security will be the priority area within the ministry and the main beneficiary of its introduction. All aspects of the work of Social Security, which has been handled manually since the early 1950's, will now be computerised, catering for all phases from the receipt and recording of contributions through to

the payment of claims. Consultants proficient in the field are to undertake a study and produce the documentation necessary to invite tenders for the appointment of a software provider. It is envisaged that purchasing of the software, with subsequent set-up and staff training will commence once the Consultants have fully identified and assessed the department's specific needs.

There have been other significant developments within these two departments during the last year. A new benefit named "Child Welfare Grant" was introduced to replace Family Support Benefit in August 1999. By taking into account the combined parental income with an increase in the income limit to £30,000, as opposed to considering the income of the highest wage earner with a maximum ceiling of £20,000, a fairer system of means testing has been introduced. As a result of this change, more families are now eligible to the Child Welfare Grant. The monthly allowance was also increased from £30 to £40 in those cases where the combined parental income did not exceed £15,000. The grant became available to any person who satisfied a residence condition, regardless of nationality.

Maternity Allowance is also a new social security benefit which replaces the statutory maternity pay payable under the Employment Ordinance by employers. Legislation was also introduced so that no social insurance contributions are payable by either the employer or the employee during the 14 weeks of maternity leave. Credits are awarded during this period, representing a saving of £80 per week per employee on maternity leave, which over the 14 weeks entitlement amounts to £1120.

During this term of office, new and improved services will see the light of day. We shall review and develop the social security benefits and social assistance grants so that they provide greater financial assistance to those in genuine need, including the long-term unemployed, single parents, the elderly and those who are incapacitated through ill-health.

Finally, I would like to make a brief reference to the topic of drugs, as this area also falls within my department and is one which greatly concerns the whole community. I, together with other Ministerial colleagues, have been working very hard towards putting together a comprehensive and co-ordinated drugs strategy for adoption by Government. This anti-drugs strategy is Government's commitment to act vigorously to protect our society from the scourge of drugs and to help those citizens who are unfortunate enough to become dependent on them. The document will be finalised very shortly and will hopefully be launched in a couple of months. Its long-term objective is to create a better tomorrow for the younger generation and for society in general.

In concluding, I would like to give a special mention to the members of staff of my department, who have made me feel welcome from the very beginning and whose professional assistance has enabled me to find my feet under the desk sooner than I expected. I thank you, Mr Speaker, and the other hon Members, for your attention.

HON J L BALDACHINO:

Mr Speaker, before I start my contribution I would like to clarify something that was said by the Hon Mr Netto at the beginning of his contribution and that is when he said that now Buildings and Works and Housing is now unified as one department. Let me say that this was done by us in 1988, therefore it was stopped by a short period from July 1994 to January 1995 and then it was unified again so it is something that we supported. As a matter of fact, during my budget contribution last year I actually said to the Minister that it was better for Buildings and Works and the Housing Department to be together because we also experienced the decision of having two separate departments when one was complimentary of the other. I am glad that the Government have taken my advice and they have now unified the two departments. I fully appreciate that the Minister might have been called at 10 o'clock at night, I actually would have liked to have been called at 10 o'clock at night when I was Housing Minister and not two

o'clock in the morning like I was normally called but in any case I fully appreciate what he is going through and especially what his staff is going through, I understand that position.

Let me say, Mr Speaker, that in last year's budget the Government, and I am referring to the Employment Survey, said and as they announced it was a major change in what they were doing and that it would be quicker actually for the production of the Employment Survey the way they wanted to do it and that is by sending questionnaires to employers rather than what we had previously which was by the PAYE returns, that it would have been quicker, let me say at the outset, not only that it is taking longer to be produced than it previously was but also even the latest Employment Survey has also taken longer, even though it has been produced on the same format, using the PAYE returns. So as a matter of fact we were against at the time, the Minister knows that, when we brought the Statistics Employment Survey (Amendment) Order 1998 and we said that we did not agree because it would not be compatible to the one that we had been issuing before. Therefore I have got no option but to quote the employment figures as at April 1996, which is the latest because we have no other information whatsoever on how employment has been progressing in the economy after 1998. Let me say that if I compare the 1998 employment figures to those of April 1996, which is what I am referring to, that is April which is the latest one, like my hon Colleague, the Leader of the Opposition said before, there are 140 people less working in April 1998 than there were in 1996. As a matter of fact, there are 44 less Gibraltarians in employment in April 1998 than there were in April 1996.

There are even less British UK citizens working in 1998 than there were in 1996. As a matter of fact, there are even less Moroccan workers working in 1998 than there were in 1996, the only increase in employment is by Spanish nationals where there are 250 more. In the absence, as we do not know what is happening in 1999, Mr Speaker, and in the year 2000 because it still has not been produced, so therefore what the Minister was suggesting in April 1998 was as a matter of fact not correct when he said that this was because there was more job creation in the market. As a

matter of fact there was less job creation in the labour market at the time than what he was saying and obviously my hon Colleague, the Leader of the Opposition, has already explained. The Minister also referred that we are now in the lowest unemployment figure for the past 10 years. I have been asking in this House for confirmation because there was a reduction on female unemployed in the figures and I have still not had an answer, why there has been such a big reduction in those figures since April 1999. None of the figures actually show that there has been any employment of females anywhere for that reduction to occur. As a matter of fact it is not even reflected in the last figures. Therefore to compare like with like, to say that there are less Gibraltarians registered unemployed now, in the absence of that information which I have had no answer, it is difficult for me to compare if unemployment really went down to 273 at that time. But I see that it is now being increased, it has now increased slightly, the figure is now 307. It is always welcoming that we should get more people in employment. I have no difficulty whatsoever in supporting the Minister when he said, and I join him in that particular area in actually asking local employers to give preference to our people who are unemployed rather than others and I will not go any further than that. But I add my support to that call on local employers. Obviously we will have to wait for the 1999 and 2000 figures of the Employment Surveys to see how well and how many people actually have found employment in the two areas that the Minister mentioned and that is on the betting companies that have been set up in Gibraltar.

I intend to ask the Minister for Social Affairs and maybe she can answer me at the Committee Stage, when she says that the Child Welfare Grants, previously Family Support Benefits, which is on page 124, Appendix F, I see that there is an increase of £50,000. The Minister mentioned that this was something new, there is an increase of £50,000, is that the projection of what will be the expenses announced?

Mr Speaker, referring to Social Services, Head 5 – B, subhead 6, page 57, Milbury Care Services Ltd – Contracted Services, I see that there is an increase of nearly £800,000. I thought at the time

when it was announced that the contractorisation of Milbury was ring-fenced, that it would not cost anymore. Can she tell me why they intend to pay more to Milbury? In any case, in the Opposition, many people have approached me, families of users of Dr Giraldi Home who are not very pleased with the service that Milbury is providing and I intend to ask the Government if they are satisfied that the money that has been paid out of taxpayers money, they are satisfied they are getting a good service for the amount of money that they are paying, £1.2 million. There are a lot of people who are complaining about this service and I am asking the Government if they are satisfied seeing that the Minister in her contribution did not say anything about the service that Milbury is providing.

On Employment and Consumer Affairs, Mr Speaker, I give notice that I intend to ask on Head 2, Other Charges, subhead 3, Security and Messenger Services, what that entails and which is the company that has been contracted for that as there was no provision in the 1999/2000 Estimates, it is a new thing and on the forecast outturn for 1999/2000 there are £3,000 which shall be paid and now the Government are estimating that it will cost £12,000.

HON H CORBY:

Maybe I can clarify that, The £3,000 was for the quarter and this is for the year.

HON J L BALDACHINO:

I understand that. If the Minister can give me the information when we come to the Committee Stage, who is the company, did it go out to tender and what is the service they are providing for the security and messenger services and how many people are actually employed. Also under subhead 7(f), Office Cleaning, I also intend to ask, the £2,000, which is the company that has been contracted. In the same Head, on Personal Emoluments, I intend to ask the Minister how is it that they are projecting for less

in salaries when the forecast outturn was higher and the number of people employed is exactly the same.

The Minister said that in most cases pensioners would pay all in one area, the housing arrears and things like that. Why most? She mentioned most people. I think it was the Hon Mr Corby who said that most cases would pay all in one place. Why is it that it is most and not everybody? Who is exempt from that category?

HON MRS Y DEL AGUA:

Mr Speaker, if I said 'most', I do not think I did, but if I said it it is incorrect. All pensioners will be able to make use of the facility.

HON J L BALDACHINO:

I am most grateful to the hon Lady for that clarification.

HON CHIEF MINISTER:

Mr Speaker, on a point of order, I believe it was the Hon Mr Corby who said, in relation to the one stop shop registration, that most employees could be registered in the one stop shop.

HON J L BALDACHINO:

Why is that the reason, maybe the Minister can give me an answer at the Committee Stage, it is not that important. Like the Leader of the Opposition said to the Government, I hope they have a change of mind on the actual completion of the Employment Survey because otherwise it will not be compatible to compare one with the other.

Obviously, Mr Speaker, what the Minister has been saying on job creation has not been proven, and not been proven by the figures, on the contrary and I hope that the measures that the Minister has mentioned on the job centre, we will keep a watchful eye to see if it actually creates job prospects. Even though my hon Colleague responsible for training will touch upon on the training aspect, as

a matter of fact the figures reflect, especially on the hotel industry, that very few Gibraltarians have been employed after carrying out the work that has been announced. It looks like the unemployment figure is now going up, we will wait to see in the next quarter how it fits in and we would also like an explanation, if possible, if there was any change of people being left out on the previous months especially since April 1999 to December 1999 when the figures showed a lower unemployment level and obviously what was reflected and the reduction was actually on female unemployed. On that note, Mr Speaker, I will end my contribution. Nevertheless unemployment is a factor that is important to our economy and once again I urge people that they should employ Gibraltarians and even though the Minister has not given me any figures on how successful the set-up has been of the Inspectors and the draconian measures that they actually implemented at the time to stop unemployment levels, how many employers have been taken to court. *[Interruption]* Mr Speaker, I have said draconian because when the Hon Mr Netto referred to it he said it was a draconian measurebut if the Minister does not think it is draconian fine, but his hon Colleague did at the time. Therefore, Mr Speaker, we will be asking that at the Committee Stage and I will now end my contribution. Thank you very much.

The House recessed at 7.05 pm.

THURSDAY 1ST JUNE, 2000

The House resumed at 10.02 am.

Debate continued on the Appropriation (2000-2001) Ordinance 2000

HON DR B A LINARES:

Mr Speaker, as I report to this House on my ministerial responsibilities for Education, Training, Culture and Health, I am acutely conscious that these responsibilities touch upon areas of human and social significance which greatly affect the quality of life and the caring ethos in our community – quite apart from

being, of course, a crucial factor, a sort of human “infrastructure”, determining the growth of our economy.

As such the Government place a high priority on these areas of our governance and this is reflected in our very substantial budgetary provision.

Mr Speaker, on previous occasions I have placed on record the professional commitment of all our staff engaged in education, training and culture, and I do so again today very sincerely. But the House is aware that I have only recently taken on responsibility for the Health Services and the first thing that has impressed me is the grave responsibility that all those engaged one way or another in these services are called to bear. They are not only attending day after day to peoples anxieties and pain and suffering but when it comes to the crunch they are dealing with matters of life and death. It is an awesome responsibility and it is carried by all staff with professional poise and caring efficiency.

I have now been able to visit all the different services within the Health Authority - St Bernard's, KGV, the Community Psychiatric Unit and the Ambulance Service and I want at this point, therefore, Mr Speaker to pay tribute to all of the staff in these services and express, I am sure on behalf of both sides of the House, our sincere appreciation and gratitude.

At this point, too, Mr Speaker, I want to recognise the ministerial performance of my predecessor, my hon Friend Keith Azopardi. Everywhere I go throughout the Health Authority services I hear people say: “Keith was a good Minister” - They also seem to imply “We'll see what you will be like” - and I know that Keith Azopardi has left a record which will be very difficult for me to emulate.

But when I turn to the objectives for the future, I hope the House will be indulgent with me because it is still, I feel, too early for me to have crystallised completely my own ideas and judgements. I will need a little more time during which I shall review the current

services and practices in order to set clear targets and aim at specific developments and improvements.

However, it was the late Gavin Jackson, who is remembered by all the staff throughout the Authority not only with affection but with recognition of the far-reaching perspectives that he opened up for all of us in the Health Services – it was Gavin Jackson who said once to Keith Azopardi referring to the 1996 Review of the Health Services in Gibraltar: “I have spent 40 years in health care and we have gone through review after review. There are always changing things because individuals matter and when you change the individuals you have got to accommodate changes in the structure.”

Well, I have also been over 40 years in public service one way or another and I know from my own personal experience that Gavin was right. He is no longer with us and there are now new individuals in his place including a new Minister. But there is one thing already very clear in my mind and that is the need for change. I intend to launch a wide process of consultation at grass-roots involving all user groups among staff, certainly the union and including patients and clients of the services preferably when organised in identifiable groups such as the Dialysis Association, the Cardiac Rehabilitation Group, the Cancer Relief Society and the Diabetic Association. I have already met with all these groups and I have to say their positive suggestions drawn from their own real and often painful experience I deeply respect and welcome.

Indeed, the seeds of this process of consultation have already been sown during the past four years with procedures instituted by the previous Minister such as the Complaints Procedure, the Private Practice Agreement, the Annual General Meeting of the Health Authority, the Health Charter which is due for publication in the near future, the Annual Reports which had ceased to be issued since 1982, the Public Health Report, et cetera. Only a few weeks ago, Mr Speaker, we have formed a Users Forum to assist Management at the Primary Care Centre.

As I say, the next stage will see all these initiatives subjected to public scrutiny ranging from practitioners, users and clients to ensure that at all times we are responding to real needs. There is no doubt about the real need for an additional Obstetrician who has accepted our offer of engagement and will soon be joining the ranks of our consultant team. We have not been so fortunate with the appointment of a Consultant Psychiatrist. They are in great demand in UK and in short supply and although we have repeatedly advertised, no takers have responded that we can look at but we do hope, as we are advertising again, we will soon have a permanent Consultant Psychiatrist in the service.

This process of consultation, to which I was referring, will be stimulated by the exciting project of the New Hospital at Europort. The New Hospital will, I hope, serve as a catalyst, so to speak, and generate expectations and new attitudes. We are now about to advertise locally and as required by European regulations in the Official Journal of the European Commission (OJEC) inviting tenders for the Design and Construction of the New Hospital. Meanwhile a brief is being prepared in consultation with experts led by Churchburn Estates Ltd who carried out the initial feasibility study and drawing on the input of “user groups” as I have suggested. The procurement process will take around 36 weeks which will take us to March of next year (2001) and it is envisaged that works will begin soon after that and the Hospital, please God, will be open in the late Summer of 2002.

The New Hospital together with the new Primary Care Centre we opened last summer will place our health services at the top of the range of European standards.

The Primary Care Centre has all the potential of becoming a centre of excellence. The initial technical problems, with airflow and cooling and telephones have now been overcome and we are rapidly sorting out the logistics of what is in fact a massive operation. For this purpose, as I have already said, the Users Forum will be of great assistance to the Services Manager and the Medical Co-ordinator. It is important to note, Mr Speaker, that the new Centre already encompasses a considerable expansion

of services. The new Centre occupies nearly 60 per cent more space than the previous Health Centre, including a cardiac rehabilitation unit; psychiatric outpatient clinics, psychology outpatient clinics, phlebotomy out-patient clinics; video conferencing facilities which were announced by my predecessor in his budget speech last year as “tele-medicine” projects and which have now become a reality. Essentially these are diagnostic services which are available to patients without leaving their hometown. The pilot projects which have been launched during the past year in dentistry, we hope to expand to other areas of medical and clinical services and this will entail, no doubt, substantial cost savings for the Authority.

As in other areas which make up our social, industrial and commercial fabric, training and the development of skills and professional development are at the root of all real progress and high quality standards (I will have occasion later, Mr Speaker, of reporting to the House the Government’s record and commitment on the area of training generally). Let me say that there has been a quantum leap over the last four years in the provision of multidisciplinary training among all practitioners in the health services, but very especially with respect to the nursing profession.

The emphasis on entry qualifications for recruits aspiring to registration either as enrolled nurses or staff nurses is clearly the way forward not only to ensure high standards of nursing care but also an increased localisation of qualified staff within our complement. I am pleased to report that the systematic efforts in our enhanced School of Nursing now located at Bleak House with access to the ample resources of the Training Institute are yielding spectacular results in the field of nurse training and medical training generally. It was a great experience for me recently to preside over the validation exercise carried out by a panel of experts from Sheffield University in March this year which resulted in our School of Health Studies being validated to deliver to local students a higher education course leading to the Diploma of Nursing accredited by the School of Nursing and Midwifery of the University of Sheffield. It is right that I should pay tribute for

this achievement to the Principal and Tutorial Staff of our School and it is pertinent to quote here the general comments made by the Sheffield Panel in their validation reports:- “The Panel was encouraged by the philosophical as well as the financial commitment to the development of health education and training in Gibraltar expressed by the Minister and the Chief Executive of the Health Authority, the Director of Operations and the Principal of the School.”

I am pleased to announce that the first cohort of 15 students will commence their studies in September this year. Meanwhile the School continues to offer a whole variety of training courses at all levels:-

pre-registration nurse training; induction courses for nursing assistants; multi-disciplinary short courses intended to train trainers who can then conduct in-service courses within their own different areas of medical and nursing care.

Examples of these courses already completed or planned for this year are:-

Training in Child Protection Course; Advanced life Support Course; Manual Handling Trainers Course; Health and Safety Risk Assessors course; Compression bandage and dressings Course.

At a higher education and degree level the Authority is currently franchising courses in UK Universities for local students specialising in Paediatrics, District Nursing, Operating Theatres, ITU, Nursing, Nursing Management and a Masters degree in Health and Social Care Management.

Mr Speaker, another important aspect of health education is that which goes by the name of “Health Promotion” and which under the direction of the Public Health Director and through the efforts of the Health Education Officer numerous campaigns and initiatives have taken place throughout the last year such as the “Heartbeat Award Scheme”; a survey into obesity among children

in Gibraltar; the Drink Drive Campaign; "No Smoking Day"; the "Mental Health Week"; the World Aids Day, concerted and repeated warnings on the dangers of certain slimming drugs, and on-going structured programmes of health education in our schools.

In this context, it is also pertinent for me to inform the House that I place great importance on the drive to establish a proper and comprehensive database of information across various fields of health care. For the first time in Gibraltar the Government are coming out of the shadows of rumours and speculation by adopting open and scientific means to identify factors which impinge on the health of our community. My predecessor, the Hon Keith Azopardi commissioned the Director of Public Health to establish a Cancer Registry that will track down, record and monitor every case of cancer diagnosed in Gibraltar. As from November 23 of last year, a detailed record has been kept of tumours diagnosed in Gibraltar. Further investigations will have to be carried out before we can report on any significant patterns emerging from this analysis but it is hoped that in the near future the Director of Public Health will be able to report on his findings which will surely provide most useful information for all health care professionals. The findings will be further enlightened by similar type of information drawn from other countries and particularly Spain, and more particularly Southern Spain, through the International Association of Cancer Registries of which the Gibraltar Registry is an associate member.

Parallel to the Cancer Report, Mr Speaker, we also intend during this financial year to carry out a survey recording the health lifestyles and behavioural factors of the Gibraltar population which will yield also useful information about the risks of cancer. Clear, scientific and precise information is the basis for purposive action and we sincerely hope that our initiatives will help towards the eventual reduction of cancers in our people.

Mr Speaker, our biggest problem in the Health Authority continues to be the shortage of beds in St Bernard's Hospital. This not only causes critical situations on occasions but it also has a dilatory

effect on waiting times for surgical operations in various departments, such as orthopaedics especially and general surgery. For this reason, we welcome the moves to improve elderly care through the newly established Elderly Care Agency on which my hon Colleague, Yvette Del Agua, has reported to the House. The Health Authority has been instrumental in setting up the Agency through the secondment of the two managers, in nursing and administration, and the recruitment of a Consultant Geriatrician and as the Agency develops its facilities in Mount Alvernia it will be possible to release the unacceptable number of beds presently occupied in St Bernard's by persons essentially requiring residential care rather than medical care.

Of course, we all look forward to the new Hospital in Europort covering an area of 25,000 square metres as opposed to 9,300 square metres in St Bernard's and wards with 199 beds and three operating theatres which will once and for all solve many of our problems. Poor St Bernard's which dates back to the time of George Don in the 1830s has given of its best and is now well past its "best-before" date and ready for a well deserved and dignified demise.

And with that exciting expectation of the New Hospital which I feel certain will generate a new era in health care in Gibraltar and stimulate in our practitioners renewed hope and enthusiasm, I pass on, Mr Speaker, to other areas of my ministerial responsibilities.

Mr Speaker, Education ranges more widely than examination success, but academic attainment is measured by public examination results and in this respect we consistently score pass rates which rank our schools among the top schools in UK league tables (most of which, it has to be said, at that level are highly selective schools as opposed to genuinely comprehensive schools like ours catering for children of all abilities and social backgrounds). Once again this year our overall pass rate at GCSE (A* to C grades) was 64 per cent and at A-level 89 per cent, which are grades well above the national average pass rates in UK.

As is known, our educational system is modelled on the British System. The Education (National Curriculum) Regulations 1991 establish that the British National Curriculum should be broadly adopted in our schools. It is important, therefore, that we keep pace with developments in UK. This presents us this year with a serious challenge in the forthcoming academic year. Post-16 education in Sixth Forms and Colleges of Further Education has been radically reformed in UK.

The reforms aim to offer scope for specialisation while at the same time encourage more learners to broaden their knowledge, understanding and skills, as well as offering clear progression routes into Higher Education into employment and further training.

The new post-16 curriculum will enable the schools and the colleges to offer broader, more flexible programmes including the opportunity to combine academic and vocational study, while maintaining rigorous and demanding standards.

This may involve - studying more subjects; studying a wider range of subjects; combining academic and vocational study; developing key skills; participating in enrichment activities.

In Bayside and Westside, students will study a maximum of four A/S (Advanced Subsidiary) subjects in Year 12, that is the first year of the two-year Sixth Form course; followed by three 'A' levels in Year 13 (although some students may continue with two or four 'A' levels depending on ability). The College of Further Education will be offering a programme encompassing vocational, for example, GNVQs, and academic courses. The College curriculum is now considered as a viable alternative to that of the schools and the intention is to develop it further. Perhaps at this point, Mr speaker, I can refer to the question asked by the Leader of the Opposition yesterday concerning the estimated revenue for adult courses. The reason is that these courses are very different from the training courses, they are really a very traditional offer and provision that the Colleges of Further Education everywhere offer adult students who wish, during their own time, in a voluntary basis, develop their continuing learning process, as it is called,

and these have been, it has to be confessed, in the College of Further Education recently as in decline. Very traditional, they have always been offering a whole range of courses from gardening, pottery to languages. With the appointment of a Manager in the College for continuing education, the offer has been tremendously developed this year, a survey was carried to gauge the demand in the general population and on the basis of this survey they have prepared a programme of courses ranging from foreign languages, teaching English as a foreign language which is very popular with Spanish students and these are, by tradition, fee paying courses. This is a programme of self-financing courses and because of this development it could be, this is based on the survey, when it comes to the crunch before September of people enrolling on these courses it could be that the offer is over-optimistic but nevertheless as these are self-financing courses if there is a drop in the takers there is also a drop in the expenditure involved because the expenditure goes on a par with the fees being charged.

HON J J BOSSANO:

If the Minister would give way. Is he actually saying then that this year the offer is five times what it was last year? It is the magnitude that surprises me.

HON DR B A LINARES:

To be honest it did surprise me as well but nevertheless, as I say, it is based on the analysis and the survey that the Manager of Continuing Education has carried out among people. There appears to be a demand and he has prepared this offer for September and inscriptions and enrolment will be taken from now until then. It could be, as I say, that it is over-optimistic but certainly it will be much higher than what it has been of the £20,000 estimate and £15,000 that the Leader of the Opposition referred to yesterday and certainly will be much higher than that. It has been costed at £100,000, yes five times more. The Manager is very enthusiastic. I go back, Mr Speaker, to the account I was giving of the reforms in the Sixth Form curriculum

which has been taken out by us following the changes in UK. Another aspect of this reform is the Key Skills which will be taught, in the Sixth Form and in the College, leading to a Key Skills qualification which recognises achievement in the key skills of communication, application of number and Information Technology. These are being introduced to encourage students to gain the skills, valued by employers and Higher Education, that are important to lifelong learning.

Staff in our schools engaged at this level and it involves quite a transformation and a pretty radical change in approaches at this level of the Curriculum have been promised the same level of training as UK staff. All staff are being provided with information, training and development to help them understand the aims and implications of the new qualifications and curriculum. Unfortunately, our teachers also feel that more time should have been allowed by the Government in the UK, given the delay in the production of the subject specification, but there is no way we can delay by a year ourselves as these courses are a lead-up to entry into University, a delay here would be disastrous.

Our budgetary provision for "Books and Equipment" (sub-head 4 (b)) this year will be largely channelled to support the two Comprehensives and the College of Further Education with additional capitation funds to provide precisely the necessary resources, especially in Information Technology, to meet the requirements of the new post-16 curriculum as it is crucial that within the new reformed curriculum we are able to maintain our present standards which permit, let me say, around 40 per cent of our annual intake of students to gain access to Higher Education every year in UK.

Moreover, the Government are committed to support generously students and their parents to enable them to meet the ever-increasing costs of subsistence and lodging in UK. The House is aware of the Government's commitment to pay tuition fees for all our students as a consequence of the British Government's decision to cease payment of these fees. This has meant a heavy

bill on our recurring expenditure on scholarships over and above the maintenance grants.

Nevertheless, Mr Speaker, we have clear indications that the costs of maintenance and lodging in UK are becoming increasingly onerous for many parents in spite of our grants. The Government have endeavoured to keep up with inflation rates in UK over recent years by raising grants accordingly – air travel allowances alone have been increased from £374 when we came into office to £641 today. But the increase in maintenance grants announced in our electoral Manifesto will further help all parents but benefit more substantially those who need it most by increasing all maintenance grants across the board by 10 per cent and reducing by £500 per annum parental contributions of parents with joint incomes below £20,000 and by £350 for those with joint incomes above £20,000. But we are also conscious of the abuse of the system by claimants whose real means do not correspond to their income tax returns. I have already taken action and will continue to do so against this abuse by using the discretionary powers which I believe the Educational Awards Regulations 1990 allow the Minister in assessing "the total income from all sources" as stated in Schedule 3, Part 2, paragraph 3 (1), by seeking information "as to the resources of any person whose means are relevant to the assessment of the student's requirements and resources" (as stated in Regulation 13). The statutory Regulations give further powers to the Minister "to terminate the award or withhold any payments due under it as he in his discretion sees fit" (as stated in Regulation 14). Mr Speaker, over the last year 44 cases have been investigated and in most cases they have been seen to merit only the minimum grant whereas on the basis of their initial declarations they would have obtained a maximum grant. I intend to continue using these powers to the maximum effect to stop the abuse by persons who not only defraud the exchequer with cooked income tax returns but seek to obtain full benefits from the Government on the basis of those returns.

At the other end of the educational spectrum we have also greatly invested in pre-school education which is now recognised by educators to have a crucial influence in later stages of a child's schooling career. Since we came into office, Mr Speaker, we have increased the Government's nursery and pre-school provision by over 150 per cent. This last year we opened a pre-school assessment unit attached to St Martin's Special School, and as from last September a new nursery for 60 children in Varyl Begg Estate attached to St Paul's First School. This September we will open another nursery in the South District as promised in our Manifesto and this will be attached to St Joseph's First School. This will bring the total number of children now in Government nurseries to 315, that is, over 78 per cent of our average annual intake.

Mr Speaker, our biggest problem in the primary sector of education from an administrative point of view continues to be the difficulty of matching the availability of places in the primary schools with the demand in their respective catchment areas. We do believe it is important that these schools be community based and easily accessible to parents and children, particularly in the first schools. But the situation is made more complex by the demographic movements which have taken place in recent years with the concentration of population in the Westside and Northern areas of town. And this is further complicated by sociological factors relevant today such as working parents who rely on grandparents and relatives, who may not themselves reside in the pertinent catchment area, to deliver and collect the children and care for them after school. This situation will be alleviated by a change of school hours but not entirely solved. Bishop Fitzgerald School and St Anne's School are taking on this year an extra class group, that is, five groups of 25, which is the agreed ratio, as opposed to four class groups which has been the pattern, to receive only the catchment intake, let alone the great number of requested transfers which have had to be turned down. But in spite of the extensions built to these schools they do not have physically classroom space to provide for this size of intake as from next year. Hence our Manifesto commitment to build a new First and Middle School complex in this area.

We are conscious, Mr Speaker, how the physical condition of a school in terms of adequate basic facilities and a high level of maintenance can greatly condition the ethos of a school and the morale and attitudes of both pupils and staff. During 2000/2001, the Government will continue to undergo all necessary repairs and to undertake minor and major works aimed at improving provision. St Anne's School Extension is nearing completion and comprises a large Sports Hall, (with Junkers wooden flooring selected as the best option for school children), six classrooms and showering/toilet facilities. The Sports Hall will be available for use by the Community. St Joseph's First and Middle Schools have undergone extensive repairs, especially to the outside walls, the original intention was just to paint the walls but it was seen that the rendering of the façade was very deficient and dangerous and it had to be peeled down and re-rendered. Westside School has had an extension to the Art Room and this has also enabled the school to accommodate better the children in the Special Unit adjacent to the Art Room, including a pupil confined to a wheel chair. A large Hall/Examination Room is soon to be built at the rear of the school. This will also enable the school to accommodate pupils who wish to stay for lunch once the present school hours are changed.

All our schools give serious attention and time in their curricular programmes to personal, social, moral, and religious education. Our teachers are always under pressure from forces and trends outside the school, not least of which is the increasing incidence of family breakdown. A great deal of thought and attention is being given to positive and effective strategies to ensure we maintain the traditional standards of good discipline in our schools – the philosophy is one of social inclusion and behaviour modification rather than exclusion and rejection and for this purpose a peripatetic specialist teacher has been engaged to support teachers within the school ambience to cope with difficult pupils and counsel them often in liaison with social workers and youth workers. The result is that over the last year only one single pupil has had to be indefinitely excluded for smoking drugs within the school premises and the number of short-term exclusions or suspensions has been minimal. In all cases, schools provide work

for the pupils to do at home and their work is monitored and marked by their teachers to ensure continuity in the children's education.

Sports education is seen as an important element of the school's broader programme of personal and social education. As always the Department and the schools have been heavily involved in the development of sports in the community in close liaison with the Sports Development Officer to qualify as instructors of the TOPS scheme and they in turn have been inducting our PE teachers to deliver this programme to the children in our schools. By the end of this academic year nearly all our schools will be entitled to use this equipment. The commitment of our schools to sports education was demonstrated recently during the successful Straits Games. A total of 405 children took part in the opening ceremony and most of them also participated in the events. A total of 20 teachers were also involved and Bayside, Westside and Bishop Fitzgerald Schools were used as venues for various sports events.

The department is also in the process of developing a Careers Advisory Unit, to be housed at the Training Unit when this moves from Bleak House to its promised location opposite the Main Office in Town Range. The Unit will run under the auspices of the Training Officer and it is envisaged to recruit a properly trained counsellor/monitor. It is intended to provide a comprehensive service, making use of the latest Information Technology resources, and readily available to guide school leavers and other young (and not so young) people in terms of career orientation, job prospects and development and it will be complimentary to the Job Seekers Club that the Employment Agency has already very successfully established. Funding for this Careers Unit has been offered by the Victor Chandler Charitable Trust as part of its contribution to the Community. However, the establishment of the Unit depends on the availability of the building opposite presently occupied by the offices of Buildings and Works.

The Unit will complement, and not replace, let me say, the work of the schools'/college's careers education programmes. As part of

their careers education programmes, both secondary schools and the College will be placing all school leavers in work situations, this is called traditional work experience schemes, to enable them to experience, at first hand, the real world of work and the career of their choice.

Mr Speaker, during the period in which the GSD has been in office, the overall staff complement of teachers has increased by 11 to 299. During 1999/2000 the Department has continued to employ teachers, mainly newly qualified, on a supply basis for one year in order to reduce class sizes, offer immediate and more consistent supply cover in the event of staff absences and to cater better for children with special educational needs. Extra supply classroom aides have also been employed to meet the requirements of an enhanced outreach programme, in which children from St Martin's Special School attend a mainstream school for part of the week in order to include them in normal school activities and to help them integrate better with their peers.

In September 1999, lecturers at the Gibraltar College of Further Education accepted Government's offer of placing them under the same conditions of employment and salaries as all other teachers. Posts of responsibility have also been created, and filled to enable the College to manage its curriculum properly. In a relatively short period of time we have witnessed a vast improvement in the Continuing Education Programme run by the College and I made reference to this earlier in my report. The College is planning a very comprehensive programme of continuing and adult education to start next September.

Our Lady of Europa Training Centre now comes under the responsibility of the College and there too, the Government are soon to reach agreement over enhanced working conditions and levels of remuneration for the staff.

Mr Speaker, during the Budget session last year, I informed the House that the Government in UK were introducing an induction year for all newly qualified teachers to be eligible for employment in UK State Schools. Representations were made by our own

Department of Education to the Department for Education and Employment in UK and this included a meeting between Baroness Blackstone, Minister of State for Education and Employment and myself in London. I am pleased to announce that the new Regulations issued by the DfEE which came into force on the 1st of May this year explicitly state that "a person who has successfully completed a probationary period for teachers under arrangements approved and supervised by the Director of Education of Gibraltar will be considered as having fulfilled requirements necessary to work as a teacher in UK." This, Mr Speaker, it has to be said, is a mark of the high degree of professionalism and expertise demonstrated by our Department of Education which is recognised in educational circles in UK and more particularly by the DfEE.

When we put on record, as we should, Mr Speaker, the progress and achievements during the past academic year by all those engaged in our education services, we are not moved by complacency. Staff development ranks highly in the Department's agenda. After the very successful audits conducted last year by OFSTED inspectors of the literacy programmes in all our first and middle schools another OFSTED team together with our own departmental advisers have monitored and assessed the numeracy curricula in these schools. Parallel to this a similar OFSTED team have also carried out inspections of the English, Maths and Special Needs Departments in Bayside and Westside Schools. The aim of these exercises is, of course, to assess staff performance in a positive manner, that is, advising and supporting both management and teachers enabling them to focus on strengths and weaknesses.

Mr Speaker, it is a primary duty of our educational and cultural establishments to broaden the minds of our people particularly the young, beyond narrow nationalistic, isolationist and racist attitudes towards an appreciation of the values and cultures of other peoples. When it comes to establishing positive and fruitful relationships with our Spanish neighbours this is not an easy task given the provocative and abrasive policies of the Spanish Government towards us. It speaks highly therefore of the

greatness of spirit of our own educators and all those involved in various fields of culture that against all odds it has been possible to forge links of friendship and practical co-operation among the peoples on both sides of the border, especially the young, at all levels. But it also speaks highly, it has to be said, of the efforts by our counterparts in the neighbouring regions, particularly in the Cadiz province and the Campo de Gibraltar, and this would include many with political responsibilities such as the President of the Diputacion de Cadiz, Señor Don Rafael Roman, and most of the mayors and councillors in the Campo Area who have striven to foster these relationships, particularly in the fields of education, sport and culture, without inhibition and often contrary to the dictates of their masters in Madrid.

It would be cumbersome to list here the countless events and activities which have been organised jointly during the past year. Suffice it for me to highlight some initiatives each of a different kind but which reflect the genuine spirit of co-operation at all levels which has grown between us in recent years.

Around 300 school children from schools in Los Barrios, Melilla, Ceuta, Guadiaro, La Linea, San Roque and Jimena have visited our schools and around 200 pupils from our Middle Schools have visited schools in the neighbouring towns and other establishments such as the Environmental Studies Centre in Los Alcornocales.

On 26th October last year the President of the Diputacion Provincial de Cadiz, Don Rafael Roman together with the Chief Minister signed an important agreed statement which among other things (including a condemnation of the frontier harassment and the discriminatory policies of the Government of Madrid against Moroccan workers in Gibraltar) launched a project to establish a Centre of Studies and Research on multidisciplinary matters related to the history, economy, culture and social features which characterise the regions around the Straits of Gibraltar. The Centre of Studies will be located in Gibraltar and the Campo Area, it will be two centres, and it will be franchised by the University of New York as part of their much wider project of

research carried by the University to research the unique interaction which exists in various parts of the world between “cross-border cultures”.

Another project of a highly academic nature which will bring together historians and experts from both sides of the frontier is the “Jornadas de Historia del Campo de Gibraltar” organised by the Instituto de Estudios Campo Gibraltareños – those hon Members who may be familiar with their excellent magazine “La Almoraima” will know the intense academic and intellectual activities carried by this Instituto which includes in its membership a number of Gibraltarian scholars. These annual conferences bring together hundreds of academics in various fields including Gibraltarians and this year it is our turn to organise this prestigious event which will take place at the John Mackintosh Hall from 20th to 22nd October.

The most recent initiative in the field of Culture is already producing very enjoyable results in the way of musical events appealing to all tastes – from popular music enjoyed by young people to classical music performed by musicians of European repute. These events are organised by a group called Enclave XXI made up of music lovers on both sides of the frontier led by our own Charlie Chiappe and Jesus Carrasco, the Principal of the Conservatorio in La Linea. We wish Enclave XXI every success.

All these initiatives form part of a general policy of co-operation and dialogue adopted by this Government and which points to the type of civilised society that we all wish to enjoy in this corner of the world.

I now turn to another area of my Ministerial responsibilities which is training. The Government believe that training to ensure the development of skills is a crucial vehicle to sustain economic growth and permanent employment. During our previous term of office, we have been able to develop a range of training schemes at all levels. During last year’s Budget debate I gave a detailed account of the many schemes now operated under the auspices of the Government’s Training Unit. It would be cumbersome to

report here on the numerous schemes which have been developed since then. What I do want to stress at this point is that all these schemes form part of a comprehensive and consistent programme drawn up by the Training Unit of the Department of Education and Training responding to ‘real’ needs as identified by the Training Advisory Council which we have created to represent all relevant parties in this field including, of course, the Employers organisations and the Unions.

Since 1998, the administration of training activities was handed over to the Department of Education and Training and a number of major benchmarks were outlined. I am now pleased to say that all of these targets have been met, including:

- (1) The introduction of properly organised training qualifications, in the form of National Vocational Qualifications that are recognised and accredited by UK Awarding Bodies such as the City and Guilds of London Institute and the Engineering and Marine Training Authority.
- (2) The setting up of an important consultative platform in the form of a Training Advisory Council.
- (3) Properly funded structured training schemes that span a whole variety of sectors.
- (4) The extension and improvement of the Gibraltar Construction Training Centre, together with proper conditions of employment for its staff, in consultation with the Trade Unions.
- (5) The extensive refurbishment of Bleak House to facilitate the delivery of quality training programmes.
- (6) The refurbishment of a joint Government and Cammell Laird Training Centre and subsequent extension, to accommodate apprenticeships, not just in fabrication and welding, but also new and important allied trades such as electrical and mechanical engineering disciplines.

- (7) A revision on the role of the Gibraltar College of Further Education and subsequent development of both vocational courses and leisure activities.
- (8) The transfer to the Department of Education and Training of the 'Our Lady of Europe' Training Centre, for the provision of sheltered vocational training schemes.
- (9) Continuous Professional Development for our Civil Servants.
- (10) Provision of training for all young people including those having Special Needs.

The Department of Trade and Industry has indicated to my Ministry, that the following private sector segments of the economy will see a continuous rise in activity and potential growth. These include the Maritime and Port Authority; Tourism; Financial Services (inclusive of e-commerce); Construction and Dockyard activities. In maintaining Government's holistic approach, we therefore propose to support these sectors by continuing with structured and comprehensive relevant programmes that will be quality assured, modern and practical to implement, and provide value for money to the taxpayer. It is, therefore, proposed to invest in training on Maritime, Tourism, Financial Services, Construction and Engineering sectors, and these are highlighted as follows.

Maritime Activities - The Government intend to consolidate further on the provision of NVQs through the UK Awarding Body known as the Merchant Navy Training Board (MNTB), for those people within the Maritime sector. All of these will be conducted at the Warsash Institute, near Southampton, in accordance with STCW 95 Regulations; this aims to raise overall standards of professionalism and is in line with EU Directives.

Tourism - The Government will continue to invest in the School of Tourism with the recruitment of further intakes this year and consider the introduction of relevant NVQs. We will also be

inviting employees from within the hotel and hospitality sector to attend refresher modules, particularly on areas such as the Welcome Host and Customer Care programmes.

Financial Services - This year will see the development of further programmes for those dealing in Financial Services. For example, this will include more training for people wishing to acquire Certificates for Financial Advisors (Cefa) and recognised accountancy qualifications, through the Association of Certified and Chartered Accountants. A major initiative is also being prepared for the local insurance sector, which will see seminars and tuition for those seeking recognised qualifications through the UK Chartered Insurance Institute. The Government are also presently studying ways of introducing training within the fields of e-commerce and the internet, and further details will be announced in due course. Bleak House currently provides courses for Legal Executives through ILEX and Chartered Secretaries through ICSA. These and other courses will continue to be made available in reply to local demand.

Construction - The Gibraltar Construction Training Centre can boast of a Level 3 Centre Approval status, through the UK City & Guilds and CITB (Construction Industry Training Board) Joint Awarding Body. It may now be referred to as a "Centre of Excellence". The title of "Centre of Excellence" is not of our own imagination or initiative but granted an award officially and formally by the accrediting bodies that I have just mentioned. Subsequently, in October 2000, the Government shall continue offering NVQs at Levels 2 and 3 in Carpentry and Joinery, Bricklaying, Wall & Floor Tiling, Plastering, Painting & Decorating, and Plumbing. In addition, a new initiative through the Accredited Prior Learning (APL) route has been introduced which allows those with some relevant experience within the work environment to be credited and recognised in their own trades.

Engineering - The Joint Government and Cammell Laird Training Centre, has received Centre Approval status, through the Engineering and Marine Training Authority. This is a major achievement since the Centre has only been in operation for a

little over a year. The Training Centre has been extensively refurbished to include the new trades and I am also happy to announce that all the apprentices who completed their first year, have passed their NVQ Foundation Level 2 and I will personally be presenting certificates to successful candidates in due course. A third intake is planned for this October, which will be inclusive of Welding, Electrical and Mechanical engineering trades.

Mr Speaker, on the 2nd May 2000, the Government launched a new Vocational Training Scheme (VTS). The former 6-month Cadet Scheme that was previously available through the Ministry of Employment has been replaced with a modern, structured vocational training programme. This will be geared towards people leaving school and up to the age of 25, who wish to undertake on-the-job training within a real working environment. The main aspects which are inherently different and which constitute a major step forward from the former Cadet programme are as follows:

A Training pledge - this will be drawn up between the three parties directly involved, that is, the trainee, the training provider/employer and Government.

Monitoring - a proper system of monitoring will be implemented that has already been proven to be effective. This is based on a system of target setting known as 'management by objectives', through the application of a Training Plan.

Portfolio (Logbook) - all trainees will be encouraged to maintain a diary, which may be used as a record of evidence and demonstration of achievement to employers.

Off-the-job training - all trainees will be encouraged to attend generic modules and/or Key Skills at the College of Further Education to complement and support good working practice.

Duration - a period of 12 months has been viewed as a more appropriate minimum term of training, though under special circumstances, this may be extended.

Mr Speaker, the Government in partnership with employer organisations have designed and developed a Secretarial and Business Administration training scheme, leading to a Diploma. This is accredited through the London Chamber of Commerce and Industry (LCCI) and involves a balance of modules including the competent delivery of Information Technology software packages, organisational studies and important secretarial operations that help underpin supporting activities in business. I am very pleased to announce that those companies participating in the scheme have fully endorsed and supported the programme, by offering work placements to those undertaking training. The Government will be committing ourselves to a second intake around this September.

In last year's Christmas message to the civil service, the Chief Minister stated his commitment to internal training. We will honour this commitment by consulting with the Chief Secretary, for the provision of properly structured programmes. In addition, new developments in Information Technology and modern management application, are crucial instruments within the public sector. Therefore, civil servants will be invited to attend IT modules in Windows NT, Access, Excel, PowerPoint, and Word. In addition, this summer will see a continuation of generic modules that are relevant and refresher workshop sessions, demonstrating professional techniques that may be applicable to modern practice.

I am pleased to say that whilst the former has yet to be announced, already up to 220 civil servants have put their names down to participate in the latter programme.

Mr Speaker, I am happy to report that there has been a manifestly renewed vibrancy over recent years in all fields of the Arts and Culture in Gibraltar. The Ministry of Culture through the Arts Advisory Council is always responsive to the real talent which is demonstrated in all areas of the arts by individuals in our community. But, naturally, we also focus our support on particular groupings and collective organisation and we are pleased at the emergence over the last two years of a number of important

artistic and cultural bodies such as the Fine Arts Association and the Arts and Crafts Association (both of which have now been allocated premises in the refurbished vaults of the old Casemates Barracks); the Gibraltar Dance Association and the Gibraltar Dance Organisation (which continue to sponsor very successful participation by our very talented young dancers in international competitions); the Gibraltar Drama Association (which is now planning a revival of the Drama Festival) and the Gibraltar Philharmonic Society (which has brought to our ears in ample measure the strains of good classical music). And as I have reported earlier, the recently created Enclave XXI has brought together musicians and music lovers on both sides of the border.

But the best proof of support that these groups and individuals can expect from the Government is our adequate infrastructure in the form of suitable venues and facilities. The Government have over the last year carried out an extensive renovation of the Ince's Hall, the old "Key and Anchor" buildings adjacent to the Hall, the John Mackintosh Hall and the old "Recreation Rooms" as they have been called, above the South Barracks building which houses the St Joseph's First and Middle Schools, which is now being allocated as premises to a number of dance groups.

Perhaps the clearest expression of what I referred as a renewed vibrancy in the Arts and in Culture is the packed programme of events during the Spring Festival which we enjoyed in May last year and again this year during the past few weeks. Nearly every day during the month is marked by some cultural event or activity – from Painting competitions; Photographic exhibitions to a wide variety of Musical concerts, Pop, Flamenco, Classical, Orchestral, Zarzuela, Jazz, Piano Recitals, Choral and Song Concerts; Dance Productions, Old Tyme Dancing and the increasingly popular and colourful Gibraltar Spring Art Exhibition which now complements the traditional Gibraltar International Art Exhibition which is held in October and which is increasingly attracting great interest among professional artists from abroad.

Mr Speaker, during the past years the Ministry of Culture has been responsible for the organisation of National Week and the

Annual Fair and by all accounts the Fair last year was very successful and enjoyed greatly by many people, particularly the young – the move from Coaling Island to the area of the old NOP and the adjacent parking site was welcomed by all last year.

The Ministry together with a very supportive Millennium Committee planned a comprehensive programme of events to mark the advent of the new Millennium. The Committee was conscious that the Millennium is essentially a Christian anniversary but that its celebrations should include all faiths and all men and women of goodwill who share the same common values. In its Mission statement, the Committee affirmed that the Millennium should offer us all the opportunity to renew the spirit of enterprise, social cohesion, religious faith and tolerance and civic pride which has characterised our community over the ages. With this aim, the Ministry of Culture was commissioned – (1) to organise a communal celebration on the 31st December 1999; (2) to identify significant memorial projects of a permanent nature; (3) prepare a programme of celebratory events over the year 2000 and (4) devise an appropriate Logo and Motto to symbolise the New Millennium of Gibraltar.

Mr Speaker, all these assignments were carried through by the Ministry very successfully and I wish to put on record my thanks to the Director of Culture and his secretary for the hard work and enthusiasm they put into this significant venture. The celebration at Casemates at the end of the old Millennium to usher the new Millennium will remain a memorable and joyful event in the minds of many people in our Community.

During this year, Mr Speaker, we shall see the implementation of two Millennium projects – the erection of a cluster of statues in Waterport as a worthy memorial to that historical event in our community, the Evacuation and also the process of restoration of the Theatre Royal. Members of the House will have noted the advertisement inviting tenders to develop a design proposal for the refurbishment of the Theatre. This is a first but firm step by the Government in a process that will go through two stages – the first stage which is expected to be completed by the end of 2001

and which will make the Theatre basically functional to stage some planned performances, and the second stage by 2003 which will see the historical Theatre Royal returned to its former glory as a state-of-the-art monument reflecting our Community's cultural heritage and tradition.

With this happy note, Mr Speaker, I conclude my presentation to the House of my ministerial record, aims and objectives in Education, Training, Culture and Health. I thank you Mr Speaker, and all Members of the House for the attention given to my rather lengthy report. I now commend to the approval of the House the items of expenditure under Heads IA, IB, IC, 102, Appendix B and Appendix C of the Estimates of Expenditure 2000/2001. Thank you.

HON S E LINARES:

Mr Speaker, on the opening of his previous budget speech the Minister for Education stated, "Mr Speaker, my Ministerial responsibilities for Education, Training, Youth and Culture touch upon areas of human, social and moral significance and indeed point to the development of human resources which are crucial in economic growth. The Government place a high priority on these responsibilities and this is evidenced not only by our budget provision but by our on-going evaluation of standards and performance". I totally concur with this statement all these Ministries are to deal with human, social and moral development and that is why they were together. The fact that training has been added with education was a positive move but, unfortunately, the fact that now it has been seen necessary for the Youth Service to have been placed with or under the Ministries of Public Services, the Environment, Sport and Leisure is definitely a retrograde step and does not seem to show that the Government have made this move with due thought and consideration to the human, social and moral aspect of the Youth Service.

After making representations to people within the Youth Service itself, they all agree that the person who took this decision does not seem to understand the nature of the Youth Service. The

Youth Service has been together with the Department of Education for 37 years, may I add, because the Youth Service is, as the Minister himself knows, an extension of the education system. Yes, it deals precisely with the human, social and moral development of young people. To think that the Youth Service has only to do with sport and leisure is not only insulting to the Youth Service itself but absurd.

The Minister has allocated £550,000 for the Theatre Royal and I would appreciate if the Minister can give us the amount that has been paid to the owners or what agreement has been reached. Another thing about culture is that I would also like to see the Drama Festival revived.

The Minister, via a Press Release on the 22nd May 2000, announced that he will be opening a new nursery in the south district. In the second paragraph of his press release it states, "Education Minister Bernard Linares said, "Effective pre-school education is recognised today as a key factor in successful schooling". If this is the case today then why do the Government not provide for free nursery education for all children aged four? It has always been the case that Government nurseries were opened to provide adequate child care facilities in order to make it easier for working mothers to look after their children. Now with the change in emphasis due to the Minister's statement recognising that pre-school education is a key factor in successful schooling the Minister must explain why it is limited to 315 children? Quite frankly, he should not be proud of this figure. What about the rest of the children? Are Government now going to discriminate against mothers who do not work? What criteria is being used for selecting the 315 children? Since I agree with the statement in the Press Release the Government are therefore now blatantly discriminatory against mothers who do not go out to work, children who do not get a place in Government nursery and parents who cannot afford a private nursery. Another point I want to make on this issue is that the 315 mentioned only attend the nursery either in the mornings or afternoons. This in itself is now discriminatory since some children have three hours in the mornings and two in the afternoons. As pre-school is such a key

factor who are the ones that are now deciding whether a child needs two or three hours? Continuing on the nursery issue, I would appreciate if the Minister explains how these are currently staffed. In the Estimates tabled the Minister does not seem to have made provision for these extra nurseries. We can see an increase in the teaching complement by two, are these for the nurseries? If so, why has there not been an increase in the provision of nursery officers, nursery nurses and nursery assistants?

HON CHIEF MINISTER:

Mr Speaker, on a point of order. I do hesitate to interrupt the hon Member. These budget speeches, the hon Member may not have been in the House long enough to be aware, are structured so that the Minister speaks first and he is followed by the Opposition Spokesman. The Minister does not have an opportunity to reply and therefore it is a complete nonsense on his part to ask the Minister questions. That is not the purpose of his speech. If the hon Members want to do it the other way, we are quite happy to subject ourselves individually as Ministers for cross-examination but then we have to reverse the order of speaking. The Opposition Members should speak first, ask all the questions to which they want answers and then the Ministers would get up and answer them but the way that this has always been done does not enable the hon Member to proceed in the way that he is proceeding.

MR SPEAKER:

I do not think it is a point of order. It has been done by other Members when they have given indication that at the Committee Stage they would seek answers to their questions.

HON S E LINARES:

Thank you, Mr Speaker, I was just going to address the Chief Minister's concern. If I may I will continue. Why has there not been one for each nursery or is it that they are going to share the

expertise? Maybe this can be explained in detail at Committee level.

On the catchment area issue I can tell the Minister that that was the reason why we did not want Governor's Meadow School to close or even more, it would have been better to have opened an extra school in what is now the resited Governor's Meadow School. The Minister must realise that we were campaigning for schools also to remain small and it is of concern to hear that now Bishop Fitzgerald's and St Anne's Schools are now going to be a five form intake.

Mr Speaker, how come that in the Estimates laid down of the year 2000/2001 there are 285 teachers plus 14 headteachers, totalling 299 which the Minister mentioned before whilst on the figures he gave me in answer to Question Nos. 174, 175, 176 of 2000, we have 311? This obviously does not include the two nursery nurses. An explanation later will be appreciated.

I had prepared a whole section on the scholarships. Partly the Minister has already answered these which were to do with tuition fees and were to do with the mandatory section and the discriminatory section so I am going to leave that one out so that at the Committee Stage there can be an explanation on what I wanted to mention. So I am leaving all this section out.

When analysing the Gibraltar Development Corporation Appendix B under head of Employment and Training, I notice that despite all the song and dance about how many of our institutions such as the School of Tourism, the School of Health, the School of Nursing and Centres of Excellence have obtained accreditation from different boards, authorities and awarding bodies and again there are many press releases to show this. The fact is that they have budgeted less money for the cadets themselves to the region of £120,000. Again the Minister might care to explain this later, even the wage subsidies have been lowered. I would presume that there are two reasons for this decrease either giving less money to the cadets or less cadets envisaged. Yet there is more money to develop more courses. I also notice a decrease in

the estimated contributions from the European Social Fund close to the region of £1 million and that seems worrying in that in the last estimates the Minister estimated £1.8 million from this Fund and only £700,000 was the forecast outturn. This year the estimates show £800,000, an explanation from the Minister is appreciated.

The Government stated in October 1999, in relation to the change of school hours, that a detailed survey to assess readiness of schools to accommodate children to have lunch in terms of the construction, additional buildings and adequate supervision necessary was being carried out by the Director. It would be helpful for the Opposition to be able to do its job properly if we can have a copy of this survey. I am concerned at two things when talking about the change of school hours. One, is the supervision of these children since we would not like teachers to be obliged to do this supervision. This includes head teachers, they already have enough on their plate. Two, the food that children eat during this break. Healthy eating was also one of the concerns that the Minister expressed during the election campaign, how will this be done? Will all packed lunches be opened to see what it contains? What will be the cost of monitoring and supervising? I presume this will be an item in next year's budget but I am mentioning it now to put on record our concerns.

The Chief Minister in his speech mentioned advances in special needs. Advances in this field are always happening anyway especially in the western world. As the Minister mentioned in his speech about health. I agree that there has been some advances here, if there would not have been then we are not a caring community since a community is judged to be caring by how they treat those who most need it. But these advances have been made, as far as we are concerned, on a purely academic form. If Government feel that having 2,417 referrals for one educational psychologist is making advances then I suggest they reconsider. In places like Edinburgh there are 26 psychologists for the total population of 78,000 children, that is, one for 3,000 children. If we take that 20 per cent of children have some sort of learning

difficulty at one point in their lifetime then it means that each psychologist has a maximum of about 600 referrals. In Glasgow there is a ratio of 3,500 : 1 pupils for one educational psychologist and taking the norm of 20 per cent as I did previously it would mean 700 children referred at a given point and I mention the figures of Glasgow because this is a deprived area.

On the behavioural support teacher who deals with children who have obviously behavioural problems, having 62 children for one support teacher means that these children might not be seen by this person for a month at best. There is not much value in this since these children need constant reinforcement and evaluation of his/her behaviour. Continuing on children with behavioural problems, I am amazed at the fact that the Minister who was a head teacher of Bayside when I was President of the GTA, we both agreed that Government should have a pupil referral unit. Well in this budget that is the first that I am involved in, there is no provision for this unit to be set up. He has now been in Government for five years. These are the things that actually help the children with problems in school as well as teachers and very importantly the other 80 per cent of the children in class who do not have problems and also need the attention of the teacher. Despite all these advances the Minister has budgeted £346,000 for children to be sent abroad for special education.

Although I am in little doubt that the children concerned are most deserving of this provision I wonder if some of this money could not be more prudently invested in providing a stronger foundation for specific special educational needs here in Gibraltar. While not only allowing more children to remain with their families in their own local environment it would serve as an investment into the provision of specialised resources to be used now and in the future.

In conclusion I hope that my intervention is seen as a positive one in order to keep with the good work which our professionals do in schools, colleges, nurseries, training centres, et cetera. Thank you for your attention.

HON LT-COL E M BRITTO:

Mr Speaker, as Minister for Public Services, the Environment, Sport, Leisure and Youth, my responsibilities include the Government Departments of Electricity, Fire Brigade, the Post Office, Technical Services, Sport, the Environment and Youth, as well as having political responsibility for the telecommunications joint venture companies Gibtel and Nynex, the water production and distribution company Lyonnaise, Broadcasting, the Lottery and the Philatelic Bureau.

So, regrettably, as I have done at this stage in previous years, I will apologise in advance to the House because as a direct consequence of the large and varied areas of responsibility, it is unavoidable that my contribution will be longer and less structured than I would wish because I will be covering the equivalent of 13 Government Departments and I therefore crave your indulgence, Mr Speaker.

Starting with the Electricity Department the increased rate of growth for electrical energy monitored in the previous year has been maintained and now stands at approximately 4 per cent per annum. This has, in turn, led to sales to pass the milestone of 100,000,000 units for the first time ever. During this past winter, even though the temperatures were relatively mild, peak figures ranging from 23.7 Megawatts to 24 Megawatts were recorded on half-a-dozen occasions, very close to the all time high of 24.1 Megawatts recorded in 1997.

These increases are due in part to the increase in the number of consumers which are now over 12,000 domestic consumers on supply, while the number of commercial and industrial consumers stands at around 2,500. At this point I would like to refer to the point made by the Leader of the Opposition on Head 6, subhead 23, Revenue – electricity Charges collected where he commented on the estimated figure being £9.8 million as opposed to £9.2 million the previous year and asked for the reason. I would just like to tell him that as a direct consequence of what I have said, increased consumption, increased numbers of customers, the

increase in revenue is directly linked to this and to an attempt to contain arrears at the previous figure. To contain arrears at the present level so that all of the increase is projected increased revenue. I hope the Treasury are not being too optimistic.

At this time last year it was anticipated that delivery of the SCADA (Supervisory, Control And Data Acquisition) system would be made during the summer 1999. Since each and every power system is different, there is a need to design, manufacture, assemble and test these systems to suit the requirements of each individual client. In other words, they are tailor-made. During testing at the manufacturer's works, certain failures occurred and these meant that further work became necessary to ensure the satisfactory operation of the system. Improvements have therefore been made to the hardware, firmware and software included in the scheme. A further session of works testing is currently taking place and I am advised that delivery will now be made this summer, subject to any further difficulties.

Other improvements will be made to the high voltage protection equipment at the primary distribution centres which offer improvements in terms of reliability, consistency of performance, versatility and information storage and replaces equipment currently in use, some of which dates back to the mid-1960s.

Improvements will also be made to the auxiliary machinery at Waterport Power Station where the high-pressure air compressor system is to be reinforced by the installation of a new compressor. Improvements will also be made to the cooling water circulation system on engine No. 2, thereby ensuring that the cooling systems on all three engines is standardised.

The year has also seen the incorporation of a new substation and delivery has now been taken of the equipment that will replace '50-year old, nowadays obsolete, gear at two other substations.

Building works at the new Rosia Road Depot is almost complete. Work is now proceeding on the provision of services within the

building and the building itself is scheduled to be occupied by autumn.

I would once more like to place on record my appreciation at the work, the great majority of which remains unseen to the general public, which is carried out every day by the staff of the Department at every level. The supply of electricity to consumers is nowadays essential to virtually all activity in both homes and businesses in Gibraltar. It is therefore a service essential for the community and deserves to be recognised as such.

Turning now to the Fire Brigade, Mr Speaker, where their Business Plan for 1999/2000 provided a planning process for the future which encompassed the Brigades' vision and mission within the Strategic Plan.

At the Fire Brigade training has continued to be a priority and has resulted in a large number of officers attending the Fire Service College in UK on specialised courses. These have included Breathing Apparatus, Road Traffic Accident and Strategic Ship Firefighting Instructor Courses. Furthermore other senior officers will be attending various courses in Emergency Planning at the Emergency Planning College in Easingwold.

Five firefighters were recently recruited and, prior to becoming fully operational, are undergoing an extensive 16-week training programme, including a two-week Novice Diver Course to BSAC standards.

The Brigade will receive this year a 20 metre hydraulic ladder mounted on a Mercedes Benz chassis, which will be used to cater for high rise building incidents.

The Brigade now provides a third ambulance back-up service to the Health Authority and is carrying out a training package to accredit all personnel to Ambulance Attendant Level 1.

The revised working draft document on Emergency Planning is now ready and has been distributed to all those concerned in disaster management.

On the operational side the Brigade turned out to 1,320 calls during the year and the Fire Prevention Department has carried out a total of 1,020 inspections. Fire Safety training packages have also been provided by this section amounting to 60 presentations to various organisations in the private sector.

The Brigade is in the process of the full introduction of the TETRA Radio Communication system which will greatly enhance the department as well as the other emergency services and communications between them.

Mr Speaker, it gives me great pleasure to record that the Chief Fire Officer, Leslie Edmonds, retired this week after 18 years in post and who created and maintained a highly efficient and professional body of firefighters and it is therefore a pleasure to take this opportunity to record the Government's appreciation for the excellent work he has done as Chief Fire Officer.

Mr Speaker, during the last financial year, the Sports Department continued to administer and provide sports facilities for use by the schools and by the community at the Victoria Stadium and other locations covered by the Community Use of Schools Sports Facilities Scheme.

Increased funding last year under the financial assistance schemes continued through the three separate funds now available for distribution acting on the active advice and in consultation with the Gibraltar Sports Advisory Council.

Taking them individually, the Sports Development Projects Fund which amounted to £56,000 funded more sports specific coaching courses, and more sports events were hosted locally than ever before. Prominent among these were the first ever ICC approved International Cricket Tournament in September and the hosting of the Continental Snooker Team Cup in February.

The Fund for Official International Competitions Abroad amounting to £77,000 provided assistance to a large number of Gibraltar sports to compete and represent Gibraltar abroad. In particular I would like to single out the Gibraltar Hockey Club Champions, Grammarians, who achieved promotion to the 'A' Division in Europe and this I highlight without hesitation as a tremendous achievement. It is something that we do not always realise the full impact of, Mr Speaker, but what that means in simple words is that the Gibraltar Club Champions this year will be participating in Europe amongst the top eight hockey clubs in the whole of Europe and that, I think, is something that is really worthwhile from a sporting level.

The third fund, Mr Speaker, the I & D Improvement to Sports Facilities amounted to £168,000 and provided funding for much needed improvements, which were chosen on recommendation by the Sports Advisory Council. These improvements were not only to Government owned facilities but also to those being run by the Sports Governing Bodies themselves. Prominent amongst these was the essential dehumidification equipment of the GASA swimhall, which should have been provided on construction of that facility and the absence of which was beginning to have detrimental effects in several areas. Another important project recently completed has been the replacement of the Victoria Stadium's floodlights with a modern, more efficient and more cost effective system. Hon Members will have seen the erection of the four brightly striped pylons, all I would like to say is that they give out double the light at half the cost and the length of the lamps is twice the length of the previous lamps so, all in all, hon Members will agree that it is a cost effective and worthwhile package.

Another objective met was the Sports Audit carried out late in the previous financial year by the Sports Development Unit and the delivery by this unit of generic sports coaching courses and support to sports specific projects. Accreditation of local tutors to deliver courses has been achieved for the Top Play and Top Sports Schemes, the Community and Junior Sports Leadership Award Schemes and more recently, several modules of National Coaching Foundation Courses. This, together with the huge

success achieved through the Summer Sports Training Programme and which hon Members, I am sure, will be glad to know will be carried out once again this summer, augurs well for the future of the Sports Development Unit. At this point I would like to acknowledge the tremendous efforts of one individual, Michelle Smallwood, the Government's Sports Development Officer, who works tirelessly, efficiently and it seems to me almost continuously to turn what was the dream only a few years ago of a Sports Development Unit into an effective and productive reality.

Work on the provision of new sports facilities has also progressed. The reclamation of the land required to accommodate the facilities to extend the Victoria Stadium is now completed and the tenders for the erection of the special airfield fencing, the construction of the International Standard Hockey Pitch, training pitch and high jump area are in the process of being awarded. A site within Coaling Island for the construction of a skate park rink and aggressive skate park was also identified and tenders for construction have been invited.

For the coming financial year, Mr Speaker, funding for sport is once again being increased. The main aim is to build on the work carried out by the Department in previous years and, in particular, to make substantial in-roads into the construction of the new sports facilities at the Victoria Stadium's extension. Priority has been given to the new hockey pitch, which is expected to be completed by autumn. Work on the spectator stands, changing rooms and other ancillary facilities are also programmed. Infrastructural work for the rest of the area is also projected and decisions on other facilities provided, including the new multi-sports hall and water sports centre, are being finalised.

This coming financial year, Mr Speaker, will also see a number of international important sporting events being held in Gibraltar and the Government have made £56,000 available for these events which will include the World Club Shore Angling Championships which have already been very successfully held. At this point, Mr Speaker, I would like to highlight the fact that hon Members

should not forget that these are world club championships and that 15 teams competed and that little Gibraltar has become a world champion in sport for the first time ever in this particular sport world club shore angling. The achievement goes to the Mediterranean Sea Angling Club, and as if that were not enough, our second team, the team from the Gibraltar Fishing Club, finished third. I think it is a tremendous achievement by our fishermen who, admittedly, had a few tricks up their sleeve based on local knowledge. These important events will be followed by the FIBA Cadet Women Basketball Promotion Cup and the European Youth Darts Championships in July, the European Under 15 Cricket Championships in August and the Powerboat Festival, sponsored by my hon Colleague, Joe Holliday, as Minister for Tourism, will be held in September together with a number of other sports development projects. The hosting of the III Straits Games with the participation of over 1,100 children of the age of 12 and under, was also a great success and demonstrated Government's Sports Department's ability to organise large events of this size.

In the coming year, Gibraltar sportsmen and women will also continue to compete abroad and the Government are providing £77,000 to assist participation, which together with the funding of Sports Development Projects, will ensure that our sports continue to evolve and grow, with the adequate level of Government financial assistance. £100,000 of I & D funding for the Improvements of Sports Facilities will also be made available. The Sports Advisory Council will continue to consider requests from Sports Governing Bodies with the aim of recommending funding for these events and projects which are most deserving, and encouraging value for money and self-help to achieve as much as possible with the resources available.

Government continue to value the contribution made by sport to the quality of life in Gibraltar and therefore intend to continue to support sport and assist its development. In this respect, it gives me great deal of pride to thank very especially all the many volunteers in the Associations and Clubs who work tirelessly day in and out to ensure that sport continues to thrive in Gibraltar, for

the benefit of the whole community. A recent and very tangible example was the successful Straits Games which were on the day itself run essentially by those volunteers from those clubs and associations. In mentioning the Straits Games, I cannot avoid stressing that these were planned and organised by and under the overall responsibility of Sports Manager, Joe Hernandez and that he and the Victoria Stadium staff worked tirelessly, and in many cases beyond the call of duty in extended hours, to ensure this success, and I acknowledge and thank them for having done this and for their efforts.

Mr Speaker, The Technical Services Department, formerly known as Support Services, has undertaken a total of 28 major Civil Engineering and/or Building projects during the past financial year with some such projects having already been completed and others scheduled for completion during the current financial year.

The Beautification Projects undertaken have included the second phase of the widening of Lover's Lane and this project was successfully completed and involved widening the remaining southern section of the road along the rear of The Convent.

At Casemates the Square has undergone a complete transformation during the last year. The embellishment works undertaken have entailed the repaving of the whole area, the complete refurbishment, both internally and externally, of the barrack block as well as stone dressing the façade of Casemates House, in keeping with the new character of the Square. The Square itself has been significantly enlarged by extending the boundaries of the original square to now include what was previously the road as well as the open area in front of the old Health Centre building. The original project was scheduled for completion in December last year. However, the scope of the project was extended to include the refurbishment of the ground floor of the old Health Centre building as well as further enhanced refurbishment of areas within the Casemates Barrack block to create a new shopping arcade together with necessary works to accommodate the new museum which is shortly to be relocated to this building.

During the year, works continued on the city centre beautification within the City Centre Beautification scheme and a number of new areas have been tackled. The embellishment works along Parliament Lane were completed and the project extended to include Irish Steps and the Parliament Lane cul-de-sac. Works are currently in progress on the section of Irish Town, from its junction with Parliament Lane, up to Fish Market Road and approximately 50 per cent of this project has now been completed.

In respect of Rock Safety, Coastal Protection and Maintenance, the major projects completed during last year included:- The works for the removal of the landslide at Camp Bay and stabilisation works to the cliffs below Buena Vista Barracks; The rockfall catch fence above Both Worlds which comprised the erection of some 430 metres of fencing, to protect Sir Herbert Miles Road; The stabilisation of the cliffs directly behind the Europa Mews residential complex which entailed netting a 100-metre length of cliff face over its full height; and The removal of the remaining upper northern section of the water catchment sheeting which was also completed last year. The slopes are now ready for the laying of stabilisation matting and seeding as was done on the adjacent slopes.

Mr Speaker, this Department also acted as Designer and Project Manager on a number of other projects financed from Heads controlled by other Government departments. These are too numerous to mention individually but the following main projects have now achieved practical completion: (1) The refurbishment of Willis's and MacFarlane House; (2) The reclamation of an area of land at Bayside for the proposed new sports complex; (3) The refurbishment of the Edinburgh House complex; (4) The construction of a new ferry terminal facility at Waterport; (5) The construction of a new residential building for the senior citizens, within the Edinburgh House complex; (6) The construction of the new coach park, including the new terminus building, at Waterport; and (7) The St Anne's School sports hall extension.

On the other hand, Mr Speaker, the following projects are still on-going and are again being managed by this department: (1) The refurbishment works at Dr Giraldi Home; (2) The extension to Motor Vehicle Test Centre at Eastern Beach; (3) The construction of the new Police/Customs Marine Section complex at Coaling Island; and (4) The refurbishment of the GIB Office in London.

Part of Technical Services Department, Mr Speaker, is the Information Technology Services Unit and I have by tradition reported on this separately because of the inherent work that they do. I am pleased to report that much has been achieved in IT during the last financial year.

Firstly, Personal Computers continue to be installed throughout Government Departments as part of the overall policy of linking departments in a Government network. Various software projects have been undertaken, some of which are still in progress. Amongst those that have been completed are: (1) a Human Resources System for Personnel; (2) a new ID Card System for Civil Status & Registration Office; (3) an Electric Point of Sale system for Tourist Sites; (4) a new Motor Vehicle Licensing System or Road Tax system; (5) a new Post Office Savings Bank System; (6) the Gibraltar Government Website; and (7) the completion of Y2K outstanding issues.

Amongst those projects that are still on-going are: (1) a new Income Tax System; (2) a new Department of Social Services System; (3) a new Port Department System; (4) a new Common File Management System; (5) the introduction of a Government wide corporate internet link which is still at the planning stage; (6) the Introduction of 'one-stop shopping' for money collection points for example, for Income Tax & Social Insurance; and (7) the installation of the Geographical Information System which is still on-going.

An on-going project is the centralisation of data for use by the Income Tax Department, the Department of Social Services, Employment and the Civil Status & Registration Office. All these projects have been or are being developed in-house by the IT Services Unit or in partnership with local and UK companies, monitored and controlled by our Unit to ensure compatibility.

Mr Speaker, the IT Services Unit, and Technical Services Department of which it is an integral part, both have staffs who work hard and diligently, often unseen and in the background, providing a good and reliable service which I take this opportunity to acknowledge. All too often they are only remembered when problems arise and I am glad to thank the Head of Department, Michael Gil, and all his staff for a job well done.

Mr Speaker, I will now move to Environment, an area which, as hon Members are aware, recently came under my ministerial responsibility. Inter alia the environmental responsibilities extend to the cemetery, street cleaning, refuse collection, the Environmental Agency and planted areas.

A programme of beautification has recently been started at the cemetery but further work needs to be done within the cemetery itself. The beautification of the entrance and adjacent area, together with improvements to the offices of the Superintendent, the Keeper and the facilities for the workforce have already been completed. We have now identified other areas that require upgrading and are in the process of compiling the necessary data for a further programme of improvement and embellishment and maintenance to a standard that we all would like the cemetery to be and that it properly deserves. Witham's cemetery will also be included as part of this exercise.

In the short time that the new contractor has been in operation, I think the radical improvements are there for all to see in respect of the state of cleanliness of our streets. A very comprehensive cleaning programme has been put into place covering many and varied areas and I am very satisfied to report that this has definitely been a move in the right direction. We shall continue

having the necessary monitoring to ensure that the high levels attained are maintained and, where possible, further improved. I think that Master Service (Gib) Ltd and the staff and working in direct contact with the Cleansing Superintendent, have to be congratulated for the job they are doing.

The improvement and embellishment of a growing number of planted areas around Gibraltar are there for all to see. We shall continue with a programme of embellishment, hand-in-hand with a reasonable programme for maintenance and upkeep. Unfortunately, planted areas have also been the target of vandalism. As a Government we shall spare no effort to try to put a stop to such vandalism and would urge the otherwise vast majority of our civic-minded fellow citizens to help us in our efforts to beautify our town by denouncing any act of vandalism they may witness. Considerable effort, dedication and money goes into this beautification of planted areas and we should all want to keep them in a state that we can all enjoy and be justifiably proud of.

The greatest challenge to the Ministry for the Environment comes not from ensuring adequate administration of things like public health, food control, monitoring of environmental standards, water supplies, bathing waters et cetera within Gibraltar, but I have to say from Brussels which continues to turn out an innumerable number of directives and regulations related to environmental matters. At present the Environmental Agency is having to cope with such diverse and specialised subjects emanating from the EU as air quality, environmental impact and strategic environmental assessments; waste incineration and incineration of hazardous wastes; sulphur emissions; heavy metals and organic pollutants, carbon dioxide emissions and energy efficiency; water; and climatic change.

The Agency intends to compile an emissions inventory for Gibraltar. This follows ratification by the EU of the United Nations Framework Convention on Climatic Change whose objective is to stabilise greenhouse gas concentrations in the atmosphere at a level that will prevent dangerous man-made changes in the world's climate. Gibraltar's contribution in terms of greenhouse

gas emissions is obviously extremely small in global terms but we are nevertheless conscious of our obligations and committed to doing our bit in preserving and protecting our environment.

We intend to bring to the House legislation for the control of major accident hazards and for the control of noise, which will include new and extended powers in the control of noise from sources such as machinery, motorcycles, burglar alarms, car stereos, noisy neighbours et cetera.

During the coming year, the Environmental Agency will also start on a review of the main piece of legislation dealing with the control of food, that is, the Food and Drugs Ordinance which dates back to 1964. A review of this Ordinance and subsidiary food control and food hygiene legislation will therefore be initiated to update this legislation and take into account modern food manufacture and distribution practice.

Finally, on Environment, Mr. Speaker, in the short time that I have had responsibility for this area, I have met with many groups and individuals who have shown an interest or who have an interest themselves in environmental issues. It is an area which encompasses a very wide variety of issues, and I thank all those groups and individuals for their invaluable help and advice which I greatly appreciate.

Mr Speaker, the coming year promises to be an important one for the Post Office. The administration and counter sections have moved on a temporary basis to the old Health Centre building to enable renovation and refurbishment works to be carried out at the present location. Once these works are completed, the staff will return to a more suitable and better-equipped work environment. Hopefully, the facelift will also improve the image which the Post Office gives to visitors and to the public.

Mr Speaker, as already announced by the Chief Minister, Government will undertake a major staff and work practices appraisal to find solutions to the problems which frequently arise at the Post Office and which have a detrimental effect on some of

the services it provides. This inevitably leads to a considerable number of complaints, not only from the general public but also from the business and finance services sectors. The Post Office management is actively studying the developing situation with regard to e-Commerce and considering the effects it will have on the services being currently offered and the business opportunities it will create for new services to be introduced at the Post Office.

The possibility of introducing bar-coded labels for registered, insured and parcel mails, which would bring our services in line with other European Administrations is also being studied.

Moving now to the Youth Service, Mr Speaker, which as has already been pointed out from the Opposition has changed its political area of political responsibility and now comes under my Ministry, I report to the House that last December the new youth club at Laguna Estate was inaugurated. The area adjacent to the clubhouse has been installed with new playground equipment, new benches and picnic tables and a number of trees have been planted. A new decorative wall has been constructed to make the playground safe for children.

The Youth Conference Centre in Montagu Bastion continues to be used for seminars and conferences. Many youth organisations, sporting bodies, Government departments and other voluntary organisations are making use of this facility. The patio area next to the Conference Hall is being refurbished and improved and by next month the works are scheduled to be completed.

Mr Speaker, last year the youth service produced a video on the Gibraltar Youth Services. The video highlights local young people and, to a large extent, reflects a frivolous and fun approach. It features a wide variety of youth groups, events and many young people in the production.

Youth exchanges continue to play an important part in the youth service calendar. These exchanges are of great educational value to our young people as it broadens their perceptions and their

education. For example, the Youth Exchange with Schinveld in Holland provided local young people with a taste of rural, small town living. The visit gave those who went from amongst us, among other things, an insight into how young people from different cultural backgrounds and economic means contribute towards their own entertainment and free time.

This year a group of 15 young people from our four youth clubs will be travelling to Aalborg in Denmark during the month of July. Two youth workers will accompany the group. A similar group of young people from Denmark will be visiting Gibraltar towards the end of this year.

Trips to the Cheshire Home in Tangier will also continue this summer. Since last year two different groups of young people now visit the home. One of the groups is made up of the senior students of both comprehensive schools and the College of Further Education. The other group is made up of young people who hear about the project and wish to help with fundraising for the Home and then subsequently develop and express an interest in visiting the Home itself. These visits provide our youngsters and young persons with the opportunity of dealing with issues of disability, experiencing a new culture and sharing, albeit for a few days, the reality of living in a community which is markedly less affluent and less advantaged than our own.

The Duke of Edinburgh's Award Scheme in Gibraltar continues to attract young people to its diverse programme. The Award encourages young people to take an active role in meeting their own leisure time needs and to work jointly with adults in pursuing their goals. As a consequence of this, young people doing the Award are actively involved in a wide variety of events and activities supported by adult trainers and supervisors who all give their assistance without any form of payment. An important achievement for the local award has been its successful application to hold the 3rd European Regional Conference in Gibraltar next year. In conjunction with this, the local Award will be hosting a residential project and Gold Award expedition open to award participants from around the world. These events

highlight the level of recognition that the Award in Gibraltar has amongst the International Award community and the competence of the local committee to hold these events and continue to operate effectively for the benefit of scores of young people and the community at large.

Mr Speaker, no great or significant change has taken place as regards the lottery in the last financial year. The Treasury Department continues to monitor the sales of the lottery which have increased slightly and now stand at around 71 per cent. Notwithstanding this, Gibraltar continues as the second highest per capita sales/territory in Europe.

Gibraltar was once again represented, in its own right, at the AELLE Conference held in Malta during May 1999, this is the European Association of Lotteries and Lottos.

Four new members were recently appointed to the Lottery Committee, and once again, Mr Speaker, I will remind the House that the staffs – to take some departments together - of the Post Office, Lottery Section, the Environment and the Environmental Agency, and all those, including unpaid volunteers, involved in the Youth Service, all this staff fall in the category of people who have, by and large, a low public profile. Many of them remain unseen by the general public as they carry out their work and I take this opportunity to thank them for a job well done.

Mr Speaker, you will be glad to learn that that takes me to the end of my review of Government Departments and probably horrified to learn that I am now starting on the remainder which is probably another third of the way to go.

I will start with my responsibilities for GBC and in particular for broadcasting. As hon Members are aware, the Corporation re-launched its services last June. The most significant visible change has been in the output of GBC Television which has seen a healthy increase in the number of locally produced programmes. A less visible aspect of the re-launch has been the improvement carried out to the range of technical facilities

available to the Corporation. These improvements have included: (1) The installation of additional video editing facilities to support the increase in the number of local productions; (2) Improvements to the television outside broadcast vehicle which have resulted in an increase in the number of local events covered either "live" or on a recorded basis and an example of this is the coverage of the Gibraltar Government Lottery Draw and the extensive coverage given to major sports events; (3) Improvements to both the radio and television transmitter networks which have both improved the quality of the transmission and the technical reliability of the service and which have included operating a transmission on UHF Channel 32. Test transmissions on this frequency have already started and are aimed at overcoming reception difficulties in the hinterland and along the Costa del Sol. A more reliable transmission should improve the marketing viability of the service in the area. Two of the FM radio transmitters have been re-sited and this has improved the coverage. Unforeseen difficulties in running the necessary power supply to the new Medium Wave transmitter at Maida Vale site has resulted in the completion of the project being delayed but it is now envisaged that the project will be completed by the end of the summer.

Mr Speaker, the new employment opportunities arising from the re-launch of GBC included a Sales and Marketing Executive and the Corporation is actively developing commercial airtime sales. Sales on Radio Gibraltar are developing well and the targets set at the time of the re-launch have been attained. There has also been growth in Television advertising sales, but to date, the target set when the service was re-launched has not been achieved. Work to improve this area of the commercial activity of the Corporation, one to which the GBC Board attaches significant importance, continues as a matter of priority. The non-attainment of the projected airtime sales has not made it possible for the Corporation to reduce the level of the Government subvention it needs from the Government and therefore we will this year be making available a subvention of £860,000 to GBC.

The Government continue to support the Corporation and will once again this year be providing Improvement and Development

Funds of £100,000 for funding the completion of current projects and the purchase of capital equipment items. During the course of the year the Corporation aims to continue to provide an increased number of local television programmes, including outside broadcasts. It also aims gradually to increase the number of locally compiled radio programmes.

Mr Speaker, the Gibraltar Philatelic Bureau, for which I also have political responsibility, continues to set the trend for small postal administrations to follow. The first issue this year was designed by local school children and one of the designs, that of Kim Barea was chosen by the United States Postal Services as one of the top designs in the world.

The Gibraltar Millennium stamps will clearly be a world first. The issue consists of 16 stamps on a miniature sheet and will reflect 16 key eras or events in the history of Gibraltar dating from five million years ago to today. The project has been extensively researched and provides a superb account of significant periods in our history. A separate fully illustrated 'Prestige Booklet' will also be issued containing all the stamps as well as all the coinciding background information on the history of Gibraltar. The booklet, effectively, in a nutshell, provides a history of Gibraltar, a pictorial history as well. I suspect that in years to come it will become a popular souvenir of Gibraltar and indeed a relatively economic and regularly available and popular corporate gift.

From the proceeds of the sales of the Diana Princess of Wales stamps, the Bureau will this year make a payment in excess of £3,000 to the Memorial Fund and payments in excess of £10,000 to selected charities in Gibraltar.

The Gibraltar Philatelic Bureau has twice expanded its premises. It continues to show growth in the standing order customer base and is also planning to expand into ventures to promote e-commerce from Gibraltar.

Mr Speaker, Lyonnaise des Eaux (Gibraltar) Ltd currently employs 104 people of which 18 are seconded Government

employees. The company continues to invest in the continuing development of all its employees and once again this year there has been particular attention to training in Customer Care and on Health and Safety.

During the last financial year a total of 1,132,735 cubic metres of potable water were supplied. Lyonnaise pumped a total of 2.9 million cubic metres of seawater to the various sea water reservoirs. The sewage pumping stations were operated at 100 per cent availability. The quality of potable water supplied by Lyonnaise last year has fully complied with the requirements of Directive 80/778/EEC.

This year has seen the introduction of an enhanced billing system, which provides the customer with a clearer bill, including a statement of his account showing transactions over the previous six months. Facilities for Direct Debit have also been introduced.

In connection with the Year 2000 compliance new meter reading equipment and software has been obtained. This has permitted the experimental deployment of a number of remote readout meters, which effectively means that meters inside a building or a dwelling can be read without the need to enter the property.

A new telemetry system has been commissioned. This allows computer supervision of all automatic pumping stations, providing alarms in the event of malfunctions. Also introduced this year has been a Geographical Information System which integrates record drawings and the technical database within the same IT environment and which, incidentally, Mr Speaker, forms part of the overall GIS system which includes the Government and the Electricity Department and Gibraltar Nynex.

The investment in refurbishing infrastructure continues with some £750,000 approved for works during this coming financial year additional to the costs of procuring additional plant.

Finally, Mr Speaker, I will turn to the subject of telephony for which I have political responsibility as well as chairing the joint

venture companies, Gibraltar Nynex and Gibraltar Telecommunications, commonly known as Gibtel.

The main issues affecting both these companies were the continuing problem with the numbers issue as a result of Spain's non-recognition of Gibraltar's 350, geographical code, and the stop and start nature of the on-going "merger" negotiations between GNC and Gibtel.

Since I have kept the House informed on both of these issues, I do not intend to speak further on either of these two matters, other than to say that there has been no further significant progress on either of them since I last reported to the House.

Both companies have continued to expand their services generally and, acting in close co-operation, have reduced international telephone rates, in December and again in March this year. This has brought down prices so that the cost of a call from Gibraltar to the United Kingdom, which we use as a benchmark, is now the same as in the opposite direction.

Gibraltar Nynex took on the challenge and successfully carried out the installation of very large by Gibraltar standards, Call-Centres for major commercial betting operators. Gibtel in turn launched in February of this year the new Tetra system for the Emergency Services and after a series of software upgrades, the system was offered for operational use in May of this year.

Growth in the Internet Services run by Gibraltar Nynex continued during 1999 and in order to meet the expected increasing demand for these services Bandwidth capacity was increased in October 1999 and again in February 2000.

Gibtel achieved a 47 per cent growth in its GSM customer base during last year. This level of growth permitted the company to substantially reduce monthly rental and call charges and to eliminate the connection fee. The voicemail system was replaced by a Service Network base system which now includes a fax store facility. Earlier this year the number of International Direct Dialling

(IDD) circuits to the United Kingdom was increased from 150 to 480 and the number of Integrated Switched Digital Network, that is, the lines commonly known as ISDN, were increased from 10 to 37 to cater for increased demand. Additionally, the signalling systems supporting all but the circuits to Morocco were upgraded to the more advanced signalling protocol of SS7 for digital services which, among other things, offers enhanced information on call routing. Year on year incoming traffic volume increased by a spectacular 25 per cent whilst outgoing traffic increased by 14 per cent.

Mr Speaker, both companies continue to play an active role in helping to fund activities organised by local youth, cultural and sporting organisations and those involving our senior citizens. In other words, the traditional sponsorship of these events to which we are so used to in Gibraltar to which we depend on a handful of sponsors. At my request the Boards of GNC and Gibtel have agreed to increase by 150 per cent, in other words, from £10,000 to £25,000 each of them, the funding that they provide for these purposes with immediate effect.

In order to cater for growth and to offer customers greater resilience, Gibtel has now invested in additional bandwidth to the UK on the Intelsat satellite route; the FLAG submarine cable consortia, which has a landing point at Estepona; and the SEAMEWE3 submarine cable consortia, which has a landing point at Tetuan in Morocco. This will achieve a greater diversity of routes and reduced risk of total network failure.

Mr Speaker, during 1999, all three Government joint venture companies were engaged in extensive reviews of their systems and the hard work put in by all members of staff in Lyonnaise, Gibtel and Nynex was rewarded by the achievement of an incident-free millennium at the beginning of this year. I would like to record my thanks to those staff members who worked so hard to achieve this and some of whom actually spent the night of the 31st December at their place of work to ensure a trouble-free transition. The dedication and will to succeed of the members of staff at Lyonnaise, GNC and Gibtel continues throughout the year

as they strive to deliver and attain the very demanding targets set by customers and I take this opportunity to thank them for a job well done.

In conclusion, Mr Speaker, to my contribution, I would like to pay tribute to my personal staff in my Ministerial office. Despite my wide range of political responsibility in all the areas I have just covered, my team consists only of my newly acquired Principal Secretary, Mr Albert Finlayson; my Personal Assistant, Mrs Denise Chipolina and my Personal Secretary, Mrs Olga Palao.

Without their committed, loyal and effective support during their extended working hours, I would be unable to fulfil my Ministerial obligations. I thank them most sincerely for their hard work and indeed for their understanding and loyalty at those times when I become too demanding a taskmaster. Thank you, Mr Speaker.

HON MISS M I MONTEGRIFFO:

Mr Speaker, as Spokesperson for Health and Sport, I will be dealing with these two departments.

I will be giving an analysis on the performance of the Government and comment on some of the things they intend to do for the coming financial year. I have also taken on board what the Minister has said in his speech. He has spoken more on the problems he has encountered rather than the improvements he intends to implement and we believe that the new hospital will not solve many of them.

I would like, however, first of all, to point out to the Minister that having been in his position for a period of eight years I learned, within that time, that our health service necessarily has to be managed somewhat differently from other civil service departments. Apart from the fact that it is an essential service, here we are dealing with the mental and physical state of patients who have, understandably, great concerns about their wellbeing. Therefore, a more sensitive and humane approach needs to be exercised by the Government when we are dealing with the sick.

Unfortunately, Mr Speaker, since the GSD took office our health service has been the one department that has been criticised the most by the general public.

Unquestionably, there have been a number of policies introduced by the Government, which have adversely affected its users. We have also been voicing these concerns in this House repeatedly, Mr Speaker. We have questioned the logic of imposing a number of GCSE qualifications for applicants to the nursing profession, we have asked questions on the Health Centre which has been the subject of many complaints by its users; we have questioned the acute shortages of beds which the Minister has referred to today; we have questioned the increases on prescription charges, housecalls and the introduction of generic products; and we have also questioned the logic of the Government not having a complement of nurses. The answers we have been getting have sometimes been conflicting and inexplicable.

I think it is important to reiterate the point that we have always been making and that is that in the financial situation the Government find themselves, it is extraordinary that the people they have decided to penalise financially the most are our sick and since they introduced these revenue-raising measures, we have been trying to get them to change their minds but, regrettably, to no avail. For example, our tax allowances go up every year, subsidies and grants have been given to certain sectors of our community and yet the Government have tried to save money on one of our most essential services.

We are disappointed with what the Minister has had to say today. He has spoken at length but said very little and he has not led us to believe that he will be improving matters. Also I would like to remind him that on nurse training, PREP induction courses and health promotion, these were indeed started by the GSLP when we were in office. So, indeed, they are nothing new.

The Government set up two review teams who presented their reports to the Government on health generally and on nursing but to date we have seen no significant improvements to our health

service on the decisions the Government have taken and the Minister today has not said anything of substance in relation to these reviews.

On the Medical Report we have never been able to get the Government to confirm which recommendations they will not be implementing. The other one, the Nursing Report, the Government very nearly did not publish it. Here, Mr Speaker, we have an example of getting inconsistent answers from the Government to our questions in this House which refer to the complement of nurses which is essentially what the report tackles.

Of course, Mr Speaker, the first problem we encountered was the fact that the previous Minister for Health decided that he was not going to have an established complement for nurses in the Health Authority contrary to what has always existed in the past and to what exists in every other Government Department. It has also meant that we have had to rely on the Government's proposed numbers broken down by the different nursing grades. On each occasion, Mr Speaker, the numbers they have given us have been different and, in any case, when comparing them to the recommendations of the Nursing Review, the Government have not followed its rationale which is to maintain certain numbers of junior staff as against senior staff in the different wards. They may have more senior staff but at the expense of doing away with the more junior and that is not what the report recommended.

The Government in fact have been claiming all along that the figures they have been providing do not relate to an established complement, they are either related to people in post or their proposed figures for the future, which can actually change from one day to the next.

However, Mr Speaker, if we look at page 119 of the Draft Estimates of Revenue and Expenditure, there seems to be a contradiction on the position the Government have been taking because there we see that the numbers employed at the Gibraltar Health Authority is 547 non-industrials and 102 industrials as the Chief Minister pointed out in his contribution. This is precisely

what the complement means for the rest of all the other Government Departments in the Estimates. We cannot but take this to mean that this is in effect the established complement.

Mr Speaker, when we get to vote the money under personal emoluments I would like to know what is the provision for the nursing grades so that we can compare what is de facto the complement in this year's estimates to be able to compare it with what it was in the past.

As to the Government's proposed figures, even on these, I have been getting different totals to all my questions in this House. For example, in the written answer to Question No. 33 of 1999, the total proposed Government figure is different to the one the then Minister for Health gave me during supplementaries, even allowing for the Senior Enrolled Nurse and the Nursing Auxiliary which will be abolished through natural wastage. So, Mr Speaker, even on the proposed figures the Government have not been able to get their act right. To prove my point, Mr Speaker, last year the Minister for Health in answer to the question I have just referred, stated that there were 284.5 people in post and that the Government proposed figure, when I added them, came to 327.5. In supplementaries he then went on to state that Government's total proposed figure came to 340.5. All the figures different, Mr Speaker. In March, the Hon Dr Linares gave me a breakdown of all the nursing grades the monies for which had been approved in last year's estimates. The total came to 318.5 but it included 10 pupil nurses and 12 student nurses.

When we were in office, Mr Speaker, the figures we had were 340 for the established complement and 315 for people in post. The Government, therefore, cannot possibly take any credit for having increased the complement of nurses as they have been claiming all along.

I hope, Mr Speaker, that the new Minister for Health takes note of the unclear and unrealistic picture they have and that he will be convinced by our arguments to reintroduce the system of an

established complement which has always existed in our Health Service and which continues to exist everywhere else.

On the question of the acute shortages of beds, when the Government even decided to mix the male and female wards, again we have not been provided with a reasonable explanation for these problems. In the House of Assembly meeting in March of this year, Mr Speaker, I asked the Hon Dr Linares what was the explanation for this. The answers I received from him and from the Hon Mr Azopardi were far from enlightening. They said it was because there were more admissions and when I proved to them that the figures had not increased from answers they had provided to me in this House, they then said it was due to more elderly people being admitted. Again the figures I had been given in the House disproved this and finally I got the extraordinary answer from the previous Minister for Health, Mr Azopardi, that it must be due to the fact that the upgrading of the wards meant there was one ward less in use because one needed to be used for decanting purposes. However, I reminded him that we started the upgrading of the wards and that we had never encountered the problems they have. Silence from the Government benches, I got no answer at all. The Minister today has said that the answer is the new Elderly Care Agency but the Government's record, Mr Speaker, at St Bernard's leaves a lot to be desired.

Another area of concern to us, Mr Speaker, is the question of private practice. We will be as vigilant as possible in ensuring that the public sector patients will not be suffering at the expense of those who can afford to pay or feel that they have to pay in order to be seen earlier.

MR SPEAKER:

Order. Allow her to finish, do not interrupt.

HON MISS M I MONTEGRIFFO:

He has got the right of reply, Mr Speaker, but I am glad that he is getting annoyed because if he gets annoyed it is because I am saying the truth.

We believe, Mr Speaker, that all subscribers to our health services should receive equal treatment and we believe very strongly all patients should be seen or treated according to their medical condition and for no other reason. So we will be monitoring the situation to ensure that the opposite is not occurring.

On the new hospital, Mr Speaker, we have already made our position known during the election campaign and in this House. We believe our alternative is a far better one, which is a purpose-built new hospital. It has more advantages. In order for a new hospital to cater for all the needs of our community and for the necessary expansion in the future, it must be built from scratch. The Europort building will need to be modified and it will restrict the possibilities of future expansion when required. Also, Mr Speaker, the Government will be using up an area which is a valuable asset to house private enterprise and it can also cater for the expansion of finance centre related activities.

We were also disappointed to hear the Chief Minister say during the election campaign that a CT scan will not be provided in the new hospital. We believe that in view of all the monies that will be spent, a CT scan would have been a worthy investment and we hope that we can persuade the Government to change their mind.

Also, Mr Speaker, when we come to vote the respective monies, we will be asking the Government to give a commitment in this House that the dialysis unit will, in fact, cater for both in-patients and out-patients alike, otherwise out-patients will still require to go to Spain and we will end up with a dialysis unit that does not cater for the real needs of our patients.

Mr Speaker, still on Europort, I remember that when we were in Opposition we rejected the criticisms from the GSD on the project by saying that it was a valuable asset for the future as we have said today. Nonetheless, they called it all sorts of names under the sun, from an optical illusion to a white elephant. Today they are making use of that optical illusion and thanks to our initiative. But I nonetheless reiterate the point that I have made that we believe for all the reasons I have just given, that Europort is a valuable asset for incoming private enterprise in the future and that a new hospital has more advantages if it is built from scratch.

As I started saying, Mr Speaker, the complaints on our health service have been increasing to such an extent that during the last four years of a GSD administration there have been far more complaints than in the eight years we were in Government and we look to the new Minister for Health to see whether he can improve matters. But after having heard his speech, I must say that there was very little substance in it to lead us to believe that he will be able to deal with a situation in our health service which continues to be the subject of many complaints by its users.

Moving now to sport, Mr Speaker, I would like to remind the Minister for Sport when he spoke about community use, when he actually gave it a lot of publicity. I would like to remind him that it was actually the GSLP who introduced community use and that we were instrumental in improving all facilities and providing completely new ones. So, Mr Speaker, I believe that I made his job far easier. But nonetheless, I welcomed last year the building of a new sports city adjacent to the Victoria Stadium. I always give credit where credit is due not that I got credit from the Government when we were in Government but I give credit where credit is due. However, I have been asking the Minister during the last year for details on the kinds of sporting activities that will be provided there. We know of the water-based pitch for hockey which he has already mentioned and he has mentioned again today but the Minister has stated in the House to questions that he needs to consult the Sports Council as to the other sporting facilities that will be included. In view of the time that has now elapsed since he first announced the project we hope that we will

soon be getting the information I have been seeking in this House.

The question of the reprovisioning of the boat owners from Western Beach to Coaling Island and the hand-over to the Cricket Association of the Europa pitch are also matters which to us are dragging on. I know that the Government stated in the last House of Assembly meeting that these two matters are the subject of negotiations with the MOD. In the eight years we were in Government, Mr Speaker, we too encountered some difficulties with the MOD but we were successful on quite a number of occasions to get the land released without paying for it and also without the condition of reprovisioning. We therefore urge the Government to continue actively pursuing these two matters and we hope they will be as successful as we were.

I am disappointed with the Minister for Sport in relation to the Old King's Bastion building. Here, Mr Speaker, he came out in a political broadcast at the end of last year announcing the Government would be building a leisure complex and in the video clip he was seen inside the building giving it publicity for such a project. Indeed, Mr Speaker, the GSD announced this project in their election campaign and it was included in their manifesto. Commitments in an election manifesto are given for the next term of office which are the four years the GSD are expected to be in Government. However, in the last House of Assembly meeting, during Question Time, the Minister would now not even commit himself to the realisation of the project within the forthcoming four years.

Finally, Mr Speaker, I said in my last year's budget contribution that our sports people...

HON LT-COL E M BRITTO:

On a point of order.

MR SPEAKER:

What is the point of order?

HON LT-COL E M BRITTO:

The point of order is clarifying something that has been said that is not accurate.

MR SPEAKER:

That is not a point of order.

HON MISS M I MONTEGRIFFO:

Mr Speaker, if there is a point of order and the Minister disagrees with what I have said he should say it but he has not said it but I could prove to him, if he is referring to the Old King's Bastion, in March of this year he said he was not prepared to commit himself to the project being realised within the next four years. He said that, Mr Speaker, and I can prove it within Hansard.

Finally, Mr Speaker, I said in my last year's budget contribution that our sports people had always carried the message very successfully that we have an identity of our own with resolve and determination, one that we can be proud of and their results showed that we can stand on our own two feet against bigger and stronger nations. This is still happening today.

Spain, nonetheless, continues to try to destroy our Gibraltarian identity even when it comes to matters of sport and I have no doubt in my mind that they would welcome the integration of Gibraltar participating as part of another Spanish municipality. Therefore I would remind the Government that they must be vigilant on this question.

Spain's resolve and determination have not diminished at all. We have had the example of the Spanish Government asking their

fishermen to withdraw from an international competition held in Gibraltar very recently.

In this context, I wish to refer to the recent intervention by the Chief Minister in the House when we passed a motion welcoming the MEPs that look after our affairs.

When speaking on the new deal struck between Britain and Spain, especially on the question of the new identity cards, the Chief Minister stated that he did not think Gibraltar had paid a price for having taken away the words "the Government of Gibraltar" but that if he had had to pay a price he would have gladly paid it.

We, on this side of the House, do not agree with him, Mr Speaker, because the biggest price we can pay is the loss of any reference to our Government. We have taken a backward step. It has not only created a dangerous precedence but here we have given in for the first time, to the start of the weakening of our position as a people with a separate identity. And, of course, Mr Speaker, speaking on identity, our new identity card cannot but be considered as a different one to the one we had before because for the simple reason there is no reference to the words "the Government of Gibraltar" and this, we believe, is a real weakening of our position and the stand we have been taking hitherto.

But having said all this, Mr Speaker, for the sake of Gibraltar, we hope that the new deal does not serve as a platform that can affect us in other areas and in the short or long-term and that we see a repetition of the weakening of our identity, something which we believe, on this side of the House, is vital for the preservation and for the prosperity of our people, the Gibraltarians. Thank you, Mr Speaker.

The House recessed at 12.45 pm.

The House resumed at 3.15 pm.

HON J J HOLLIDAY:

Mr Speaker, my intervention today will cover three distinct areas, in the following order: the estimated revenue which will be accrued to the Consolidated Fund from Tourism and Transport; the estimated recurrent expenditure on Tourism and Transport; and finally the expenditure which will be charged to the Improvement and Development Fund.

I shall begin with Revenue. Mr Speaker, the revenue which is derived by the Ministry for Tourism and Transport is contained within Revenue Heads 4 and 6. Head 4 covers the revenue derived from motor vehicle and other licences. The estimate for this year is in line with the forecast outturn for last year.

Head 6, items 40 to 55, covers the Departmental Fees and Receipts which will be collected by my Ministry. The revenue which will be derived from Tourist Sites is estimated to remain at broadly the same level as last year. There was a drop in revenue in 1999/2000 compared with 1998/99 which is attributable to the fact that there was a drop in visitors accessing in their private cars in February, March and April 1999 for reasons with which we are all familiar. Such visitors paying the full admission cost to the Upper Rock with their vehicles. Although there was an increase in the number of visitors to the sites over the year, the balance of full paying visitors when compared with those paying the concessionary rate, altered with fewer visitors paying the full rate. The true underlying revenue potential for the sites at today's admission costs is nevertheless £1.5 million.

Indeed, I intend to announce a new strategy and a series of measures, during the course of this financial year, which will increase the revenue to be derived from this source. However, I am aware that the industry needs notice of changes in style or approach which have a financial impact, and I will ensure that appropriate notice is given.

The Government believe that the Gibraltar tourist product is being undersold especially to day visitors and this issue needs to be

addressed. The Government are considering different options in this respect. The generation of additional funds from tourist site admissions will be particularly helpful in funding the investment which needs to be put in place to maintain the fabric of the sites and to introduce improvements and enhancements.

The major source of Miscellaneous Receipts is book sales of the excellent book "Impressions of Gibraltar". This was a most worthwhile venture, which was extremely cost effective.

The revenue to be derived this financial year from the Airport and from Traffic is in line with last year's figures and requires no comment.

Insofar as items 48 to 53 are concerned, the direct revenue generated by the Port, the figures which I will give are conservative. At long last, after years of stagnation, Port dues and fees are being increased with effect from 1st July 2000. The new fees have been drawn up after consultation with the trade and on the advice of the Steering Committee on the Port. The implementation date of the new scale of fees was decided after the Estimates of Revenue and Expenditure book was prepared. The revenue which is set out is therefore understated. Had these fees not increased, it was forecast that there would have been an increase in tonnage dues and berthing charges, in line with the increased volume of shipping which is using the Port of Gibraltar, and in port arrival and departure tax which is attributable to the increased number of cruise calls at Gibraltar and the larger number of passengers who are using ferries to Morocco.

The Government estimate that the revenue from the new scale of port fees will be as follows:

| | | |
|---------------------------------|---|----------|
| Tonnage dues | - | £244,000 |
| Berthing charges | - | £318,000 |
| Port and Harbour Craft Licences | - | £200,000 |
| Miscellaneous charges | - | £20,000 |

However, these figures are pure estimates. Government will be closely monitoring port activities to ensure that these new charges will not cause any detrimental effects on trade in the Port.

HON J J BOSSANO:

If the Minister would give way. In the figure of £200,000 that he mentioned, what is that in respect of?

HON J J HOLLIDAY:

The figure of £200,000 is in respect of Port and Harbour Craft Licences.

HON J J BOSSANO:

Which is now £15,000?

HON J J HOLLIDAY:

That is correct. The Shipping Registry is now starting to generate increased revenue from Shipping Registration Fees, as last year's estimate of £53,000 was revised to £127,000 consequent on growth within the Registry. This growth is set to continue. This reflects the number of ships which have been attracted to the Gibraltar Ship Registry which now contains 46 ships with a gross tonnage of 546,306 grt compared with 27 ships in 1997 and 330,000 grt. This represents an increase of approximately 70 per cent in the number of ships and tonnage. I am pleased to inform the House that a further four ships are currently in the process of having the relevant documentation processed so the Ship Registry would have 50 ships on their books in the next few weeks.

Mr Speaker, I now turn to recurrent expenditure which is charged to the Consolidated Fund - Head 6 of the Estimates of Expenditure covers the Ministry for Tourism and Transport.

I do not consider that there is any need to comment on the complement of my Ministry, other than in respect of the Port Department. The restructure of the Port Department into the Port Authority continues under discussion with the staff associations which represent the interests of the employees. I believe that the outcome of the negotiations will be positive for both the Government and for the staff. The complement as represented in the Estimates is what exists today, and does not reflect the changes which will take effect once the new structure is agreed and implemented.

I now welcome the opportunity to comment specifically on some matters relating to expenditure of each of the components of Head 6.

Head 6A covers Tourism. Over my last three budgets I have been shaping tourism expenditure and therefore there is less variation in the Estimates as I am presenting under Head 6 this year compared with the 1999-2000 budget. There are nevertheless a number of variations which I would like to highlight. Subhead 4(b), Repairs and Maintenance, reflects an increase of £12,000 to cover the cost of maintenance not just of the Cruise Terminal, which is maintained to the highest standards, but also of the Ferry Terminal and Coach Terminal which are now coming on stream.

One of the principal realignments in this year's budget is the funding which is to be made available for marketing, promotions and conferences, at subhead 8. There has been particularly strict control of this subhead during the last financial year, which has resulted in their being no overspend whatsoever in this regard in the financial year ended 31 March 2000. The funding for this year reverts to what was made available in 1998/99, that is to say, £750,000.

Tourism marketing is essential. The lack of investment in this regard in the years when the previous administration were in office meant that it was a particularly difficult uphill struggle in my first years as Minister with responsibility for tourism to develop Gibraltar as a tourism destination. I do not think that it is possible

to satisfy everyone when it comes to the manner in which the marketing budget is spent. What I have always aimed to achieve is value for money, and in this respect the Government are well satisfied that our targets have been surpassed.

The strategies which I put in place in 1996/97 have gradually been streamlined and therefore the marketing budget is divided into the following elements: (1) Production of tourist literature, including brochures for the UK and Spanish markets. Information sheets for travel agents, tourist maps and other literature for distribution to visitors to Gibraltar; (2) Promotional material, including updating the Gibraltar Tourist Board picture library, production of posters and making copies of promotional videos for travel agents; (3) Promotional events, such as organising road shows, attending or hosting workshops and organising competitions for which the prize is a holiday in Gibraltar; (4) Familiarisation trips for specialist press and for the travel trade from both the UK and Spain, including Project 250 and the Top Travel Press visits; (5) Advertising, which covers consumer advertising, general trade advertising, the campaign in support of the Conference and incentive markets and specialist advertising for niche markets such as diving and bird watching. The advertising campaigns will run in the UK, Spain and Morocco; (6) Travel fairs which include the World Travel Market, Medcruise and Sea Trade exhibitions to promote cruising, the London Boatshow on yachting, EIBTM conferences, FITUR in Madrid and other smaller trade and consumer fairs; (7) Events staged in Gibraltar including the Gibraltar International Regatta, the Blue Water Rally, the International Dog Show and the Gibraltar Powerboat Festival; (8) Contracted services for public relations and advertising agency.

The amount which has been allowed for marketing for this financial year for the UK, Spanish, and Moroccan markets and the support of certain events in Gibraltar, totals £750,000. This represents a decrease of £75,000 compared with 1999/2000. It is nevertheless a sizeable sum which has been allocated for this purpose. The value of the Government spend is supplemented by the industry. This is reflected, for example, by Project 250 which

brings out travel agency staff to Gibraltar for familiarisation trips, and which is heavily supported by the airlines, hotels and other tourism entities and also the Top Travel Writers visits from both UK and Spanish travel press. Indeed, the policy of the Government is to maximise on the value of the marketing spend through partnerships with the private sector. In this regard, I would like to publicly acknowledge the considerable material assistance which the Gibraltar Tourist Board receives from the Gibraltar travel industry. The partnership augurs well for the future.

Turning to subhead 9, Apes Management, now shows at subhead (c) the cost of the two contracts which were put in place during the latter half of last financial year in order to provide proper care for the apes. These contracts were entered into with GONHS and with the Gibraltar Vet clinic. One contract provides for the management of the apes and their care and control whilst the other for their health care. Both are important aspects. The apes had not been cared for properly by the previous management, and an ape population explosion was allowed to develop. The seeds of a new approach to ape management have now been sown. It is necessary to allow the new managers some time in order to produce the results which the Government expect of them. The Government are aware that apes have sometimes caused problems to some residents in the Upper Town. We are also aware that the apes are a prime tourist attraction. There is a need to balance the benefits which are derived from the touristic appeal of the apes with the needs of those Gibraltarians whose homes are affected by the apes and also with the animals' biological needs. It is not easy to strike the right balance. What is fundamental is that the size of the ape population be contained, and that the apes should be cared for properly in order to discourage them from roaming outside the confines of the Upper Rock. What the Government deplore is the well-meaning but shortsighted members of the public who are feeding the apes in Estates with food which is totally inappropriate for their health and well being. By doing so apes are being enticed into built-up areas and the good work being carried out by GONHS to provide the apes with a proper balanced diet and to contain them within the

confines of the Upper Rock is being negated. I am satisfied that there is now a responsible policy in place in respect of the apes.

Subhead 10 contains the expenditure on the School of Tourism which remains unchanged for this financial year. The Government are pleased to see the success which the School of Tourism is enjoying in providing quality training for young Gibraltarians who wish to make the hospitality industry their choice of career.

I now turn to subhead 11, the Gibraltar Development Corporation expenses for the Gibraltar Tourist Board. The increase in cost of staff services is due to the salaries which are paid to the two attendants at the Coach Park now being charged to this Head of Expenditure in preference to Tourism Sites, subhead 12(b) in the case of one attendant and an officer contracted from KIJY Parkings Ltd in the case of the other. With regard to Temporary Assistance, this includes the cost of providing lifeguard cover at the beaches, and the wages of both the year-round Visitor Information patrols and the additional VIPs recruited for the summer season. The full cost of the improved Visitor Information patrol system is now being reflected for the first time. In addition, I wish to highlight that this year, for the first time, there was lifeguard cover at Eastern Beach and Catalan Bay during the Easter season. I believe that this is a helpful improvement to the service offered to the public.

Turning now to subhead 12(a), Tourism Sites, I have given instructions that the running expenses are to be capped at £150,000. I hope that good housekeeping will make this feasible.

Subhead 12(b) covers the GDC staff at tourism sites. There has been discussion over a period of time with the staff who man the tourist sites aimed at improving their conditions of service, cutting back on their very long working hours and recruiting additional staff. The figure which has resulted from our calculations in order to realise this strategy will mean that, in addition to benefits for existing staff, there will be a reduction of expenditure on GDC salaries in this regard in the order of £27,000.

Subhead 13, Tourism Information Services, provides the cost of the uniforms for the VIPs. I had originally wished to introduce the concept of History Alive last year, having young people dressed up in period costume to carry out re-enactments of historical events. However, when the scheme was advertised, there were no takers and therefore it has been shelved for the time being. The funding for the uniforms for those participating in the History Alive concept, in the sum of £7,000, which was available in last year's estimates has therefore been cut.

Finally, Mr Speaker, Subhead 14 contains provision for the cleaning of the Terminals. The cost of cleaning both the Ferry and the Coach Terminals, once they are in use, will be charged to this subhead, hence the increase from last year's outturn of £17,000 - which was in respect of just the Cruise Terminal. The cleaning of beaches is now undertaken by Master Cleaning Services and therefore there is no longer provision for this within Head 6A.

In total, the funds which the Government will be spending on Tourism this financial year are broadly speaking comparable to the funds made available for tourism last year.

The next Head of expenditure within my Ministry is Head 6B - Transport: Airport. I do not consider that any comments are required on this Head.

I would therefore like to turn to Head 6C Transport: Traffic. The estimates which I am presenting today are very much in line with the forecast out-turn for last year, and I do not believe that there is any matter of significance which needs to be explained or highlighted. The only clarification which I would wish to make is the cost of Transport Inspection has increased from £10,000 to £20,000 because this represents the full annual salary of the Transport Inspector who was recruited halfway through the last financial year.

Head 6D covers the Port. The cost of Personal Emoluments has fallen slightly because three vacant posts within the Port Maintenance Section have not been filled. The Government do

not intend to recruit or promote staff into the vacant posts until such time as the restructure of the Port Department into the Port Authority has been completed, at which point it will be confirmed whether or not the three posts in question will be lost and replaced by other posts elsewhere within the Port Authority structure.

Subhead 4(c), Maintenance of Launches, is expected to show a decrease to £20,000 consequent on the commissioning of the new Port Launch, General Elliott II. This should require considerably less maintenance than the older Port Launch, which it has replaced. The intention of Government was to provide a microwave link with the East Side to allow for monitoring of vessel movements by the Port Department on the East Side. This project is no longer going forward at the present time. It is the intention to revive it at a later date, after the restructure of the Port Authority has been completed and the new structure is in place.

New subhead 6 covers the cost of the salary of the Chief Executive of the Port Authority.

Mr Speaker, the Port of Gibraltar and the shipping industry is doing well. The number of ships calling at the Port of Gibraltar has been growing healthily over the last few years. In 1995, there were 3,784 ships which called at our Port representing 69.1 million gross registered tonnes. This has grown over five years to 5,926 ships in 1999 representing 129.4 million gross registered tonnes. The volume of bunkers sold in Gibraltar has increased over the same period from 1.24 million tonnes in 1995 to 2.62 million tonnes in 1999. The Cammell Laird ship repair yard is doing well and there are improving job prospects for young Gibraltarians in all sectors of shipping. This is an area of the economy which is doing particularly well. The Government are investing in the Port, a sector in which for many years there was under-investment and under-resourcing.

The final Head of Expenditure within my Ministry is Head 6E - Transport: Ship Registry. There has been an increase in the complement of the Registry, by one Administrative Officer who is

a graduate in a marine discipline. This is a good example of the Government employing a young Gibraltarian who has furthered his studies in an area which is relevant to his qualifications. This young man has already expressed an interest in receiving further training, and this is something which the Government welcome.

The Ship Registry is doing well. There was a change in Maritime Administrator during the course of last financial year, and the present incumbent of the post joined the Ministry in January 2000. He has settled in well, and is doing sterling work in trying to attract new ships to the Registry, the prognosis is healthy. The only significant change in expenditure is in respect of the Red Ensign Group conference, at subhead 4(c), where there is a sharp drop from £10,000 to £2,000. This is attributable to the fact that last year's expenditure covered the cost of hosting the 1999 event in Gibraltar. This year, the only cost that will be paid is that of sending the Maritime Administrator to the conference as a delegate.

Mr Speaker, I am pleased to report that through prudent examination of the expenditure on Tourism and Transport, it has been possible not only to contain expenditure within the forecast outturn for 1999/2000 but also to slightly reduce it from last year's estimate of £5.71 million to £5.58 million.

Finally, Mr Speaker, I wish to comment on the Improvement and Development Fund expenditure at Head 103, Tourism and Transport.

The Government consider that tourism continues in the forefront of economic activity in Gibraltar together with financial services and shipping. There is therefore a commitment to invest in the tourism sector and continuing to upgrade the tourist product. The four principal areas of tourism activity and the markets which we are targeting are – (1) the short break and overnight visitor market; (2) the cruise visitor and yachting sector; (3) the conference and incentive market; and (4) the day-tripper market.

Tourism has been doing well since May 1996. The increase in air arrivals, cruise visitors, yacht arrivals, day trip visitors, arrivals at hotels and room nights sold, and visitors to tourist sites shows that the Government policy is working. There is now a need to expand the tourist product. One principal way in which this must be achieved is through increasing the number of hotel beds. This is one of my two main priorities in this term of office. There is the need to attract new hotels to Gibraltar. The other is to increase air access to Gibraltar and the number of direct flights.

Three generic items make up the tourism element of this Head 103. Two of these - Subheads 2 and 3 - require little explanation. Airlines Assistance Scheme, at Subhead 2, is an on-going programme of assistance for both GB Airways and Monarch airlines with landing charges at Gibraltar. The issue of Gibraltar's excessive landing charges continues to be discussed between the Government and the MOD, as this is perceived to be a major disincentive to airlines to operate to Gibraltar. Indeed, it is for this reason that the Government, through this subhead, offer incentives to airlines to increase the number of flights and the capacity offered on routes to Gibraltar. The greater the additional programme of flights to Gibraltar over and above the airline's previous commitment to Gibraltar, the greater the assistance which is made available by Government. I am glad to report that negotiations are at an advanced stage aimed at restoring the Manchester/Gibraltar link as from spring 2001. I intend to make further announcements in this respect at the appropriate time. There is also an element of providing funding in this subhead to support the Regional Airlines service to Gibraltar, as the Government wish to see the airline making a success of the route it operates. Indeed, Government are currently discussing a number of alternative routes with Regional Airlines which would open up new opportunities in areas which do not at present enjoy a direct service with Gibraltar.

Funding for the Hotels Assistance Scheme is provided in subhead 3. Only one hotel, the Caleta, is still undergoing major refurbishment of a number of its rooms. However, only a small portion of the soft loan being made available to it by Government

remains to be paid in this financial year, and indeed at the time of writing has already been drawn down. Finally, this subhead provides for payment of a small grant to the Continental Hotel in respect of improvements which the hotel is making to its product.

The demand for hotel rooms in Gibraltar is growing. In fact, hotels are performing well. The Government are aware that it takes time for new hotels to be built and to come on stream and it is therefore considered that now is the time to provide for the commencement of projects which will increase the number of hotel beds available in Gibraltar. Failure to do so could result in a shortage of beds in years to come. This is why the Government are presently in discussions with parties which have expressed an interest in setting up new hotels in Gibraltar. I hope to be able to make an announcement in this respect very shortly.

I will now turn, Mr Speaker, to the major source of expenditure on tourism which is contained within subhead 1. This provides funding for the preparation of the beaches for the summer months. This year, the funds being made available for this purpose, have been increased as Camp Bay will now be fully available to the public once again and the work required to clean up after the damage caused by the rockfall is considerable.

This subhead also contains funding for the conclusion of a feasibility study which the Government are carrying out in respect of a possible widening of Eastern Beach and Catalan Bay, including the provision of beach protection, and also the preparation of the land between Eastern Beach and Catalan Bay in order to provide much needed car parking for the summer season, for the residents of Catalan Bay and for commercial development. The project includes the protection of the seaward boundary of an area which is presently an eyesore. What is intended is to identify scientific formula which will allow both Eastern Beach and Catalan Bay to be considerably expanded in size and for the sand to be retained despite the strong easterly winds. In addition, the brief to the engineers developing the scheme is that the force of the waves should be reduced during periods of easterly winds to make bathing safer throughout the

bathing season. To compliment the more attractive beaches which are envisaged, new changing rooms and other facilities on the beaches themselves will form part of the project. In addition, a new promenade next to the sea linking Eastern Beach and Catalan Bay is envisaged. This will border the land which the Government wish to develop for commercial use, something which is greatly needed. A scheme which will compliment the improvements planned for the two major beaches will commence this autumn. This is the beautification of Catalan Bay. Phase 1 of the programme will involve the paving of the central area in front of the Church and Genoa House and the restriction of traffic to permit holders. The steps from Sir Herbert Miles Road to the Church will also be rebuilt as part of this phase. The works are structured to take place between October and May, in order not to impede the comfort of residents of Catalan Bay and beach users during the bathing season. Further phases will follow thereafter. There is a further scheme which is on the drawing board to improve bathing facilities and year-round leisure facilities. A tender issued inviting outline proposals for the development of Rosia Bay and Government are considering the submissions received so that the matter can be taken forward. The intention is to provide better facilities at Rosia Bay.

Provision has also been made this year for a continuation of the programme of enhancing and upgrading our tourism signage. I believe that the standard which has been achieved is excellent, and creates a completely new image for Gibraltar.

The programme commenced last year for lighting up the city walls and defences will continue. The next area to be tackled will be the area of the cliff face above the portion of the Northern Defences behind Laguna Estate. This will then link up the floodlit area of the North Face with the dramatic lighting up of the Medieval Castle and the Castle Batteries which extend down to Casemates. Further extensions to this floodlighting programme are planned along Queensway and Trafalgar Cemetery.

Improvements are planned to the most visited tourist site in the Upper Rock, St Michael's Cave. A new computerised lighting and

sound system will be installed. This will allow for a "Son et Lumiere" spectacle. In addition, provision is being made for changing rooms for artists who perform in the Cave, given the increase in the number of concerts now being staged in the setting of the Cave. In addition, as more and more conference organisers and indeed the Government are holding special dinners in the Cave, it is necessary to provide a proper kitchen facility which will greatly assist the caterers who provide the banquets which are offered in the Cave. This programme of improvements, which is estimated to cost £750,000, is being assisted with EU funding and will be completed before the end of 2001.

Another project which is EU funded, and on which work will commence this financial year, will open up a section of World War II tunnels to the public. The tunnels will only be visitable in organised parties, led by a qualified guide. It is an exciting project, which offers a number of interesting opportunities. Funds are being made available within this subhead for a part of phase 1 of the project, which will be completed next financial year. A feasibility study was commissioned into the project, and the Government are now considering the parameters of the project to which we will give the green light.

A third improvement to the tourist project involves Nuns' Well. This again will be an EU-funded project. The focus here is completely different. On the one hand, the scheme will provide for the protection of the Well, which is an ancient monument of great significance. This will therefore be of assistance in the formulation of the bid for the inclusion of Gibraltar in the UNESCO list of World Heritage. However, the scheme goes further than this. It will mark the first phase of a much larger project to considerably enhance the area of Europa Point. The project will include a children's play area and an element of car parking, and of landscaping and of interpretation of the whole area of Europa Point. The Europa Point project will eventually encompass the cliff top promenade from the Well to the Lighthouse, the Mound and the area surrounding the Mound.

Finally, this subhead will provide the funding for the completion of the Coach Terminal and Ferry Terminal projects and also for the refurbishment of the Land Frontier building, the only entry point to Gibraltar which is awaiting a serious facelift and improvement of facilities.

There is still one area which requires attention and that is the area of improvement of Gibraltar's nightlife. I am sure that Casemates will have some impact on this once all the restaurants and bars are up and running. However, Government are always ready to receive proposals from private entities who wish to introduce new attractions to improve nightlife.

Mr Speaker, this is an ambitious programme which shows the Government's commitment to improving the tourist product in a systematic way. It is a policy of sound investment which will consolidate Gibraltar's position as a tourist destination.

I will now turn to the two items which comprise the Transport - Traffic improvements. The refurbishment of the Motor Vehicle Test Centre has commenced. Work, in fact, is not progressing at the rate at which the Government desire partly because the successful tenderer has experienced difficulty in sourcing the necessary steelwork required for the project. The problem has now, I understand, been overcome. I attach great importance to this project being completed within the shortest possible timescale.

Subhead 5 provides funding for the new, attractive bus stops which have now been erected. Funding for this was provided last financial year, and a tender was advertised and awarded. However, the works were not concluded last financial year, and only the deposit for the project was paid. The balance of the cost has now been paid out of this year's funds. The Government are also considering the precise changes which will need to be introduced to radically improve the public bus service. A token vote has been included within this subhead for this purpose once the Government have taken a final decision. The principle which the Government want to introduce is that there should be a

frequent, reliable bus service which should be attractive to existing bus users and which should attract more members of the public to use public transport. In addition, the Government wish to see those buses which are presently in use, which are unsatisfactory, removed from service and replaced with more modern, more comfortable buses.

Another area which the Government will tackle this financial year is that of car parking. The area to the north of the car park which was created on the site where the prefabs once stood is also going to be converted into a car park. This will increase the amount of car parking just off Queensway and will further the Government's policy to create as much additional car parking spaces as possible outside the City walls to encourage Gibraltarians and visitors alike to park away from the City centre and to enter the old town on foot.

As detailed in our manifesto, a second car-parking scheme is planned for the Upper Town, an area which is in great need of parking. The question of traffic flows in the access route to the Moorish Castle Estate is also being studied and several options are being considered as the Government wish to improve safety for children attending schools in the area of St Bernard's Hospital. The Government also wish to find solutions to traffic flow problems which have existed there for many years in this very difficult area.

Subhead 6 covers the programme of road resurfacing and construction. The core of the work which will be covered this year from this subhead will comprise the conclusion of the following projects - the finishing of the widening of Sir Herbert Miles Road; the completion of the Devil's Tongue Road project; the completion of the Waterport Road improvements; the completion of the North Mole Avenue road widening project, in the area of the Coach Terminal; the completion of the pavement now being built at Town Range; the Camp Bay project, which will result in the road finally being reopened to through traffic.

New projects which will commence this financial year will include - the resurfacing of Europa road; the resurfacing of Rosia Road; Phase II of the reconstruction of the Western Arm; Reconstruction and embellishment of Rosia Steps; The introduction of safety measures to reduce the speed at which traffic travels along Buena Vista Road; Reconstruction of Devil's Gap Steps; The construction of a new pavement along Prince Edward's Road; and the construction of a pavement on Queensway.

I would now like to turn to Subhead 7, which covers improvements to the Port. Funding will be made available to complete the purchase of the second new Port Launch, which is on order. In addition, the security works along North Mole Avenue, and the provision of a barrier and control cabin to secure the entrance to the controlled and restricted areas of the Port will be completed. Equipment to combat oil pollution have now been purchased and will be supplied within the next six weeks.

A number of minor projects will also be funded from this subhead. They comprise replacement of certain windows in the Port Lookout to improve visibility at night. This is an important safety measure. The works should be undertaken very shortly. In addition, a wharf platform and gangway will be purchased. Funds will be made available for the replacement of fenders. Finally, funds will be allocated for the purchase of additional diving equipment to supplement the equipment which is operated by the Port Department diving section.

The final project within this Head of Expenditure is £170,000 which has been earmarked for the first stage of the Container Transshipment project. An EU tender was issued for the appointment of a Transaction Adviser for this project, and the selection process is currently being undertaken. This exercise should be completed by the end of July. The feasibility studies will need to be commissioned by the Transaction Adviser once appointed who will then need to assess and make recommendations based on the findings of the studies. This could be a most interesting project for Gibraltar with immense economic potential.

The programme of projects which will be spearheaded by the Ministry for Tourism and Transport is ambitious but achievable. The completion of all these works will represent further important strides in improving the fabric of Gibraltar for Gibraltarians and visitors alike. This programme shows long-term vision and commitment to improving the quality of life for Gibraltar.

Mr Speaker, that concludes my presentation of the Estimates of Revenue and Expenditure for the Ministry for Tourism and Transport. Thank you.

HON J C PEREZ:

Mr Speaker, this budget has, what I would call, a David Copperfield illusionary effect. The packaging is such that there appears to be a series of significant measures to ease the burden of the cost of living of the average citizen across the board but on closer examination, the effect suddenly disappears. Instead we have a basket of small give-aways which has no relation to the huge increase in revenue to the Government, such revenue deriving principally from the taxpayer. I repeat the observation of the Leader of the Opposition that much more could have been done. This policy of packaging, new to Gibraltar until hon Members were first elected into Government, has been projecting them, the GSD, as the party that stands for tax cuts and the previous GSLP administration as the Government of over-taxation. Nothing can be further from the truth as the comparative figures for tax yields show. When we left office in 1996, Mr Speaker, income tax yield was in the region of £40 million a year whilst the projected tax yield for this current year is £52 million, £12 million more than when we left office despite there having been no significant changes in the number of those employed. The people of Gibraltar are paying £12 million more in tax collectively than they used to pay in 1996 despite the increases in tax allowances.

Certainly the financial position demonstrates that the manifesto commitments of the GSLP/Liberals was and is affordable, despite

everything said in the election campaign. I accept however, that the Government have a mandate to introduce their policies and not ours.

Mr Speaker, on services to the public generally, the Estimates confirm the trend of previous years with little or no improvements in areas where it is palpably evident that this is needed.

In referring to the Buildings and Works Department I was astonished to hear the excuses of the Hon Mr Netto for the unsatisfactory performance of the Department in dealing with justified demands from Government tenants for repairs. He keeps on trying to blame his own shortcomings on the situation he claims to have inherited nearly five years ago now. He talks about "inherited backlog" on refurbishment of the housing stock as being responsible for the dire performance of the department. He forgets that such refurbishments as he calls inherited, I call recurrent, is being carried out by private contractors and does not eat into the resources of the department. He then says that the workload of the department has increased as a result of increased housing allocations. Where, Mr Speaker? The Government housing stock has increased only via the acquisition of Edinburgh House and the maintenance of those flats is being contracted out despite commitments to the contrary having been given to the workforce. When he talks about assurances to the workforce he should understand that actions speak louder than words and that his performance as the Minister responsible over the last four years leaves much to be desired in that respect. The Minister seems to have forgotten everything he learnt and later preached as a trade union official. He has, in four years, curtailed and diminished the effectiveness of the department to respond effectively to the maintenance requirements of Government tenants by his industrial relations policy in the department. He talks of his incentive scheme without admitting that it is inferior to the one in force when he was a union official.

He forgets he is responsible for having cut the take-home pay of most workers in the department. He uses words and phrases like "the culture of the workforce" and "value for money" as if he had

invented these concepts and are the alternative to a sound industrial relations initiative. After four years at the helm of Buildings and Works, he now seems to want to cover his back by another review by consultants. Alas, he has found a new excuse for his shortcomings over the last four years. Neither he nor any of his colleagues had noticed in four years in Government that the administration of Buildings and Works and Housing had been separated when the Public Works Department was dismantled. Now he wants to merge them, all under one roof in the City Hall and this will now enhance the performance and response of the department. Well, Mr Speaker, I doubt whether the City Hall is large enough to deal with the rising number of complaints from tenants awaiting repairs. The sick, the elderly, those in the lower income group are again the ones most affected by the failure of the Minister to deliver basic repairs to tenants' flats. Mr Speaker, sick people waiting for special bathroom adaptations as a result of their medical condition, elderly people living alone and in need of basic repairs, all meet with the same bureaucratic red tape. Their flats are visited, the works are identified, they are visited again, and again, they then wait and wait and wait and nothing happens. This is probably what the Minister describes as "value for money".

If we turn to the Highways and Sewers Section we see a similar pattern emerging although perhaps more critical in certain ways. When we left office in 1996, the section was already rundown as a result of the departure of a good number of Moroccan workers who decided to take up the repatriation package offered to them. No decision was taken at the time over whether the recruitment of new employees was to be done within Government because consideration was being given to proposals put to the Government by a sector of the staff for moving into the private sector. What was evident then was that more industrial workers would be required whichever option was taken. I am not going to repeat the contradictions voiced in this House by Government Members over the future of the section and my repeated accusations that they were purposely running it down. I listed all of these in my contribution last year and was told by the Chief Minister again, "The Government have no plans to run down the Roads and Sewers Section. Indeed the Government are in the

process of restructuring the maintenance of the Roads and Sewers Section, relocating it and focusing the roads part of it into a minor resurfacing and intensive Road Maintenance Section". We had heard different versions of the same nonsense before but on this occasion the Chief Minister was more careful with his words. He said he had no intention of running down the section further – emphasis on the word "further". The previous commitment of reviewing manpower requirements having vanished into thin air. As for creating an intensive Road Maintenance Section with the ability of carrying out minor resurfacing, Mr Speaker, and achieving this via a restructure of management, however much one moves managers around there is no way that half a dozen men can increase their intensity or their capability of tackling the maintenance that our side streets, alleyways and steps require, all of which is their responsibility to upkeep side by side to a programme of resurfacing, however minor that might be. The reality is that if we look closely at the Estimates and separate the industrials of the sewers from those involved on roads, what we see is that there are more supervisors than there are industrials to supervise. Contrary to what the Government are doing at Buildings and Works, they have ensured a high earnings potential for this small group and contracted out all of the work the section used to undertake, not only the heavier road construction and resurfacing projects as claimed by the Minister last year.

The complaints by citizens that the hidden parts of the City Centre particularly the old part, are not maintained and in some cases totally abandoned is totally justified. There is no road section any more to repair the likes of Morello's Ramp, Castle Street, Tudury's Steps or maintain the like because I do notice that the Hon Mr Holliday has announced that, for example, Devil's Gap Steps is up for repairs but it has not been maintained and the repairs are coming out of the I&D Fund and again going out to contract because these people cannot do all that. The capability of the section is not there and will not be if the Estimates reflect accurately the intentions of the Government over the coming year.

As to the work that has gone out to private contractors, there is a tendency of long delays in completing some projects, well past the contracting dates, Sir Herbert Miles Road and the coach park are two of the projects that come to mind, although with the latter project there seems to have been a more serious situation afflicting it, with the main contractor, the successful tenderer, not meeting its obligations to sub contractors and the Government having to step in to rescue the day. This despite the tender system and the list of approved contractors. We shall see how much more the project has cost as a result of this misjudgement.

Mr Speaker, I now come to a favourite topic of the Chief Minister which is the continuing traffic chaos which he prefers to describe as, and I quote from his contribution last year, "A build-up of traffic for very limited periods of time at peak times". Despite the many occasions I have been told that this and that is being studied and that options are being looked at, the reality is that every step the Government have taken in re-directing traffic has resulted in a worsening of the situation rather than an improvement, or give them their due, an improvement to a disastrous situation created by their own policy previously. There is no focus on traffic management other than re-directing it as best possible to give way to pedestrianisation. The consideration for the motorist is zero.

I read with interest, Mr Speaker, the new arrangements announced last week for the payment of road licences. This again, is not in consideration of the motorist but of the Government themselves and their stubbornness to have MOT tests annually instead of biennially. This year some motorists will have their road tax payments staggered, but in years to come the new arrangements will have the effect of accumulating the annual costs of owning a vehicle with the cost of the road tax and the MOT test coinciding. And if one happens to have bought a new car and not transferred insurance cover from another vehicle, one's insurance costs too. This, Mr Speaker, is totally inconsiderate particularly when a car, for many, is fast becoming a necessity rather than a luxury. Not everyone can bear the cost of the insurance, the road tax and the MOT test all in one go.

Indeed, the new arrangements announced should have been accompanied by a better administrative arrangement because we have a situation today that if one goes for the road tax licence now there is a queue of between two and a half hours and three and a half hours because there is insufficient staff to implement the new measures that they have put. The difference between every other year, like the Minister has said, and this year is that whereas there is one road tax prepared and available, one has to be asked what option one wants, whether one wants to pay for the road tax until the expiry date of the vehicle or one wants to pay until the next year. If one says one wants to pay one or the other then the road tax has to be prepared for one there and the queues are longer than they were and this should have been taken into account in the application of the new policy of the Government. They should have had more people there attending the public because, frankly, if it bothers us to have a queue to go to Spain of two hours or three hours, it should bother everybody else to have a queue to go and pay one's road tax licence. Need I remind the House, Mr Speaker, that our policy was and is still, that MOT tests would be once every two years instead of yearly, that we would do away with the road licence altogether and that we would legislate to abolish clamping.

I now turn, Mr Speaker, to the Electricity Department. I notice that the installation of the controller link which I believe Col Britto now calls the SCADA system..... [INTERRUPTION] Well, it is in the I&D Fund as controller link if he cares to look at the Estimates. I notice that the installation of the controller link seems to be taking longer to complete than originally forecast. Indeed this has been confirmed by the Minister himself, instead of having it ready this summer we will hopefully have it ready next summer. The Minister, as is customary with him, has announced the project on several occasions but it does not seem to come to fruition.

HON LT-COL E M BRITTO:

Will the hon Member give way? He seems to have misunderstood what I said. I said it was going to be ready by the end of this summer, not next summer.

HON J C PEREZ:

Yes, but it should have been ready by the end of last year. So there is a delay of a year.

Mr Speaker, other than predicting an increase in fuel prices for the current financial year and the inexplicable employment of an extra engine room operator which I will intend to raise at the Committee Stage, there does not seem to be major changes in the department. Of course, the Chief Minister well knows that the report into the department commissioned by him has created expectations amongst some employees and concern amongst others. Although he has refused to share the contents of the report with the Opposition, it is also well known that every shop steward in the department has a copy. I hope the optimism he expressed in his opening remarks about what he called "solving the historical imbalances" is well founded. I myself, through my experience in the union and in Government for eight years have always found that reports by experts, as it affects industrial relations, have normally got to be shelved in favour of a free negotiating process with the people on the job.

The same sense of uncertainty continues to prevail amongst the personnel of the Port Department following the report commissioned by the Government. I know the Government are still talking to the union about the future role of the department in the overall commercial orientation it is committed to, but change always brings uncertainty to those who have been serving the community in a particular role over a number of years, moreso if very little information is forthcoming as to what extra duties they are expected to take on which I understand is what employees perceive to be the case. Perhaps the Minister is not totally to blame given that he says that the staff association is talking on a continuous basis to him but that is a perception of the people there, that they know not enough of what changes are expected of them and there is concern in the department as to what the future holds for them.

In the Prison, Mr Speaker, I have seen that the complement has increased by two bodies. I will be asking at the Committee Stage whether this is the result of another phase of the implementation of fresh start or whether it has been agreed with the staff association concerned to increase the complement. I look forward to the day when Moorish Castle can be developed into a heritage touristic site and this will give way to moving the prison to a more modern and adequate facility. When we were in office, particularly when we first came in and found that Gibraltar was on the verge of economic ruin, we made clear to those concerned that at that time a new prison was not a priority. During our second term, when the economy started to perform as a result of our policies in office, options were considered but with no firm commitments. The adaptation of Buena Vista Barracks was found to be too costly and this without meeting EU standard requirements for new prisons. The Old Dutch Magazine was also a consideration but no in-depth study was carried out at the time. But I do remember that some Government Members did create expectations amongst some Prison Officers that a new prison was a priority. Well, it is certainly something which will need to be tackled sooner rather than later.

Mr Speaker, I take note that the Fire Service or Gibraltar's Emergency Services, as Mr Edmonds prefers to describe the force because of the variety of emergencies they attend, continues to perform admirably regardless of which Government is in office which is as it should be. I take the opportunity of thanking Mr Leslie Edmonds for the very good work, the very valuable input into the department over his years as Chief Fire Officer and I also take the opportunity of congratulating Mr Casciaro in being promoted to Chief Fire Officer. *[INTERRUPTION]* For what? I know he thinks he ought to have a bleeper and every time there is a call from the Fire Brigade he should attend to it or that is the impression he gives in his speech but it is not true.

HON CHIEF MINISTER:

Will the hon Member give way? As he appears to hold Mr Netto responsible for the dreadful state.....

HON J C PEREZ:

I have not given way. [*HON CHIEF MINISTER: I do not blame him for not wanting to give way.*] Indeed, I understand the point he is trying to make and the point I have said of Mr Netto is that he cannot continue blaming other people for his misfortunes because he has been four years in Government, four years responsible for the department and he still wants to blame other people and other things for his own shortcomings in the department and complaints continue to mount.

HON CHIEF MINISTER:

Will the hon Member give way?

HON J C PEREZ:

No, I am afraid I will not because he has got the right of reply. If it was any other Minister who has not got the right of reply I would concede but he has got the right of reply so he only needs to take note and remember.

Mr Speaker, although one has noticed some improvement in the delivery of mail in recent months there is still public concern over the service. I have said here before that I feel that the delivery post workers have a case for an increase in their numbers but it is not for me to say how Government should sort out the deficiencies of the department other than to state that the service still leaves much to be desired particularly as it affects the delivery of telephone and water and electricity bills. There are still instances of telephone disconnections whilst neither the demand note for the last bill has reached the subscriber and this is certainly blamed on the Post Office. I take note that the refurbishment works on the General Post Office, which I long ago called for,

have now started and I am pleased that the Government finally decided not to relocate the Main Street Post Office from its present building which, as we all know, is of historical value. I do believe, however, that the Sorting Office and the Postmen's Quarters should be relocated to improved premises with vehicular access. I know, Mr Speaker, that certain recent discoveries in the Post Office have resulted in prosecutions and is therefore sub judice at present so I naturally will not dwell on this matter at this stage. And I also take note that the Minister has mentioned that again another report on staffing is going to take place and I think that the Government are making the same mistake over and over again. Every time we have got an industrial relations problem or a problem of staffing they try and cover their backs with reports rather than face the problem and talk to the people on the shop floor and try and sort it out with them. But again, it is their policy, they are in Government, I can only point out what we believe should be the case and it is up to them to decide what they do.

I now turn to telecommunications, Mr Speaker, so essential to our continued economic development but where there seems to be an impasse because of a combination of occurrences. Today, I am obliged to repeat my call for a decrease in telecom charges which is totally justified by the dividend figures in front of us and which is necessary if the two establishments that hold monopolies today are going to survive the much overdue European Union liberalisation. Over the past three years, with the exception of one year in respect of Nynex, the results of the dividend payments of both Gibtel and Nynex has been greater than that estimated, signalling that both companies have exceeded their own expectations in the profits they are making. In a short space of three years Nynex has paid dividends amounting to £5 million and Gibtel to £5.353 million, nearly £10.5 million in three years in an economy the size of Gibraltar, with such a small customer base, indicates a very high average turnover per customer. Half of these payments have been received by the Government which is a 50 per cent shareholder of both companies. This has happened despite certain Board decisions of expenditure which we believe to have been a misjudgement such as the acquisition of a £1.6 million billing computer by Nynex. I will return to that topic shortly.

Also despite the very nominal decreases in international charges, such decreases having been announced during the election campaign but which still leave our rates still significantly higher than the European average.

Mr Speaker, we believe that investors should get a return for the money invested. It is a sacrosanct criteria for attracting investment. But is it right that, for example, British Telecom should have, via its own dividend payment, recovered its initial investment 10 times over whilst charges to consumers remain one of the highest in Europe? Is this not wrong even in a monopoly situation, moreso when we all know that the inevitability of EU liberalisation could bring stiff competition and put at risk the jobs of Gibraltarians in that industry? And it is not as if a small customer base is producing a situation where money needs to be re-invested in new technology in a large way since the dividend payments reflect a position after taking account of new investments.

The estimated dividend yield for the coming year is another £3.5 million between both companies. The customers deserve a share of that. There is a case to slash rates across the board and the Government, as shareholders, have a responsibility to protect consumers and convince their respective partners to do this. The cuts in international charges need to be accelerated and local charges need to be cut, particularly as it affects the usage of Internet. There is no excuse now, at this time, for our charges to be higher than in other places. There were sound reasons in the past to defend that position but not anymore. The dividend payments tell the story.

Against this background, Mr Speaker, one can hardly find acceptable the rash disconnections that take place without warning, the reluctance to adopt a policy of warning customers by phone prior to disconnections, the reluctance to provide collection facilities in the Centre of Town to facilitate payment by customers, et cetera. It is not as if Nynex has a cash problem. Why then this arrogant approach to the customer who is ultimately the one producing those profits? The company knows that bills do not get

to customers on time even if it is not of their own making. Why these unwarranted disconnections?

We were told that the features of the new £1.6 million computer would enhance customer service. Well, it might have helped management in many ways but the customer has not benefited one iota and it is the customer that foots the bill.

The two cases by the respective companies to the European Commission are caught up in the Brussels red tape. But Gibraltar is fast running out of numbers. In fact, Gibtel already has a waiting list of around 100 clients waiting for a mobile number. And although the EU legislation on liberalisation was promised in 1998 and 1999 by the then Minister for Trade, and earlier this year we were told it would be published during this same session of the House, we are still waiting to see it. And yet, despite the fact that it has not been passed in this House, aspects of it have been found applicable as the Government learnt the hard way, in court, in the ruling over the Gibnet challenge although I do understand that there is an appeal presently being launched through the Privy Council on the Gibnet case which, let me tell hon Members, only makes sense if the point of principle is being challenged but certainly if the intention is to bring the liberalisation legislation to the House it does not make sense to spend more money in taking the matter up with the Privy Council but we might have an explanation on that later.

There should exist no good reason for any customer coming to Gibraltar and asking for a leased line to UK to be charged an exorbitant rate when in another telecoms jurisdiction that charge is 10 times smaller. What happens is that Gibraltar loses that customer and we are all the worse for it. I regret to say that it looks as if there is no coherent policy on telecoms and that Government leadership is absent. Now we are still juggling over whether a merger takes place or not or whether one of the two foreign shareholders sells to the other instead we should be strengthening our customer base for the eventuality of competition from across the border.

Mr Speaker, if we are going to be competitive in e-commerce, the cost of Internet must come down. We have heard the Minister saying certain initiatives that have been taken on e-commerce and on training on e-commerce but it is crucial that this should happen if we are not going to lose the boat.

We now know that this cable to Africa which the Chief Minister rushed to include in the manifesto was the result of a discussion with a client and might now not materialise. Certainly Government funding for it is not in this year's Estimates, connections to Morocco can take place via microwave and I take the point that the Hon Col Britto said, that Gibtel is buying capacity in the SEAMEWE network and therefore that might be the alternative strategy taken by the company with no expenditure to the Government. But let me say that there are other potential businesses to be attracted by the laying of a cable across the Straits and I would say that that is the best alternative although certainly a costlier one.

I now turn to GBC, Mr Speaker. I was reading the contribution of the Hon Col Britto last year and could not help thinking that having taken such a long time in approving the proposals of the corporation, there should not have been a greater monitoring of the financial situation over the first year after the re-launch. Col Britto said the following, "The plan submitted by the Corporation envisages GBC adopting a more commercial approach at, may I say, the insistence of the Government. The projection is that after the initial period, a gradual reduction in the level of the subvention should be possible". Employees were to receive cash bonuses if the agreed targets were achieved. Well, Mr Speaker, we do not seem to be on target and the subvention has slightly increased. What I am uncertain is whether the bonuses have been paid or not. Despite having to put up with Spanish soaps, which add nothing to our culture or educational requirements as a community, the potential to attract advertising has not materialised as projected on television. So we finish up with some programmes we do not particularly relish having on our screens, many disgruntled viewers and we are none the better off financially. On the contrary, the salary bill is now greater than it

was. It is a pity, Mr Speaker, that all the efforts of the re-launch should have not been directed towards a shorter programming exclusively community orientated as was suggested by the Opposition. That is the only thing that would be missing from our screens if GBC were not there and it is the only gap we need to fill. Indeed, the advertising around community programmes is more intensive because advertisers see what perhaps GBC management seems not to see, that viewers switch on for community programmes. I must say that there has been an effort on the part of many employees in the Corporation to improve on these type of programmes and this is very welcome. We shall have to wait and see what the results of the second year of the re-launch looks like and whether the projected targets insisted upon by the Government are able to be met or not. We feel, in the Opposition, that expenditure on GBC from the public purse is justified as long as the Corporation produces what viewers want to see and there is greater financial accountability on how management spend that money although I do understand that a big chunk of it is on salaries. I am sure that if instead of Government Members appearing so often, particularly the Chief Minister, we were to get a greater cross-section of the community, perhaps viewers would feel that GBC belongs more to them, to the public. I say that tongue in cheek, Mr Speaker, for the benefit of the uninitiated.

Mr Speaker, it seems to me from the Estimates that the matter of the contract for collection of arrears with Land Property Services is still unresolved. It also looks as if, despite the re-establishment of the Arrears Unit within the Government, the matter of collection of arrears is still something which continues to concern the Auditor. I say this because the Government made a lot of song and dance over this issue when sitting in the Opposition and the Chief Minister himself set himself as a matter of policy, the reduction in arrears and there seems not to be much progress or improvement in this direction.

Finally, Mr Speaker, I would like to emphasise that the broadbrush approach in the implementation of policies by Ministers, as it affects public services in some areas, is not taking

into account the needs and requirements of individual citizens who are in some way detrimentally affected by Ministerial decisions. When they want to complain, Ministers will not see them generally, they are directed to complaints procedures set up which many citizens do not seem able to cope with and become exasperated. There is a perception that this Government will not listen and do not care when it comes to individual complaints by elderly citizens needing the installation of a shower or fixing a tap or unable to understand any area of policy as it affects them. Thank you for your indulgence, Mr Speaker.

HON K AZOPARDI:

Mr Speaker, following on from the hon Member that spoke extensively about Buildings and Works, I think my contribution will be somewhat different as expected, of course, given my different Ministerial responsibilities.

Before I talk about my departments I want to take the opportunity to make some general observations. This budget that I am presenting today in relation to my department, the Trade and Industry and Telecommunications, is a radical change for me given that for the last four years I have been presenting a budget which is public service driven rather than private sector led. Indeed last year I came to the House with a total budget of both my departments of about £35 million which was the largest of all departments and now I come to the House with a somewhat more humbling figure of £2.2 million which by no means makes me the financial Cinderella of the Government, that role is reserved for Mr Corby with a budget which is smaller than mine but it is still certainly indicative of the ethos change, I think, between my department now and my department then. I was at the head of a department which was a spending department, a social service driven ministry at the heart, what I like to consider the heart of social change and now I have a responsibility for a ministry of economic regeneration. A marked change between public services and private sector driven sectors. By necessity, of course, that has entailed that I need to have a conceptual change on the approach to matters, no longer public service driven, as I

say and by necessity my presentation today will be forward-looking and not analytical of the past because, of course, I have not had this responsibility in the last four or five years and therefore I feel that I should restrict myself to present a more forward-looking budget without necessarily looking at what measures have been put into place in the past by my predecessor. I think it is the practice before I go into my contribution to acknowledge and congratulate Members on making maiden speeches and I am happy to do so in relation to those Members who have made those maiden speeches today and indeed yesterday, I think it is important that the House do that. I also take the opportunity, before I go on, to thank the public servants who have so helpfully assisted me in the last four years in Environment and Health; thank Dr Linares for his kind comments about me yesterday, I am sure that he will make an excellent Health Minister as indeed my Colleague, the Hon Col Britto will with his portfolio of the Environment that I used to have before.

Mr Speaker, Trade and Industry and Telecommunications, as far as I have inherited and to the degree that I have been able to assimilate part of the old Ministerial responsibilities that I used to have, is divided into four principal divisions – commercial; finance centre; telecommunications, and heritage and planning. Indeed commercial itself is split into, what I consider, different subsections even though there is no formality behind that degree of separation. But I would say that it is separated into commercial projects both local and inward investment, new projects coming in from the outside; business advice and assistance; EU funding; lands; trade licensing; and importantly now in view of the comments that have been made by several Members today, e-business is an integral part, I think, of the component parts of the commercial aspect of the Ministry.

If I can first deal with that, with commercial and give the House a flavour of how I see the next 12 months and certainly perhaps the future beyond that also in relation to the commercial aspects of the Ministry. As I say, I feel that there are two sides to the commercial projects that the existing local business and indeed

the inward investment coming in from outside, the new projects, I feel that the objective obviously has to be to assist existing business, to consolidate, prosper and expand and to work with representative bodies to identify needs of the business community such as the Chamber and the GFSB. I have already met both organisations in the last few months. We have agreed to regularly meet in this process of identification of needs so that we can move forward in this partnership. I think it is also important to involve the unions and the trade unions now that my door is open to discuss with them any aspects which may impact into DTI because I do believe that the prospects and the success of the Ministry depends on a cross-section partnership between the private sector and indeed the unions and the Government. In relation to new business, of course, I think our objective is to create a user friendly business environment to attract inward investment to Gibraltar. Whether we do that or not, whether we are successful in that or not, will be seen at the end of the four year term and I would expect at least for Members to suspend judgement until we have got that chance to create the right environment to attract inward investment to Gibraltar. I think it is certainly for me, premature to make an assessment, certainly I would venture to say premature in any event to make an assessment but my intention certainly, having been assigned this Ministerial responsibility by the Chief Minister is to develop policies to attract commercial projects and finance centre institutions to Gibraltar within the framework of the general aspirations that I pointed out a few seconds ago.

In relation to business advice and assistance I think there is some work that can be done to make the role of the Business Advisory Unit and function and scope of the service the Business Advisory Unit is intended to give members of the public and indeed people who want to start up businesses, clearer and perhaps increase to a degree greater awareness in that field. I intend to work with the private sector to identify if there are any issues in relation to the BAU that they would like to target, I have to say that in my preliminary meetings with both the Chamber and GFSB it has not formed a big part of the discussions, they have concentrated on other issues some of which will be things that I will talk about later

in my presentation but this has not been a major issue though I recognise that perhaps some work needs to be done in that context. The big infrastructure projects that the Government are taking forward to assist business in this field is, of course, as a result of some EU funding projects that we have been able to allocate to this area, the Lathbury Industrial Park and the North Mole Industrial Park. We are going to cater for different types of businesses, the ones at Lathbury will be smaller units, the ones at North Mole will be less but much larger units which will be able to cater for different sectors coming into Gibraltar and for different types of businesses. But I would expect that the works, those industrial parks certainly expected by my department, will be completed mid-2001 or so, slightly earlier if we can move quickly but certainly within 2001 we would expect those projects to be finalised which will certainly assist us when it comes to promoting Gibraltar and promoting within Gibraltar a great environment of entrepreneurship because space, as hon Members will know having been in Government for eight years, is a perennial problem when it comes to allocation of businesses and allocation of business space and people always say they cannot really afford high rents at least when they are starting up and I think it is good for Governments, in the same way as we have done with Governor's Cottage, to provide some infrastructure for people to use it as a platform from which they can then deploy to larger things if they are successful.

Under the lands heading I was only going to mention this issue of space and I have done so already. There are other aspects of land, of course, that impact the department such as the continuing discussions with the MOD but I do not think it is a budgetary issue and I do not intend, unless hon Members wish me to do so, to look at that area extensively.

As the House knows, the department has co-ordinating functions for EU funding and indeed a new programme has been submitted to the European Commission for approval. We are, at the moment, tying or expending the last elements of funding of the previous programme, 1997/99, and the funding of projects that were approved as a result of that EU funding allocation and the

projects that had to be committed by the 31st December 1999, will have to be spent by the 31st December 2001. The principal projects there, of course, I think they have been talked about in the House before and other Members have made presentations but I think the flagship projects to which European funding is being directed and, of course, apart from Lathbury and North Mole, the more substantial one is the Theatre Royal and the World War II Tunnels project which I think the Minister for Tourism was talking about some minutes ago. As I say, that funding has to be spent by 2001 and Government are actively monitoring those projects to ensure that we adhere to the criteria.

In relation to the new programme, I have said to the House before and perhaps it bears importance that I should remind the House of that fact, that the Department of Trade and Industry submitted through the normal course of things, a single programming document to Brussels via the United Kingdom setting out the aims and objectives of the EU funding application on how we intend to dispense EU funding for the period 2000/2006. Hon Members will recall that we announced recently that we had been allocated £0.75 million approximately per year for the seven-year period 2000/2006. The process for approval of that programming document has commenced in Brussels, I know there are meetings set up between members of DTI and the normal people who discuss these matters in Brussels so that the process can be finalised and I would expect, certainly that is my understanding having had discussions with members who are in charge of those discussions, that we would have formal approval so that we can start dispensing funds it is expected later this year towards the end of the year. That, of course, means that the 2000 allocation, even though the programme is 2000/2006, there is an element of flux in that we cannot start rushing to spend this money until the formal approval of the project but, of course, we can identify and the private sector is being urged to identify projects within the ambit of the structure of the programme that we submitted to Brussels. The Chamber, the GFSB and the unions were involved and consulted on the documents so they know what is in it, they know what the framework is and it is not very different either from the previous one except that perhaps we have given certain

emphasis to telecoms and e-commerce and some other emphasis to port development and because of the requirements to comply with the environmental directive on waste water treatment, some mention has been made of funding that may be directed towards that end. All in all, it is in consonance with Government policy and the framework, as I say, is a matter of public knowledge to the extent that the private sector partners have been consulted on the matter.

One of the other aspects, of course, of DTI is trade licensing and I have inherited the review of the Trade Licensing Ordinance. I do not intend to go into this in detail. I know that there is some discussion and there is a paper that I was sent very recently in relation to this matter and it is under consideration. One of the other aspects, of course, of the commercial division of DTI is that they have a separate budget to the finance centre. It is not an extensive budget, I would say it is fairly small really, about £20,000 to market Gibraltar in a commercial sense and I know that there are plans specifically that the department has and is eager to conduct in Morocco, Tangier and Casablanca and Marrakech and some contacts are being made with Morocco and meetings are to be held in the next couple of weeks to see what can be done with that particular country. I think North Africa opens commercial and finance centre and e-business opportunities to Gibraltar and it is in that context that perhaps I could discuss very briefly e-commerce, in the context of the Moroccan and North African connection because the Government have committed funds and indeed commissioned a feasibility study into e-business. The terms of reference are quite wide but there is a particular reference to Morocco and North African opportunity is made in the e-commerce terms of reference of the feasibility study and we will hope to have that study in place submitted to the Government at least the first draft, by early June so that we can receive the final draft for consultation with the industry round about the end of June. The e-commerce feasibility study is important not only because it looks at North African opportunities but because it looks at e-business generally and I think this is an area which has now become fashionable to talk about and there is a degree of uncertainty and lack of awareness. It is a technical

area while at least it lends itself to technical jargon being dangled in front of one confusing the uninitiated and distracting one and discouraging one from involvement in e-commerce but certainly the Government's role is to remove the mystique from e-commerce and to encourage business to go towards this area. I think the Government can do four things in e-commerce. We can educate and train; we can market; we can assist to finance, if necessary, at least some aspects of detail in relation to e-commerce; and we can legislate. We cannot run the businesses but we can facilitate business in relation to e-commerce and that is at the heart of Government's policy appraisal in relation to this field and I have to say, I am not sure whether the last speaker, the Hon Juan Carlos Perez when he was talking about telecommunications meant his comments also in relation to e-commerce, get that impression but if he did I would have to say and reassure him that the Government take the issue of e-commerce quite seriously. Insofar as it connects with telecommunications, the whole issue is under appraisal and the Government are in the throes, at the moment, of developing a strategy to take forward this area of e-commerce so that we can facilitate business opportunities, so that we can do those four things – market, educate, finance and assist and legislate in the context and in conjunction with the private sector. I should tell the House, for example, in relation to legislation that we expect to issue the consultative paper with the legislation annexed on e-commerce very shortly, certainly within the next couple of weeks. That will be followed by a period of consultation, of course, and subject to the extent of amendments that people feel is necessary to be made to this legislation I would like to move as quickly as possible. It will run in parallel to this ascertainment and identification of a development strategy in relation to e-business that we are putting forward, as a result of the feasibility study and together with the Think Tank that I have set up to deal with this area and we would hope that we will be in a position to go out and market Gibraltar as an e-business hub by the autumn of this year as a result of having settled our development strategy, our marketing strategy, the training and education opportunities that we intend to put in place, hopefully the legislation by then and also identify the degree of assistance that can be given to e-

commerce in a financial sense. In that context it has a link, of course, with the EU funding programme because there are possibilities that are being drawn up by DTI for funding assistance in relation to e-business such as design of websites and assistance with security certification, et cetera. There is, of course, a link, as I think the hon Member who last spoke before me, was making with the area of telecommunications. The e-commerce legislation will regulate but will not facilitate business. The facilitating business, the facilitating bit of legislation is of course the telecoms liberalisation. There the Government have made clear its commitment to go forward and transpose and introduce liberalisation as soon as possible and I would restate the commitment generally. Once liberalisation is in place and we have a greater possibility of dealing with the issue of whether or not there is competitively priced bandwidth in Gibraltar then I think it will certainly have a knock-on effect of the possibilities that will be opened up by e-commerce. I think that is the real issue that is in the heart of the telecoms liberalisation debate and I recognise the link that it may have with e-commerce and time will tell whether indeed it is certainly a genuine fear that people have as to the pricing of bandwidths or indeed whether we can deal with it once the telecoms liberalisation is in place. I would say just generally on e-commerce, before leaving it, that it forms a great plank of our commercial policy, that we think that there are great opportunities both for local existing businesses in Gibraltar and for businesses coming to Gibraltar and we are eager and enthusiastic about that area of business and we hope that, as a result of the development strategy that we intend to put in place, those opportunities will indeed arise and render substantial benefits to the economy and people who make use of those opportunities.

Mr Speaker, one of the other rather unrelated divisions, unrelated to commercial, of course, is heritage and planning. There I intend to be brief because I have spoken about heritage and planning at length before and I do not expect that Members are bored hearing me about it but as I have done so before, I think I need less to map out Government's direction in relation to heritage and planning because we have painted the picture on previous

occasions when we have come to the House and certainly at the budget session. Very briefly, Mr Speaker, the new Town Planning Ordinance which came to the House in November last year and was passed, that was commenced in part but not fully. The reason for that is that the regulations that had to stem from that Ordinance were not ready, they were being drafted, the draftsmen who were conducting that work were engaged on other urgent business for Government and only after the election was it possible to direct some resources to that. The regulations are now ready and I approved them subject to a couple of last minute changes and I will expect that those will be put in place and certainly the Ordinance fully commenced by the next month or six weeks. What that means to the Town Planning process is that while we have, as a matter of practice, taken the view that if there are potentially controversial applications coming before DPC we have encouraged public participation to issue and Members may have noticed that from time to time there have been adverts in the press inviting comments in relation to particular applications. We have not been able to oblige or direct people to go down the public participation process but these regulations, together with the commencement of the Ordinance, will do precisely what we mapped out late last year in the House to the process. In other words, it will give people now the chance to make representations and have the representations considered by the Development and Planning Commission and those matters determined after a fuller hearing of the relevant issues of concern.

The department has been restructured in the sense that it never really had a heritage arm even though I had Ministerial responsibility for that and some recruitment was necessary in the area and indeed recruitment was undertaken, a conservation officer was recruited last year, we are now finalising hopefully and filling the post of additional Town Planner. I know there are some personnel issues outstanding there but one would hope, certainly, from my point of view, that we will have someone in post quite soon especially given the context of the commencement of the Ordinance. The House has been told on previous occasions about the progress of the Heritage Bill which has been slower than I would have wanted but that is because there has been

detailed discussions with the Trust and now that the Trust have changed leadership we have effectively had to start again on some of those discussions but I would hope that we can move rather quickly once the summer process has ended.

Mr Speaker, the Hon Dr Valarino mentioned yesterday that he regretted Spain's objection or re-entry objection to our application for World Heritage Status. I associate myself with those comments. Certainly the Government agree with that. We see no need why the heritage aspects which really should be beyond all issues of concern have to be taken up by Spain and indeed the Government are trying to ascertain the exact nature of the comments that have been made but certainly there have been murmurings of protest from Spain in relation to that matter, something which the Government rejects. As far as we are concerned, it is no business for Spain to object to Gibraltar's World Heritage application and it will not deter the Government from putting it forward because we know that there might be objections. We intend to go forward, we think it is good for this community and we think not only is it good for Gibraltar heritage but that it will add a further plank to our tourism industry. We will continue undeterred even though, of course, and the House is aware no doubt that as a result of the objection, there will be a great degree of political lobbying in the background which we will have to be aware of. It is a long process, this will not happen next year or the next. We always envisaged, because we were put on a list which would allow us to apply within 10 years, that we were not ready anyway and we would not be ready probably for four or five years from the point at which we were put but certainly notwithstanding the Spanish issue, our intention is to go forward and defend to the best degree possible the inclusion of Gibraltar, because we think that on merit Gibraltar deserves World Heritage status. Indeed, that was a comment made to me by UNESCO people who came from the World Heritage Bureau in Paris to attend a conference last year that they thought that Gibraltar's application not only had a great degree of potential but could form the basis for being a model for other applications. People from the UNESCO World Heritage Bureau do not tell one that unless they think that one has a good chance and in my view the only thing

that could really stop our application coming to fruition is the political issue which, of course, the Government regret substantially. Finally on heritage, Mr Speaker, I would just mention that the Government are directing further assistance by way of funding to Heritage Conferences as we have since 1997; the Calpe 2000 Conference will focus on conservation in small territories and next year's conference again will be on the theme of the Neanderthal skull and that is as a result of great interest that there has been internationally on the conference we had in 1998 when we hosted the 150th Anniversary of the finding of the skull in Gibraltar. There was a great degree of interest not only from the academic press but also from television crews from several countries who came to Gibraltar and filmed the proceedings. There is great interest, again, in Gibraltar for next year and I would hope the success like last time where we got about 150 delegates and it will create a niche for us in a sort of educational heritage market with people coming to Gibraltar as they did last time from places as far as the United States, Israel, Russia, just to talk about heritage in Gibraltar. I think it is interesting for us to expand any niche market that we can get our hands on. At the end of the day we are a small community so we have got to maximise our resources and the Government are keen to do that when indeed we have a heritage goldmine such as the one that we hope to identify and expand next year in the conference.

Mr Speaker, I move to the finance centre as my last portion in my contribution in this session of the budget. Here really I have to talk about a whole string of things in relation to the international initiatives that perplex most small jurisdictions and most people that run finance centres. The finance centre business, apart from the corporate management and trust services that people have historically undertaken but, of course, they have done that as a result of other finance centre activity, is also based on banking, insurance, investment services, asset in the sense of asset holding, funds, personal and real property; all of that linked of course to the issue of passporting that I will talk about very briefly just near the end. I wanted to first talk about the international initiatives that hound jurisdictions. Here I am talking about the

OECD, the FATF, the FSF, the EU tax – it sounds like an alphabet but it does mean something to someone. I wanted to give the House at least a brief status report of where we are on these things. The OECD was going to publish a list in June this year setting out the jurisdictions which it deemed to be non-co-operative, in other words, the black list. They have now reviewed their intentions, this was as a result of the OECD reports on tax harmonisation; they have now reviewed this initial thinking as a result of international lobbying and I have to say a great degree of lobbying by big organisations such as the Commonwealth Secretariat that have made statements internationally on behalf of Commonwealth members that were being affected by the OECD initiatives and they reviewed this and they no longer are going to publish the so-called black list in June this year. They intend to publish a list, I understand with a document annexed to it saying that it is not meant to be a black list, it is meant to be a list of territories which they want to entertain dialogue with for the next 14 months with a view to their meeting certain standards and certain criteria on tax harmonisation principally and exchange of information which seems to be now the big issue. They will also say in June and it is suspected, I have to say, that most people will be on the list. It is also said that the OECD position is that that will be followed in July 2001 with the black list. If people by 2001 do not make these commitments to do certain reforms of their tax structure, undertake certain agreements in relation to exchange of information, et cetera all that will be made clear no doubt in the annex to the June list and in the process of dialogue that people will undertake in the next 14 months. If countries are not prepared to do that then they will find themselves on this so-called black list which will come in July 2001.

The FATF, the Financial Action Task Force, are conducting two things. One is a mutual evaluation and another is a report on co-operative and non-co-operative jurisdictions. In fact, there is a meeting next week which I will attend with the FATF because they intend to publish a report. Everything seems to be homing on this target date of June and we have seen the FSF a couple of days ago, from publishing a report in June 2000 on co-operative and non-co-operative jurisdictions. They are basing this report and I

know that they are preparing a report for each jurisdiction that they are reviewing on the basis of 25 questions, there are answers to 25 questions and we have been toing and froing with this information. We have responded to them a few times, they have come back to us with a draft report, we have then sent them more information because we think that some of the statements that they make on the draft reports are inaccurate and they do not reflect the real situation. Of course, all of this happens because these initiatives are run on the basis of assessment by correspondence. They do not take the trouble of coming to the jurisdiction and having a look at these places and sometimes one can only really understand how assessments are conducted and how good the regulation is if one looks at these places. The parliamentary delegation of France who came here commented the same thing to me before they left Gibraltar that they had a false impression, they had just been in Madrid, they came here and they left with a much better feeling about Gibraltar and they made helpful comments in the press conference that they had at the conclusion of their visit and I really think that if assessments are to be prepared on a fair and transparent basis they have to take the trouble of coming to each jurisdiction and, unfortunately, there is no sign that the initiatives are going to be run on that basis. Anyhow, the stage at which we are at with the FATF is that there is a meeting in Paris with the of the group who is writing the Gibraltar Report who also happens to be the French Government's representative on the FSF. Hon Members do not need me to explain that that was, I will return to the FSF very briefly in a minute, the other two principal issues are the EU tax code and that was a package of things and Members will have seen the press comments over the last couple of days indeed that quite clearly indicates to an impasse on the issue of the tax code because of the different positions being taken by the United Kingdom who is now promoting a policy of exchange of information and principally Luxembourg that opposes that and prefers the so-called withholding tax on the same directive. That is creating an impasse which I think, for a change, may be useful to Gibraltar it results in neither withholding tax or exchange of information. Whether it results in that or not only time will tell. But certainly my feelings on whatever happens at EU level, the other

initiatives will get together to set similar agendas which we will have to grapple with even though there is no progress at the EU front. It is quite clear that because there are so many initiatives that there needs to be co-ordination, clarity and consistency. Co-ordination because there are so many that jurisdictions are being approached by individuals asking for the same information, there is a great degree of overlap between issues that people are talking about – financial regulations, tax, transparency and exchange of information. There needs to be clarity because it is not clear how people are being judged. No reasons are being given, it is not clear what criteria we have got to meet and there needs to be consistency. For example, one cannot have the OECD putting pressure on everyone on a whole variety of issues and then finding that two of the Member countries of the OECD, namely, Switzerland and Luxembourg reject the OECD's own report on tax harmonisation, it is a completely ludicrous situation to find oneself in. I think our position is, fine we will meet international global standards but there needs to be clarity and consistency and co-ordination and there has to truly be global standards and there needs to be a level playing field.

I want to return to the FSF briefly because I saw the hon Member's press release yesterday reported in today's Chronicle and I have to say that I am sympathetic to the Hon Dr Garcia's sentiment which he puts across in his press release but I have to say that he is fundamentally wrong on the content of it or at least a great portion of it and it would be, I think, important for me to point that out to him because there are some inaccuracies and quite important inaccuracies in the comments that he made in his press statement. Let me give him a bit of background first so that he knows where I am coming from. The FSF exercise is conducted, the FSF being a creature of the G7, created an offshore centre working group to quote them, "to evaluate the impact on global financial stability of the uses made by market participants of offshore centres and the progress made by such centres in enforcing international credential standards in complying with cross border information exchange agreements" which of course is rather wider than just regulations. The methodology of the FSF report leaves a lot to be desired. Indeed

their own press release admits and concedes that the process is entirely subjective and impressionistic. This is a process conducted and they decided to make a review, they write off a questionnaire, there is no real criteria, no one is told how they are judging jurisdictions and then they issue a report which they themselves agree is both based on the questionnaire but also on what they call "impressions of other people in other jurisdictions" about particular jurisdictions. In other words, we do not particularly know if the impression that they have formed of Gibraltar is based on some hearsay, some comment that they have heard from regulators in Bahrain, we do not know where this stuff comes from. It is effectively judgement by hearsay and the process of the FSF in our view is fundamentally flawed because it does not accord with the basic principles of natural justice and is not a fair and transparent process. The FSF's own statement says, after they talk about the categorisation of OFC's into three groupings based on responses, they go on to say, "the categorisation does not constitute judgement about any jurisdictions adherence to international standards. An inclusion in a particular group does not imply that such a categorisation applies to all sectors of the financial system within an OFC. The publication is intended for the purpose of setting priorities, it should not be viewed as an assessment and it is not intended to be used for any other purpose than those stated above" the problem is, of course, that as soon as one publishes a list people assume it is an assessment. The press release says, "this is not an assessment. The FSF have not conducted an assessment. We have just got questionnaires and we formed the view based on hearsay but here is a list". Of course that is going to create the aura of an assessment which will be picked on by the international press and everyone is now running a story as to whether there is an assessment or there is not an assessment. In fact, the report that was published in April says there has not been an assessment, there has been a response to a questionnaire and what they urge is that the IMF bring forward an assessment of jurisdictions. All of that by way of background, Mr Speaker. And I should say somewhat ironically as well, I note that the hon Members if they care to look at the report that was published by the FSF in April, they separated jurisdictions, they

went to a great degree of trouble to say that not only small island states were finance centres. That it did not matter whether one was a small island state or not, the issue was whether one was conducting non-resident financial centre activity and they made two lists. One was the major financial centres which included all G20 nations and then the offshore centres were all under a heading significant financial centre activities. In other words, implying quite clearly that the major nations: Britain, amongst that group, run much bigger finance centres than everyone else. Then it went on to talk about in the next paragraph, after they had separated the two big sections of countries into major finance centres and those with significant activities, it then went on to say that they would grade people by a certain criteria which is the inaccuracy of the statement and I will come back to that. But the point that I wanted to make, at least at this point, is that having said all of that then they decided that they would wait a period effectively of two months to come up with the listing of the particular territories and this was what came out last Friday. There are two points I would make, one is in relation to the press release and the other one is a macro point. None of the countries in the G20, apart from two or three, appearing under the heading "Major Finance Centres" are in the list, none of them, none of the G20 are in the list. None of the big group under "Major Finance Centres" have been included in the listings and one has to question, frankly, the motives behind such a process that quite clearly one paragraph says, "the big finance centres are these"; "the next group is only places that have significant activities but are not the major ones" and then only decides to list everyone under significant and only Switzerland and Luxembourg and Singapore under Major Finance Centres, we have to really question the political motives of that process and this is why I think there is more than meets the eye in the general FSF process. It is more than just what is said in the report, there is a great degree of politicking and I think it is no accident that people who have substantially criticised the international initiatives such as the Bahamas who talked about the international initiatives representing fiscal colonialism find themselves in group three and at the back of the queue.

MR SPEAKER:

Sorry to interrupt, just an assessment. Is it going to be five minutes or half an hour?

HON K AZOPARDI:

Ten minutes, Mr Speaker.

MR SPEAKER:

I do not want to press you because it is very interesting.

HON K AZOPARDI:

Yes. Mr Speaker, the point that I was going to make in relation to the inaccuracies of the hon Member's statement is that in his press release he states the definition criteria of groups one to three which were included in the report of April 1999 but that criteria has been redefined. And it is important to look at the redefinition because the redefinition has meant a somewhat softer definition and I suspect that there might have been a redefinition, and I can only suppose because in the same way that we do not have reasons as to why Gibraltar has been placed in group two we do not have reasons as to why all the finance centres like Britain have been excluded from the listing process even though they were included in the April 1999 Report, I suspect that that may have something to do with it. That someone has decided not to list the countries under the heading "Major Finance Centres" except for a couple and they have decided to redefine the criteria to make it softer. And so if the hon Member has a chance, and it is on the website so he can refer himself to that, if he looks at the new definition of the groups it is somewhat different to the one stated in his press release which is based on the old definition which no longer applies, can no longer apply. And so, for example, Mr Speaker, the definition for group one in the April 1999 Report which was only the tentative one until they produced the list, as the hon Member says, said that those were jurisdictions generally viewed as co-operative with a higher quality

of supervision which largely adhere to international standards. That was group one in April 1999. Group one now is, that jurisdictions in this category are generally perceived as having legal infrastructures and supervisory practices and/or a level of resources devoted to supervision and co-operation relative to the size of their financial activities and for a level of co-operation that are largely a good quality and better than in other OFCs. It is a rather tamer definition. The definition in group two used to be as he said in his press release that they had procedures of supervision and co-operation in place but whose actual performance falls below international standards and where there is substantial room for improvement. It is now the jurisdictions for this category are generally perceived as having legal infrastructures and supervisory practices and/or a level of resources devoted to supervision and co-operation relative to the size of their financial activities and/or a level of co-operation that are largely of a high quality than group three but lower than group one. In other words, word for word the group one definition except that at the end they say "that is higher than group three but lower than group one". And the group three definition, which I will not bore the hon Member with is exactly the same but says that is below group two. I suspect that the decision that someone has taken in the FSF and remember the FSF is a creature of the G7 nations, to exclude the big boys from the list has meant that there has been a redrawing of the criteria. But it is not an important point for us because even though we have the disadvantage and is somewhat ironic and I make the point that the big boys have not been included in the list even though they were in the report, it is a valuable point for us to make because the description of the group within which Gibraltar finds itself is not as bad as it would have been had the April 1999 definition remained unchanged. And so I would make that point and the hon Member can check it for himself but it is in the press release and it is quite clear that that has changed. Certainly our view, Mr Speaker, is that we should be in group one, let me say responding to the macro point that the hon Member made in his press release yesterday. Our view is that we should be in group one for a variety of reasons, because of our high international standards and indeed we cannot understand why we are not in group one if Jersey and Guernsey

are in group one, we cannot understand it. The problem is, of course, that we have had no reasons. We got a letter three days before the report was issued saying, "We are going to issue the report and you have been placed in group two" with no reasons. No opportunity to discuss, no opportunity to entertain any degree of, "Look is it because you formed this initial view and you would like more information, we are happy to supply it" no degree of discussion and so the Government quite clearly are going to make our policy view clear to the public. We think we should be in group one, we see no reason why we should not be and we certainly intend to take it up with the FSF, yes we do. As I say, I have a meeting with the FATF next week and the of the group happens to be the French representative of the FSF, I will mention it to him informally but the Government intend to formally take it up with the FSF because I think it is an important matter. Having said that, there are bigger fish to fry because the OECD and FATF reports will be big assessments not like the FSF that is meant to jog countries towards a formal assessment by the international monetary fund and so we are conscious of the fact that there are other things on the horizon that can be very serious indeed as well. This is why I made the point before, that all these initiatives have to be run on a fair transparent basis and in accordance with the principles of national justice because if they are not we will find ourselves in that position, in the position that we are given 48 hours notice when it is too late to redraw the circle and that Gibraltar's image is affected by people who are doing assessments or reviews by remote control without a proper consideration of the facts. Our objective, as the Chief Minister pointed out yesterday, is to reposition our finance centre because whether we like it or not, tax, financial regulation, transparency and exchange of information are on the agenda and while we have dealt with, we think, with the financial regulation agenda, there are serious issues of tax that we must grapple with and of exchange of information that need deep consideration and there are trends there that need discussion in Gibraltar so that we can be ready to reposition the finance centre to maximise our fiscal attractiveness within the changing horizon. Our objective, of course, is to adhere to global standards as long as these

standards are global and not to trailblaze but to demand a level playing field in the finance centre.

Of course, the objective as well in relation to the finance centre is to conduct a rigorous marketing programme; to explore new products where new products are available to Gibraltar which should be maximised for the benefit of the financial centre community such as protective legislation that we are looking at quite seriously with other issues. I should say, Mr Speaker, just in rounding up that our aim is to put solid work and to consolidate all the efforts that have been made already into enhancing Gibraltar's reputation and image; to improve our products in the sense of legislation structures; the business attractiveness of Gibraltar, our working and living environment; our infrastructure and new products; that the Government have a role as a facilitator of business in that regard and that we hope and expect that as a result of all of that process it will render results for the wider benefit of the community.

The House recessed at 5.40 pm.

The House resumed at 6.00 pm.

HON DR J J GARCIA:

Mr Speaker, in the eyes of many and not just on those of us in the Opposition, this is a non-budget and almost a non-event and no doubt people will feel let down that much more could have been done and has not been done.

A year ago many of us in the Opposition made clear that with regard to this Government it was particularly important to measure what they said and to compare it with what actually happened on the ground, as very often these could be two different things. This remains an effective yardstick by which to measure the political performance of the Government, as it continues to be important to separate the reality of the facts from

the propaganda of the fiction that the people continue to be fed on a daily basis. Over the years, Mr Speaker, the Government have created a virtual Gibraltar. A Gibraltar where nothing is real or what it seems and where what is right or wrong depends on who says it rather than what is actually said or done. Mr Speaker, we have a Gibraltar where what matters is the perception, the image and the presentation and where the actual substance comes a long way behind and counts for little. For example, following public controversies between the Chief Minister, the Commissioner of Police and the Chief Justice, without going into the ins and outs of who is right or wrong, one can only but wonder what they would have said had this occurred in other times and with a different person as Chief Minister. And let us not forget the overriding importance that this Government attach to having undignified wrangles with the Governor over protocol, with the Foreign Office over procedure, rows about who stands next to who, who shakes whose hand in what position in the queue and who sits next to who in dinners. These seem to be matters to which more attention is paid than to the real needs and concerns of our country.

Mr Speaker, I move on now to the field of responsibilities which I will look at in this analysis on behalf of the Opposition which this year is very wide: Trade, Industry and Tourism. I will start therefore from the base of the figures given by the Government themselves in the Estimates of Revenue and Expenditure which we all have before us. Under Head 7, which is Trade and Industry, we will want to query but we will do that in the Committee Stage and seek further clarification because some of the issues have been touched upon already, in subhead 1, subhead 3(a) and subhead 17(a). Mr Speaker, Head 6-A is Tourism, and under this we will have queries on subheads 5, 8, 9(c), 11(a), 11(b), 12(a), 12(b) and 14. Like I said, some of them have been touched upon already but I will be seeking further clarification and I am just giving notice in case the Minister needs to get information.

I propose to start the assessment of the Government's performance in the field of Trade and Industry by looking at trade

generally or what could be best described as commercial affairs. This can be broken down into three areas. The first is the question of funding, both European Union and Gibraltar Government; the second is the continuing competition for local trade from what could be loosely termed "mobile tradesmen" from across the border; and the third are the Government packages with respect to rent, rates and duty which aimed to assist small business.

I start therefore with EU funding. I said at the beginning it was important with respect to this Government to look at what they said and what actually happened at the end of it. Perhaps nowhere could the gap that exists between the two be seen clearer than in the question of funding, both European Union and Gibraltar Government funding, for the business community. Those of us in the Opposition have long complained that there is not enough awareness among businesses in Gibraltar as to their entitlement to apply for official funding. Many who have ventured to apply complain that the system is itself too slow and too bureaucratic. These criticisms are reflected in the fact that only 60 companies have benefited from grants or loans in the past three years, a small proportion of the trading community. Indeed, in a survey of over 100 businesses employing nearly 1,000 people published by the Federation of Small Businesses earlier this year, it was revealed that 93 per cent of respondents were unsure or did not know at all how the question of EU funding worked; that 89 per cent had not even bothered to apply for EU grants or loans and that 90 per cent had not applied for Gibraltar Government grants or loans. Mr Speaker, the survey bears out the criticisms that the Opposition have brought to this House and it is clear that more needs to be done in the area of creating awareness amongst businessmen. In its conclusions, the paper makes clear, "That the vast majority of businesses surveyed by the GFSB had little or no knowledge of grants or EU funds available. The small number that had tried to access these EU funds have found the system difficult and bureaucratic, and few have been successful". And it is not only the GFSB that has been saying this, Mr Speaker. At the Chamber of Commerce Annual General meeting its President, Mr Bruno Callaghan, declared that EU funds posed

problems in access and were "too bureaucratic and unreasonable". The solution is not just more information, greater accessibility and less bureaucracy; the solution lies in involving small business itself in direct contact with Government. We understand that the Gibraltar Federation of Small Businesses is now the largest organisation of traders in Gibraltar and yet there is no formal role granted to it in the Economic Advisory Boards which would allow for more consultation and participation before Government policies are implemented.

Moving now on to the competition from "mobile tradesmen". Two years ago in his budget address the Chief Minister promised to modify the trade licensing system and the review, we have just heard from the Minister for Trade and Industry, is still under way, to curb unfair competition to local established businesses from unregistered and often illegal frontier traders. To date nothing has happened on this front and really let us face it, people coming through the frontier with scaffolding, carrying tool cases, step ladders or other working utensils are not coming here to have a picnic, they are coming here to work. This is more than an irritant. It is an economic threat to many businesses in Gibraltar, particularly the smaller trader who has to comply with countless rules and regulations at the same time as those coming in through the border can do pretty much what they like. There was a vivid exposition of this case a few months back in the local media by a Gibraltar small trader who asked about the constant flow of cross border casual workers such as domestic servants or craftsmen or firms that come and go to do specific jobs such as the installation of kitchens or window frames since they pay no taxes and do not contribute to the local economy. Indeed, Mr Speaker, this was a theme echoed by the Chairperson of the Federation of Small Businesses, Marilou Guerrero, in her last Annual Report of September 1999. Most illegal labour, she pointed out, is unregistered and "this has to be tackled simultaneously as it is affecting our small businesses. Although a mobile tradesman selling bread around the estates, for example, might seem insignificant to some, it is certainly very important to our bakeries and small grocery outlets who employ and pay their dues and are losing business. There are an abundance of these

mobile tradesmen operating in Gibraltar, affecting a wide range of businesses and these practices must be curtailed". Mr Speaker, it is not just the Opposition who are saying this, it is the voice of the traders and the representatives of the business community.

I move on now to the Government measures to help trade. As with everything else, it is essential in this field also to compare the statements made by the Government with what actually happens on the ground. And what statements the Government have made, Mr Speaker, presenting these measures as almost the be-all and end-all of the trading community and using them as a shield behind which to hide whenever their commitment to trade has been questioned and ignoring their effectiveness. If we start from the premise that everyone wants to pay less or nothing at all then, of course, someone somewhere must have benefited and done well out of them. However, that is not the issue, the issue is whether these measures have had the widespread effect of reducing business costs to shop owners and prices in shops for the consumer. This was the original intention of the Government. Any logical person in any logical thinking Government would monitor the effects of these measures to see whether they are working or not. We know from the Chief Minister, who has already told this House, not only that he is not monitoring the effects but he does not really care what those effects might actually be. Time and again we have asked the Government to monitor their policies. Mr Speaker, this is not an unreasonable request, it makes sense to see whether a measure which has been implemented is having the desired effect or not. Time and again the answer has been the same. For example, on import duty, we were told that on selected items they cannot be monitored because the computer cannot produce a breakdown or because it would take too long to do so. Indeed, this is something that seems to be rife in computers all over the Government service, Mr Speaker, either they have computers that do not work, computers that have not been programmed to produce the information requested, computers that are only now being put in place or in short, computers that do not compute, programmes that do not programme, databases that lack data and millennium technology that appears to be stuck in the Stone Age. When it can take many

an eight-year-old computer whizz-kid three days to produce a professional website it takes the Government three years and at least £12,000 to finally get the projects up and running. The Chief Minister has often confessed his lack of computer literacy to this House but he can rest assured that ordinary PCs which cost less than £1,000 can perform many of the functions that we are told are not possible or too time consuming. It is not that we are being critical for the sake of it, we are highlighting problems and offering solutions. The effects of the Government's measures to help business are that they do not seem to have helped much according to the trading community itself. In the same survey conducted by the Federation of Small Businesses, Mr Speaker, 70 per cent said that the rent changes had been of no benefit, 96 per cent said that rates changes had been of only moderate to no benefit and 66 per cent said that the duty changes were of no benefit; 52 per cent said that company tax changes were of no benefit to them because, of course, to pay less tax one needs to be making a profit first. On rates, Mr Speaker, the Opposition urged the Government last year to bear in mind that the effects of a reduced poundage would be put at risk by an increased valuation. I have been stopped by traders showing me rates bills in the street proving that this has happened to them and they have ended up paying more in rates than they did before. But the Government, Mr Speaker, do not monitor the effects and they do not listen.

I would like to say a word also about Casemates and it is more a word of warning than anything else, echoing concerns that have already been expressed and aired publicly by others. The House was told in August that there would be 130 outline proposals 70 of which were for bars and restaurants. A total of nine bars and restaurants have now been allocated. There is already cause for concern amongst the catering trade, Mr Speaker, of a crisis in the sense that one has the same number of people eating in the various restaurants and what needs to be done is to increase the share of the cake rather than have the same cake shared out between more businesses. I do not really know how the Government can counteract that but it is certainly an area of concern for many restaurant owners who have actually

approached us on this issue. Secondly, Mr Speaker, the original tender advert published by the Government in relation to this project stated, "that in the case of retail units preference will be given to novel businesses that add to and enhance the Main Street shopping experience and not simply replicate goods widely available in Main Street". There have been complaints in the media already that this criteria, which was set down by the Government themselves, has not been met in some cases.

A word now on e-commerce. Mr Speaker, all we have heard from the Government in the last 12 months is that we have to move quickly. When they say "we" they mean "them", it is the Government themselves who have to move quickly. I do not think that they understand the nature of the business and the technology that they are dealing with. Repeating the same jargon without getting to grips with it is not enough. If the experience of the website is anything to go by, both in terms of the time it took to set up and the money that it cost, then we know what to expect and while other countries are already cashing in on the boom we will be waiting in the wings and tinkering with the legislation. Mr Speaker, we can do things quickly and do them well, the two are not mutually exclusive. The Opposition attach considerable importance to the development of e-commerce in Gibraltar and to the provision of low cost and speedy Internet access for these purposes. Let us not delude ourselves, e-commerce, that is to say, electronic trading, is already happening; there are already people in Gibraltar buying things they see on line with their credit card and having those goods delivered to their homes or their businesses in two or three days. I myself have done it and that is an aspect of e-commerce. That is why it has been disturbing to read in the local media complaints at the slow pace of change. The Managing Director of a business set up locally to employ local people said that he needed an office here to work on the net linked real time to other offices in other parts of the world. High speed is essential and for a one-megabyte connection he was quoted £17,000 a month. The person in question pointed out that in Spain the same service would cost £450 a month. "Gibraltar", he added, "is not ready for the next century. It must move fast if it wants to go beyond selling electronics in Main Street." Mr

Speaker, that was in December. I do not know how much readier we are now but this is the kind of reputation we cannot afford to get and the kind of business that we cannot afford to lose. Moving fast means precisely that. The latest information I understand is that the legislation is expected to be in place in the autumn we have heard today. A leading banker was recently quoted as saying that although the window of opportunity is open for e-commerce, it will not be open forever and while Ministers ponder on the intricacies of the information super highway, while they discuss the availability of bandwidth and the cost of connectivity, La Linea announced a couple of weeks ago a multi-million pesetas investment by a Swiss company into e-commerce and technology to which they expect to hook up Gibraltar by laser beam and through La Linea to the rest of the planet. Meanwhile, Mr Speaker, the Government continue to move fast and watch the world go by faster still. That is why I say that we need to compare what the Government say with what they actually do.

In terms of financial services, Mr Speaker, I will choose to concentrate on two or three aspects of it and certainly in general terms my hon Friend, the Leader of the Opposition, has already declared our support for the finance centre, for its development and as a source of employment and economic wealth in Gibraltar. But certainly I would like to reiterate the concern of the Opposition, and it is no secret because we said this before, as to the contraction in the number of banks. It is clear that there is a serious contraction in the size of the banking sector. No new licences have been issued, the last we heard there were no new applications for licences and a number of banks that were already here have left or are leaving. The departure of the Springfield Bank and the Discover Card Bank were serious enough, the news which broke earlier this year that the Republic National Bank of New York, which holds three licences, is leaving also is a severe additional blow. This last bank has traditionally been the largest deposit holding bank in Gibraltar so the contraction of the banking sector is expected to be accompanied by a reduction in the level of bank deposits as well. Mr Speaker, there have been no new banks coming into Gibraltar since 1996 and we have not even been able to hold those banks that we had.

On another front we have heard of the various international initiatives at tax harmonisation and these continue but the Minister mentioned certain points on the FSF and highlighted the press release which had been issued yesterday but in a broad and general sense really the mechanism which got us to that category on the list is not really the issue which we were seeking to highlight. The issue we are seeking to highlight, regardless even of the redefinition of the criteria, was the fact that we were not placed in the same bracket as places like Jersey, Guernsey and the Isle of Man or even places like Dublin in Ireland and Luxembourg, our EU competitors in that field and really we are grateful that the Minister shared the sympathy with the Opposition in a broad and general sense on this issue and that the Government also believe Gibraltar should be in the first category. It is to us completely unacceptable that after Gibraltar has implemented all EU requirements, placed control of financial services supervision in UK hands, introduced British standards which are supposedly higher than those of the EU, that this situation should have happened and Gibraltar should have been included in the second group. Certainly, we are glad that the Government are taking up the issue with the FSF because we think it is important that that should happen.

On the question of post boxing, Mr Speaker, simply a couple of points. The Managing Director of an international insurance company declared to the media last September that post boxing might not work and that it was not ideal to passport financial services through a third party. Moreover their own international life operations were going to Dublin they announced, which had been in competition with Gibraltar for the business. This shows there is still more to be done. It shows also, and it is worth noting, that the House of Commons Foreign Affairs Committee also referred to post boxing as a poor second best alternative.

Mr Speaker, the attraction of offshore betting, when I was writing this section I entitled it "Industry" but surely there was very little to put under it because there have not really been any industrial projects. The attraction of offshore betting which was identified by

my hon Friend, the Leader of the Opposition when in Government, and now encouraged by the British Chancellor of the Exchequer by not cutting British tax rates, is important as it generates business, employment and money for Government coffers. This is another area where more could be done to take advantage of the present boom although bearing in mind that it might not be forever. Malta, Mr Speaker, is now poised to become the largest offshore betting centre outside the Caribbean following the granting of 10 licences to eight companies currently based in the United Kingdom and Ireland.

Other than the betting industry there is little else to speak of. The wine bottling plant, which was attracted here before 1996, remains the only industrial project of this size in Gibraltar. I have heard nothing more of the powdered soft drinks factory nor of the industrial plant that was earmarked for the North Mole by the Government at this time last year. We have now heard from the Minister that we expect completion by the summer of 2001. It could be, Mr Speaker, that they continue to repeat and announce the same projects time and again to give the impression of activity in the media when there is little actual movement on the ground.

On closing with trade and industry and moving to tourism, Mr Speaker, it is clear that promises made in the past have not been kept and projects that were announced have not materialised. There is a clear and coherent strategy within the Government to say whatever is convenient at a given moment in time. In the last budget the Government said that telecoms legislation would be brought to the House in the near future. Now, a year later, we still wait for the future to arrive and we learn that it will probably be after the summer.

Mr Speaker, moving on now to tourism, I wish to start the analysis of tourism this year as last year with reference to the statistics and the figures and the reality is that there are so many different figures available for the same items that the Opposition feel it is important to make this general point at the beginning.

Just to give one example, on the cruise passenger figures for 1998, at different times the Government have published four different sets of figures relating to the same thing. In December 1999 the total number of cruise passengers for that year was given as 90,180; by adding up the answers given to questions in the House of Assembly the figure came to 92,937; the same data supplied by the Government to Medcruise was 98,760; and in writing by the Minister for Tourism to myself of 93,214. While it is understood that only the figures published in the report are the official figures, the reason for such discrepancies has never been properly explained to this House. The difference between the highest and the lowest is not a few people or even a few hundred people, but over 8,000 people. Where did those people go, Mr Speaker?

When asking questions in this House on the frontier statistics, at times the answers given to the same questions have included residents of Gibraltar who cross the border and at other times they have not. This kind of situation makes for confusion and explains huge rises and drops in the figures as recorded by the Opposition. It could be argued that all we have to do is wait for the official figures to be published in the Tourist Survey Report. Unfortunately, the Government take so long to publish these that the debate is almost irrelevant by the time the figures come out. More than that, although the 1998 and 1999 reports appear to have been ready before the General Election, they were not tabled until after the election took place showing, as they do, a drop in the number of visitors to Gibraltar from one year to the next. Indeed, the total number of visitors to Gibraltar by air, land and sea in 1999 was not only less than in 1998, it was also less than in 1996. That the 1998 figures were published in March 2000 speaks for itself. To come back to the statistics, Mr Speaker, a couple more points. There has been a huge increase in expenditure for cruise visitors between 1997 and 1999 and an explanation is needed as to how the Government have arrived at these figures. I am sure that the House does not need reminding, but I am going to remind the House anyway, of the exaggerated claims for visitors from Morocco made by the Government in 1997, claims which were repeatedly defended by the Minister.

which were repeatedly defended by the Chief Minister only for both of them to eat humble pie later on and admit that they were counting returning Moroccan workers as tourists staying in hotels. In relation to the accuracy of figures, Mr Speaker, that incident says it all. It is also significant to note that the £121.57 million that we are told tourists spent in Gibraltar during 1999 is less than the corresponding figure for both 1995 and 1996. We hear every year that the way statistics are being compiled, collected and presented is under review. Since the Government themselves have expressed their dissatisfaction with the current state of affairs. There is one change which we note and that is that data in relation to hotels is now based on the actual hotel returns as opposed to on survey results. The Opposition understand that there has traditionally been a difference between survey results and the bed nights sold as declared by the hotels which does not seem to make much sense.

Mr Speaker, we move away from figures now to the question of marketing. The Opposition have no argument with the level of the budget allocated to tourism. Indeed, in Government, we would have retained it. We have serious criticisms, however, at the way the money is being spent and at the lack of return, in a proportional sense, for the investment. The Government have a tendency to exaggerate everything that they do. They seem to think that creating an impression of activity by manipulating the media it can be equated with solid results on the ground. In tourism also, Mr Speaker, it is important to see through the propaganda smokescreen and measure what they say with what they actually do. They have taken spin doctoring and made it into an art form. The planting of a tree or the unveiling of a plaque are transformed by them into events of extraordinary political importance. Mundane and run-off-the-mill affairs are moulded to become monumental occurrences not because of their inherent content but because of their propaganda value. Let me give the House one example of this. In November the Government attended and sponsored a series of tourism events in London which happened to coincide within the same fortnight. This included the World Travel Market, the Medcruise Conference and a series of dinners. By our calculations the cost to the taxpayer

was of about £67,000 with an additional £2,000 for representatives of the Gibraltar media who chose to attend. It is important here to make a distinction. One is the attendance of Gibraltar at these events which is one issue; and the other quite separate issue is the purpose behind taking the media. Mr Speaker, the Opposition fail to see how the reporting of the event by people from Gibraltar in Gibraltar is going to attract more tourists here when we are the only ones exposed to the information. The propaganda value, however, proved priceless. The only tangible result obtained was substantial news coverage here for the Government. This included three television programmes, and six pages of publicity which included 16 photographs, seven of which were of the Minister himself. When confronted on this point, Mr Speaker, the Minister told the House that the object of the exercise was "feeding information to the people of Gibraltar". Yes, Mr Speaker, for once we can agree, it was about feeding information, it was about propaganda and not about attracting more people to visit us. At least they admit it. So let us look at what they spent and equate that with solid results not with pictures of Ministers giving speeches, kissing babies or having coffees in Main Street. The Government aimed to spend a total of £825,000 on tourism marketing. The most obvious and immediate result of this is that the total number of people that came to Gibraltar in 1999 was less than in 1998. We would have expected it to go up, instead it went down. I now propose to examine the component parts of the industry, that is to say, tourism by land, by air and by sea.

Mr Speaker, in his budget speech last year the Minister for Tourism declared it was his objective to create a demand for Gibraltar holidays in Spain. He said it was "for this purpose that a Tourist Office was opened in Madrid in January 1999. There will be a concerted campaign over the next few months to raise the profile of Gibraltar as a holiday destination in Spain". In line with this statement, Gibraltar went to Fitur, we went to a trade fair in Catalunya, Spanish journalists were wined and dined at taxpayers' expense in Gibraltar and Madrid and a major advertising campaign costing £200,000 was launched. So what was the end result? The result was that we had less visitors from

Spain in 1999 than we had in 1998, that was the result. Mr Speaker, there were 5.9 million visitors by land in 1999 as compared with 6.5 million in 1998 and even 6.2 million in 1996. I know that the Minister will use and has already alluded to the fishing dispute as an excuse so let me say if one takes only the last six months of 1999, when the dispute was over and done with, so when one compares the last six months of 1999 to the last six months of 1998, the figure for people coming in is still down. What other excuse do they have? Could it have been the hurricane season in the Atlantic? The spotting of UFOs in North Africa that kept people away or maybe they were all watching the after-effects of the Monica Lewinsky scandal as it unfolded on their television screens? Mr Speaker, the point that I am trying to make is that they have spent more money and got less people and that they have to account for that to the taxpayer.

The number of cars and coaches crossing the border has also dropped when 1999 is compared to 1998. Nearly 1,000 coaches less came to Gibraltar last year. The number of people in coaches also dropped correspondingly by 18,000. Mr Speaker, there has been a 17 per cent drop in cars crossing the border in 1999 from 1998. When the last six months of each year are compared, the drop is still there. The largest single drop of 30 per cent is that of people in cars with 1.7 million people less coming in 1999 than came in the previous year. So coaches are down, cars are down, people in coaches are down and people in cars are down. Indeed, in the first two months of this year the number of pedestrians is down on the first two months of 1999. The latest news that coaches coming into Gibraltar are allowed by the La Linea authorities to jump the queue provided that the tourists spend time in La Linea is an area of concern for the Opposition. Mr Speaker, this is being hailed across the border as the start of co-operation between Gibraltar and La Linea on tourism matters but it is rather worrying that the kind of co-operation they have in mind is one where we give and they take. This House will recall that not that long ago the Chief Minister offered Los Barrios and the surrounding area a Tourist Office in Gibraltar. We have to ensure that we do not end up shooting ourselves in the foot with this kind of co-operation which may take business away from our shops

and restaurants as tourists coming to see Gibraltar end up spending money there and not here.

Mr Speaker, in his budget speech last year the Minister claimed considerable success and pointed to the figures to prove it. Now it is the turn of the Opposition to point to those same figures and not to claim the same thing. The Government should not get me wrong. We want tourism in Gibraltar to work. The Opposition want more tourists to come to Gibraltar, we want them to spend more money in our shops and restaurants and we want them to fill our hotels to capacity every day. However, it is our sacred duty to the taxpayer to point out our concerns and that is what I am doing.

Mr Speaker, the new coach park was supposed to be ready by August and it is now nine months late. The work at the frontier and the improvements and embellishments which were promised last year have been promised again this year and have still not materialised. We have a right to ask what is going on.

I move on now to tourism by sea. Mr Speaker, the section on tourism by sea can be neatly divided into cruises, yachts and ferries and I will start with the last one because without doubt the highlight of the year was the Government's decision to subsidise a ferry to Morocco as announced last August. At the time the Opposition questioned the suitability of the catamaran in question for strait crossings, particularly in winter and in so doing we doubted the wisdom of the Government's decision to inject public funds into such a venture. This was the only one of four consortiums after all interested in operating a ferry at that time that requested such assistance. There was also the issue of the vessel being allowed to make its original sailing without an original certificate of safety, which the Government admitted after being questioned on the subject. Mr Speaker, time has proved the Opposition right. From 14 September to the 11 November 1999, two months, the vessel did not sail at all and a further 13 sailings were either cancelled or postponed. By December of last year the Moroccan Workers' Association was urging a rethink as the ferry was prone to delays and cancelled sailings because of its size in poor weather. The service was then taken over by Blands who

repaid the loan to the Government. The incident serves to demonstrate the lack of judgement on the part of the Government in deciding to go ahead with the venture without taking heed of the constructive comments that were then being made from the Opposition. The Government seem to have learnt their lesson well. We now understand that no official funds for ferries are being made available to that company or to anyone else.

Moving on to cruises, the Minister predicted 300 cruise calls for Gibraltar in 1999. We obtained 173. Malaga, which is a relative newcomer to the industry, obtained 245. In June of last year the Minister told us that the R2, which used to call every 10 days, would now do so more often in 2000 and that its sister ship the R6, would also call once it came into service this month, in June 2000. A total, we were told then, of 116 calls from these two vessels alone was forecast as compared to 36. The incident with Renaissance Cruises occurred at the end of February this year. Then the Minister said that this was a serious blow to Gibraltar. At the end of March the cruise line announced that the R2, for commercial not political reasons, would be cutting back its calls at Gibraltar and the other ship, this time the R5, would not come at all. Presumably this must have been an even more serious blow than the one cancelled call in February but the Government did not say much then except that there was some kind of drop in demand for Mediterranean cruising and that we lose from one company what we gain from another. Mr Speaker, any attempt to diminish the importance of this must be rejected. The R2 was the ship that made the most calls at Gibraltar with 37 in 1999. It will be recalled that in the past the Opposition have questioned the wisdom of relying on one or two vessels calling many times to boost cruise numbers. The industry still expects an increase in cruise traffic to the Mediterranean which is also the view of the Association of Mediterranean Cruise Ports, Medcruise to which we belong. The Opposition are committed to the development of the cruise industry in Gibraltar. The funds for the cruise liner terminal were earmarked and obtained before the GSD Government came into office, that commitment remains. The Opposition want to see more cruise ships coming to Gibraltar, we want to see greater economic spin-off effects in the transport

industry, more cruise visitors coming in, spending more money. We want to see cruise ships staying in Gibraltar for longer; we want Gibraltar to do well and we want the cruise industry in Gibraltar to do well. For this reason it is unfortunate that Renaissance has decided to cut down for commercial reasons. There is still much work to be done, Mr Speaker, to attract a larger share of the approximately 156 different ships that sail the Mediterranean.

Mr Speaker, the Opposition also want the yachting industry and the marinas to do well and it is with regret that we point out that the number of yachts that called at Gibraltar in 1999 was still less than those that came here in 1996.

I move on now to tourism by air. In his budget speech of last year the Chief Minister said, "It remains a priority to increase air services to Gibraltar". Once again the Government have failed to live up to the aims and objectives that they set themselves. Mr Speaker, they spoke of having new routes to British regional airports and we could not even keep the route we had to Manchester although we hear there is something in the pipeline now, which caused considerable amount of disquiet and concern amongst those that found the route to the north of England more convenient than the current routes based at Gatwick and Luton in the south. Gibraltar also lost the route to Heathrow which is an important and convenient airport for many business travellers; we lost the 737s on the stop-over routes to Tangier, Casablanca and Marrakech and the two former have been replaced by a small aircraft which represents a clear downgrading from what there was before. Mr Speaker, when on the 5th July last year the Minister for Tourism promised a new airline by the end of 1999, little did we know what he had in mind. On the 30th September the Government announced the regional airlines flight between Gibraltar and Casablanca on a 19-seater aircraft. They said the air route "will offer new possibilities for both the business and leisure markets. It will fill the gap left by the former GB Airways service which had started to grow demand for the route". Under the agreement with the airline, the taxpayer had to pay about £65,000 subsidy for start-up costs, £35,000 in handling charges

and £18,000 in landing charges; a total of about £118,000 per year. From November 1999 to February 2000, there were a total of 96 flights carrying 233 passengers out of a capacity of 1,824 in those four months. In January 2000, there were 38 passengers in a total of 24 flights, just over one passenger per flight and which also means that up to that point each passenger has been subsidised by the Gibraltar taxpayer to the tune of over £400. There have been complaints by the travel trade in Morocco at the difficulty in getting visas to come to Gibraltar at the British Consulate in Casablanca. The Gibraltar Government stated in the past that in preparation for the new air service in their press release "new arrangements have been put in place for a speedier issue of visas at Casablanca". Once again, Mr Speaker, it becomes essential to examine what the Government say and compare that with what actually happens. Only 20 visas were issued in November 1999, mainly to the Moroccan operators who came to Gibraltar for the launch. One visa was issued in December, two in January and three in February. This whole scenario shows little or no return to the taxpayer for their investment and my understanding, from the last Question Time is that the financial side is now being reviewed as a result of the earlier error of judgement. The Government, Mr Speaker, have shown little imagination and foresight in relation to investing public funds in both air and maritime links between Gibraltar and Morocco, something which could have been done responsibly and with financial prudence. Let it be clear that the Opposition do want more flights to Gibraltar from more destinations all over the United Kingdom, Europe and elsewhere. However, this is a prime example to illustrate our complaint that the money would be spent in a different way and not in the way in which this Government have us accustomed. The trend in the 1999 figure is still that most people who fly to Gibraltar do not stay in Gibraltar; they cross the frontier and go to Spain. We have to try and encourage longer stay tourists to fly here, stay in our hotels, eat in our restaurants and spend money in our shops, this is what the Opposition believe should happen. Mr Speaker, it is still too expensive to fly to Gibraltar. At times, a London/New York ticket can cost less than a London/Gibraltar ticket and many people out there in the street are shaking their heads and wondering how that can be.

This year there were about 82,000 visitors who came to Gibraltar by air. By comparison, perhaps more out of interest than anything else because I accept that the two situations are not the same, Mr Speaker, we had 82,000 people, Malaga airport had 83,000 flights or eight million people. I only mention that out of interest not to compare their eight million with our 80,000 but to compare their 19 per cent increase with our 6 per cent. But like I said earlier, Mr Speaker, there are differences.

I move on now to the final topic in my contribution to the budget debate for the Opposition on Trade, Industry and tourism and that topic is hotels. As I have done throughout I will first examine what the Government have said and then compare that to what actually happened. In his budget address last year, the Minister for Tourism said that prospects for hotels were better, "It is the Government's intention" he said, "that the improved performance on the part of hotels should be sustained". All of us know that millions of pounds of taxpayers money has been granted to, loaned to or is owed by the hotel industry in Gibraltar. Let me say at the beginning that the wish of those of us in the Opposition is that our hotels were full with soaring rates of visitor arrivals and high rates of occupancy, as happens down the coast. The Opposition are committed to the hotel industry and we want them to do well. Mr Speaker, despite this it has to be pointed out that what the Government have said and what has actually happened does not tally. They have claimed that hotel arrivals are up. Well, Mr Speaker, yes they are up but by only 300 people and the figure for all arrivals for 1999 is still less than what it was in 1996 or in 1997, in fact, the drop from 1997 is one of 13 percent. The component of those who are tourists, in other words, those who are here on holiday is even worse. The figure for tourists arriving at our hotels has fallen year after year since 1996 and it now stands at 12 per cent less than it was then. In other words, there were less tourist arrivals at hotels in 1997 than in 1996, less in 1998 than in 1997 and still less in 1999 than in 1998. The guest nights sold to tourists is also less in 1999 than it was in 1996. The Minister might say that room occupancy rates have gone up, yes they have by 1.7 per cent and if one looks at the same figure for tourists only then it has not gone up it has actually gone down. Mr

Speaker, what the Government say is happening politically in their press releases and their propaganda is not the same picture as that painted by the Government's own figures as published in the Hotel Survey Report. Finally, a point of concern already made by the Hotel Association. Much of the money that the Government have spent on hotels, taxpayers money may I add, the hotels have spent on upgrading their conference facilities. Imagine the shock on the faces of many a hotel manager when they find out that the revamped Theatre Royal is also expected to cater for conferences also with public money, for the same business as the hotels. Mr Speaker, does the left hand know what the right hand is doing? Or are both hands so busy dishing out money without measuring the results that none of the two know what is going on?

To conclude, Mr Speaker, I think that I have sufficiently demonstrated that what the Government say is happening and what is actually going on are two different things. They exaggerate what they do, they repeatedly announce the same thing as a new project, they manipulate and control the media through their countless press releases and if all else fails, they take the credit for the efforts of other people. They should claim success only where it may be due but not for events which are totally unconnected with them. To name but one example, the World Conference of the Federation of Small Businesses is coming to Gibraltar in 2002 thanks to the efforts of the local Chairperson and her Committee yet the Government had the audacity to claim in an official statement that this was the result of a bid put in by them. Such actions are shameful.

In terms of Trade, Industry and Tourism the last 12 months have seen a number of unfulfilled announcements and unkept promises. In a broad and general sense the Government have failed to deliver. No major new external investment project has come into Gibraltar since 1996. The wine bottling plant, the arrival of Monarch airlines, the Main Street pedestrianisation and the construction of the cruise liner terminal were all in the pipeline before the Government came into office. Mr Speaker, what they continue to do very well is use the media to create an

exaggerated impression of activity and success. Success can only be measured by results. They launch a tourism campaign in Spain and we get less visitors from Spain; they increase the marketing budget and the number of tourists visiting Gibraltar goes down in 1999; they go to trade fairs all over the place and what do they bring to show for it? Mr Speaker, I said at the start that they have created a virtual Gibraltar where nothing is what it seems, where Government propaganda, media control and spin-doctoring take precedence over substance, solid achievement and hard facts and figures and I think, Mr Speaker, that that has been proven. Thank you.

HON CHIEF MINISTER:

Mr Speaker, I am obviously not going to start with the last speaker, I will deal with him last, I will deal with them in order that they have spoken but I cannot help musing, whilst I was listening to him speak, that it seems to me that it is not just a budget which he regards as a non-budget and a non-event but it seems to me that he also regards the General Election as a non-event. He has sat in this House, he has regurgitated the same old tired repetitive points that those people who are regular listeners to the proceedings of the House will have heard him regurgitate on at least half a dozen occasions. I do not think he has demonstrated a single novel imaginative new point in his whole address and ignoring the fact that there has been a small matter of a General Election and that the electorate do not believe his warped analysis of the situation. The electorate has rejected his warped analysis of the situation and he does not appear to learn the lesson. He still continues regurgitating the same rubbish as he has been regurgitating in this House since the day that he was elected here, not with political support that belongs to him, but with political support that belongs to the GSLP. He is like a scratched record and ignores the judgement of the electorate in between. Well, Mr Speaker, frankly if that is the vein in which the hon Members are going to continue for the next four years, I fear for them but I celebrate for Gibraltar that their electoral prospects at the time of the next General Election are going to be no better than they were at these last General Elections.

Mr Speaker, the Leader of the Opposition started his address by querying what he thought was a discrepancy between the figures that I had given for public reserves and the figures quoted in this booklet for Consolidated Fund Reserves. The Consolidated Fund Reserve is of course the amount of money contained in the Consolidated Fund Reserve; the Government Reserve is comprised of something wider. [HON J J BOSSANO: *that was my question.*] I will just give him a breakdown, for his information, of what the Government consider to be part of our reserves which are nevertheless not in the Consolidated Fund Reserve. In respect of the year just ended, for example, dealing first with the year ending 1st April 1999, the Consolidated Fund Reserve was at £40.3 million; the 1st April 2000 the Consolidated Fund Reserve was at £28.4 million; there was £0.4 million in the Contingencies Fund; there was £1.1 million in the Improvement and Development Fund; there was £0.1 million in the Social Assistance Fund and there was £0.8 million in the Savings Bank Fund surplus. All that tallies to £30.8 million. There was an additional £1 million in Government owned companies but there was a deficit, which has been netted in, in the Gibraltar Health Authority running balance of £1 million so we deducted that. The net effect of all of that are total funds available to the Government of £30.8 million. Using the same measure for the year in hand, in other words, the estimates for this year, there is a Consolidated Fund Reserve of £28.7 million; again the Contingencies Fund of £0.4 million; we estimate that the Improvement and Development Fund will have £0.5 million; that the Social Assistance Fund will still have its £0.1 million; that there will be a Savings Bank Fund surplus of £1 million that leads to £30.7 million in subtotal; Government owned company balances will then have been run down to £0.5 million; there is no deficit on the Health Authority projected and therefore we are projecting the £31.2 million. That is the make up of the difference between the figures that I used in my address Government reserves, public reserves in a wider context as opposed to the Consolidated Fund Reserve which is that part of the Government reserves or public reserves which obviously is the lion's share of it which is outside the Consolidated Fund.

Mr Speaker, the Leader of the Opposition queried why the Government had been so critical of his party's projected pre-electoral surplus of £14 million. Government was critical of the fact that the hon Members' electoral programme was unaffordable, that is to say, it increased recurrent expenditure by an amount which exceeded the budget surplus available to the Government but by a very long way and that even if they had used part of the reserves or what was in effect recurrent expenditure, quite apart from being terribly imprudent as the hon Member used to lecture Gibraltar in the days of the AACR who used to borrow for recurrent expenditure and he used to think that this was terrible economics, quite apart from the imprudence of running down reserves for recurrent budgetary expenditure, he would not have been able to keep it up for more than a year, he would have reduced the reserves in half in the first year; he would have eliminated the reserves in the second year and then how was he going to continue funding his programme? Therefore the issue between us at the election to the electorate were astute enough to adjudicate in our favour was that it was a matter of simple addition that the cost of all their electoral promises added up to each other were not affordable. Of course each electoral promise on its own was affordable but when added to all the others it was demonstrably unaffordable. For example, the promise to start paying £15 million a year again to Community Care. If they did that then they would be able to do nothing else, let alone the tax cuts that the hon members think the overtaxed community need, never mind any or all of the goodies that they had promised, it was just a demonstrably transparent attempt to bribe the electorate with unaffordable promises and the electorate that are not economists were clever enough to realise it for what it was. So the hon Member's attempt now to reduce that debate to the non-proposition that the issue at stake was whether the Gibraltar budget of £14 million was imprudent but £13 million is apparently prudent is, if he does not mind me saying so, just another example of that skill which he has mastered to perfection which is to frankly strip out isolated issues from a wider debate and then spin-off at a tangent and pretend that that was always the whole crux of the matter. He knows that that was not the crux

of the matter, he knows because I know what his skills are and what skills he lacks and what skills he has. I know that he knows that he could not have delivered his electoral programme to the electorate. My regret is that he allowed others around him to write the manifesto for him and to dissuade him from what he knows he could have delivered and could not have delivered.

Mr Speaker, the hon Member persists with this – I think it has become almost an obsession to him – to try and suggest that there is no growth in the economy. My only regret is that Gibraltar lacks the economic measurement techniques to measure that growth and certainly there is no growth that can be properly measured in accordance with economic measurement techniques that are applied elsewhere in the Western world and that is what we are correcting. That is what the input/output model will enable us to do, together with the parallel exercise that the writers of the input/output model are doing which is to advise the Government on what statistics they need to generate, how they need to generate, how they need to keep them so that the Government will have proper national accounting and economy measurement techniques available to it in the future. But, Mr Speaker, the hon Member says that there are not more employees in the economy. We will have to agree to differ on that. *[HON J J BOSSANO: I said in 1998 compared to 1996, using the Employment Surveys.]* I am happy to give way to him if he asks for it.

HON J J BOSSANO:

Mr Speaker, if the Chief Minister will give way. What I have said because if he is going to say whether he agrees or disagrees with me then I have to ask him whether he agrees or disagrees with the accuracy of the results in the Employment Surveys which is my source. I am quoting the April 1998 and April 1996 figures and the only thing that I have said is that in April 1998 there were less people than in April 1996. I do not know what has happened after April 1998, he may but I do not.

HON CHIEF MINISTER:

Mr Speaker, we all know what has happened since April 1998 and that is that the economy has become buoyant; that Cammell Laird has continued to increase its employment; that the offshore gaming industry has continued to improve to increase its employment; that the finance centre has continued to increase its employment and that I did not say that the increase in tax yield to the Government is exclusively the result of increased employment. What I will not accept from the hon Gentleman is an analysis which tries to abuse statistics in terms of arrears et cetera to prove that there has been no growth in the economy in terms of numbers of people in employment. It is self-evident that there must have been, if for no other reason than the unemployment figures have fallen. The nearly 500 people, even allowing for the fact that many of them are part-timers, but the nearly 500 people that are now employed in the offshore gaming industry, well I have not produced them out of my pocket. These are people who are now working in jobs that previously before did not exist and there has not been a loss of 400 jobs in some other sector of the economy which have simply been replaced by the new jobs that have been created in the gaming industry. So what I am asserting is that with the same regrettable inability to prove it statistically as handicapped him, what I am asserting is that a significant part of the increased tax yield to the Government is as a result of the fact that there are many more people paying PAYE. there are many more people in employment now than there has been year on year during the last four years. Of course, I accept that there are other factors - we have increased allowances but we have not expanded except in 1999, we have not expanded the tax thresholds, the tax brackets, people getting paid higher salaries get kicked much earlier into higher tax brackets, and this obviously increases the tax yield. Certainly I would concede that the stripping out, that the rolling down, the tapering off of the property owner capital allowances will also have contributed to the increased yield and obviously there is some arrears in the figures as well. I do not say that it is all because of additional employment. The proposition that I dispute is the hon Member's recurrent theme that he does not think that there are more people

in employment in the economy now than in 1997 or 1998. It is evident from non-economic sources, if he wants, just from knowing what is going on in the economy, it is evident that there are more people at work in this economy today than there were four years ago and that there were three years ago and that there were two years ago. I think that that is a reality that almost everybody else accepts except apparently the hon Member.

The 2,000 direct jobs in the finance centre are based on the survey. I have no doubt that 2,000 direct jobs in the finance centre is now a good guesstimate upgrade of the last survey results that we have. How many indirect jobs there are is a matter for complete speculation. The Hon Dr Garcia in his private capacity runs a business which is a support service to the finance centre and in terms of photocopying and machinery rentals, he would know how many people he would have to lay off from his business if Gibraltar did not have a finance centre and therefore the indirect jobs in the economy in courier companies, in restaurants, in all sorts of service industries is incalculable but I have no doubt that they are substantial. If the hon Member expresses surprise at the possibility that 3,500 or even up to 4,000 – 35 per cent or 40 per cent creeping up to 50 per cent – of private sector jobs are directly or indirectly attributable to the finance centre, I have to tell him that I would not be surprised. I cannot tell him exactly what that percentage is but that it is much higher than people in Gibraltar think, I believe is also true. Therefore I am not as surprised by that suggestion as he was.

Mr Speaker, we have had this debate before about why the Government are abandoning the PAYE returns as a source of employment produced statistics. I can only repeat to him what we have said to him before and that is that the Government have only done it because we have been advised to do so by the Statisticians just as presumably, I do not know whether he was advised or whether he did it for reasons all on his own when he changed the system in the first place because, of course, the system used to be the one to which we are now going back and it was he who changed it to the one from which he does not now want me to change and presumably in the year in which he

changed he destroyed comparability just as he is now worried that my change now is also destroying comparability. So at least in respect of that point he will appreciate that I am doing no more than following his example. And as to the reason why we are doing it, I can assure the hon Member that we have no political reason of our own, it is entirely Statistics Office driven. When he first suggested the possibility of, "Well even if you do change the basis, why did you carry on just for a couple of years....." and I rang the Commissioner of Income Tax and he said, "this seems to me like a reasonable idea, there is no difficulty". They had as soon as they heard that the method was going to change they stopped asking the right questions in the employer's return form, in the P7 form and therefore they no longer had the ability to generate the information on which the Employment Survey was done. The Government would have been perfectly content for that to have been done in parallel for any number of years but, unfortunately, now for reasons that have nothing to do with Ministerial decision, it is not any longer possible.

Mr Speaker, I am reluctant to engage the hon Member in a debate about vacancies and terminations and things of this sort but I believe that in his analysis of the comparison of job vacancies registered with terminations and subtracting one from the other and deducing from that that there must necessarily therefore only be 26 new jobs in the economy, I think he ignores the fact that most of the turnover relates to a few jobs. Most employment of this community, thank goodness, is stable. In certain industries the restaurant waiters, the barmaids in the pubs, the construction industry perhaps, there is an intense amount of turnover. A pub employs a barmaid for a week and the same job may be generating dozens of terminations and job vacancies in a 12 month period and therefore I do not think he can use that subtraction of one figure from the other in quite the simplistic way that he was doing simply to say, "Well the difference between one and the other is the number of new jobs created in the economy during that period." He also asked whether the person doing the new employment model was the person who has had connections in the past. I am informed, although I was not around at that time, that it is Professor Fletcher, he emerges in a different form, he

now operates in a company with a hospitality something or other limited, attached to the university but it is, I understand, the same man who did the last input/output model for Gibraltar.

Mr Speaker, the hon Member asked in respect of the Judiciary for an explanation of what he regarded as the surprising increase in court fees. The reason is exclusively an increase in ship arrests from which as he probably knows the court obtains several fees the most valuable of which is something called poundage which is a share of the proceeds of sale and there has been a marked upturn during that year. For example, in the previous year the fines would have been about £70,000 and ship arrests would have yielded about £140,000. In the year ended March 2000, the fines yielded £80,000 but the ships yielded £445,000 and this is quite a lucrative business, one that I used to enjoy practising when I was more profitably employed than I am now in personal financial terms but I am glad to see that it is an area of legal practice in Gibraltar which prospers because not only does it generate a good source of revenue for the Government but it generates a lot of activity in the port whilst the ship is under arrest.

Mr Speaker, the hon Member also asked me about the great fluctuations that there are in the circulating coinage surplus. Net revenue from the issue of coins during the year 1998/99 was £0.5 million compared with the forecast outturn for 1999/2000 of £5,000 and the estimate of £50,000 for the current financial year and that is the fluctuation that the hon Member has asked for an explanation about. During 1998/99 the total face value of coins issued was £900,000; of this banks returned a total of £0.2 million and the cost of the coins purchased during the year was another £0.2 million and this gives a net revenue for the year of around £0.5 million. The hon Member knows that the Government, from a debate that we had some time ago on this issue, take as revenue in the year in which coins are placed into circulation the face value of the coins minus the cost of them. So that is how the figure of £500,000 using those same three cost heads for 1999/2000 the total face value of coins issued was £0.4 million of which the banks returned £0.3 million and the cost of the coins

was £0.1 million and this resulted in the minimal amount available for transfer to revenue of the £5,000 that he identified. And then for this year provision has been made for net issues, that is, issues less bank returns of only £0.1 million with the estimated cost of purchase of the coins and expenses of £50,000 leaving just a further £50,000 for transfer to revenue. In 1998/99 which was the high year, the year for which it was £0.5 million, an exercise was carried out to withdraw and it was at the initiative of an operator in the private sector who commenced withdrawing coins from the Post Office and issuing these directly into circulation themselves, mainly to slot machine operators and people of the sort. This activity resulted in an increased level of returns by the banks because this chap puts them all into circulation, but in the next year or two the banks do not like handling coins for reasons that the hon Member understands, just sends them back. That activity resulted in an increased level of returns by the banks of £0.2 million during 1998/99 and £0.3 million during 1999/2000. Therefore, Mr Speaker, that explains the reason why there has been this great fluctuation during this three year period. The Government do have a policy of recalling sterling coins, repatriating it and replacing it in circulation by Gibraltar coins, for the obvious reasons that we enjoy a financial benefit from the latter and measures were introduced to achieve that. The banks were instructed not to issue any sterling coins back into circulation. The Government agreed with the banks that the repatriation of sterling coins will be done by us by depriving them of the cost which was always an issue to them and significantly we agreed to accept from the banks bags full of mixed sterling and Gibraltar coins and we undertook the burden of separating them. All of which encouraged the banks to hand in coins to us which gave us the opportunity to take sterling coins out of circulation, send it at a little cost to the United Kingdom, recover notes the value of these coins in the United Kingdom and replace them in global circulation by Gibraltar coins from which the Government derives an advantage. We do not expect these gyrations to be repeated to this magnitude again. It ought to be by the amount which we succeed in taking sterling out now in a normal programme recurrent fashion and the coins that we put in its place.

Mr Speaker, the hon Member asked about the funding for Community Care and he expressed regret that there is no provision in this year's Budget or in the Social Assistance Fund, which is annexed to this Estimates Book. Mr Speaker, the Community Care, given the allegations that some people make, as to the status of Community Care, which the hon Member and I would not share, I wish to say as little and as obliquely as possible, but I am advised by the Trustees that the Community Care's income generated from its investments cover its outgoings until about the middle of next year. The Government have already taken note of that and the hon Member can rest assured that the commitment is that Community Care should not be in a position where it has to use capital to meet its annual outgoings and has always received comfort in that respect. There is an issue in respect of Community Care, that is, that because it now holds the Government Debenture as the maturity date approaches the value of the capital in market terms is falling because the nearer one gets to redemption date, the lower the capital value of the paper, and therefore the Government have offered to the Trustee of Community Care to identify together the optimum moment at which the Government might be persuaded to buy the stock back to minimise the erosion of capital to the Trustees but we do not want to do that too soon because up to that optimum point the yield from the stock is much higher than the yield would be from the cash that would replace it. So it is a question of picking the optimum moment for that switch to take place, but this is all in addition to the comfort that the Trustees have with the Government and that is that because the Government greatly value the social work that this private Trust does in the community, they have been given comfort that the Government consider them to be a worthy cause to support in the future and I know that the hon Member understands the reasons for the rather peculiar formula of words that I have picked and that I know that he will not abuse it by suggesting some element of ambiguity or ambivalence by the Government in this respect. I have to say this to the hon Member that if it avoids the need to discuss these issues in a public forum, I am perfectly happy on as many occasions as he wants it to answer his questions in correspondence if he wants information about issues of this sort, I

am very happy, as I am sure the Trustees will be in respect of their own financial affairs to share this information with him, so that we do not have to discuss this in a forum which others might seem to benefit.

Mr Speaker, the pay review of the clerical and administrative grades is indeed complex. One of the problems which has arisen this year is that whereas in the past, I explained in my original address that in the UK now there are no scales up to which people progress. There is no annual incremental scales in place in the UK and that no one gets an automatic pay rise, and I think it was the Opposition Members who started it when they were in office. I agree with the hon Member and the GGCA, that a system of performance assessment is not impossible but it is difficult in Gibraltar and especially to ensure that it works as fairly as we would all want it to. And the devise that the hon Members came up with was, fine instead of the Government putting 4.7 per cent on the table as it does in England and then having a very complicated system of performance assessment to see how that is shared out between all the various civil servants, the answer is very simple, we give 4.7 per cent to everybody, which means that the people who in English terms would be high flyers are worse off, in England they would have got a bit more, but the people who in England would be under performers are getting in Gibraltar pay rises that they would not get in England, but that does not matter because the Unions agree and the Government agree that everybody gets 4.7 per cent and the people who would have got more on performance points forgo the right to get more and the people who risk getting less or nothing because of performance are safe from that prospect and everybody gets 4.7 per cent. That was the deal, that was what he implemented in his last year in office, this is what we did in respect of the 1996 pay review, in respect of the 1997 pay review and in respect of the 1998 pay review. What has happened in respect of the 1999 pay review is that the United Kingdom has now increased the maxima, especially for AOs, enormously from about £13,000 or £14,000 to £20,000, but in the United Kingdom that is inconsequential, because in England there is not a scale, there are no longer in the United Kingdom annual incremental scale. So in England they

can set whatever maxima they like, no one gets to it, no one progresses to it as a matter of right. The only pay rise that civil servants get in England is the review, if any, depending on assessment, which we have decided to deal with in the way that I have just described and with which everybody was happy. Now, the United Kingdom in 1999 puts a massive new maxima on the top of AOs to which they aspire to progress by annual increments in addition to their pay review. So whereas in the United Kingdom, the civil servants would just get its 4.7 per cent and that would be the pay review cost in England and that is what the civil servants would get in England, in other words just the 4.7 per cent, here there was an aspiration to get not just the 4.7 per cent, but in addition to the 4.7 per cent annual progression up scales that no longer exist in England towards an English maxima which in England serves a completely different purpose and does not serve to establish anybody's pay. The effect of the maxima in England is exclusively to determine what part of numeration is reckonable for pensionable service. In other words, anything that one gets up to the maxima through the box system is pensionable, anything that one gets through the performance and box system above the maxima is not reckonable. But the English maxima is not something that determines anybody's pay, it is not something that anybody progresses to annually or otherwise, except through the annual box markings assessment reviews. What we have said to the Union in Gibraltar is that the Government, committed as we are, the Government consider parity to be something of interest to the Government because it contains claims. We do not regard parity as a threat, we consider parity as something positive to the Government, that the Government want to adhere to and therefore whilst we have said to the GGCA that we are absolutely committed to ensuring that civil servants in Gibraltar enjoy parity, that is to say, that they enjoy the same level, albeit averaged out, income as their UK counterparts, which is what parity means, that if we give them two pay rises a year, namely the 4.7 per cent that we have agreed to give to everybody on a sharing of the pot basis and in addition annual increments, that in effect they are getting two pay rises a year here compared to the one pay rise a year in the United Kingdom, because the United Kingdom puts the 4.7 per cent on

the table and says now we will share it out, but the cost to the Government is 4.7 per cent. If in Gibraltar we say, fine if we take that 4.7 per cent, which we have already agreed, but instead of sharing it out by a box marking system, we give the same to everybody, that costs the Government 4.7 per cent. But if in addition we have this annual incremental progression to these new English maxima the cost to the Government is massively more than the 4.7 per cent cost in the United Kingdom and we now have figures of what it will cost, but it would add nearly £1.5 million a year to that part of the public pay roll. Therefore, what we have said to the GGCA is that we need to find a system to accommodate this extraordinary event that has occurred this year, which is that the UK have suddenly pulled this maxima figure, placed it there and that we are using it in Gibraltar or that they will like us to use it in Gibraltar for purposes for which it is not used in the United Kingdom, namely, to approach on an incremental basis as a matter of automatic annual right by every civil servant. It is a very complicated issue.

HON J J BOSSANO:

Mr Speaker, is it the case then that in the Estimates before the House, the scales that exist as shown there are no longer comparable with the grade in the UK? If there is an AO scale here, is it that that AO scale no longer exists there? Is there anything between the £20,000 or are there points?

HON CHIEF MINISTER:

Mr Speaker, the scales are the existing scales, which we used to increase every year by the pay review. Whilst the UK maxima was increasing by very little that did not matter, that is the view that we have all taken during the last four years. The problem now is that the UK has stretched that scale, an enormous amount.....

HON J J BOSSANO:

Mr Speaker, the impression that I got from the explanation that he gave was that there was this sort of ceiling purely to determine whether the salary that somebody got paid was totally pensionable or only partly pensionable, but that gave me the impression that there was just this one figure and nothing, and I am asking, for example, if we look at the AOs scale in Gibraltar, which happens now to be the lowest scale of the clerical side, is this scale in existence in the UK except that it is longer, or not at all?

HON CHIEF MINISTER:

Mr Speaker, there are no scales in the UK. The UK no longer has a pay system that has a scale for any grade. There is a minima and a maxima, a minimum and a maximum and every officer is judged on his merits as to what he gets paid in-between those two points. There is no longer in the United Kingdom a graded structure, a system of scales, of gradings up to which people progress or at all, or up to which people do not progress. There is simply no scale. There are minima and maxima only. Mr Speaker, the hon Member also asked whether provisions had been made for wages in the Personal Emoluments section and asked whether the figures in the Estimates include the 1999 Review levels. Mr Speaker, it only includes the 1999 Review in respect of those reviews that have been settled and delivered, not in respect of the unsettled. If he wants to know what would be the cost to the Civil Service, post the 2000 Review, there are two Reviews to include in these figures, the 1999 Review, which became negotiable in August last year. It is payable from the 1st August 1999, the 1999 Review and the 2000 Review, which becomes due on the 1st August 2000.

HON J J BOSSANO:

Will this apply to Administrative grades or is there a comparable problem with the Technical grades, the PTOs et cetera?

HON CHIEF MINISTER:

Mr Speaker, with very few exceptions the 1999 Review is still not there. The educational grades have already had the 1999 Review applied. The Prison grades have had the 1999 Review applied, the local authority grades, I am not sure what those are.....

HON J J BOSSANO:

Yes, I know what those are.

HON CHIEF MINISTER:

Have had the approval, but the others have not. The Senior Officers, the Admin Executive and support grades, the Customs grades to whom they are analogued, the Port grades, Crown Counsel grades, the Technicals, the Wardens, the Motor Vehicle Test Centre grades have not, and as far as the Industrial Review is concerned, I cannot tell the hon Member what the answer to that is, whether the figures have been agreed. Mr Speaker, I will have to get the answer, I would not wish to speculate as to whether the industrial emoluments, the industrial pay, whether it includes the 1999 Review or it does not. But I will undertake to tell him the answer to that tomorrow.

Mr Speaker, the hon Member understandably pointed the House's attention to the anomaly that there is at page 116 of the Estimates which shows a considerable decrease against Estimate of the sums received from the European Social Fund. The hon Member will want to know that the answer is not that we are receiving less money from the European Social Fund, but rather that the Estimate for 1999/2000 was a gross over estimate. The amounts being received from the Social Fund fluctuate between about £1 million and £700,000 and there was never any prospect of receiving the £1.8 million that was estimated in the year 1999/2000, so it is not as if there has been a fall. There is a small fall, the Actual in 1998/1999 was just over £1 million and the Forecast Outturn for 1999/2000 is £700,000 so there is a fall there in the Actual of £300,000, but there is no real fall between £1.8

million and the current figures, that is simply an erroneous estimate of the figure for 1999/2000.

HON J J BOSSANO:

I did question him last year, Mr Speaker, and that was not the answer I got then. The answer I got then was that in fact it was an element of money coming in late, sort of slipping from one financial year into the other, because the Actual for 1997/1998 was only £88,262, which was extremely low.

HON CHIEF MINISTER:

Mr Speaker, those are the facts. What the hon Member should now be asking is why the figure was so low for the year 1997/1998, because the other figures are pretty flat in Actual. The point that he has raised today is why the fall from the estimated £1.8 million, which is a point to which I have responded. There is not a fall from an estimated £1.8 million.

HON J J BOSSANO:

..... I asked the original question about the low figure for 1997/1998 and at the time it was explained to me that it was coming in sort of later because the claims were put in after the event, after the money had been spent. Obviously, if it was coming in later, I would have expected it to have arrived. I am therefore now asking why it has not arrived and I am told because it was a gross over estimate.

HON CHIEF MINISTER:

Mr Speaker, I will have to get him the answer to that. I do not know why the previous year's figure was so low. Clearly the expectation or estimation that we will receive £1.8 million in the year 1999/2000 has not materialised and therefore what the hon Member is asking is if arrears of the previous year is not the

explanation, then what is the explanation for the lower amount in the previous year. I understand the point and I will see to it that I have an explanation to give to him. Mr Speaker, the Gibraltar Development Corporation staff is not in the Civil Service. We do not regard them as being in the public service for parity purposes and yes they do have a coherent salary structure and grading system, but it is different to the Civil Service and certainly there are outstanding issues with the Union about whether particular individuals, particular job doers, categories are properly graded within the GDC stresses there is always regrading claims and job evaluations going on and indeed we have agreed with the Unions to evaluate one or two categories of GDC's employees. But the point to make here, Mr Speaker, is that all GDC employees are better off than they were from whence they came. Most of these people were employed in the Gibraltar Information Bureau or in Residential Services Limited or in any number of other companies, all have had a proper grading system applied to them, all have had proper terms and conditions of employment put to them and whatever might be the grading issues that exist, no one in the GDC would claim that they are not better off than they used to be in terms of job security, in terms of terms and conditions of employment than they were where they came from, which of course is where the hon Members put them. Therefore, the Gibraltar Development Corporation, as far as we are concerned, pursues best employer practices but it is not a part of the Civil Service from the point of view of terms and conditions of employment. For example, many of these people will now get access to an occupational pension which they did not have before, but it is not the occupational pensions that civil servants enjoy. It is just a way of creating good quality stable employment through a publicly transparent and accountable entity, which is the Gibraltar Development Corporation but without the cost of employment in the public service which is often prohibitive and which would call into question whether the Government would employ some staff if it had to employ it on Civil Service conditions. So it is a half-way house between private sector and Civil Service and we do not regard them as being in parity with the civil servants much as we understand that they would like to be.

HON J J BOSSANO:

I think then that that is confirmation that it is not the case then that they do not have new contracts of employment with the GDC. I am not questioning individuals, Mr Speaker, what I am trying to find out is are people still with the conditions pertaining to where they came from and therefore there are different conditions and different pay rates for different people or are there now new contracts of employment because after all it has been quite a long time since they moved.

HON CHIEF MINISTER:

No one is worse off personally. So if anybody had better terms, they enjoy them on a personal to holder basis. There is however now a standard set of terms and conditions of employment so that new recruits to the Gibraltar Development Corporation now sign a form of contract, we still have not obtained the signature of the employees that were transferred from the previous companies to those new contracts although the terms are being respected as far as Government are concerned, in terms of the leave entitlement and things like that. I think there are only one or two outstanding points left to negotiate with the Union on the contract but the contracts are better for the employees than were their previous ones. No one is being asked to accept terms which are less favourable to them than they enjoyed before. Everyone is better off and standardised and anyone who is not standardised is because they enjoy better that standard on a personal to holder basis from where they came from. Mr Speaker, the GDC pay Review for 1999 has been agreed and the mechanism for funding the GDC Pay Review, the Government could take it either from supplementary funding or from the Pay Settlement, because at the end of the day the liability is the Gibraltar Development Corporation, which is funded by Government through subventions in each of their Heads. The Consolidated Fund could gain those funds that it needs to pass on to fund any GDC pay rise from any source that it can via funds from. Therefore it could come from the Pay Settlement, but not necessarily. If there has been a practice in the past that the GDC one always comes from one particular

Head, then that is not the case in the case of the GDC, although well it might come from the Pay Settlement.

Mr Speaker, when the hon Member asks how much of the Recurrent Revenue is real increase and how much is arrears and when the hon Member says that the Government could have done much more and when I say that the Government are being prudent in trying to balance all the very four things that I said that we were trying to balance and at the same time lower taxes and the hon Members, I appreciate their need to come back politically at the Government's job and everyone expects it of them and we expect it of them, I suppose there is a thought that I should share with them and that is that one of the things that the Government bears in mind is not to make the Recurrent Expenditure of the Government dependant upon sources of income which are vulnerable. So when one looks at the size of the surplus, the hon Member knows how part of that surplus is generated. Our prudent approach is to use that money whilst the sun shines for improvements to the community, capital improvements, capital investments, things of that sort. But what we will not do is make the Education budget or our Health budget or our ability to continue to pay the Civil Service or our ability to continue to do the things that are important year on year in this community dependant on a budget surplus to which it is contributed to by earnings which we could loosely call of poor quality, meaning that their sustainability is not in our hands. Therefore that is a factor which we take into account and which I would urge them to take into account. When they urge the Government to spend more of the surplus in this sort of thing, one of the reasons why we do not to the same extent as they might urge us to is that the consequence would be to make Gibraltar vulnerable to external factors in terms of one or two products and we will not as a matter of prudence do that. I should also tell the hon Member that the give-aways, and insignificant as they think that they are, I do not share that analysis, but more than one of them has, are not included, are not factored into these Revenue estimates. That is something that the hon Member specifically.... I do not think he asked, I think he made a statement that assumed that they were, but in any case.....

HON J J BOSSANO:

I assumed that they had not.

HON CHIEF MINISTER:

Yes, they are not factored in. Mr Speaker, the Hon Dr Valarino spoke curiously, always a great pleasure to listen to him in this House. Indeed I have much enjoyed in the past reading him in Hansard in his previous incarnation in this House, but Mr Speaker, what I have never seen an Opposition spokesman do is hold the Government's manifesto in the hand and put to the Government the need to do things which are in the Government's manifesto but was not in theirs. So when the Hon Dr Valarino says that he urges the Government to listen to Option 5 tenants who are having difficulty paying their option Cs in Gib V, he forgets two things, with respect to him. One that the problem was created by the party that he has now joined, when it was in Government, in the face of warnings from us when we were there in Opposition which was that they were forcing people into admittedly was the lower tier of home ownership, who were not being offered ordinary council flats and that people were being forced in, in other words the net had been taken too low in the otherwise good policy of home ownership and drawing people into home ownership and therefore it is rich, if he does not mind my saying so for the hon Member to now take up the cudgels on behalf of these people when we are the ones that have been advocating for their interests in the face of a predicament into which they were put by his Colleagues when they were in Government. All the moreso when our manifesto of just three months ago specifically said that we would do this and theirs did not. So when the hon Member calls on the Government to listen to the Option C, people with great problems, my answer to him is, yes we are going to listen to them because we put it in our manifesto. He presumably, having been elected to Office, would not listen to them because he did not put it in his manifesto. I think it is pretty peculiar for the hon Member in effect to adopt our manifesto in preference to his. What the hon Member can do is hold us to our manifesto. That is a different issue. For the hon

Member to say, "I note that the Government have committed themselves to helping Gib V tenants on the Option C, and I am going to see to it, as is my job in the Opposition, that the Government comply with their electoral promises". That would have been a perfectly legitimate thing for the hon Member to say, but not to adopt the policy as his, when actually it is mine and not his, according to the manifestos. Much the same, if he does not mind my saying so, can be said about his remarks about the noise legislation. Mr Speaker, the only manifesto at the last Elections that said anything about noise legislation was ours. If he wants to adopt my manifesto, he is very welcome to, but he has got to come and sit on this side of the House. We have this commitment to noise legislation but I understand that Oppositions jump on every passing bandwagon issue and adopt it and that he knows that the residents of the South District are understandably concerned about noise, and not just noise about pollution, smoke pollution from the chimney, but presumably he also knows that the Opposition did not commit themselves in their manifesto to doing something about it, whereas I did, and he must also know that the problem in respect of OESCO originates from their actions in Office when they put OESCO into that building without requiring to be sound insulated and without requiring any work to be done. Mr Speaker, time moves on and the hon Member, even if they did not do anything about it in the eight years that they were in Office, I do not deny them the right to say, "even if I did not do anything about it, why have you not done anything about it either?" But at least that would be a more honest exposition of the facts. First of all recognising the problem originated when his party was in Office, then admit that the noise emanating from the OESCO plant now is exactly the same noise as it was emitting when the hon Members were in Office and did nothing about it and then if they want say, "but even though we did not do anything about it, what are you going to do about it?" That would be a perfectly reasonable analysis and not the one that he has given. In respect of the MOD plant, Mr Speaker, the main noise pollution actually comes from the MOD plant. OESCO does generate noise pollution but the main noise pollution and indeed the main emissions pollution actually comes from the MOD. The MOD is at a crossroads in its future of electricity generation in

Gibraltar. They do not want to be in electricity generation in Gibraltar. Indeed, they are trying to exit electricity generation in Gibraltar and the Government and the Unions are concerned to protect the employment of the employees in the MOD Generating Station. The problem with the MOD Generating Station goes much beyond the fact that the factory makes smoke and noise. Their entire plant in that factory is in desperate need of replacement and therefore, Mr Speaker, the hon Member will understand that these are not issues, which much as we would like resolved quickly, these are not issues which have a solution that the Government can implement just as tomorrow we might decide to refurbish that road or paint that building. These are problems that we have in Gibraltar, they are longstanding problems, they require expensive and long term solutions, the Government have them in hand and I think it is not reasonable and fair for the hon Member to put it on a wish list in common with things that the Government can deliver more quickly. This is one that the Government cannot deliver quickly.

HON DR R G VALARINO:

In fact, I did not mention OESCO at all in my statement and I will quote, I said, "this will greatly help those people living in the neighbourhood of the MOD Power Station, as the noise level and pollution emanating from this source, are a constant source of complaint and a health hazard". So I limited myself to the MOD Power Station.

HON CHIEF MINISTER:

Yes, presumably because he did not want to highlight the Plant for which they were responsible. Although the MOD Plant generates more noise than the OESCO Plant, they both generate noise and simply to eliminate the MOD Plant without wanting to do something about the OESCO Plant would not be a solution that the residents of the South District would find satisfactory. If he has made this the flagship issue through which he wants to attract the electoral support of the residents of the South District in the next election, my advise to him is always to mention the

OESCO Plant as well and not to limit himself to the MOD Plant only, otherwise he will not maximise the electoral advantage to himself of championing this cause.

Mr Speaker, the Hon Steven Linares spoke about the Youth Service and the change in ministerial portfolios. Mr Speaker, I know that the professionals in the Youth Service have obviously given him the same message as they have sent me. They feel aggrieved that splitting the Youth portfolio from the Education portfolio diminishes the importance or the professional seriousness of the youth function. Mr Speaker, the Government do not see it in that way at all. The fact that the Minister who previously had responsibility for Education, had responsibility for Youth, does not mean that the fact that the Youth portfolio is now transferred to the Minister who has responsibility for Leisure and Sport means that we are saying that Youth is less important. He also has responsibility for Telecoms but no one says that it is not right to link up Youth with Telecoms. I have mixed feelings about this business of linkage of youth to education and whether the youth service is education. I know what they want but frankly if one analyses the things that the Youth Service does, valuable as it is, I think it is a hybrid, it is education, certainly it is education but it is also leisure and it is also youth and therefore, Mr Speaker, the reason why this has been done is not because the Government want to downgrade it, the Government do not think it is downgrading. The reason why it was done is that the Minister that was previously responsible for Youth, now has obtained ministerial responsibility for another large portfolio, namely Health, and that the Youth portfolio is one that generates a significant amount of ministerial involvement and it was not a proper or efficient distribution of ministerial time and that is the position as the Government see it. The hon Member then went on to say, now that the Government have recognised the importance of nursery education, why do we not give pre-nursery education forever? I remember the days in Opposition when we used to call upon the Government to do that. He must know that the Parliamentary grouping led by the Leader of the Opposition, when he was in Government, what we inherited was about 120 children in Government nurseries. That is what we inherited in 1996, we

inherited 120 children in Government nursery places. That is the number of nursery places that they had. We have raised that figure to 315, in other words we have more than doubled it. For the hon Member to then say, "why have they only increased it to 315, why have they not gone 100 per cent of the way?" The answer is that deficiencies that have been allowed to develop for eight years cannot be corrected in one. They can be corrected slowly and just as the Government have over the years gradually increased, I think the Hon Dr Linares said that we were now at the ratio of about 70-odd per cent, we would expect gradually to increase that figure, but I do not think it is legitimate for members who when in Government limited this provision to 120, to criticise us for only having increased it to 315 and not having gone 100 per cent of the way.

HON S E LINARES:

Mr Speaker, the Chief Minister seems to have missed the whole point of what I was trying to say. What I was trying to say is that the Minister through a Press Release has completely changed the emphasis of why we have nursery education. It is a political change because as before the nurseries were there to try and help working mothers, now in releasing the Press Release that he did, in saying that effective pre-school education is recognised today as a key factor in successful schooling, which I totally agree, that is the emphasis. The emphasis is on the political change, not on whether we had 100 or we have 300 now.

HON CHIEF MINISTER:

Mr Speaker, the educational science is not altered by the fact that the Minister issues a Press Release. Even I am aware of the importance of pre-schooling education and I am not an educationalist. But the fact that the Minister recognises that and pursuant to that recognition, devotes considerable resources to increasing the free availability of nursery places, does not entitle the hon Member to insist that therefore his obligation is to provide 100 per cent of it. We have increased the number of free nursery places to 77 per cent of the average intake, we have also given

tax deductions to those parents who have their children in a private nursery. Therefore, if the hon Member will allow me to say that we do not consider it, that it lies in their mouths to criticise the Government for what we have done, even if it is not enough and even if there is more to be done, which of course we recognise. Frankly, given what we have done compared to what the Opposition Members did when they were in Government, we really do not think it lies in their mouths to suggest that what we have done is too little. The hon Member wants to say that whatever has happened in the past the Government should have as an aspiration the reaching of 100 per cent publicly funded pre-nursery school places at least for four year olds. I would agree. As an objective, that is a perfectly sound objective. Objectives of that sort can only be reached gradually. One cannot go from a position of 120 to a position of 450 within one year, he must understand that the deployment of public resources have to be paced and the improvement to public services needs to be gradual but frankly, I do not disagree with him if he says that the objective should be 100 per cent coverage of pre-school education.

I have to say, Mr Speaker, that I much enjoyed the contribution of the hon Lady, Miss Montegriffo. I enjoyed it, much as I would enjoy situation comedies or science fiction television programmes. The content was mostly nonsense, but I admire her political gumption. It was an intensely political contribution and it was very enjoyable. But much of what she says, apart from being old hat, is wrong. Mr Speaker, the hon Member criticises us for imposing an educational qualification for nursing. Nobody else criticises us, everybody else congratulates us. Everybody else regards it as a sensible improvement towards the attainment of nursing excellence. So the hon Member will forgive me for saying that the fact that she repeats frequently a view which only she and her colleagues appear to share, the fact that she repeats it frequently does not make it any more persuasive and the fact that she repeats it frequently will certainly not encourage the Government to abide by it. No one else that I have spoken to except her, thinks that it is a bad thing for the Government to introduce nursing qualifications, indeed the visiting consultants, everybody recognises it together with the nursing training that has

been delivered, the academic qualifications for nursing entry. All these things are regarded as positive. So the hon Lady can spend the next four years repeating that point if she wishes, hopefully before too much longer she and Dr Garcia will think of new points to generate and then we can all have a more stimulating debate in this House.

HON J J BOSSANO:

And which he will enjoy.

HON CHIEF MINISTER:

I may well still enjoy it, because what I enjoy is the manner of ad libbing and the political acumen with which it is delivered. That does not depend on the substance, it depends on her inimitably charming and politically astute and point scoring debating style which is certainly admirable. Mr Speaker, the hon Lady repeatedly comes back to this question of shortage of beds. I do not profess to be, admittedly the Chief Minister in Gibraltar needs to have developed knowledge and expertise on many things, but I would not regard myself as a health management expert, but in listening to all the points that the hon Lady makes, and in the ticking off all the reasons that she gives cannot explain why there is a bed shortage, it leads me to the only conclusion that what she must be asserting is that successive Ministers for Health have been taking beds secretly out of St Bernard's Hospital and dumping them over the cliff and that this must be the explanation for the bed shortage. According to her it is not due to more admissions, is not due to more operations, is not due to the fact that more elderly patients have been taken in. I promise the hon Lady that Ministers do not go to the Hospital to sleep at night. So we are not occupying the beds. We are not throwing beds away, we are not leaving beds empty and therefore the hon Lady has got to understand that the reason, I understand that she knows this and I understand that she is playing politics, I understand that. That is fair game, that is what Oppositions do. But the hon Lady runs the risk of confusing even herself. She knows what the reason for the bed shortage is. The reason for the bed shortage is that

successive Governments in Gibraltar, but mainly them when they were in Government, developed the policy of never evicting elderly people from hospital even when they had ceased to be ill. Therefore there are 50 long stay beds blocked by elderly people, most of who are not ill, they are just elderly. And the Government are faced with the position of chucking these people out into their homes, in many cases their families do not want to take them back and the Government are in this predicament, which is why we are developing the Elderly Care Agency to provide proper nursing home facilities, which they never did, to expand the nursing home facilities in the now Government run Elderly Care Agency, so that in the new hospital, the one that she also does not like, there will not be this problem of bed blocking and she knows this and it is therefore disingenuous, and if she does not mind my saying so, just a touchy tiny winny bit politically dishonest of her to keep on insinuating that the reason for the hospital bed shortage is somehow due to lack of resources from the Government or to lack of management by the Minister or to bad policies by the Minister. She knows what the reason is and she knows that it is nothing which can be rectified heartfully except by the application of hapless policies, is not something that is either made by Ministers or can be rectified by Ministers except to the extent that we are doing. Presumably she congratulates the Government for deploying the first ever comprehensive elderly care policy in Gibraltar. If she had done so in the eight years that she was Minister for Health, there would not now be a bed shortage problem in St Bernard's. Therefore the problem is partly of her making and she will forgive us if we take a bit longer to solve it than she took to cause it. Mr Speaker, it is either that or bed dumping and I promise her that at night I sleep, I do not go and dump hospital beds. Mr Speaker, of all the politically disingenuous things that the hon Lady has said, is her attempt now after eight years of not having done so as Minister, now to set herself up as the champion of public patients who are victims of private practice. This is of all the things that I have heard in this House in the last two days, this is the most monumentally disingenuous. Here is a Minister who sat idly by and allowed consultants with contracts that forbids them to do private practice, who systematically turned a blind eye for eight years whilst they

did private practice, who never once in eight years as Minister for Health took a single initiative, not one initiative, to protect the public patient from the abuse by doctors of private practice and now that this Government for the first time in 40 years of Government in Gibraltar, has introduced a system of monitoring and control of private practice and that has established and dedicated additional resources to its policing and to its administration and that has secured the agreement of the consultants to it. Now that this Government have for the first time taken steps to protect public patients from the abuse of private practice, now she wants to set herself up as the knight in shining armour of the people who are already being helped and which she refused to help for eight years when she was in office. Much as I like and admire the hon Lady's political acumen, she will forgive me if I tell her that that is just a little bit too much for us on this side of the House to stomach and that the licence that all Oppositions are entitled to be allowed has gone a bit stretched, a bridge too far in respect at least of that point.

Mr Speaker, the new hospital is perfectly well catered in Blocks 1 to 4 of Europort. It is the Government's view that the people of Gibraltar are entitled to a share of the prime locations for some of their social services. This will be a hospital not with a roof garden, as eventually emerged as an afterthought in her manifesto. This will be a hospital with a waterfront garden. This hospital that we will build in Europort incidentally for £10 million less than the civil works would cost of a new building that she would have built, will cost £10 million more than it has cost us to buy the building and convert it. Here is a prime site for a hospital. It has lain empty for many, many years. The prospect of it being filled up by Finance Centre operators in the foreseeable future is next to nil, there is still plenty of unfilled office space in the rest of Europort and we think that the people of Gibraltar are entitled to some of these prime assets for things that are domestic value and not everything has got to be for expatriates or High Net Worth Individuals or for things of that sort. The hon Member is completely mistaken when she says this business about expansion space. It is precisely Blocks 1 to 4 that allowed for expansion space because of the generosity of the space provision in it from the outset and it is the

completely unsuitable site that they came up with as an afterthought that was unsuitable. But we know that the people who put up the project to them, who incidentally had already put it to us, they are constructors and developers and they are interested in the construction contract and of course it suits the constructor that the Government should build on a virgin green field site, even if it costs £10 million more because that makes the contract more valuable, and given that they were going to start work by May last year, clearly they had no intention of resorting to tender, which would have been incidentally a breach of European Union Regulations, and they would simply have given it to this contractor, to this developer who had also offered it to us 18 months before. But in any case, what surprises me is that the hon Members having been through the election and lost should persist now with this notion of their site being better, when everybody in Gibraltar knows that it was an afterthought, that they had sent their manifesto to the printers and that they then printed a new page, it is even on different paper and that they slipped it in at the last minute requiring a two week delay for the publication of the manifesto and that their whole commitment to a new hospital was an afterthought as was the location. If I were them in those circumstances what I would do is keep my head low instead of carrying on uttering this nonsense about the Naval Ground being better. The hon Members are not going to see the hospital in the Naval Ground because the Government policy, which we think is infinitely sounder than theirs would have been, is to do it in Europort and that is what the Government will do unless of course somebody comes and offers us a massive amount of profit on our real estate investment in Europort which will enable us to build it in an equally attractive site for the local community at no additional expense, because there are other waterfront sites with a garden other than that one, which of course is not the Naval Ground, which is not on the waterfront, nor has a garden, except from the 18th floor wherever your architects were going to put it. Therefore Mr Speaker, if the hon Members would forgive us for pursuing what they consider to be an error of judgement, we will continue to implement our policy and not theirs and the result would be that instead of having a hospital cramped in between Edinburgh House, Chilton Court, Regal House, the City Wall and

sitting in a traffic island, which is what that site is. Their site is a roundabout, surrounded by traffic all over the place. Instead of that what the people of Gibraltar will get is a state of the art hospital, which will be the envy of every public hospital in Western Europe. That is what they will get and we will remind them when they have it that the hon Lady and her colleagues would have deprived them of it if they had been in office.

Mr Speaker, the hon Members raised the question of Coaling Island boat owners and the hand-over of the cricket pitch. Mr Speaker, if she does not mind I will resist a sort of matching contest at who is more successful at taking the MOD horse to the drinking trough and making him drink. The fact of the matter is that insofar as concerns the Coaling Island basin which as the House knows we are committed to using for the relocation of the boat owners club, the fact of the matter is that the issue there is one of reprovioning, which was always an issue. The hon Members took the transfer of the property from the MOD in which the MOD had an installation, that had to be reprovided. What needs to be reprovided here is a berth for the tug Capable and a few other small boats. What the Government had offered to do and what the MOD had originally suggested was required was a pier capable of having tied to it the Capable. Now the MOD is saying that no, because it is an extension of Berth 41, does the hon Lady know what Berth 41 is, the one just outside the Tower where they berth all the big ships when they arrive. The jetty is in effect an extension of Berth 41 and the MOD want the Government of Gibraltar to build an extension of Berth 41 capable of having the rear end of the Ark Royal tied to it. The cost of building a jetty of 41 metres in length to which the Ark Royal can safely be tied is considerably greater than building 41 metres of jetty where we only want to tie the tug Capable. What we are saying to the MOD is that what they are asking us to do is not to reprovide what they had, which was a berth into which physically one could not get an aircraft carrier, one could only get a boat the size of the Capable, that our obligation to reprovide is an obligation to pay for something which costs what that costs and not something which serves a higher purpose and therefore costs more. The cost of providing the jetty as the MOD are now

requesting is in the order of £3.5 million, compared to £1.2 million for the original. The hon Lady will understand that we are not going to rush to do that, there are greater priorities for Government. One thing is to say I spend £1 million to accommodate boat owners and another thing is to say, I spend £3.5 million. What we are trying to do is to persuade the MOD of the reasonableness of our view, of the correctness of our view and of the unreasonableness of theirs and when that debate has been resolved, we will do it. If I find that I cannot resolve it, given that what she was insinuating in her address was that they were much more successful than we were at twisting the MOD's hand. I would not hesitate to call her in as a consultant to the Government to help the Government twist the MOD's arm to give us this on reasonable terms.

Mr Speaker, the handover of the cricket pitches to the GCA is being delayed by the fact that the MOD is trying to attach conditions to the handover of a permanent preference for the school and things of that sort and that the policy of the Government is that we do not accept a transfer of assets with conditions as to user, otherwise what we are doing is taking over the cost of maintenance and the cost of the staff that look after it and we are in effect providing to them what they are presently having to pay for. There are discussions taking place about whether the schools sports requirements can be separately provided. The Minister is conducting those discussions and I think the hon Members will prefer that we conduct the negotiations in a way that obtains a transfer of property on reasonable terms and does not establish dangerous precedence for the future.

Mr Speaker, I entirely disagree with the hon Lady's criticisms of our ID Card agreements. It appears to be the hon Lady's and indeed her colleagues philosophy in life, that they think that the world will rush to solve our problems without us having to contribute anything to that. That is a completely unreal approach to life which would have taken Gibraltar nowhere. The Government's policy to the solution of problems that affect Gibraltar internationally is that we are happy to enter into agreements that solve problems, even to enter into agreements to

which we contribute, otherwise it would not be an agreement, and that the only thing that we apply is that the price has got to be right. In other words that our contribution to the solution of problems that affect Gibraltar cannot affect any fundamental interests. Mr Speaker, I do not know how brittle or how fickle the hon Member thinks that the identity of Gibraltar is, but she must think it is very brittle and very fickle if she thinks it depends on whether the words Government of Gibraltar appear on the Identity Card. The words Government of Gibraltar do not appear on our passports and I do not know if the hon Lady is one of those Gibraltarians that has obtained British Citizenship but the idea that our identity is not eroded if we have a passport that does not say Government of Gibraltar but is eroded if a piece of plastic two square inches large does not have the words Government of Gibraltar, is not an approach to Gibraltarianism that I think is correct. Actually it is more accurate because although we recognise that that agreement, that that suggestion, that that issue of eliminating the word Gibraltar, was the Gibraltar Government's contribution to the settlement of the problem. It is just that we do not happen to think it is a price tag like the hon Member says. The Ordinance, under which the cards are issued, the Civilian Status Registration Ordinance says that these cards are issued by the Civil Status Registration Officer. He is the man that issues them. Not the Government of Gibraltar, although of course he is an officer of the Government of Gibraltar and continues to be an officer of the Government of Gibraltar and he is still described in the card as the issuing authority, which says that it is issued by the Civilian Status Registration Officer, Gibraltar. The hon Member may wish to think that Gibraltar's identity depends on the use of the word Gibraltar. I do not think it does and frankly the solution of the problem is of much more value to Gibraltar than what the hon Lady thinks is the concession that the Government have made. We know that the hon Members do not like it when this Government solve problems. Not because there are concessions, not because Gibraltar is being made to pay a great price, but because the hon Members do not enjoy seeing this Government solve problems without paying a large cost for Gibraltar which they were neither able nor willing to do. They do not want to see this Government as being successful

problem solvers. They would rather see us emerged in a permanent ever decreasing circles of problems and quagmires and insoluble problems as was Gibraltar's situation when they were in charge of its affairs. We are not going to fall into that trap. We know what the fundamental interests of Gibraltar are. The public out there, the people of Gibraltar trust the Government of Gibraltar with Gibraltar's fundamental interests and that is what our mandate is and we are not in Government to implement the views of the hon Lady. Indeed we are in Government to implement policies which are different, very different, happily different, not only to the ones that the hon Lady has, but to the way they had of going about applying them.

Mr Speaker, the Hon Mr Perez said that the contractorisation of the maintenance of Edinburgh House was a breach of the assurances that had been given to the workforce. This is not true. The workforce has never been given any assurance that the Government would not contractorise the maintenance or any other aspect of Edinburgh House. What the workforce has been assured is an assurance which stands now to a much greater extent that it used to stand when he was in office, is that we would not contractorise the existing workload of the department. A principle, which they were the first to breach and massively breached by the use of contractors to do work which, had historically been of the Buildings and Works Department.

HON J C PEREZ:

What about JBS?

HON CHIEF MINISTER:

What did JBS do?

HON J C PEREZ:

JBS in agreement with the Union did part of the work that was done before but it was done with the agreement of the Unions at the time and the rest of the work was done in-house instead of

going to contractors as had been the case with the AACR and it is the case now. And the people in the Section that used to repair what JBS used to repair went on incentives schemes to do work previously done by contractors.

HON CHIEF MINISTER:

Mr Speaker, the hon Member will be glad to know that we have done an agreement with the Unions as well, but I will accept his statement as an admission that they did it, albeit with agreement from the Unions. Therefore the only point that I was wanting to make and I am very happy for him to widen this debate if he wants to, the only point that I was wanting to make was that there has been no assurance which has been broken. They are all partly guilty of this sort of lack of political imagination of just carrying on with the same old chestnut. The hon Members talk about traffic chaos. Mr Speaker, where is the traffic chaos because the only change that the Government have made, I know that the hon Members are desperate and they get their letter writers to write letters to the Chronicle, all trying to pressurise the Government into abandoning the pedestrianisation of Casemates because really what they want to do is Casemates not to be a success and they know that the best way to kill the success that everybody recognises Casemates Square is, is to allow traffic to drive through it. He is not going to succeed. Casemates will stay pedestrianised. As the result of the pedestrianisation of Casemates, changes have been made to Winston Churchill Avenue, Glacis Road, Corral Road junction, making it much, much more passable than it was before. All traffic lights have been eliminated, except those that control pedestrian crossings. No longer when one is driving down past the Dr Giraldi Home, one has to wait in a line to get into Winston Churchill Avenue and the lights only ever gave six cars the chance to pass, so one usually needed to wait for two or three light changes before one got through. No longer does one have to sit in traffic lights outside the Bank of Scotland. No longer does one have to sit waiting for traffic lights in Glacis Road. If that is the hon Member's definition of traffic chaos, I have news for him, there is going to be much more chaos during the next four years. That is not traffic chaos,

everything that the Government have done has improved traffic flow. The hon Member may wish to call it chaos. If he is referring to the length of time it takes for people in the South District to get into town in the morning, then he must know, that that has always been the case and that what the Government have done, has partly improved the situation by giving right of way to traffic coming down Trafalgar Hill into Queensway over traffic coming out of Main Street - heading south it used to have the right of way. The only other thing that the Government have done is that traffic that used to come from the Upper Town down Library Hill and passed that little bit of Main Street past the Copacabana and into Cathedral Square, instead of coming down that way, it now comes a bit further down Town Range and comes into Cathedral Square via Convent Place and Main Street. But it still meets the traffic that it used to meet because the traffic that it now meets outside No.6 Convent Place is the same traffic that it used to meet in Cathedral Square. And the traffic coming down the Copacabana when it used to come down that way, had right of way over the traffic coming past the Jewellers. So it is the same traffic, Upper Town traffic and traffic coming north from the South District that has always met in one spot, before it used to be on the corner of the Jeweller in Cathedral Square and now it is outside the Jean shop opposite No.6 Convent Place. There is no contribution to chaos as far as I can see there. The improvements that have been made from making Main Street one way, from the widening of Lover's Lane, any number of traffic flow improvements. The hon Member can rile me on the question of traffic chaos as often as he likes. All it does is give me the opportunity to point out the positive things that the Government have done and we continue to do in traffic flow management and to repeat our ambition to solve problems that they caused and which we have not yet been able to solve but we will. The biggest source of traffic problem in Gibraltar is the junction of Regal House, of Queensway and Europort Avenue.

HON J C PEREZ:

And the Government should do something about that.

HON CHIEF MINISTER:

No, the hon Member should have done, he did very well to do all that reclamation but he should have been a bit cleverer and provided a road infrastructure capable of handling the amount of vehicular traffic which anybody who can count would have known would have been generated by the number of residences that were being accumulated in that area, and he did not. The result is that it takes people 15 or 20 minutes to get out of Europort, to get out of Westside into Queensway every morning. That is traffic chaos. It is traffic chaos that they have created about which he should not worry because we will solve it even though they created it. The hon Member, rather like some of his colleagues, now wants to make himself the champion of victims that he caused, he created in the first place, because the second monument of disingenuity that I have heard in this House, the first one was about private patients and the second one was his. He introduces clamping.

HON J C PEREZ:

Sorry, Mr Speaker, that is not true. If the Chief Minister will give way?

HON CHIEF MINISTER:

I will give way to him even though he did not give way to me, but I am not as childish as he is. The hon Members during their period in office institutionalised the mass clamping of traffic in Gibraltar, not only that, or does he not remember his then colleague Mr Pilcher. Not only that, but he made a virtue of clamping by giving commission to the company that did the clamping.

HON J C PEREZ:

Again that is not true, will the hon Member give way?

HON CHIEF MINISTER:

And having done that now, having clamped the people of Gibraltar to his hearts content for eight years, now from the Opposition benches he says that he will eliminate clamping. The people of Gibraltar see through that sort of political opportunism because the disadvantage of having been in Government is that whenever one says things, one is open to being taunted of why one did not do it oneself when one is in office and there is no getting away from that.

HON J C PEREZ:

Will the Chief Minister give way? Mr Speaker, clamping was introduced by the AACR Government not by the GSLP Government. We did not institutionalise it as the Chief Minister says and if he is so against the institutionalisation of clamping which he claims we did in eight years, why has he not eliminated it in four years? Because once one is in Opposition, one revises one's policy, one commits oneself to one policy and the abolition of clamping was included in the Election manifesto as a policy decision of the party and regardless of what was there in the past, put by another Government, not by us, we have a right to come and say, this is wrong, we have realised that this is wrong, we have realised that this is indiscriminate..... [LAUGHTER]

MR SPEAKER:

Order, order.

HON J C PEREZ:

The Chief Minister has had the opportunity in four years after criticising how draconian we were of doing something about it and he did not even put it in his own manifesto. Let me add, Mr Speaker, that the Hon Dr Linares, after the performance tonight will have no problem whatsoever in bringing back the Drama Festival, that is clear. Perhaps in the year 2003 when he opens the Theatre Royal, we can have the rounding up of the Budget

Speech of the Chief Minister in the Theatre Royal and we might have the Drama Festival there because all that we are getting tonight is theatricals upon theatricals.

HON CHIEF MINISTER:

I have news for him, there is a bit more to come still. I did actually have a successful drama youth. I was once Little Buttercup in the Gilbert and Sullivan's HMS Pinafore and I can still remember the lyrics. If he provokes me enough I shall burst out into song HMS Pinafore Little Buttercup. Mr Speaker, he is completely mistaken. It is not this Government's policy to abolish clamping. We do not need the opportunity to avoid clamping because it is our policy only to clamp when public safety requires it. They clamped as a means of revenue raising. For them clamping was taxation of the motorist. The motorist that he claims to protect, clamping was just an excuse for squeezing money out of the motorist. We do not clamp. [LAUGHTER]

MR SPEAKER:

Order, order. I think you have got to be serious.

HON CHIEF MINISTER:

I hope Mr Speaker is not describing my point as not serious. The point is as serious as the hon Member's and unless it is in breach of some Standing Order or other of the House, I am entitled to make whatever points I like. Mr Speaker, the important change that there has been in clamping is that we instruct the clampers to clamp only when there is a danger. The policy of the Government is that there should be clamping only in respect of obstructions that are a danger to traffic and to public safety. Just as he used to instruct them very differently. That is the position. The policy of the Government on clamping is that and it is a fair policy. It is a proper use of clamping. It is the only proper use of clamping as opposed to the improper use of clamping that they used to do when they were in office.

Mr Speaker, the hon Member is critical of what he regards as excessive review. Why review the Post Office when all we need to do is go and ask the Postmen what they want and give it to them. This was the thrust of what he was saying. Mr Speaker, for the simple reason that the problems that we have in the Post Office today are the direct result of precisely that approach of management for the eight years that they were in office. The problems in the Post Office are structural. They are deep rooted, they are not solved, they are made worse by the sort of tinkering that he used to do to buy himself industrial peace and to ingratiate himself with a very small group of workers in the Government. Therefore, Mr Speaker, the Government get expert advice on the review of the Post Office because for us the problem is not about one postman more or about paying them more overtime or about giving them a van. To us the problems are deep rooted and structural. The management is right in some of what it says and I am sure the staff is right in some of what it says. We want a modern Post Office for Gibraltar established in accordance with modern principles, and the way to achieve that is not as the hon Members did to Gibraltar's great cost, they used to think that we know best and who needs experts, and there are all the massive bills that we now are having to pick up as a result of that policy deployed over eight years. The policy is, the proper way to do it, is to bring in the people who are experts in modern Post Office Service and that is what there is, Mr Speaker, and that is what the Government will do and the Government think that that is the sensible and prudent way to proceed. Mr Speaker, I cannot reproach him too much for doing so because I remember saying similar things when I was in Opposition on that side of the House. But when the hon Member refers to what he calls the excessive profits of Gibtel and the telephone companies and how the customer is entitled to a share of this. Is he aware that Gibtel is making the same profits now as it was making when he was in office and the Minister responsible, and that he never took the view when he was in office that Gibtel's profits should be reduced thereby curtailing the Government's dividend for the benefit of the customer, although I recognise that I once taunted him with the need for him to do precisely that. Mr Speaker, the hon Member should know that the Gibtel dividend, GOG's share of the Gibtel

dividend totalled £2.4 million in the years 1997/1998, 1998/1999 and 1999/2000 and £2.5 million, that is higher in the years 1994/1995, 1995/1996 and 1996/1997 which were his last years in office. Therefore, I limit myself, I do no more than point out that what he is now extolling the Government to do is not what he did when he had the opportunity to do it with exactly the same numbers in front of him. I think that it is fair and reasonable for that to be pointed out to people so that they can evaluate for themselves political sincerity of the exaltation that the hon Member now makes or whether he is not simply being politically opportunistic by espousing the cause of every interest group in the community in the hope of securing their electoral support in the process. Mr Speaker, the hon Member asked what was the point of applying this ruling on telecom, if liberalisation was round the corner. There is an important point of principle at stake, Mr Speaker. The European Union directives do not deregulate the telecom market, they liberalise it. Some things are still subject to licence, even after liberalisation. The European Union directives do not create a single market. This is not like Financial Services. the liberalisation directives do not create a single European market in telecoms, they liberate. They liberalise national markets which nevertheless remain national markets, so the UK national market is liberalised, the French national market is liberalised, the German national market is liberalised and the Gibraltar national market is liberalised, but they are not lumped together. In the context of that point, the idea that anyone thinks that liberalisation allows an operator to plug himself by microwave dish into La Linea, thereby in effect making Gibraltar for telephonic purposes an extension of Telefonica's La Linea Network, bypassing the local operators, bypassing the local industry, is not a point of principle that the Government are willing to give away without a contest. Because the hon Member knows what is the economic price that Gibraltar will pay if operators using a small bit of kit that they lock up in the boot of their car, siphon out of Gibraltar's network infrastructure, the cream business, leaving the local company, who is the one that employs 150, they are the companies who make the capital investment here and who have to sustain the cost of maintaining the local network, they are left with just the low margin unprofitable or less profitable business.

That is the point of principle that is at stake and the Government believe it is too important a principle given the technological advances that there have been. Things can now be done with bits of kit that were inconceivable just a year ago. Therefore the Government feel we need to leave no stone unturned in protecting the local market from being plundered in this way. If the Government are wrong and the courts rule that the directives do not allow Gibraltar to protect itself in that way, well so be it. But at least the Government will have done everything lawfully within our power to establish the protection of Gibraltar's economy and I know that politics aside the hon Member supports the Government taking initiatives for that reason.

Mr Speaker, the Government are as disappointed as the hon Member in the lack of commercial success that has accompanied the relaunch of GBC which was supposed to be an investment in additional cost which was supposed to be matched by additional commercial fund raising by the Corporation. It has not materialised. The cost has been generated, the additional commercial revenue has not materialised. It is a situation with which the Government are less than content. I agree with the hon Member's assessment of what is value for money, public service broadcasting and what is not. The Government the first time round did not want to interfere too much in the programme decision making at GBC. We took the view that as the paymasters we were entitled to attach financial conditions to a relaunch but that it would not be right for the Government to say that they should have more or less news programmes, because there is only one quick step between that and Government control of the Corporation's editorial output but it is true that the Corporation has not been able to deliver in year one at least on its part of the bargain. The Government will enter into discussions with GBC on what can be done about that and it may well be that the Government will suggest to GBC that having seen that it does not work, that the next thing that they should try is to concentrate their resources on the times of the day when community broadcasting is relevant, rather than spreading it out more thinly. The hon Member will recall that the reasoning that GBC used at the time was that having expanded broadcasting time in the

afternoon et cetera, gave them more advertising slots. Obviously there would have to be an economic evaluation to see whether the revenue that these additional advertising opportunities generates them justifies the additional operating costs that come from operating and from not concentrating resources and that is certainly an exercise that the Minister with responsibility for broadcasting, my Colleague, Mr Britto, will be undertaking with GBC.

Mr Speaker, the hon Member was a little bit critical about the lack of progress on arrears collection. The establishment of the Central Arrears Unit has been greatly instrumental in reducing and collecting Government arrears. Not only is it collecting arrears, but it is preventing arrears from being generated for so long. In other words they are starting to collect arrears much sooner before they have built up as they used to build up before. The one area where there is continuing deterioration of arrears is housing rents and that is not an area which the Central Arrears Unit has yet tackled. They are dealing with such things as rates, electricity, PAYE, social insurance contributions and things of that sort. The hon Members will be relieved to hear that I am supposed to be at the aforementioned GBC for a television programme at 9.15 pm and therefore I must rush to finish my theatrical performance, to start another one now at GBC.

Mr Speaker, the Hon Dr Garcia describes the Budget as a non-budget and a non-event, even though everything in it is a partial delivery of manifesto commitments. Everything that I have announced is in our manifesto and the hon Member has got to remember that it is the manifesto that the electorate shows by a very large margin in preference to his manifesto, and for him to describe as a non-event a manifesto that gives to the electorate a significant part of what they chose to vote for, I think is treating the electorate of Gibraltar with a degree of disrespect which they do not deserve. If I had done things which I had pulled out of my sleeve, the hon Member might say that that is a non-event, but to do things which I pledged to the electorate that I would do, that I am doing at the first opportunity and which they voted for me to do at the first opportunity, I think that the hon Member should

choose different terminology to describe this than a non-event. Mr Speaker, the chestnuts that the hon Member runs and runs and runs with, if that is not a mixture of metaphors, which I suspect it is, is that the Government are propagandistic. Does he not remember during the Election that I produced a figure that showed that he has from Opposition, he has produced many more Press Releases than the Government and he has got nothing to brag about. He has done nothing and he generated more Press Releases from the non-elected Opposition. At the time he was not even in the House of Assembly and he managed to generate several hundred Press Releases in a year with absolutely nothing to brag about and to say nothing and that he wants to categorise propagandist. If the Government did not issue Press Releases informing people, then he would plug the alternative chestnut which is that the Government play the cards very close to our chest, that we do not inform people and that this is the most unaccountable Government. He has got to decide which of the two it is that he wants because the people of Gibraltar are too intelligent as they have demonstrated now for quite some time. They are too intelligent to let him get away with running both arguments at the same time forever, so he had better decide whether he wants the Government to keep the people informed or whether he does not want the Government to keep the people informed. The one thought that came rushing to my mind when he gave his example about why the Government was necessarily propagandist, he said, "and for example, what is not pure propaganda is the point of taking the Gibraltar press to London for an event which is supposed to be promoting Gibraltar". This is what he said, "what is the point of taking the Gibraltar press and reporting in Gibraltar about what you do in London for political promotion". He could not have forgotten that the man who masterminded that technique normally sits right next to him and is not now in the Chamber, the Leader of the Opposition. Why does he think the Leader of the Opposition initiated the practice of taking GBC to film him in all his glory addressing the United Nations? What need is there for him to take GBC to the United Nations if the point of going to the United Nations is not focal theatre, but to address the United Nations on behalf of the people of Gibraltar? That does not require the

presence of the camera crew of GBC. I do not share the hon Member's assessment. I think it is important that people in Gibraltar participate in what the Government are doing for the projection of Gibraltar outside. I do not criticise his new Colleague, the Leader of the Opposition, for having done that at the United Nations. But if he is to be coherent and consistent, he should criticise him for doing it because the same applies to a political address at the United Nations as applies to a Tourism Conference in London. Neither are done for domestic purposes. Both are done to serve the interest of Gibraltar abroad and therefore the same philosophy, the same propagandist philosophy must apply to them both. Mr Speaker, the hon Member may wish to persist with his extraordinary notion that the Government have created a virtual Gibraltar. He is the only one who thinks so. Everybody else resident and non-resident alike fall over themselves to comment on the changes that there have been in Gibraltar in the last four years. The economy is booming, the physical appearance of Gibraltar is vastly improved, the physical infrastructure, the roads of Gibraltar have vastly improved, the training prospects in Gibraltar have vastly improved. If that is the hon Member's definition of a virtual Gibraltar, I would say it is a definition of a virtuous Gibraltar, rather than a virtual Gibraltar and it may be that he has got his terminology confused. Mr Speaker, he then throws in, in the hope of tarnishing the Government, I know how close he was to the dispute involving the Chief Justice last time. Everything gets reported. He is completely irresponsible. Press comments in relation to the subject contributed to the situation. Let me tell him that if I have to say the same thing again, I will and if I have to say the same thing again about a Commissioner of Police, I will, because he who boasts so much about the Government being poodles of the Foreign Office and about the Government giving away Constitutional advancements for Gibraltar and about the Government allowing the introduction in Gibraltar of retrograde practices, he who is constantly saying that through clenched teeth, because he has neither the policy nor the courage to actually implement what he says from the safety of the Opposition benches, he should not be criticising me, he should not be criticising the Government for making it perfectly clear to those that would take Gibraltar back to

the Victorian times of colonialism, that we in Gibraltar will not put up with it and he may want to criticise the Government of Gibraltar for telling a Commissioner of Police who publishes his views about public affairs and about Government policy and about legislation and about public expenditure methods to the press and to the Governor and to the Foreign Office officials, but has not the opportunity to do it to the Government, he may think that that is okay, but I can tell the hon Member that has not happened in Gibraltar in 35 years. He may not have been in this House long enough to value the importance of this House and only this House being the adjudicator of the expenditure of public funds. He may therefore think that it is okay for the Commissioner of Police to rush off to London to discuss with Foreign Office officials about would it not be nice to have if we were to have a little committee with Foreign Office officials in it and local worthies to decide how much funds the Police should get. But it is them instead of the hon Member, as the elected legislature of Gibraltar. He may think that both the methodology and the content of the Commissioner's behaviour is acceptable. I tell him it is not acceptable to the Government of Gibraltar and we will engage in public controversy, as he calls it, as many people as seek to take Gibraltar constitutionally backwards. And I expect his support, not attempts from him to embarrass the Government for doing so. He is certainly not doing Gibraltar a service and he is certainly not ingratiating himself to the electorate, who understand these things, apparently better than he does.

Mr Speaker, the banking licences, this continued attempt by the hon Member, who does he think he is kidding? Does he not understand that when he makes isolated disjointed points, calculated to send the signal that the Finance Centre is in decline, because the Republic Bank of New York, because it has gone? But does he not understand that the people who work in the Finance Centre of Gibraltar know what the reality is, does he not know that the Finance Centre Council in October last year said publicly that 1999 was the best ever year for the Finance Centre? Who is he trying to kid into believing that the Finance Centre of Gibraltar is in decline, when everybody recognises that it is enjoying a heyday that it never enjoyed before and which certainly

would never have enjoyed with the bankrupt, suicidal for the Finance Centre policies that the Party that he has now gone to bed politically with used to dollop out when they were in office. Not only have we rescued the Finance Centre from the precipice to which his new political partners had taken it, but we have in four years repositioned its reputation, enabled it to grow, enabled it to prosper and everybody recognises this except the hon Member. He can carry on spitting into the wind for the next four years but he has recently learned what happens to people who spit into the wind and that is that they get their face wet. In electoral terms the electorate see through it and do not buy that sort of thing because they have eyes for themselves, they can see for themselves. When he tries to paint this picture of touristic decline in Gibraltar, does he not realise that the people go out into the street and see cruise liners in port like they have never seen before, that see Main Street practically impassable for tourists and he is trying to persuade people in the face of what they see with their own eyes, he is trying to present a distorted presentation of statistics to try and demonstrate that what people can see with their own eyes is virtual Gibraltar. It is an optical illusion, it is not true that these cruise ships are in the Port, three yesterday. It is not true that Main Street is full of tourists. All this is not true, it is a figment of the Government's propagandist virtual Gibraltar. I can tell him he will have difficulty getting to this side of the House in that way, that is not the way to persuade the people of Gibraltar to deposit their trust in him. Mr Speaker, if the hon Member is concerned about coaches getting preferential access to the border in La Linea, he will have to go and explain his concern to the Spanish Authorities. I know he thinks it is legitimate to blame the Government for everything. The fact that Renaissance decide to take their cruise ship to the Baltics instead of to the Atlantic, that is something for which the Minister for Tourism is responsible. I can only decide what happens in the frontier from this side out, I am not in a position, despite my excellent relations with the Mayor of La Linea and others, which we hope to make even more excellent, we are not in a position to dictate to the Spaniards how they should operate their side of the border. What he is not entitled to do, even if he is going to stick to honest debating techniques, is insinuate as he did, that the

Government must have agreed to this. That this is the product of the co-operation between the Mayor of La Linea and the Government of Gibraltar. Thereby seeking to attach to the Government of Gibraltar the causation of this practice that he says concerns him. If he is concerned about this, he should go to La Linea to the Mayor's office, explain his concerns to him and whilst he is there talk to him about that e-commerce project that he also referred to because it is the Mayor's of La Linea as well in his private capacity. So he could kill two birds with one stone. He can inform himself about the e-commerce project that he referred to about La Linea and at the same time express to the Mayor his concerns about the preferential treatment being given to buses.

Finally, Mr Speaker, the Government have never claimed more credit than is due to the Government for the fact that the World Federation of Small Businesses has chosen Gibraltar for its global conference. But credit is due to the Government. The fact of the matter is that it was the Gibraltar Federation of Small Businesses itself that requested the Government, to send the Minister there because the Federation had said that unless the Minister goes to support and sponsor the application and to show the Government's commitment and the Government's support, they would never get the nomination for the presentation and in response to that request, the Government did everything that it could, which was not only to send the Minister, but actually to pay the cost of air travel for the President of the Federation of Small Businesses herself whose organisation could not afford to send her to Singapore. The Government are not the Federation of Small Businesses but the Government have been instrumental in securing that conference for Gibraltar, as has Mrs Guerrero, the Chairman of the local Federation, as has, perhaps more important than both of us, Mr Brian Prime, who is a big shot in that organisation and who is a longstanding and committed friend of Gibraltar. The Government claim the share of credit that is due to us which contrary to the impression that the hon Member sought to give is not none.

Mr Speaker, in closing I have to express the disappointment of the Government to what has been the approach of the hon

THE APPROPRIATION (2000-2001) BILL, 2000

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

HEAD 1 - EDUCATION, TRAINING, CULTURE AND HEALTH

HEAD 1 – A – EDUCATION AND CULTURE

Subhead 1 - Personal Emoluments

HON J J BOSSANO:

Mr Chairman, in Personal Emoluments, the establishment shows that the lecturers in the College of Further Education, previously shown as Heads of Departments, have been redefined as teachers and are now included in the complement of 22 teachers. What does this involve in terms of Personal Emoluments which I take it is included in the global salary figure of £9.7 million?

HON DR B A LINARES:

The answer is yes.

HON J J BOSSANO:

The answer is yes, what does it involve?

HON DR B A LINARES:

Sorry, I thought the hon Member was asking whether the renewed salaries.....

HON J J BOSSANO:

‘No. Given the fact that there is a change in title, as it were....

Members in this Budget debate, which is to raise nothing new, to continue with the same old chestnuts as they were raising repeatedly before the Election and to reproach the Government for implementing the Election manifesto, which the people of Gibraltar chose in preference to theirs. They will forgive us, given the manifestly more success that our approach has met in the eyes of the electorate to theirs, they will forgive us if we spend the next four years implementing our policies and not theirs and doing things our way rather than theirs because the last four years show, in comparison to the previous eight years, that Gibraltar does much better with things being done our way and with our things being done rather than theirs and that is what we will continue to do.

MR SPEAKER:

I now call on the Financial and Development Secretary to reply.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Speaker, I have nothing to add, other than to say that if I missed any small technical points we will pick them up at the Committee Stage.

Question put. Agreed to.

The House recessed at 9.15 pm.

FRIDAY 2ND JUNE 2000

The House resumed at 11.00 am.

COMMITTEE STAGE

HON ATTORNEY-GENERAL:

I have the honour to move that the House should resolve itself into Committee to consider the Appropriation (2000-2001) Bill 2000, clause by clause.

HON CHIEF MINISTER:

There is more than a change in title. The position that has developed surrounding the lecturers of the College of Further Education is that whereas there was a time that they were better off than teachers, because of what has happened to teachers, all that has been eroded and they are now on the same terms as teachers in order not to be worse off than them. So it is not just the title, they are now incorporated onto the same terms and conditions as teachers. They were previously on what was known as Silver Book terms of conditions and they are now on the Blue Book terms of conditions, which are the terms of conditions that apply to teachers generally.

HON J J BOSSANO:

Can I ask, Mr Chairman, does the Minister have a figure for how much of the salaries bill is due to the College of Further Education?

HON DR B A LINARES:

I have not got the breakdown with me, Mr Chairman.

HON J J BOSSANO:

Given the fact that we were told in the general principles of the Bill that the projected increased revenue from fees for further education of £100,000, as opposed to £20,000, is an indication of a much greater volume of provision, presumably for places for students, five times as many and that we were also told in the general principles that this was largely self-financing, presumably, if there is a provision for people to pay £100,000 worth of fees for being taught, there must be a provision for the teaching on the other side of the expenditure side. I am assuming that there is a logic, that if one is expected to provide more courses, one provides them both for the revenue and for the expenditure.

HON DR B A LINARES:

Mr Chairman, the answer to the first question concerning the cost of the lecturers is £561,378. Concerning the courses of continuing education, they are self-financing, we have to bear in mind that not all the tutors and teachers involved are part of the College complement. They are actually contracted. They are engaged from outside for particular courses, for instance, in the leisure courses, gardening, art, pottery and of course, the self-financing mechanism pays for them.

HON J J BOSSANO:

What I am asking, Mr Chairman, if in the Bill before the House, we have an estimated expenditure, an estimated revenue yield, resulting from the provision of the service, then I would expect that we would be approving the expenditure related to that service. Therefore, I would expect that if last year the College of Further Education provided 20 courses, for the sake of argument, each of which produced £1,000, then this year they must be producing 100 courses, each of which produces £1,000. Therefore, we must have voted money in the House last year for those courses irrespective of whether the people teaching were permanent or not. If they are not permanent presumably they would be included in the sub-head for temporary assistance, as opposed to the sub-head for Personal Emoluments, but the money must still have been voted in the House. It was not that the students paid cash to the lecturer, I take it. Otherwise the money should not be coming into the Consolidated Fund. If it has been coming in, it must be going out.

HON CHIEF MINISTER:

Mr Chairman, that is the position now. It was not the position before. When they used to do it, the hon Member will remember that the figures in the Consolidated Fund were netted and that they used to allow the College of Further Education to keep a deposit account into which students outside the Government, in which the students paid their fees and the College drew the

money. That is not what happens now. What happens now is that one item is shown as revenue and the other item is shown as expenditure under the Consolidated Fund. If I understand what the hon Gentleman is asking, he is asking, "given that we are predicting a higher output of courses, does this not require a higher cost provision for methods?" Mr Chairman, the answer is that it is included in the sense that the courses that the Principal of the College arranges or allows to be arranged, is always tailored to the human resources and the hours that the lecturers have available. Remember for some of them their hours are not the usual hours and that they offer the courses that they can, within the human resources and the hours that they work that they can. There is no specific provision for additional cost arising from the predicted additional courses that the hon Member has said, at least not in terms of numbers of staff. Whether there is a provision in the overtime.....

HON J J BOSSANO:

The overtime is not up, Mr Chairman.

HON CHIEF MINISTER:

Mr Chairman, any additional monies that may be required for reasons that the hon Member has identified or any other would in any event be taken out of the Temporary Assistance, which is sub-head 1D under Education and Culture.

HON J J BOSSANO:

I have already said that. Mr Chairman, I have already said if the permanent staff is not, I have already mentioned the Temporary Assistance. I have pointed out that there is no provision whereas the outturn when we provided £20,000 worth of evening classes, was £650,000 and the Estimate for the forthcoming year in anticipation of providing £100,000 worth of courses is still £650,000.

HON CHIEF MINISTER:

Mr Chairman, the hon Member has got to understand what the nature of that sub-head is. The Temporary Assistance Vote does not respond to a fixed cost base. It covers for such things as supply teachers, for heads, for expenditure, the demand for which is unknown and fluctuates from year to year. The hon Member will see that it was estimated at £477,000 in the previous Financial Year and has gone to £650,000. Therefore, the provision is made on the basis that there is slack in that figure because it is not like sub-heads A, B and C, where we know that that is going to be incurred. Temporary Assistance arises in different amounts. The need for expenditure under that head arises in different amounts, in different years and my own view is that it is increasing at an alarming rate.

HON J J BOSSANO:

I am surprised that that is the Chief Minister's view because in fact it is hardly increasing at all. The actual for 1998/1999 was £640,000 and the actual for this year is £650,000 and the proposed for next year is £650,000. So not only is it not increasing at an alarming amount, it is practically not increasing at all.

HON CHIEF MINISTER:

Mr Chairman, if the hon Member wants to nit-pick we will be here until tomorrow night. The hon Member has got two years in front of him, he has got the 1998/1999 and the 1999/2000.

HON J J BOSSANO:

Mr Chairman, I have not finished.

MR SPEAKER:

Let him finish.

HON CHIEF MINISTER:

Does he want the answer to his question?

HON J J BOSSANO:

The Chief Minister likes answering questions so much that he actually jumps to his feet to answer even before I finish formulating it. All I was saying before I put the question is that he is wrong in saying the Temporary Assistance is growing at an alarming rate because the only thing that has grown is that it was grossly under-estimated last year, because the actual for 1998/1999 is very close to the forecast outturn and to the proposal. What that would indicate is that on a year-to-year basis by and large, what one finishes up paying for Temporary Assistance has not changed very much. The question that I am formulating, which may seem nit-picking but that is the purpose of the Committee Stage, the whole ethos of the Government's desire to bring everything here to be examined closely for transparency and all the rest of it. The question that I am formulating is that if we have been told that there have been possibly an over optimistic assessment of the courses that are going to be provided, then we would have expected that if there is a decision to provide courses in the estimating of the department, the department would have submitted to the Minister approval for funds for the courses that are going to be provided. It is not an unreasonable assumption and what I am trying to do is find out where I can find that reflected. If the Minister is not able to give me the information on his feet now, then I am quite happy, having drawn attention to it, that perhaps he should write to me letting me know what is the difference between the courses that were done last year and the ones that are being planned for the next year in the programme that he says the Manager has produced and then we will be able to evaluate what additional..... We welcome the fact that the College of Further Education should be given much more variety of courses to people. We just want to find out more about it.

MR SPEAKER:

Before you stand on your feet, I wish to make the position clear. I am reading from Erskine May, "The function appropriate to a Committee of the whole House", which is this one, "is now recognised to be deliberation and not enquiry".

HON CHIEF MINISTER:

Mr Chairman, the answer is the one that he has had. It is provided for in the Temporary Assistance Vote. He will not be written to as he suggests and he is a nit-picker and what I said he was a nit-picker about is not about his enquiry about the figure, which I agree is the purpose, at least has always hitherto been the purpose of Committee Stage, the nit-picking does not relate to the figure. It relates to the pouncing of the fact that I am wrong when I say that the figure is increasing alarmingly because he looks at the pages and says, "last year it was £639,000, this year it is not increasing alarmingly". If he looks at that figure for the last four years, he will see that historically it has jumped alarmingly from about 1996/1997 onwards and has increased annually. He nit-picks in that he immediately tries to demonstrate that I am wrong, when I have said that the figure is increasing, simply because it has not increased on the basis of this year and the last. That is what I was saying he was a nit-picker about and on that basis we will be here until 4 o'clock in the morning, which I am perfectly willing to be, but it is hardly the purpose of the arrangements. The answer to his perfectly legitimate question is, to the extent that the cost requirements of the College of Further Education in terms of additional training programmes is not provided for in their fixed sub-heads for emoluments, any increase requirements would be met out of the Temporary Assistance sub-head which is a flexible and unspecific provision. It depends on such things as maternity leave, the amount of use that is made by the Department of Education of the Temporary Assistance. The amount of maternity leave varies, the amount of sickness amongst teachers varies, the in-class service, there are so many factors that influence that, that it needs a general financial provision, and it will be met out of that and that is the answer to the hon Member's question.

HON J J BOSSANO:

Are the Government willing to provide details of the courses planned for this September by the College of Further Education and the estimated order of costs? Yes or no?

HON CHIEF MINISTER:

Mr Chairman, the details of the courses that the College of Further Education is doing this year is a matter of public record and public information, have already been announced such as they already exist, will be announced when they exist and the hon Member will have every opportunity to do so. As far as the cost of each course is concerned, that information is of course available and the Government are perfectly willing to pass it on to the hon Member if he thinks it is of interest to him. Each course is a very small amount. We are talking about £1000 here, £2000 there and a long list of items in that order, but he is perfectly welcomed to have it, if it is useful to him.

HON S E LINARES:

Mr Chairman, on my address previously, I asked the Minister if he could kindly give us an explanation as to why when I asked the question, Question No. 176 of 2000 – How many teachers there are in different schools – he gave me a list and when I added this list it came up to 311.5 whilst the complement in the Estimates is 299.

HON DR B A LINARES:

There is a simple answer to that, Mr Chairman. The fact is that the question was geared to how many teachers were in post, were actually active in the schools and at that time we totted up 311. We were not referring in that question to the actual complement. The statement in my report the other day accounted for the complement, the approved established complement which is 299.

HON J C PEREZ:

Does that mean that the difference is made up of supply teachers which are not accounted for in the complement?

HON DR B A LINARES:

Yes, Mr Chairman.

Subhead 1 – Personal Emoluments was agreed to and stood part of the Bill.

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

Subhead 5 - Special Education Abroad

HON J J BOSSANO:

Mr Chairman, the Special Education Abroad, in respect of how many people is it?

HON DR B A LINARES:

Mr Chairman, I think it is three, but I can check on the exact figure. About three at the moment.

HON J J BOSSANO:

Are these children below the school leaving age of Gibraltar, this is why it is coming out of the Education Vote, the three that are in the UK?

HON CHIEF MINISTER:

They come under the Education Vote, Mr Chairman, because they are at school. They are schools for special handicapped people. One does not want to mention names, but if we did, they would immediately recognise them. These are children with

special educational and care needs and they are delivered together. There are now actually five of them, plus one that is pending assessment for which provision has been made and some of these are very, very, very expensive. I cannot remember whether it was the Hon Steven Linares yesterday who intimated at this, but one of the projects that the Government have been looking at now for over a year is precisely whether given the amount of money that is being spent on this, whether we cannot provide this in Gibraltar and spend that money creating jobs here rather than placing. It is all being assessed at a professional level. There are different sorts of needs, not all these children have the same needs, different disciplines, different skills, whether it can be cost effective if we provided it in Gibraltar. That is one of the studies that Milbury was actually recruited to do and it is called the Home for Children with Challenging Behaviour, as a project. It is one of the things that we have been working on now possibly for longer than a year, nearer two, but of course one has got to do it sensitively in relation to the needs of the people concerned rather than just view it as an economic exercise.

HON J J BOSSANO:

In cases where a child becomes an adult and the Government need to provide money for them to be kept in an environment in the United Kingdom because it is not available here, does it still come out of this subhead? I remember at one stage, within the Education budget, that the argument was put that after a certain age, it ought to be Social Services and not Education. Is that the position now? Are there clauses somewhere else or is it all here?

HON CHIEF MINISTER:

No, it is all here. There is one person there who is already 18 years old amongst the five. The view has been expressed that it may be the case that once these people reach 16, that they become the responsibility of the UK Social Services County in which they are. The problem with that approach is that if it became known that Gibraltar was taking the view that we send them aged 10 or 11 or 12, pay for them and the moment that they

are 16, we say to the unfortunate Country Council where the school happens to be located, "this person is now 16, now he is your responsibility", we would never get places. The word would get around, there are not all that many schools and we would just become unable to find places for our children because the local authorities would realise that it was a trap, that we would end up paying for a couple of years and they would have to pay forever thereafter. That is one of the factors that is being factored into the possibility of providing this in Gibraltar. At the moment we are not taking a view, we are not differentiating between minors, youths and adults. It is all in here.

Subhead 5 – Special Education Abroad was agreed to and stood part of the Bill.

Subhead 6 – College of Further Education

HON J J BOSSANO:

Mr Chairman, the provision here which shows that we voted £81,000 last year and spent £60,000 and now £58,000 is being required. Is the cost of the College reflected in the Estimates, the Personal Emoluments, Industrial Wages plus this and nothing else, and if so, why is it coming down?

HON DR B A LINARES:

Mr Chairman, it is based on the bids and the costings made by the College itself and it is certainly not for Emoluments and Salaries. It is for consumables, equipment, administration expenses, running expenses. The Estimate this year is based on the costings which have been made by the College in terms of marketing, photocopying, and library resources.

HON J J BOSSANO:

What I have asked, Mr Chairman, is in the Head that we are voting on Education, is the cost of running the College made up of the proportion that may be in Personal Emoluments, the

proportion that may be in Industrial Wages plus this £58,000 and that is it? That is in the other bids like General Expenses, Electricity and Water, there is nothing there for the College.

HON CHIEF MINISTER:

In respect of the utilities, yes. Electricity, Water, Telephones, but not in respect of other things. Other things are all included in those three Heads that he has mentioned. It is not actually going down. In 1998/1999 it was £42,000. For some reason a very high Estimate was provided for for 1999/2000, which actually was not spent, and so what we have done this year is more or less provide at the level that they spent last year, rather than continue to provide sums that they do not spend.

Subhead 6 – College of Further Education was agreed to and stood part of the Bill.

Subhead 7 - Scholarships

HON J J BOSSANO:

Mr Chairman, in relation to the money that we are voting for the scholarships, if I may refer to the Appendix, which gives a breakdown of how that money is going to be spent. The Minister mentioned that there had been a very large increase in the money provided for the travelling allowance for students in the UK, in the General Principles of the Bill. My understanding is that the traditional way it was done was that the value of a club class ticket was provided to the student. That is how it used to be and that therefore if the club class ticket went up, then the money went up although the student had the option to travel cheaper within that amount. Does that no longer exist?

HON DR B A LINARES:

Mr Chairman, I do not think, certainly not within my time in this Ministry, that the costings were based on the club class ticket. It

is being based on a one-year open return fare. This is costed and that is what is given to the student.

HON CHIEF MINISTER:

It has always been done on the basis of the cost of a one year open return which may or may not happen to coincide with roughly what a club class ticket costs. But it would be pure coincidence, it has never been based on the cost of club class travel, but rather on the cost of a one-year open return ticket.

HON J J BOSSANO:

The Minister said in the general principles of the Bill that more money was being provided for travelling, what we are saying is that the cost of the one-year open ticket has risen. Is that the position?

HON DR B A LINARES:

When I said, Mr Chairman, that there was more money provided for travelling, I meant more money is being provided by this Government for travelling than the previous administration, which throws the travelling allowance quite irrespective of the cost of the one year open return. It remained frozen and static for years and it is only when we took office that we felt that this had not kept up with the inflation in travelling costs and we increased it, as required in the Ordinance, we actually costed the allowance in terms of the cost, as reported to us, of the one year open return. So when I said that we had increased the travelling allowance, I meant in relation to what was being paid before by the previous administration.

HON J J BOSSANO:

I would not know whether at one stage they were getting less than the cost of a one-year return. Given the fact that it has increased how is it that the anticipated expenditure for the forthcoming year is less than the outturn? Is it that there are going to be less people

travelling? If the travelling allowance goes up because the ticket goes up, how come the Government are expecting to spend less?

HON DR B A LINARES:

Because it is related also to the number of pupils who are expected to be warranting this expenditure.

HON CHIEF MINISTER:

Mr Chairman, these things are demand driven. What the Government write in this booklet is not what decides how much is spent. On mandatory grants and on mandatory courses and on the other expenses, it is whatever it is. In other words, it depends on how many children get the necessary grades to get places in UK universities. It may well be that this is an under-provision or an over-provision. We will know when the exam results are obtained. If there is an under-provision it has to be costed, it has to be funded because this is not discretionary expenditure on the part of the Government. We have to produce whatever money the statutory mandatory entitlements deliver and that is a product of the number of children that get places at university.

HON J J BOSSANO:

Mr Chairman, I know that it is an estimate. The point is that in the Estimates, when we get the book and we study the book and we examine the figures in it, if there are things that appear odd, we draw attention to them.

HON CHIEF MINISTER:

But no one is complaining.

HON J J BOSSANO:

What appears odd is that the Government make an estimate this year that they are going to need only £300,000 for travelling allowance for students in the UK, notwithstanding the fact that

they tell us that they needed £380,000 last year and £377,000 the year before. That raises the question in my mind, is it that they have got some reason for believing that this year there are going to be less people going?

HON DR B A LINARES:

Mr Chairman, in answer to the question, I go back to the point I made a moment ago about numbers. We can have a guesstimate of numbers related to the number of students who are taking 'A' Level exams who will gain entry into university. So based on that assessment, the costing has come down to £300,000.

HON CHIEF MINISTER:

The costing would be whatever it turns out to be.

HON S E LINARES:

Mr Chairman, in the tuition fee section in the same page, the Government have estimated more money for actual tuition fees. Does this mean an increase in tuition fees in the UK or that the Government are envisaging more students?

HON DR B A LINARES:

Mr Chairman, the fact is that we are going to a third year of tuition fees. A third intake of students who will require that tuition fees be paid by the Government and this accounts for the increase.

HON CHIEF MINISTER:

The hon Members will understand that when the United Kingdom introduced tuition fees, and the Gibraltar Government made the decision that we would pay, rather than require our students to pay, the United Kingdom did not introduce tuition fees for students there already in course.

HON J J BOSSANO:

For those ones starting.

HON CHIEF MINISTER:

Exactly. So that during each of the first three years, an additional intake, as far as we are concerned. Now we will always have three years worth of intake for which we are paying. This is the third year.

Subhead 7 - Scholarships was agreed to and stood part of the Bill.

Subheads 8 to 11 were agreed to and stood part of the Bill.

HEAD 1 - B - TRAINING

Subheads 1 to 3 were agreed to and stood part of the Bill.

HEAD 1- C - HEALTH

Subhead 1 – Personal Emoluments

HON MISS M I MONTEGRIFFO:

Mr Chairman, during the general principles of the Bill, I asked the Minister that I would like to know under the Personal Emoluments, the £6.8 million, whether he could give me a breakdown of the monies that will be provided for the nursing grades, broken down by each different grade?

HON CHIEF MINISTER:

Just before my hon Colleague rises, it is just worth recording for the sake of formality that there is not any amount under Personal

Emoluments under the Head of the Consolidated Fund. The figure is a figure of contribution generally to the Health Authority. The actual emoluments then appear as one item in the pro forma and financial statement. So long as it is understood that that is the basis upon which we engage in the discussion, we are quite happy to do so. I do not know whether the Minister actually has the information that she has requested.

HON DR B A LINARES:

I apologise. I have not got at hand the breakdown of the figures but I will assure the hon Lady that I will provide her with the exact figures.

Subhead 1 – Personal Emoluments was agreed to and stood part of the Bill.

Subheads 2 and 3 were agreed to and stood part of the Bill.

Subhead 4 - New Hospital Building Running Expenses

HON MISS M I MONTEGRIFFO:

Mr Chairman, can the Minister confirm what the running expenses relate to because usually running expenses are meant for a building that is operational and I believe the hospital has not been built yet.

HON CHIEF MINISTER:

Yes, the hon Lady states the obvious. The fact is that the Government now own the building and we are responsible for 'security costs, for maintenance costs, for electricity. There is a small amount of electricity consumption in relation to alarm systems. In other words, the cost to the Government of running the property and there is also a provision in this figure for the consultancy fees that we are paying to the consultants that are

doing the design work on the hospital for us. It is a combination of the cost of maintaining the building in a secure position whilst it gets into use and also of the preliminary design work, consultancy work in relation to the new hospital project.

HON J J BOSSANO:

Mr Chairman, so this is being paid to somebody, is it?

HON CHIEF MINISTER:

We do have consultants. There is a firm of consultants in the UK that has been engaged to advise the Government. I do not know if there are any invoices yet, but they will certainly be submitting invoices during the next year. So it is a provision. Yes, there are consultants engaged who have been advising the Government for some time.

HON J J BOSSANO:

For example, some of the things, like the security of the building and so on, that will then not be done by any Government department or the GDC directly? Are the Government contracting things like that out?

HON CHIEF MINISTER:

Mr Chairman, no. This is a contribution to the cost of the continued service which is provided by the owners of Europort. The owners of Europort have got a security system for the whole complex. We have now in effect taken a third of the complex and therefore we are contributing to the cost of security.

Subhead 4 - New Hospital Building Running Expenses was agreed to and stood part of the Bill.

HEAD 2 - EMPLOYMENT AND CONSUMER AFFAIRS

Subhead 1 - Personal Emoluments

HON J L BALDACHINO:

Mr Chairman, on Personal Emoluments – Salaries, there appears that it is being estimated less than what the forecast outturn was for 1999/2000, even though the establishment of personnel is exactly the same. Is there a reason for that?

HON H A CORBY:

There is a reason, Mr Chairman, the explanation is that the Secretary of the Police Complaints Board was being paid by us and he had his office under the Ministry of Employment. He has since been transferred temporarily to the offices of the Employment Service, but he is now at Secretary's Lane and now he is no longer paid by us. This happened in May 1999 to March 2000.

HON J L BALDACHINO:

Mr Chairman, I can only relate to what the establishment wants on the Employment Consumer Affairs, which is on page 27, and to me what we estimated at the time was precisely for 12 persons. We still have 12 persons today. So that could not have been the explanation actually.

HON H A CORBY:

The explanation is, Mr Chairman, that he came in May after the Estimates had been agreed and was not included.

HON J L BALDACHINO:

Is it then that he was shown somewhere else in another department and if that was the case, was the Personal Emolument from that department transferred to this one?

HON H A CORBY:

I think he was in Buildings and works, if I am not mistaken.

HON CHIEF MINISTER:

He was historically shown in Buildings and Works, which is where he physically was based in Town Range. Then he was temporarily moved to the Employment Service, which is what my Colleague, Mr Corby, has just explained. Now he has been taken out of there and he is now in Secretariat.

Subhead 1 - Personal Emoluments was agreed to and stood part of the Bill.

Subhead 2 was agreed to and stood part of the Bill.

Subhead 3 - Office Expenses

HON J L BALDACHINO:

Mr Chairman, the Security and Messenger Service is a contract service, can the Minister say who is providing that service, which is the company?

HON H A CORBY:

Mr Chairman, Security Managerial Service. Due to an omission in the Office of the Financial and Development Secretary's Office in the preparation for the 1999/2000 Estimates, no provision was

made for this service. Subsequently, in June 1999, £6,000 supplementary funding was approved in principle to cover this expenditure for the remainder of the financial year. The tender was awarded to Group 5 in November 1999 and the service started on 29 November 1999 at a cost of £880 per month for one year. By the end of 1999/2000 financial year, three payments had been made amounting to £2,640 that is the £3,000 forecast outturn for 1999/2000 which appears in the Draft Estimates for 2000/2001. The allocation of £12,000 for the coming financial year reflects the cost of the service for a full year including a small amount to cover the possible increase in the cost of the service when it is re-tendered.

Subhead 3 - Office Expenses was agreed to and stood part of the Bill.

Subhead 4 was agreed to and stood part of the Bill.

Subhead 5 - Office Rent and Service Charges

HON J L BALDACHINO:

The Office Rent and Service Charges, I suppose it is because it is an annual increase and that is why we are providing for more, is that correct?

HON H A CORBY:

Yes and also for the Job Club.

Subhead 5 - Office Rent and Service Charges was agreed to and stood part of the Bill.

Subhead 6 was agreed to and stood part of the Bill.

Subhead 7 - Consumer Affairs

HON J L BALDACHINO:

Mr Chairman, could we have on the Contract Services – Office Cleaning, which is 7(f), if we could have the company that actually got the contract.

HON H A CORBY:

Mr Chairman, at the moment we are using ABC Services who are undertaking the area of Consumer Affairs in the City Hall. There is now a tendering process for the cleaning of that office as it has moved its location to where the Office of the Ombudsman is at the moment.

HON CHIEF MINISTER:

Mr Chairman, does the hon Member not know that the winners of all Government tenders are published?

HON J L BALDACHINO:

Mr Chairman, it has just struck me that obviously in all others, the actual contract to whom it has been awarded.....

HON CHIEF MINISTER:

I would like to make a point in relation to this particular item as he also asked in relation to the Security Company.

HON J L BALDACHINO:

Because it is not there.

HON CHIEF MINISTER:

Fine, it is not here, but all results of tenders are published in advertisements in the local media.

HON J L BALDACHINO:

I fully appreciate that, Mr Chairman. But it has just struck me odd that in every other contract service the name is provided and in this case it is not.

HON CHIEF MINISTER:

Mr Chairman, that is because at the time that this booklet was produced, the successful tenderer was not yet known.

Subhead 7 - Consumer Affairs was agreed to and stood part of the Bill.

Subhead 8 - Contribution to Gibraltar Development Corporation - Employment and Training

HON J J BOSSANO:

Mr Chairman, given the fact that the Government have got this policy of clawing back the contributions that they make to the Development Corporation, as is reflected in Appendix B, why is it that they are contributing £1,000 and then clawing back the same £1,000 and the £1,000 appears as income and as expenditure?

HON CHIEF MINISTER:

The £1,000 is a token provision in order to allow the Head to continue there to allow for the Movement Fund if need be.

HON J J BOSSANO:

But then it is peculiar to then charge £1,000 back on the 'expenditure side which is the bottom line shown as Recovery of Previous Years Expenditure - £1,000, in Appendix B. The Government are paying £1,000 and then taking it straight back.

HON CHIEF MINISTER:

Mr Chairman, it does explain what I have just explained. In both cases it is just a provision to enable that item in the statement to continue in existence. It just allows flexibility of transfer of funds in both directions.

Subhead 8 - Contribution to Gibraltar Development Corporation - Employment and Training was agreed to and stood part of the Bill.

HEAD 3 - HOUSING

HEAD 3 - A - HOUSING - ADMINISTRATION

Subheads 1 to 4 were agreed to and stood part of the Bill.

Subhead 5 - Edinburgh House

HON DR R G VALARINO:

Mr Chairman, considering the delays in Edinburgh House on Subhead 5, (b) and (c), are these figures realistic? Was the managing fee paid and the works and maintenance, will this figure need to be increased?

HON CHIEF MINISTER:

The hon Member will have to explain why he thinks that delay, not that there has been much, but why does he think that delay would affect the financial provision for the year commencing 1st April 2000. This is a provision for this 12-month period. How long it took for the refurbishment of the houses to be done in the first place is not relevant. The only item that has crept into this financial year, because of that delay, is the one that he has not mentioned, (a), which is the grants to tenants, which are being

paid now because the tenants have only moved in and because they have just started doing the work and that sort of thing. Subsections (b) and (c) which are the two that he has mentioned, are provisions, according to contract which are in place and arrangements for the management fee and for the works and maintenance that the managers are required to do directly.

HON J C PEREZ:

Mr Chairman, I see that the management fee and the works and maintenance are separated in the contract. Does that mean that the provision for works and maintenance in the contract is, for example, for seeing maintenance over the year in terms of materials or does that include wages? Can the Minister say what exactly does the management fee entail, since it is separate. Whether that entails security there or does it entail a collection of rents or what is it that it entails?

HON J J NETTO:

Yes, Mr Chairman, there are quite a number of things as a result of the management fees that we will have to do, so he will have to give me due notice to be able to give him all the things that they have to do as far as the management side is concerned. But in relation to the other part of the question, which is on the question of the works and maintenance, that is related to the materials of the works to be carried out. On the first part, one that obviously comes to my mind, it does the security of the place as well.

HON J C PEREZ:

Two questions arise out of the Minister's reply. One, are we now going to have security in other Government Estates and does the management fee or the other Head include the cleaning of the exterior part of the Estate? Is cleansing included in the contract or is this done directly by Government employees?

HON CHIEF MINISTER:

Mr Chairman, first of all let me clarify. There is no security being provided at Edinburgh House in the way that it is provided in private Estates. There is no such provision. Security there means that the manager has a responsibility to keep the Estate under monitoring and under supervision and be aware of what is happening on the Estate. The cleansing is being done by Master Service as part of their general contract for the cleansing of Gibraltar.

Subhead 5 - Edinburgh House was agreed to and stood part of the Bill.

Subhead 6 - Gibraltar Development Corporation – Staff Services

HON J J BOSSANO:

Mr Chairman, the Gibraltar Development Corporation Staff Services means that all that is charged here is the payment of the salaries for the people that are carrying out work for the Housing Department. Is that correct? Can I ask what is the work that they undertake for the Housing Department?

HON J J NETTO:

It varies. From the top of my head, I know there are about three members who are in the Rent Collection. They are the old residential services but three are allocated down in the Rent Collection. I think there is a fourth who is up with the rest of the staff in the Housing Allocation.

HON J J BOSSANO:

So we are talking about four people?

HON J J NETTO:

I would have to check, but I think there are four people.

Subhead 6 - Gibraltar Development Corporation – Staff Services was agreed to and stood part of the Bill.

Subhead 7 was agreed to and stood part of the Bill.

HEAD 3 - B - HOUSING - BUILDINGS AND WORKS

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

Subhead 2 - Industrial Wages

HON J J BOSSANO:

Mr Chairman, is there a particular reason for the bonus being less other than the fact that that is what was spent?

HON J J NETTO:

That is the reason, the latter part of the hon Member's question.

Subhead 2 - Industrial Wages was agreed to and stood part of the Bill.

Subhead 3 was agreed to and stood part of the Bill.

Subhead 4 – Operational Expenses

HON J C PEREZ:

Is item (c) Staff Training for Security Services or is Security Services one and Staff Training the other?

HON CHIEF MINISTER:

Staff Training is not an item at all.

HON J C PEREZ:

So why is it that we are having Security Services this year when it has been absent before?

HON CHIEF MINISTER:

It is a new policy, it is a new requirement. Now that the Housing Department and Buildings and Works are coming together in the City Hall, it is thought appropriate to have Security Services given the nature of the function that takes place in the building.

HON J C PEREZ:

So that I presume is a contribution to the security of the City Hall, that is what the Chief Minister is really trying to say?

HON CHIEF MINISTER:

No, this is not to protect the building. This is for actual security guards to be in attendance as commissionaires, as we have at No. 6 Convent Place and at Hassan's House, that sort of thing. It is new and that is what it is.

Subhead 4 – Operational Expenses was agreed to and stood part of the Bill.

Subheads 5 to 9 were agreed to and stood part of the Bill.

HEAD 4 – PUBLIC SERVICES, ENVIRONMENT, SPORT AND LEISURE

HEAD 4 – A – TECHNICAL SERVICES

Subheads 1 to 5 were agreed to and stood part of the Bill.

Subhead 6 – Government Web Site

HON DR J J GARCIA:

Mr Chairman, exactly what is the £3,000 for? Is that for updating the web site or some form of maintenance or security?

HON LT-COL E M BRITTO:

Running expenses, Mr Chairman.

HON DR J J GARCIA:

What is the nature of the running expenses?

HON LT-COL E M BRITTO:

Mr Chairman, the hon Member professed a certain amount of knowledge from a private capacity yesterday when he was speaking. The web site needs to be updated, information needs to be brought in, and there are not specific items. It is as needs be, photography, obtaining information, letter writing, graphic design; as we expand the web site, it is a moving target and a growing animal and the expenses are estimated in the pure sense of the word, it may be too much or it may be too little.

HON DR J J GARCIA:

The two civil servants who, I think at the time the announcement was made who were involved with this, are the £3,000 for work being done externally for the Government on the site or is it being done internally?

HON LT-COL E M BRITTO:

Mr Chairman, to start with there are not two civil servants involved on this and that was never announced, there is half a civil servant involved on the web site because he has other duties as well. No,

the cost is not allocated to anybody externally but there may be, if the need arises, to take something on. We are thinking of putting on streaming video, streaming sound, we intend to consult on panoramic photography from a touristic point of view. There are a number of projects we are looking at. The money will be used as best thought possible at the time.

Subhead 6 – Government Web Site was agreed to and stood part of the Bill.

Subhead 7 was agreed to and stood part of the Bill.

Subhead 8 – Compensation in lieu of Water Tariff Increase

HON J C PEREZ:

Mr Chairman, it might be opportune here to ask the Minister, I have not given notice of this and I do not know whether he knows, whether the recent tender by Lyonnaise for the provision of desalination plants has to do with the replacement of the existing plans in Waterport or they are an addition to the capacity of the water production?

HON LT-COL E M BRITTO:

The second, Mr Chairman, for additional capacity.

HON J C PEREZ:

That is to say, the life of the plant in Waterport has still not run out?

HON LT-COL E M BRITTO:

That is correct, Mr Chairman.

Subhead 8 – Compensation in lieu of Water Tariff Increase was agreed to and stood part of the Bill.

Subhead 9 was agreed to and stood part of the Bill.

Subhead 10 – Refuse Services and Disposal

HON J C PEREZ:

Mr Chairman, is the £1.3 million for the disposal of refuse, does that include the pay of the people employed in the incinerator and have Government taken a decision on whether they are going to run the incinerator themselves or whether it is going to be contracted out to an agency?

HON LT-COL E M BRITTO:

Mr Chairman, that figure is an estimate based on the current situation. The current situation is that the Government have contracted the people who are running the incinerator under the previous owners, under In Town, for a period of four months and whilst decisions are made and assessments are made one cannot answer the question whether it includes the salaries with a yes or a no because we are paying somebody who is employing the people. So indirectly yes, directly no. The final answer is not yet clear on how it is going to be run beyond a certain point, probably within the next six weeks.

HON J C PEREZ:

And is it envisaged once whatever repairs are carried out and whatever decisions are made, that the incinerator will continue to produce water for Lyonnaise des Eaux?

HON LT-COL E M BRITTO:

That is part of the equation that is being considered, Mr Chairman.

HON J C PEREZ:

So the extra capacity that the Minister mentioned is over and above the water being produced actually by the incinerator and the capacity we have at Waterport?

HON LT-COL E M BRITTO:

No, Mr Chairman, the new capacity or the capacity that is being sought is to make up for the lack of water production in the incinerator at the moment. The incinerator is not producing water.

HON J C PEREZ:

Is not producing the one contracted, I am talking about the actual amount being produced.

HON LT-COL E M BRITTO:

It is not producing any water at all, Mr Chairman.

HON J C PEREZ:

But I doubt whether we would go to tender for a desalination plant for four or five months until the water starts back on. In my view, we are expending money on plans looking at the needs of water in Gibraltar long-term, not for the period of four to six months.

HON LT-COL E M BRITTO:

Absolutely, Mr Chairman. There is a need for additional capacity anyway so all Lyonnaise has done is anticipated the need in view of the lack of guarantees of water production from the incinerator and the length of time the incinerator may or may not be in service. So it is a belt-and-braces situation.

HON J J BOSSANO:

In asking for bids to run the incinerator for after the four month period that the present people are doing it, does that include the option of either with water production or without water production or is that not one of the considerations? Presumably the price would be different one way or the other.

HON LT-COL E M BRITTO:

It includes both options and then we will decide which is the way ahead.

Subhead 10 – Refuse Services and Disposal was agreed to and stood part of the Bill.

Subhead 11 – Services provided by Gibraltar Community Projects Ltd

HON J C PEREZ:

Mr Chairman, I notice that for the second year running the amount of materials in relation to the wages and salaries bill seems to be small, £60,000 for a wage bill of over £2 million seems to me very little materials. Can the Minister explain why that is so?

HON LT-COL E M BRITTO:

No, Mr Chairman, as far as I know the proportion is the same as it has always been. I am not aware of there having been any change.

HON J C PEREZ:

We had a situation where the actual was £90,000, provision was made for £150,000 and we finished the outturn with £60,000 which is the provision we are making this year. But it still seems to me, other than if we have got away completely from jobs and

doing cleansing only where the material element is smaller, that if we have got a workforce which is costing £2 million that one should only expend £60,000 in the work that that workforce does unless the cost of the materials is in another Head in another department.

HON CHIEF MINISTER:

The provision here for Community Projects is on the basis that if any other department wants to use them to do work for them, they must provide for the expenditure in materials and I think certain types of overtime as well, out of their own departmental vote. Otherwise what was happening is that departments were keeping their budgets up and then expecting to have additional expenditure incurred on their behalf. So the answer is the one that the hon Member himself identified in his question.

Subhead 11 – Services provided by Gibraltar Community Projects Ltd was agreed to and stood part of the Bill.

HEAD 4 – B – ENVIRONMENT

Subheads 1 to 4 were agreed to and stood part of the Bill.

Subhead 5 – Cemeteries Expenses

HON J C PEREZ:

Mr Chairman, perhaps it is the only chance I have of asking, the concourse at the cemetery, we were told by the Chief Minister that it was in order to allow people to gather there and wait for the funeral but since it was built the weeks have passed and it is still locked. Can the Chief Minister enlighten us as to what use is going to be made in the future of that area?

HON CHIEF MINISTER:

I cannot but I can say that I entirely agree with him. The vision when we made the policy decision to do that project was that it would be a concourse for the cemetery. In other words, that instead of people having to gather in a tight area around the road where the hearse arrives and half the people in the middle of Cemetery Road, that there would be this concourse area but the design is very poor, frankly, from that point of view. It is like Fort Knox, it is surrounded by a little wall and railings and then a gate which is locked and that has got to be rectified. It is not serving the purpose for which it was intended and what we want there is an open plan, an open space pretty concourse area. So the hon Member's implied criticism is entirely justified.

Subhead 5 – Cemeteries Expenses was agreed to and stood part of the Bill.

Subheads 6 and 7 were agreed to and stood part of the Bill.

Subhead 8 – Street Cleansing and Associated Services

HON J C PEREZ:

Mr Chairman, the Master Service contract from the initial stages included, for example, the cleansing of Edinburgh House and the cleansing of the beaches although those extra contractual obligations do not come under this Head and are shown somewhere.

HON CHIEF MINISTER:

No, Mr Chairman, all that is included in the original contract. Some of the items in the original contract, of course, expand in volume so if there is cleaning of playgrounds and the Government develop an additional playground somewhere, it is done on a measured term basis. The volume of the work covered by the contract expands.

Subhead 8 – Street Cleansing and Associated Services was agreed to and stood part of the Bill.

Subheads 9 and 10 were agreed to and stood part of the Bill.

HEAD 4 – C – ELECTRICITY

Subhead 1 – Personal Emoluments

HON J C PEREZ:

I apologise to the Minister, I was wrong in my speech. Having looked at it closer I had mixed up the two columns, in fact, there is a decrease in the number of engine room operators and not an increase this year which is quite understandable.

Subhead 1 – Personal emoluments 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, the increase in fuel charges, is this being estimated estimating an increase in fuel charges in the future or taking into account the increases in fuel charges that have already been taken into account or is it the exchange rate against the dollar that is pushing the price up for fuel?

HON CHIEF MINISTER:

Let me say first of all that there is a serious risk that this is a substantial underprovision. There is a very substantial risk, indeed

the City Electrical Engineer is warning us that it is a substantial under provision. The figure is based on recent increases in fuel prices which as he knows have been very substantial in the last 12 month period. But, of course, when providing an estimate an element of judgement which is necessarily speculative is exercised about what we think is going to happen to the cost of fuel during the next 12 months but that is necessarily speculative. If the cost of fuel remains for the next 12 months at the levels at which it currently is, in other words, if there is no significant fall in the price of oil in the next 12 months, this is a very substantial underestimation, very substantial, it could be much higher than that. The hon Member may not appreciate the extent, he may have I am not wanting to impute to him lack of awareness of these issues but just to point, without reference to the hon Member's state of knowledge, that the price of fuel is now 50 per cent higher than it was 12 months ago. It has increased in price and that is very, very significant not just here but also in the OESCO contract cost because that includes a fuel cost adjustment as he remembers and it could take a large bite out of the Government's surplus for the forthcoming year, we are talking of millions.

HON J J BOSSANO:

Mr Chairman, when I asked on the revenue side in the general principles of the Bill of the estimated receipts from electricity sales of £9.8 million, the Chief Minister said in answer that it was higher levels of consumption. Is there higher production costs expenditure written in on this side in the expectation of higher sales?

HON CHIEF MINISTER:

The Chief Electrical Engineer factors in the increase in demand that consumption into fuel cost but it is insignificant. In terms of the fuel cost increases that are happening as we speak, it is an insignificant factor. In other words, the provision that he makes for higher fuel as a result of higher demand certainly arises, paled into insignificance by the additional cost generated, not by

additional demand or consumption but by the rise of the cost of fuel. So the answer is yes, it is factored in but it becomes a relatively minor cost increase driver as compared to the cost of fuel rises.

HON J J BOSSANO:

Given that he was talking about something like a nine per cent increase in revenue would that increase production be reflected in the electricity produced by the department or in the electricity brought in which shows no change? I know we have not come to that subhead yet but it is just that I would have expected that anticipated demand would be reflected more obviously. Is it that the demand is likely to be met by the Generating Station of the Government or by OESCO?

HON CHIEF MINISTER:

It depends at what times of the day it arises because the contract is that the Electricity Department meets most of the demand during the night and OESCO meets it during the day. *[HON J C PEREZ: Hence the noise made by the MOD.]* Exactly, a very good point, he should have thought of that point yesterday and he forgot to mention it. There is a rise in demand, I would hate to quote a figure but I think I have seen a paper from the Chief Electrical Engineer which suggests 18 million units increase. I think that there is a projection, the calculation is for an average increase in demand of four per cent a year. It is a little bit like revenue increases, whether it can be sustained on a straight line basis indefinitely or whether these things just respond to new property developments coming on the market and things are flattened out.

Subhead 5 – Generation was agreed to and stood part of the Bill.

Subheads 6 to 9 were agreed to and stood part of the Bill.

Subhead 10 – Contractual Capacity Charge – OESCO Power Station

HON J C PEREZ:

Can I ask the Minister whether the projected increase in capacity in relation to the contract has already been met fully or is there still need for increasing the capacity of the OESCO Power Station in relation to the contract?

HON LT-COL E M BRITTO:

Mr Chairman, the position is exactly as it was when hon Members left office in 1996. There is still, under the contract, room for extra capacity but there has been no expansion in the capacity since then.

HON J C PEREZ:

Because we have already got the combination of small engines to make up the kind of electricity we want, any extra capacity would be an engine producing over five or six megawatts if it came to it, given that the combination of the three megawatt engines gives us the flexibility to have some engines running and some shut.

HON CHIEF MINISTER:

Mr Chairman, I think that the technical people would disagree that the combination of engine capacity is optimum at present. Certainly insofar as concerns the City Electrical Department there is no flexibility, three or five megawatts, very difficult to provide spinning reserves where they keep an engine, we have got to keep a five megawatt engine running to provide standby spinning reserve which is why we get power cuts, amongst other reasons. I am not sure that the OESCO would regard their distribution either as ideal and, of course, the question of the plant replacement in both OESCO and the Government is now an issue that is becoming increasingly alive because although different engines have different lives, the generators in Waterport Power Station

are within a few years of that date and I understand that the position in OESCO is not dissimilar so we will have an opportunity shortly to reassess that issue and, if necessary, fiddle around with the size permutations to provide the optimum in terms of running cost combination of size of machines.

Subhead 10 – Contractual Capacity Charge – OESCO Power Station was agreed to and stood part of the Bill.

Subhead 11 was agreed to and stood part of the Bill.

HEAD 4 – D – FIRE SERVICE

Subheads 1 to 4 were agreed to and stood part of the Bill.

HEAD 4 – E – POST OFFICE

Subheads 1 to 3 were agreed to and stood part of the Bill.

Subhead 4 – Operational Expenses

HON J C PEREZ:

Mr Chairman, the cost of the review is not shown under the Post Office, it might be shown under the Chief Secretary.

HON LT-COL E M BRITTO:

That is correct, Mr Chairman.

Subhead 4 – Operational Expenses was agreed to and stood part of the Bill.

Subheads 5 to 8 were agreed to and stood part of the Bill.

HEAD 4 – F – HIGHWAYS AND SEWERS

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

Subhead 2 – Industrial Wages

HON J C PEREZ:

Mr Chairman, I see that the forecast outturn for overtime is £60,000 over that estimated and that we are reducing that to £100,000 for this year. Since the Minister last year said that they were making an effort to remunerate the people there whilst the work was going out to contract.....

HON CHIEF MINISTER:

Mr Chairman, restructuring is envisaged which is long overdue and the staff certainly have been patient, we have promised them a restructure over 12 months ago but we do mean to do it now as a matter of priority and a ratio of overtime to basic wage of almost 100 per cent is simply unreasonable and it is simply expecting people to work too many hours and the Government are going to have to consider that when it comes to resources although it is true that additional resources are not provided there for an increase in basic wages of emoluments but it is going to be done by other means.

HON J C PEREZ:

Mr Chairman, I presume that the policy continues to be that the provision in the I&D Fund is not for direct labour, that continues to be contracted.

Subhead 2 – Industrial Wages was agreed to and stood part of the Bill.

Subheads 3 to 5 were agreed to and stood part of the Bill.

HEAD 4 – G – SPORT, LEISURE AND YOUTH AFFAIRS

Subheads 1 to 4 were agreed to and stood part of the Bill.

Subhead 5 – Sports Development

HON S E LINARES:

Mr Chairman, one question on sports development, does the Sports Development Officer's wages come out from here?

HON LT-COL E M BRITTO:

No, Mr Chairman, I think the hon Member knows that wages come out of the Subhead for Personal Emoluments.

Subhead 5 – Sports Development was agreed to and stood part of the Bill.

Subhead 6 was agreed to and stood part of the Bill.

Subhead 7 – International Sports Competitions

HON MISS M I MONTEGRIFFO:

Mr Chairman, can the Minister confirm whether the money for the Strait Games comes out of this subhead and, if so, can he also confirm how much it costs the Government to host the Strait Games?

HON LT-COL E M BRITTO:

£40,000, Mr Chairman, and yes it does.

Subhead 7 – International Sports Competitions was agreed to and stood part of the Bill.

Subheads 8 and 9 were agreed to and stood part of the Bill.

HEAD 4 – H – BROADCASTING

Subheads 1 and 2 were agreed to and stood part of the Bill.

Subhead 3 – Contribution to Gibraltar Broadcasting Corporation

HON J C PEREZ:

Mr Chairman, it is the only opportunity I have got of raising this matter and I am not sure whether the Minister knows about it, but I understand that there are tests going on for the possible acquisition of a VHF channel which is in line with what is happening in the rest of the European Union. If these tests were successful and we move to VHF, is it that we are changing channel 6 and channel 12 for one channel or will we be getting two VHF channels in exchange for the ones we are giving in? If the Minister does not know I understand but it is something I would like to raise.

HON LT-COL E M BRITTO:

Mr Chairman, what is happening is that we are carrying out experimental transmissions, I think it is channel 32, if the hon Member is interested I will check but I think it is channel 32; we are carrying out experimental transmissions, have acquired some equipment in the last 12 months and on the basis of whether the results are successful or not, it may need further capital investment. The objective is to increase our capability in a way that will improve our marketing.

HON J C PEREZ:

I understand that the power of the UHF alternative is one where vision further afield is more possible. What I was asking was are we going to exchange two channels in VHF for one in UHF or two channels in VHF for two in UHF?

HON LT-COL E M BRITTO:

It is not a question of exchange, it is a question of using channels which at the moment we have difficulty using. There may be an involvement in accepting a swap of channels but not two for one, or a one for one basis.

HON J C PEREZ:

That is what I am asking, whether if we get channel 32 we would be giving up two VHF or we might be retaining one VHF and one UHF.

HON CHIEF MINISTER:

Mr Chairman, the problem is not the acquisition of additional channels, the problem is one of co-ordination of frequencies. If some co-ordination problems are insoluble and there is a meeting soon for co-ordination purposes, that if co-ordination cannot be achieved technically because of technical considerations, it may then be necessary to swap but the essence is co-ordination of existing assets rather than the trading of frequencies. It would only come to that if it could not be co-ordinated.

HON J C PEREZ:

Can I also ask whether the new six employees taken on by GBC are on the same terms and conditions of all other employees including pensions? I understand that the Minister said that there were six direct recruits and then there are a number of people who are on a temporary basis.

HON CHIEF MINISTER:

Mr Chairman, as the House knows, whilst we are happy to answer for broadcasting generally, we do not take the view that GBC is even for staffing purposes a Government department. I understand that the staff that is permanent and pensionable is on the same terms, this is all subject to correction because I do not

profess to know and that in addition they are employing freelancers and temporary staff and people by the hour and they are on different terms. To the extent that there is an increase of permanent establishment they are on the same terms.

Subhead 3 – Contribution to Gibraltar Broadcasting Corporation was agreed to and stood part of the Bill.

HEAD 5 – SOCIAL AFFAIRS

HEAD 5 – A – SOCIAL SECURITY

Subhead 1 – Personal Emoluments

HON J L BALDACHINO:

Mr Chairman, may I ask on the salaries side, why is it that we are providing now £52,000 more than was actually the forecast outturn for 1999/2000 when on the establishment there is only one more messenger?

HON MRS Y DEL AGUA:

Mr Chairman, the increase in the salaries is due to one extra messenger being employed and the annual increase of salaries.

HON J L BALDACHINO:

No, that cannot be.

HON CHIEF MINISTER:

In Social Security, Mr Chairman, there is one additional messenger and I cannot see anybody else in the establishment who falls into the list of people that I gave him yesterday. I am just being advised that it is in addition to the additional messenger, it is such things as the possibility that a vacancy has been filled in which they were carrying last year which is now being filled and

therefore the cost becomes real. Certainly the cost of the pay review in this area is still pending.

Subhead 1 – Personal Emoluments was agreed to and stood part of the Bill.

Subheads 2 to 6 were agreed to and stood part of the Bill.

HEAD 5 – B – SOCIAL SERVICES

Subheads 1 to 5 were agreed to and stood part of the Bill.

Subhead 6 – Milbury Care Services Ltd – Contracted Services

HON J L BALDACHINO:

Mr Chairman, during the debate I said that I was going to ask at the Committee Stage why is it that we are now paying £82,000 more to Milbury Care Services Ltd than in the previous year?

HON MRS Y DEL AGUA:

Mr Chairman, the increase in this amount is due to various contract variations to provide further services, for example, fostering scheme and the provision of some home services.

HON J J BOSSANO:

Mr Chairman, is it not the case that the contract that was given to Milbury provided that they had a fixed fee and then there was a separate element which was the money that was paid to the people who were working so how can the contract variations produce more money for them? I thought that the amount that they got was fixed and that they could not take advantage of any changes that took place.

HON CHIEF MINISTER:

The contract is divided. If we fit into two sections between cost and their profit, the cost is actual, it is whatever is generated and we control that not them. So as we authorise additional services or as we authorise additional staff to be recruited to expand the staff involved in a particular service, that raises the part of the remuneration that deals with specified cost as opposed to consideration which is their fee which is for them. In other words, the cost is ring-fenced and is not available to them to skimp and save on to increase their profit.

HON J J BOSSANO:

Is the answer then that the difference in the estimate provided last year and this year, which is £175,000, is in the ring-fenced cost area? Is that the answer?

HON CHIEF MINISTER:

Yes because their consideration is fixed.

HON J C PEREZ:

But their consideration is part of that same figure.

Subhead 6 – Milbury Care Services Ltd – Contracted Services

Subheads 7 to 11 were agreed to and stood part of the Bill.

Subhead 12 – Contribution to Elderly Care Agency

HON J J BOSSANO:

Mr Chairman, can I just ask in terms of the Elderly Care Agency, is the number of places for the elderly in the Home going to be more in this coming financial year or we might have to wait longer? At one stage, I think it was about 90 beds that they had, is this still the same?

HON MRS Y DEL AGUA:

Mr Chairman, I believe that two cases have been taken in from the community emergency cases but it is envisaged that the beds will go up considerably once the nursing wing is set up; from 90 to 130 or 140 will be the capacity.

HON J J BOSSANO:

But is that expected to happen in this financial year? Is the money we are providing based on the assumption that during the course of this year the capacity will increase?

HON CHIEF MINISTER:

Yes, can I just add that there was a degree of under capacity in the sense that there were vacancies, there was room available in the capacity that they had so there is space for increased intake regardless of the refurbishment works. But the bulk of the increase of capacity, regardless of demand, will come when the refurbishment works are carried out.

HON J J BOSSANO:

I accept that. My question is, is the provision that is being made in anticipation that that will happen during the course of this financial year?

HON MRS Y DEL AGUA:

As I said, Mr Chairman, the works for the tender are going out next week. At this moment I do not know how long the works will take to be carried out so I am afraid I have not got the answer but I will try and find out.

Subhead 12 – Contribution to Elderly Care Agency was agreed to and stood part of the Bill.

HEAD 5 – C – PRISON

Subhead 1 – Personal Emoluments

HON J C PEREZ:

Mr Chairman, the hon Lady might not be aware of it but there has been the implementation of a pay structure in the prison commonly known in the UK and in Gibraltar as “fresh start” and the idea was that there would be an increase in prison officers and a gradual reduction in the overtime that they work because it was thought in the UK that prison officers ought not to be working so many long hours because of their fitness in the duties that they had to take. I notice that we have now reduced two prison officers and instead we have got four night patrol officers. Is it that the night patrol officers have an impact on the overtime that is worked by the prison officers and that this is a compensating thing? Is it enough provision to increase the pay by £10,000 when we are talking of carrying into the complement an extra two officers even if they are at a lower pay than the prison officer grade A used to be?

HON CHIEF MINISTER:

Mr Chairman, I think so because these are figures that have been put up by the department. The suggestion that we should employ night patrol officers instead of prison officers came from the Prison Service itself in recognition of the fact that the duties of the night patrol officers were much less onerous in terms of prisoner handling than prison officers and that there was no need to employ people at prison officer grade and cost. The prison management considered that they could get more bodies for the same amount of money this way. But doing it this way does mean that there is a fall in the demand for prison officers to do this duty because there are now more bodies sharing around. So I am not aware that there is any outstanding claim or negotiation in relation to increasing staff in order to reduce hours worked. This may be a conceptual issue attaching to fresh start, I do not think it is an issue in Gibraltar certainly the issue of toil as opposed to overtime

is but I am not aware that the issue of increased manpower in order to reduce hours is itself an issue. If it is, it has not been brought to my attention.

Subhead 1 – Personal Emoluments was agreed to and stood part of the Bill.

Subheads 2 to 6 were agreed to and stood part of the Bill.

HEAD 6 – TOURISM AND TRANSPORT

HEAD 6 – A - TOURISM

Subheads 1 and 4 were agreed to and stood part of the Bill.

Subhead 5 – General Embellishment

HON DR J J GARCIA:

Mr Chairman, is there any reason for the forecast of £30,000 other than what was actually spent in the previous estimates? Is there any reason for the forecast coming down from £45,000 to £30,000?

HON J J HOLLIDAY:

Mr Chairman, most of the items that are undertaken under this Head are carried out with the labour force of Community Projects and that covers the minor projects in terms of materials. There is a certain amount of work that can be done within one financial year and over the years we have realised that this is as much as really we can afford within a 12-month period.

Subhead 5 – General Embellishment was agreed to and stood part of the Bill.

Subheads 6 to 8 were agreed to and stood part of the Bill.

Subhead 9 – Apes Management

HON J J BOSSANO:

Mr Chairman, can I get a commitment, in view of the remarks made by the Minister in the general principles of the Bill that we can look forward with confidence to no summary executions of our primates in the current financial year?

HON CHIEF MINISTER:

Mr Chairman, he can have no such assurance at all and he knows the reasons and I am not going to debate apes with him every time we have this issue. His views on the humane culling of animals is not shared by the Government nor by any professional that I have met or has ever advised the Government on animal control.

HON J J BOSSANO:

Given that this is one of the few opportunities I have to try and save some of their lives surely he will not deny me the rare occasion when I come to their defence, Mr Chairman.

HON CHIEF MINISTER:

The hon Member ought to be more concerned than for the lives of the animals, he ought to be concerned also by the danger to health, especially to the health and safety of young children that an excessive ape population poses especially to residents of Catalan Bay and to residents of the Upper Town. As all decision-making it has to be a balance of judgement and if the advice is that the ape population over a certain number provides a danger to human beings and that we cannot find any other way of reducing the population other than culling, then the House should be made aware that it continues to be the Government's policy that culling there shall be if public safety and public health requires it.

HON J J BOSSANO:

Given that in the general principles of the Bill, Mr Chairman, the Minister responsible, although it is clear who the real killer is, under the Estimates said that it was regrettable that people enticed apes, it seems to me that the poor apes are first enticed and then killed for taking the temptation and something should be done perhaps to reduce the enticement into areas of residence.

HON CHIEF MINISTER:

Can I remind the hon Gentleman that apes are not registered on the electoral register in Gibraltar.

HON J J BOSSANO:

Which shows, Mr Chairman, that unlike the Chief Minister I am not solely motivated by the desire to win votes.

Subhead 9 – Apes Management was agreed to and stood part of the Bill.

Subheads 10 to 14 were agreed to and stood part of the Bill.

HEAD 6 – B – TRANSPORT – AIRPORT

Subheads 1 to 3 were agreed to and stood part of the Bill.

HEAD 6 – C – TRANSPORT - TRAFFIC

Subheads 1 to 4 were agreed to and stood part of the Bill.

Subhead 5 – Transport Inspection

HON J C PEREZ:

Mr Chairman, I take the point of what the Minister said yesterday that half of the pay bill was for the first six months of employment of the traffic inspector. Is it that it is intended that there should be

only one traffic inspector or does the Minister envisage expanding the control of public transport with traffic inspectors presumably once the reorganisation of the bus service et cetera has taken place?

HON J J HOLLIDAY:

Yes, Mr Chairman, it is our intention possibly to increase the complement and we will do so as the need arises and as we develop our transport policy in various areas.

Subhead 5 – Transport Inspection was agreed to and stood part of the Bill.

HEAD 6 – D – TRANSPORT – PORT

Subhead 1 – Personal Emoluments

HON J C PEREZ:

Mr Chairman, the Hon Mr Holliday said yesterday that the three vacancies that there are in the department are being left in abeyance until after the negotiations with the union concludes to see whether or not they will be employed or not depending on the agreement on the restructure of the port. What strikes me is that what we have lost is a fitter, a maintenance supervisor and a shipwright and since we are at the point of making the acquisition of the new launch they are perhaps posts that are going to be needed anyway regardless of the restructure that takes place. Could the Minister comment on this?

HON J J HOLLIDAY:

Mr Chairman, the three vacant posts form part of the maintenance team and the on-going negotiations with the union will obviously finally determine whether there is a need to have a maintenance department within the Port Department or not. The end result may be, and I am not trying to anticipate this but definitely my own view is that there may be one post that is needed in order to have

a co-ordinating officer between the actual works that need to be undertaken and works that will probably have to be contracted out. I think the speciality of actually maintaining some of these launches may be better and more economically sought outside the department than within the department and I think that the unions are, to a certain extent, in agreement with that but I would not like to pre-empt what the final decision is going to be in this respect.

Subhead 1 – Personal Emoluments was agreed to and stood part of the Bill.

Subheads 2 to 6 were agreed to and stood part of the Bill.

HEAD 6 – E - TRANSPORT – SHIPPING REGISTRY

Subheads 1 to 5 were agreed to and stood part of the Bill.

The House recessed at 1.10 pm.

The House resumed at 3.30 pm.

HEAD 7 – TRADE, INDUSTRY AND TELECOMMUNICATIONS

Subheads 1 to 14 were agreed to and stood part of the Bill.

Subhead 15 – Gibraltar Development Corporation Staff Services

HON J J BOSSANO:

Mr Chairman, the reduction in the charge made by the GDC, is that an indication that there are less people providing staff services under this subhead?

HON K AZOPARDI:

No, Mr Chairman, the increase last year reflects the gratuity to the previous Finance Centre Director.

Subhead 15 – Gibraltar Development Corporation Staff Services was agreed to and stood part of the Bill.

Subheads 16 to 18 were agreed to and stood part of the Bill.

Subhead 19 – Telecommunications Regulator

HON J C PEREZ:

Mr Chairman, can I ask whether under (a) and (b), under either of those subheads the pay of the Regulator himself is included or the Regulator designate? I say this, Mr Chairman, because the intention always was to move him over to the Development Corporation and it seems to me, if I remember rightly the salary of that particular gentleman that neither of the figures could actually take on his pay.

HON DR R G VALARINO:

Mr Chairman, I believe that the person in question is still being seconded from GBC and paid by GBC.

HON CHIEF MINISTER:

Mr Chairman, we will have to just come back to the hon Member. We think that (a) includes the salary of the gentleman in question. I notice the Hon Dr Valarino demonstrating some knowledge in this area but, as he knows, the position is that the gentleman is seconded from GBC, paid by GBC but refunded by the Government. We think there has to be some provision here for that refunding to GBC. We think it is (a). It has now been confirmed that it is (a).

HON J C PEREZ:

Could I just point out, Mr Chairman, that the intention has always been that he would be employed by the Development Corporation even if the pension contributions would continue to go to GBC in terms of years of service, I think that was cleared up.

HON CHIEF MINISTER:

Mr Chairman, the final contractual structure with the gentleman in question has not yet been finalised. The telecommunications regulatory mechanism and the legal structure for it is presently under consideration. There is an Ordinance in draft which we hope to bring to the House, if not at this meeting certainly at the next and that will determine who his employer eventually is. It has all to do with the extent to which independence is required under the directives and to the extent to which the system works or does not work to comply with the directives.

Subhead 19 – Telecommunications Regulator was agreed to and stood part of the Bill.

Subhead 20 was agreed to and stood part of the Bill.

Subhead 21 – Frequency Co-ordinator Expenses

HON J C PEREZ:

May I ask, Mr Chairman, whether we are still getting back some of the cost of the frequency co-ordinator expenses from one or two of the satellite operators of the expected satellite companies?

HON K AZOPARDI:

Yes, that is my understanding.

Subhead 21 – Frequency Co-ordinator Expenses was agreed to and stood part of the Bill.

HEAD 8 – ADMINISTRATION

HEAD 8 – A – SECRETARIAT

Subheads 1 to 6 were agreed to and stood part of the Bill.

Subhead 7 – Statistics Unit

HON J J BOSSANO:

Mr Chairman, 7(e), it is £20,000 this year and it was £7,000 last year; is the consultancy that is being carried out on the input-output study coming out of there? Can the Government say what additional statistical surveys are planned? We are talking about three times the amount of last year.

HON CHIEF MINISTER:

The Census.

HON J J BOSSANO:

The 2001 Census?

HON CHIEF MINISTER:

Yes.

Subhead 7 – Statistics Unit was agreed to and stood part of the Bill.

Subheads 8 to 12 were agreed to and stood part of the Bill.

Subhead 13 – Private Sector Fees for Legal Advice

HON J J BOSSANO:

Mr Chairman, the provision this year is three times the amount put in last year's estimates. Can the Government explain, presumably they know that it is going to be much more this year because last year they put an amount and, of course, during the course of the year they may require advice for things they did not anticipate but they are anticipating a big increase this year, are they?

HON CHIEF MINISTER:

It is on a cash basis as these accounts are, the lion's share of it relates to the incinerator arbitration which is now finished and which has not been paid yet and it is very, very substantial.

HON J J BOSSANO:

So it is not anything new that is coming up in the next 12 months?

HON CHIEF MINISTER:

The Government are engaged in litigation, there are cases outstanding which are generating fees but the reason for the extraordinary size this year is the incinerator dispute which is something in the order of £400,000 or £500,000.

Subhead 13 – Private Sector Fees for Legal Advice was agreed to and stood part of the Bill.

Subheads 14 to 21 were agreed to and stood part of the Bill.

Subhead 22 – Development Studies

HON J J BOSSANO:

Mr Chairman, can I ask whether this is where the money is going to come from?

HON CHIEF MINISTER:

Yes, it may or may not be a sufficient provision but this is the general head which will have to be fed from supplementary head for all Government studies and consultancy reports and all things of that sort so this is the head from which the input-output model will come.

HON J J BOSSANO:

Mr Chairman, can I raise two points? Have any payments been made already and are they reflected in the forecast outturn? And I did not get an answer when I said in the Committee Stage I hoped we would have an opportunity to meet Dr Fletcher or whoever is here doing the work on the study, I do not know whether the silence was an oversight or a negative. I would like to know which of the two it was.

HON CHIEF MINISTER:

Mr Chairman, I am going to have to ask the hon Member to repeat the second part of his question because I was concentrating on the information. The information for the first half is that there is £21,600 worth of payments in relation to the input-output study in the forecast outturn figure.

HON J J BOSSANO:

The second half of my question was, in the general principles of the Bill I asked whether we would get a chance to meet whoever was in Gibraltar doing the study and there was no answer and I am asking, was it an oversight or a no, the fact that there was no answer?

HON CHIEF MINISTER:

Mr Chairman, the fact of the matter is that those conducting the study are free to consult whom they please. The Government do not indicate to them who they may consult or who they may take

their advice from. If the hon Member wants my office to let them know that he is interested, it is then entirely up to Professor Fletcher whether he considers it worthwhile or not. But as far as the Government are concerned, we are entirely happy that he should.

HON J J BOSSANO:

I would be grateful if the message was passed on.

HON CHIEF MINISTER:

With the caution, of course, that he should not allow himself to be persuaded to reflect his policies rather than ours in the model.

Subhead 22 – Development Studies was agreed to and stood part of the Bill.

Subhead 23 – National Day

HON J C PEREZ:

Mr Chairman, what expenditure less is there expected to this year's national day given that there is a drop from the estimated last year of £25,000 and of the actual of £38,000?

HON CHIEF MINISTER:

Well, this figure is necessarily a provision which has been creeping up from about £30,000 or £40,000 in 1996. It is a provision because unless there is a capped control the various entities that organise the various events just spend and therefore the instructions this year will be to all the organisers that we want to contain the expenditure to that figure, but it is a provision. It is not that a particular event has been axed or that a particular event is not taking place; it is a general cost containment exercise. We shall have to see whether it can be done.

Subhead 23 – National Day was agreed to and stood part of the Bill.

HEAD 8 – B – PERSONNEL

Subhead 1 – Personal Emoluments

HON J C PEREZ:

Could I ask whether it is intended to open up the post of Personnel Manager in the not too distant future?

HON CHIEF MINISTER:

I think it has already been advertised internally in the Bulletin of Circulars.

Subhead 1 – Personal Emoluments 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 J J BOSSANO:

Mr Chairman, the recruitment expenses turned out to be £53,000 as opposed to £12,000, was there a particular need to recruit people last year which is not expected to materialise this year?

HON CHIEF MINISTER:

This relates to head-hunter's fees or the recruitment agency's fees relating to the recruitment of the new Finance Centre Director. Not the Finance Centre Director's salary but the recruitment charges.

Subhead 4 – Operational Expenses was agreed to and stood part of the Bill.

Subheads 5 and 6 were agreed to and stood part of the Bill.

HEAD 8 – C – CIVIL STATUS AND REGISTRATION OFFICE

Subheads 1 to 4 were 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 11 were agreed to and stood part of the Bill.

HEAD 9 – C – CUSTOMS

Subheads 1 to 4 were agreed to and stood part of the Bill.

HEAD 9 – D – INCOME TAX

Subheads 1 to 3 were agreed to and stood part of the Bill.

Subhead 4 – Operational Expenses

HON J J BOSSANO:

I see that the House was asked to provide last year £30,000 for the computer running costs but, in fact, only £4,700 was spent and we are being asked to provide £20,000 this year. Given the fact that this is in the context of greater computerisation of the department, it is difficult to understand why the underspending was so huge and why the estimated amount required is down by one-third?

HON CHIEF MINISTER:

I think there are probably two different reasons for this. The first is that the computer needs of the Income Tax Office are now provided by a central unit, the IT Services Section which sits under the Support Services Department. Secondly, there is great competition between Government departments to gain access to the computerisation resources and the computerisation expertise that exists and departments sometimes put in bids in the hope that they will be able to get their needs serviced one year and they just wait in the queue and it does not come round to them and I think the explanation is a combination of both of those. There was a time when the Income Tax Office had its own computer people in-house, they are now not there so they now depend on the central services for their computerisation programme and now wait in the queue.

HON J J BOSSANO:

I find it difficult to understand that explanation, Mr Chairman, because in fact the provision for salaries under personal emoluments last year and this year is the same and the people who run the computer would not be paid out of other charges, they would be paid out of personal emoluments so it cannot be people, it must be something else. When there were computer people there they were not paid out of other charges, they were paid out of personal emoluments so if there was a change in people operating computers it would be reflected in the personal emoluments and not here.

HON CHIEF MINISTER:

Not personal emoluments, Mr Chairman, it is the cost of computer software and computer consultancy work that was going to be undertaken and has not been undertaken in that year and they now hope to do it this year.

HON J J BOSSANO:

But the Chief Minister said in answer to the original question that it was the people who used to be there in my time who were no longer there, that is not the case then?

HON CHIEF MINISTER:

It is but the reason why I told him that was not to explain it in terms of personal emoluments but to explain it in terms of the fact that computer reprogramming work and computer software work that the department previously used to do in-house, with its own people, now is done externally for the department and it just has not been done. But there are costs involved in computer programming and software development beyond personal emoluments; the cost of acquisition of programmes, et cetera.

Subhead 4 – Operational Expenses was agreed to and stood part of the Bill.

Subhead 5 was agreed to and stood part of the Bill.

HEAD 10 – LAW OFFICERS

Subheads 1 to 6 were agreed to and stood part of the Bill.

HEAD 11 – POLICE

Subheads 1 to 7 were agreed to and stood part of the Bill.

HEAD 12 – JUDICIARY

HEAD 12 – A – SUPREME COURT

Subheads 1 to 4 were agreed to and stood part of the Bill.

HEAD 12 – B – MAGISTRATES AND CORONERS COURT

Subheads 1 to 4 were agreed to and stood part of the Bill.

HEAD 13 – HOUSE OF ASSEMBLY

Subhead 1 – Personal Emoluments

HON DR R G VALARINO:

Mr Chairman, on this one I notice that both overtime and temporary assistance are down. I, together with three other Members, were elected on 10th February this year. We have not received a Hansard for last year's budget or for the last meeting prior to the election in September and I wonder whether the production of Hansard could be speeded up as they do help the Opposition in trying to formulate questions and try to find out what has taken place. I would like to take this opportunity, as Ministers have done with their departments, to thank the staff of the House of Assembly for all their help towards all the Members here today.

HON CHIEF MINISTER:

I see the hon Gentleman has not lost his propensity for charm when it comes to concealing the point that he is actually making. Mr Chairman, the reason why overtime provision is down from the forecast outturn, he will see that it is up compared to the actual in 1998/99 is that this year we do not expect to have to organise a CPA Conference or indeed a general election. As to whether £10,000 is sufficient overtime to produce Hansard with sufficient speed for the hon Member to devour, which I am sure he will do, the moment that it is printed and then put it to good and productive use is a matter for the Clerk of the House. We are all in the same position as the hon Member describes. If it were just a question of lending additional typing resources to the House of Assembly at Hansard production time then that might be arranged but I suspect that what we will be told is that the production of Hansard is not just something that any typist or any audio-typist can do, it requires familiarisation with the voice of the Members of the House and of our speaking and it requires experience, it is not easy, if we think how undisciplined we sometimes are with interjections and with things of that sort it is a skill that is

developed over a number of years and which the present incumbent in the post has mastered. It is done in between many other duties that have to be done. I suppose we could consider whether the staff of the House is sufficient. If the Clerk unwound up by the Speaker, who I am sure would leap at the opportunity, but if the Clerk were to make a case to the Chief Secretary for additional staff resources I am sure that the Chief Secretary would consider it with all the seriousness that it would deserve.

Subhead 1 – Personal Emoluments was agreed to and stood part of the Bill.

Subheads 2 to 7 were agreed to and stood part of the Bill.

HEAD 14 – AUDIT OFFICE

Subhead 1 – Personal Emoluments

HON J J BOSSANO:

I am surprised that the outturn should be £214,000 given what we were told at the beginning about extra support being given to them and their remuneration reflecting that. Is it that it did not happen in the last financial year?

HON CHIEF MINISTER:

The reduction in the forecast outturn figure demonstrates the need to take action in support of the Principal Auditor because what it demonstrates is that the Principal Auditor has been carrying vacancies during the year and the whole idea of what I mentioned in my address and which the Principal Auditor describes in more detail in his Report attached to the accounts, is that the new structure enables him not only to increase the staff and he will see that there are more people involved, but also that it ring-fences them. So the vacancies will not be generated any longer because staff is transferred out or promoted out. Of course, staff may resign but that is going to be much less

frequently. So the new regime is not yet in operation. We expect the advertisements for the additional recruits to be published this month.

Subhead 1 – Personal Emoluments was agreed to and stood part of the Bill.

Subheads 2 to 5 were agreed to and stood part of the Bill.

HEAD 15 – SUPPLEMENTARY PROVISION

Subhead 1(a) – Pay Settlements

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, we were asked at the Second Reading, I think, as to the basis of calculation of this figure. It is simply a ballpark figure.

Subhead 1(a) – Pay Settlements was agreed to and stood part of the Bill.

Subhead 1(b) was agreed to and stood part of the Bill.

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

HEAD 16 – CONTRIBUTIONS FROM CONSOLIDATED FUND – RESERVE

Subheads 1 and 2 were agreed to and stood part of the Bill.

Clause 3 was agreed to and stood part of the Bill.

Clause 4 – Improvement and Development Fund

HEAD 101 – HOUSING

Subhead 1 – Major Remedial Works and Repairs to Housing Stock

HON J L BALDACHINO:

Mr Chairman, in the estimates for 1999/2000 we have £2.02 million even though they only spent £1.4 million. It was estimated in 1999/2000 that expenditure would be in the region of £2.02 million but the forecast outturn was £1.4 million. The department's estimate is now £1.4 million, is it that it will not be able to be met and that is why there was an underspending and that is why we are now estimating for nearly the same amount as the forecast outturn?

HON CHIEF MINISTER:

Yes, it is really a question of the need for Government to harness our ambitions to the capacity that exists in the market place for contractors, in departmental monitoring abilities. The Minister certainly has plans and ambitions that he thinks he can carry out this year in excess of that amount. If that materialises it may be possible to provide additional funding on virement from other Heads where the voted funds do not get spent, it quite frequently happens in the Improvement and Development Fund. This is pitched at that level principally because that is what we think will certainly be spent within what we found in past years is deliverable. The hon Member knows that I think that we have had this discussion before. One of the problems is that if there is too much work out there for the private sector all it does is mark up the prices and if the building contractors, and there are not that many of them, capable of doing large scale work of this sort, are too busy they just mark up the prices and we end up having to pay much more for the same work.

HON J J BOSSANO:

This is not a £1 million project, this is a collection of small things. Is JBS actually doing any of this work?

HON CHIEF MINISTER:

Yes, JBS has won the contract for Anderson House, which is a large one in that figure, and JBS is now free to compete. JBS has a limited capacity, it likes doing this work and we are quite happy that it does do this work provided it is not at the expense of the support that it provides on an on-going basis to the Education Department in terms of the support that it provides generally in the Government Minor Works vote for work on Government buildings but any capacity that they have over and above what they need to do the Government's own work in Government buildings, offices and schools which they are able to deploy they are encouraged to apply and to submit the tender and indeed they won the last one in which they bid, the last and first one incidentally in which they did tender under this indication from the Government.

Subhead 1 – Major Remedial Works and Repairs to Housing Stock was agreed to and stood part of the Bill.

Subheads 2 and 3 were agreed to and stood part of the Bill.

Subhead 4 – New Housing for Senior Citizens

HON J L BALDACHINO:

Mr Chairman, I see that we are now estimating for £30,000 is that the amount that is required for the completion of the estate?

HON J J NETTO:

That is correct.

Subhead 4 – New Housing for Senior Citizens was agreed to and stood part of the Bill.

Subhead 5 – Consultants Fees

HON J L BALDACHINO:

Is this for structural things?

HON J J NETTO:

As I explained, in previous years we already employ one contract officer at the level of HPTO. He will probably have seen very recently that we have now advertised, we have gone through the interim process for a clerk of works who will support the contract officer. The two together is related to my little subhead on consultants fees because previously the workload was so much that hence we had to make more use of my consultants fees because the one person who I only had was basically impossible to cope with all this work. Now that we are getting the clerk of works hence the coming down of that money there.

Subhead 5 – Consultants Fees was agreed to and stood part of the Bill.

Subhead 6 – Garages

HON J C PEREZ:

Mr Chairman, it seems odd that we are contracting one garage it seems for £10,000. Can the Minister explain or is this a residue from another project which is not shown in other years beforehand?

HON J J NETTO:

No, for the benefit of the hon Member, we are talking about here in relation to the multi-storey car park in Laguna, the empty ones. We have come to an arrangement where we will be giving soft

loans to members in the Laguna whereby they would like to purchase a particular space in the multi-storey car park and that is the reason why we have got an entry there.

HON J C PEREZ:

For one?

HON J J NETTO:

No, there is more than one.

HON J C PEREZ:

So that is a token vote and that will increase as the demand increases for it?

HON J J NETTO:

Yes, that is correct.

HON J L BALDACHINO:

As a matter of clarification, when he says the multi-storey car park at Laguna, does he mean the one that was previously built or the one that they are building?

HON J J NETTO:

The one that has the Social Club down below.

Subhead 6 – Garages was agreed to and stood part of the Bill.

HEAD 102 – EDUCATIONAL AND CULTURAL FACILITIES

Subheads 1 to 4 were agreed to and stood part of the Bill.

Subhead 5 – Theatre Royal Refurbishment

HON S E LINARES:

Mr Chairman, does this also include the money that needs to be paid to the owner, leases or is it just purely for the refurbishment?

HON DR B A LINARES:

The agreement with the owners will be on a rental basis and it will have to be funded from another source because it is not included in this capital expenditure which is for the refurbishment. This is only a provision, there is of course balance to complete signalled there in the region of £2 million and of course a great part of that will come from Objective 2 European funding.

HON J J BOSSANO:

What is the ratio, Mr Chairman, of the EU funding on this project?

HON K AZOPARDI:

The figures that I have is £1.4 million EU; £1.1 million Government funding and then £1 million private sector.

HON CHIEF MINISTER:

Hon Members will recall, just to finish off the picture for them, that this is one of the projects that needs to be spent quickly. This is one of the projects that needs to be spent by the end of next year so it is very finely cut now and we are dedicating priority of resources and technical resources to ensure that this project is able to spend the money in time.

Subhead 5 – Theatre Royal Refurbishment was agreed to and stood part of the Bill.

Subhead 6 was agreed to and stood part of the Bill.

HEAD 103 – TOURISM AND TRANSPORT

Subhead 1 – Improvements to Tourist Sites and Beaches

HON J C PEREZ:

Mr Chairman, I would not know whether it is too late for anything to be done this year, the Minister might know if something has been done. I have been receiving repeated complaints about the conditions of the toilets and changing rooms in Catalan Bay, I myself have not seen them, and there might have been some works involved before the summer season but as he got any knowledge of this?

HON J J HOLLIDAY:

Yes, I am aware that there was a need for refurbishment. My understanding is that work has been carried out recently in fact I have had the Principal Secretary of the Ministry this morning inspecting all beach facilities so I assume that the required works have been undertaken and, if not, they will be undertaken before the season begins in two weeks time.

Subhead 1 – Improvements to Tourist Sites and Beaches was agreed to and stood part of the Bill.

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

Subhead 5 – Traffic Enhancements including Bus Stops

HON J C PEREZ:

Mr Chairman, although I do note that the new bus stops are being erected, I raised the matter at Question Time in March whether these new bus shelters included seats? I, again, myself have not seen them but I have read some letters in the Chronicle about elderly people complaining about the type of seats and has the Minister himself received any complaints to this effect?

HON CHIEF MINISTER:

Mr Chairman, I myself have not seen them either except that I am now on duty to take my children to the bus stop for the school bus in the morning, which is not a duty that I have performed for many years, and I have therefore had the opportunity to inspect the seats. It is a bench screwed into the wall of the bus stop. It is not entirely horizontal, in other words, it is not so much something to sit on as something to lean into. I would not have described it myself as either entirely ideal or entirely inappropriate. I think the solution is not to have comfortable seats in bus stops but to have a bus system that requires people not to have to wait in bus stops for too long and that is what we are going to be concentrating on. *[Interruption]* I just want to take this opportunity to record that the other thing that I have noticed from my visit every morning to the one bus stop that I visit is the extent of the vandalism to which they have been subjected in just two or three weeks since they have been erected.

HON J C PEREZ:

Opposite the Chief Minister's house?

HON CHIEF MINISTER:

Well, I am not telling the hon Member where this bus stop is but it is one of them and it has been completely painted over with white paint, graffiti, scratched on and I just want to record that it is really a great shame and a complete lack of civic responsibility that taxpayers money, which is not money that belongs to the Government, it is money that the people of Gibraltar pay out of their taxes to improve facilities to Gibraltar and that there is a small element of this community that has that degree of disrespect for their fellow citizens that cause them to wantonly vandalise assets. I am not saying this at the Hon Members because I know that they will entirely agree but I remember when they were in Government they used to complain about much the same thing in respect to the Upper Rock and other areas that they used to beautify and I think sooner or later this House is going to

have to give consideration to legislation to deal with the issue of wanton vandalism of public furniture. *[HON J C PEREZ: Big Brother.]* Well Big Brother or Small Brother or Middle Brother! – but certainly there is nothing wrong with Big Brother if all that he is doing is preventing people from causing wanton vandalism to things that the tax payer provides for himself.

Subhead 5 – Traffic Enhancements including Bus Stops was agreed to and stood part of the Bill.

Subhead 6 – Roads Construction and Resurfacing

HON J C PEREZ:

Mr Chairman, how much of that provision has already been spent but not paid in respect of on-going projects?

HON CHIEF MINISTER:

Does the hon Member mean committed or spent?

HON J C PEREZ:

Spent, because I am sure that there are bills from the Coach Park which has been completed very recently, a year late, will have to await three or four months before the payment takes place.

HON CHIEF MINISTER

Yes, well running down the list I can tell him that included in that sum is a provision of £480,000 for Sir Herbert Miles Road widening. Now that is finished so that must be the last payment due to the contractor, that is more or less finished. There is a provision of £342,000 for the Waterport Road and Devil's Tongue Road, which as the hon Member has seen has started and the Devil's Tongue bit is quite advanced, the Waterport Road – that is the stretch of road in front of Watergardens. The rest of it, there is a very small amount for the pavements in Town Range which has started but not quite finished; and all the rest of it is for projects that have not yet started.

Subhead 6 – Roads Construction and Resurfacing were agreed to and stood part of the Bill.

Subheads 7 and 8 were agreed to and stood part of the Bill.

HEAD 104 – INFRASTRUCTURE AND CAPITAL WORKS

Subheads 1 and 2 were agreed to and stood part of the Bill.

Subhead 3 – Government Vehicles and Plant

HON J C PEREZ:

Mr Chairman, I see that out of a provision of £250,000 only £29,000 was spent last year and it looks odd given that there are certain routine in-house rules about the replacement of vehicles and so on.

HON CHIEF MINISTER:

Yes, there was a delay in the allocation of that bid to the various departments and whilst the various competing bids were sieved through and prioritised but most of that actually has now been spent and the procurement has taken place and the tendering has taken place. In some cases the vehicles have arrived, in others they have not yet arrived but we are right in the middle of it now. This is not a provision for a process that needs to start, it is a provision for a process that is taking place.

Subhead 3 – Government Vehicles and Plant was agreed to and stood part of the Bill.

Subheads 4 to 8 were agreed to and stood part of the Bill.

Subhead 9 – Radio Communications

HON CHIEF MINISTER:

Mr Chairman could I just mention for the information of the House we are not intending to amend because we think we can do it by virement, but the vote for the Commissioner of Police of £40,000 does not include obviously, the £200,000-odd which is the Government's half share of the cost of the new police launch, which is going to be half funded by the Gibraltar Government and half funded by the Foreign Office.

Subhead 9 – Radio Communications was agreed to and stood part of the Bill.

Subheads 10 to 12 were agreed to and stood part of the Bill.

Subhead 13 – Beautification and Refurbishment Works

HON DR R G VALARINO:

Mr Chairman, I notice (a) and (b), in fact could I have a breakdown of the £2,900,000 that are going to be spent on the beautification refurbishment schemes?

HON LT-COL E M BRITTO:

Mr Chairman, this includes quite a number of projects, essentially things like Casemates, the completion of Irish Town, the location of the Post Office, Landport Ditch, parts of the re-alignment of Europa Road including the demolition of a building which includes EU funds. Work on the Black Spot which also includes EU funds and then a number of other embellishment projects.

HON J C PEREZ:

Mr Chairman, is it possible to go back to Subhead 12 – Maintenance and Security of Existing Structures?

MR CHAIRMAN:

Everything is possible for you.

HON J C PEREZ:

Thank you, Mr Chairman. I see that the Estimates last year have a forecast outturn of zero and that this year we are decreasing the estimate by £10,000. Can someone explain what is meant by maintaining existing structures?

HON LT-COL E M BRITTO:

Yes, Mr Chairman, the difference I cannot explain off the top of my head without some notice. But basically we are talking about the matting and the materials necessary for the water catchments; the matting that is put over the sand after the sheeting is removed and essentially it is the same amount that was not spent last year that has been provided for this year again.

HON J C PEREZ:

I put it to the Government that there must be a better way of describing this in the Estimates than maintaining and securing existing structures.

HON LT-COL E M BRITTO:

Well it is a generic head, Mr Chairman, that has been used before for a number of other things and has been put there, but I agree it is not very descriptive of what it is.

HON CHIEF MINISTER:

Yes, it has always been called that.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Well if I could just add to the point the Minister made, the difference between the Estimate 1999/2000 and the Estimate 2000/2001 is that we have now let the contract and we know what it is going to cost. So it is going to cost slightly less than we estimated a year ago. [INTERRUPTION]

HON CHIEF MINISTER:

Well the hon Member in jest alights on a very important point. Because one of the reasons why we use generic headings and not identify the contracts is precisely so that contractors cannot say, "if this had said 'Contract for the Matting of the Water Catchments - £189,000'" bidders would have known that that is what the Government expect to pay and would have pitched their bids accordingly, thereby depriving the taxpayer of the opportunity of savings from lower bids. So the hon Member will surely recognise that as good common sense.

Subhead 13 – Beautification and Refurbishment Works was agreed to and stood part of the Bill.

Subhead 14 was agreed to and stood part of the Bill.

Subhead 15 – Storm Water Drains and Sewers Replacement

HON J C PEREZ:

Yes, Mr Chairman, is this, I presume as the Minister has said, that this work is work going out to contractors? Historically this work has been done by the Sewers Section, that is why I am asking.

HON LT-COL E M BRITTO:

Mr Chairman, this is essentially the completion of the Main Street and Line Wall Road sewers, Irish Town where the works are under way and also the bulk of it is the feasibility study on Waste Water Treatment or Sewage Treatment or compliance with EU directives.

Subhead 15 – Storm Water Drains and Sewers Replacement was agreed to and stood part of the Bill.

Subheads 16 to 22 were agreed to and stood part of the Bill.

Subhead 23 – New Hospital – Europort

HON MISS M I MONTEGRIFFO:

Mr Chairman, I gave notice to the Minister during the general principles of the Bill that when we came to the Committee Stage of the new hospital I would like him to give a commitment that the new dialysis unit that would be installed in the new hospital would cater both for out-patients and in-patients.

HON CHIEF MINISTER

Mr Chairman, the matter is under review. The Government's intention is to provide as far as is reasonably possible for the out-patient's facilities as well. In other words, we want to try and make as much provision in Gibraltar as possible for the people who presently have to go elsewhere. That is what we are aiming, that is what we are striving to achieve.

Subhead 23 – New Hospital – Europort was agreed to and stood part of the Bill.

Subheads 24 to 26 were agreed to and stood part of the Bill.

HEAD 105 - ELECTRICITY

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

Subhead 2 – Improvements to Networks and Infrastructure

HON J C PEREZ:

Mr Chairman, are subheads 2 and 4, do Government intend to go out to private contractors for this or is this money to be used by the sections involved in the Generating Station?

HON LT-COL E M BRITTO:

Mr Chairman, I am not too sure, most of it I expect will be done by the Electricity Department staff itself. That is ducting and laying of cables and so on. That is generally done by them.

HON J C PEREZ:

That is what I thought but since the custom now is that anything done in-house by the Government seems to appear in the recurrent expenditure and not in the Improvement and Development Fund, I thought that the indication that it was in the Improvement and Development Fund was a factor indicating that it was going out to contract.

HON LT-COL E M BRITTO:

No, Mr Chairman, under item 2 there is relocation costs of the high voltage cable from King's Bastion to Orange Bastion, that is obviously in-house. There is laying of ducts, manhole construction and beautification projects. There is something called jacket water pump replacements, there is air compressors, there is hydraulic platforms, it is a mixture of equipment and cabling laying and so on.

HON J C PEREZ:

So there is no labour element in this vote or they is some labour element which then needs to be passed on to the Generating Station?

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, there is no labour element in this.

HON J C PEREZ:

Just materials, the labour element is all under current expenditure.

Subhead 2 – Improvements to Networks and Infrastructure was agreed to and stood part of the Bill.

Subheads 3 and 4 were agreed to and stood part of the Bill.

HEAD 106 – INDUSTRY AND DEVELOPMENT

Subheads 1 to 5 were agreed to and stood part of the Bill.

Subhead 6 – Strategic Fuel Reserve

HON J J BOSSANO:

The footnote in respect of the Gibraltar Enterprise Scheme. It says it includes £300,000 repaid to the I&D Fund, if it is repaid to the I&D Fund it would be income not expenditure, no? I mean it may be just a misprint, that is the explanation it gives.

HON CHIEF MINISTER:

It is badly worded. I think what this means is that the expenditure included the £300,000 loan which has subsequently been repaid. I agree that the telegraphic language in the footnote tends to

suggest that the repayment of the loan is included here, which obviously was not.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Mr Chairman, if I could just add for clarity as well. In fact in the revenues of the Improvement and Development Fund, in fact, we show £300,000 in 1999. That is the same one and in fact, it is a misprint it should be in the loan repayments.

Subhead 6 – Strategic Fuel Reserve was agreed to and stood part of the Bill.

Clauses 5 and 6 were agreed to and stood part of the Bill.

Schedule

Part I – Consolidated Fund Expenditure was agreed to and stood part of the Bill.

Part II – Consolidated Fund Contributions 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 Appropriation (2000-2001) Bill 2000, 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.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Thursday 29th June 2000, at 10.00 am.

Question put. Agreed to.

The adjournment of the House was taken at 4.45 pm on Friday 2nd June 2000.

THURSDAY 29TH JUNE 2000

The House resumed at 10.05 am.

PRESENT:

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

GOVERNMENT:

The Hon P R Caruana QC – Chief Minister
The Hon K Azopardi – Minister for Trade, Industry and
Telecommunications
The Hon Dr B A Linares – Minister for Education, Training,
Culture and Health
The Hon J J Holliday – Minister for Tourism and Transport
The Hon Lt-Col E M Britto OBE, ED – Minister for Public Services,
the Environment, Sport and Leisure
The Hon H A Corby – Minister for Employment and Consumer
Affairs
The Hon J J Netto – Minister for Housing
The Hon Mrs Y Del Agua - Minister for Social Affairs
The Hon R Rhoda QC – Attorney-General
The Hon T J Bristow – Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano – Leader of the Opposition
The Hon Dr J J Garcia
The Hon J L Baldachino
The Hon Miss M I Montegriffo
The Hon Dr R G Valarino
The Hon J C Perez
The Hon S E Linares

IN ATTENDANCE:

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

DOCUMENTS LAID

The Hon the Minister for Education, Training, Culture and Health moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the laying of various accounts and documents on the Table.

Question put. Agreed to.

The Hon the Minister for Education, Training, Culture and Health laid on the Table the Report and Audited Accounts of the Gibraltar Health Authority for the year ended 31st March 1998.

Ordered to lie.

The Hon the Minister for Employment and Consumer Affairs laid on the Table the Employment Survey Report – October 1998.

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. 8 to 10 of 1999/2000).
- (2) Statement of Improvement and Development Fund Reallocations approved by the Financial and Development Secretary (No. 4 of 1999/2000).

Ordered to lie.

MOTIONS

HON CHIEF MINISTER:

I beg to move the suspension of Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with a motion.

Question put. Agreed to.

HON CHIEF MINISTER:

Mr Speaker, the motion standing in my name reads:

“That this House resolves that the following Members should be nominated to the Permanent Select Committee on Members’ Interests:- The Hon Keith Azopardi, the Hon Ernest Britto, the Hon Reginald Valarino and the Hon Steven Linares”.

Hon Members are aware that this is one of the standing Select Committees of the House and that it is usual to appoint it, it is required to appoint it during the first meeting of the House following an election which is this meeting. I commend the motion to the House in the full expectation that it is an uncontroversial piece of housekeeping.

Question proposed.

HON J J BOSSANO:

Mr Speaker, obviously we are supporting the motion. The names have been the result of consultation and we will be voting in favour.

Question put. The motion was carried unanimously.

BILLS

FIRST AND SECOND READINGS

HON CHIEF MINISTER:

Mr Speaker, I beg to move the suspension of Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with Bills.

Question put. Agreed to.

THE IMMIGRATION CONTROL (EUROPEAN ECONOMIC AREA) ORDINANCE 2000

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to transpose into the law of Gibraltar Council Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC on the rights of residence of nationals of Member States, members of their families, workers, self-employed persons, students and others 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 replaces sections 39 to 51A of the Immigration Control Ordinance with new sections 39 to 50K. The Bill transposes into the law of Gibraltar a number of Community directives, nine in total, relating to the right of residence of EEA nationals and members of their families. The nine Community directives are the following: Council Directive 64/221 on the co-ordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health. Council Directive 68/360 on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families. Council Directive 72/194 extended to workers exercising the right to remain in the territory of the Member State after having been employed in that State. Council Directive 73/148 on the abolition of restrictions on movement and residence within the Community for nationals of Member States with regard to establishment and the provision of services. Council Resolution 75/34 concerns the right of nationals of the Member State to remain in the territory of another Member State after having pursued therein an activity in a self-employed capacity. Council Resolution 75/35 which extends the scope of Council Directive 64/221. Council Directive 90/364 on the right of residence. Council Directive 90/365 on the right of residence for employees and self-employed persons who have ceased their occupational activity and Council Directive 93/96 on the right of residence for students.

Mr Speaker, the Bill defines who is a qualified person and this is a person who is an EEA national who undertakes in Gibraltar the activities of one of the categories listed in section 43(1). An EEA national means a national of a State which is a Contracting Party to the EEA Agreement. The Bill also defines a family member of such a national. Mr Speaker, some of the directives which I have just mentioned were previously reflected in the law. However, the

definition of a qualified person now includes a self-sufficient person, a provider and recipient of services, a retired person and a student. The Bill provides that an EEA national and the family member of such a person may enter Gibraltar on production of a valid EEA identity card or passport. The Bill distinguishes between family members who are EEA nationals and those who are not. The latter must apply for an EEA family permit from the Principal Immigration Officer. The requirements for the issue of an EEA family permit are set out in section 50C. Mr Speaker, a qualified person is entitled to reside in Gibraltar for as long as he remains a qualified person. This also applies to a family member of a qualified person. The family member is entitled to remain for as long as such person remains the family member of a qualified person. The Bill also sets out the form of residence permit and the residence document must take and also how long the residence permit will be valid for in the case of each categories of qualified persons. Section 50B sets out those persons who will be able to remain in Gibraltar indefinitely. Mr Speaker, the Principal Immigration Officer may refuse to grant or revoke a residence permit or residence document to a qualified person or family member of such person if the refusal is on the grounds of public policy, public security or public health. The Bill, as tabled, provides for the establishment of the right of appeal to an Immigration Appeals Tribunal. I propose to move an amendment so that the right of appeal should be ordinarily to the Supreme Court as opposed to an Immigration Appeals Tribunal. I should explain to the hon Members that the directives themselves do not establish a requirement on their face to a right of appeal. What the directives actually require is that those who are making immigration decisions in the case of EEA nationals. In other words, if the immigration decision-maker intends to deny the right of residence or to revoke the right of residence of a qualified person he should only do so after he has taken an opinion from an independent source. Subsequent cases in the European Court of Justice have established the principle that there should be a statutory right of appeal to an independent court or tribunal and therefore that is why this directive establishes a right of appeal as opposed to simply requiring the Principal Immigration Officer to consult an independent source. I will be moving an amendment.

Mr Speaker, to have that to the Supreme Court instead of to an Immigration Appeals Tribunal. As I have said to the hon Members, that is an appeal for those persons who are either refused admission or required to leave Gibraltar or who are refused residence permits or whose residence permits are revoked but I must emphasise all this Bill and all of my comments and all the matters before the House apply only to EEA nationals and their families. EEA nationals are European Union nationals and the nationals of those several countries which are part of the European Economic Area but not part of the European Commission. This legislation does not deal with the immigration rights of non-EU nationals.

Mr Speaker, section 50K(1) sets out the procedure for introducing an appeal and section 50K(2) and (3) deal with the rights of audience and the decision-making powers of the court in respect of the procedures for appeals to it.

Mr Speaker, hon Members will note that the Bill puts into a much grater detail and clarity the definition of "qualified person" and "family member" and the different criteria that needs to be applied for the issue or indeed the refusal or revocation of residence permits. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, it seems to me that most of the contribution of the Chief Minister has not been to the general principles of the Bill but to explaining what is in the text. I would question what is the principle in this Bill because it would appear that the issue of principle or policy that is involved here is the question of the Appeals Tribunal. I note that we have been told in the introduction of the Bill and indeed in the explanatory memoranda that the Ordinance transposes a number of EU directives implying that those directives have not yet been transposed. In the mover's explanation he said that the current law reflected some of this. Well, I do not know whether reflecting something and transposing

something means the same thing, that either it is transposed or it is not transposed. Of course, if these directives had not been transposed I would imagine they would have been on the list of directives which the United Kingdom were saying we were lagging behind in the transposition of and which would have put us in the exposed position of infraction proceedings. Particularly when one-third of the directives in question are from before we joined the Common Market, 1964, 1968 and 1972. So those we were supposed to have transposed in January 1973 when we became members for the first time, three of those and they are fundamental because they deal with the freedom of movement. So I cannot imagine that if we had not transposed those directives in 1973 in the year 2000 the EEC would not yet have taken us to court on that one. There has been no indication in the speech that we are repealing what is in the current law and replacing it by something else because the United Kingdom or somebody else somewhere else has suggested that the present provision inadequately transposed the directives which would be the only point of principle which would justify a Bill coming to the House saying we are now transposing directives which, as far as we are aware and as far as we are concerned, have all been previously transposed into the law. The only one that might not have been, I imagine, is 93/96 which is the last one but one would have expected that the previous ones which end with 90/365 would all have by 1996 been put into the laws of Gibraltar and that the provisions that are there now, as far as the United Kingdom was concerned, adequately transposed those directives and since the text of the directives are then transmitted to the European Commission and we heard nothing to the contrary from them in the last 10 years, the Commission was satisfied that they were adequately transposed. So it seems to us that on the basis that this is purporting to transpose something that is already transposed and that on the principles of the Bill we have not been told why there is a need to change the way they have been transposed until now, whether that is driven locally by problems that are being faced by the authorities here and I am not aware that we have ever had any problems in dealing with EEA nationals or EU nationals, all the problems have been with those who are not covered by the Bill or whether it is something that is

the United Kingdom's prompting on the premise that there is something wrong. Secondly, the provisions that are now going to be altered of an Immigration Appeals Tribunal we have been told are not on the surface of the text of the directives an EU requirement. So if this is not an EU requirement and, again.....

HON CHIEF MINISTER:

I have not said they are not an EU requirement. I have said they are not required on the face of the directives. They are an EU requirement and they are as a result of a ruling of the European Court of Justice.

HON J J BOSSANO:

Yes, Mr Speaker, and I have just said that he has said that on the surface of the document they are not an EU requirement those were my words. *[HON CHIEF MINISTER: On the face of the directive.]* That is precisely what I have said, Mr Speaker. *[HON CHIEF MINISTER: No, the hon Member has said it is not an EU requirement.]* I have said that he has said that on the surface of the directive they are not an EU requirement it is only that he was asleep for the first half of my sentence and woke up on the second half and reacted to it but when Hansard eventually gets produced in the year 2000-and something, we will be able to see whose memory is better of the last few sentences or we can always play the tape.

HON CHIEF MINISTER:

In fact, I move that we play back the tape so it is not a question of memory.

HON J J BOSSANO:

Okay, then let us. I suppose the motion that we play the tape, I do not know whether we suspend Standing Orders in order for the Chief Minister to introduce a motion without notice.

HON CHIEF MINISTER:

Mr Speaker, what the hon Member should not do is his usual trick of throwing out things which everyone in this House has heard, everyone in the House has heard him say "not an EU requirement", everyone in the House heard me say "not a requirement of the directive on its face". That is perfectly obvious to everybody who has been listening to this debate. He nevertheless now tries to deny that that distinction has existed and to provide cover for himself makes a reference to the fact that Hansard takes two years to produce and therefore the issue of memory cannot be resolved. This is a trick that he does all the time and so therefore the answer is that we should rewind the tape or that he should simply accept that what he has attributed to me is not what I said and it is really not that difficult.

HON J J BOSSANO:

Can I suggest, Mr Speaker, that while we rewind the tape we also check that I did not say two years which he has also attributed to me.

MR SPEAKER:

I am not allowing the rewinding of the tape because it creates a very bad precedence. The tape is there, if you want it produced in advance of all the other tapes it will be done and it will be at your disposal with the Clerk.

HON CHIEF MINISTER:

Mr Speaker, my memory is perfectly good, it is only the Leader of the Opposition's memory which needs to be helped so you can send it to him.

HON J J BOSSANO:

No, he might say that his memory is perfectly good, Mr Speaker, I have given way to him three times. Here we are discussing an important matter of principle about immigration control and he has interrupted me half a dozen times because of his sensitivity to anything that appears to be critical of him. I know how it is, the man is almost constantly in the House as if he had just come from being badly sunburned in Eastern Beach and the moment one touches one of the follicles of the back of his neck he jumps up like a scalded cat. I am sorry. I did not intend to give offence to the Chief Minister. I did say, as the tape will show, that it is not required we have been told on the surface of the directive and before I could carry on to say, and if that is the case then that is surely the matter of principle that is at stake here. If it is not required on the face of the directive and we are allegedly transposing directives and that is the only explanation we have been given for the Bill, we have not been given any other reason for bringing this to the House other than to transpose what we understand is already fully transposed. So since all we are doing is what has already been done going back to 1973, unless we get a better reason for doing it than we have been given today in the speech on the general principles, we are not supporting this. It is as simple as that.

Let me say, Mr Speaker, that the definitions of qualified individual and the need for appeal in our knowledge cannot be driven because of problems that we have had with the present law because we are not aware of instances where EU nationals have been refused and tried to appeal against refusals and not been able to or had difficulty in establishing their entitlement and consequently require better definition in the law so that the immigration authorities can adequately fulfil their obligations under EU law to which we fully subscribe. We believe that it is right that we should give others the freedom of movement in Gibraltar notwithstanding the fact that others do not simply be equally concerned about giving it to us.

MR SPEAKER:

I call on the mover if he wants to reply.

HON CHIEF MINISTER:

Well, Mr Speaker, tempts me not to reply because in a sense we have not been given anything to reply to. I can only pre-suppose that the hon Member is aware of what the current law is and that he has also read the new Bill and that he is aware of what the differences are. But he has in his own contribution, in no manner and to no extent, addressed the principles of the Bill. I am very, very surprised to hear the hon Member suggest that all of this is already the law of the land because he must recall that most of this, indeed all of this in addition to other things that he got into trouble with, were the subject of draft Immigration Control Ordinance EEA Regulations 1995 that he had drafted before he left office and that were the subject matter of intense discussions between him and the United Kingdom, he must remember that. I am therefore entirely surprised to hear him not say that he does not understand why all of this is before the House because he believes that it is already all law.

Mr Speaker, the answer is as I have said in my speech in my first contribution, that some of it is already law and that some of it is not already law because we have not, contrary to what he thinks, we have not transposed all the directives and some of the directives alter the definitions of qualified person, for example, in respect of some of the directives that we had implemented. So there is an element of consolidation in this Bill but there is also an element of transposition and this was work that was initiated by himself, admittedly quite close to the date of the election, this was in the autumn of 1995. Mr Speaker, the hon Member thinks that the only purpose of this Bill is simply to establish a right of appeal, well he is mistaken. I do not see how the hon Member can say why are we having a right of appeal if it is not an EU requirement, it is as if he was not listening when I gave him the explanation for that in my first address which was although it is not a requirement on the face of the directive, it has been the subject matter of

adjudication by the European Court of Justice that EEA nationals should enjoy a right of appeal against a decision to deny or revoke them the benefit of these directives when those denials are based on any of the three grounds upon which they are available to the administration, namely, public policy, public security and public health. The hon Member can say, "I do not care what the European Court of Justice says, I do not think there should be a right of appeal and therefore I will vote against or I will not support this Bill because it contains a right of appeal and I do not think there should be a right of appeal". It would be a pretty unusual provision but he is certainly free to take that. What he is not free to say is, "I am not supporting this because I have not been told why it is in the Bill" because he has now been told why it is in the Bill twice. If he wants the names of the cases of the European Court of Justice which have resulted in this requirement I can give him that as well in case he wants to rush off and read the European Case Law Reports to make sure that that is exactly what the European Court of Justice has said. I am very happy to give them to him.

There are two decisions of the European Court of Justice in the case of Shingara, case 69 of 1995 and the case of Radiom, case 111 of 1995 and there is a decision of the European Court of Human Rights, the case of Kahal which the hon Member will find in the European Court of Human Rights Report 1997 at page 413.

So, Mr Speaker, the hon Member can vote on the Bill as he pleases but what he cannot say is that he has not been given a reason why there is a right of appeal even though the directive does not require a right of appeal. Even if the directive did not require a right of appeal, the hon Member should make his decision as to whether he supports the Bill or not on the basis of whether he thinks that there should be a right of appeal not on the question of whether it is obligatory on us to grant a right of appeal. The hon Member can certainly vote against the Bill on the basis that he does not think that there should be a right of appeal. It would not be the first time that the two sides of the House are separated by the difference between us on the policy of whether the Government of Gibraltar should comply with our obligations.

[HON J J BOSSANO: They are not obligations.] Mr Speaker, the hon Member repeats the assertion that it is not an obligation. Gibraltar is not bound only by obligations under directives. It is also bound by obligations that flow from rulings of courts to whose judgements it is subject. The hon Member does not understand this he does not understand this and it is not for me to lecture the hon Member on the various sources of law and obligations but if he believes that we are only under an obligation under directives and that if we are not under obligations to comply with European Court of Justice rulings, all I can tell him is that he is mistaken. Therefore, Mr Speaker, as I said, I will be moving at the Committee Stage, several amendments. As I say, most of them do not give rise to issues of principle but the one that does give rise to an issue of policy is the fact that whereas in the Bill, as drafted, there was this appeal right was to the Immigration Appeals Tribunal, the Government have taken the view that given the infrequencies of these situations it is better to use the Supreme Court rather than to set up another structure of this sort.

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 Mrs Y Del Agua
 The Hon J J Holliday
 The Hon Dr B A Linares
 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 Dr J J Garcia
 The Hon S E Linares
 The Hon Miss M I Montegriffo
 The Hon J C Perez
 The Hon Dr R G Valarino

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 but that will not be before lunch. In other words, I will just give the indication that when we have done the First and Second Readings I would like to recess until this afternoon.

Question put. Agreed to.

THE PRISON ORDINANCE (AMENDMENT) ORDINANCE 2000

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend the Prison Ordinance 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 is a simple, short and uncontroversial Bill which I hope will enjoy the support even of the Opposition. It is simply consequential on our amendment at a previous meeting of the House of the Criminal Offences Ordinance where we abolished the death penalty for treason. Mr Speaker, the sections of the Prison Ordinance which this Bill now before the House seeks to repeal are the sections of the Prison Ordinance which deals with the regime applicable to prisoners under sentence of death. Section 57 relates to the Superintendent making standing orders to be observed in the execution of any sentence of death. Section 58 refers to the Superintendent publishing a notice as to the fact that an execution is about to take place. Section 59

relates to the place of execution. Section 60 relates to the persons who shall be present during an execution. Section 61 relates to the signature of certificates and declarations of execution. Section 62 requires an inquest to be held into every person executed in the prison. Section 63 deals with the burial of executed prisoners. Section 64 deals with the transmission of documents by the Superintendent to the Governor relating to the execution of prisoners. Section 65 is purely technical and was a saving provision at the time that that legislation was originally introduced, it is not a substantive provision itself. Mr Speaker, there is no point in the Prison Ordinance containing provisions relating to the execution of prisoners when the law of Gibraltar no longer provides for the execution of prisoners. I therefore commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON J J BOSSANO:

Even the Opposition, Mr Speaker, does not have an objection this time.

HON CHIEF MINISTER:

Well, Mr Speaker, I should not reply in case I spoil even that position.

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 DEVELOPMENT AID (MISCELLANEOUS AMENDMENTS)
ORDINANCE 2000**

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend the Development Aid Ordinance and to repeal the Income Tax (Amendment) Ordinance 1991 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 Bill makes provision for a policy requirement of the Government in the system of providing rating relief for development projects. Under the Public Health Ordinance the Government can lay down criteria for remitting or reducing rates in cases of inability to pay or where it is in the interests of the development of Gibraltar and I believe, although I cannot be certain, I am almost certain, that that is an amendment to the Public Health Ordinance that they introduced when they were in office. But sections 15B and 15C of the Development Aid Ordinance which provides for a gradual increase in the rates in respect of development projects, the whole increase in rateable value does not apply straight away but is phased over a number of years. In other words, the hon Members know that under the Development Aid Ordinance rates relief is a tapering affair. In other words, it starts at 100 per cent and then the amount of the relief reduces until after five or 10 years one comes to pay 100 per cent of rates. The problem is that when the Government have laid down criteria under the Public Health Ordinance to remit rates in respect of a project that enjoys development aid, we then found that we did not have the power to stop the clock on that rates tapering relief under the Development Aid Ordinance. This has arisen entirely in the context of the Harbour Views problems. There was a project which is the subject of development aid, it is

still within the period of rates relief, the Government as a matter of policy have given rates relief during the period that each block is under construction repair but we found that under the Development Aid Ordinance we could not stop the clock which was ticking away in terms of the rates relief under the Development Aid Rates Relief. So when we said to the owners of apartments in Harbour Views, "You will be exempted from rates during the period of time that your building is under scaffolding; in other words, during the period of time that your building is under remedial repair works" they then raised the question, "Fine, but will you stop the clock on development aid so that when I start paying rates again I still have one or two years left of rates reduction left. If you do not do that", they pointed out, "then our rates holiday, so to speak, are partial rates holiday under the Development Aid Ordinance will expire during a period that we are not paying rates at all because you have remitted them. So if I am now paying rates at 80 per cent and I have got another year left of rates at 80 per cent before I move on to rates of 100 per cent and this year you are letting me off rates altogether because my building is under repair, this next year should not count for the benefit of that 80 per cent. In other words, I still have one year at 80 per cent when I restart paying rates". And that is what this Bill achieves. It enables the decision to be made under the Development Aid Ordinance to freeze the passage of time, to freeze if it is five years, the 10 years to freeze the countdown of those number of years of tapering off rates relief during any period when rates are exempted altogether pursuant to criteria laid down by the Government of Gibraltar under the Public Health Ordinance in the interests of the development of Gibraltar or in cases of inability to pay.

Mr Speaker, the Bill also repeals the Income Tax (Amendment) Ordinance 1991 which the Opposition Members never brought into force and as the Opposition Members passed the Bill when they were a majority in this House never brought it into force, we have looked at it. We do not know why the Opposition Members did not bring it into force but certainly it has not been brought into force in the nine years since it was passed in this House and in those circumstances we think that it is appropriate to repeal it.

The Bill dealt mainly with the replacement and repealing of the Development Aid Ordinance in respect of rates and taxes. Those matters are perfectly adequately provided under the Development Aid Ordinance. It may be that the hon Members changed their minds after the Bill had passed through the House about the need to replace the Development Aid Ordinance in that connection but certainly to the extent that we are now repealing the Bill, it is by way of tidying up exercise rather than leave legislated but uncommenced this Bill for any longer. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, we will be supporting the Bill in the light of the explanation that has been given on the general principles although it is certainly not obvious to us that there is such a need. That is to say, that there is a problem in dealing with the question of tapering relief and the question of the clock because it would appear to us that if one has got the power to reduce or remit rates in the Public Health Ordinance then one could remit what the clock puts back every year and one would achieve the same result. It would appear that that should be possible but if it is not, since we support that the power should exist there is no point in having the power if administratively it cannot be made to work in the light of the explanation that has been given by the mover in the general principles of the Bill so we are supporting it on that basis.

The 1991 Ordinance was in fact moved at the time by the Financial and Development Secretary and the explanation he gave in the House was that there were problems in dealing with the identification of the relief under the Development Aid Ordinance which had been found by the department. I think it was some difficulty related to the granting of development aid and at the same time whether this meant that the depreciation of the assets was now removed and that development aid was advanced depreciation of assets or whether, in fact, the granting

of development aid was over and above the depreciation of the assets which meant that effectively one was writing off the capital costs more than 100 per cent. Writing it off in a straight line reduction and then on top of that, under the development aid in a lump sum. I think that is a difficulty that has arisen with some developers in that area, it might even have been Queensway Quay originally, that led to the Tax Office coming up with some suggestions that we ought to have it all under the Income Tax Ordinance rather than in a separate Ordinance. I cannot say, frankly, why it was that it subsequently was not implemented, I was not aware that it had not been subsequently implemented, I would have expected that there should have been a starting date when they were ready to operate it and that would have been it. The impression I get from the Bill, in fact, is that the section in the Public Health Ordinance to which reference has been made, was in fact put there by the Bill in 1991. I am not sure if the Bill was never put into effect, whether the section is.....

HON CHIEF MINISTER:

Bits of the Bill were put into effect, Mr Speaker. The explanation appears to be that the Bill being repealed introduced these sections into the Public Health Ordinance even though they had already been introduced into the Public Health Ordinance previously. So it was in that respect a re-legislation of the matter. When the Bill being repealed introduced these same sections into the Public Health Ordinance, the one establishing criteria or the one giving the Government the power to establish criteria, that amendment had already been made to the Public Health Ordinance previously by another piece of legislation, No.11 of 1990. I cannot tell the hon Member what the name of it is but it must be the Public Health (Amendment) Ordinance presumably unless it was done in a composite Bill. Therefore the sections of this Bill were never commenced either in respect of this amendment to the Public Health Ordinance. Having said that, Mr Speaker, I am now speaking purely from memory, I have not got the Bill in front of me I am afraid, but I seem to recall that there were other things in that 1991 Bill which had commenced and are operative. I do not know if the hon Member has got the Bill in front

of him and whether he can see whether it has anything in it other than, as I recall it was a four or five page Bill, and all those other things were indeed commenced.

HON J J BOSSANO:

Well, then Mr Speaker, if those were commenced and we are now repealing the Bill then what are we left with? Presumably what was commenced will be removed from the laws of Gibraltar and there is no explanation as to whether it is that we do not longer want those things there or that we are substituting something in place. For example, at one stage there is one particular clause here that says, "Amendment to section 40 of the principal Ordinance" which is the Income Tax Ordinance, I take it, "is amended by omitting the word "Commissioner" and substituting the words "Financial and Development Secretary". If that is something that was introduced, for example, is it that we are now going back to Commissioner? Presumably the repeal of this Ordinance, I am right in thinking, means that whatever was implemented becomes unimplemented, am I right in thinking that?

HON CHIEF MINISTER:

Yes, but all of it is consequential on the Development Aid Ordinance on the transfer into the Income tax legislation of what previously used to be the Development Aid Ordinance. For example, that switch of Commissioner of Income Tax for Financial and Development Secretary, the example that the hon Member has given. To answer the hon Member's question and this point has been specifically checked, we are not repealing any operative provision of the 1991 Bill. I think that is the point he was making.

HON J J BOSSANO:

Mr Speaker, I will then conclude by saying, as I said in my opening remarks, we will be supporting this. The points that I have raised in clarification is just that we are obviously interested in seeing good legislation being produced and we just wanted

satisfaction on those points in case something had been overlooked.

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 House recessed at 11.00 am.

The House resumed at 3.05 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 Immigration Control (European Economic Area) Bill 2000.
- (2) The Prison Ordinance (Amendment) Bill 2000.
- (3) The Development Aid (Miscellaneous Amendments) Bill 2000.

This was agreed to and the House resolved itself into Committee.

THE IMMIGRATION CONTROL (EUROPEAN ECONOMIC AREA) BILL 2000

Clause 1 stood part of the Bill.

Clause 2

HON CHIEF MINISTER:

Mr Chairman, I have circulated a letter giving notice of certain amendments and there are one or two amendments introduced by clause 2 of the Bill which, of course, introduces a large part of the whole content of the Bill and therefore it raises most of the amendments.

In the definition at clause 2 at page 24 of the Bill, in the definition of "EEA national" I propose to amend by the deletion all the words appearing after the words "EEA Agreement". In other words, an "EEA national" in the Bill is defined to mean "a national of a State which is a Contracting Party to the EEA Agreement or a national of the United Kingdom of Great Britain and Northern Ireland". Well, the United Kingdom is of course a State which is a Contracting Party to the EEA Agreement and therefore I am advised that it is unnecessary to make separate provision for the United Kingdom. I do not know, Mr Chairman, whether you wish to put each of these amendments at a time or all the amendments that arise out of clause 2.

MR CHAIRMAN:

I think we will put it one at a time because there are a number of amendments.

HON CHIEF MINISTER:

Mr Chairman, the next batch of amendments, hon Members will find relate to page 27 of the Bill and hon Members will see there, in the definition of "a worker" and also in the definition of "a provider of services" and also in the definition of "a recipient of

services", hon Members will see article numbers of the Treaty establishing the Community. Of course, there is now a need to amend those numbers because when this Bill was drafted actually it was pre-Amsterdam. Amsterdam has altered the numbers of the various articles of the Treaty establishing the Community and it is therefore just necessary to change the numbers so that they read the current numbers of those particular articles which are: in the definition of "a worker" there should be a reference to "Article 39" instead of "Article 48". In the definition of "a provider of services" there should be a reference to "Article 50" in lieu of "Article 60" as it currently reads. In the definition of "a recipient of services" there should be a reference to "Article 50" as well instead of the present "Article 60".

Mr Chairman, over the page, in the definition of "a self-employed person", in other words, in sub-article (2)(ii)(e) but on page 28 in letter (bb), there is a reference to "has terminated his activity in a self-employed capacity as a result of a permanent to work" and that should read "permanent incapacity". In other words, insert the word "incapacity" after the word "permanent".

HON J J BOSSANO:

Mr. Chairman, can I raise a question in relation to 43(1)(f), Qualified Person, "a self sufficient person", is there a definition of a self-sufficient person somewhere?

HON CHIEF MINISTER:

Yes, Mr Chairman, this is one of the directives. This is the extent to which this Bill, one of the directives that I told the hon Member this morning was transposed was Council Directive 90/364 which is currently not reflected in our legislation at all and that is the directive relating to the rights of self-sufficient persons and there is a detailed definition of what is a self-sufficient person in that directive and it relates to medical insurance, having an income above a certain percentage above the minimum state security, social security support levels. In other words, there are definitions there of what is a self-sufficient person. As to whether that

directive has been set out in the Bill, I think the answer is that it has not. The definition of a self-sufficient person is set out at page 28 which is (f) of 43, subsection (2), "a self sufficient person" who has ceased economic activity in Gibraltar means a person who and then it is set out there and those are the provisions of this directive that I have pointed out.

HON J J BOSSANO:

Can I ask, Mr Chairman, if a self sufficient person is one who in fact acquires a right of residence purely in respect of having sickness insurance and enough money not to qualify for social assistance, this must mean practically everybody in the European market, if that is sufficient means?

HON CHIEF MINISTER:

Yes, but remember we are talking about economically inactive.

HON J J BOSSANO:

Yes, but the definition of a qualified person in 43(1) says it means someone who undertakes the activities of a worker, a self-employed person, a provider of services, a recipient of services so it seems as if by the time we remove each one of those possible aspects of the person, there does not seem to be anything left, how can there be somebody left who is not either a worker or a self-employed or a provider of services or a recipient of services or a self-employed who ceased economic activity or a self-sufficient person or a retired person or a student? What is left after all that?

HON CHIEF MINISTER:

I would need notice of the question. The point is, Mr Chairman, that this morning the hon Member asked rhetorically was this not already in the law of Gibraltar? The answer is that it is not. The law of Gibraltar contained in the Immigration Control Ordinance does not transpose at all the self-sufficient persons directive, the

retired persons directive or the students directive. The only persons who are under our present law enjoy the right of entry and residence are EU nationals as opposed to EEA nationals which this Bill is now introducing pursuant to EEA Agreement and then even in respect of EU nationals our present Immigration Control Ordinance only extends to employed persons and self-employed persons. In other words, Gibraltar has failed to transpose until this Bill the directives which extend those rights beyond employed persons and self-employed persons to retired persons, self-sufficient persons, and students. And, of course, these directives were evolved over years gradually extending the category of persons that had these freedom rights. We are doing four of those categories now having done two actually before we joined the Community, it is interesting that we transposed the self-employed and the employed persons right of entry in May 1972 which must have been in anticipation of entry. All the other categories of persons that have had the same rights as employed and self-employed people were given back in 1968 and if we had done it at the right times we would have done them one at a time. Now that we are doing them altogether the answer to the hon Member's question may be that now there is no one else left, I do not know, I will have to think about whether these five or six categories between them encapsulate every possible resident of the Community, for example, students, retired persons. The only category that I can presently think of is non-self sufficient persons and the families of some of these people. For example, to the extent that the families of qualified persons are only entitled to these rights whilst they remain the families of a qualified person theoretically, I suppose in practice there must be many people who do not qualify in their own right. In respect, and I think this gives me the opportunity to expand on what I said this morning and in response to the hon Member's question, there are three directives that are being transposed in this Bill which are not covered in Gibraltar law at all and they are 90/364 dealing with self-sufficient persons; 90/365 dealing with retired persons and 93/96 dealing with students. The other directives mentioned ought more properly to have been described in the explanatory memorandum as clarifying and completing the transposition because there has been partial transposition of the earlier

directives in the Immigration Control Ordinance but inadequate and insufficient transposition and certainly not transposition which is, I do not know on whose advice it was done at the time, whether it was done on the UK Government's advice at the time or not, this was before the hon Member's time and mine in Government, it is just a completely inadequate transposition of the directive. It fails to extend many of the rights that the directives require to be extended and it fails to make provision for many of the administrative things that the directives require provision to be made for. So what we are doing in this Bill is that we are completing the transposition of the first six directives that are listed; we are transposing completely totally the last three directives that I mentioned this morning and they are all being extended to EEA nationals beyond EU nationals. Our present law does not make any provision for EEA nationals.

HON J J BOSSANO:

Mr Chairman, I am still particularly interested in the implications of the category of self-sufficient persons which we appear to be introducing for the first time as a result of Directive 90/364. Is there a conflict between this and the requirement for qualification for residence for a high net worth individual? That is to say, in terms of if any EEA national has got a Community right to simply come here and take up residence in Gibraltar on the basis of the definition in (f) that he has sufficient resources not to become eligible for social assistance and has sickness insurance then can we apply the requirement on the level of income required in respect of another legislation to EU nationals or does that mean that EU nationals are now out?

HON CHIEF MINISTER:

No, Mr Chairman, I do not think it means either of those things. Remember that the underlying objective of the HINWI regime is to deliver an extraordinary tax benefit to the HINWI. An EU national provided that he fits under one of these rights and entitlements can come and establish themselves in Gibraltar regardless of the HINWI rules but then of course he does not get the benefit of the

limitations of taxation liabilities that extend to HINWIs. So if there is a French millionaire who wants to come and live in Gibraltar he does not have to apply under the HINWI rules, he can exercise his EU rights if they exist, if he comes under one of these but then is liable to the ordinary laws of Gibraltar of taxation on his income. The point of HINWI is that if he chooses to avail himself of the HINWI regime there is a cap on his personal taxation liability. So there is not a conflict but I suppose there is a choice. I know the hon Member has not said anything that suggests otherwise, but the HINWI rules are obviously open to non-EEA nationals and I suppose that the hon Member is just posing the question in respect of EEA nationals. An EEA national that has a Community right to establishment in Gibraltar either because he is self-employed or employed or self-sufficient or retired or a student can certainly avail himself of those rights but then finds himself subject to the ordinary taxation laws of Gibraltar.

HON J J BOSSANO:

The point I am trying to establish, Mr Chairman, is that it seems that the level of income which enables somebody to qualify to say he is self-sufficient, given that it is the level which would not trigger off entitlement to social assistance which is a fairly low level. If somebody has got a capital of £2,000, they do not have to be a French millionaire. The point is it seems to me the implication is that the definition given that for the first time anybody of any age can come to Gibraltar without having to be coming here to seek employment or to set up a business or to have any economic activity or to study or to do anything other than because he likes to live here, can come along and say, "I have got £2,001 savings and since that means I cannot claim supplementary benefits because I am above the threshold I am now a self-sufficient individual entitled to residence". Is my interpretation correct? *[HON CHIEF MINISTER: Absolutely.]* So effectively it means practically everybody. The concept of a HINWI was both, to give people an incentive to be here if they had a lot of money but also to promote it on the basis that provided one had such money one would not be able to come, by implication if one is not able to look after oneself one could not.

This in fact means that it opens the door to a lot of other people in a way that has not been there before, is that not right?

HON CHIEF MINISTER:

Absolutely correct. All of these directives, especially the three that we are now doing from scratch for the first time, extend to these three categories the right of entry and with the right of entry the right to be issued with a residence permit to three categories of people that do not hitherto enjoy it, that is absolutely what we are doing. I am sure it would interest the hon Member to know that one of the things that this Bill does in relation, for example, to directive 75/34 which deals with the right of nationals of Member States to remain in Gibraltar after having pursued in Gibraltar an activity as a self-employed person, now such persons under the Immigration Control Ordinance presently have "the right" to do so but have to apply for a residence permit. Under the new Bill, the hon Member will see it in new section 50B introduced I think by clause 2(2) of the Bill, they are simply permitted to remain in Gibraltar indefinitely without even having to have a residence permit because what the directive says is that all restrictions to their freedom to remain in Gibraltar, this is self-employed people who become economically inactive upon retirement may now stay in Gibraltar indefinitely without restriction compared to the present situation where they need to apply for a residence permit even though they have got "the right" to stay.

HON J J BOSSANO:

On a similar point, Mr Chairman, can I ask the recipient of services which is defined in 43(2)(d) as a person who receives or seeks to receive services within the meaning of Article 60 of the EC Treaty. On the surface that seems a definition that again allows almost anybody to say, "I am here because I want to receive a service and that means I can stay here for as long as I keep on wanting to receive a service" because if one links that to the clause that says that as long as one remains a qualified person one can remain here, then one can spend the whole of

one's life seeking the service and never getting it and one is a qualified person for the rest of one's life.

HON CHIEF MINISTER:

Mr Chairman, the answer to the hon Member is yes but I thought he was going to make a slightly different point with which I would have agreed and that is that unfortunately I have not intervened in this matter early enough but I personally think it is bad drafting technique to incorporate into the laws of Gibraltar definitions by reference to an article in a Treaty which the average citizen has difficulty in getting hold of. If the ordinary citizen wanted to find out what is a provider of services, he has got to find Article 50 of the Treaty establishing the European Community. There is uncertainty of research at least in what the law of Gibraltar actually is. I would much rather that the definition in Article 50 of the EC Treaty were either set out verbatim as a defined term on the face of the Bill or otherwise at least included in the Schedule so that people when they have got the Ordinance in their hands they have everything that they need in order to find out what the law of Gibraltar is. Indeed at some future date I might move an amendment to incorporate all these definitions which are introduced by reference to articles of the Treaty to set out the definitions verbatim. I cannot tell the hon Member, as I speak, what is the definition in Article 50 of the EC Treaty of a provider of services or a recipient of services.

HON J J BOSSANO:

Mr Chairman, can I ask one final point, in relation to both the explanation that the Chief Minister has given of the extension for retired persons under 73/34, that they have now the right to an indefinite stay. And also the clause on residence which says that a person is entitled to remain in Gibraltar for as long as they are qualified, they meet the definition of a qualified person. Does this in fact now change the position in terms of applications for naturalisation where a person requires the temporary lifting of residence or immigration conditions? If somebody has got a right now indefinitely to stay here or a right to be here for as long as he

meets the definition, does that mean that that does not apply to EEA nationals, that particular clause in the Immigration law?

HON CHIEF MINISTER:

It may mean that because as the hon Member knows, I think it is section 22, the first step to applying for naturalisation as a British national is to make an application to be exempt from the requirements of immigration control. In other words, that one is either exempted from the need to have a visa or one is exempted from the need to obtain a residence permit or both, depending on whether one is a visa requiring national or not. This Bill establishes a class of person, not all of them, only the retired people who had been in Gibraltar as self-employed, they are the only category in respect of whom who are now allowed to stay in Gibraltar indefinitely and I would have to think more carefully about it but I think on the face of what the hon Member says, he appears to be correct. If one can now stay in Gibraltar indefinitely without the need for a residence permit then one is already not subject to immigration control. I cannot think of any EEA country whose nationals require a visa which would be the other method of immigration control. Immigration control is either by virtue of the fact that one needs a visa or the fact that one needs a residence permit. I cannot think of any EEA country, I am sure there are not any EEA countries in respect of which one needs a visa to get to Gibraltar which leaves the only control as the need to obtain a residence permit and if one can stay indefinitely in Gibraltar by statutory right without such a permit then one is already exempted of immigration control which simply means not that one acquires rights to British naturalisation but that that preliminary hoop that everyone else has to jump through, one does not have to jump through but one still has to apply. This does not give anybody rights to British nationality that they did not have before.

MR CHAIRMAN:

If nothing more arises out of this I take it that the amendments are accepted so far.

HON CHIEF MINISTER:

Just before I move on, just to complete our exchanges on that last point, Mr Chairman, the only point that I would make to him is that there is a difference between the rights to stay in Gibraltar indefinitely of such people and his right and mine to be in Gibraltar without immigration control which is that he and I are not subject to expulsion on the grounds of public policy, public security or public health but that all of these categories of people, including the ones who have a right to remain indefinitely, are subject to the sections which transpose three of these directives or contents of three of these directives into this Bill, the concept of the right either to deny entry or to exclude post-entry people on the grounds of public policy, public security and public health and, of course, those terms are not defined in this Bill because they have their own generic meaning in EU law generally.

MR CHAIRMAN:

You can now proceed with the other amendments.

HON CHIEF MINISTER:

Mr Chairman, the next amendment is just a typing error. In section 50(B)(b) the hon Members will find at the top of page 33, it says "isablement" instead of "disablement". Mr Chairman, the next amendment the hon Members will find at 50J which they will find at page 36 of the Bill. I am going through all these amendments but of course I am skipping a lot of ground in between. There may be contents of this Bill which the hon Member may have issues further back so we may have to go back. Mr Chairman, the appeals to the Immigration Appeals Tribunal which is there in 50J(i) is now amended in the way set out there at paragraph (4) of my letter of amendment by the complete deletion of that whole section 50J and is replaced by a new 50J in terms of the one set out at the top of page 2 of my letter of amendment. The reason why the whole clause is being deleted and a new one set out is not because there is no change of principle beyond the substitution of Supreme Court for Appeals Tribunal, it is just as a

matter of drafting techniques the amendment would have had to be too many. It establishes the same appeal rights and appeal procedures. The new section 50J has a subsection (2) which gives the Chief Justice the right to make rules providing for the hearing of appeals in the Supreme Court and omits subsection (3) of the version that is in the Bill relating to the Schedule. The Schedule in the Bill used to relate to the Immigration Appeals Tribunal, that obviously all now goes out. Finally, Mr Chairman, under clause 2 there is an amendment to section 50K which is the next section, under the heading "Notice of Appeal", that is amended by substituting the words "Supreme Court" for the words "Immigration Appeals Tribunal" wherever the latter appear and similarly substituting the words "the court" for the words "that Tribunal" wherever those words appear. So again there is no change of regime simply of the entity to which the appeal is available.

MR CHAIRMAN:

As far as this amendment goes nothing arises out of it? Is there anything on clause 2 as a whole?

HON J J BOSSANO:

Can I just point out, Mr Chairman, in relation to 50B, Indefinite Residence, it appears that that is not consistent with the statement that was made just now by the mover that only the self-employed can stay indefinitely on retirement. In fact, 50B says, "an EEA national who has been continuously resident in Gibraltar for at least 3 years, has been in employment in Gibraltar or any EEA State for the preceding 12 months". So somebody who having worked anywhere in the EEA *[Interruption]* So this can mean much wider than a single category.

HON CHIEF MINISTER:

Yes.

Clause 2, as amended, stood part of the Bill.

Clause 3

HON CHIEF MINISTER:

Clause 3(2) of the Bill contains a reference, it presently reads, "For Schedule 1 and Schedule 2 to the Immigration Control Ordinance there shall be substituted the Schedule to this Ordinance". That is deleted with the consequence that the Schedule is deleted as well and it is important that that be borne in mind. The Schedule of the Bill is introduced by that and as that language goes the Schedule goes with it. That language is replaced by something quite different, namely, "Schedule 1 and Schedule 2 of the Immigration Control Ordinance are repealed". In other words, the effect of deleting the words which are presently in the Bill as clause 3(2) are not only to change those words but to remove the Schedule from the Bill and in addition we are adding words which have the effect of repealing Schedules 1 and 2 to the Immigration Control Ordinance. The hon Member will recall that Schedule 1 is the one that used to define "Community national".

Clause 3, as amended, stood part of the Bill.

The Long Title stood part of the 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 Mrs Y Del Agua |
| | The Hon J J Holliday |
| | The Hon Dr B A Linares |
| | 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 Dr J J Garcia
 The Hon S E Linares
 The Hon Miss M I Montegriffo
 The Hon J C Perez
 The Hon Dr R G Valarino

THE PRISON ORDINANCE (AMENDMENT) BILL 2000

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

THE DEVELOPMENT AID (MISCELLANEOUS AMENDMENTS) BILL 2000

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

THIRD READING

HON ATTORNEY-GENERAL:

Mr Speaker, I have the honour to report that the Immigration Control (European Economic Area) Bill 2000, with amendments; the Prison Ordinance (Amendment) Bill 2000; and the Development Aid (Miscellaneous Amendments) Bill 2000, have been considered in Committee and agreed to and I now move that they be read a third time and passed.

Question put.

The Immigration Control (European Economic Area) Bill 2000.

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 Mrs Y Del Agua
 The Hon J J Holliday
 The Hon Dr B A Linares
 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 Dr J J Garcia
 The Hon S E Linares
 The Hon Miss M I Montegriffo
 The Hon J C Perez
 The Hon Dr R G Valarino

The Bill was read a third time and passed.

The Prison Ordinance (Amendment) Bill 2000 and the Development Aid (Miscellaneous Amendments) Bill 2000, were agreed to and read a third time and passed.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House sine die.

Question put. Agreed to.

The adjournment of the House was taken at 3.50 pm on Thursday 29th June, 2000.

GIBRALTAR

HOUSE OF ASSEMBLY



HANSARD

1ST SEPTEMBER, 2000

(adj to 4th, 12th, September,
9th, 23rd October,
20th November, 2000)

REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY

The Third Meeting of the First Session of the Ninth House of Assembly held in the House of Assembly Chamber on Friday 1st September 2000, at 10.00 am.

PRESENT:

Mr Speaker (In the Chair)
(The hon Judge J E Alcantara CBE)

GOVERNMENT:

The Hon P R Caruana QC – Chief Minister
The Hon K Azopardi – Minister for Trade, Industry and Telecommunications
The Hon Dr B A Linares – Minister for Education, Training, Culture and Health
The Hon J J Holliday – Minister for Tourism and Transport
The Hon Lt-Col E M Britto OBE, ED – Minister for Public Services, the Environment, Sport and Youth
The Hon H A Corby – Minister for Employment and Consumer Affairs
The Hon Mrs Y Del Agua - Minister for Social Affairs
The Hon R Rhoda QC – Attorney-General
The Hon E G Montado OBE – Financial and Development Secretary (Ag)

OPPOSITION:

The Hon J J Bossano – Leader of the Opposition
The Hon J L Baldachino
The Hon Miss M I Montegriffo
The Hon Dr R G Valarino
The Hon J C Perez
The Hon S E Linares

ABSENT:

The Hon J J Netto – Minister for Housing
The Hon Dr J J Garcia

IN ATTENDANCE:

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

PRAYER

Mr Speaker recited the prayer.

OATH OF ALLEGIANCE OF NEW MEMBERS

The Hon E G Montado OBE took the Oath of Allegiance.

CONFIRMATION OF MINUTES

The Minutes of the Meeting held on the 8th March 2000, having been circulated to all hon Members, were taken as read, approved and signed by Mr Speaker.

DOCUMENTS LAID

The Hon the Financial and Development Secretary laid on the Table Statements of Consolidated Fund Reallocations approved by the Financial and Development Secretary (Nos. 11 to 13 of 1999/2000).

Ordered to lie.

ANSWERS TO QUESTIONS

The House recessed at 1.10 pm.

The House resumed at 3.05 pm.

Answers to Questions continued.

The House recessed at 5.00 pm.

The House resumed at 5.10 pm.

Answers to Questions continued.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Monday 4th September 2000, at 10.00 am.

Question put. Agreed to.

The adjournment of the House was taken at 7.10 pm on Friday 1st September 2000.

MONDAY 4TH SEPTEMBER, 2000

The House resumed at 10.05 am.

PRESENT:

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

GOVERNMENT:

The Hon P R Caruana QC – Chief Minister
The Hon Dr B A Linares – Minister for Education, Training,
Culture and Health
The Hon J J Holliday – Minister for Tourism and Transport
The Hon Lt-Col E M Britto OBE, ED – Minister for Public Services,
the Environment, Sport and Youth
The Hon H A Corby – Minister for Employment and Consumer
Affairs
The Hon Mrs Y Del Agua - Minister for Social Affairs
The Hon R Rhoda QC – 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 Dr R G Valarino
The Hon J C Perez
The Hon S E Linares

ABSENT:

The Hon K Azopardi – Minister for Trade, Industry and
Telecommunications
The Hon J J Netto – Minister for Housing
The Hon Dr J J Garcia

IN ATTENDANCE:

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

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 5.25 pm.

Answers to Questions continued.

The House recessed at 7.55 pm.

The House resumed at 8.05 pm.

Answers to Questions continued.

BILLS

FIRST AND SECOND READINGS

THE MERCHANT SHIPPING (CARRIAGE OF DANGEROUS OR POLLUTING GOODS) ORDINANCE 2000

HON CHIEF MINISTER:

On behalf of the Minister for Tourism and Transport I have the honour to move that a Bill for an Ordinance to transpose into the law of Gibraltar Council Directive 93/75/EEC as amended by Commission Directives 96/39/EEC and 97/34/EC and Council Directive 98/55 concerning minimum requirements for vessels

bound for or leaving community ports and carrying dangerous or polluting goods, be read a first time.

Question put. Agreed to.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Tuesday 12th September 2000, at 3.00 pm.

Question put. Agreed to.

The adjournment of the House was taken at 10.30 pm on Monday 4th September 2000.

TUESDAY 12TH SEPTEMBER, 2000

The House resumed at 3.05 pm.

PRESENT:

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

GOVERNMENT:

The Hon P R Caruana QC – Chief Minister
The Hon K Azopardi – Minister for Trade, Industry and Telecommunications
The Hon Dr B A Linares – Minister for Education, Training, Culture and Health
The Hon J J Holliday – Minister for Tourism and Transport
The Hon Lt-Col E M Britto OBE, ED – Minister for Public Services, the Environment, Sport and Youth
The Hon J J Netto – Minister for Housing
The Hon Mrs Y Del Agua - Minister for Social Affairs
The Hon R Rhoda QC – Attorney-General
The Hon T J Bristow – Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano – Leader of the Opposition
The Hon Dr J J Garcia
The Hon J L Baldachino
The Hon Miss M I Montegriffo
The Hon Dr R G Valarino
The Hon J C Perez
The Hon S E Linares

ABSENT:

The Hon H A Corby – Minister for Employment and Consumer
Affairs

IN ATTENDANCE:

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

BILLS

FIRST AND SECOND READINGS

**THE MERCHANT SHIPPING (CARRIAGE OF DANGEROUS OR
POLLUTING GOODS) ORDINANCE 2000**

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 Ordinance is to transpose into the law of Gibraltar certain EU directives which set out the minimum requirements for vessels bound for or leaving Community ports and which are carrying dangerous or polluting

goods. The directives in question are directives 93/75/EEC as amended by directive 96/39/EEC, 97/34/EEC and 98/55. The way in which this Bill will work is that the Captain of the Port, who is defined as the Competent Authority for Gibraltar, will need to be made aware by the master or the owner, charterer, manager or agent for the ship, that the vessel is carrying dangerous or polluting goods. Clause 2 of the Bill contains the relevant definition. Clause 3 clarifies that bunkers, stores and equipment for use on board a vessel should not be regarded as dangerous or polluting goods for the purpose of this Ordinance. Clause 4 defines the Captain of the Port as the Competent Authority and his duties in respect of this Ordinance are set out in Clause 9. Clause 5 contains key provisions, that only vessels which comply with this Ordinance shall be allowed to enter or leave the Port of Gibraltar. Clause 6 sets out how dangerous or polluting goods shall be taken on board a ship at Gibraltar. Clause 7 sets out the duty of an operator both with regard to a vessel containing dangerous or polluting goods which is leaving the Port having taken these on board at Gibraltar and also with regard to a vessel heading for Gibraltar from a port which is not located in the European Union. Clause 8 ensures that the ship owners comply with the terms of this Ordinance and Clause 10 sets out the duties of a master of a vessel under this Ordinance. Particularly it provides that the ship carrying dangerous or polluting goods must make use of palliative service at Gibraltar.

Finally, Clauses 11 and 12 set out the duties of a master of a vessel in an emergency and the duties of pilots should they become aware of any defects in the vessel carrying dangerous or polluting goods. The Schedule to the Bill contains in Part I forms setting out the information which needs to be made available to the Captain of the Port in respect of vessels carrying dangerous or polluting goods in accordance with Sections 7(b), 7(c) and 11(1) of the Bill. Part II sets out the checklist for vessels as required by Clause 10(c) of the Bill.

Mr Speaker, the transposition of this European Union directive is in line with Government policy to ensure that Gibraltar has in place a strict and correct routine to tackle all matters relating to

pollution at sea and the carriage of dangerous goods. This Ordinance will complement considerable work that has already been done in practical terms in the field of pollution prevention. The Bill which I am presenting to the House today needs to be seen as part of this process as being prepared for any eventuality. In particular the Bill sets out to prevent accidents by ensuring that the reporting regime is in place and that everybody knows precisely what their duties and responsibilities are, the master of the vessel, the operator, the shipper, the agent, the Gibraltar Pilots and the Captain of the Port.

I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON J C PEREZ:

Mr Speaker, whilst the general thrust of the provisions contained in the Bill are welcome by Opposition Members, there is of course the matter of the Competent Authority and whether the Competent Authority is decided by this House of Assembly or whether the Competent Authority is decided by the Member State the UK who under Article 3 of the directive, has to inform the Commission so that his name or the position of the person concerned is included in the list of Competent Authorities in the EU. I would certainly think that if we are the ones deciding who the Competent Authority is we would be the ones notifying it but it would seem, under the provisions of the EEC directive in question, ultimately it is the United Kingdom Government that decide who the Competent Authority is for Gibraltar given that they have to approve it and they then have to notify the Commission who the Competent Authority is. I would like clarification.

HON CHIEF MINISTER:

Mr Speaker, as the hon Member is aware, the issue that he puts his finger on is not a new one. Since we have been in the European Community the directives of the European Community

simply say that the Member State will designate a Competent Authority. Therefore, this directive is the same as all directives have been. We in Gibraltar have always proceeded on the basis and continue to proceed on the basis that where a directive requires the appointment of a Competent Authority to implement that directive in respect of Gibraltar, that the Competent Authority in and for Gibraltar must be the appropriate constitutional authority in and for Gibraltar and cannot be whoever happens to be the Authority in the UK, for the UK. That is the position, remains the position and without wishing to revisit the debate I had with the Leader of the Opposition at the end of Question Time last week, that is what the Government consider is saved in the Competent Authority Agreements entered into in April and that is acceptance and recognition that when a directive requires a Competent Authority the United Kingdom shall be free, without Spain objecting, to designate a Gibraltar Authority as being the Competent Authority for Gibraltar separately to whoever the UK designates for itself. That does not completely dispose of the hon Member's point because he then spoke of who communicates that to the European Community. We have got to accept the fact Mr Speaker that when a directive says that Member States shall communicate who are their Competent Authorities to the Commission so that the Commission can take note of it, that Gibraltar is not a Member State. We are a part of the Community with our own Competent Authority but our Member State is the United Kingdom and it is the United Kingdom that communicates to the Commission who is the Competent Authority for Gibraltar in any given measure. I am drawing a very careful distinction between who is the Competent Authority, namely Gibraltar, who designates the Competent Authority for the purposes of Gibraltar law, the hon Member knows it is us because he and I are now doing it today. We are designating that the Captain of the Port is the Competent Authority for this but the United Kingdom will communicate that information. I have not spotted in this Bill, I take it at the hon Member's word, that this needs to be communicated to the Commission. I am sure it is there if the hon Member has alluded to it in his own contribution. The United Kingdom will communicate that fact and following on the Competent Authority Agreement of April, Spain and the other

Member States recognise the competence of the Gibraltar Competent Authority in respect of externally-relevant acts provided that the Gibraltar Competent Authority channels that communication through the post box. That is the essence of the Agreement and I hope that is the answer to the hon Member's points contained in that explanation.

HON J J BOSSANO:

Mr Speaker, I think as my Colleague has pointed out, this was the only point in the general principles of the Bill that we thought placed a general principle. It may appear in others and it is certainly not specific to this. In this particular article it says "...the Commission shall publish the list of Competent Authorities and their communication links designated by Member States". It is clear that in the context of the European Union the difference between the position prior and post the Agreement which the Government are very happy and we are very unhappy, we just beg to differ, it is a matter for the Member State to decide in its own sovereign right, as it were, what the communication link should be. In our view if the United Kingdom had in its wisdom decided that the communication links for the Competent Authorities that it designates which obviously the provisions in this particular case as there are some other instances where there have been provisions, are that the Member State may well have more than one Competent Authority even though it may not have an Overseas Dependent Territory which forms part of the European Union. Spain might decide, for example, that they would want the Competent Authority in this instance in the Canary Islands different from mainland Spain and then they would be free to decide whether the communication links should be that people should notify directly the Canary Islands or should have to go via Madrid. My point is that the Commission and indeed the rest of the Member States have got no right to tell each Member State how it runs its own internal business. I think this is reflected in more than one directive and here if the wording is such that it makes clear that it is the Member State who decides who and how many Competent Authorities there should be to carry out the responsibilities that are the Member State's responsibility and the

Commission then is simply required to publish the Competent Authority's list and the communication links designated by the Member States themselves so that others know what to do. We in fact picked up this point in relation to the issues regarding the sanctions and I think we are drawing attention to the same point. Of course, we will be on the lookout to see precisely how that communication happens.

HON CHIEF MINISTER:

Mr Speaker, that is exactly what will happen in this case. This is a directive which we are transposing into Gibraltar law. It requires the designation of a Competent Authority. We are designating our Competent Authority but, of course, the hon Member raises the issue that lies at the root of the Competent Authority problem, or that lay at the root of the Competent Authority problem, and which is raised by the difference between the Canary Islands and Gibraltar and that is that any Competent Authority designated in the Canary Islands by Spain is a metropolitan Member State Competent Authority because the Canary Islands is an integral part of the Spanish Member State, whereas Gibraltar is not an integral part of the Spanish Member State and therefore an Authority designated in Gibraltar is not an Authority of a Member State. It is a Competent Authority in a territory of Europe to which the treaties apply, which is an integral part of the European Community, without being part of a Member State. That is the distinction that has thrown up all the differences that the Spaniards have seized on to create the problem that the hon Member knows that they have created for some time. Between them I think they have made the point, Mr Speaker, that the United Kingdom decides. I should say to the hon Member that part of the April Agreements the parts of it that are bilateral between the UK and Gibraltar to which Spain is not a party, involves the United Kingdom agreeing that Competent Authorities for Gibraltar would be the appropriate local constitutional Authority and that therefore we are not at the UK's whim as to whether in one case who they want to appoint in any given case. I am happy to give way to the hon Member.

HON J J BOSSANO:

Can I just say something which I am sure the Chief Minister will want me for the record to say and I have no doubt that it was a slip of the tongue when he said "we are not a part of the Member State Spain". What the Chief Minister really meant is "we are not a part of the Member State United Kingdom".

HON CHIEF MINISTER:

I am grateful to the hon Member for that correction, Mr Speaker.

HON J J BOSSANO:

Mr Speaker, the point is, of course, that the Agreement constraints the freedom of choice of the United Kingdom. Technically, before this happened the United Kingdom would be free as other Member States are to decide whether in a particular instance, of a particular directive, communication should be direct. The April Agreement seems to me to prevent that option which does exist for other people.

HON CHIEF MINISTER:

It does not prevent it but it becomes optional for the other Member States. Those Member States that are happy to deal with Gibraltar's Competent Authorities directly are of course free to do so but any country who insists on their Competent Authority channelling its formal written communications through the post box is free to decide that that is what it wants to do without us being able to complain.

HON J J BOSSANO:

Thank you, Mr Speaker. We will be supporting the Bill obviously.

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 later today.

Question put. Agreed to.

THE LICENSING AND FEES ORDINANCE (AMENDMENT) ORDINANCE 2000

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 the Bill be now read a second time. Mr Speaker, this is a very short Bill which sets out to repeal the provisions of the Licensing and Fees Ordinance (Amendment) Ordinance 1998. This Ordinance was published in the Gibraltar Gazette on the 13th August 1998 and makes provisions for passenger tax to be levied in a manner which is different from the system that had applied until that point. In so far as passenger tax for air passengers was concerned the Ordinance introduced a year round tax of £3 for passengers departing for Morocco and £7 for passengers departing for other destinations. Previously there had been different levels of summer and winter rates. It was necessary to introduce the new rate of passenger tax

retrospectively from 1st April 1998 which is why the avenue of primary legislation had to be followed.

The 1998 Ordinance also introduced reductions in passenger tax to cruise passengers. The reductions were in the form of sliding scales which gave increasing discounts to a cruise ship the more times it called at Gibraltar. In fact the introduction of reductions in passenger tax was well greeted by the cruise industry and was one of a series of factors which has helped the growth in importance of the cruise industry for Gibraltar. Mr Speaker, the proper manner to provide for the setting of passenger tax is through secondary legislation. In tandem with the enactment of the proposed Ordinance, Regulations will be published in the Gazette which will supplement the regime already established by the Licensing and Fees Ordinance (Amendment) Ordinance 1998 in the case of cruise ships. The reduction in passenger tax will be extended. What will now apply is that all ships owned by the same cruise company will be able to activate their cruise calling at Gibraltar for the benefit of obtaining the reduction in passenger tax instead of having calls by each ship treated individually. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON J C PEREZ:

Mr Speaker, I wish the Minister had informed the people drafting the Bill of the intention of the Bill because the Explanatory Memorandum in the Bill which is published says something completely different to what the Minister's objective is today. The Explanatory Memorandum says that the Licensing and Fees Ordinance (Amendment) Ordinance 1998 makes provisions for reductions in port fees payable by cruise ships. I myself checked that amendment in 1998 and I concur with the Minister that it does not do that, it is about passenger tax. We have been looking at this piece of Ordinance on the basis of the Explanatory Memorandum put by the Government which says that the Bill aims to do something completely different. I suggest that if it is the passenger tax as the Minister has explained now, that we

might be able to leave the Bill unsigned so that we can look at it in the context of how it is being presented today and not of how it has been published, given that how it has been published is completely different.

HON J J BOSSANO:

Can I just say that the point is that we assumed that the mistake was not in the Explanatory Memorandum but in the body and that in fact whatever it was the Minister was repealing he was not repealing the passenger legislation but something else which we have searched for and not been able to find.

HON CHIEF MINISTER:

With the greatest of respect to the hon Gentleman, I do not understand it. This Bill simply repeals an Ordinance. As to the effect of this legislation all the hon Member has to do is look at what the Ordinance that is being repealed does.

HON J C PEREZ:

Fine, and we looked at the Ordinance and we looked at what the Ordinance had provided for in 1998 and we looked at the Explanatory Memorandum and said "well, obviously this cannot be the objective of the Government because they are talking in the Explanatory Memorandum about reduction in port fees and the Ordinance of 1998 talks about departure tax". So we said "they must have made a mistake in...." but really what we thought the Government wanted to do was to change the port fees payable by ships and not the departure tax, given the Explanatory Memorandum of the published Bill.

HON CHIEF MINISTER:

Be that as it may, cannot the hon Members just accept that the objects of the Bill are actually very simple. It repeals the existing tariff fixed by ship as the Minister has explained and gives the

discount to ships operated by the same operator to encourage fleet visits. That is all that the legislation does. I wonder whether the hon Members want the Minister to repeat the explanation when he sums up. The point is that there is not a great issue of policy here. The issue here is that the Government want to be able to have a sliding scale of deductions for companies that gives them a bigger benefit for more of their ships that visit Gibraltar as opposed to it being fixed per ship.

HON J J BOSSANO:

Can I ask, in terms of the amendment that is being done, the Licensing and Fees (Amendment) Ordinance is repealed but then the Schedule says it shall have effect as if the Licensing and Fees Ordinance amendment had never been enacted. I do not quite understand the effect of that. On the surface it seems to me that if what we did in August 1998 as we have now had confirmed which is what we thought was happening but did not seem to concur with what the objective of the Bill was, was to reduce the fees and we are now repealing the act that reduced the fees and restoring the position before the reduction and then going on to say "it is as if the act had never happened", what happens with all the fees that have been paid at the reduced rate?

HON CHIEF MINISTER:

The point is that the 1998 Ordinance that we are repealing, in the body of the Ordinance sets out in Section 2 the actual tariffs. I shall pass the hon Member a copy of it now for his information, as opposed to the previous Ordinance which remains in place which had a Schedule which was amendable by subsidiary legislation, by notice in the Gazette. The effect of repealing the 1998 Ordinance is that we are eliminating the Ordinance that contains the tariff structure in the body of the Bill itself. Then it goes on to say that the Licensing and Fees Ordinance, because there was one before the 1998 which was not repealed by it, what the 1998 one did was repeal Schedule 2 of the original principal Ordinance. That Schedule was amendable by Order in the Gazette. The effect of now repealing the 1998 Ordinance, and this Bill providing

that the Licensing and Fees Ordinance and Schedules thereto shall have effect as if the Licensing and Fees (Amendment) Ordinance had never been enacted means that the repeal of the Schedule is eliminated and we go back to a statutory framework which has a principal Ordinance, namely the Licensing and Fees Ordinance, with a Schedule with the fees set out in the Schedule which can be changed by secondary legislation as opposed to the 1998 Ordinance which had the fees set out in the main body of the legislation. The hon Member says, "is not the effect of Clause 2(ii) to restore the rates so that you are eliminating the legality of what you have done since 1998?" The answer we believe is not, Mr Speaker, because as it had never been enacted as of the date that this Bill is passed in the House. We are not doing anything retrospective. What we are saying is now the result of this Bill now before the House is that the Schedule is restored as of today. I agree that the language could be less ambiguous but the effect is that the Schedule is restored as of today to the Licensing and Fees Ordinance, the principal Ordinance. We can call it that to distinguish it from the 1998 Ordinance. Now, I agree that this might easily have read "the Licensing and Fees Ordinance and the Schedules thereto shall have effect as from the date hereof, the Schedules were restored to it". It could read in that way and I am just wondering whether before the Committee Stage just give that matter some thought. If there is any ambiguity such as the hon Member is pointing out then I think it is worth changing so that we do not find ourselves having retrospectively deprived ourselves of the legal basis for the tariff that we have been charging.

HON J J BOSSANO:

....and presumably in that situation having to deter ships from coming here because they would now have to pay arrears having been told they would have to pay less at the time.

HON J J HOLLIDAY:

Mr Speaker, all I would like to add to what has been discussed is that the reasoning behind this Bill, as I have said in my speech earlier on, is to move with the developments that currently are

moving in the market in order to ensure that companies are attracted to Gibraltar where they are enjoying the sliding scales by actual corporate branding rather than by individual vessels. We believe that in August 1998, as a result of the Licensing and Fees amendment in 1998 we did address and attracted a number of vessels to call at Gibraltar but now the development in the market is one where we are having to try and attract these by companies as there have been a number of take-overs, amalgamations, within companies which means that they are currently operating under different brands which makes it essential for us to be able to offer these by corporate identities rather than vessels themselves.

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 later today.

Question put. Agreed to.

THE PUBLIC HEALTH (AMENDMENT) ORDINANCE 2000

HON LT COL E M BRITTO:

I have the honour to move that a Bill for an Ordinance to transpose into the law of Gibraltar Council Directive 96/82/EC on the control of major accident hazards involving dangerous substances be read a first time.

Question put. Agreed to.

SECOND READING

HON LT COL E M BRITTO:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the risks for man and the environment arising from any industrial activity are of two kinds - through team risks in normal operating conditions and exceptional risks such as fires, explosions and massive emissions of dangerous substances when an activity gets out of control. This Bill is concerned with the second kind of risk and requires steps to be taken to prevent major accidents and to limit the consequences of any that may occur. These steps include preparing safety reports and emergency plans for establishments containing specified dangerous substances and informing the public of the correct behaviour to adopt in the event of an accident. The Bill transposes EC Directive 96/82 and repeals and replaces the Major Accident Hazards of Certain Industrial Activities Regulations 1994. The Ordinance applies to establishments where minimum quantities of dangerous substances as specified in Schedule 6 are present. The quantities of dangerous substances are listed in two columns, thereby defining two categories of establishments - a lower and upper tier, with the latter category being subject to more stringent measures. The Ordinance imposes a duty on the operator of any such establishment to take all measures necessary to prevent major accidents and limit their consequences to persons and the environment. Various activities, such as military establishments, hazards created by ionising radiation, extracted industries and waste land filled sites are excluded from the provisions of the directive and this is reflected in the transposing legislation. The operator of every affected establishment has a duty to prepare a document setting out his policy for preventing major accidents, a major accident prevention policy. Schedule 7 gives details of the principles to be taken into account when preparing such a policy but the key areas are organisation of personnel, identification and evaluation of major hazards, operational control, planning for emergencies, training and monitoring audit and reviews.

Operators of all establishments subject to the Ordinance must notify certain specified matters to the Competent Authority which in the case of Gibraltar is the Environmental Agency. Details of the information is given in Schedule 8 and includes the name and address of operator, address of establishment, name or position of person in charge, details of dangerous substances on site, site activities and environmental details. Upper tier operators also have to prepare a safety report but need not prepare a separate major accident prevention policy if the information required for the policy is included in the safety report. The purpose and contents of safety reports are set out in Schedule 9 and include a policy on how to prevent and mitigate major accidents, a management system for implementing that policy and effective method for identifying any major accidents that occur, measures such as safe plant and safe operating procedures to prevent and mitigate major accidents, information on safety precautions built into the plant and equipment when it was designed and constructed, a description of the installation and its environment, identification and accidental risk analysis and prevention methods and measures of protection and intervention to limit the consequences of an accident. Additionally, upper tier operators must prepare an emergency plan known as the "On Site Emergency Plan" to deal with the on site consequences of a major accident. The Competent Authority may also prepare an emergency plan known as the "Off Site Emergency Plan" in respect of any such establishment. The objective of both these emergency plans are to contain incidents so as to minimise the effects, protect and limit damage to persons and the environment, communicate the necessary information to the public, the emergency services and authorities and provide for the restoration of the environment following major accidents. The Ordinance contains provisions as to the dates by which safety reports and emergency plans have to be prepared and for the regular review and tested. People who could be affected by an accident at one of these establishments must be given information without their having to request it on the dangerous substances, possible major accidents and what to do in the event of such an accident. The Competent Authority for the enforcement of this Ordinance is the Environmental Agency who are charged with duties of inspection and investigation of

establishments, examining safety reports, prohibiting the operation of an establishment where preventative and mitigation measures are seriously deficient and the provision of the information.

Finally, Mr Speaker, the Ordinance amends the Town Planning Ordinance to ensure that planning controls include the need to prevent major accidents and revokes the Control of Major Accident Hazards of Certain Industrial Activities Regulations 1994. It is not known how many establishments will fall within the scope of this Ordinance and initially a survey and publicity campaign will be carried out to determine how many establishments are affected and to bring to their attention the contents and responsibilities imposed by the new legislation. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON DR R G VALARINO:

Mr Speaker, I realise that this is part of on-going EU legislation that imposes requirements in respect to the control of major accidents hazards involving dangerous substances and imposes a duty as well on the operator of an establishment to take certain measures in order to prevent such accidents. There is a list on page 82 of the Bill of named substances. Some of these are carcinogenic in nature. Some of them I do not think apply to Gibraltar. The most obvious of them all is the last one, the automotive petrol and other petroleum spirits and I wonder whether the Minister will give us an idea as to what type of undertakings this legislation may affect by passing it. In doing so the Minister mentioned that he was going to do a kind of survey. Has the Minister got any idea of the length of time that this survey will entail? I think that is as much as I need to say on this one.

HON J C PEREZ:

Could the Minister state whether the Government have identified whether any such operators as specified in the legislation exist in Gibraltar today? And, if so, what is the immediate impact to those operators of the legislation?

HON J J BOSSANO:

Mr Speaker, the Minister said that in fact this revokes and replaces the Regulations of 1994 which were to do with the aftermath of the Seveso incident in Italy. In fact, at the time it was very clear that the whole thing was academic as far as Gibraltar was concerned. It was related primarily with chemical plants and I do not think since 1994 there has been any record of anybody having been registered or identified as being involved in any of the activities that were covered by that Regulation to my knowledge. Is it that the new directive extends the scope to activities which might exist in Gibraltar whereas it was obvious that the original ones that it did not apply to anything in Gibraltar? It is quite obvious that a lot of these things have been copied from EEC directives to our legislation notwithstanding the fact that it is manifestly impossible for us to find ourselves in some of the situations described here. For example, there is a reference here to the activities that may happen within certain distances of fresh water lakes which is clearly not something that is going to happen however long and however many surveys we engage in. The other point that I wish to draw attention to is the fact that Sections 95(a) to 95(t) do not apply to military establishments and given that part of the law based on the directive deals with explosives, I would have thought if we are going to have legislation that requires certain safeguards to be introduced in relation to people who have got explosives on their premises and the most likely culprit is not going to be covered then it seems to me that we are..... there is a note saying "explosive means a substance a preparation which creates the risk of an explosion" and if explosives is one of the things included, is it that the directive specifically says that military installations are not to be included? Or is it something that the UK has asked? One other point that I

would like to raise in the context of what has been said about needing to do a survey, one of the things that we felt we should be entitled to do in Gibraltar which is something the UK does for itself, is in fact to carry out an exercise called "Compliance Cost Assessment" so that when we are taking on the responsibility we are able to gauge what is going to be the burden of compliance. This the UK does in respect of all the directives before it decides to the degree to which it is going to implement. In the case of Gibraltar it seems we are required to implement and find out what the cost is after we have implemented it. I would suggest to the Government that they should pursue the argument that we are as entitled as any other territory in the European Union is and does to look at the cost of these things before we take them on and particularly if we have got, as we have, a contract with the Environmental Agency. Presumably if we place new obligations on them that may mean extra payments having to be made.

HON CHIEF MINISTER:

If I could just deal with that last issue. Mr Speaker, of course, the cost of compliance is not relevant to whether one is bound by it and the UK tends to do that consultation process, the Compliance Cost Assessment, at the stage where the directive is a proposal for a directive. So that consultation process of the cost of implementation is not part of the legislative process when the Bill comes before the House of Commons, it is when the European Community publishes the proposal for the directive and the UK is doing the internal national consultation process about what this will mean to the UK if the Community adopts the directive and it becomes an actual directive. Of course, at that stage the United Kingdom as a Member State is free, unless of course it is a qualified majority voting issue, it is an issue that requires unanimity, the United Kingdom is then free to say "well, this is too expensive for us, I veto it". We will unfortunately never be in that position because as hon Members know the United Kingdom has never allowed us the option of deciding whether.....we never have the opt in or opt out right in respect of directives. I suppose we could go through the procedure that the hon Member describes at the time that we discover that proposal for the

directive exists. I very much doubt, however, that the United Kingdom would be willing to deploy its national veto on the basis that we found it too costly to implement in Gibraltar.

HON LT COL E M BRITTO:

Mr Speaker, before dealing with the individual points raised by the Opposition Members I think I would stress that one must not lose sight that being a directive or not being a directive, one must not lose sight of the objective of this legislation which is to ensure that there is in place in establishments, be they factories or be they small shops, adequate planning to forestall and to prevent an accident and the consequences to people in the area. As such, I think we should welcome the Bill. But to go on to the specific points made, the first is that the Hon Dr Valarino was asking what kind of establishments are likely to be affected, the short answer is that that is one we do not know for certain because we need to know two things. We need to know whether they hold the list of nominated substances, details are on page 82, which the hon Member refers to, and if he wants any particular explanation about any particular chemical I would be happy to give him a limited explanation but secondly not just if they are present but whether they are present in sufficient quantity to cross the threshold firstly of the lower tier or secondly on the higher tier. I have had identified for me because I anticipated that question, places like hardware stores, which could be affected, holders of chemical products like Oxy Ltd or Lyonnaise, ship repair facilities like Cammell Laird, fuel storage facilities obviously like Shell, Texaco or Cepsa, even petrol stations if they hold underground tanks. But the point is that we will have a publicity campaign, a questionnaire, and the Environmental Agency will go direct to those establishments that are likely to be caught in the net and obtain the information from them. How long that would take, the hon Member asked me, I have no idea. The impact on some businesses will obviously be greater than on others. One would hope that major establishments like Shell and Cammell Laird already have some of this planning in place and it may just need updating and putting into the correct form. The Leader of the Opposition asked whether the new Ordinance was just an

extension of the previous Regulation or a requirement of the directive. Obviously it is a requirement of the directive but it extends to the provisions of the original Ordinance.

HON J J BOSSANO:

That is not what I asked, Mr Speaker, what I asked was when the original Regulation was brought in as a consequence of the directive on the Seveso incident of chemical plants it was obvious that the whole thing was academic because the conditions did not exist in Gibraltar. What I am asking, is it that the new directive that replaces the old one has a wider scope and affects more premises than the last one did? That is the question.

HON LT COL E M BRITTO:

I apologise to the hon Member. Yes, the short answer is yes, it does. We expect that it will catch a number because the original had not got anybody, so yes, we do expect it to extend over a wider field. The point that it does not apply to military establishments arises out of a direct requirement of the directive itself. It is not at the request of UK or anybody else. The wording in the legislation is word for word what there is in the directive. I think that covers all the points raised by Opposition Members.

Question put. Agreed to.

The Bill was read a second time.

HON LT COL E M BRITTO:

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

Question put. Agreed to.

THE ENVIRONMENTAL PROTECTION (DISPOSAL OF DANGEROUS SUBSTANCES) ORDINANCE 2000

HON LT COL E M BRITTO:

I have the honour to move that a Bill for an Ordinance to give effect in the law of Gibraltar to Council Directive 96/59/EC on the disposal of polychlorinated biphenyls and polychlorinated terphenyls, be read a first time.

Question put. Agreed to.

SECOND READING

HON LT COL E M BRITTO:

I have the honour to move that the Bill be now read a second time. Polychlorinated biphenyls or PCBs as I shall refer to them from now on, have long been recognised as posing a threat to the environment because of the toxicity, persistence and tendency to bio-accumulate, that is to build up in the bodies of animals particularly at the top of the food chain. Although in the past they have been used to a significant extent, the overwhelming consensus now is that the risks posed by PCBs greatly outweigh any benefits of using them. Internationally the use of PCBs has been progressively restricted since the 1970s and background levels of PCBs in the environment are falling as a result. However, it is recognised that the PCBs which remain in existing equipment pose a continuing environmental threat particularly to marine life as it is anticipated that PCBs will continue to migrate towards the sea. PCBs are now mainly used as di-electric fluids in transformers and capacitors but were more widely used before 1973 as hydraulic fluids, heat transfer fluids, lubricants and plasticisers in such products as paints and carbonless copying paper.

In September 1996 EC Directive 96/59/EC on the Disposal of PCBs and PCTs was adopted. This contains requirements for the preparation of inventories, labelling and treatment of all significant

PCB holdings as well as tighter regulation of PCB treatment facilities. The present Bill and its proposed amendments to the Public Health Ordinance now transpose these provisions into our national law. The Bill prohibits any person from holding any contaminated equipment, that is, equipment which contains or has contained PCBs after 31st December of this year, unless he is registered and further prohibits the holding of any PCBs and equipment containing them after 31st December 2010 irrespective of registration. In other words, holders of equipment containing PCBs have to register immediately and this has to be phased out within 10 years. The Bill also imposes a duty on the holder of any contaminated equipment to label the equipment and premises in which it is located. The label must record that the equipment is and the premises contain equipment that is contaminated by PCBs. The enforcing authority is required to compile an inventory of contaminated equipment and review it on an annual basis. The said inventory is to be available for public inspection without doubt.

Finally, the Bill amends Part 5A of the Public Health Ordinance by tightening controls and specifying records to be kept at waste installations treating PCBs. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON DR R G VALARINO:

Mr Speaker, we will be voting in favour of the Bill. It is obvious that this is another piece of EC legislation. The Bill relates to Council Directive 96/59/EC on the disposal of PCBs. The directive repeals Council directive 76/403/EC of 16th September 1976 which says "whereas in order to dispose of PCBs because of the risk they present for the environment and for human health general obligations concerning the controlled disposal of PCBs and the decontamination and disposal of equipment is necessary". The only question I would like to put to the Minister is, has he got an idea of what public and private undertakings are there in Gibraltar that will be affected by this legislation considering the various things involved? I imagine places like the

Generating Station, garages, wholesalers, I wonder whether even wholesalers that sell batteries for cars will be involved?

HON J J BOSSANO:

This places I think if I have read it correctly a responsibility on the persons who might hold equipment which falls under this legislation to do something about it in terms of registering their possession of these things, the contaminated equipment and so forth, and then getting rid of them within 10 years. It seems to me that clearly the normal thing is that it is the responsibility of people to know what the law is and to know how to comply with it in what is a highly technical area. Unlike the other one where it seems to me that there is likely to be a threshold of size given that it is a major hazard, in this one it would seem that any of the equipment mentioned where PCBs used to be previously the norm and are no longer might still well be around in Gibraltar. In that case people will be guilty of an offence if they do nothing about it but they may well not know how they go about actually finding out whether their equipment is contaminated or free. Presumably one other thing that would need to be done would be that in the disposal of this there must be separation like there was in the case of batteries, presumably from normal refuse collection and refuse disposal, otherwise it is likely to finish up in the sea if we incinerate it with normal waste and then get rid of the ashes. So presumably there will have to be separate collection facilities which I am not sure that there is presently as was the case with things like nickel and mercury in battery disposal.

HON LT COL E M BRITTO:

Yes, Mr Speaker. Let me start with the Leader of the Opposition first because it is a more general point. The same thing as I explained in relation to the previous Bill will be undertaken in relation to this one. There will be a publicity campaign and firms that are likely to be affected will be written to. The Leader of the Opposition correctly identified that the problem here is a little bit more complex. He asked whether there was a threshold. Indeed

there is. There is a threshold of five cubic decimeters which by a rapid calculation I can tell the hon Member it is five litres and we are talking mainly about transformers and capacitors, it is where we are most likely to find this but I asked the question when I was being briefed on this when we are talking about a transformer the size of a table or a transformer the size of a telephone and the answer is that we are talking in terms of transformers roughly one cubic foot in volume which I need not tell the hon Member is relatively small. The catchment area is likely to be wide. We do know that the Electricity Department does not have any equipment that contains PCBs but to give the hon Member an indication the Electricity Department transformers typically hold between 900 and 1,100 litres of coolant fluid which does not contain PCBs and this gives an idea of the size of the problem. We are more likely to be dealing with maybe the MOD on this occasion, the OESCO Power Station or operators like Nynex and Gibtel but I am told that smaller transformers above this threshold of five cubic decimeters could also be used in connection with portable generators. A food wholesaler might be caught in the net if he has equipment on the premises as spare parts applying in the case of a power cut. Persons using pre-1970s heavy machinery, for example, large neon signs could, in theory, be affected but I am told it is unlikely. There are powers in the Ordinance for regulations to be made to assist the Environmental Agency but obviously if one dumps it into the sea it defeats the whole object. They will have to be disposed of under proper arrangements. I think that covers the Hon Dr Valarino's point about who is affected and I just reiterate what I said before. There is not a magic list either for this or for the previous Bill saying exactly who is affected. We need to go out into the market and inform people and ask them to register.

Question put. Agreed to.

The Bill was read a second time.

HON LT COL E M BRITTO:

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

Question put. Agreed to.

The House recessed at 4.15pm.

The House resumed at 4.30pm.

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 Merchant Shipping (Carriage of Dangerous or Polluting Goods) Bill 2000.
2. The Licensing and Fees Ordinance (Amendment) Bill 2000.
3. The Public Health (Amendment) Bill 2000.
4. The Environmental Protection (Disposal of Dangerous Substances) Bill 2000.

THE MERCHANT SHIPPING (CARRIAGE OF DANGEROUS OR POLLUTING GOODS) BILL 2000

Clauses 1 to 12, the Schedule and the Long Title were agreed to and stood part of the Bill.

THE LICENSING AND FEES ORDINANCE (AMENDMENT) BILL 2000

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

Clause 2

HON J J HOLLIDAY:

I wish to move an amendment as follows; in sub-section (2) add the words "as from the date of coming into force of this Ordinance" after the word "effect" on the second line.

HON J J BOSSANO:

We support the amendment. The only comment that we made in relation to this was that we thought that if there was the possibility of doubt as to what the effect would be it would be better to avoid it and we welcome the fact that the Government have acted to do it.

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 PUBLIC HEALTH (AMENDMENT) BILL

Clauses 1 to 6, Schedules 6 to 11 and the Long Title were agreed to and stood part of the Bill.

HON LT COL E M BRITTO:

Mr Chairman, with your indulgence, I would just like to point out that there is what we think is probably a typographical error in page 88 in the mathematical formula but I am not able, because of the very faint printing in the copy of the directive that I have here with me... I think that should be Q1 divided by Q plus Q2/Q

and so on. I do not think this is a formal amendment, it is a correction of the mathematical formula and if I can get that confirmed I will write in to give the correct formula.

HON CHIEF MINISTER:

If it later transpires that there is a misprint in the formula, that we can write in in the usual way before it goes to the printers and that would be regarded as correction of a typographical error rather than a substantive amendment.

THE ENVIRONMENTAL PROTECTION (DISPOSAL OF DANGEROUS SUBSTANCES) BILL 2000

Clauses 1 to 13, Schedules 1 and 2 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 Merchant Shipping (Carriage of Dangerous or Polluting Goods) Bill 2000; the Licensing and Fees Ordinance (Amendment) Bill 2000, with amendments; the Public Health (Amendment) Bill 2000; and the Environmental Protection (Disposal of Dangerous Substances) Bill 2000, have been considered in Committee and agreed to and I move that they be read a third time and passed.

Question put. Agreed to.

The Bills were read a third time and passed.

BILLS

FIRST AND SECOND READINGS

HON MRS Y DEL AGUA:

I beg to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the First and Second Readings of a Bill.

Question put. Agreed to.

THE CRIMINAL PROCEDURE (COMMUNITY SERVICE ORDERS) ORDINANCE 2000

HON MRS Y DEL AGUA:

I have the honour to move that a Bill for an Ordinance to amend the Criminal Procedure Ordinance to provide for Community Service Orders as an alternative punishment for offences, be read a first time.

Question put. Agreed to.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Monday 9th October 2000, at 10.00 am.

Question put. Agreed to.

The adjournment of the House was taken at 4.45 pm on Tuesday 12th September, 2000.

MONDAY 9TH OCTOBER 2000

The House resumed at 10.05am.

PRESENT:

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

GOVERNMENT:

The Hon P R Caruana QC - Chief Minister
The Hon K Azopardi - Minister for Trade, Industry and
Telecommunications
The Hon Dr B A Linares - Minister for Education, Training, Culture
And Health
The Hon J J Holliday - Minister for Tourism and Transport
The Hon Lt-Col E M Britto OBE ED - Minister for Public Services,
The Environment, Sport and Youth
The Hon H A Corby - Minister for Employment and Consumer
Affairs
The Hon J J Netto - Minister for Housing
The Hon Mrs Y Del Agua - Minister for Social Affairs
The Hon R Rhoda QC - Attorney-General
The Hon T J Bristow - Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano - Leader of the Opposition
The Hon Dr J J Garcia
The Hon J L Baldachino
The Hon Miss M I Montegriffo
The Hon Dr R G Valarino
The Hon J C Perez
The Hon S E Linares

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 statements on the Table.

Question put. Agreed to.

The Hon the Financial and Development Secretary laid on the
Table:

(1) Statement of Supplementary Funding (No.14 of
1999/2000).

(2) Statement of Consolidated Fund Reallocations approved
by the Financial and Development Secretary (No.15 of
1999/2000).

Ordered to lie.

BILLS

FIRST AND SECOND READINGS

**THE GIBRALTAR REGULATORY AUTHORITY ORDINANCE
2000**

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to make
provision for the establishment of a regulatory authority in
Gibraltar for the purpose of performing functions assigned to or
conferred on it, to appoint a person (to be the Chief Executive
Officer of that authority) to conduct the affairs, exercise the

powers, discharge the duties and perform the functions of that authority, to grant powers to that authority, to provide for the delegation of functions by that authority, the payment of monies to it, the meeting of its expenses and for its accounting 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, the Bill provides for the establishment of the Gibraltar Regulatory Authority, the appointment of a Chief Executive for it, and its functions and powers and how the authority's expenses are to be met. Several EU Directives require that a national regulatory authority carry out certain functions. The Government are taking the view that it would be neither cost effective nor efficient to establish a national regulatory authority separately for each function. For example, we now require a regulatory authority in the context of the telecommunications directives that we are about to consider in legislation later on in this sitting. We also require a National Regulatory Authority for the Data Protection Directive that the House will be dealing with shortly. Similarly, the Broadcasting Liberalisation Directive that we need to deal with shortly requires a Regulatory Authority and, finally but not exhaustively and exclusively to the extent that there is evidence of liberalisation and de-regulation in the Post Office, postal services which is already the case in respect of parcels, over the weight of 200 kilograms, there is also the need for a Regulatory Authority.

Mr Speaker, in a small place like Gibraltar it would simply be ineffective and inefficient in terms of resources and the availability of skilled personnel to have a separate authority for each of these functions with the necessary staff, with the necessary resources, with the necessary office accommodation, especially bearing in mind that in their functioning the Regulatory Authority under

several directives requires a degree of arms length from the Government. Some directives require that some functions of the Regulator be discharged completely at arms length from the Government, a phrase which in the directive is referred to as "the Member State" as opposed to "the National Regulatory Authority". In others the Regulator has to have partial independence in respect of some of his functions. Therefore, what this Bill does is simply to set up a framework, to set up an organisation, specifying how to do its recruiting, specifying how it will be resourced, specifying how it must account, specifying how it must report and then once this organisation exists this particular Bill does not endow it with function in any particular area of Community or domestic law but once it exists it will be open to this House to say "ah, if the Data Protection Directive requires the Government to appoint a Regulatory Authority it is open to this House to say that for the purposes of this or that future piece of legislation the Regulatory Authority for Gibraltar will be the Gibraltar Regulatory Authority". What powers, duties and responsibilities and what measure of independence from the Government that National Regulatory Authority may require in any given area of activity is a matter for the legislation legislating in that area of activity and appointing the National Regulatory Authority as the Regulatory Authority for the area of that piece of legislation. For example, when we go, later today, to consider the Telecommunications Bill, hon Members will see that there are many powers and functions in that Bill given to the Regulatory Authority and it is that Bill that decides what the powers of the Regulator are and in what area he has got to act under his own discretion in respect of the business of telecommunications. The Data Protection legislation, when that comes through in due course, has different degrees of independence requirement, different sorts of functions and therefore that legislation will provide the functions and powers of the National Regulatory Authorities in so far as concerns data protection and so on and so forth.

Section 3 of the Bill establishes the Authority, its status and functions. It also provides for the appointment of a person to be the Chief Executive Officer of the Authority. The Authority is established as a statutory body corporate. The appointment of

the Chief Executive would be for a fixed term and without prejudice to the provisions relating to eligibility and independence contained in section 8 could be terminated on the grounds of incapacity or misbehaviour. Section 4 provides for the appointment of a person to perform the functions of the Chief Executive Officer on a temporary basis.

Mr Speaker, I cannot remember in what piece of legislation, it may have been the Income Tax Appeals, the Leader of the Opposition may recall better than I can. There was this question that we discussed about whether a power of appointment expressed in these terms was an attempt by the Government to be able to appoint public officers into the civil service without going through the constitutional route of Public Service Commission. That is not the case. The Government could designate a public officer to be the Chief Executive of this statutory corporation but then the Government would not be recruiting that Officer into the civil service, he would already be a member of the civil service, in which case it would just be a question of deployment of an existing public officer to perform a particular role or the Government could recruit somebody for this particular post, Chief Executive of the Gibraltar Regulatory Authority from outside the civil service in which case the Government would not be appointing a civil servant, would not be appointing a public officer, but would be making an appointment akin to the appointments that are made, for example, under the Gibraltar Development Corporation.

Mr Speaker, Section 5 permits the Authority to authorise a member of its staff to do on its behalf anything that the Authority is authorised or required to do and the Section also commits the Authority on terms to delegate the discharge of any of its functions to suitably qualified or competent persons or agencies. But hon Members will see from their study of that Section that any such delegation first of all has to be on terms that does not derogate from the Authority's own competence in the matter and secondly has to be on terms that the authority is always free to cancel the delegation at any time without liability and compensation.

Section 6 provides for the establishment of a corporate seal for the corporation and Section 7 explains and provides how the Authority is to be funded by monies appropriated by this House and also provides for the payment of salaries, pensions, gratuities et cetera. to employees.

Mr Speaker, Section 8 provides for the prohibition of certain persons from holding posts in the Gibraltar Regulatory Authority specifically excludes from appointment and also from being the beneficiary of a delegation of powers Members of this House, including Mr Speaker himself. The Section provides for the Authority to take account of Government policy when carrying out its functions but only to the extent that it is lawful to do so. In other words, when an Ordinance passed in this House or when a Community obligation makes it clear that the Authority is required to act with complete or some measure of independence from the Government, then the Authority is not only not required to take Government policy into account but is actually prohibited from taking Government policy into account in the exercise of its functions. The Authority is able to take Government policy into account only if and to the extent that it is lawful for the Authority to take Government policy into account when exercising its regulatory functions.

Section 9 grants powers to the Authority to do all things necessary ancillary or reasonably incidental to the carrying out of its functions including the power to hold property, contract services, employ or take on secondment, persons and compile reports. The employment or taking on secondment of persons can only be done on terms which must be subject to the written approval of the Chief Secretary.

Mr Speaker, Section 10 imposes certain accounting obligations on the Authority and provides for the Principal Auditor to examine and certify its accounts. It also provides for the accounts of the authority to be laid in this House.

Section 11 establishes the circumstances in which the Authority and its employees may be sued. It is the same formula as is

contained in the Financial Services Commission Ordinance. Basically, they cannot be sued for anything that they do in good faith. It is the usual immunity from suit given to regulators so that they can do their statutory regulation without fear of being sued for what they do in good faith.

The Ordinance also requires in Section 12 the authority to draw up an annual report of its activities and imposes on the Government an obligation for that report to be laid in this House. That is in addition to the financial accounts. The financial accounts are to be audited by the Principal Auditor and also a report of its activities as regulatory authority are both to be laid in this House.

Section 13 imposes on the employees of the Authority the usual duties of confidentiality that are attached to the regulatory functions normally and Section 14 enables the Chief Minister as the Minister responsible in this area to make regulations incidental to the implementation of the legislation. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, most of the content of what the mover of the Bill has had to say has dealt, in my view, not with matters of principle but to taking us through the sections and telling us what it does. There are a number of issues that this Bill raises with which we are not in agreement and therefore we will not be supporting this. I must say, from a drafting point of view, it seems peculiar to draft in Section 3 that the regulatory authority shall perform the functions assigned to it in this Ordinance and then to be told, in moving the Bill, that no functions are assigned to it in this Ordinance. But then the one thing that has been obvious from our study of the Bill and absent from the mover's explanations of the Bill is exactly who is the authority, that is, who are the people that make up the Authority. If it is a body that is responsible for carrying out functions and employs a Chief Executive then who is

that body composed of? There seems to be nothing here about setting up the Authority in terms of appointing persons to it to be the governing body. In the absence of a governing body it would seem that the Chief Executive reports directly to the Chief Minister and consequently takes instructions from him as opposed to instructions from a policy-making body. I do not think there is a parallel in that in any other piece of legislation we have had in this House and if we have got a Chief Executive who is appointed by the Chief Minister, can be dismissed by the Chief Minister and works to the Chief Minister, it seems to us that ultimately the regulatory authority is the Chief Minister because there is nobody else involved. I cannot imagine anybody who is in a position of being exposed by law to being dismissed for misbehaviour would run the risk of saying no to the Chief Minister without that immediately coming under the definition of misbehaviour and finding himself under sub-section 7(1) that the Chief Minister will then be able to terminate his appointment for misbehaving by disagreeing with him.

The functions that have been allocated in the Telecommunications Ordinance obviously we will not pre-empt the debate in that Ordinance by dealing with it now but of course one cannot talk about any other functions because there are no functions in this Ordinance and the only functions are the ones in the other Ordinance.

The Chief Minister mentioned the previous concerns we have had in this House on the question of appointment in another law and in fact the wording was altered so that it was somebody being designated to the post so that he was already a civil servant but was being allocated duties which were the duties of the functions of the particular post that had to be carried out. What I have difficulty in understanding is that if in fact we now have a situation where the Chief Minister can appoint and dismiss somebody who is not a civil servant but who appears to be in exactly the same position as a civil servant except that in the case of a civil servant the appointment is at Her Majesty's pleasure instead of "His Majesty's" pleasure I think we are creating what may be an important constitutional development. But I think that until now

the position has been that there has been a contractual arrangement. When the Government have contracted out as they still do in many areas and in some new ones since 1996 work that it wishes to have done by a contractor the fact that the contractor's employees may be doing what was previously done by Government employees does not make the contractor's employees civil servants. This is a direct appointment in a statutory body. This does not mean the definition of a public officer in the Constitution, then how does one distinguish what is a public officer and what is not a public officer in an area of employment where it is possible for the job to be done either by a public officer or not by a public officer. It is clearly not the content of the work that determines whether the person is a public officer or not, we have just been told that by the mover, that it could be done by designating somebody who is already in the public service to do this post as opposed to appointing somebody who is not in the public service.

The need for the Government to set this up has been primarily justified on the basis that there are requirements under EU law to set up national regulatory authorities and that rather than having a number of such authorities it makes more sense to have one. There is no need to set up, in our view, the Gibraltar Regulatory Authority to do that because it is possible to use some of the existing entities in the Government, including Government Departments, to be able to carry out regulatory functions. Let me say that if it is a question of being at arm's length from the Government it is difficult to see that this creates a body that is at arm's length because that would require that there should be a governing body which is the corporate entity that is the authority which would be, as happens in other Ordinances, made up of people appointed by the Minister but nevertheless exercising their functions independent of the Government. It may be that we missed it because we have actually looked for it as one would expect to be naturally there, that there should be a section that says the Authority shall consist of so many people appointed as other Ordinances do. I cannot see how this can be considered to be, irrespective of what other Ordinances say, can be independent of the Government if it seems to consist as far as we

can tell so far of possibly just one person who is the Chief Executive. I suppose whether he requires additional staff to be employed or not will depend on what is required of him besides what there is in the Telecommunications Ordinance which we do not know at this stage.

The provisions for the salaries and the expenses of the person involved have to be appropriated by the House of Assembly presumably in the Appropriation Bill from the Consolidated Fund. I do not know whether that means that it will be an item of expenditure there because it does say here that the funds appropriated by the House of Assembly will be for the purpose of paying to the person appointed under Section 3(3) his salary, pension, gratuity and so forth. In that respect again it seems to be similar to the Personal Emoluments that we appropriate in the Appropriation Bill in respect of other public officers. The provisions on the powers of the Regulatory Authority, of course, it is difficult to try and relate those powers given the fact that it has no functions. In looking at what the Authority has power to do then one would normally say "why should the Authority need to be able to do some of the things that are here in order to perform the functions?" We do not know what functions are going to be performed but as I have said if the powers that exist in Section 9 of the Regulatory Authority are those that are related to the performance of the functions compared to the authority in section 3(2) and we go to section 3(2) to look for what those functions are we are told the functions assigned to the Authority are those in this Ordinance, which is none or in any other Ordinance which we will discuss when we come to the other Ordinance. When we are looking at this draft in order to try and understand before we come to the House what it is we are being asked to vote upon, which is what we are required to do, then we look at a section which tells us there are all these powers so that the Ordinance is able to discharge and perform its functions, which makes sense and then we say where are the functions that it has to perform so that we can see whether the powers are necessary, adequate or excessive and we go to 3(2) and in 3(2) we get told, not as one would expect from looking at section 9 what those functions are, but that the functions are what there is in the Ordinance and there

is not any or what is in another Ordinance which we have not yet debated. Given that, it would seem to us that it would be better that the powers should be related to what the Authority should be doing in a particular case as opposed to here where it is not related to what it is doing in a particular case but whatever it might be required to do and of course what this provides is not just for the list of possible requirements for regulation that have been mentioned by the mover because the Regulatory Authority can in fact be through being mentioned in other Ordinances and presumably in subsidiary legislation under Ordinances if that was possible under the enabling provisions in the primary legislation can be made to be the only regulatory body for everything in Gibraltar and by the logic of expense and resources in a small place, if that applies to the two or three things that have been mentioned it can be made to apply to anything else. But we can debate the wisdom of that or not in this Ordinance because this Ordinance simply creates the possibility and the exercise that is made of this possibility depends on what happens from now on.

When we look at section 13 on the issues of confidentiality, again it seems to me that some of these provisions will only make sense if one knew what was in the mind of the person drafting this in terms of what are the functions that are expected. In the absence of any functions again it is not possible for us to make a judgement of the adequacy or inadequacy or desirability of any of these provisions because clearly they depend on what is the area with which the Authority is dealing. We believe that the requirements to comply with European Community law can easily be met without setting this up and we believe that if there is going to be a Regulatory Authority then it should be at arm's length from the Government and we believe that in any case it is possible for a Government Department to be regulating people that it licences and therefore not to have an Authority but if we are going to have an Authority either it is independent of the Government, in which case the Authority appoints its employees even though the Government pick the individuals who will be running the Authority, then once they are appointed they should be free to exercise their judgement in the decisions that they take and therefore we will be voting against it.

HON CHIEF MINISTER:

Mr Speaker, because I am not prepared to assume against the hon Member that he is simply trying to be obtuse and misleading, I am forced to the only alternative conclusion which is that he has only read this Bill ten minutes before arriving in this House today. Most of the things that he says are not provided for in the Bill are indeed specifically provided for in the Bill. Mr Speaker, before I get into responding to the hon Member on the technical details that he has risen, for the hon Member, who spent eight years in office, dismantling the civil service and replacing it by a parallel service comprised of unaccountable companies and things of that sort to stand up in this House and suggest that this transparent entity that the Government are establishing falls foul of some high moral principle can only mean that the hon Member believes that his philosophy in life is for people to do as he says and not as he has done himself for eight years. How does the hon Member explain his sudden concern, which incidentally should not be awakened by this innocent piece of legislation, but how does he suddenly explain getting to his feet in this House, talking about parallel civil service when he set up the Gibraltar Information Bureau and other Government companies to which he transferred 40 per cent of Government activity and when he appointed Mr Harry Gomez to take powers on delegation from the Commissioner of Income Tax to pursue people for unpaid PAYE, what was he doing? Where was his commitment to the principle that he now, with no degree of credibility, if he does not mind my saying so, espouses? He was a man like no Chief Minister before him that has presided over the systematic disembowelment of everything that is cast in our system of Government about the independence of the public administration and the independent observing functions from Ministers and the exercise of them by their cronies. He who was the master of that activity and who has watched us during the last four years dismantle the results of his ill labour for four years now has the audacity to stand up in this House and talk about the need to avoid the establishment of a parallel civil service.

Mr Speaker, the hon Member is the Leader of the Opposition and he does therefore entirely deserve serious responses to all the questions that he has raised and he will get them, but in hearing the responses to his questions he should not overlook the fact that as far as the Government are concerned it is the height of duplicity that he should stand in the House and make the sort of address that he has just made even if everything that he says about this Bill were true, which it is not. His own track record, coupled with the fact that almost everything that he has said about this Bill is inapplicable, puts into context the fact that he believes that his own past is to be obliterated from the memory of man and that people should now do as he says and forget about what he did and not judge the sincerity of his own statements now by comparing them to whether he put them into practice when he was in Government and also shows such scant knowledge of the details of this Bill that I think he has been thinking on his feet as he has been wading through the pages now as he has been doing, going through the pages one at a time, picking up the headings and just expressing a view on each item. Mr Speaker, section 3 which the hon Member says is a drafting contradiction is not a drafting contradiction. The only contradiction about the powers is his own. First of all when the hon Member makes the point about section 3, he says "well as a matter of drafting technique I do not see why we are saying why the Corporation shall have the powers given in this Ordinance when this Ordinance does not give it any powers" but then of course.....

HON J J BOSSANO:

I never said powers, I said functions.

HON CHIEF MINISTER:

Functions, Mr Speaker. Then, when the hon Member flicks through the Ordinance he will find that there is quite a lot about powers and functions in the Bill. There are things about functions as well, yes there is a lot about functions in the Bill, it is perfectly clear that the regulatory functions of this organisation are going to be the functions given to it by this House in other legislation. This

is not the purpose of this Bill. The purpose of this Bill is to set up a structure and therefore why the hon Member should think that this should say and he should regulate the telephone system he will only regulate the telephone system if this House in other legislation decides that he should regulate the telephone system and the terms upon which he can regulate the telephone system. I would have thought the concept was relatively straightforward for the hon Member to grasp because then he says "what is the point of giving him the powers in section 9?" Mr Speaker, what section 3 says is that he shall have the powers and functions given to him in this and any other Ordinance. The hon Member appears to believe that doing things by contract, how he used to do it, give a contract to whoever he likes, in whatever terms he likes to discharge whatever functions he chose. Yes, because he said that it is all right that it is done but the hon Member is arguing to prevent me from saying what I need to say simply by heckling and shouting me down. It will just take me longer but he will not be able to avoid hearing what the Government want him to hear on this issue.

The hon Member said that at least if it is done by contractual arrangements then the employees of the contractor are clearly not public officers. Mr Speaker, the hon Member may think that doing semi-public functions through contracts with the private sector are transparent and accountable way of doing so, no one else in Gibraltar thought..... but look if he thinks that that is transparent and accountable, the hon Member cannot think that this is any more transparent and accountable unless the only thing that motivates the hon Member is that no one else in Gibraltar should have any authority, never mind if it is less than the one that he reserved for himself. At the moment the hon Member appears to believe that so long as it is done by a private contractor which he can hire and fire, that is okay, but if it is done through statute, in a way which is drafted to be transparent, report to the House, account to the House, accounts to be audited by the Principal Auditor, independence of employment, that somehow that is bad. Mr Speaker, the problem with the hon Member is that he is so convinced that the way he used to do things, which everybody rejected, is good and right that he does not recognise

improvements when he sees them because obviously he does not think that what he was doing was capable of improvement.

Mr Speaker, the hon Member asks who is the Authority? Who are the people who make it up? I ask myself, has the hon Member read the Bill? The Bill sets up a statutory Authority and it says that the functions of the Authority shall be vested in terms of the discharge of them in the Chief Executive. The Chief Executive of the statutory body has got to be appointed. Thereafter, he appoints whatever staff he needs to discharge his functions. If the hon Member does not see it there it is because he has not read it. Is the hon Member saying that that is not there? I will tell him where it is so that he can go away and he can read it before the Committee Stage. Mr Speaker, Section 3 allows the Minister to appoint the Chief Executive. Somebody has got to get the ball rolling, somebody has got to appoint the Chief Executive and then if the hon Member reads Section 7(1)(c) he will see that there shall be paid from funds appropriated by the Assembly for the purposes to such persons as the Gibraltar Regulatory Authority may employ or take on secondment under paragraph (d) in Section 9(2), salaries et cetera and then it goes further on to say that under the powers in Regulation 9(2)(d) the Regulatory Authority, which once the Executive has been appointed means the Executive employ or take on secondment any person as the Gibraltar Regulatory Authority may, with the consent of the Chief Secretary determine are necessary.

Mr Speaker, Regulatory Authorities all over the world are set up on the basis that there is a regulator. In England the Regulatory Authority is a regulator and he employs people as he needs. The hon Member does not appear to have grasped, from a reading, if he has done it, of this Bill, that the structure here is that and that it is in common with the structures anywhere else, namely, that there is a statutory Regulatory framework set up which could be an individual or a body and that once it is set up subject to certain functions that have to be reserved to somebody, then they operate on an independent basis. The hon Member said that there was nothing about employing people. Who are the people who make it up? The people who make it up cannot be there yet

because there is still not the statutory structure to appoint them to but I will tell the House who I intend, for the hon Member's piece of mind, to appoint as the first Chief Executive of the Gibraltar Regulatory Authority and that is the man that the hon Member personally chose without any statutory structure, despite the fact that he is not a civil servant, that the hon Member chose and chose to appoint as telecommunications regulator designate as long ago as 1994. They started the ball rolling. They decide, without regard to civil service or Government Departments or anything of the sort, they pluck whoever they want from, I believe this one was from the ranks of GBC, not an organisation in which the Government should have a hand, but still, they nevertheless went into GBC, they chose to pluck out an employee of GBC who was not a civil servant and they said "now, you will be the Telecommunications Regulator Designate". When we arrived in office, we found him there. We believe he does a very good job. We think actually he was a very good choice and all we do is that we keep the same appointment and we surround him with the necessary statutory structure and with the necessary degree of independence which he needs if he is to be able to discharge his functions in compliance with the directives.

Mr Speaker, for an hon Member who was when in office doing precisely this, the following words which I am about to cite from the hon Member of which he accuses this Bill is almost the epitaph of his entire eight years administration "reports directly to the Chief Minister, takes his instructions from the Chief Minister, so the Chief Minister might as well be the Regulatory Authority". That is as good a definition as I have heard of almost every aspect of public life in Gibraltar during the eight years that he was in office. Then, because the hon Member feels this compulsive need to criticise everything that the Government do whether or not he understands what the Government are doing, he has the audacity to suggest that this Government set up a statutory authority, with all the conventional elements of transparency and of reporting and of audit and the hon Member says that it means that he takes instructions from me. Mr Speaker, the hon Member may not understand when he recommends that this was definitely done by a Government Department, that doing it by a

Government Department would not be a compliance with the directive. The directive requires this to be done by somebody other than a Government Department. The hon Member, who spent so many years destroying the independence of the civil service as a body of administrators, clearly is now not distinguishing between the political independence of the public administration from the political Government of the day. The hon Member is not distinguishing between that and functions that need to be carried on by the Government or outside the Government. If functions have to be carried out by law outside the Government, then it is neither Ministers nor civil servants because in most democracies civil servants work and account to the Government of the day. I suppose that that is what the hon Member thinks should be the case in Gibraltar as well unless he wants us to be less than any other democracy in Western Europe. Therefore, in setting up a structure which complies with the Community Directive requirements for it to be at arm's length independent of the Government, by definition it cannot be a Government Department but of course somebody has got to set it up. In England all these are set up by Governments and Ministers but of course what happens is that in England, Oppositions do not automatically assume, perhaps because they knew how it used to be before, that everything that Government and Ministers have to do with is necessarily going to operate in a politically corrupt fashion. I do not know why the hon Member thinks there is anything wrong with people reporting to the Chief Minister. When this Chief Minister calls for reports to him in statute he is careful to impose upon himself an obligation to lay that report in this House so that the hon Member can also see what I am seeing. Instead of celebrating that as a significant contribution to open and transparent Government, the hon Member digs his head in the sand and invents obtuse points to suggest that this is a step backwards in transparency. Mr Speaker, there is nothing in this Bill which is capable of making the Gibraltar Regulatory Authority amenable to the wishes of the Government or any Minister in it except in cases where it is proper that they should do so. Not only have the hon Members obviously not read the Bill but they have not even heard because they could not be bothered to listen to my explanation of its points

of principle because I took the specific trouble to tell them that in Section 8 there were provisions which prohibited the Regulator from taking Government policy into account. I shall read it to the hon Members "subject to sub-section (4), subject to Community obligations and this and any other Ordinance which may assign to or confer functions on the Gibraltar Regulatory Authority, the Gibraltar Regulatory Authority shall in the exercise of those functions, take account of the policy of the Government in respect of those matters to which those functions relate". In other words, he will take Government policy into account as is perfectly normal, proper and correct and happens everywhere in Western Europe, except in the circumstances required by sub-section (4) when Community law prohibits the Regulator from taking Government policy into account or when any other Ordinance of this House, giving him powers in a specific area requires him not to take Government policy into account. If that were not sufficiently clear for the hon Member, sub-section (4) goes on to say "when the application of Community obligations or the provisions of an Ordinance or both require that a function be exercised by the Gibraltar Regulatory Authority with complete or a degree of independence, then the Gibraltar Regulatory Authority shall only take into account the policy of the Government to the extent that it is lawful to do so".

Mr Speaker, this Bill sets up a Regulatory structure which not only is capable of complying in those circumstances where it is required, with the substantive obligation of arm's length in cases where it is required to but does so in a way that subjects the behaviour of the Regulator to the scrutiny of this House not only through the tabling of its accounts and a report of its activity but also because this House is the source of funding for it and it strikes me as odd that..... in passing I might tell the hon Member since he thinks that this has been plucked from the sky and that this is something that has been written by somebody who just wants to give power to himself as if there was no precedent for it, that most of this is drawn straight from the Financial Services Commission Ordinance which the hon Member introduced into this House when he was in office.

Mr Speaker, I have already covered the fact that on the one hand the hon Member suggests that this is not at arm's length and on the other hand suggests that this should be done by a Government Department as if to suggest that when he was the Chief Minister of Gibraltar Government Departments were allowed to do what they pleased regardless of ministerial steer or regardless of policy or regardless of instructions. I have already told the hon Member why for Community law reasons it cannot be a Government Department but what I think is equally odd is that the hon Member should suggest that if it is a Government Department then that is arm's length from the Government. In other words a civil servant working in one of my Colleagues' department, the hon Member thinks is freer to be independent of the Government and its policy than people working under a statutory authority, set up outside of the civil service, funded separately by this House, accounting separately to this House and operating under statute that prohibits them from taking Government policy into account when the law so requires. Mr Speaker, I have learnt already that it is almost impossible to persuade the hon Member of anything once he has already spoken on the matter but he has absolutely no justification for believing that this is any of the things that he has suggested and many of these sections, about employment, about accountability to the House, many of these things, the funding which the hon Member says is akin to the civil service, that is taken straight from the Ombudsman's Ordinance which he voted in favour and which he did not criticise. I realise that the hon Member's new colleague, Dr Garcia, voted against the Ombudsman's Ordinance because he did not think it had enough teeth but no one said then "well, what is all this about semi-public functions, civil servants, are you appointing Government officers or not?". The hon Members unfortunately because they are not sufficiently familiar with the Bill have not noticed not only that it is similar in many aspects to Bills that we have introduced into this House and which they have supported but it is actually that that one and this one were actually drawn in large measure from Bills that they brought to the House when they were in office.

Mr Speaker, the hon Member says..... and let me tell him that the funding provisions were drawn directly from the Ombudsman's Bill. The hon Member asks whether the Regulatory Authority, once we have established it can be appointed for other things. The answer is of course, that is why we have set it up. That is precisely why we have set it up, so that it can be appointed as the Regulatory Authority for other things, but it can only be appointed as a Regulatory Authority for other things by operation of law, either by a proper application of the Constitution or by an Act of this Parliament legislated in this Parliament. What is wrong with this Parliament saying "I now know the terms upon which the Gibraltar Regulatory Authority exists. It is now suggested to this Parliament that the Gibraltar Regulatory Authority should be appointed as the Regulator for the regulation of public transport....." for example, it is not one of the items we had in mind, I have just used it as an example which does not apply, and this House to say "yes, we think that it should be done". What is wrong with that Mr Speaker? Because the hon Member cannot think that there is anything wrong with that whilst at the same time telling this House that he does not think it is necessary to appoint the Gibraltar Regulatory Authority because to quote him "the Government could do this through some of the existing structures already available to it". The structures available to the Government are Government Departments, the Gibraltar Development Corporation or if we are willing to have recourse to the sort of way of conducting public affairs that he had recourse to which we are not, I suppose we could set up a limited company of which four Ministers could be the directors and then we could appoint that under a contract and that according to the hon Member would be all right to provide the Regulatory Authority accountable to nobody except to him. Mr Speaker, I believe that this is an extraordinarily transparent way of doing something and the hon Member has not said anything which is credible to displace the Government from its view that this is a proper, statutory, open, transparent, accountable, conventional way of providing for regulatory functions in a way akin to the way that it has been done in almost every other country of the European Community.

Mr Speaker, I know that nothing that I have said will have persuaded the hon Member. The Ordinance sets up in Section 3 the Gibraltar Regulatory Authority as a statutory corporation. The hon Member may not understand the significance of that and therefore wonders where is the guts of the Authority. But the significance of setting it up as a statutory corporation sole is that there is a legal entity who has a life in law separate from the individual who from time to time occupies the position. That is the significance of setting up a statutory corporation sole, that for the purposes of legal action, for the purposes of serving process, for the purposes of continuity, for the purposes of the ability to contract and own land, for the purposes of its ability to sue, for all of these purposes there is a legal entity with legal personality and continuity other than an individual who then has to transfer land and contract every time he is changed. The hon Member may think that this Bill, which incidentally has been drafted by several lawyers, not, I hasten to add, including myself, has no substance. The hon Member is mistaken. He has failed to understand the reason why the Ordinance does all that it does. Having set it up, it then goes on to create the position of office of Chief Executive and the Chief Executive is given by this Bill the powers to conduct on a day-to-day basis the powers that may from time to time be vested in the Authority. It gives him the power to authorise his employees within the Authority also to discharge those powers. It then sets out in detail how it can be funded. It sets out in detail how it must be accounted and to whom. It has specific provisions about independence and gives specific and detailed powers of what they can do and what they cannot do in an organisational sense as opposed to a substantive functional sense, if we can distinguish between those two concepts in that way. Therefore, Mr Speaker, it provides for all the things that regulations setting up a regulatory structure need to set up and needs to provide for as the hon Member should be familiar with given that he had to go through this exercise.

There are aspects of this Bill which if there were not other things in the Financial Services Commissions Ordinance would be about this length and would contain all these issues. The only difference is that the Financial Services Commissions Ordinance

ultimately accounts to the Foreign Secretary, something that he tried to resist, rightly, and this does not account to the Foreign Secretary or to the Governor. This accounts to the elected Government of the people of Gibraltar of the day and I certainly refuse to accept that there is anything whatsoever wrong with that. I therefore commend the Bill to the House with the final remark that it is up to this House to decide whether it wishes in any given situation this entity should be the Regulatory Authority in that subject matter whenever it comes up, whether it is data, post office, telecomms or anything else. It is a structure which is available which complies with EU rules as to arm's length and independence which is available. The alternative, as I am sure the hon Members will know, they only have telecommunications to start to grapple with before 1996, since then we have had data protection and other issues, the alternative is that we have got to set up at much higher cost separate regulatory functions in different areas. One cannot just set up an individual and say "here, go and be a regulator". It is a non-compliance if one does not endow that person with the sufficient resources to enable him to properly carry out these functions and all this Bill says is that instead of the Government having to go through the expense of setting up separate regulatory authorities for all the things the law requires it to set up separate statutory authorities for, that we are setting up one body that can be endowed with the necessary resources and expertise but that can share many resources - office accommodation, secretarial services, receptionists, telephonist facilities, financial control. All those things can be shared by all the various regulatory authorities and the Chief Executive simply brings in expertise in the subject matter. Having got this infrastructure set up in this cost efficient way, if there is a need to regulate broadcasting, and it is not available in-house, certainly somebody will have to be brought in, just as the Financial Services Commission presently brings in different experts to regulate banking or insurance or company and trust work or investment services work, but the basic administrative infrastructure is there common to all of them and this is all that this Bill tries to do and, frankly, none of the criticisms to which the hon Member has subjected the structure we believe are justified either on the terms of the Bill or in the Government intention. I

accept, of course, that the hon Member cannot rely just on the Government intentions because that can change so I accept that the letter of the legislation has got to be appropriate and defensible but we believe that that is so and having explained to the hon Members why we have done this I would hope that notwithstanding the view that they have first taken that they will be able to support the Bill. I am happy to give way to the hon Member.

HON J J BOSSANO:

Mr Speaker, I am glad that he has relented in the final seconds of his long attack which failed to really explain. I wanted to interrupt the Chief Minister earlier because he was misquoting me and saying that I had said that the Bill did not make provision for the Authority to have powers and that that proved that I had not read it until I got to this House and just flicked through the pages. The Chief Minister was quoting me incorrectly. What I have said is in looking at this Bill as we have done on a number of occasions and studied it we have said to ourselves "well, there is a Regulatory Authority established in Section 3(1), what is it therefore?". We look at Section 3(2) and it says "to perform the functions assigned to it in this Ordinance and in any other one" and therefore we looked for functions in this Ordinance and could find none. What I asked the Chief Minister was if we had overlooked it and the functions were somewhere, could he tell us where they were? The answer is, there are no functions in this Ordinance because when we look at the powers in Section 9 and that is where I referred to the powers, the powers that are being given to the Authority are the powers the Authority needs in order to perform the functions in Section 3(2). We get to 9 and 9 sends us back to 3(2) which is where we were two minutes ago. So we go back to 3(2) and again..... it is a cycle where we are told in 3(2) "look for the functions elsewhere in the Ordinance" and when we get to the Ordinance we are told "look for the functions in 3(2)". I do not think this is a criticism which justifies any of the things which the Chief Minister has said. We have different views in life and we disagree with each other but it seems he cannot even have anybody questioning the adequacy of the drafting without seeing

as a personalised attack which he then has to refute by saying we set up companies to do this and we set up companies to do that, so what? We are as entitled in this House to question what he does as he was when he was Leader of the Opposition. All I am saying is Mr Speaker if we have got the Bill in front of us and we are being told that there are functions in the Bill then we accept that because we are not law draftsmen. There may be functions somewhere in the Bill and we have overlooked it and we expect the Government to know and we raise it in the general principles because if we do not do that then we will have to do it in the Committee Stage. In fact, I would be grateful if the Chief Minister has an answer to that question, he would give me the answer now that he has decided to give way and if he has not got the answer then perhaps he can explain why we need to be saying the functions conferred in the Bill when in fact he said in his opening speech that there were no functions in this, that the functions had to be found elsewhere. The point that I am making is that we cannot evaluate whether the powers that are given are conducive to the performance of the functions if we do not know the functions. That does not seem to me a harsh criticism of anything other than logical analysis. I am sorry that my logical analysis seems to get under the Chief Minister's skin but it is quite obvious that being on my feet is almost sufficient. I would welcome an explanation.

HON CHIEF MINISTER:

Mr Speaker, the hon Member cannot be that disingenuous that he believes that everything that I have said, which was a strong attack and quite justified, given the sheer brazenness of the rest of what he said but he cannot be so disingenuous as to believe that everything that I have said is simply because I was upset that he had questioned the use of the word "power" or "function" in Section 3. The Leader of the Opposition is a master at sowing the seeds of trouble and of a dispute and then extricating himself as if he was the innocent hand by suggesting that people have been terribly harsh to him for saying something quite okay. Mr Speaker, it had nothing to do and he has been doing it all his life and getting away with it. The difference now is that this

Government are not willing to let him get away with the things that he has been doing in Gibraltar since 1970. Mr Speaker, was it I who was so harsh and so unable to take criticism on the basis of Section 3 and the words "power" or "function" when he referred to me as "His Majesty". *(Laughter)* Mr Speaker there is very little that the hon Members can say that upsets me. I have developed a very thick skin. What I am saying to the hon Members is that it does not take more than five minutes to catch him out at his own game. Here he was trying to get this House and presumably people listening on the radio to believe that he has been the victim of a quite unprovoked attack by this terribly aggressive and hostile and arrogant Chief Minister who will not even accept innocent, constructively delivered criticism when actually the reality of the matter is that he in his own address, unprompted by anything that I might have said already introduced into the debate more than enough element of personal abuse to have justified much more than I said.

Mr Speaker, I do not know whether the hon Member thinks I am more powerful or more inclined to exercise power than he was. All I can say is that I do not know who is more powerful or who was less powerful or who is more power hungry or less power hungry, whether it was him or me or who acted more majesterially or more regally, whether it was him or me. All I can tell the hon Member is that the only objective evidence available to us all to resolve that dilemma is that under my Government people in Gibraltar do not live or feel intimidated, not for loss of their jobs, not for loss of their businesses, not for loss of their contract, not for people who are not the Government's political friends failing to get Government work. I do not know whether that means that I am more or less power hungry, more or less regal, more or less arrogant, more or less tough. What I can tell the hon Member, for sure, is that Gibraltar feels better about itself under this Government than it ever did under his Government. *(HON J J BOSSANO: He is losing touch with public opinion)*. Mr Speaker, if I am losing touch with public opinion it is between February and now because in February 58 per cent of the people felt much better under us than under him and, frankly, the hon Member is falling into all the traps that caused him to fall from office. If he

confuses his own political wishful thinking for the reality that people in Gibraltar know politically contrived disputes when they see them and that people in Gibraltar know and realise when there is a black hand moving around behind the scenes of apparently innocent and innocuous disputes. The hon Members have to understand this. It was not I..... coming back to the main point, it was not I that spoke about the need to avoid creating a parallel civil service. Mr Speaker, it was not I who said that there was nothing in this Ordinance about employment or about the guts of the authority. It was not I who said that this man is hireable and fireable by the Chief Minister, which he is not. No, he is only hireable and fireable for misbehaviour which has a legal meaning and definition. Yes, for misbehaviour not for displeasure, not because I do not approve of his decisions, for misbehaviour. I just wish that those powers to dismiss for misbehaviour had been used more appropriately when they had been available to previous administrations in other areas. The idea that the hon Member has sought to create that this is just a sort of charade for naked power by the Chief Minister is a complete deception and the hon Member suggests that everything that I have said in response was just an over reaction to his little innocent point about power and function. Mr Speaker, the hon Member may be able to persuade his own band of fanatics with his own particular brand of disingenuity but he is not going to persuade anybody else by it. We can have however many debates he likes in this House and we can debate all the issues that he likes. The hon Member is perfectly free to disagree with everything that the Government say and say it in whatever terms he likes because Government Members are not squeamish but what the hon Member cannot do is say everything that he likes and then in the hope of getting a headline try to characterise successfully, incidentally, the last time he tried it just to dismiss the Government's own approach not as a genuine, justified, response to his address but as some over-reaction to a Leader of the Opposition only doing his job in a perfectly reasonable, uncontroversial and unprovocative way. Mr Speaker, the hon Member can carry on doing that until his heart is content and we will carry on pointing out to him that that is what he is doing.

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 Mrs Y Del Agua
The hon J J Holliday
The hon Dr B A Linares
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 Dr J J Garcia
The Hon S E Linares
The Hon Miss M I Montegriffo
The Hon J C Perez
The Hon Dr R G Valarino

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 INCOME TAX ORDINANCE (AMENDMENT) ORDINANCE 2000

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend the Income Tax Ordinance, 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, Section 4 of the Income Tax Ordinance imposes an obligation of official secrecy and every person under an official duty or employed in the administration of the Income Tax Ordinance to regard and deal as secret and confidential all information held in respect of any taxpayer's income. The wording of Sections 4(1) and 4(2) have been redrafted in order to dispel any possible doubt that might exist concerning the scope of the duty of secrecy under the Income Tax Ordinance and thus to ensure that the duty of secrecy is limited only to information regarding the income of any taxpayer. In practical terms this amendment will enable the Commissioner of Income Tax to provide information not relating to income to other Government Departments.

Mr Speaker, I do not know if the hon Members are familiar with Section 4 of the Income Tax Ordinance as it is currently drafted. It reads as follows:

"Every person having an official duty or being employed in the administration of this Ordinance shall regard and deal with all documents, information, returns, assessment lists and copies of such lists relating to the income or items of income of any person are secret and confidential".

The way that some people interpret the existing Section 4(1) is that in order for it to be subject to the list of confidentiality requirement the list, the document, the information, the return, the assessment list or copies of lists, in order to be subject to the Commissioner of Income Tax's traditional confidentiality, all those things have to relate to somebody's income and not to any other aspect of somebody's things which are not on a proper reading of Section 4 covered by confidentiality. For example, the

fact that somebody is registered or not or the fact should not be covered by the list of confidentiality on that proper reading of Section 4(1). Let me tell the hon Members how the situation arises. The Government now propose to network relevant Government Departments especially in the area of compliance in connection with arrears so that for example the Income Tax Office can know by looking at the Employment Department's records whether somebody is working or not and that the Social Security Department can know from looking at the records of the Employment Office and the Income Tax Office whether somebody should be paying Social Insurance Contributions and is not. The Income Tax Office can know whether somebody is registered for Social Insurance Contributions may be paying Social Insurance Contributions but is not paying PAYE. In other words, that Government are disjointed and that the public administration cannot have regard to information that it has in one Department to ensure compliance especially with revenue-raising measures of a piece of legislation that is administered by another Department. That is not going to change, there is not going to be that sort of access to people's income tax information in terms of the details of their income. The Government takes the view that of a proper reading of the existing section 4(1) it is only details of people's income that is subject to Commissioner of Income Tax confidentiality because the section reads ".....shall deal with all documents, information, returns, assessment lists, copies of such lists, relating to the income or items of income of any person..." in other words, that the words in the current section relating to the income or items of income of any person qualifies the whole of the list that has appeared before it and not just the last item. In order to avoid the possible argument that the proper reading of section 4(1) should go something like this, and I am just emphasising as I go along ".....and shall deal with all documents regardless of their content and all information regardless of their content, even the person's name and address, and all returns even if it lists, the name of the employer, or all assessment lists even if it just contains innocuous information....." All of that is not subject to administrative confidentiality, they are only subject to administrative confidentiality in so far as it relates to income or items of income of any person, otherwise every time one

administrative department, for example, the Social Security Department, says to the Commissioner of Income Tax "well, can you give me a list of people that are employed, as far as you are concerned..." that the Commissioner of Income Tax shall not be in jeopardy of saying "ah, under section 4(1) is that a list which is covered by statutory confidentiality", the answer is "no", unless the list contains details of taxpayers' income. If it contains details of taxpayers' income it is confidential by statute. If it does not contain details of people's income, it is not covered by statutory confidentiality. That is the sole objective of this Bill. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, on the basis of that explanation we have no difficulty in supporting the Bill. Let me say that as far as I am concerned my understanding is that the Section that exists in 4(1) as currently drafted was already being interpreted as it is intended to interpret this substituting section in the Bill before the House. In the past if the Commissioner has had to provide information in order to establish activity in a particular sector, then he either gave for example the income generated in that sector without identifying the recipients or the numbers of people working in that sector without identifying their income. In fact, the Commissioner himself in determining what information he could provide other Departments of Government with interpreted it in the way that has been explained. If it is a question that some doubt has arisen as to whether the present wording could be challenged and since it is obvious that the new wording should permit what was already being done to continue, we have no difficulty in supporting it.

HON CHIEF MINISTER:

I agree with what the hon Member has said, that has always been both at a political and at a senior administrative level the view taken by successive Governments including this one of the proper interpretation of the existing language which is why in the

Explanatory Memorandum to this Bill we say this Bill is intended as a measure to dispel doubts concerning..... we think that if all it takes is changing the position of four words which is all that this Bill does to allow the Commissioner of Income Tax to rest assured that he is not exposed to legal challenge because he has got to interpret and accept the interpretation that others may advise him as the correct interpretation of the section that if it is as easy as this Bill to dispel that doubt it is not a waste of parliamentary time to do it. Of course, I was aware of what the hon Member says about the collection of information generally for economic management purposes. What is now proposed is slightly different. What is now proposed and the hon Member may have heard me say at the time of the Budget is a unified collection system in respect of income tax contributions and social insurance contributions and that that means that the flow of information other than information about income will be more than has traditionally been the case of pure information management, in other words what is required now is lists rather than raw economic data but now, as then, it will remain the case that details about an individual taxpayer's income will continue to be protected by statutory confidentiality and that the new law does not change. This Bill does not change the existing law but simply clarifies it to be exactly what the hon Member had always assumed it to be.

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 today.

Question put. Agreed to.

The House recessed at 11.35am

The House resumed at 12.05pm.

THE IMMIGRATION CONTROL ORDINANCE (AMENDMENT) ORDINANCE 2000

HON CHIEF MINISTER:

I have the honour to move that the Bill for an Ordinance to amend the Immigration Control Ordinance, 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 Bill now before the House is intended as a measure granting the Government, through the Principal Immigration Officer, greater flexibility than has previously existed in the field of residence permits. As Section 18 of the Ordinance now stands a person who is not in possession of a work permit may only be issued with a residence permit for a maximum duration of three months. New paragraph (ee) which is inserted by the Bill into sub-section (1) grants the Principal Immigration Officer the discretion of issuing residence permits in such a scenario, that is to say in the case of persons who do not have a work permit to issue a residence permit of up to six months. Similarly, paragraph (f) of sub-section (1) as it now stands in the Ordinance allows the Principal Immigration Officer to issue an annual residence permit where a person possesses a 12-month's work permit. The residence permit is issued in the case of a work permit holder for a maximum of 12 months. Under the redrafted paragraph (f) the Principal Immigration Officer now has the discretion to issue residence permits in such a scenario for a duration of anything between six months and five years.

Mr Speaker, hon Members will recognise that this is the statutory implementation of an announcement that the Government made

recently in respect to the length of residence permits that would be issued to long standing residents who are non-EU nationals and that, of course, includes not just Moroccans but also Indian nationals and any other non-EU national who has been a long term resident of Gibraltar. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, other than being told what is self-evident from reading the Bill we have not been told anything about the general principles raised by this Bill. I hope that we will be told something after I have spoken because it does raise a number of important principles we think.

If I deal with the second part first, which is the question of people with work permits, we have no problem in supporting that the maximum should be five years as provided in the new Bill but we want to know how this is going to work and we do not see the logic of the minimum being six months because my understanding is that the normal practice has been until now that when people get a residence permit on the strength of the work permit they get the residence permit concurrent with the length of the work contract. If somebody has a contract of employment for three months he would normally get a residence permit for three months. In the proposals before the House if somebody had a work permit for three months the Immigration Officer would be giving him a six months permit because it is related to the work permit, given the distinction that has been made in the opening remarks that if it is a work permit it is six months to five years and if it is not a work permit it can be up to six months.

We would also like to know how it is going to operate in the case of the over one year, given that presumably work permits are not going to be five yearly work permits because the standard procedure for those who require work permits is that they have to get a work permit for a maximum of 12 months and then when they re-register the work permit is renewed. It is difficult to see

how the Immigration Officer can give somebody a five year residence permit on the strength of the one year work contract when in fact the law will continue to say that for the permit under Section (f) the Principal Immigration Officer is satisfied that the person holds a valid certificate of employment. He may be satisfied when he issues it at the beginning but if at the end of the first year something happens which leads to that person not having the employment renewed and the contract extended I do not see how the Immigration Officer is going to be able to comply with the law of satisfying himself that the permit is valid during the course of the five year period. These are issues of principle to the extent that we are in favour of the five years but we question how it can work by the amendment that is before the House on its own.

The other issue of principle is that we do not agree with the position of adding six months to the list of the other category in the first part of the section in the Ordinance because in fact we brought a Bill to the House which was supported by the Opposition which extended into 12 months and which made more sense from an administrative point of view. I would remind the House that the Bill brought to the House on the 13th July 1995 which was carried unanimously and which has not been commenced said that the Principal Immigration Officer could give somebody a permit of up to 12 months. The Chief Minister may remember that when the matter was raised in the House and I was asked for the reason for this, in moving this Bill, I pointed out that the provision was modernising the system to the extent that a permit can be given for a year or any number of days under the year at the discretion of the Immigration Officer and that the purpose of doing that was that the system that we have got in place is totally archaic and makes a nonsense of an efficient way of dealing with the issuing of residence permits and that is being perpetuated by the amendment before the House. It does not make sense that we should in 1995 have agreed to do something that was more sensible and now we seem to be going back to the pre-1995 situation by adding six months. What the Bill proposes to do, Mr Speaker, is to add to the existing periods an additional period of six months which means that as the law now stands and

as it will stand after being amended the Principal Immigration Officer, when receiving a request for a permit in the law which is still pre-1995 because the 1995 amendment has not been commenced may issue a two-day permit or a weekly permit. That means if somebody who wants to have a permit for three days, he cannot have a three-day permit, he has to have a two-day permit or a week's permit. If he is going to be between one week and two weeks he cannot have an eight day, nine day or ten days, he has to have either a one week permit or a fortnightly permit and he cannot come for three weeks, he has got to have either a fortnightly or a monthly and he cannot come for two months, he has got to be either monthly or quarterly and now we are extending that to say he cannot be four or five months, he has to be six because we are adding a new one that says a quarterly permit or a six month permit. The logic is that of course if the Government decide that it should not be a year as we agreed to do in 1995 and it should be six months then I put it to the Government that it makes more sense to say "the Principal Immigration Officer may issue a permit for a maximum of six months" but that is in contradiction to all the other sections which says two days, one week, fortnightly, monthly and quarterly which, as I understand it, are not being removed. They are all there because the Government are adding to (e) two little (ees) and making a provision which seems to me that if one reads that provision with all the others still in the law, then it must be that one is not able to go beyond six months for somebody that is over three months somebody who is asking for more than a quarterly permit. I cannot understand why as a matter of principle in the principles of the Bill we are not proceeding as we agreed to do in 1995 which was in fact to say if what the House is telling the Principal Immigration Officer is the maximum he can give it for well let us say "right the maximum is six months" or "the maximum is a year" but if we then say as was said a very long time ago for reasons that may have been valid at the time but which are incomprehensible nowadays, it has to be either one week or a fortnight or a month or three months but it cannot be multiples in between. Then it means that somebody who actually applies for a permit for a lesser time not knowing how archaic these provisions are, if he wanted a four months permit would be in the

absence of the new provision would be given a three month and a one month. That still applies to anything below three months. I would put it Mr Speaker that if we were to repeal all the existing (a) to (e) then a permit of residence which entitles the holder to remain in Gibraltar for a period of time not exceeding six months must, by logic, include a two-day, a weekly, a fortnightly, a monthly and a quarterly. That is what we already did in 1995. Apart from that we are in favour of the provisions although in our view the six months should not be six months but a year because that is what we voted in 1995 and we do not see the reason for going back on the one year now, on cutting back, we already approved a year. *(HON CHIEF MINISTER: It was never commenced)* I know it was never commenced but the point I am making is we do not know why it was never commenced but here we have a Bill that was there since 1995 which was never commenced. I know the objections that the United Kingdom Government raised in 1995 which was that they thought that if we allowed somebody here for a year that could be a backdoor to immigration to the United Kingdom which was complete nonsense because residence in Gibraltar does not give anybody any advantage in jumping any immigration queue into the UK but that was the thing. I can tell the House that having had confirmation in September 1995 that the Home Office no longer had any objections and that the Governor would be given instructions to assent, I have a minute which is a record of that from 6th September 1995, it never materialised then or apparently since. I do not know whether this Bill is still unassented but if it is unassented then it certainly raises an important issue of principle. What is the difference between the proposed amendment in the House and the one the House approved in 1995 which makes it impossible for the Governor to assent to the previous one and makes it possible for the Governor to assent to this one when all this one does is, it moves in the two directions in fact, it says "if you have not got a work permit the most you can be in Gibraltar is six months and if you have a work permit the most you can be in Gibraltar is five years". We provided in the House that at the discretion of the Principal Immigration Officer, whether one has a permit or not, the most one could get was one year in Gibraltar. Although this is extending to five years the position of people with

work permits it is reducing to six months the position the House previously adopted in 1995 of giving one year to everyone. We would like, in making up our minds whether to vote, some indication of answers to the questions that I have put.

HON CHIEF MINISTER:

Mr Speaker, the hon Member has raised some issues which of course have nothing to do with the Bill here. I cannot tell the hon Member why he had difficulty in having the Bill that he brought to this House some time in 1995 commenced. The Legislation Support Unit of their own motion did a trawl of bits of legislation that were legislated but uncommenced, this one came up and I asked "can anybody give me an explanation why this piece of legislation which was legislated by the House and I think I am right in saying assented to but has not been commenced" and I received an explanation that there had been difficulty between the Gibraltar Government and the British Government about its content. The hon Member says that he has a minute saying that that was resolved. It is not a minute that I have seen and it is not a minute that is reflected in the information that has been shown to me from a file which as the hon Member knows I do not have access to but it begs the question of why if the problems were eliminated in September he had from September and May when he lost the election in May 1996 why he did not take steps to ensure that this Bill was commenced. I cannot answer this question. Those are issues from the previous administration. When we arrived in office in May 1996 we were not aware and no one advised us that this Bill had been legislated but uncommenced. There it was, it was a piece of previous administration legislation which it had shown them to leave uncommenced as far as we could tell. When we tried to find out why it had been left uncommenced we got an explanation which did not include that minute that the hon Member says that he has. That is where the matter rested. This legislation is not an attempt to pick up the pieces of that or to introduce that in a modified sense. It is a short piece of legislation to implement one specific measure that the Government decided recently that it would do. I agree with what the hon Member says, that if this were a tidying

up exercise of the principal Ordinance as a whole then obviously it does not seem logical to say in (ee) that the man has the discretion to issue a work permit for any period not exceeding six months. Therefore, a day, half a day, three days, nine days, any permutation between zero and six months is available to him. Therefore, by definition, all the rest are necessarily included. Of course there is a difference between a piece of legislation which is simply designed to implement statutorily something that the Government have decided to do, than a Bill which seeks to consolidate or tidy up. Perhaps with a little bit more attention the consequences of this amendment might have been more elegantly reflected in a tidying up exercise, but of course (ee) is not inconsistent with the bits that have not been scrubbed off, it is that it makes those other bits superfluous and therefore I would ask the hon Members that if they are otherwise minded to support the Bill that it would not be necessary for them to withhold their support from something which is at worst a piece of drafting inelegance rather than something which has any substantive meaning.

HON J J BOSSANO:

Would the Chief Minister give way? The other point that I raised was, what is the problem with the year as opposed to the six months? The 1995 provision did the same thing of saying "any time up to 12 months".

HON CHIEF MINISTER:

Mr Speaker, I was going to get to that. It is really the same point, it is just that this Bill is not related in our minds to the previous one. It is not as if we took the previous uncommenced Bill and said "oh, no, they said 12 months, we do not think it should be 12 months, it should be six". It is just a question that as a separate exercise, and that Bill having been abandoned, so to speak, several years later the Government in discussion with the Moroccan Workers' Association and with the Transport and General Workers' Union agrees to these measures and the draftsmen are now instructed to do legislation to implement this

arrangement now. It is just not co-ordinated with, so there has not been a conscious decision to reduce 12 to six. Indeed, I do not know whether any issue would arise in relation of the difference between six and 12 and that is something that we can certainly look at. In future there is bound to be a need to revisit the Immigration Ordinance in general terms and we can certainly look at whether there is any reason why it should remain at six and not at some future time be increased to 12. It is not as if a decision has been made that it should be six rather than 12 simply that the decision that it should be six has been made without reference to the fact that in the past, five years ago, somebody had already decided that it could be 12. There is not an issue there as far as we are concerned and if it turns out that 12 is okay then 12 is okay. Certainly the Government would have no objection but it is something that we would need to look at and I hope the hon Member accepts that I cannot just agree to that now on my feet without having somebody advise me of the possible ramifications.

Mr Speaker, residence permits are not really issued concurrently with work contracts in the case of non-EU nationals. There is no power in the Employment Ordinance to issue a work permit for longer than a year. Whereas it is now the policy of this Government that when somebody has an indefinite contract or a contract for a year that they should get a residence permit for a year the hon Member would recall that it was not so under his administration where a distinction was drawn between the persons..... it was not the case in the case of the children of employed people under his administration and that is how some children of Moroccans who the parents themselves had a one year permit stayed out of free schools because the children themselves only had monthly or quarterly permits and the rules under the Education Ordinance were that one had to have an annual permit to get free schooling. We have tidied that up. The Employment Ordinance says work permits are only for a maximum of a year. If we wanted to increase that, which may not necessarily be desirable or advantageous even though we accept that the public statement that we made erroneously gives that impression, it should have referred to residence permits and not

work permits, that the present intention is that residence permits should be for five years and the regime of work permits should carry on as it now is and any change to give five year work permits would need an amendment to the Employment Ordinance as I am sure the hon Gentleman sitting next to the Leader of the Opposition who then had ministerial responsibility for these things would know. There is no amendment before the House to the Employment Ordinance and therefore there is no intention at the moment to issue work permits for longer than a year, a year being the maximum that they are permitted to be issued under the Ordinance. What the Government have decided to do relates only to residence permits.

Mr Speaker, so as to how it will work in practice, the way that we expect it to work is as follows and that is that in the ordinary case people should get a residence permit for five years or such shorter period as takes them to pensionable age because once a non-EU national reaches pensionable age, if he has a residence permit for more than a year it has consequences in other areas which the Government do not intend and that therefore what we shall be doing is that we shall be giving Moroccans and other non-EU nationals, not just Moroccans, of a long term residence, how much is long term is a matter that has to be discussed but I would have thought that the figures that we are bandying about internally at the moment is certainly a minimum of 10 years, that they will obtain a residence permit of five years if that does not take them beyond retirement age, beyond pensionable age. If it does then it is for five years minus the period so it can be for four and a half years, for three and a half years, whatever the thing is. Once they reach pensionable age they will then go back to obtaining annual residence permits which of course still leaves retired Moroccans in a better position than they are today because today, once they reach pensionable age they only get, at best, quarterly permits, and sometimes even just leaves a waiver or things just to let them come and go. So even economically inactive Moroccans will be better off in the sense that they will have a one year residence permit.....

HON J J BOSSANO:

One year under the 1995 provisions, six months under this?

HON CHIEF MINISTER:

Yes, that is true. Mr Speaker, the hon Member is half right and necessarily not half right. In other words, he assumes that when one reaches pensionable age a Moroccan then does not have a work permit and there are many Moroccans of pensionable age who do continue to have work permits and they will continue to be able to have 12 months under this. The only people who under this will only be entitled to six months will be the Moroccans who reach pensionable age and do not have a work permit. The hon Member is correct only in respect of that more limited category. That is how the Government envisage it working. The hon Member said that there are principles that arise. I think there are principles that arise and I think there are principles which regrettably we need to have a degree of reluctance in debating openly in this House. Frankly, many of the people that I discussed this issue with, the Union and representatives of the Moroccans, understand that there are certain limitations affecting Gibraltar, resources, space even and that rights that they aspire to in larger countries with greater resources are simply impossible for us to deliver not because as a community we want to treat them worse than any other country treats them but because simply we are constrained by factors which are real and that they are outside our control. Therefore, within these parameters what the Government do is that through a process of continuing discussion we try to introduce layered improvements. In introducing any particular improvement one is not necessarily saying that this is what it should be in an ideal, Utopic or larger country but that in Gibraltar we have to tread carefully for reasons I am sure everybody in this House shares and that what the Government are trying to do is to make progress slowly in those areas where Gibraltar can afford progress to be made but continuing to realise the realities of our situation in areas where the reality of our situation is overriding or overwhelming. I do not

know if those are the issues that the hon Member was trying to tease out when he said that there were important points of principles or just the ones that he referred to. Certainly those are the parameters that we operate under.

Question put. Agreed to.

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 SOCIAL SECURITY (INSURANCE) ORDINANCE (AMENDMENT) ORDINANCE 2000

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to amend the Social Security (Insurance) Ordinance, 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 object of this Bill is to give statutory effect to the measure that is contained in my Party's Election Manifesto and which I said at the Budget that we would be introducing this year to increase maternity grants and death grants to £350.

Mr Speaker, a maternity grant is a one-off payment currently made at the rate of £36 made to a woman for every child born to her. In order to qualify for this benefit a woman or her husband must have contributed under the Social Security (Insurance) Ordinance for a specified period of time. This Benefit is intended

to help with the cost of providing for the needs of a newborn baby. Mr Speaker, the present grant of £36 has not been increased since 1979 and is therefore currently inadequate for the purposes for which it was then intended when it was introduced. The Government wish to raise it to a more realistic level by increasing it to £350. Government also consider that there are people on high income who are not in need of this sort of financial assistance and we are therefore introducing not a means test but a limit with a view to benefiting most those with a joint income of £30,000 or less. As stated in the Bill the joint income means the joint assessable income of the parents of the child in respect of which a maternity grant is claimed. The means test will operate as follows:

Where the joint assessable income of the parents of the child is £30,000 or less they will obtain the full payment of £350. For every £1,000 of joint income in excess of £30,000 the rate of benefit will reduce by £35. This means that there will be no entitlement at all once the joint income reaches £40,000. It is reduced by 10 per cent for every £1,000 over £30,000 and therefore this is primarily a benefit for people on joint incomes of £30,000 or less with a tapering off provision for people on joint incomes between £30,000 and £40,000 so that the door does not slam shut and one ends up getting it all if one has a salary of £29,999 and nothing if one happens to have a salary of £30,100. Therefore, people get the whole of the £350 if they have joint incomes of less than £30,000 and reducing by £35 for every £1,000 that they earn in excess of £30,000 and by necessity that means that by the time one gets to a joint income of £40,000 one gets nothing.

Moving on to the Death Grant, Mr Speaker, this Bill also provides for an increase to the current rate of Death Grant which, as in the case of Maternity Grants, have not been increased since 1979. The Death Grant is a one-off payment intended to help with the cost of a family funeral. At present there are three rates of Death Grant which vary according to the age of the deceased. The rates are as follows:

£72 if the deceased was over the age of 18; £54 if the deceased was between the age of 5 and 18; and £36 if the deceased was under the age of 5. I do not know that that has anything to do with the fact that the cost of funerals vary depending on the age of the deceased. I have to say I cannot really think of why it should ever have been at a different rate. This Bill will replace those three different rates by a single, higher, rate of £350 irrespective of the age of the deceased. It will be paid to all claimants who satisfy the relevant contribution conditions. This substantial increase will narrow the gap between the present cost of a funeral and the level of financial assistance provided with Death Grants.

Mr Speaker, in the case of the Maternity Grant, the Government believe that resuscitating the grant and, in effect, bringing it up in value to inflation is justified because there is now a much larger incidence of home ownership amongst young married couples in Gibraltar and that there is now a coincidence between the time of one's life where one has the highest property costs, namely a recently married couple buying their first house, taking a mortgage on for the first time and it arrives at the same time as the increased costs of having children. For the first child one has to buy all the things that hopefully one can then use for all the other children. The idea is that this is a more realistic help for young parents at a time when they most need assistance given that they now increasingly take responsibility for their own housing costs. That is why the Government considered it appropriate to revisit the question of Maternity Grants at this stage. Similarly, the increase in the Death Grant should enable elderly people to feel that they have got to make that little bit less of provision for their own funeral arrangements and in the case of young people that have to bear the cost of the funerals for their elderly relatives that, again, at a time when they have got other calls on their disposable income, that it is appropriate to assist in this way. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON J J BOSSANO:

Mr Speaker, we support the higher rates of benefit. I think the argument that has just been put as to why in particular the Maternity Grant needs to reflect the circumstances of today where it is almost the norm rather than the exception that young newly married couples should seek home ownership at the time that they are starting a family makes sense. There is an important principle in this Bill which we reject totally and which has not been defended on the basis of the principle at stake. We have simply had an explanation of the mechanics of how the means test in the Maternity Grant is to work.

We believe that whilst it is normal and legitimate that social assistance benefits which are paid out of General Revenue should, if the judgement of the Government is such, be directed based on need, social security benefits which are purchased by the contributions of the person should not then be denied to a contributor on the basis that he does not need it when he becomes entitled to it. We think there is a fundamental principle at stake here which is important and which needs to be addressed. We disagree that somebody should find himself in a situation where he pays contributions in 1999 and then because of his earnings in the year 2000 does not get the same benefit as somebody else having paid the same contribution. This is not coming out of the Consolidated Fund, this is coming out of the Social Security Fund Short Term Benefits paid for by social insurance stamps. If we look at the situation created by Section 4 which, frankly, seems not to be very clear when it talks about the continuity of the law and it says "Section 10A (1A) of the Social Security Insurance Ordinance shall not apply to persons who are entitled to a Maternity Grant prior to the appointed day". Then it goes on to say ".....without prejudice to the foregoing provisions of this Section a person who is entitled to a Maternity Grant prior to the appointed date shall be entitled to the Maternity Grant as if Section 10 (1A) of the principal Ordinance had not been enacted". We do not understand what the relationship is between 4(1) and 4(2) given that it seems to be saying in the first one that it is not applicable to people who kept the Maternity Grant before the

appointed day then why should it then go on to say that it is as if it had never been enacted, it is already covered by 10(1).

That in fact relates to what we consider to be another anomaly which is that the means test will apply from the date of commencement, as we read it, whereas the higher benefit will apply from the 10th February so we have effectively in the first year three sets of situation. We have got three people, all of whom have contributed to the Social Insurance Fund and who get a benefit of £35 before the 10th February. There are those who get a non-means tested benefit of £350 between 10th February and the appointed day and then after the appointed day we have the application of the new provisions which reduce the level of benefit after £30,000 and until £40,000. As far as we are concerned the benefit we believe should be from the 1st January because it is based on the contribution record ending in December. Therefore, benefits are altered on the 1st January because they are related to the number of stamps that people have paid the previous year. There seems no reason why somebody should have paid the same number of stamps in 1999 and get a lower benefit between 1st January and 10th February whereas somebody else gets a higher benefit from the 10th February. Somebody, for example, that only paid in the contribution year 13 stamps would find himself getting a Maternity Grant of £78, that is on 10th February. Somebody who had paid 52 stamps on the 9th February would get £35. I think that by introducing the benefit six weeks into the year one is creating a situation where the contribution record of the previous year which is supposed to trigger off the level of benefit one creates the anomaly that up to the 9th February somebody with 52 stamps in the previous year gets less than somebody from the 10th February with only 13 stamps. We believe that those areas should be corrected and that the Government, having taken the policy decision that this is going to be an appropriate level to pay the benefit, should make the benefit payable to everybody, should make it payable from the 1st January and at the end of the day it is not a question of the cost to the public purse because this is not coming out of the General Revenue of the Government and is not at the expense of some other deserving good cause. It is paid by

the people who are contributing to the scheme. Somebody may be in greater need and have not paid 13 stamps and gets nothing. The concept of making a benefit related to need is in fact negated even by maintaining the minimum contribution record of 13 stamps. Somebody who has been unemployed the previous year is the one who probably needs most the £350 and will not get it because he has not paid for three months. They may get credit but they do not get credit if they have been unemployed for the whole year Mr Speaker. If they get three months credit because they have been unemployed the most they would get would be the £78 and they would be the group that needs it most. I would say if the Government really want to make this benefit means tested they ought to consider really taking it out of the Social Security system and then paying it as Social Assistance and not relating it to contributions and paying it out of the General Revenue. We are in favour of what they are doing but we think that they ought to have a rethink on the application of it.

HON CHIEF MINISTER:

Mr Speaker, as the hon Member himself has pointed out all statutory benefits are linked to the recipient's contribution record. Therefore, the regressive characteristic that the hon Member has described applies to all such benefits. If an unemployed person does not have the contribution record he does not get his 13 weeks' unemployment benefit. His need for it is no less great than somebody who has got the proper contribution record and that would require what the hon Member is suggesting a fundamental rethink of Social Insurance legislation generally which cannot be done in the context of..... the hon Member is suggesting that any benefit that is delivered..... he is also making a separate point about whether people should be means tested at all given that it is statutory and not discretionary but in making that point the hon Member used the example of somebody not having the contribution that is required may need it more than somebody who has got the contribution qualification and that is the narrow point that I am addressing, that that is true of all statutory Social Security benefits and not just this one. Therefore, to correct that anomaly would require considering a wider consideration. The

Government have given thought to decoupling this from contribution records at all altogether because our Manifesto commitment speaks of increasing the rates and people might have been led to believe..... people reading our Manifesto do not necessarily know the nitty gritty of what the qualification requirement is. Because people may have interpreted it to mean that this was going to be regardless of contribution record or anything like that we are studying the possibility of doing that but anything to do with altering Social Security and statutory benefits as the hon Member knows is something that we have to deal with carefully and we will get to that phase in slower order if our research shows that it can be safely done, decoupling it from contribution records without opening the floodgates for many others who might then become entitled to it. If we find it does not have that effect the Government will have no difficulty and will take that as a future phase.

HON J J BOSSANO:

I seem to have given the wrong impression. I certainly do not propose or suggest to the Government that they should think of making a Social Security Benefit not contribution-related. I think that would be a serious departure from established Social Insurance practice. What I am saying is if they want to make it related to need as opposed to contribution then in my view it should be Social Assistance. If they want to make it related to contribution then it should not be related to need. That is the view that we take and that is the view that we are putting.

HON CHIEF MINISTER:

I understand that Mr Speaker. The fact of the matter is that the regime currently exists within the statute and it would have required the repealing and the setting this up through the discretionary Social Assistance scheme. I am not sure that as a matter of principle I share the hon Member's distinction. All Social Assistance benefits ultimately come from money that is being paid by the taxpayer just as social security benefits come from a special fund into which is put money that also comes from the

taxpayer. The hon Member draws the distinction between statutory social security to which people had specifically contributed and social assistance to which they had not specifically contributed except in their capacity as a taxpayer. The principle of means testing social provision of this sort is not one that is new to the hon Member. He will recall that back in 1988 or 1989 he limited child allowance to a maximum income of £20,000..... Mr Speaker we are not talking here about technicalities we are talking about whether things are fair or unfair to people. The hon Member not only chose to limit child allowance through the income tax system to a household where no member earned more than £20,000. Mr Speaker, the hon Member may no longer remember and I will remind him of what he did. What he did was that he introduced a rule that said that child allowance was lost if there was an income in the family of one person of more than £20,000 which means that households where both parents were working, where they were both earning £19,999 so that the household income of the parents was £1 short of £20,000 they were getting it and if one had a household in which one person was earning £20,500 and the wife was either not working or earning less, that household did not get it because just one person was earning more in it where one of the parents was earning more than £20,000. Not only that, but the allowance was frozen at £20,000 from 1988 or 1989 and it never increased. So the hon Member was signalling not only that he wanted to limit this to households that had that income threshold but was also signalling that he wanted to phase out the allowance by not increasing it to keep up in value with inflation. We have extended the principle of means testing that the hon Member introduced but applying it, we believe, more fairly by setting the threshold at £30,000 which we have not plucked from the clouds. £30,000 is half way between the £20,000 at which point one lost it and the £39,999 at which level a household where both persons worked but both earning just less than £20,000 would retain it. Then we have allowed a tapering off from £30,000 down to £40,000 so that one gets part of it as one income exceeds £30,000 and approaches £40,000 and at joint £40,000 then one falls out of the system altogether. We believe that this is a fair means test. The hon Member I am sure did not mean to suggest that Social

Insurance funds were not public funds. He also said that they were not Consolidated Funds, they remain public funds. We believe that public funds should not be used to deliver increased rates of benefits to people who do not need it financially. We believe in targeting even statutory social assistance. At this level where the benefit had fallen into disuse, obviously there are other statutory benefits which are of universal application and that will remain the same.

The hon Member spoke of Section 4(1) and (2) and wondered whether there was not some inconsistency there. Mr Speaker, with the greatest of respect to him I do not think that there is. What Section 4(1) says is that this Bill and the section that it adds, the principal Ordinance, shall not apply to persons who are entitled to a Maternity Grant prior to the appointed day. In other words not only do they not have a right to receive the grant at the new rate but that they cannot be deprived of it by virtue of the means test that is now introduced. It is intended to preserve the old right at the old rate for people who have already earned it before this legislation comes into force. Sub-section (2) simply says that one gets it at the old rate. Sub-section (1) says that this Bill and its introduction of a means test cannot deprive of the benefit somebody who had already earned it before this Bill and sub-section (2) says that a person gets it as if this had not been passed, at the old rate. I do not believe somebody who had already acquired an entitlement to it under the old law gets it at the old rate. I do not believe that there is that distinction between us. I thought the hon Member was going to make a slightly different point but I would have agreed with him, I have questioned now as I have read this again today whether there is actually a need for a definition of an appointed day, given that the legislation itself says that it shall be deemed to have come into force on the 10th February 2000. Therefore, it seems that the legislation is already appointing the day and the reason for that is that that is the date when we published our Manifesto commitment to do these two things and that was simply the date that we chose. I therefore think, having heard the hon Gentleman, and he now having heard me, that the only difference between us on this issue is whether statutory benefits as opposed

to social benefits should be delivered at different rates to different people depending on their means. The position is that the Government policy is that that should not be the case in relation to other benefits but this benefit which the Government have resuscitated and which the Government have brought back into force should not be delivered at a higher rate and simply to say "I do not object to the principle of people not being paid this if they earned too much money, so long as you take it out of Social Security" is a bit technical Mr Speaker. All it means is that we would repeal this Section in the principal Ordinance and establish the regime under a discretionary system where people do not have the statutory right to receive. If we did that we would simply be swapping this which gives people a statutory right not subject to administrative discretion and we would be swapping that for the present system of Social Assistance which means that people go to the counter and they will never know whether they have it. They certainly do not have it as a matter of right and whilst we acknowledge and continued the hon Members' system in that respect because we acknowledge why it has been done and the wisdom of it and therefore we have continued it we do not want to add things unnecessarily to it. The principle, as far as we are concerned is, is it right that people should only get a benefit from public funds if they need it, or which is the case with Social Assistance, should there be a means testing of such benefit or not? If we agree that it is okay that there should be then whether it is parked under Social Security or whether it is parked under Social Assistance simply raises the rather technical question of whether the answer is different depending on whether one is using general Government funds from the Consolidated Fund or whether the answer should be different because Short Term Social Security payments are paid out of the Short Term Social Security Fund to which everyone has contributed in equal measure. There may be arguments of that sort but they are technical arguments and do not go to the question of whether means testing in a particular benefit is socially fair or not. I am quite happy to give way if the hon Member wants to come back on that.

HON J J BOSSANO:

Mr Speaker, the Government have said that it is doing it in respect of this benefit and is not going to do it in respect of any other benefit. This is the first time it has ever been done. There has always been a very clear dividing line between the two and therefore doing it for the first time in this benefit is something that ought not to be done lightly. I really ask the Government to consider the very principle that people are taking out insurance, they are paying a premium, in this respect to a Government insurance fund which is not Government money. It may be public funds in the wider sense of the word but it is the money of the contributor and the Government are saying to somebody "...if you contribute so many stamps in 1999 you will get this benefit in the year 2000". That is what the Bill does. If one gets one level of benefit at one time, and a different level of benefit at another time and it depends on ones income in the year 2000 notwithstanding the fact that one may have paid more or less in the previous year I would urge the Government to consider there is really a fundamental conflict of approach in the two systems where one is the general body of taxpayers contribute to general taxation in relation to their means and the poorer sections of the community who may not contribute at all get the benefit. The concept of assistance and general taxation is transfer of income from those who are better off to those who are worse off. The concept of social security is that there is an insurance fund which is state controlled but might be equally private to which irrespective of how well off one is one makes contributions and one gets a benefit and it does in our view raise very serious and important principles which are being tested for the first time. Perhaps unintentionally but that is how we see it and that is the reservations we have about this. We are saying "if you want means testing then you have to take the other route" but one should not take this route. Alternatively do not means test it because at the end of the day everybody has paid the same. Why should not everybody get paid the same back?

HON CHIEF MINISTER:

Mr Speaker I think as a matter of principle we should not discontinue the House simply because the Gibraltar Tax Association do not want to give the Leader of the Opposition the opportunity to speak in Parliament. I think that this is a reason for continuing and not a reason for stopping. I very much regret that the Gibraltar Tax Association should wish to interfere with the Leader of the Opposition's right or any other Member's right in this House to speak.

Mr Speaker, laws in Gibraltar are made by the legislature or by the persons authorised by the legislature in case of subsidiary legislation. Laws are not made in Gibraltar by anybody else and the legislature is not to be obliged by any particular sector in this community as to what laws it can make and what laws it cannot. Therefore, demonstrations of this sort rather tend to confuse the issue.

Mr Speaker, the hon Member says that there is a great principle at issue here. I can undertake to give some thought to the questions that the hon Member has raised but I do not think that those issues are raised. I am sure that the issue of Family Allowance was statutory.

HON J J BOSSANO:

Family Allowances was never contribution-related Mr Speaker. It was a statutory benefit as elderly persons' pensions were a statutory benefit and we all know what happened post-1986 to require us to make social assistance an administrative system but it was never a question that one got Family Allowances depending on the number of insurance contributions that one had paid.

HON CHIEF MINISTER:

Mr Speaker, be that as it may, what the hon Member has said raises unintended issues of principle, I do not think that it does but

we will consider it. All that this does is continue to the extent that it continues to be contributions based. That simply continues the system that we have always had albeit delivering the benefit itself at a higher rate. It is not that we are introducing a system of contributions-related Maternity Grant or Death Grant. The Death Grant and the Maternity Grant have been contributions-related since the 1950s. All we are introducing is the concept of a cap at the top beyond which income one does not get it at all. That is slightly different is it not to the question of whether it is contribution-related. The issue that the hon Member therefore raises is whether benefits that are statutory and paid not out of general taxation but out of social insurance contributions should be means tested or whether they should be universally delivered at a given rate. That is a slightly different point which does not arise from the fact that the qualification depends on whether one has a minimum number of contributions in any given year but from the fact that the pot of money from which it is paid is the fruit of people's insurance contributions. That is the point, rather than any qualification that arises from whether one has enough contributions which has always been the case.

HON J J BOSSANO:

Certainly we are not seeking to change the relationship. What I am saying is that if one has the two systems operating side by side one does create a situation in the first year where people who contributed more may finish up getting less than people who contributed less. That was never intended. The reason why the system provides that benefits go up on the 1st January is because the relevant contribution year is the year ending 31st December. If one has a relevant contribution year that still keeps the same dates but one alters the dates of the benefits then one has a position where somebody may have paid more stamps in 1999 and be getting a lower benefit quite independent of the point about income because the other point I was making was the one about the date. If I have paid 52 stamps or somebody has paid 52 stamps last year and is paid at the old rate before the appointed day he gets £35. Notwithstanding the fact that he has paid 52 stamps in the relevant contribution year. On the other

hand, somebody that has a child one day later, 10th February as opposed to the 9th, will have paid 13 stamps in the relevant contribution year and gets £78. Therefore, although the Chief Minister is right to say the system of relating the benefit to the number of contributions has always been there, the point that I am making is that the change in the date of the benefit whilst maintaining the date of the contribution record makes the principle work in a way that was never intended.

HON CHIEF MINISTER:

That might be true of the first year and of course the hon Member is assuming that the relevant period will be the 13 weeks before 1st January.

HON J J BOSSANO:

But in the provisions in the Bill, Mr Speaker, there is no reference to changing the relevant contribution year from what it is already in the law.

Since that is not being changed then that is where the analysis that I have made follows. Can I just make reference also to what the Chief Minister said about the appointed day in Section 4, we assumed that there was going to be introduced from our reading of this section a situation where the appointed day could be something other than the 10th February and that therefore, the provisions here were referring to people being paid, as we read it, if the appointed day came after 10th February, people being paid the new rate not means-tested for a period between 10th February and the appointed day.

HON CHIEF MINISTER:

There are not three categories, the new rates and the new rules apply to anyone who dies or was born on or after 10th February. There are two categories, births and deaths before 10th February and births and deaths on the 10th February and after. There has to be a date. The hon Member is suggesting 1st January for other

reasons but whenever one increases a benefit retrospectively one has to choose some date in the past. The reason why we have not wanted to make it the current date is that having made this announcement that people should not be prejudiced by the length of time that it takes the Government to have a piece of legislation drafted and brought to the House. The 10th February is a fair date for everybody because it is the date on which we first announced this policy. That is the only reason why 10th February was announced.

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 Mrs Y Del Agua
The Hon J J Holliday
The Hon Dr B A Linares
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 Dr J J Garcia
The Hon S E Linares
The Hon Miss M I Montegriffo
The Hon J C Perez
The Hon Dr R G Valarino

The Bill was read a second time.

HON CHIEF MINISTER:

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

Question put. Agreed to.

The House recessed at 1.20 pm.

The House resumed at 3.10 pm.

THE CRIMINAL PROCEDURE (COMMUNITY SERVICE ORDERS) ORDINANCE 2000

SECOND READING

HON MRS Y DEL AGUA:

I have the honour to move that the Bill be now read a second time. Mr Speaker a Community Service Order is basically an alternative to sending an offender to prison. Its introduction broadens the sentencing options available to the Courts and releases the demand on the Prison Service. Instead of spending time unproductively in prison with the cost of that time falling on the taxpayer, an offender may be required to work for the benefit of the community, for example, undertaking outdoor conservation projects, painting and decorating for the elderly, helping a voluntary organisation or any other task which may be defined as appropriate. The benefits of the Order are therefore both financial and beneficial to the community as a whole. There are some important points to note. Firstly, the Order only applies in relation to offences punishable by imprisonment. Secondly, the offender must consent to the Order being made. It cannot be enforced on someone who does not wish to work. Thirdly, the work must be available. Finally, the Court may review the Order and if it is not properly or fully complied with the Court may sentence the offender for the original offence as if he or she had just been convicted. A Community Service Order is not a method of providing cheap labour for specific projects. It is a method of punishment by which the offender puts something back into the community by carrying out work which might otherwise not be done. The work will always be undertaken under the supervision of an officer of the Social Services Agency. The availability of Community Service Orders in the UK has been a successful use

of this punishment for many years. It is time for us in Gibraltar to move forward with this change in the sentencing powers of the Court for the benefit of all. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON J L BALDACHINO:

We shall be voting in favour of the Bill but not for the reasons that the Minister has just explained, not for the reasons that it would stop being a demand on the Prison Services neither would it be because of the financial reasons involved. We believe that rather than sending people to prison for having committed an offence, society could find an alternative solution to that which the Bill provides for that if the person is willing to accept that, that people should be given a second opportunity to be incorporated back into society rather than condemn them because some times people do make mistakes in life and therefore rather than condemn them to prison I think that this gives them a better opportunity to amend their ways to be integrated back into society. If such a thing can be achieved by legislating in this way, Mr Speaker, I think it would be a benefit for the whole of society. I understand that this has been the practice in other countries, specially in western European countries, especially in the United Kingdom and has met much success. Therefore, we expect that the same success that has happened in the United Kingdom can apply here. Mr Speaker, we will be monitoring the situation once the Bill is passed to see if the positive results in other countries will happen here and we are supporting the Bill on that basis.

Question put. Agreed to

The Bill was read a second time.

HON MRS Y DEL AGUA:

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

Question put. Agreed to.

THE TELECOMMUNICATIONS ORDINANCE 2000.

HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to provide for the assignment or conferring of functions to a Minister and to the Gibraltar Regulatory Authority; to make new provision with respect to the provision of telecommunications services and the establishment or operation or both of telecommunications networks; to make provision, in substitution for Part II of the Public Utility Undertakings Ordinance and for the Wireless Telegraphy Ordinance, for the matters there dealt with and related matters; to transpose and to make provision for the transposition of Council Directive 90/387/EEC as amended by Directive 97/51/EC of the European Parliament and of the Council, Commission Directive 90/388/EEC as amended by Commission Directives 94/46/EC, 95/51/EC, 96/2/EC and 96/19/EC, Council Directive 92/44/EEC as amended by Directive 97/51/EC of the European Parliament and of the Council and Commission Decision 98/80/EC, Directive 97/13/EC of the European Parliament and of the Council Directive, Directive 97/33/EC of the European Parliament and of the Council as amended by Directive 98/61/EC of the European Parliament and of the Council, Directive 98/10/EC of the European Parliament and of the Council and Decision No.128/1999/EC of the European Parliament and of the Council; and for connected purposes, 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, as the Long Title makes clear, is mainly concerned with creating the framework for the

implementation in Gibraltar of the European Union Directives relating to Telecommunications Liberalisation. Those directives provide for the opening up of the market in telecommunications so that there is no monopoly in the provision of services or networks. The Bill provides a new framework for the provision of telecommunications services and the operating and establishing of networks in Gibraltar. It repeals and replaces the Wireless Telegraphy Ordinance and part of the Public Utility Undertakings Ordinance which at present deal with such provision, operation and establishment. The Bill is an enabling piece of legislation for the liberalisation of telecommunications network and services and as such will have to be read together with several Regulations which will be made under the Ordinance. The Bill transposes into Gibraltar law, when read with those Regulations, the relevant telecommunications related to the directives, a total of 12 directives and two Council Decisions. Part I of the Bill contains the interpretation provisions. Part II section 3 provides the basic powers and duties of the Minister and the Gibraltar Regulatory Authority in relation to the new regime. In particular it should be noted that section 6 gives the Minister and the Regulatory Authority powers in that criminal offences are potentially committed if information that is properly required in respect of matters relating to the Ordinance is not provided. Part III taken together with Regulations to be made under Part III implement the various directives themselves. Part III is divided into six areas. The first area deals with open network provision, from section 11 to section 14 and the second area dealing with competition and licensing in sections 15 and 16 form, in effect, the backbone of the framework for the transposition of the meat of the directives and contain quite detailed regulation-making powers such as are required to actually implement the directives. The directives' relevant sections and regulations work as follows:

Directive 90/387 on the establishment of the internal market for telecommunications services through the implementation of open network provision as amended by directive 97/51 will be transposed..... and that one relates to an adaptation of the competitive environment in telecommunications, those will be transposed to section 11 of the Bill and the proposed

telecommunications open framework Regulations. Those, together, will deal with transposing the directive which ensures that subject as contained in the directive, that there is open and efficient access to and use of public telecommunications networks and, where applicable, publicly available telecommunications services. Access to and use of public telecommunications networks and, where applicable, publicly available telecommunications services will be covered by the Telecommunications (Open Network Provision Framework) Regulations (ONP for short), which will be made under section 11 of the Bill.

Directive 90/388 relates to competition in the market for telecommunications services as amended by directive 94/46 on satellite communications relating to the use of cable television networks, directive 96/2 on mobile and personal communications and directive 96/19 on full competition on telecommunications markets. All of that will be transposed through section 16 of the Bill under which it is proposed to make the Telecommunications (Competition) Regulations. Those Regulations will implement the directives that require, that subject as contained in those directives that there be fair and effective competition between persons engaged in commercial operation of telecommunications networks or the commercial provision of telecommunications services or both. Just to summarise what we have got so far, I have covered the area of the framework legislation that will deal with use of and access to networks and services and, secondly, competition in the provision of networks and services. Thirdly, directive 92/44 on the application of open network provision to release lines as amended by 97/51 and also as amended by Commission Decision 98/80 on what constitutes a minimum set of leased lines will be transposed to section 12 of the Bill and the proposed Telecommunications (Leased Lines) Regulations. These directives and the Decision are meant to ensure that certain types of entities grant to users on public telecommunications networks access to and use of certain types of leased lines. That there is available a minimum set of leased lines having certain characteristics and that there is at least one entity with the obligation to provide leased lines. hon Members

may be aware that leased lines is the provision of some capacity that does not require the user engagement of a public switch system, the public exchange system. That is the third area that needs to be covered, leased lines, access to leased lines and the terms upon which leased lines are to be made available. Fourthly, directive 97/13 on a common framework for general authorisation and individual licences in the field of telecommunication services will be transposed to section 16 of the Bill and the proposed Telecommunications Licensing Regulations. The Regulations will transpose the Directive which introduces a framework for the establishing of a licensing regime which will apply to all who wish to establish or operate or both, because one can either be one or the other, or both, a provider of the network or a provider of a service on the network, or both, a telecommunications network within Gibraltar, and to all who wish to provide a telecommunications services in, from within or through Gibraltar. Therefore, that is a further leg of the market regime. We have now covered use and access to the network and the services. We have covered competition, leased lines and now the licensing regime is a further limb of the liberalisation of the marketplace as a whole. Fifthly, directive 97/33 on interconnection in telecommunications with regard to ensuring universal service and interoperability through the application of the principles of open network provision as amended by directive 98/61 on operator number portability and carrier pre-selection, all will be transposed to section 30 of this Bill and the powers that it will give to make regulations that will be called the Telecommunications (Interconnection) Regulations. These are designed to ensure that Member States establish in their territory a regulatory framework for securing the interconnection of telecommunications networks between each other and the interoperability of telecommunications services and the provision of universal services, that is to say a minimum standard service which is accessible to everybody in a competitive environment. Directive 98/10 on the application of open network provision to voice telephony and on universal service for telecommunications in a competitive environment will be transposed to section 14 of the Bill and the proposed Telecommunications (Open Network Provision) (Voice Telephony) Regulations. This directive is

designed to ensure subject as contained in it that there is open and efficient access to and use of fixed public telephone networks and fixed publicly available telephone services and that fixed public telephone services of good quality are available say in so far as the availability thereof is not reasonably practicable.

Mr Speaker, the third area and it is a general area covered by sections 17 and 18 is also by and large Regulation-making and provides for the establishment of the telecommunications code by regulation. The relevant regulation is the proposed Telecommunications Code Regulations. This code sets out the powers which certain telecommunications operators authorised to use the code by the Minister possess or will possess in order to install the apparatus necessary to establish and run their telecommunications networks. The fourth area covered in the Bill relates to acquisition of land and related issues and that is dealt with in sections 19 and 20 and they deal, amongst other things, with compulsory purchase of land and compulsory right of entry on to land for exploratory purposes in relation to the provision of telecommunications networks and they cover the same sort of issues that are presently covered in some of our own domestic legislation.

The fifth area relates to offences and it creates specific offences as required under the directives and the sixth area deals with telecommunications apparatus and that is in section 26 of the Bill. It is also regulation making in the main. It empowers the Authority to prohibit the connection to networks of certain apparatus and provides for the establishment of an approvals regime for telecommunications apparatus before it can be connected to the network.

Part IV of the Bill replaces and updates what used to be the Wireless Telegraphy Ordinance.

Part V contains miscellaneous and supplemental provisions and these sections which number between 45 and 47 deal with land related issues and the making of regulations generally and the supplemental sections 48 to 53 which deal with general

restrictions on disclosure of information, section 48 offences, sections 49 and 50 Summary Proceedings and section 51 Amendments, Transitional Provisions and Repeal of previous legislation in section 52 and the applicability of the Bill to the Crown in section 53. There are two Schedules to the Bill. The first deals with general transitional provisions and savings and is mainly designed to deal with licences which are currently in existence. The second deals with repeals of existing legislation.

Mr Speaker, once the Bill is enacted and all the Regulations are passed, organisations wanting to provide telecommunications networks and/or services will be able to apply for licences. The exclusivity enjoyed by both Gibraltar Nynex Communications and GibTel will therefore be abolished and these companies will be granted new operating licences under the Telecommunications Ordinance. Hon Members will see that the First Schedule deals with how that happens immediately by the agreement which is presently in place, the current licence agreement becomes immediately and at least temporarily but certainly immediately a licence issued under this agreement to be read in a manner consistently with this legislation to the extent that it might be inconsistent with it. That is the existing licence agreement.

Mr Speaker, although this Bill is the enabling legislation for the liberalisation of telecommunications network and services in Gibraltar, much liberalisation will be dependent on the availability of telephone numbers which are the raw material for many telecommunications services. If Gibraltar has no numbers it cannot liberalise the provision of certain services and applicants for number-dependent services will necessarily have practical difficulty in obtaining such a licence. To this end an amendment that I shall be moving to the provisions of section 15, and I will explain to the hon Members in a moment why section 15, read with the Regulations that will be made under section 16 will temporarily qualify the impact of this legislation. It is not appropriate, desirable or even possible for this House to impose upon the Minister for Telecommunications or on the independent regulatory Authority with an obligation as section 15 as it currently stands says, with our unqualified obligation it says "the Minister

and the Authority shall each have a duty to ensure that in Gibraltar fair and effective competition between persons engaged..... is established and maintained". In the Regulations which will be made under section 15 it will make it perfectly clear that neither the Minister nor the Authority can possibly ensure competition if there are no numbers to give to the competitors. Therefore, whereas this House transposes this legislation, the Government believe it is inappropriate that we should transpose legislation which imposes either on one of our Ministers or on a statutory regulatory Authority a statutory obligation which through no fault of our own is physically impossible to comply with. Therefore, I shall be moving an amendment which will introduce after the word "that" in the second line the words "subject to such regulations as may be made under this Ordinance". It will read "The Minister and the Authority shall each have a duty to ensure that subject to such regulations as may be made under this Ordinance in Gibraltar fair and effective competition between persons engaged.....". The Regulation will then say that those obligations and duties to establish and see that competition is maintained is subject to a resolution of the number of problems because otherwise what we have is a position where the Minister and the Authority are immediately in breach of their statutory duty yet the remedy of that is outside of their control. These are issues that needless to say we have brought and will continue to bring to the attention of the Commission so that they understand the extent to which any failure on their part to take rapid action in this matter will be tantamount to one Member State preventing another Member State from complying with the latter's obligations under a Community Directive, we having done all that we possibly can do by legislating in terms which says "this is the law of the land subject only to it being physically possible to do so and it is Spain that is preventing that physical possibility of doing it". It will leave no further hiding places and it will ensure that Spain can no longer attempt to defend itself, not that there is in my opinion any great subjective or objective merits to the defence but they should not continue to be able to raise red herrings by saying to the Commission in response to pressure from the Gibraltar Government and in response to pressure from the British Government "but how can Gibraltar complain about the non

compliance by us of European Union Directives which they themselves have not yet transposed into their laws?". Once we do this we will have transposed them into our laws and Spain's behaviour will be the sole obstacle to the compliance by Gibraltar with its obligations under these directives and Spain's behaviour is the one that will then be preventing Community law from being applied in this corner of the European Community.

Mr Speaker, one final point. The distribution of powers between the Minister and the Authority follows very closely upon the United Kingdom model. Powers which the directive allows to be exercised by the Member State are exercised in this Bill by the Minister. Powers which under the directive are required to be exercised by the regulatory Authority are given in this Bill to the regulatory Authority and that is as has been done in most Community countries but certainly the way that it has been done in the United Kingdom. The directives themselves tell which of the various powers to administer this liberalised market can be retained by the Government of the Member State and which have got to be exercised by an independent regulator at arm's length. We have followed exactly that division of responsibilities. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON J C PEREZ:

Mr Speaker, the Chief Minister is right in saying that one cannot judge how fully the EU Directives mentioned in the Bill have been applied without having access to see what the Regulations say because the structure of the Bill provides for those directives to be applied fully but one cannot judge whether we are complying with the directives until the Regulations have been published and the Regulations have not been published and have not been made available to the Opposition. Be that as it may we have gone through the provisions of this Bill as thoroughly as is possible in the month or so in which we have had it in our possession. This Bill contains highly complex technical issues and has taken the Government five years to put together. The Opposition shall be

making several points at this stage but would ask the Government not to take the Committee Stage and Third Reading immediately and would also request that we should be able to meet with the Law Draftsman or whoever the Chief Minister directs in order to have some of the more complex technical issues clarified to us before taking the Third Reading of the Bill.

Mr Speaker, on the last point mentioned by the Chief Minister, I think he is wrong in one respect but I know that in some Community countries this is not the case but he says that in the UK it is. We cannot see why the Minister should have powers and responsibility over both licensing and regulation and relegate the Authority to be the watchdog of the licencees. As the Bill is now, the power to grant licences lies with the Minister who quite rightly is responsible for the making of Regulations with the Authority overseeing those licences and making sure that the holders of those licences are in adherence with the provisions of this Bill under regulations made by the Minister. We believe that for the Authority to be seen to be independent that the Authority should be the body responsible for licensing with the Minister setting out the standards and criteria under which licences are granted. This would, in our view, comply with the requirements set out by the European Union for the establishment of independent regulatory authorities more fully particularly where the Government are a shareholder of two companies providing telecommunications services to the general public. I say this, Mr Speaker, because the European Commission has already made clear that the mere administrative or legal separation between the functions of those providing telecommunications and those responsible for the Authority does not constitute compliance with the requirements even if we here in this House might not find that to be the most desirable situation. Some Member States of the EU have already been taken to task by the Commission over this matter having received complaints to that effect. There is presently a case pending over the procedures prevalent in Belgium related to the fact that a Government Minister there is involved in the issuing of licences whilst the Government are a shareholder of what used to be the public service provider, now a private company. Independent of this point, which I think is

important to take into account, we believe there is no need whatsoever to involve a Government Minister in the consideration of applications and issuing of commercial licences to provide telecommunication services and that that function would be more properly undertaken by the independent Authority who could only take decisions based on the parameters and criteria set out by the Minister. The check of the Authority would obviously be the appeals procedures to the Courts set out in the Bill. We also believe, Mr Speaker, that matters are made worse by the fact that under the other Bill discussed this morning the Chief Executive of the Authority is appointed by the Chief Minister. The Chief Minister is wrong in thinking that departments cannot carry out the functions of the regulatory authorities. In many instances the Department of Trade and Industry and other EU jurisdictions carry out that function and this is carried out by civil servants. The arm's length relationship and the independence sought by the Commission is more one where those involved in licensing other companies should not have or be seen to have conflicting interests in having some share or control in other telecommunication providers. I submit to this House that both the Chief Minister and the Minister referred to in this Bill are in the collective responsibility role the custodians of the public shareholding in GibTel and Nynex and that it would be better that they should not be involved either in licensing or in the appointment of the Chief Executive of the Authority.

I would now like to move, Mr Speaker, to Part IV of the Bill which according to the Explanatory Memorandum incorporates and updates the existing Wireless and Telegraphy Ordinance. There, in section 27(1) we are being given an interpretation of what telecommunication equipment means in respect of that section only. Under the existing Wireless and Telegraphy Ordinance such a definition exists but is referred to as "Telecommunications Apparatus". In this Bill, since telecommunications apparatus is defined differently in section 2 it is now called "equipment in respect of section 4 only".

Part IV of the Bill repeats the provisions already in existence in the Wireless and Telegraphy Ordinance for the licensing of

telecommunications equipment, the maintenance by dealers of a register of such equipment and the licensing to import such equipment into Gibraltar.

Section 27 states that telecommunications equipment shall be construed as references to stations and equipment for the emitting or receiving of electromagnetic energy. These provisions already exist but, to my knowledge, are not being observed by all people dealing with such equipment given the description of what telecommunications equipment is. I think if we are updating the Ordinance we need to check this, Mr Speaker. For example, a satellite dish falls into that category. We believe a mobile telephone falls into the description given of telecommunications equipment. Is it that the Government continue to want, given that it was in the old Bill, to ask dealers involved in mobile telephones and satellite dishes to keep such registers and have such import licences as defined in the Bill? Or is it that the definition in the Bill has not been updated, is too wide and covers more than ought to be covered by these provisions? Since these provisions exist in law, Mr Speaker, may I ask whether the Government can find out before the Committee Stage how many dealers there are dealing with such equipment as defined by the Wireless Telegraphy Ordinance? What records are kept by dealers? And who checks them? Is it that there is provision in the existing Ordinance that we are to replace which has not yet come into effect?

If one turns to sections 36 to 38 covering the licensing of dealers of telecommunications equipment, Mr Speaker, and reads this together with the interpretation of what constitutes telecommunication equipment, then the existing provisions on the new ones both seem to suggest that a person selling a mobile telephone or a satellite dish has to comply with the requirements set out in these sections, must be licensed to sell such equipment, keep records of imports and sales with names and addresses of customers et cetera. Section 39 is even worse, given that de facto if this interpretation is as wide as we think it is, it would not permit anyone to import a mobile telephone without a licence to keep or establish such equipment, something which is

inapplicable if it is related to a mobile telephone that comes across the frontier in someone's pocket.

Mr Speaker, there is no definition in the Bill as to what is meant by the electromagnetic spectrum. I know that in the recent case brought by Gibnet, the argument was used that the electromagnetic spectrum includes "light" and that therefore such a description unaccompanied by a more precise definition could be construed as Government purporting to licence and regulate light. Having read the remarks of the Judge in my opinion he avoided having to give an opinion on that specific matter. Nevertheless, Mr Speaker, if we are indeed updating a Bill and such a point has been made I think it is our duty to check this point before we proceed with the Bill. I do not know whether such a definition is used as loosely in the UK or in other English-speaking jurisdictions in the EU, namely Ireland, but it would be interesting to find out and compare.

We now come to the provisions which exist in the Wireless and Telegraphy Ordinance over misleading messages and interception and disclosure of messages. Mr Speaker, what was introduced by the Hon Mr Peter Montegriffo in December 1997 protects the public from those who might use telecommunications equipment to obtain information as to the contents of messages between two parties or disclose such information so obtained. This only covers Part IV of the Bill which covers what is today Wireless and Telegraphy. There are provisions in Part III of the Bill setting out offences for such interference by persons engaged in operating a public telecommunications network. These provisions are those which exist today in the Public Utilities Undertaking Ordinance. The first point I would like to make is that I think that without intention as a consequence of the powers given to the Minister in the Ordinance we have substituted in these provisions the Wireless Officer for the Minister and we have a situation where the Bill now reads ".....otherwise than under the authority of the Minister", I am looking at the old Bill which is what the same Bill has. But in section 41, page 216, the old Bill says ".....any person who otherwise than under the authority of the Wireless Officer or in the course of his duties as an officer of

the Crown.....” and then sets out what that person ought not to do other than with the authority of the Wireless Officer. Here, as a result of the separation of powers between the Minister and the Wireless Officer, I think that having given powers to an active politician, a Minister, for him to exclude, for whatever reason, any party from the provisions of this Bill, is something which is incorrect and I think ought to be changed and ought to read “the regulatory Authority” instead of “the Minister”.

The other point is that the provisions in Part III only apply to persons operating a public telecommunications network in a situation where we are opening that network to others, through a licensing and regulatory mechanism, and that the employees of those other future operators should also be covered by these provisions and I think they are not being covered by these provisions. Only the operators of the public telecommunications network are covered by these provisions with no cover made for other employees of other companies that might have access to the network. The third point, Mr Speaker, is really whether the provisions in Parts III and IV taken together go far enough in protecting the public, that is, the user of the telecommunications network from interception and disclosure of conversations or messages. There are two EU Directives relating to the free movement of data mentioned by the Chief Minister this morning but which also covers, in particular, the right to piracy of such data which will need to be applied in Gibraltar too, they are Directive 95/46EC and Directive 97/66EC. Article 5 of that Directive, which is an update of the previous one, states “.....Member States shall ensure by our national regulations the confidentiality of communications by means of a public telecommunications network and publicly available telecommunication services. In particular they shall prohibit listening, tapping, storing or other kinds of interception or surveillance of communications by others than users without the consent of the users except when legally authorised”.

Mr Speaker, it would be a shame at this stage when we are introducing a totally new Bill with new concepts for the provision, licensing and regulation of our telecommunications, that we

should not use this opportunity to be as clear and categorical as the EU directs us to be in protecting the public from unscrupulous elements in our society who would interfere in the private affairs of the users of the telecommunications service. I do not think that the provisions contained in the Ordinance cover fully these directives and I think we should use this opportunity to do so now at this stage.

Mr Speaker, I now turn to section 43 which deals with the provisions for emergencies as it relates to Part IV of the Bill. This is not a new subject. When the Hon Mr Montegriffo introduced this clause in December 1997 in the Wireless and Telegraphy Ordinance we said that we would abstain over this clause because we were unsure of its constitutionality. This is the part for emergencies which is Clause 43. This led to accusations from Government Members about us wanting to protect the powers of the Governor and inevitably the Chief Minister gave us a lecture on constitutionality and so on which he often repeats to try and defend his position. Mr Speaker, the clause states that if at any time in the opinion of the Minister an emergency has arisen in which it is expedient that the Government should have control over the transmission and reception of messages by telecommunications the Minister may, during the continuance of such emergency make such orders as appear desirable with respect to the possession, sale, purchase, construction and use of telecommunications equipment in Gibraltar or on board any ship whilst in the territorial waters thereof. The fact that the Governor was substituted by the Minister is not the issue here. The control of the telecommunications by the Government is not the issue here if such an emergency arose. What we object to is that what constitutes an emergency is left to the sole judgement of one person, that person being the Minister. We do not believe this to be right. If previous to 1997 that person alone was the Governor, it was wrong then but if we are going to progress from the position of the Governor alone in his wisdom, judging what constitutes an emergency, it is not by transferring that absolute right to the discretion of opinion of one Minister regardless of who he is without the necessary checks that must go hand in hand with any constitutional change as the Chief Minister used to

repeat parrot fashion when he sat on this side of the House. If it was wrong before for the appointed Governor to be the sole arbiter of what constitutes an emergency, it is equally wrong today that the Hon Mr Azopardi, or whoever comes after him, should be the sole arbiter of what constitutes an emergency particularly in respect of such an important matter as the Government having to decide to take steps to have control of the transmission of messages through telecommunications. If that emergency arose then the Government have the right to take the steps necessary, that is not in question. What is in question is that the person who decides what constitutes an emergency and for how long that emergency is in operation is one person, be that one Minister or whatever. We are not, as the Chief Minister suggested in December 1997, protecting the rights and powers of His Excellency the Governor in this respect. We are aiming to protect the public from granting excessive, unchecked and absolute powers to one Minister in an area as important and delicate as this one.

Finally, Mr Speaker, there are other issues of less significance which we would like to raise such as the reasoning for the Authority to be able to modify or withdraw schemes for subscribers, why the Minister has to make assessments about whether certain services are affordable in a free market environment, the intention of Government with respect to commencement dates of parts of the Ordinance and the relevance this might have with the blocking by Spain of our numbering plan when the Chief Minister has already mentioned that he is going to bring an amendment to that effect. Perhaps it is not connected with the commencement date of each part of the Ordinance. I submit to the House that the Government might wish to think and consider some of the points that have been raised in what I guarantee to Government Members is a constructive analysis of the Bill. The Bill is complex and instead of wasting more of the House's time it might be better if the Government agree if we could clear some of these issues with the Law Draftsman or whoever the Chief Minister might direct before taking the Committee Stage to see whether they are mere matters

of interpretation or more substantive matters of policy. Thank you, Mr Speaker.

HON J J BOSSANO:

Mr Speaker, although the mover has concentrated predominantly on what the Bill is intended to do to create what he described as the framework within which a subsidiary Regulation would give effect to Community obligations in the directives mentioned in the Explanatory Memorandum, as the Explanatory Memorandum indicates the Bill does two other things so it is really as if it were three different Bills rolled into one. In looking not at the EEC dimension but at the dimension on existing legislation, the replacement of Part II of the Public Utilities Ordinance which deals with the telephone service and the replacement of the Wireless Telegraphy Ordinance is done in a way that is similar for example to what we saw happening this morning in the Income Tax Ordinance where in one case we had a couple of words being changed but the existing clause is repealed and the clause incorporating the thing being reworded is put in its place. For us to be able to assess whether in what is described in the Explanatory Memorandum as the re-enactment and updating of the Wireless Telegraphy Ordinance, what is being done to the existing Ordinance can be considered to be updating, that is to say bringing it up to the year 2000 or retrograde is impossible because the only way we can tell what is new in Part IV is by going through every word in the Wireless Telegraphy Ordinance and finding the comparable provision in Part IV and identifying to what extent they are exact replica or changes and where there are changes whether the changes have an effect other than that which is covered by the simple explanation in the Explanatory Memorandum that the opportunity is being taken to update and though the provisions in respect of the telephone service are less voluminous the same applies in respect of the repeal of Part II of the Public Utilities Undertakings Ordinance. In particular I think it does not help to make the law understandable to people in that we have in what used to be called Wireless Telegraphy we now have Telecommunications Equipment and in which is what used to be Wireless Apparatus and what is now Telecommunications

Apparatus is in fact the telecommunications system. Given that, it is not easy to establish whether for example the many facets that there are today in terms of people using pieces of equipment to make telephone calls internationally, for example, using a computer through the internet to make calls from computer to telephones whether that is covered by some of the definitions on the descriptions in either of what used to be Wireless Telegraphy and is now Telecommunications Equipment or in the part which is telecommunications apparatus because if one looks at the definition and simply on the basis of trying to apply to the real world what this says, telecommunications apparatus means apparatus constructed, designed or adapted for use in the transmitting or receiving anything falling within any one of the following: speech, music, sounds, visual images, signal serving for the importation of any matter otherwise than in the form of sound or visual images, or signals serving for the actuation or the control of machinery or apparatus. A signal that is sent out to have remote control of a piece of equipment is a telecommunication apparatus on the basis that it is being conveyed by means of a telecommunications network. The reason why we are saying that we need to sit down with somebody who has put that there and say to him "can you explain whether in fact this means that since I am getting a telephone call in my computer and it enters through either the service provider that is Gibnet or Gib Nynex and that reaches me on my local telephone number, is that then a telecommunication apparatus and if it is does, does that mean that now people selling computers with modems in them are now selling telecommunications apparatus and was that the case in the Public Utility Undertakings Ordinance as it stands now or is there a change in the definition which makes them because some of these definitions if we go back to the contrast between the Wireless Telegraphy and the Public Utilities Undertaking and we go back to the origins of this legislation it is quite obvious where they both started.

The Wireless Telegraphy Ordinance was put in place to control the operation of Cable and Wireless and the Public Utilities Undertaking Ordinance Part II dealt with the Government

Telephone Department. If we are now removing those pieces of legislation from the statute book then it seems to me that as my Colleague pointed out that what is being described is a process of re-enactment and updating, we look at the definitions and we find that some of those definitions have been there since the year dot but it is quite possible that in the light of technological development even an unchanged definition may have now a wider coverage than the old one had and it is not possible from either what has been said on the general principles of the Bill so far which has been predominantly on EEC requirements or indeed the Explanatory Memorandum to determine whether it is an intentional extension as a matter of policy or an unintended extension simply because the definition now catches something that it previously did not catch. If we look, for example, by way of illustration at the definition of telecommunication services on page 161 we are told that telecommunication services means other than in section 15 services other than radio broadcasting or television broadcasting. I ask the Government, does that mean that in the whole of this Ordinance, except section 15, radio broadcasting and television broadcasting are outside the scope of the Ordinance in terms of the mention of the words "telecommunication services" because that is what it appears to be saying. But if we go to page 181, section 15 and we look at sub-clause (iv) we are told in this section, in section 15, telecommunications services means services other than radio broadcasting and television broadcasting. That is what we have just been told the opposite of in the beginning, or is it not? Mr Speaker, I have just read page 161 and I have asked does the definition in page 161 mean that except in the case of section 15 it does not include radio and television broadcasting and I have been told yes by a nod from across the floor. Then I say if it is except in section 15 it seems to me logical that that leads me to conclude that in section 15 radio and television are included unlike the rest of the law but when I go there I discover that in section 15(iv) on page 181 it says the same as I have just read out in page 161, that is to say that in this section as well, in section 15, telecommunications services means services other than radio broadcasting or television broadcasting. Does that mean then that telecommunication services does not include

radio and television anywhere at all in the Ordinance because if that is the case it seems peculiar that in one section the exemption is in 15 and then in 15 it says that it is not exempt. Therefore it is not included in that section either. I am using that as one example of a number of things that we have been looking at where on the surface of reading it, it would appear to us to be indicating one application in one area and something else in another area and it is really either we need to have a Committee Stage in which somebody comes armed with all the information and we go through every word or from our point of view preferably and more efficiently that we list all the things that we would like cleared up and then we can take the Committee Stage in the knowledge that we know that in voting for or against something we are doing so either because we agree or disagree with what the Government are going to do. The fact is that we do not think we can do a proper job of our duty in analysing this in taking First and Second Reading in the morning and Committee Stage in the afternoon on something that has taken five years to put together.

HON CHIEF MINISTER:

Mr Speaker, the hon Members have had a month in which to have submitted that list of queries to the Government and/or its Draftsman rather than just raise them today. Presumably, at the Hon Mr Perez' request we did make available this text to him before it was public precisely recognising that it is a complex piece of legislation and that the law only requires the Government to give a week. It is not serious to expect the Opposition to do a thorough job in the space of one week so we gave the hon Member the text as soon as it was finalised and available to us. In any case it is not the Government's intention to take the Committee Stage on this Bill today anyway. This is the Bill that we are going to leave over until the next sitting of the House but that is not too far away in the future either. I regret that I cannot delay the Committee Stage and Third Reading beyond that day for the reasons that I indicated earlier to the hon Members. That does not prevent them, in the meantime, to submit their list of queries such as we can clarify between now and the resumed sitting date, will have been clarified to their satisfaction and those

that have not. All I can say to the hon Members is that if there are any points left over on which we are not available to resolve to their satisfaction before that date, it does not mean that that is the end of their consideration as far as the Government are concerned. What the Government would wish to do is for the reasons that I have explained to them proceed with the legislation and bring amending legislation to correct any defects that the hon Members are able to spot. For example, I think the Leader of the Opposition is right in the point that he makes in the definition of telecommunication services that there is a terribly unhelpful reference other than in section 15 in the definition of telecommunications services in page 161 in the definition for the purposes of the whole section. Certainly that is one that we will look into and which we will be able to clarify and if it is a mistake in the drafting certainly to correct it at Committee Stage. If they have their list of specific queries I would urge them please to submit them to us immediately so that we can try and get meaningful answers to them before the next meeting of the House. However, I have to say that they might have done so already in respect of such points as they have been able to spot given that they have had this legislation available to them now for nearly a month.

Mr Speaker, if I can start with the points raised by the Leader of the Opposition. The hon Member is correct in his insinuation, although he did not state it, but of course the Government cannot commence this legislation until simultaneously we are ready to immediately commence the Regulations because otherwise we would be left with no legislation to the extent that we repeal existing legislation before we have introduced the Regulations. The intention is that the operative part of this legislation will be commenced moments before the implementation time of the Regulations giving substantive effect to the transposition. Let me tell the hon Member that the changes in Part IV are minimal. If he is interested in knowing what they are, I can arrange for somebody to point them out to the hon Member but they are minimal changes. Mr Speaker, I cannot explain to the hon Member the reasoning as to why the Draftsman thought that it was necessary to abandon the use of the phrase "wireless

telegraphy equipment" in favour of the phrase "telecommunications apparatus".

HON J J BOSSANO:

The Chief Minister means wireless apparatus which is consistent with the sort of radio receiver in terms of the average layman..... what is a radio receiver used to be a wireless apparatus and is now telecommunications equipment?

HON CHIEF MINISTER:

Yes, yes. That is what I was trying to say. It is just a modernisation of language, it was not strictly necessary. Indeed, I am told that in Australia and in the United Kingdom they retain the use of the word "wireless", but the European Union give the choice to choose our own language because Part IV does not respond to any Community requirement. Part IV is just bringing across the existing domestic legislation and taking the opportunity to modernise the language. I am told that the Community is thinking of replacing all the language used by the different Member States in respect of that type of equipment in favour of something that they will call "electronic communications". I am not sure if the hon Member thinks that that makes it more or less complicated but that is what I am told they intend to do. Mr Speaker, therefore, there is no change in this legislation to the definition, to what is included or not included under Part IV. Nothing that was not covered before is covered now because all that has happened is that a different label has been placed to the same definition. The extent of the equipment covered is the same as used to be covered before under Part IV to equipment to which Part IV applies, to equipment the remainder of the Bill applies then there is a different definition to continue to apply.

HON J C PEREZ:

I understand that it was in the old Bill but in looking at this more closely it seemed to me that having said in the old Bill that telecommunications equipment shall be construed as reference to

stations and equipment for the emitting or receiving of such electromagnetic energy, that it caught the mobile telephone as well in the definition. Surely, we do not want dealers in mobile telephones to register every mobile they sell and the name of the person buying it and so on. Surely, it was not the intention in 1997 and it is not the intention now and if they are updating what was there in 1997 we ought to look at that as well.

HON CHIEF MINISTER:

Mr Speaker, the answer to the hon Member is that that is exactly what the existing law requires. It is just by administrative decision or inertia.....

HON J C PEREZ:

That is what the law requires?

HON CHIEF MINISTER:

Yes, Mr Speaker, I am being told that that is the case. It is just that it is not actually physically taken seriously. This takes me to one of the points that the hon Member made in his address which I have not yet reached.

Therefore, if I can just finish with that point which is the last one that was made by the Leader of the Opposition. Mr Speaker, the definition of what is a licensable telephone network and the hon Member gave the example of voice telephony along the internet, that remains for the purposes of Part IV whatever it has always been. There has been no change and the definition of telephone services and networks covered by the remainder of the Bill, Parts 1, II and III, that is out of the directive. To the extent that there are matters of domestic law there have been no substantive changes and to the extent that there are changes, they are changes required by the directives but not in Part IV, those will be in Parts 1, II and III.

Mr Speaker, the Opposition spokesman for telecommunications, the Hon Juan Carlos Perez, continued, having made the request echoed by the Leader of the Opposition, that we should not take Committee Stage and Third Reading and I have covered that point already, the hon Member asked "why does the Minister have power over licensing and regulation?" Mr Speaker, the Minister does not have power under licensing and Regulation. The Minister has power under licensing. The Minister is the licensing authority as opposed to the Regulator who is the Regulatory Authority. In addition, in his licensing capacity, the Minister is obliged to consult the Regulatory Authority but the Licensing Authority is the Minister. The Minister has no Regulatory Authority. The Regulatory Authority is the Regulator and he has rights to be consulted by the Minister in the case of the Minister's licensing requirements and then has his own powers, exercisable all by himself in the area of regulatory activity which is to ensure that licensees are complying with the terms of the licence, that they are complying with the terms of the Ordinance, that they are complying with the law generally. The traditional function of the regulator is exclusively a matter for the regulator. The Minister has powers to make Regulations. The Minister has powers to make subsidiary legislation but regulations for that purpose are not to be confused. I am sure the hon Member does not, with regulatory powers. The Minister is not involved in the regulation of the industry. The Minister is involved in the licensing of the industry and in making regulations under the Ordinance but not in regulating in terms of the regulatory Authority, the industry.

Mr Speaker, I suppose we can only disagree on the hon Member's view, peculiar, if he does not mind my saying so and unusual that the Regulatory Authority should also be the Licensing Authority. The issuing of licences as opposed to the regulation of licensed activity is just as easily an accepted act as it is any other business especially in an area of the economy as vital as this. I had already told the hon Member, before he made his own observations, that in the United Kingdom and indeed in many other Member States..... I have been told that the Spaniards agree with the hon Member but the United Kingdom agrees with us and that is that the Licensing Authority is the

Minister and that is the case in the UK. I do not accept what the hon Member says has been a ruling by the Commission. The Government are aware that the Commission have issued a set of guidelines as to how the powers between licensor and Government owning a shareholding in a telephone company has to be exercised. They had issued guidelines because it is allowed subject to those guidelines being followed and not because it is not allowed, because if it is not allowed there would be no need and certainly it would be incongruous for the Commission to have issued guidelines saying how the function of owning a telecommunications company has got to be kept separate from the licensing function. Therefore, the Chinese walls requirements are clear and the Government are aware of this issue but we do not believe that we are any less well equipped to implement those Chinese walls than any other Government. Mr Speaker, I would just ask the hon Member to contemplate the scenario when licenses are issued to GibTel and Nynex if these matters had been outside the hands of the Government? These are important areas of policy and of economic life and the idea that these decisions should be exercised by someone who is not accountable to the Government and who is not obliged to take account of Government policy is not one that frankly we consider to be attractive and therefore we believe that in following the United Kingdom model of reserving the licensing function to the Minister and giving away the regulatory function exclusively to this independent regulator, that we are necessarily following good practice because I do not believe that the United Kingdom would implement bad practice in this respect and certainly it is a practice fully permitted by the terms of the directives, at least as they stand at the moment. It may be that there may in future be some other directive or some other development in the Community that will not permit that to continue to be the case, in which case it will have to be reviewed.

Mr Speaker, the hon Member is right in what he says in relation to how Part IV sits with the rest of the Bill but only because I omitted to mention, in my own address, that there is a need for there to be a set of exemption regulations in order to exclude from the ambit of this legislation the sort of equipment that is covered in part IV

which it is not intended to subject to the same licensing regime as the rest of the Bill. Therefore, when those exemption regulations are brought into effect the types of equipment which presently appear to have the full rigour of the licensing regime extended to them will actually not be so because they will have been exempted from the remainder of the Bill by the exemption regulation and there would simply be then that sort of equipment, cordless telephones, children's remote control type equipment, all that would simply be left subject to the existing Wireless Telegraphy Ordinance-type regime and would not be exposed to the much more sophisticated licensing regime of the remainder of the Ordinance proper.

Mr Speaker, it was on the advice of the Department of Trade and Industry in the United Kingdom that the whole of the spectrum was included. I hear what he says about laws. This legislation has firstly been drafted by lawyers acting for the Government. Then it has been looked over by our own people, the telecommunications regulator designate and others. Then it has been approved by the United Kingdom Department of Trade and Industry's own lawyers. None of that means that the hon Members are incapable of finding defects with it and any defects that they find of course we would be grateful to have pointed out to us. *(Interruption)* I am not familiar with the part of the judgement to which the hon Member refers. I am not sure that he himself is saying the point has been disposed of in manner that requires us to take the view that it should not be included but it follows United Kingdom legislation and if it is wrong we have both got it wrong.

Mr Speaker, the hon Member pointed out to section 41(1) and asked whether it was right that as a result of the splitting of functions between regulator and licensor that this function in section 41 would fall on to the Minister and not on the regulator. Of course, Mr Speaker, the function of section 41(2) was previously exercised by the Wireless Telegraphy Officer in his capacity as licensor and all the functions of the previous licensor are now vested on the Minister as they are in the United Kingdom. I am certain that I do not agree with the hon Member when he

says that it is wrong for it to be the Minister who has to authorise certain things failing which they are offences. Everything that the Minister does by way of licensing has attached to it an offence if one does it without the Minister's license. The hon Member's point of principle appears to be that it should not be Ministers who have the power to give or not to give, to say or not to say, in a way which results in the commission of an offence otherwise but that happens all of the time.

HON J C PEREZ:

Would the hon Member give way? I am not sure whether this part of the Ordinance is the one that..... for example Police Officers might have to come and use in the event that because of an investigation they would like to interfere with the wireless telecommunications of some people.

HON CHIEF MINISTER:

No, Mr Speaker, this section does not give the right to intercept. This is not a right to intercept telephones.

HON J C PEREZ:

"A person who otherwise than under the authority of the Minister". The Minister has the authority to empower people to intercept as the Ordinance is read.

HON CHIEF MINISTER:

Mr Speaker, the provisions are the same ones as are there already. This is not new law. In the UK, I am advised that these powers are held by the Secretary of State who is an elected and active politician. Certainly I have to tell the hon Member that as a matter of principle..... I do not want to engage right now in constitutional discussion, indeed I suspect that he probably agrees with me, that as a matter of political principle I do not think that we should proceed on the basis that what is okay for elected ministers in the UK to do is wrong simply because it is done by

Ministers elected here by our own electorate as opposed to the UK electorate. I can tell the hon Member that there has been no conscious decision on the part of the Government..... this is one of the issues that as the hon Member says has fallen by the..... This is not a function that is appropriate for the regulator to exercise. I do not see anything wrong with this but what I will do between now and the Committee Stage is have a closer look at it to see if it raises any of the issues that the hon Member is suggesting. The hon Member ought to bear in mind that of course an officer in the course of his duties as an officer of the Crown already has the powers to do this, without ministerial authorisation. Therefore, Mr Speaker, that is already the case.

HON J C PEREZ:

Would the hon Member give way? Certainly, if it is going to stay in there it needs some sort of regulation to say when and how and for what purpose that power may or may not be used.

HON CHIEF MINISTER:

Mr Speaker, it is not an issue that has been looked at. It is simply the bringing across from the existing law of law that has always been the law of Gibraltar. As there is no longer something called the Wireless Telegraphy Officer it has just been parked under the name of Minister because that is where it is in the United Kingdom. Certainly, I am willing to look at it to see if it raises any issues but if the matter had to be resolved right now, which it does not have to be resolved right now, my information would be to say it is perfectly okay. It cannot be wrong as a matter of principle if it reflects the position as it is in the UK. I do not think we should proceed on the basis that our Ministers here cannot be trusted with powers that Ministers are trusted with elsewhere. Whatever the hon Member might think of Ministers in this or any other government at any given time, I think as a matter of principle that the hon Member would probably subscribe to that view as well.

Mr Speaker, the other point that the hon Member made was when he asked whether Parts III or IV go far enough to protect the

public. This legislation deals only and purports to deal only with the transposition of the directives that it mentions there. There are two data protection directives on which drafting work is at an advanced stage - one is the Data Protection Directives and the other is the Data Protection Telecommunications Directive. A particular one in relation to telecommunications in which legislative drafting is also at an advanced stage but that data protection legislation will be brought to this House separately as a package and this is not an attempt nor does this legislation purport to cover any of those data protection directives, not even telecommunications. Although there is the reference to the requirements of the telecommunications directive precisely because it is not already law. If it had already been or if we had been bringing the law today on telecommunications then we could refer to the Data Protection Telecommunications Ordinance but we cannot because the law is not yet available and therefore we are incorporating the terms of the directive by reference.

HON J C PEREZ:

The Chief Minister misunderstood what I was saying. Given that there are provisions of one kind under one section of the law and provisions of another kind under another section of the law, and there is this directive that we are going to have to implement, would it not be better to join both things together and implement the directive now? The hon Member has already said that he has got a timetable and that he intends to implement the directive at a later stage.

HON CHIEF MINISTER:

Mr Speaker, it was the intention to do them at the same time and much of the early drafting was done with a view to taking the telecommunications legislation and the data protection legislation at the same sitting of the House but the data protection drafting was not as advanced as the telecommunications legislation and this became urgent so we decided to proceed with this on its own but it was not exactly the intention to have proceeded in the way that the hon Member suggests might have been better.

Mr Speaker, that leaves me with the point of emergencies. I will not deal with the question of whether it is right that the Government as opposed to the Governor should be in control because I believe the hon Member made clear that that was not the point that he was making. The hon Member says that it is right that the Government should be in control but nevertheless he felt that even though it was right for the Government to be in control of the network, if an emergency exists and is declared he nevertheless believes that it should not be the Minister who declares the emergency in the first place. Having narrowed the issue between us in that way all I can tell the hon Member is that it is the same as happens everywhere else. In the United Kingdom the only person who makes the decision on whether an emergency exists for the purposes of their equivalent of this section is the Secretary of State. Mr Speaker, I do not know whether the hon Member believes that things that are okay for Ministers to do in the UK are not okay for Ministers to do in Gibraltar. If he believes that, all I can tell him is that I profoundly disagree with him. Certainly in uncontroversial and uncontentious areas where our small size makes it less desirable that things are done by Ministers than in a larger country but certainly not in run-of-the-mill sort of stuff such as this. I am advised that this power is held by the Secretary of State in the UK and my hon Colleague Mr Azopardi, who the hon Member believes should not be the only man to make this decision is in the same democratic position as his counterpart in the United Kingdom. Somebody has got to make the decision of whether an emergency exists. An elected Minister who is answerable in this House, who is accountable for his decisions and for his actions initially in this House and ultimately to the highest court in the land which is the electorate seems to me better than the alternative which must necessarily be..... and I am not putting to the hon Member the view that it should be the Governor..... I suppose he might have in mind some form of quango or commission or..... Mr Speaker, the Minister is the Minister and there is joined up Government. Whether in practice this is a decision that any Minister of Trade and Industry and Telecommunications would actively make without referring the matter to the Council of Ministers is another matter. It depends I suppose for how long he wants to keep his

portfolio for but certainly I think it is right that the power should be vested in the Minister as it is anywhere else and then the Government make their internal decisions however they see fit.

HON J C PEREZ:

Mr Speaker, I am merely protecting not only the public but the Minister too because having heard his last comment and having been in office for eight years myself I would not like to be in a position of having to decide in my own opinion what constitutes an emergency particularly since the Chief Minister has said what happens if he consults and the thing is wrong, later he is the one responsible answerable to the House. I think it has to be a more collective decision by more people in power to decide what constitutes an emergency and I do not think the control of messages is something minor. It is something which is of major importance.

HON CHIEF MINISTER:

Yes, of course it is of major importance. Where we part company is not in thinking that this is a matter of major importance. It is in his apparent view that because things are of major importance they cannot be entrusted to Ministers of the elected Government. I think that any Minister of an elected Government is in a position precisely to undertake things because they are important and because the electorate has voted them in and entrusted them to exercise judgements of this sort.

Mr Speaker, if the Government were doing here something which was unique to Gibraltar and which was not how governments in other European countries did it, I would have a little bit more sympathy for his view but I am in the considerably comfortable position of being able to tell him that the way that we are going to do it here is the way that it is done in most government states and certainly the way it is done in the United Kingdom, according to the information being given to me. Therefore, I think that it raises no issue of principle. I have every trust in the Minister for Trade and Industry and Telecommunications to exercise this important

function as responsibly as he exercises all his other considerable and important ministerial functions. The fact that he is only the Minister of a colonial government does not lead me to the inevitable conclusion that he is therefore disqualified from exercising judgement in the same important areas as Ministers of non-colonial governments.

Question put. Agreed to.

The Bill was read a second time.

HON CHIEF MINISTER:

I have the honour to move that the Committee Stage and Third Reading be taken at a later date.

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 Gibraltar Regulatory Authority Bill 2000;
- (2) The Income Tax Ordinance (Amendment) Bill 2000;
- (3) The Immigration Control Ordinance (Amendment) Bill 2000;
- (4) The Social Security (Insurance) Ordinance (Amendment) Bill 2000;
- (5) The Criminal Procedure (Community Service Orders) Bill 2000.

THE GIBRALTAR REGULATORY AUTHORITY BILL 2000

Clauses 1 to 4 stood part of the Bill.

Clause 5

HON CHIEF MINISTER:

In section 5(5)(a) on page 140 there ought to be an "or" after the semi-colon so that it should read "A delegation of the nature referred to in sub-section (2) shall be made only on terms which allows the Gibraltar Regulatory Authority to revoke the delegation: (a) in its absolute discretion; or (b) upon the direction of the Minister; and.....". It is the insertion of "or" after the semi-colon in (a). I do not think this alters the meaning. My further proposal is to remove "and" from after (b), if we do not delete the "and" it suggests that one can only do it when both (b) and (c) are present. (b) and (c) are not cumulative conditions, they are separate and free standing conditions. I think the comma can remain. After the semi-colon in (a) we are putting "or". Then in (b) we are simply removing the word "and" after the comma. My final amendment is to delete (c) and have the words "and without any liability upon the Gibraltar Regulatory Authority or the Minister or both..." then becomes something that applies to both (a) and (b), ".....without any liability upon the Regulator or the Minister or both....." are words that apply to all revocations of delegations whether it is in the discretion of the Authority or upon the direction of the Minister. We would delete the (c), we would add the word "and" in front of the word "without" and bring it all back to the margin so that it is in line with the word "delegation" above it.

Clause 5, as amended, stood part of the Bill.

Clauses 6 to 8 stood part of the Bill.

Clause 9

HON CHIEF MINISTER:

In 9(1) I have already suggested the removal of the comma. My proposed amendment is to insert after the words "shall have power" to add there, instead of the comma, the words "within the limits of allowances and expenses set by the Assembly". This is for the protection of the Authority, so that if the Assembly denies it

the funding to do what it might be required to do, if it does not have the funding from the Assembly then it cannot be held in breach of statutory duties for not doing it. That is the effect of inserting there, after the words "Authority shall have power" the words "within the limits of allowances and expenses set by the Assembly".

Mr Chairman, and to delete the same words where they appear in sub-section (2) which is a permissive section and therefore cannot expose the Authority to liability. "Within the limits of allowances and expenses set by the Assembly" is not necessary in sub-section (2) but is necessary in sub-section (1) and is not necessary in sub-section (2) because sub-section (2) is permissive and not mandatory. Certainly no one could say that the Authority is in breach of any obligation for having failed to do something that it is only able to do as opposed to something that it must do.

HON J J BOSSANO:

Mr Chairman, surely in sub-section (1) there are no duties put on the Authority? It says it has the power to do all these things. Surely, having the power to do something is not the same as requiring that thing to be done? The argument does not seem to hold together.

HON CHIEF MINISTER:

Yes, I suppose I could more clearly have put it by saying that sub-section 9(1) incorporates 9(2). If the hon Member reads 9(1) it says "subject to this or any other Ordinance the Gibraltar Regulatory Authority shall have power....." we have now inserted within the limits of allowances and expenses set by the Assembly to do all things necessary for and ancillary or reasonably incidental to the carrying out of the functions referred to in section 3(2), which are none.

Mr Chairman, I think the hon Member is right. I would like to withdraw the amendment to 9(2) and leave the words in 9(2).

They are not excluded by the amendments we have made to 9(1). I think the hon Member is right.

Clause 9, as amended, stood part of the Bill.

Clauses 10 to 14 stood part of the Bill

The Long Title

HON CHIEF MINISTER:

Mr Chairman, to delete from the title the words, "the payment of monies to it" which no longer arises because licensing fees are not payable to the regulatory authority. Licensing fees are payable to the Government and this was there at the time. That misconception has been taken out from the Bill but the Draftsman omitted to reflect that in the title.

HON J J BOSSANO:

Mr Chairman, obviously to be consistent we will vote against that deletion because the payment of licence fees to the Authority presumes the issue of the licences by the Authority which my Colleague has been advocating.

The Long Title, as amended, stood part of the 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 Mrs Y Del Agua
The Hon J J Holliday
The Hon Dr B A Linares
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 Dr J J Garcia
The Hon S E Linares
The Hon Miss M I Montegriffo
The Hon J C Perez
The Hon Dr R G Valarino

THE INCOME TAX ORDINANCE (AMENDMENT) BILL 2000

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

THE IMMIGRATION CONTROL ORDINANCE (AMENDMENT) BILL 2000

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

THE SOCIAL SECURITY (INSURANCE) ORDINANCE (AMENDMENT) BILL 2000

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

Clause 2

HON J J BOSSANO:

Where the provisions are contained for the maternity grant to be reduced in relation to the level of income of the applicant for the grant and we have already said we are against that so if that is going to stay we are voting against that. I am not sure whether that requires that a separate vote should be taken because it is a clawback in the context of Social Security about which we feel very strongly.

In Section 2(3) is where the benefit is provided. What we are voting against is Section 2(2) really which is where there is a

provision that says that the amount of benefit is reduced by £35 for every £1000.

Mr Chairman, one way of doing it is to move an amendment which gets defeated and therefore that might be easier than asking for a separate vote on sub-clause 2(2) and sub-clause 2(3) in which case I move the amendment to clause 2 to delete sub-clause (2) and to renumber sub-clause (3) as sub-clause (2).

Question put. The House voted:

For the Ayes: The Hon J L Baldachino
The Hon J J Bossano
The Hon Dr J J Garcia
The Hon S E Linares
The Hon Miss M I Montegriffo
The Hon J C Perez
The Hon Dr R G Valarino

For the Noes: The Hon K Azopardi
The Hon Lt Col E M Britto
The Hon P R Caruana
The Hon H Corby
The Hon Mrs Y Del Agua
The Hon J J Holliday
The Hon Dr B A Linares
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

The amendment was defeated.

Clause 3 stood part of the Bill.

Clause 4

HON J J BOSSANO:

In Clause 4 the reference to the appointed day, what we are doing here is we are saying that the Minister shall determine what the

appointed day should be. As I said in the General Principles of the Bill we read that to necessarily imply that the appointed day and the date of coming into force which is in Clause 1 which we have already voted could not be the same date. If it is the same date then I do not think we can support that we have just voted for the appointed date to be the 10th February and we should now vote giving the Minister, in theory, the power to change the date that has been voted by the House.

HON CHIEF MINISTER:

Mr Chairman, I do not think the Opposition has voted for the appointed day to be 10th February, they have voted for a Bill which says "it shall be deemed to have come into force on 10th February". Imagine all this is happening on the 10th February and then add a provision that says "appointed day". All I did was tell the hon Member this morning that I thought it was an unnecessary provision because it is the intention of the Government that this should operate with effect from the 10th February. Therefore, it is superfluous but not contradictory. I am not quite sure what would be the practical purpose of it but we could pass this Bill today and say that it is deemed to have come into force on 10th February 2000 and the Minister then decides that the appointed day should nevertheless be the 4th April. It is not our intention to do that.

HON J J BOSSANO:

I accept that having said in the House that it is not the intention, I take it but the whole point is that in the clause we are now considering in Committee the payment of the grant is related not to the commencement date in Clause 1, it does not say for example "section 10A(1A) shall not apply to persons who are entitled to maternity grant prior to the date on which this legislation was deemed to come into effect" or "prior to the 10th February". It says "prior to the appointed day". Therefore, on the reading of the Bill it suggests that the appointed day is the date on which the grant comes in and not the date in clause 1.

HON CHIEF MINISTER:

Mr Chairman, I accept that everything that the hon Member says is axiomatic. I do not know why it has been done that way. Perhaps the Draftsman did not know that it was the Government's intention in any case to choose the same days for both. Mr Chairman, it is just safer for us to leave it given that it does no harm than it is to delete it and risk some official then saying "ah, but that was there for some quite different reason" and then find that we have got to come back to the House. Even if everything that the hon Member says is right the consequence is just superfluous, that it suggests that something is going to happen which the hon Members are being told is not the Government's intention that it should happen. It does not do any harm. It does not deprive the legislation of effectiveness and were I 100 per cent sure as I stand on my feet that it could be deleted safely I would agree to delete it because what the hon Member says sounds logical but because it does not do any harm and I cannot be certain that that is right without referral I would like to leave it. I am not actually disagreeing with him, I am just saying to him that even if he is right it is not actually necessary to remove it.

HON J J BOSSANO:

Mr Chairman, I do not want to labour the point unnecessarily but I do not think that in the general principles of the Bill, when I raised the apparent implications of what we are providing in this section, in that different regimes would apply at different dates I do not think that was adequately addressed and therefore I would ask the Chief Minister to take note that if in 4(1) we are saying that section 10A(1A) shall not apply to persons who are entitled to maternity grant prior to the appointed day, the explanation that he gave me was that that was to make sure that the reduction in the level of grant was not applied before 10th February to people getting the £35. That is the answer the Chief Minister gave me and he gave me the answer because that must have seemed to him what the answer ought to be but I put it to him that that cannot be the answer because in fact Section 10A(1A) does not have a table which permits less than £35. If we are legislating

saying that the reduced levels shall not apply to people who get the maternity grant before the appointed day, the maternity grant in question cannot possibly be £35 as I was told earlier because the minimum in that table is £78. So it has to be. One can only apply 10A(1A) to the new level of grant and therefore that is only consistent with the view that there is a commencement date which triggers payment and an appointment date which triggers clawback. That is what I think they are doing. We are in disagreement with that and therefore we have to vote against it because we think that is what this means and I am afraid the explanations we have had do not convince us that that is not what it means.

HON CHIEF MINISTER:

Mr Chairman, the hon Member did not mention the appointed day issue at all. It was I who said in my reply that I thought he was going to raise the question of the appointed day because it struck me as unnecessary. He limited himself, in his own address, to querying whether sections 4(1) and 4(2) were incompatible with one another or were necessary.

Mr Chairman, section 10A(1A) deals with the tapering between £30,000 and £40,000. Therefore, a statement to the effect that section 10A(1A) shall not apply to persons who are entitled to maternity grant prior to the appointed day is saying that if one is entitled to a maternity grant prior to the appointed day one is not liable to that tapering. Section 4(2) then says "without prejudice to the foregoing provisions of this section....." the one we have just been discussing ".....a person who is entitled to a maternity grant prior to the appointed day shall be entitled to a maternity grant as if section 10A(1A) of the principal Ordinance had not been enacted".

HON J J BOSSANO:

.....which is the same section again.

HON CHIEF MINISTER:

Which is the same section again. If such a person is a person who is entitled to a maternity grant prior to the appointed day is entitled to one as if the section providing for the tapering had not been in existence then it is saying that she is entitled to it without the tapering.

HON J J BOSSANO:

Absolutely.

HON CHIEF MINISTER:

But at the old rate, not at the new rate.

HON J J BOSSANO:

No, Mr Chairman. This is the whole point, because there is nothing here that says the new rate shall come into effect on the appointed day. It says the clawback shall come into effect on the appointed day. The new rates necessarily have to come into effect on the 10th February. We have said it is deemed to come in, the law is deemed to come in on 1st February.

HON CHIEF MINISTER:

Yes, but no one can have acquired that right before 10th February. Anybody before 10th February must necessarily only be entitled to it at the old rate.

HON J J BOSSANO:

Yes, Mr Chairman. Therefore, the point that I made earlier I may not have succeeded in making the Chief Minister realise that I was making two different points. First of all that the repetition of the same clause in both 4(1) and 4(2) seemed unnecessary but in any case it seemed to create the option that on 9th February you get £35, post 9th February and pre the appointed day.....

HON CHIEF MINISTER

.....given that that is not the Government's intention, whether the sole concept of the appointed day is necessary at all. That is the point that I was trying to make in my original response to him this morning.

HON J J BOSSANO:

If that is not the intention then I agree with the Chief Minister that there seems to be no other purpose to the appointed day, other than that. It seems to me that the drafting of this has been worked on the premise that we can make a benefit retrospective but we cannot make a clawback, as it were, retrospective and that therefore the clawback starts from a current date and the benefit may start from 10th February. That is how I read this in terms of trying to understand what was in the mind of the person drafting it because that is quite an established principle that we have had on more than one occasion, that taxing people is something one can only do from a current date and therefore if that is the essence of the argument it would then mean that the day the legislation gets assented and comes into effect would be the appointed day but it would be deemed to have come into effect on the 10th February for the purpose of paying people the benefits retrospectively but that one could not apply the clawback retrospectively.

HON CHIEF MINISTER:

Mr Chairman it may be that. No one has said to me that whereas one can have the benefit retrospective that one cannot have the tapering above £30,000 retrospective. I do not think that is the reason although I accept it is a possible reason. I do not think it actually is the reason but if it is I suppose that is all the more reason why we should leave it given that it does no harm. It has got to be there to provide for the fact that if it were the law that one cannot have a tapering down of a benefit applied retrospectively then it would be necessary to reserve to the Minister the need to appoint a day which would necessarily have to be some day after today. But that is an if. I have never heard

the proposition put before that in increasing a benefit retrospectively one cannot have a complicated formula so that the increase for some people is less than for others.

I take note that the hon Members are against the principle anyway but if they were not against the principle and it were going to be their intention to vote in favour, which it is not, it would not have been necessary for them to vote against only because we are not taking this out because this is at worse clumsy and unnecessary and does not do any damage. They are against it for other reasons anyway, that is all I was trying to suggest.

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 Mrs Y Del Agua
The Hon J J Holliday
The Hon Dr B A Linares
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 Dr J J Garcia
The Hon S E Linares
The Hon Miss M I Montegriffo
The Hon J C Perez
The Hon Dr R G Valarino

Clause 4 stood part of the Bill.

The Long Title stood part of the Bill.

THE CRIMINAL PROCEDURE (COMMUNITY SERVICE ORDERS) BILL 2000

Clauses 1 and 2 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 Regulatory Authority Bill 2000, with amendments; the Income Tax Ordinance (Amendment) Bill 2000, the Immigration Control Ordinance (Amendment) Bill 2000; the Social Security (Insurance) Ordinance (Amendment) Bill 2000, with amendments; and the Criminal Procedure (Community Service Orders) Bill 2000 have been considered in Committee and I now move that they be read a third time and passed.

Question put.

The Income Tax Ordinance (Amendment) Bill 2000; the Immigration Control Ordinance (Amendment) Bill 2000 and the Criminal Procedure (Community Service Orders) Bill 2000, were agreed to and read a third time and passed.

THE GIBRALTAR REGULATORY AUTHORITY BILL 2000

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 Mrs Y Del Agua
The Hon J J Holliday
The Hon Dr B A Linares
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 Dr J J Garcia
The Hon S E Linares
The Hon Miss M I Montegriffo
The Hon J C Perez
The Hon Dr R G Valarino

The Bill was read a third time and passed.

THE SOCIAL SECURITY (INSURANCE) ORDINANCE (AMENDMENT) BILL 2000

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 Mrs Y Del Agua
The Hon J J Holliday
The Hon Dr B A Linares
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 Dr J J Garcia
The Hon S E Linares
The Hon Miss M I Montegriffo
The Hon J C Perez
The Hon Dr R G Valarino

The Bill was read a third time and passed.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Monday 23rd October 2000 at 10.00 am.

Question put. Agreed to.

The adjournment of the House was taken at 5.25 pm on Monday 9th October 2000.

MONDAY 23RD OCTOBER 2000

The House resumed at 10.05 am.

PRESENT:

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

Government:

The Hon P R Caruana QC – Chief Minister
The Hon K Azopardi – Minister for Trade, Industry and Telecommunications
The Hon Dr B A Linares – Minister for Education, Training, Culture and Health
The Hon J J Holliday – Minister for Tourism and Transport
The Hon Lt-Col E M Britto OBE, ED – Minister for Public Services, the Environment,
Sport and Youth
The Hon H A Corby – Minister for Employment and Consumer Affairs
The Hon J J Netto – Minister for Housing
The Hon Mrs Y Del Agua – Minister for Social Affairs

The Hon R Rhoda QC – Attorney-General
The Hon T J Bristow – Financial and Development Secretary

OPPOSITION:

The Hon J J Bossano – Leader of the Opposition
The Hon Miss M I Montegriffo
The Dr R G Valarino
The Hon J C Perez

ABSENT:

The Hon Dr J J Garcia
The Hon J L Baldachino
The Hon S E Linares

IN ATTENDANCE:

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

SUSPENSION OF STANDING ORDERS

HON CHIEF MINISTER

I beg to move the suspension of Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the Committee Stage and Third Reading of the Telecommunications Bill 2000.

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 Telecommunications Bill 2000, clause by clause.

THE TELECOMMUNICATIONS BILL 2000

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

Clause 2

HON J J BOSSANO:

Mr Chairman, with your indulgence we are going to need to seek clarification in a number of clauses because in the general principles of the Bill there was no detailed reference to different things and, frankly, the Opposition have looked primarily at Part IV of the Bill in detail which is the one where we were told which sections in the now repealed Wireless Telegraphy Ordinance were being transposed to this one. That has meant, effectively, going word by word through both the new and the old version but we have not been able to do that with the rest of the Bill because it was impossible to know what was in here which is new. Can I say in terms of the definitions, in the interpretation in Part II, there is a reference on page 160 to telecommunications apparatus and telecommunications network. Telecommunications network in this context is defined as a transmission system which includes the conveyance of signals between defined termination points by wire, radio, optical or other electro-magnetic means. That seems, therefore, to mean that the network is something that can be covered by Part IV which is provisions relating to the electro-magnetic spectrum, given the fact that it actually says optical or other electro-magnetic means. If we relate then that to telecommunications apparatus further up, where it talks about the transmitting or the receiving of speech, music, sounds, visual

images et cetera, which is to be or has been conveyed by means of a telecommunications network, that would suggest that, for example, anything that is transmitted between defined points by electro-magnetic means is covered by the definitions here and, of course, there are different definitions given in Part IV for what telecommunication means when it is related to electro-magnetic spectrum. We find that difficult to follow because if we try to give ourselves examples of what is being done in this legislation to control what and we are talking about a situation where, for example, we have already referred in the general principles of the Bill to things like mobile telephones and of course there are modems in computers which can be used for voice telephony both domestically and internationally and therefore in voting we would like to know what we are voting. If we vote for this section are we in fact covering modems in computers in telecommunication apparatus given the fact that they can be used to transmit speech, music, sounds, visual images and all the rest of it? Television receivers and television transmitters have always been covered by the Wireless Telegraphy Ordinance and presumably continue to be so but of course the dividing line between different pieces of electronic equipment is blurring all the time. Nowadays we are approaching the age where a computer can be a television set or a television set can be a computer or a telephone or anything else if one has got enough accessories attached to it. We would like clarification of precisely what is and what is not covered by this and if we have, for example, computers which have modems, I am not sure whether the modem is the apparatus or the computer is the apparatus because presumably without the modem the computer cannot be used for telephony. Does that mean then that the Internet service provider has to be licensed as a network operator given the fact that he is acting as a conduit for the transmission of telephony, speech, music and images?

HON CHIEF MINISTER:

Mr Chairman, the Bill makes it clear that there is overlap between Part IV and the rest of the Bill in so far as concerns those

methods of telecommunications which use the electro magnetic spectrum. If the hon Member, as I am sure he has done, considers the terms on page 204 of the Bill of proposed section 29(18) he will have realised that there is specific provision in the Bill which says that the grant of a telecommunications licence under Part IV does not relieve the person from the obligation to obtain a telecommunications licence under the rest of the Bill and therefore that the legislation is specifically drafted on terms that in the case of certain types of telecommunications networks and services one will need more than one licence and one would need a licence under two parts of the Bill. Sub clause (18) to which I have referred the hon Member reads "...the grant of a telecommunication licence does not relieve a person who has been granted the telecommunications licence or any other person who services the person of any requirement to hold an authorisation under section 16 or any other licence required under any other Ordinance". So if an authorisation is required and the hon Member knows how authorisation is defined in section 2, an authorisation is defined as a licence, then a person may well need to. The hon Member has asked also about specific items of telecommunications equipment, as to whether they are included and also whether certain types of servers, namely Internet service providers are included or not.

Mr Chairman, the main body of the Bill licences telecommunications networks and the provisions of telecommunications services. Those two phrases are specifically defined, so the question whether a particular item of equipment is deemed to be part of the network or whether it is deemed to be an apparatus which is used in connection with the network by an end user is a matter for the exact definition of these items. There is then the separate requirement that apparatus used in connection with a network itself, even if it is not part of the network but something that one could plug into the network, itself needs to be approved by the Telecommunications Regulator to ensure that it would not damage the integrity of the network. To answer the hon Member's question specifically, is an Internet service provider covered by this licensing requirement? Mr Chairman, if we go to the definition of telecommunications services we will see that it

covers services other than radio and television broadcasting, the provision of which consists solely or partly in the transmission and routing of signals from telecommunications networks. Telecommunications networks means the transmission systems and, where applicable, switching equipment and other resources which permit the conveyance of signals between defined termination points by wire, radio, optical or other electro magnetic means. Therefore, Mr Chairman, whether the internet service provider falls into that category depends on whether he falls into that definition. The words are perfectly clear and if the hon Member is asking me whether an internet service provider falls into that category, that does not arise from the legislation. If the hon Member is thinking specifically about the existing situation that we have with one of the service providers who were using a laser link that would form part of a network for these purposes and would require licensing.

HON J J BOSSANO:

Mr Chairman, I am afraid the Chief Minister has not made anything any clearer because I have read and I am able to understand what I read and of course I accept that in section 18 it says that if a person has a licence under Part IV it does not exempt the person from the requirement to hold authorisation under section 16 or any other licence under any other Ordinance. Presumably that is true of every Ordinance. The fact that one is allowed to do something under one law does not mean that one can do what one likes under every other law without the requirements laid down in the other Ordinances. The point is not that it says there that one needs a licence if it applies. I am trying to establish whether it applies, whether it is something that the Government have in the full knowledge of who this is going to apply to drafted the legislation to make the definitions the way they are made so that it is the intention that internet service providers should fall within the definition of telecommunications network and then we know that we are voting for a law that will require internet service provider to be treated the same as telephone companies. It is not worth saying that is what the definition says and either they fall in it or they do not. I would

expect that in moving the Bill in the House the House is being asked to vote to pass a law where it is known to whom it is intended that the law should apply. I think there is in a particular section in Part IV where when we come to that point I will draw attention to it. It could be that there are occasions when the wording of the law appears to have the effect which may not be intended. We have looked at some areas where we do not think the Government could have intended this to be the case and of course we will deal with those specific points when we come to it. But here effectively what I am saying is the definition of telecommunication apparatus and the definition of telecommunications network seems to be cast in a way which will go well beyond the two telephone companies that are now covered by the Public Utilities Ordinance and anybody else that wants to come in and do what they are doing. If that is the case then we need to know that this is being done and we need to know that it is what the Government want to do because the whole business is that this is a liberalisation Bill. What we are supposed to be doing is changing old laws which gave operators in telecommunications privileged positions and we are implementing directives which require the Gibraltar market to be opened up. We accept that, we will support that, not because we necessarily think it is going to be something that we will benefit from but because we have to do it and of course we expect that Gibraltar-based telephone companies should get reciprocal rights everywhere else in the European Union in liberalised markets elsewhere, whether they do or they do not is another matter. But if in the process we are doing other things which are not Community requirements, then it is a matter of Government policy that presumably policy decisions have been taken as to whether to do a. or to do b. We can only try to establish whether this is happening by this method because we do not have a Bill that says ".....in section so and so delete this word and replace.....". If we could do that it would be much easier to identify but in the context where we have something totally being removed and something being put in its place then we have to try and work out ourselves whether in fact the definitions here are such that it catches a very wide area because it is the intention that that should be so.

HON CHIEF MINISTER:

Mr Chairman, if I could just take issue with the hon Gentleman. The hon Member started by asking two perfectly clear questions and when I gave him the answer to one of them and pointed out that the answer was actually contained in the Bill, the hon Member cannot then pretend that he has not asked the question. The hon Member originally asked two separate questions. The hon Member originally asked the question that he now re-asked and he originally asked, unless I have gone deaf, whether we thought that there was..... Mr Chairman, the hon Member can giggle and he has got to hear what I have got to say as well as we hear what he has to say. His original points were two - one was that he had noticed that the electro magnetic wireless-type of equipment was covered both in the first part of the Bill and also in Part IV and the hon Member asked, and it is not the first time that he has asked it, in fact his colleague the Hon Mr Perez made the same point at the time of the Second Reading, whether this meant that they were covered by both sections, by both the front part and Part IV. I have simply limited myself to saying "yes, they are". They are covered by both Parts I and II and by Part IV and that that is intended to be so because sub-regulation (18) actually envisages that fact by saying "the fact that you have got a licence under Part IV does not mean that you are relieved from the need to obtain a licence under the earlier part of this same Bill". The answer to the first question that the hon Member puts is "yes". In the case of some telecommunications services on certain types of telecommunications networks one is caught both by the licensing requirements under Part IV and the licensing requirements under Part II. Therefore one needs not one but two licences. The answer to the hon Member's first question is "yes".

Mr Chairman, I do not know whether the hon Member has forgotten but that was the very first point that he asked and that is the answer. The second point that the hon Member has asked, he has not repeated again. Mr Chairman, liberalisation is precisely intended to give others than just the existing operators access to a liberalised market. This Bill is not designed to protect the position of the established operators. It is designed to allow

others liberalised access to two different markets. The market in the provision of telecommunications networks and the market in the provision of telecommunications services which are, of course, two different things because one can be a service provider without owning a network and indeed one can own a network and hire it out to other service providers without actually being a service provider. This legislation, not by itself, I think we made clear at the time of the Second Reading, that the actual liberalisation compliance with the directive would not be affected until the various items of regulations that I highlighted at the Second Reading are also in place. Mr Chairman, there is no element of domestic policy in any of these definitions that the hon Member has said. I suppose that he has compared the legislation with the directives. All these definitions are drawn from the directives except the definitions of telecommunications apparatus which one did not exist before which is drawn from the United Kingdom's Telecommunications Act, current law in the United Kingdom. This legislation contains no domestic policy, no decision. This legislation is brought to the House in compliance with EU obligations. Therefore, the hon Member should not think that there is reflected in this legislation elements of Government policy. Let me just correct that. Where there is margin in the directive, where the directive gives options for exemptions, options for different ways of doing things, obviously a judgement has been made as to how those options should be exercised in the case of Gibraltar. But the underlying principles of the legislation, including the services and apparatus which is covered and the element of liberalisation that it delivers, and how it delivers it, are drawn directly from the directives.

HON J C PEREZ:

Mr Chairman, what the Chief Minister does not explain is why there is a requirement for two different licences given that the interpretation in Part I of the licence and certain interpretations in Part IV of the Bill seem to coincide one with the other. Therefore, what we are asking is if what part of what there is in Part I is also in Part IV, we cannot understand the necessity in some cases of

having two licences even though we understand that the law says that there might be two licences. Why do they need two licences?

HON CHIEF MINISTER:

Mr Chairman, why should one need two licences from the same authority when one only needs one? Let me answer that question in two parts. Why is Part IV in the Bill at all? Part IV is in the Bill because the Wireless Telegraphy Ordinance does not deal just with telecommunications. The Wireless Telegraphy Ordinance deals with all sorts of wireless telegraphy transmission of signals for the operation of things by remote control, for the operation of satellite tracking systems. There is a whole series of non-telecommunications-related wireless telegraphy acts that require licensing and all we have done is brought the existing Wireless Telegraphy Ordinance, with a bit of nomenclature change, into this Ordinance so that it all stands in one piece of law. In the United Kingdom they still have it in two separate laws but to the same effect. In the United Kingdom one has a Telecommunications Act and a Wireless Telegraphy Act in two separate bits of legislation but also requiring, I am advised, certain people because of the overlap to have licences under both, for example, mobile telephone operators. Mr Chairman, I cannot tell the hon Member why it is necessary. What I can tell him is why it is necessary for this to be retained in this legislation and that is because there is the Wireless Telegraphy Ordinance, as we used to have it, does not become redundant as a result of the new Telecommunications Bill because it continues to regulate activity that still requires to be licensed. Secondly, I can tell the hon Member, that that is not unusual because the situation in Gibraltar replicates the position in the United Kingdom except that there they have it in two separate bits of legislation and we, for public convenience, have chosen to bring them into the one. For example, we could easily have left the Wireless Telegraphy Ordinance untouched and then people would have had to go to two separate Ordinances to know what their licensing requirements are. We have simply chosen to bring in by way of a consolidation exercise the Wireless Telegraphy Ordinance so that all the principal legislation in this area will be contained in one

piece of law. We just have in Gibraltar in one Ordinance what in the United Kingdom is dealt with in two. I have to also remind the hon Member that one of the regulations that will be made under this is the Exemptions Regulations through which the Government, and there the Government do have scope for policy decisions as to how much of what is presently requires licensing under the old Wireless Telegraphy Ordinance which I am advised does not require licensing in most of the rest of Europe any longer. There are certain short range telecommunications equipment, certain types of remote control equipment which in Gibraltar still requires to be licensed under the Wireless Telegraphy Ordinance which I am told in the rest of Europe no longer requires to be licensed and therefore the exemptions Regulation will then follow to bring our law into line with the rest of Europe as to what does not require licensing which has always historically required licensing in Gibraltar. It has nothing to do with telecommunications in a professional context but things like remote control things, walkie-talkies, certain types of short range apparatus which are not capable of being used to provide a professional telecommunications service and which are usually personal, some times even toys and that will come in the Exemption Regulations.

HON J C PEREZ:

The last part of what the Chief Minister has said does not refer certainly to this clause but it refers to Part II Clause 4 sub-clause (1)(c) on the regulation of apparatus and connected to what the Chief Minister has said I was querying what responsibility does that regulation impose on suppliers of present equipment such as modems and telephones which today are unregulated. The end terminal equipment has been liberalised within the European Union for a long time and there seems to be a regular regime of approval of apparatus for a number of areas which do not exist today.

HON CHIEF MINISTER:

Yes, Mr Chairman. The intention is to use the exemption regulations to eliminate the existing requirement to license. At the moment a dealer in these bits of equipment needs a licence to deal if the equipment itself needs to be licensed. If the equipment itself needs to be licensed the dealer needs to have a dealers' licence. The intention is to use the exemption regulations to eliminate the requirement for licensing to allow stuff that presently needs licensing and that therefore the dealers presently need dealers' licences but in respect of the specific items that he has mentioned, for example, telephones, they are deregulated already. There is currently no need to licence the actual telephone handset and therefore dealers do not need a licence to deal in them.

HON J C PEREZ:

Except Mr Chairman that there are other parts of the law which talk about adequate equipment.

HON CHIEF MINISTER:

That is a different matter.

HON J C PEREZ:

Dealers will have to be guided by the equipment that can be used in the network.

HON CHIEF MINISTER:

That is a different issue. The hon Member has got to distinguish between licensing, something that one needs to go to the Licensing Department and get a licence saying "the Government of Gibraltar licences you for twelve months to use this and that bit of equipment upon payment of £10". Any equipment that needs that licence also requires the dealers to have a dealers' licence.

One cannot sell a bit of equipment that needs to be licensed under the Telecommunications Ordinance unless the person selling the equipment has a dealers' licence. That is going to be considerably more liberalised by leaving the Exemption Regulations to eliminate the licensing requirement from a lot of that equipment that presently needs licensing so that the dealers will not need a dealers' licence either.

The point that the hon Member has now raised is the slightly different question of the regulators' approval of apparatus. I think the hon Member is probably looking at section 26 which says that the Authority may prohibit the connection to a telecommunications network of such telecommunications apparatus as the Authority may consider can cause harm to that network. But the hon Member has got to distinguish between licensing issues and the regulator, which is not the Government, the regulatory authority being able to approve apparatus for use on the network so that the integrity of the network is not damaged. That is not a licensing requirement, that is an ordinary regulators-type of apparatus approval.

HON J C PEREZ:

But Mr Chairman in carrying out that function in practice the Authority would have to give landlines to dealers on the standard of apparatus that they would be able to import freely and sell without a dealers' licence. If we take the requirement of section 26 together with section 5(2) where there is powers for the authority to make known to consumers and purchasers a list of apparatus which is not allowed to be connected in the network, another point that arises is given that they cannot do so if it is considered to be prejudicial to the interests of a particular dealer, how can that be done even if the dealer is selling equipment which is not allowed in the network? That is to say, the authority is giving itself powers to be able to inform purchasers and customers that there is equipment that they cannot connect to the network but in doing so that message cannot be prejudicial to any person or persons and my question is, if there is a dealer selling equipment which cannot be connected to the network the

provisions of that clause does not allow the authority to communicate. I am talking about section 5(2) read together with section 26 which the hon Member has read.....

HON CHIEF MINISTER:

Mr Chairman, two points arise from that intervention. I think that the hon Member is reading more into section 5 than he can read into it. Section 5 deals with the publication of information and advice whereas the power to disallow equipment to be used with the network if the regulator considers that that equipment can do harm to that network is a different thing. That is not guidelines or advice. It is only the guidelines or advice that cannot be prejudicial. That is not information. The Regulator, under section 26 has power to say without being affected whether it causes anybody damage or prejudice or not, is able to say "you cannot use that piece of equipment on the network because it will cause the whole thing to short circuit, or it is not compatible with billing systems" or things of that sort. Section 26 is unqualified as to whether it does prejudice to anybody. Section 5, which is the one that is qualified by the prejudice, relies simply to the publication of information and advice but the Regulator's powers to disallow the use of equipment of apparatus which he considers may cause harm to that network is not a matter of information and advice, it is a question of prohibition.

Mr Chairman, I would like to say something to the Committee about the provenance of this section. Under the European Union Directives there is a tight approval regime. Hon Members know that it is not lawful in Europe to use any equipment which does not carry the EC approval letters on it. That regime, curiously, was not made under telecommunications, or competition or liberalisation rules. It was made under free single market in goods principles and legislation. The hon Member knows that the freedom of movement of goods, the single market in goods as opposed to the single market in people, services and capital. The single market in goods does not apply to Gibraltar and there is presently litigation in the European Court of Justice to determine whether that view remains correct. That is the view that the

European Commission has since 1973, that Gibraltar is not required to transpose directives that relate to the Single Market in Goods. That view, that the Commission itself has always had, it is now questioning itself and it has chosen to question itself by bringing infraction proceedings in a test case. It was therefore thought inappropriate in those circumstances to replicate here the European Union apparatus-type approval rules because that would have been us bringing into our legislation single market directives which was thought might prejudice the argument of whether we were bound by them or not. My own personal view has always been that the fact that one does something which one is not obliged to do, the fact that one chooses to do it voluntarily, I would have thought is capable of prejudicing the legal issue of whether in fact one is obliged to do it. The fact that one chooses to do them freely is not, in my view, that one thinks that one is under a compulsion to do it but we have received legal advice to the contrary. Therefore, this section 26 is a local way of achieving the same result. In practice, the Regulator advises me that his intention is to approve all apparatus which is EU-type approved. The Regulator intends to use the section to approve all apparatus which is EU-type approved because what we do not want of course is to have to set up here the resources to check all the equipment ourselves. We do not have the technical expertise and technical resources to analyse and to assess every bit of equipment to see whether it should be allowed or not. The way this is going to operate in practice is that section 26 will be used in the same way as the single market in goods EU-type approval regime would have been used. Everything which is EU-type approved will automatically be allowed in Gibraltar and things which are not EU-type approved will not because to allow EU-type approved things would require our Regulator to technically strip down, access, every bit of equipment and see whether or not it is capable of causing harm to the network.

Clause 2 stood part of the Bill.

Clauses 3 and 4 stood part of the Bill.

Clause 5

HON J J BOSSANO:

Mr Chairman, in clause 5 in the publication of information it says "the Authority may, with the approval of the Minister, arrange for the publication of information in such a manner....." that it gives the consumers the information they require but at the same time they take into account, both the Minister in giving the approval and the Authority in taking the decision, the need that may exist to protect any matter which relates to the private affairs of an individual and then it goes on to say ".....where the publication of that matter would or might in the opinion of a Minister seriously affect the interests of the individual". I imagine this is not Community law, that it has to be in the opinion of a Minister. I would have thought that this was over because in fact if the Minister has the right to stop the information being made public or not because the Authority cannot move without the approval of the Minister then it seems to me that on the one hand we are saying in determining the balance of issues that he takes into account in giving his approval the Minister and the Authority are both required to take into account the provisions of sub-section (2)(a) and (b) which seek to protect the individual or a business. Then we dilute that protection by saying "in the opinion of the Minister" and therefore I am moving the deletion of the words "in the opinion of the Minister" where it appears in Sections 5(2)(a) and 5(2)(b).

HON CHIEF MINISTER:

Mr Chairman, I am advised that this legislation is drawn from the Telecommunications Act of 1984 in the United Kingdom. I am told that in keeping with the rest of this legislation it carefully shares out responsibilities between Government and regulatory authority because certain things are pure regulatory functions, other things are governmental policy functions. There is an overlap. Where there is an overlap the function is given to both and to give the Regulator by himself functions which do not necessarily extend only to regulatory matters would be to extend

his functions beyond regulatory matters and certainly we would not support the amendment.

HON J J BOSSANO:

Mr Chairman, I know that when I pointed out that I had not been saying anything about licences earlier the Chief Minister said "well then he must be going deaf", I have to say to him that he may be going deaf because I have not said anything at all about sharing out the functions of the Regulator and the Minister. I have said okay the Authority has to arrange for the publication and the Minister has to give approval. That is the division of powers between the two. In giving approval the Minister has to take into account whether somebody would be prejudiced but whether somebody would be prejudiced depends on a totally subjective opinion, the opinion of a Minister. It seems to me that one is diluting the protection of the individual by then saying that it is in the opinion of the Minister that the person is seriously prejudiced. It does not matter in whose other opinion it is, it is the opinion of the Minister that overrides everything else. What I am saying is the removal of the words "in the opinion of the Minister" would do nothing at all to alter the point the Chief Minister has made about the division of powers between the Authority and the Minister because the Minister would still have the power to approve or not approve what the authority may want to do in publication of information. I do not see why the words "in the opinion of the Minister" need to be there on top of the fact that he has to give approval. In moving the removal of the words "in the opinion of the Minister" absolutely nothing is being done to affect what the Chief Minister has said which is the separation of roles between the Minister and the Authority. I am not saying it should be in the opinion of the Authority. I am saying the words in the Ordinance are sufficient in themselves without having to add "in the opinion of the Minister" which seems then to weaken the protection that is being put initially.

HON CHIEF MINISTER:

Mr Chairman, if we can move on to another section and come back to that one. Before deciding finally whether there is any merit in the hon Member's point I just want to check the point against working papers to see how that formulation was constructed.

Clause 6

HON J J BOSSANO:

Mr Chairman, in clause 6, is it that the provisions of clause 6 apply to the functions assigned only to the Minister and not to the functions assigned to the Authority?

HON CHIEF MINISTER:

I may not be understanding the hon Member's point. The section does begin by saying "the Minister and the Authority may each, for the purpose of performing the functions assigned to or conferred on him by or under this Ordinance or Regulations made under it by notice in writing signed by him" I do not know whether the hon Member is misinterpreting the use of the word "him" to relate only to the Minister. I think the hon Member knows that in ordinary drafting technique a "him" is capable of meaning "her" or "it" but it clearly is intended to refer to the Minister and the Authority may each for the purpose of performing the functions assigned to or conferred on him, that does not mean conferred on the Minister. It is intended to mean conferred on each of them.

Clause 6 stood part of the Bill.

Clauses 7 to 10 stood part of the Bill.

Clause 11

HON CHIEF MINISTER:

Mr Chairman, my Colleague the Minister for Trade and Industry has given notice of amendment to Clause 11 and which I will move on his behalf. It is a simple point. The first word in line 3 of 11(1) says "section" and it should read "Ordinance". So that it should read "in such regulations as may be made under this Ordinance" not "in such regulations as may be made under this Section".

Clause 11, as amended, stood part of the Bill.

Clause 12

HON CHIEF MINISTER:

Mr Chairman, again in line 3 of 12(1) there is this reference to regulations made under this section which should read "regulations made under this Ordinance". The proposed amendment is to replace the word "section" with the word "Ordinance".

Mr Chairman I have another amendment to move in proposed section 12(2) which is to delete "a set of" and substitute with the words "principles and" in the first line. At the end of the sub-section to insert the words "such principles and conditions shall not be exhausted and may be added to in each specific grant of access and use". I will now read to the hon Members how that sub-section will read: "The Minister may by regulation prescribe principles and conditions subject to which the access and use referred to in sub-section (1) shall be granted, such principles and conditions shall not be exhausted and may be added to in each specific grant of access and use". Different principles and conditions may be applied to different instances of access and use to these lines.

Mr Chairman, in Section 12(5) where it says in the first line "the Regulations referred to in sub-sections (1) to (4) may

without.....", it should read "sub-sections (1), (2) and (3)" each of them in brackets.

HON J J BOSSANO:

This provides in 12(1) that it is the duty of the Authority to make sure that the persons prescribed in the Regulation are given access by the provider of the network. Is it that we are saying that we are going to have regulations which can distinguish as between individuals? That is what it seems to be saying.

HON CHIEF MINISTER;

Different types of user of leased lines. Yes, the Regulations will set out the conditions under which leased lines have to be made available. Those conditions include cost, the way in which leased lines are to be made available and different types of users of leased lines may well be subject to different types of principles and conditions as to the terms that they are allowed..... I do not suppose it will be done by reference to the identity of the party but rather the nature of the business, the nature of the use to which he intends to put the leased line.

HON J J BOSSANO:

Mr Chairman, the use of the word "specific" in each specific grant gives the impression that it is not a generic condition saying if the leased lines are for banks, these conditions apply if the leased lines are for betting shops different conditions..... each specific grant gives the impression that we are talking about each individual case.

HON CHIEF MINISTER;

Each individual case of the hirer of a leased line, yes. Here we are not talking about retail consumers. Yes, Mr Chairman, it appears to have the effect that the hon Member is saying. It was a late requirement from the draftsman. Without checking I cannot even tell the hon Member whether it is something that has been

thought to be necessary for local purposes or something which is contained in the directive which was omitted from the draft but I can certainly check that point and see whether this formula mirrors the directive or whether it is something that the draftsman had said.

Clause 13

HON CHIEF MINISTER;

Mr Chairman, here I have got corresponding amendments so that in sub-section (3) "shall" shall be "may" because it is not mandatory and then after the word "prescribe" we insert "principles and" and the same phrase at the end.

Mr Chairman the proposed amendment to 13(5) is not necessary. As far as I can see the words are already in the Bill.

Clause 14

HON J C PEREZ:

Mr Chairman, section 14 seems to give powers to the Minister for pricing in certain areas. There are some areas which talk about affordability and then there are some areas where that power of pricing is placed on such matters as itemised billing, tone dialling, selective calls barring and number portability. My point is, is this pricing power related to what the public service provider must charge those that have access to the network or when we are talking about affordability is it that the Minister has the power to provide for a range of prices for service to users and is it only users where there is only one service given that competition would normally bring down prices or is it related to a restricted number of issues or a wider range of issues in terms of what the pricing for customers is as opposed to the pricing by the public service provider to those wanting access to the network.

HON CHIEF MINISTER:

First of all, Mr Chairman, let us not forget that we are talking here about enabling sections. All that the hon Member has described will actually be done through the regulations when they come. This section does not give the Minister power to do things. It gives the Minister powers to pass Regulations which Regulations will empower the Minister to do things. Subject to that caveat, Mr Chairman, the crucial phrase there is "fixed publicly available telephone services" which is a defined phrase which is intended to mean minimum type services. If the hon Member looks at page 156 in the definition a "fixed publicly available telephone service" means the provision to end users at fixed locations of a service for the originating and receiving of local and international calls includes the provision of voice telephony service and may also include that list of minimal services that are listed there, the emergency number, operator assistance, provision of directory services, the provisions of public pay-telephones and so on and so forth and they are thought to be the basic telephone service, anything else would be a sophisticated product and the Minister will be empowered to ensure that those minimum services are available to end users at a cost reasonably affordable by them. In other words, it is not reasonably affordable by the telephone company with an eye on its profit margins, reasonably affordable by the consumer.

HON J C PEREZ:

It is only that the provisions appear under the provisions of open network, there was some confusion in my mind whether this was only related to the network or related to the consumer as well. I am glad for the Chief Minister's clarification.

HON CHIEF MINISTER:

There is in section 14, Mr Chairman, two amendments one of which does not fall into the category of the previous one. In section 14(1) after the words "shall each have a duty to ensure

that” we want to add the words “subject as contained in such regulations as may be made under this Ordinance”.

In section 14(2)(b) delete “conditions described in paragraph (a) are based; and” and inset “access and use referred to in subsection (1) may be granted; and”.

Clause 15

HON CHIEF MINISTER:

One small amendment, Mr Chairman, and that is equivalent to the one in section 14. After “The Minister and the Authority shall each have a duty to ensure that” insert “subject to such regulations as may be made under this Ordinance, in Gibraltar, fair and effective competition....”.

HON J J BOSSANO:

There has been no response from the Government on the point raised in the general principles of the Bill about the definition of the service. In 15(4) at the beginning on page 161 it says “telecommunications services means other than in section 15 services other than radio broadcasting or television broadcasting and then in page 181 in section 15(4) it says “in this section “telecommunications services means services, other than radio broadcasting or television broadcasting”. In the general principles it seems to me that in page 161 we are being told “except for the provisions in section 15” radio and television are not telecommunication services and then in section 15 we are told they are not included in section 15 either. That is not being amended?

HON CHIEF MINISTER:

Mr Chairman, the hon Member will remember that when he made this point at the first reading I thought that his point was unanswerable. I believe that it needs to stay I am told although I agree that sort of semantically the point that he is making is

logical. There is a slight difference which I think is meaningless between the definitions in telecommunications services in the two sections but because each of these definitions is drawn from a different directive, one is the competitions directive and the other is the harmonisation directive, each of those directives is driven by a different directorate of the Commission because they have different responsibilities. There is a slight difference between the two definitions which I think is a meaningless distinction but because it is semantically there the draftsman has insisted that we keep the definition in each part of the Bill exactly as it is to be found in the separate directives from which these two definitions come. The difference is this, on page 161, “telecommunications services” are defined as other than in section 15 services other than radio broadcasting or television broadcasting or both, the provision of which consists wholly or partly in the transmission and routing of signals on telecommunications networks. In section 15(4) on page 179 it is marginally different. It says “other than radio broadcasting or television broadcasting or both the provision of which consists wholly or partly in the transmission or routing of signals.....” so far identical, but then this one says “or both such transmission and routing on a telecommunications network”. The definition in section 15(4) adds the words “or both such transmission and routing” and that is supposed to make a difference. I do not think it makes any difference at all but there are two directives with two different definitions relating to two different parts. It is all brought together under one Bill and there is a different definition in the directive dealing with harmonisation, there is semantically a difference. I do not know if the hon Member agrees that adding the words in the second definition “or both such transmission and routing” adds anything at all. I think it is implicit in the words “the provision of which consists wholly or partly in the transmission or routing of signals”. That makes it clear that it applies to one or the other. To go on to say “or both such transmission and routing” seems to me complete repetition which adds nothing.

HON J J BOSSANO:

Mr Chairman, surely an inevitable consequence of that explanation is that the definition in page 161 must be defective because are we then saying that if somebody provides transmission of signals but not routing of signals, then he is not covered by telecommunications services definition and does not need authorisation?

HON CHIEF MINISTER:

I am saying that I believe that on a proper interpretation of those formulas they both mean exactly the same and therefore that the definition on page 179 is superfluously expansive and adds nothing to the shorter definition by four words. The extra four words to be found in section 15(4) adds nothing to the definition in section 2 but the draftsman has said to us that because they are that different, albeit that it is a distinction without a difference. That distinction is reflected in the directives. The draftsman feels that they slavishly wish to follow it in the legislation even though I cannot see that it is capable of meaning anything different in both sections. If the hon Member agrees that it is superfluous verbiage and has no meaning, I think we should on such a technical point agree to follow the draftsman's advice.

HON J J BOSSANO:

The only problem I have with that is that I do not think the point I am raising is being addressed by the technical response of the draftsman. I was not questioning whether it was superfluous. What I was saying is if I am being told in one part of the law that television and radio broadcasting are included and then I go to the part in which they are included and I am being told they are not included, then it is a question of what has radio broadcasting and television broadcasting got to do with the technical explanation that has been given on the two directives?

HON CHIEF MINISTER:

Radio and television broadcasting are not covered by any part of this Bill.

HON J J BOSSANO:

Yes, but Mr Chairman on page 161 we are being told that they are. The answer that the House has been given draws attention to the definition of routing and transmission and whether it is either/or or both the point that I am raising is that we are told on page 161 what is to be known as telecommunications services does not include GBC broadcasting except in section 15. Okay, so we accept now that in this law GBC broadcasting is not a telecommunication service except in section 15. So we go to section 15 and then we are told there that it is not included in section 15. Then, why is one told in page 161 to look at page 181 and then when I go to page 181 it says "television service means service other than radio and broadcasting"? What I am saying is, well surely what we ought to have is the deletion of section 15 on page 161 and the deletion of "other than radio and television broadcasting" on page 181 because we have a definition of telecommunication service which is inclusive of radio and television as predicted on page 161 but which does not materialise when we get to page 181.

The point that has been raised in response to the Law Draftsman's technical argument raises a separate issue, Mr Chairman, which is should not then the definition on page 161 in the light of what the Draftsman has said read "the transmission or routing or both" because if we are going to be defining it as narrowly as that and the Law Draftsman presumably is putting an argument which reflects how this legislation is expected to affect people when it is passed, then in fact the definition on page 161 of telecommunication service means inevitably that a service requires authorisation by definition if one is doing transmission and routing of signals. Whereas in section 15 the service is defined as being one where one provides either transmission or

routing or both. In the first one both is included but not one or the other on its own. That seems to be in flat contradiction to the other explanation.

HON CHIEF MINISTER:

No, Mr Chairman, it is not in flat contradiction to the other explanation, it is just the explanation of a different point that arises from the difference between the two definitions. The point that he is now making which I agree the hon Member did raise the first time that he rose and which I did not deal with in my response is that I believe that the hon Member's point is based on a misreading by him of the meaning and effect of the definition of telecommunications services at page 161. I believe that the hon Member is misreading the first definition in section 2 which reads: "Telecommunications services means, other than in section 15, services....." the word "services" is in between the two exemptions ".....services, other than radio broadcasting or television broadcasting or both, the provision of which.....". The way the hon Member is linguistically and grammatically able to read section 15 is "telecommunications services means, other than in section 15, services, the provision of which consists wholly or partly in the transmission and routing.....". Because the word "services" surrounded by commas is included between "other than in section 15, other than radio broadcasting or television broadcasting" it is not a circuitous double exclusion which writes it back in which I think is the point the hon Member was first making. I think the hon Member is overlooking the construction significance of the fact that the word "services" which relates to the main body of the definition is wedged between the words "other than in section 15" on the one side of it and "other than radio broadcasting or television broadcasting or both" on the other side of it so that it does not read "other than in section 15 other than radio broadcasting or television broadcasting or both". It would then have the meaning that the hon Member is saying that it would have. I am advised that as these two definitions stand, radio and television broadcasting are excluded from both definitions and the only distinction between the two definitions which I believe to be a distinction without a difference is this

business of "or both transmission and routing" which I addressed, in the hon Member's view, unnecessarily in my first response to him.

Clause 15, as amended, stood part of the Bill.

Clause 16

HON J C PEREZ:

Mr Chairman, I think I have four points on section 16. The first one is on 16(1), can the Government say if companies providing call back services today have to apply for a telecommunications licence in order to continue to provide such a service?

HON CHIEF MINISTER:

Whether it does or does not have the effect, I do not know. I can tell the hon Member that there is certainly no policy intention that it should have that effect. I would lose no sleep if it did have the effect because those operations are causing havoc to the economic viability of our home grown industries.

HON J C PEREZ:

I cannot understand how the Chief Minister says that they are causing havoc and he comes to this House and boasts about the increase in the telephone services and I have to mention every year the increase in the payment of dividends of the telecommunications companies. If it were causing havoc GibTel would be bankrupt. That is causing havoc. But if GibTel is making a bigger profit every year despite call-back I cannot call that situation havoc. Let me say that the issue is not that one. The issue is that the clause talks about providing a telecommunications service in, from, within or through Gibraltar or establish or operate. The fact that they would be copying the licensing regime would not stop them from providing services, it just means that they would have to apply for a licence.

HON CHIEF MINISTER:

Mr Chairman, I am advised that it would call call-back services. The hon Member is mistaken in believing that everyone will get a licence. There is an ability in this legislation as there is in every other country to limit the number of licensees but the distinction between an authorisation and a general authorisation are clearly defined. The things which one can do on a general authorisation and the things which require a specific licence are clearly provided for in the law. The hon Member is uncharacteristically blasé with the commercial interests of GibTel and Nynex. He must also know that the effect of unfair commercial competition takes time to be reflected in the commercial results. I do not suppose he can draw any comfort from it, he might draw comfort from it in the reduction in profits for GibTel and Nynex were flowing to the consumer, but to the extent that it is flowing to outside telephone operators who provide no employment in Gibraltar, who pay no tax in Gibraltar on their corporate profits and who are just creaming the valuable telecommunications business and using the network which are maintained by Nynex, I am sure that the hon Member does not approve of that practice. All I meant to answer him when I got up the first time was that there was no particular policy drafting in this which reflected the Government's desire to catch call-back services. Given that this is drawn from the directive, if it does catch call-back services it is because the directive catches them and not because we have done anything designed to catch them.

Mr Chairman, I wish to move the following amendment, in section 16(7) after the words "the areas in respect of which he may" insert "impose conditions for –".

HON J C PEREZ:

Mr Chairman in section 16(7)(j) is where it provides for the limitation of authorisations and that is where I think that in some areas that could be construed to mean to be contrary to the spirit of competition. In practice what does that mean, that the Minister may decide that a particular service should only require three

authorisations and that those authorisations are put to tender? Or after he receives the third application he decides that there should be no more notwithstanding that people are able to apply and having met the criteria set out by the Ordinance ought to be able to be granted an authorisation. Can the Chief Minister explain that?

HON CHIEF MINISTER:

Mr Chairman, the hon Member should consider that (j) provides for the limitation of the number of authorisations in the form of individual licences. We are already in the realms of things that require a licence as opposed to the things which can be covered by a general authorisation. Things which fall into the category of general authorisations do not need individual licences, that is what a general authorisation means. It is instead of an individual licence. If somebody is in the nature of an activity which can be subject to the obtaining of an individual licence, the number of licensees that do that can be limited in number. This is the same all over Europe. The hon Member will be aware of the enormous fuss and interest that has been generated by auctions all over Europe for third generation licences and the Government decide how many licensees it wants in these areas and then some countries do what they call a beauty contest and other countries do an auction and auction them off to the highest bidder. We expect to do the same. I am not committing the Government at this stage. Our intention at the moment is that if additional licences are to be made available in any areas to the licensees that already exist it would be done by auction so that not only will it be a transparent process but indeed it will be a source of..... the sort of revenue, although I do not think we will be able to replicate the amount, but it is the equivalent of the money that the hon Members raised when they originally..... I think the hon Members did it with Nynex but not with GibTel or the other way around. Going out to tender and conducting an auction is more or less the same process but certainly unless we do it that way we cannot raise for the public exchequer what can be raised from further licensing not just to existing services but of new services and third generation category.

HON J C PEREZ:

Mr Chairman, it would seem to me that section 16(8) refers more specifically to broadcasting than to anything else. I am not sure whether it needs to be there to cover areas other than broadcasting but it would seem to me that the only issue covered here would be broadcasting and it is not applicable unless, of course.....

HON CHIEF MINISTER:

I am advised that this is not actually television and radio broadcasting as such. This is intended to catch such modern convergence products as videos on demand, music videos, which it is envisaged in the next generation will be obtainable down third generation telephone networks. This does not relate to the radio and television broadcasting but to audio visual matter that will be deliverable through the information super highway type things.

HON J J BOSSANO:

In relation to 16(6) which says "Sub-section (1) shall not apply to such persons as the Minister after consultation with the Authority may by regulation prescribe". I find it difficult to see how we are going to make regulations for individuals who are going to be exempt from the requirements and that seems to be contrary to the concept of equal treatment in terms of competition.

HON CHIEF MINISTER:

The hon Member is misreading this provision. The point that he makes may arise depending on what the Regulations eventually say in the regulations but all that this is saying here is that in creating a prohibition from doing things without a licence, the regulations that are made can contain exemption provisions.....

HON J J BOSSANO:

.....for individuals. It says it shall not apply to such persons as the Minister may prescribe.

HON CHIEF MINISTER:

Mr Chairman, the hon Member rushes to presume that Ministers abuse this, but that is the normal standard phrase. For example, if we are going to exempt Police Officers or the Ministry of Defence in relation to such..... that is how it is normally done. There is no other generic formula for doing it. I do not think the hon Member is reading too much into the use of the word "persons". It is a very standard phrase. It might easily read "sub-section (1) shall not apply to such cases as the Minister after consultation by regulation prescribes". I think the hon Member is interpreting the word "persons" to mean that there can be capricious exemption of individuals as opposed to categories.

HON J J BOSSANO:

That seems to be what we are providing in the law. This is why I am questioning it. Whether it is actually used capriciously or not we appear to be creating the enabling provisions. I can understand sub-section (5) which says "the Minister may determine that a particular kind of telecommunication service will not be licensed notwithstanding the provisions of section 1". I can understand that one can say this kind of service will not need a licence and then whoever wants to provide that service knows that he does not need a licence. It seems to me that in sub-section (6) in theory one could get two identical cases of a service by different people and decide that one needs a licence and the other one does not.

HON CHIEF MINISTER:

Every power is capable of being abused in a corrupt fashion. But it has never been the style of Parliamentary legislation that

nothing that is capable of being corruptly abused, there is a presumption that people will not corrupt their powers. This wording is taken from the directive. The definition "persons" is defined. It means individual or legal entity. There is a difference to be drawn between the sort of services from which everybody is exempt for licence and that would be dealt with in the Exemption Regulations and the sort of services that generally a licence is required but certain persons are exempted, not because they belong to one political party or another or because the Chief Minister or the Minister or the Regulator likes them personally or not but because of circumstances relating to that individual's use of that particular equipment which would normally need licensing. The laws of Gibraltar are riddled with references to the powers of exemption in favour of persons.

Clause 16, as amended, stood part of the Bill.

Clause 17 and 18 stood part of the Bill.

Clause 19

HON J J BOSSANO:

Mr Chairman, in Clause 19(2) it says "the Land Acquisition Ordinance shall apply to any compulsory acquisition under this Ordinance as if the person were the Government and the acquisition were a compulsory purchase of land under that Ordinance". Surely, this cannot be an EEC directive requirement that we treat private providers of telecommunications services with the same power to.....? It would seem to me that if a company needs land in order to provide the service then the land ought to be obtained by the Government and provided to the company. I do not see why we need to change to make this provision. I hope that our legislation is not riddled with provisions

that says that we can treat anybody as the Government for compulsory acquisition of land.

HON CHIEF MINISTER:

The provision is taken from the Telecommunications Act and I think the hon Member is misreading. The point he is making he might make in relation to 19(1) but not in relation to 19(2). Section 19(2) is there for the protection of the person whose land is compulsorily acquired. What 19(2) says and means is that if a telecommunications network provider exercises his power to compulsorily purchase land for the purposes of compensating the person whose land is acquired the telecommunications network provider will begin to be in the position of the Government under the Land Acquisitions Ordinance and in that Ordinance the Government are the payer of compensation. The principle that applies to the amount of compensation that the Government have to pay when they compulsorily acquire land has also got to be met and paid by telecommunications network providers when they use the power in 19(1) to acquire land. So 19(2) is there simply to say that the victim of the acquisition has to be compensated in the same way and by the same procedures. That is the importance of as if it were the Government because the regime that applies to the Government under the Land Acquisitions Ordinance is not just the price setting and the ability to acquire but also the price setting formula and the intervention of the Courts to protect the victim of the acquisition. Section 19(2) is there to make sure that in its dealings with a telecommunications provider the owner of land is in no worse position than if the acquirer was the Government under the Ordinance. If the hon Member has a point of principle to make as to whether he thinks that telecommunications network operators should have the power to acquire land or not, that point will arise under 19(1), 19(2) is just mechanics. Mr Chairman, the provision is taken from the Telecommunications Act. It is the equivalent provision when the provider of the telephone network was a Government Department and it was thought necessary that in the interests of the provision of a public service providers should have access to land on compensation returned. In the context of privatisation and

liberalisation that same principle has been extended for the benefit of providers of the same service, with the same public interest needs but providing the services from the private sector. I do not think the hon Member is right when he says that it should be the Government that acquires land for the benefit of the private network provider. The safeguard comes in the fact that the Government, through the Minister, have to approve. The telecommunications network provider, although eventually would have the right to acquisition in his own name and not the Government having to do it on his behalf, but he cannot do it exercising his own judgement alone. The Minister may, after consultation with the authority, authorise in writing a network provider to have recourse to this. There is protection both in the fact that the network provider first needs the authority of the Minister who first has to consult the authority, presumably to see whether it is necessary in the provision of the network and then, even if the Minister does authorise the acquisition, the owner of the land is then protected through all the mechanisms of the Land Acquisition Ordinance as if the acquirer was the Government.

Clause 19 stood part of the Bill.

Clauses 20 to 23 stood part of the Bill.

Clause 24

HON J C PEREZ:

Mr Chairman, it is a point I raised when we discussed the general principles of the Bill and that is that section 24 applies only to persons engaged in the operating of a public telecommunications network. Should the provisions now not apply to all those other persons who by virtue of having access to the network under the open network provisions of the Bill be in a position to do a. b. and c. all of which are offences? This is copied from the Public Utilities Ordinance but it refers to the old regime where there was only one public provider. Here, if there are going to be people who have access to the network, the employees of those persons

ought to be covered by the same provisions as the employees of the providers of the public telecommunications network.

HON CHIEF MINISTER:

The hon Member may be right. I thought he was making the wider point of whether this should respect the privacy from intervention by members of the public. That is a different issue. The areas such as that are covered by the Data Protection legislation that will follow. As I understand the point that the hon Member is making, a person engaged in the operating of a public telecommunications network sound to the hon Member as if it is the owner and operator of the network. That network may actually be accessible to some other company which is providing a telecommunications service across somebody else's network to which it has access under the Access Regulations and query therefore whether that service provider, which is providing a service across somebody else's network, is a person engaged in the operating of a public telecommunications network. If he is, he is covered. If he is not, and that is the scenario that the hon Member is envisaging then he is not covered.

I am advised that the hon Member's point would be saved if it said "a person engaged in operating a public telecommunications network or providing public telecommunications services". Anyone who is accessing or using..... Hon Members should remember..... it is not the point that the hon Member is making now but what one can do to somebody else's network is not just access it but use it as well. The concept of use and access of somebody else's networks are different things so the point that he makes to the extent that it is good is good for both access and use but both are covered by provision of public telecommunications services because anyone who is either accessing or using somebody else's network is providing a public telecommunications service. I do not know if the hon Member wants to move the amendment himself or whether he would be content that I do. Mr Chairman, amend section 24 by adding after the word "network" the words "or providing public

telecommunications services" and delete "of £500" and insert "at level 3".

Clause 24, as amended, stood part of the Bill.

Clauses 25 to 27 stood part of the Bill.

Clause 28

HON J J BOSSANO:

Mr Chairman, may I just point out that in clause 28, we have been told by the Government that they have chosen to bring the existing Wireless Telegraphy Ordinance into this Ordinance but it could just as easily have been kept separate. Of course, in the Explanatory Memorandum there is a one line explanation of what it is doing here and it says that Part 4 incorporates and updates what used to be the Wireless Telegraphy Ordinance. We cannot see what updating unless the fact that the changes have been brought in at a later date is sufficient to describe it as updating. Updating would normally mean bringing it up to date in the sense of removing obsolete provisions or bringing in provisions which manifestly are an improvement of what is there. One of the things that there is in the existing Ordinance is that the Wireless Officer issues licences and keeps a register. Here in section 28 we are providing that the Minister issues the licences and then the authority keeps a register of the licences issued by the Minister. Why is this considered to be an updating of the Ordinance that one entity should issue licences and somebody else registers the licences issued and not the same entity as it is at present?

HON CHIEF MINISTER:

Because the idea is the whole of administrative aspects in relation to licensing will actually be done by the Regulator. The hon Member may have noticed in this section that there is a power for delegation from the Minister to somebody else to do the question of the licensing under Part 4 and the intention is to delegate the Minister's functions under Part 4 to the Telecommunications

Regulator so that all the administration in relation to telecommunications is there without loss of the Minister's status as the Licensing Authority. The Wireless Officer as such, somebody in the Post Office issuing licenses, disappears altogether now. The figure of the Wireless Officer is now replaced by a two tier: one is a Licensing Authority which is the Minister and the other is the Regulatory Authority which is the telecommunications regulator whereas before the Wireless Officer was both the licensing authority and the regulator but they will be records of the Licensing Authority. The fact that they are delegated is neither here nor there.

HON J J BOSSANO:

We believe the Minister has the power to control the situation already in the existing provisions which were brought in in 1998 where it was the Minister and not the Governor that appoints the Wireless Officer. If we have the provision for a Wireless Officer there is nothing to prevent the Minister from appointing the Authority as a Wireless Officer but then one would have the person issuing the licences and the person keeping the register of the licences that have been issued as being the same entity which it seems to me we are..... having heard all the arguments for separating it we are now being told is going to be what has been separated is going to be rejoined by delegation.

HON CHIEF MINISTER:

No, Mr Chairman. Certain administrative functions on behalf of the Minister yes. The Wireless Officer ceases to exist the moment that we legislate this Ordinance and simply for the Minister to keep and have to have the bureaucratic machinery to keep a record of licences the hon Member can describe it as he has described it. I think he is going too far in separating and then linking by delegation. It is a purely administrative function, keeping a list of licensees which the Regulator has to keep any way for his own regulatory purposes. I do not think it alters the separation.

HON J J BOSSANO:

Mr Chairman, the law now says that any person may be appointed by the Minister to be the Wireless Officer. As far as we are concerned the existing Wireless Telegraphy Ordinance says "A Wireless Officer means a person appointed as such under section 3". Section 3 used to give the power to the Governor. In 1998 we agreed that that power should be held by the Minister. So the Minister, without changing anything can use the existing law to say "I appoint the Regulator as the Wireless Officer". What we then have is a situation where we change the law so that we say "no, no, there is no Wireless Officer any more so the Minister is now the one that issues television licenses and the Authority is the one that has to keep the register of the licences that have been issued to every television set in Gibraltar by the Minister". Since that is an administrative function, what the Minister will do is he will delegate what we are telling him in the law he has to do, to the Authority so the Authority issues the licences and keeps a register which is what is happening before we changed the law. We do not agree with this. We think this is totally unnecessary and in fact we are doing one thing in the law which can be reversed as a matter of policy. The delegation can be revoked whereas in fact there is within the existing provision of the law, without these changes, a perfectly satisfactory way of ensuring that we continue with the system that we have got at the moment which is that the register is kept by the licence issuer which makes sense, which is what it is intended to continue to happen but we change the law to say it is not what is going to happen.

HON CHIEF MINISTER:

Mr Chairman, the hon Member is aware surely that the Wireless Telegraphy Ordinance and the 1998 one are repealed on the passage of this. Then he can vote against it, nor can he assume that all the delegation will be to the regulatory authority. For example, one idea being mooted is that the power to issue television licences should be delegated to GBC and therefore the hon Member should not assume that there is a general power of delegation and it may be exercised in favour of different persons

depending on the nature of the licence. I say this only because the hon Member used television licences as an example and I accept it was only an example and therefore the delegation may be in favour of different..... indeed the Minister could delegate if he decides that there is a function that he wishes to keep within his Ministry, he could delegate officers within his own Ministry to provide some of these services. Therefore, Mr Chairman, I do not think that this is a relatively trivial administrative matter and I do not think it raises any general issue of principle that would justify an amendment.

Clause 28 stood part of the Bill.

Clause 29

HON J J BOSSANO:

Mr Chairman, in the definition in 27(1) it says "telecommunications means the emitting or receiving over parts not provided by material substance constructed and arranged for the purpose of electro-magnetic energy which either serves for conveying of messages or is used in connection with the determination of a position bearing or distance". That is the definition that there is at present in the Wireless Telegraphy Ordinance of what is wireless telegraphy. In fact, what we are doing here is changing the label but not the content. However, in 29(1) it seems to me that there is the inclusion which appears to be quite deliberate because that is the only difference that there is between 29(1) and 5(1) in the Wireless Telegraphy Ordinance which reads: "No person shall establish or use any station for wireless telegraphy or keep or install.....". If we look at 29(1) we see that 29(1) is the exact replica of 5(1) except that the words "shall use in Gibraltar the electro-magnetic spectrum or" have been inserted. Consequently the insertion there of the licensing requirement must, we assume, be a policy decision which is quite deliberate. We do not think it has anything to do with EEC law and we think it is in flat contradiction with the definition in 27(1) because in 27(1) we are limiting the licensing requirement to those using the electro-magnetic spectrum for a particular

purpose, for conveying messages or for establishing the position, bearing or distance or gaining information about the presence, absence, position or motion of any object. In 29(1) we are making it universal. If it is any use whatsoever of the electro-magnetic spectrum that requires a licence then the narrower definition does not arise whatever one uses it for. I am not absolutely clear what the use of the electro-magnetic spectrum means because presumably if it is being used for everything other than sending of messages does it mean that if I switch on a microwave I need a licence from the Government to do it even though I am not sending any messages because that is part of the electro-magnetic spectrum?

HON CHIEF MINISTER:

I am advised that the electro-magnetic spectrum is everything which basically does not use a wire or some physical channel.

HON J C PEREZ:

Mr Chairman, the electro-magnetic spectrum includes electric waves, visible light, ultra violet, x-rays, gamma rays, cosmic rays and infra red other than radio waves. That is the whole scope of the electro-magnetic spectrum.

HON CHIEF MINISTER:

The hon Member will have noticed that it is not that section 5(1) before, in the Wireless Telegraphy Ordinance, said nothing. It used to say "no person shall use in Gibraltar the radio spectrum" and it now says "no person shall use in Gibraltar the electro-magnetic spectrum". Obviously the electro-magnetic spectrum is much wider than the radio spectrum and the radio spectrum is part of the electro-magnetic spectrum but the electro-magnetic spectrum is much wider and includes those parts of the spectrum which are used by other more advanced technologies, infra red, light, microwaves, all sort of things which now become licensable under the provisions of this legislation.

HON J C PEREZ:

The only thing that continues to be licensed in the United Kingdom are the radio waves. The radio frequency spectrum is the only thing that the radio telecommunications agency in the UK continues to regulate. It does not regulate the infra red as the hon Member suggested this morning or any other area of the electro-magnetic spectrum and it continues to guide itself by the Telegraphy Act in the UK which does not mention the electro-magnetic spectrum. It continues to mention the radio frequency spectrum. If we want to do here something more than is being done in the UK we want to know what we are doing and whether we are capable of doing it and whether it is right that we should do it. I am telling the hon Member that according to the radio telecommunications agency the agency does not administer or regulate infra red and has no reason to believe that it is a scarce resource. This is what happens in the UK.

HON CHIEF MINISTER:

Mr Chairman, the widening of the spectrum that requires licensing in Gibraltar away from the historical provision which was the radio spectrum to the much wider electro-magnetic spectrum is not actually achieved by this Bill. It was done by an Ordinance of 1997 to which I do not recall the hon Member raising any objection. What happened in 1997, even though the whole of the spectrum was widened, was it continued to retain the label radio spectrum technologically incorrectly but the spectrum that required a licence was widened to the electro-magnetic spectrum in 1997 and it continued to be called the radio spectrum wrongly in scientific terms. What this is now doing is that it is changing the labelling and calling the electro-magnetic spectrum the electro-magnetic spectrum and not continuing to refer to it as we have been doing since 1997 in our legislation wrongly referring to the electro-magnetic spectrum as the radio spectrum. So the 1997 Telecommunications (Amendment) Ordinance widened the spectrum to include everything but continued to refer to it as the radio spectrum even though the definition was the wider electro-

magnetic spectrum. All this does is update the language to make it accurately reflect what the law already provides.

HON J C PEREZ:

The Chief Minister will recall that in the general principles of the Bill I raised this. I did not raise it in 1997 precisely because it was mentioned in a recent case in Court and judgement was delayed. I thought we ought to look at it closely. Despite the fact that the electro-magnetic spectrum is much wider my information is that in the United Kingdom we continue to regulate the radio frequency spectrum only and that perhaps in the future some of the other areas might be regulated but they are not regulated now. Neither is infra red regulated in the UK.

HON CHIEF MINISTER:

The hon Member will not be able to judge the full impact of this until he has seen the Exemption Regulations because he will remember that I told him this morning that many things which are presently licenseable will be included in the Exemption Regulations as no longer being licenseable. We are having this debate on this legislation as if it were a debate on the substantive provisions and we keep on reminding each other that this is actually a debate on enabling legislation, most of which is regulation-providing. But Mr Chairman I am surprised that the hon Member is himself so surprised by the decision of the Government back in 1997 to broaden the spectrum for licensing purposes.

HON J C PEREZ:

I am only explaining to the Chief Minister that it was not raised in 1997 and it was raised recently on the introduction of this Bill because since 1997 and before the Bill came to the House it was mentioned as part of a judgement in the case of GibNet and there were things said there that ought to be taken into account in looking at the Bill now. That is the only reason why it has been raised now and not in 1997.

HON CHIEF MINISTER;

All right, Mr Chairman, but I cannot tell the hon Member whether this provision responds to that case or whether it is there before that case. The decision to licence the whole spectrum I think predated the case in question. The actual provision to broaden the spectrum and not to keep it within the old radio spectrum for licensing purposes I am advised derives from advice to drop the upper limits of the frequencies used within the old definition of the Wireless Telegraphy Ordinance and this advice was first given to the Government in a letter dated 4th October 1994 from the Radio Communications Agency itself who had been asked on behalf of the then Law Draftsperson for advice on amendment to the Wireless Telegraphy Ordinance. In effect what the 1997 legislation brought to the House by the then Minister was basically to incorporate the advice which the hon Members had themselves sought and obtained from the Radio Communications Agency as far back as October 1994. I make no particular use of that point except that it goes back quite a long time, the mooted of whether Gibraltar should drop the upper limit on the definition of statute for licensing purposes and this appears to have been advice that originates actually in the very same Agency that he is now quoting from in that letter.

HON J J BOSSANO:

Mr Chairman, I do not think the point that I was raising has been addressed because in fact the insertion of the words in 29(1) "shall use in Gibraltar the electro-magnetic spectrum or" takes it away from the purpose. The point is that saying in this section that one needs a telecommunications licence for things other than doing telecommunications as already defined in 27(1), if one uses an electro-magnetic spectrum to send or receive messages then one needs a telecommunications licence is fine, whether we agree or we do not is a separate issue. It is clear and it is consistent, but then if one says that if one uses it to send messages or if one uses it for anything else one needs a licence. If one needs a licence for whatever one uses it for first of all I think it is a nonsense piece of provision, frankly, because on the

face of it it covers every conceivable thing that one could use the electro-magnetic spectrum for and then presumably one will have to have an almost interminable list of exemptions to take them all out again. It is going to be as long as the Encyclopaedia Britannica by the time one finishes finding out everything that is covered by the electro-magnetic spectrum from hair dryers to cookers. It seems to me that those words are redundant. It would seem to me that what the Government are seeking to achieve is already fully covered by the provisions which says one needs a telecommunications licence to use the electro-magnetic spectrum to conduct telecommunications which is what one is doing by what one has got in 27(1) and in 29(1) without those words.

HON CHIEF MINISTER:

The hon Member will have noticed that except for this point the fact that the words radio spectrum are now replaced by electro-magnetic spectrum, the rest of the section is in similar language.

HON J J BOSSANO:

It is identical except for a change in the labels. The section says "no person shall establish or use any station for telecommunications" where before it said wireless telegraphy. The amendment would read, delete the words "wireless telegraphy" and insert the word "telecommunication". But by introducing after the word "person" which does not exist in the present provision "shall use in Gibraltar the electro-magnetic spectrum or" the rest which is there what this law is saying, as far as I can tell, that anybody in Gibraltar that wants to use the electro-magnetic spectrum for anything in Gibraltar needs a telecommunications licence to do it unless the Regulation has been passed excepting that particular usage. This is not about the part of the spectrum, this is about the use to which the spectrum is being put and it seems to me a nonsense to say that we are legislating that even if the use that one is making of the spectrum is cooking as opposed to telecommunicating, until such time as regulations are made to except cooking one needs a

telecommunications licence to cook using the electro-magnetic spectrum.

HON CHIEF MINISTER:

That is what the law presently says of the radio spectrum.

HON J J BOSSANO:

How much do you cook on a radio for heaven's sake?

HON CHIEF MINISTER:

Mr Chairman, I think the hon Member cannot be that silly, he cannot be thinking that the spectrum is the radio itself. The radio spectrum is just a part of the wider spectrum. The hon Member misquotes from the existing law when he suggests that it begins at the equivalent of establishing or using or both any station for telecommunication. The present section 5 which presumably the hon Member has in front of him reads "no person shall use in Gibraltar the radio spectrum or establish or use any station for wireless telegraphy". The words "no person shall use in Gibraltar the radio spectrum or establish or use....." are replaced with the words "no person shall use in Gibraltar the electro-magnetic spectrum or establish or use.....". The only change is that the reference to radio spectrum is replaced by a reference to the electro-magnetic spectrum and that is semantic because the change was actually brought in in 1997, not by this. All we are doing here is changing the label.

HON J C PEREZ:

The Chief Minister can say that it is changing the label but the label has a significance. Or is he saying that the radio frequency spectrum and the electro-magnetic spectrum are one and the same? If so, why need to change the label? The Chief Minister is widening the scope and that is why we are saying that whereas before there was no problem today what the legislation is saying that for any electrical equipment like a cooker, a refrigerator, one

is using the electric spectrum which is part of the electro-magnetic spectrum and this Bill is prohibiting the use of that without a telecommunications licence which the Chief Minister agrees is ridiculous. He is telling us that what we are now going to do is look at everything that ought not to be regulated by having changed the label and have a list of exemptions made under the regulatory power. It is crazy Mr Chairman.

HON CHIEF MINISTER:

The Chief Minister is not crazy and what is now clear is that the hon Member has not understood what I have explained to him on several occasions. First of all I assume it was only a slip of the tongue when he suggested that an electric wire is part of the electro-magnetic spectrum. I do not hold him to it. An electric cooker that is plugged in is not part of the electro-magnetic spectrum. Secondly, the hon Member is wrong, I will explain it to him a fourth time, if he thinks that we are now changing the definition of the spectrum. When we legislated in 1997 the changes that I have told him we legislated, that law redefined the spectrum. We are not achieving anything of substance now by changing the word "radio spectrum" to "electro-magnetic spectrum". The 1997 law which made the whole spectrum licenseable itself defined the extended spectrum to which it applied to include the whole electro-magnetic spectrum. The only thing that the 1997 law did which this law did not do which this law is now doing is going on to say ".....and this shall be called the 'electro-magnetic spectrum'". It continued to say ".....and this..." "this" being the electro-magnetic spectrum, "...will be called the radio spectrum". All this is doing is giving the right semantic label, the right scientific name, to what was already achieved in 1997 which was, firstly, the making of the whole electro-magnetic spectrum licenseable and, secondly, defining what the whole of the electro-magnetic spectrum actively is in fact. I hope that the hon Member now understands that this is not widening the law of Gibraltar as to what requires licences and what does not. I cannot think of any other way of explaining it to the hon Member.

Clause 29 stood part of the Bill.

Clauses 30 to 42 stood part of the Bill.

Clause 43

HON CHIEF MINISTER:

I would like to amend to make the existing section 43 become 43(1) and add a new subsection (2) that would read:
"43(2) This section shall not apply to telecommunications equipment for use in the service of Her Majesty or on foreign men-of-war or service aircraft".

HON J C PEREZ:

Mr Chairman, the Chief Minister knows that where we object on this part of the Bill is that the decision of whether there is an emergency or not should be in the sole opinion of one Minister and we voted against the whole of Clause 4 but that the Chief Minister should know that on this particular point that is the objection that we raised at the time of the general principles of the Bill.

HON CHIEF MINISTER:

I should record, for the benefit of prosperity, in the same way as the hon Member has done, that we disagree with his objection because in the United Kingdom the decision is also made by one sole Minister, namely the Minister for Trade and Industry and I do not see that what is proper for Ministers in the United Kingdom to decide becomes improper simply because it is a Minister in the Government of Gibraltar. It is well established that these decisions are made throughout Europe by a Minister and therefore the Government believe that the hon Member's point is entirely without merit.

Clause 43, as amended, stood part of the Bill.

Clauses 44 to 53 stood part of the Bill.

HON CHIEF MINISTER:

Mr Chairman, I seek to amend the Bill by adding a new section 54. The hon Members will remember that at the Second Reading I pointed out that the Government wanted to put an overriding clause that insulated the Minister and the Regulator from the obligation to do things or omit to do things which he was rendered physically incapable of discharging. I did not think it was right for us in this House to place any Minister or any official in a position where he is in breach of statutory duty in respect of things that he lacks the physical wherewithal by means of the behaviour of another Member State. I therefore would like to add a new section 54 to read:

“54. Notwithstanding any provision herein, or in any Regulations made hereunder to the contrary, neither the Minister nor the Authority shall have a duty or obligation to do, omit to do, ensure or prevent any act or thing, nor any other duty or obligation, which he is prevented or impeded from doing, omitting, ensuring or preventing in reasonable and usual manner and terms by the actions of another Member State and circumstances outside the control of the Minister, the Authority or the Government.”

HON J J BOSSANO:

We support the amendment, of course.

New section 54 was agreed to and stood part of the Bill.

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

HON CHIEF MINISTER;

Mr Chairman can I suggest that we return to section 5? The hon Member raised whether the reference to “in the opinion of the Minister” was necessary in subsection 2(a). Upon a consideration of the text I do not think it is necessary in either subsection 2(a), 2(b) or in the preamble to 2. The only reference to the Minister, I believe, should be at the very first reference to the Minister, “the

Authority may, with the approval of the Minister arrange for the publication.....” and once the Minister has given his approval he gives it to the whole text. There ought not to be any references to the Minister in any other part of that section. I am happy to propose that amendment or if the hon Member wants to propose it, to support it, the deletion of the references to “the Minister and” in the second line of subsection (2) and also the words “in the opinion of the Minister” in (a) and (b) where they appear. Only what the Minister does is approve the publication in the first instance. This is one of the ones that we had passed.

I am proposing an amendment along the lines proposed by the Leader of the Opposition but actually going further than his amendment. By deleting in the second line of subsection (2) the words “the Minister and”, in (a) and (b) of subsection (2) the words “in the opinion of the Minister” in the two places in which those words appear.

Clause 5, as amended stood part of the Bill.

Mr Chairman, in respect of clause 6, I think perhaps there are some amendments that we can agree across the floor. The point that we both agree on is that “on him” and “by him” might lead the reader to believe that it only relates to the powers of one of them. If it were to read “the Minister and the Authority may each, for the purpose of performing the functions assigned to or conferred respectively upon them by or under this Ordinance or Regulations made under it, by notice in writing signed by the Minister or the Authority as the case may be” it would make it clear that the whole regime applies to both of them. I think that would eliminate the ambiguity and not lead to a matter of drafting technique. Therefore, what I propose is that the words “on him” where they appear in the second line of section 6(1) be deleted and replaced by the words “respectively upon them” and that the words “by him” in the third line of subsection (1) be deleted and replaced with the words “the Minister or the Authority as the case may be”.

Clause 6, as amended, stood part of the Bill.

The amendments that I proposed to sections 12(2), 13(3) and 14(2)(a) in each case by adding the words “such principles and conditions shall not be exhausted and may be added to each specific grant of...” are amendments that have been introduced at the last minute by the Draftsman. I have not had what I consider to be a necessary and satisfactory reason why those words should be added. They are not to be found in the directive and I would propose to withdraw those three amendments. If at some future date I get a satisfactory explanation for them which renders it necessary to include them we will bring amending legislation but on the basis of the information that I have been given I cannot explain to the hon Member why those words are necessary. I think the proper thing to do is to withdraw the amendment. But can we just go through them one at a time because in 12(2) there are amendments which need to be done so in 12(2) we carry on with the amendment to delete the words “a set of” and add the words “principles and” instead. In 12(5) delete the words “to (4)” and insert “(2) and (3)”. In 13(3) we continue with the substitution of “may” instead of “shall” and by adding after the word “prescribe” the words “principles and”. The amendment in 14(2)(b) proceeds because that is unrelated to the point that I am now conceding.

To summarise, in 12(1) there is the substitution of “Ordinance” instead of “section”. In 12(2) there is the substitution, instead of the words “a set of” the words “principles and”. In 12(5) (1) to (4) becomes (1), (2) and (3). In 13(3) the word “shall” becomes “may” and after the word “prescribe” we add the words “principles and”. In 14(1) after the words “ensure that” we are adding the words “subject as contained in sub regulations as may be made under this Ordinance”. In 14(2)(a) there is no amendment at all. In 14(2)(b) the words “conditions described in paragraph (a) are based” are deleted and substituted by the words “access and use referred to in sub-section (1) may be granted;”.

Just for the benefit of the Opposition Members, what I am doing is withdrawing all in the three places where I have sought to introduce them, this formula about “such principles and conditions

shall not be exhausted and may be added to in each specific case”.

Clauses 12, 13 and 14, as amended, stood part of the Bill.

The only point that remains was the Leader of the Opposition’s point about Level One is £100; Level Two is £200; Level Three is £500; Level Four is £2,000 and Level Five is £5,000. Those are to be found in the Schedule to the Criminal Procedure Ordinance. It should therefore be amended to read “Level Three”.

Clause 24, as amended, stood part of the Bill.

THIRD READING

HON ATTORNEY-GENERAL:

I have the honour to report that the Telecommunications Bill 2000 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 Mrs Y Del Agua
The Hon J J Holliday
The Hon Dr B A Linares
The Hon J J Netto
The Hon R R Rhoda
The Hon T J Bristow

Abstained: The Hon J J Bossano
The Hon Miss M I Montegriffo
The Hon J C Perez
The Hon Dr R G Valarino

Absent from the Chamber: The Hon J L Baldachino
The Hon Dr J J Garcia
The Hon S E Linares

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 Monday 20th November 2000, at 10.30 am.

Question put. Agreed to.

The adjournment of the House was taken at 1.30pm on Monday 23rd October 2000.

MONDAY 20TH NOVEMBER, 2000

The House resumed at 10.30 am.

PRESENT:

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

GOVERNMENT:

The Hon P R Caruana QC – Chief Minister
The Hon K Azopardi – Minister for Trade, Industry and
Telecommunications
The Hon Dr B A Linares – Minister for Education, Training,
Culture and Health
The Hon J J Holliday – Minister for Tourism and Transport

The Hon Lt-Col E M Britto OBE, ED – Minister for Public Services,
the Environment, Sport and Youth
The Hon H A Corby – Minister for Employment and Consumer
Affairs
The Hon J J Netto – Minister for Housing
The Hon Mrs Y Del Agua - Minister for Social Affairs
The Hon R Rhoda QC – Attorney-General
The Hon E G Montado OBE – Financial and Development
Secretary (Ag)

OPPOSITION:

The Hon J J Bossano – Leader of the Opposition
The Hon Dr J J Garcia
The Hon Miss M I Montegriffo
The Hon J C Perez
The Hon S E Linares

ABSENT:

The Hon J L Baldachino
The Hon Dr R G Valarino

IN ATTENDANCE:

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

MOTIONS

HON CHIEF MINISTER:

I have the honour to move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the motion standing in my name.

Question put. Agreed to.

HON CHIEF MINISTER:

I beg to move the motion standing in my name and which reads:

“This House calls on Her Majesty’s Government:

- (1) to provide to the Gibraltar Government a copy of the letter received by the Foreign Secretary from the Spanish Foreign Minister requesting to have an influence over military facilities in Gibraltar;
- (2) to reply without further delay rejecting the Spanish request as wholly unacceptable in language which is clear and unambiguous and to provide a copy of that reply to the Gibraltar Government,

and requests the Government to write to the Foreign Secretary informing him of the terms of this motion”.

Mr Speaker, the Gibraltar Government detected in the Spanish press at the end of September and beginning of October, reports to the effect that the Spanish Foreign Minister, Señor Pique, had sent a letter to the Foreign Secretary in which it was proposed to study formulas which would permit Spain to maintain “a certain control” over the activities in the Naval Base of the United Kingdom in Gibraltar. When I quote, I am quoting not from the letter which I have not yet seen but from the Spanish press reports specifically in the ABC of the 27 September. According to that press report the alleged justification for that general and all-embracing joint say was “to avoid the repetition of cases like the submarine Tireless”. And of course it was that report that makes it clear that this was not what the Spaniards were asking or were reported to be asking, was not for a joint consultation in relation to the health issues that arose from the Tireless only because, in effect, they were saying, the Tireless incident demonstrated the need for Spain to have for there to be a mechanism that enables Spain to have a joint say in the affairs of the base. And according to the ABC, which does not normally get reports wrong when they relate to the conservative Government of Spain, he attributes that

information to an announcement made by the Foreign Minister, Señor Pique, himself just hours before his appearance in the Spanish Foreign Affairs Commission of their House of Parliament to explain the Government’s position in relation to Tireless. The remainder of the report also refers to how Señor Pique “asked formally his British counterpart to establish, as soon as possible, an official dialogue to design a possible formula for future co-operation”. A similar report was carried on the Internet by Reuters Business Briefing on the same day, the 27 September. The fact that two different news publications carry the story on the same day therefore dispelling the possibility that one may just be feeding off the other and that the first one was just speculating, are diminished. If two news sources carry the same story on the same day they have both obtained the story separately from each other. Reuters Business Briefing carries the report, and I quote, although in loose translation, it is in Spanish together with the ABC report “the Spanish Foreign Minister, Josep Pique, assured yesterday in Congress that he has claimed from the United Kingdom the joint control of the Naval Base in Gibraltar in order to avoid a repetition in the future of events like the situation generated by the need to repair the submarine Tireless in the Naval Base at Gibraltar.” The report goes on “The Junta de Andalucia Government agreed yesterday to present” – this is a report about the Andalucian Government’s decision – “a court action”. And then it carries on in relation to Señor Pique quoting him, “It is not admissible that decisions which affect directly the security of Spaniards as is the presence of nuclear powered ships in the Port of Gibraltar, that such decision can be taken by third parties to the exclusion of Spain affirmed the Minister to justify his petition for joint control of the base at Gibraltar”. There can therefore be, Mr Speaker, no doubt from the Spanish press reports that this letter containing these requests exists. Indeed, it has subsequently become clear to me from conversations that we have had with His Excellency and others, that the letter exists and that the great debate taking place inside the Foreign Office and other Whitehall Departments is whether and how it should be replied to. The Government wrote on the 10 October directly to the Foreign and Commonwealth Office because the following day or maybe two days after the original press reports appeared in the

Spanish press, the ones that I have just taken this House through, there was a further report carried by the Agencia EFE attributing to a Foreign Office spokesman the statement "London is studying sharing with Spain the control of the base at Gibraltar". Same reports made it clear that "London would respond at the appropriate time". These are Spanish news agency reports of words that they attribute to a Foreign Office spokesman.

HON J J BOSSANO:

What was the date of that second Agencia EFE report?

HON CHIEF MINISTER:

I cannot give the hon Member the date but it was sometime between the 27 September, the date of the appearance of the first reports, and the 10 October which is the date upon which I wrote to the Foreign Office alluding to the comments attributed to the Foreign Office spokesman.

Obviously the Government in that letter informed the Foreign Office that any such concept would be wholly unacceptable to Gibraltar and it is important that the notion is firmly and unambiguously and quickly rejected, it was on the 10 October. I also pointed out that "I would be grateful to learn whether such response has been made and, if so, its terms" and finally pointed out "that it would be unacceptable to find ourselves on this issue in a similar position to that appertaining to the Matutes proposals" which also had been said of it that it would be replied to "at the appropriate time" which is the phrase attributed by the Agencia EFE to a Foreign Office spokesman in the context of the joint control of the Naval Base letter and that it was not acceptable that there should be a document equivalent to the Matutes proposals lying indefinitely on the table unresponded to in relation to the Naval Base.

Mr Speaker, in the run-up to the Blair/Aznar visit, the Government of Gibraltar maintained intensely our representations to the British Government on the question of the reply to the Matutes letter especially urgency being added to that in the measure that the

Spanish press started to trail in the run-up to the Blair/Aznar summit in Madrid that the possibility of the Prime Minister offering to his Spanish counterpart a visit to the submarine began to be trailed in the Spanish press. The position adopted by the Gibraltar Government was that whatever might be the merits or the demerits of a visit, to allow a visit in the context of the unanswered Pique letter gave serious scope for this to be viewed as precisely what Señor Pique had asked for in the letter and to which he had received no reply. Indeed, in the immediate run-up to the Blair/Aznar summit on the 27 October, Reuters Business Briefing again carried a report carrying the statement that London had confirmed that it had very much in consideration the Spanish proposal to create a joint organism to control the Naval Base at Gibraltar and it goes on to say, "The Spanish President, Jose Maria Aznar, will today ask his British counterpart, Tony Blair, for the creation of a joint organism through which Spain can participate in some measure in the taking of decisions that affect the Naval Base at Gibraltar". Despite the intensity, frequency and clarity of the Gibraltar Government's position in that respect, the outcome of the Blair/Aznar summit was reported to me, on the Friday afternoon of the summit itself as being that although the question of the visit had been neither ruled in nor ruled out and that it would be decided upon at a joint meeting of UK and Spanish experts that was scheduled to take place in Madrid the following week. I think at the time the meeting was scheduled to take place on Thursday of the following week and if my memory does not let me down, I think in the event it occurred on the Friday of the following week after the Blair/Aznar summit which itself took place, I think, on a Friday. During that week, that is to say, during the week immediately following the Blair/Aznar visit, the Government returned to the position that this visit should not take place until and unless the Pique letter had been replied to in terms which made it perfectly clear that the visit did not form part of any such thing as Señor Pique had requested in his as yet unanswered letter. There then began to emerge during that week in the Spanish press all the language of joint mechanisms because of course one thing is for the Spanish Government to be kept closely informed and the Government of Gibraltar consider that to be entirely proper and right and support the keeping of the

Spanish Government informed given that they are, but not more than, potentially affected and therefore interested and concerned neighbours and that Spain should be treated as one would treat any other neighbour. Yet, the Spanish Government, through the Spanish press, began making statements which referred to the establishment and existence of a joint commission between Britain and Spain. A joint commission which subsequent reports have shown comprises not just Spanish experts of the sort whom themselves have said had no expertise on nuclear submarines and mobile reactors but indeed consistent also of representatives of the Spanish Defence Ministry and representatives of the Spanish Foreign Ministry. The Spanish press now openly, regularly and frequently refers to the existence of this so-called "Comision Mixta" as they call it, a joint commission. Of course, I suppose it is possible that people who do not know better or people who have not seen all this happening before might say, "Well, is Gibraltar not just being a bit paranoid about this?" But the reality is that we have a letter from the Spanish Government requesting the establishment of a joint mechanism to give them say over the affairs of the Naval Base, a letter which remains explicably unanswered in the sense that presumably the Government of France or the Government of Morocco wrote asking for the same thing they would get a short sharp reply saying, "Britain does not share its naval bases on the basis that you are requesting", followed by the emergence in Spain of language which speaks of joint mechanisms and therefore in the Government's view we have to question whether the omission to date to reply to that letter does not raise the very spectre of the political concern that has motivated the Government in this matter from the outset. In the early afternoon of the Blair/Aznar summit and upon sight of the second Reuters Business Briefing saying "Spanish Prime Minister will today ask his counterpart" I again wrote to His Excellency the Governor pointing the report out to him, the repetition of Señor Pique's request for some sort of joint mechanism by which Spain can participate in some measure in the making of decisions which affects the Naval Base of Gibraltar, pointing out that given that Spain had herself admitted that she had no naval nuclear expertise and that she would also say that she accepted the facts being put to her by Britain, putting to His

Excellency that the Government's view that in those circumstances the request for her experts to visit the submarine was a poorly disguised attempt to make progress in the direction of Señor Pique's request and pointing out to His Excellency that the letter records the clear statements that I had been making to him throughout that week and the previous week to the effect of the Gibraltar Government's total and firm opposition to such proposals. In the event, the meeting of the so-called joint commission of experts took place the week following the Blair/Aznar meeting, as announced in Madrid, and I was informed by His Excellency at one o'clock or thereabouts but almost exactly at one o'clock that the meeting had concluded, that it had been agreed that the Spanish experts would visit, the next thing I hear is on receipt of telephone calls from concerned Gibraltar workers in the vicinity of the harbour that the experts were already in Gibraltar and soon thereafter as I think it was 2.30 pm or 3 pm, early afternoon that very same day the meeting took place. His Excellency the Governor then issued a statement in which he said that "the Defence Secretary, Geoffrey Hoon, has made it clear this evening that the decision to allow the visit of the Spanish nuclear experts is an act of good neighbourliness and that this visit has no implications for Spanish sovereignty over Gibraltar and that there is no question of allowing the Spanish Government a role in the control or management of the Naval Base in Gibraltar. "I do of course understand" – continued the statement from His Excellency - "the concern expressed by the Chief Minister but the British Government would not have allowed the visit to take place if they believed that this visit or its circumstances would allow Spain to claim any say in what happens in the naval Base. There is therefore clearly a difference of perception between the two Governments. I will continue to do all that I can to reduce these differences". Well, I suppose that is one way of putting it.

Mr Speaker, the point is this, that it is not enough for Her Majesty's Government to simply continue to repeat the phrase that it has "this or that has no sovereignty implication". Spain's ultimate ambition is the recovery of sovereignty of Gibraltar but in the meantime there are many other things that she seeks to make

advance on on the road to the recovery of sovereignty of Gibraltar and one of those things that she seeks to advance which is short of the recovery of sovereignty of Gibraltar is a handle of any depth, breadth or nature over the affairs of Gibraltar. We have seen her try to obtain it in relation to the airport. She has persistently claimed it also in respect of the Port of Gibraltar, now she claims it specifically over the Naval Base. Therefore to say that things do not have sovereignty implications, if by that they mean, "Look chaps, look at the top of the Rock, the Union Jack is still fluttering there", if that is what is meant by having no sovereignty implications then that may be true but that is not the whole of the issue. There are many ways in which Spain could be given a role or say to which she is not entitled over the affairs of Gibraltar which would still allow the British Government to say that it has no sovereignty implication and even that is open to debate because, of course, whether things have sovereignty implications or not is a matter of an objective analysis of the fact and not of an assertion, a simple assertion that it does not. Therefore to the extent that one gives a foreign country a role or a say in the affairs of one's own country, that is a partial cession to that foreign country of one's sovereignty. Sovereignty is not a magic word, it is a word which globally reflects and represents all the rights and powers and exclusive jurisdictions which governments enjoy within their own countries. And the acid test of whether Gibraltar in general and the Government should relax on this issue or whether it should not relax on this issue is not whether a statement is put out for local consumption as to what this represents or does not represent, as to whether Her Majesty's Government are or are not willing to give Spain a role in the control and management of the Naval Base but whether that same message is reduced to the letterheaded paper of the Foreign and Commonwealth Office and included in a formal reply to the letter from Señor Pique because otherwise what we have is an unanswered written request by one Foreign Minister to another with the counter-argument simply put into the public domain in Gibraltar in the form of a press release by His Excellency the Governor albeit quoting the Defence Secretary, Geoffrey Hoon. We believe so that there is no doubt whatsoever that Gibraltar's political anxieties and concerns in this respect are properly laid to

rest, what Her Majesty's Government should do is to ensure that the Spanish Government receive a response to Señor Pique's letter which makes the position perfectly clear that the request for a joint mechanism for a say in the affairs of the Naval Base is rejected and so that we can be certain that that has occurred the motion that I am presenting to the House calls on the British Government, as I have been calling on them to do for the last several weeks, to provide the Government with a copy of the letter that the Foreign Secretary received from Señor Pique and of the proposed reply and indeed of the eventual reply sent so that we can be certain that Gibraltar's interests in this respect have been properly addressed and resolved to Gibraltar's satisfaction. I believe, Mr Speaker, that this House will be united on this issue. I have had that indication not Saturday of this weekend, the previous Saturday from the Leader of the Opposition. I think that we should unite around the stand that this issue should not become another Matutes proposals where formal requests are either not formally responded to or not responded to at all because these things represent creeping progress for longer term Spanish ambitions to bilateralism and involvement in the affairs of Gibraltar.

Mr Speaker, accordingly the motion calls on the British Government to provide the Gibraltar Government with a copy of that letter and of the reply and requests the Government to write to the Foreign Secretary informing him of the terms of this motion. I commend the motion to the House.

Question proposed.

HON J J BOSSANO:

Mr Speaker, we are indeed totally committed to the view that Señor Pique's letter should be provided because we want it provided not just to the Government of Gibraltar but provided to all the people of Gibraltar and, in fact, as I said recently in an interview, if the British Government think they can keep it from us by not publishing it, I am sure sooner or later we will read it in the ABC in full as happened with the Moran proposals when it was

kept under confidential cover long after it had been included in his autobiography.

The text that has been presented by the Chief Minister today is, of course, the one he sent me on Friday and I think just to put on record the sequence of events, as far as we are concerned, the Chief Minister approached me on Saturday of last week suggesting the possibility of a motion along the lines that would ensure that there was no division in the House and I said, "as long as we are talking about the Pique letter and not whether Tireless should go home or not go home then there is no reason why we should not be in agreement on that part of the argument". And frankly we only came out with our proposals publicly on Friday because the matter had already been put in the public domain even though no motion had been sent to the House or a draft sent to us. But I do not think we want to dwell on that but I think just for the record we would not have taken that step had it not been that we already read in the news and in the headlines that a motion was coming although we were still waiting for a reply to our proposals on Tuesday.

When we come to the motion itself, what we proposed was that this House should in fact be going direct to the Foreign Secretary. I know it has not been done before but then all the other times we have gone through the Government it has got us nowhere because the British Government have not yet replied to any of the previous motions we have passed in this House, any of them, ever. So maybe if it comes from the House it will have a difference. But I know that having had that proposal and the proposal on asking the Foreign Secretary to publish both letters with him since Tuesday the position of the Government is that they do not think it is practical to do that and if they do not think it is practical to get the British Government to publish the incoming one never mind the outgoing reply. Of course, the British Government have at least suggested to the Chief Minister that he might want to read the letter in the presence of the Governor but not take away a copy and no doubt the next concession might be to let him have a copy provided he does not let anybody else have a copy and then the concession after that might be that

whoever gets a copy cannot give a copy to anybody else. Well, let that be the position of the British Government but let us not make it any easier for them. Let us ask them to be more open. Do they not go round boasting about transparency and how open they are on everything they do? If the British Government want to tell us that what they do with the Naval Base is none of our business because it belongs to them and because they are responsible for the defence issues, let them say so. But frankly if it was anything other than the Naval Base, I do not think there is any question at all, they have got the duty to tell us what other people are proposing about things that affect us. So we are not asking them for any favours, we are asking them to do what is required of them by the very nature of their trusteeship of this territory as the administering power. Indeed the United Nations have much to say about Naval Bases and use of Naval Bases against the wishes of the population of the colonial territories. Of course, this is not new. The Spanish Government were already angling for a say in the Naval Base in the Oreja Strasbourg Talks in 1976, it was put to Dr Owen who was then the Foreign Secretary of the United Kingdom, that and the airport and Dr Owen did not turn it down then. So no wonder the Spaniards keep on coming back to have another bite at the cherry because the British Government have never been forthright and robust in making the position as clear to Spain as we would make it if we were doing the talking and they do not reflect what we want.

Indeed, the Chief Minister made a reference to the parallel on the airport. Well, I think it is worth remembering that the parallel on the airport is that although they held a perception originally that it had no sovereignty implications that is no longer their perception either, they have now admitted in answer to questions in the House of Lords that the provisions on having to have prior consultation with Spain before flights to Gibraltar are allowed is effectively capable of having sovereignty implications and they denied it. They said it was the Spanish version, not the British version and they denied it in 1987 and for every year since until about a year and a half ago when they told the House of Lords what they had been denying before was true and that shows that their perception, in our judgement at the very least, is not based

on an honest analysis of the text but on what they feel they can get away with. Their perception is not the perception that we might have when we look at it frankly without an agenda other than the interests of Gibraltar. The Foreign Office of the United Kingdom is there to protect the interests of the United Kingdom and en passant look after ours but if ever they come into conflict there is no question as to which has the higher priority inevitably. That is what they exist for. They do not exist to defend the colonies at the expense of the colonial power, it is the other way round and there is no reason to suppose that they will act any differently on this as they have done on every other issue before. So it is not a question that we should be concerned about anybody thinking we are being paranoid. Far from being paranoid I think we are too laid back on this and on many issues where there are already clear attempts by Spain to create a scenario where nothing can happen in Gibraltar in relation to anything without their involvement at some point obviously started by saying, "We have to be told and then we have to be asked and then we have a veto", that is the logical sequence of giving them a say.

We are opposed to visits by Spanish experts to the submarine because we think they have got no right to be here and therefore whether the letter is answered or not answered, rejected or not rejected, for us is a separate issue. We want the letter answered and we want the proposal rejected but the fact that that has not happened is not what makes us say we do not want the Spaniards coming to visit the submarine. Indeed I understood that to be the position of the Government before when the Spaniards themselves admitted that there would be little point in coming here anyway because they had never been on a nuclear submarine before and they knew nothing about nuclear submarine reactors so what did they come for? They came as a concession to Spain to enable them to say, "We are having a role there". That is what they came for and that is the only possible reading of their visit even if there had been no letter. So if His Excellency says it is a matter of good neighbourliness and that there is a difference of perception then it would appear that there are three perceptions not just two. There is the perception of His

Excellency that it is a matter of good neighbourliness even though the letter has not been answered; there is the perception of the Government that it is a matter of good neighbourliness only if the letter had been answered and the proposal rejected but it is not good neighbourliness with the unanswered letter; and there is our perception which is they are not good neighbours at all, period, they are lousy neighbours and because they are lousy neighbours the fact that they may come here in their millions to buy goods in our shops does not make any difference in an issue like this because our people go over there and spend as much money over there and that does not make them treat us any better or say, "The Gibraltarians are welcome tourists in Spain and we should not be interfering with their ID cards or interfering with their driving licences", never mind, saying if there was a nuclear submarine in Algeciras, "because they are such good neighbours in Gibraltar we ought to have the experts appointed by the Government of Gibraltar crawling all over the Spanish submarine in Algeciras". It is inconceivable and therefore our attitude to Spain must be reciprocity to the hilt because anything less than that means they put a foot in the door and before we know where we are they will have taken over the house. So let me say that in supporting the motion and in sending a message which presumably is what the motion is intended to achieve, that the Government of Gibraltar are not on their own in this one because the motion, as drafted, is really asking the Foreign Secretary to do what he has already been asked to do and has not replied to and since I imagine that this is being taped and monitored by The Convent so that they can put it on the next courier to London, let me send a very clear message that not only are we in agreement with the Government's demands on the Pique letter but that if anything, we would want them to take an even more robust stand in saying, "Even after you have answered the letter we are opposed to the Spaniards visiting Gibraltar" and that in any case, irrespective of the wisdom of any position adopted by the elected Government of Gibraltar in relation to differences of opinion in Spain, as far as we are concerned, we have got the right to question their judgement and their wisdom of their actions because we are the Opposition elected by the people of Gibraltar but if it comes to the issue being one as to the Gibraltar

Government or the United Kingdom Government, we will always be on the side of the Government of Gibraltar so they can put that on the tape and send it over to London.

Mr Speaker, we have had a few words before the House commenced and I had prepared an amendment which obviously does not try to ask the UK to publish the letter but comes close to it. I am going to move the amendment, I imagine that part of it will be acceptable and part not from the few words we had before but I would like to put on the record that that is what we think is the preferred text that goes to the UK following the letter that I had from the Chief Minister on Friday and having thought about it over the weekend in terms of what he said in that letter. Therefore what we are proposing is that the motion be amended as follows:

- (1) Delete the words "Gibraltar Government" wherever they appear and replace with the words "this House".

So we are saying the Pique letter should be provided to the House. If the Government of the United Kingdom do not want that letter to be in the public domain then let them say it is available on such and such terms to Members of the House. But why should any one of us, in an issue such as this which goes to the very root I think we are all the same, all Gibraltarians have got equal rights and equal voices in this matter not just whether elected to Government or Opposition but I think really, Mr Speaker, the whole of us in Gibraltar have got a very clear interest in this matter and a right to know and a right to know what is being answered when it comes to things that affect our future and the future of our children. But if the British Government do not want to put it because it is not a thing that is done in terms of international diplomacy then it should be available to the Parliament of Gibraltar, in our judgement and not just to the Government on a restricted basis or even to the Government on a restricted basis to put it on a restricted basis to the Opposition. Let the restrictions be put by the United Kingdom and not by ourselves.

- (2) We also propose that after the words "Foreign Secretary" in the final sentence insert a comma and add the words "to

Andrew Mackinlay MP, Chairman of the Gibraltar Group and Donald Anderson MP, Chairman of the Foreign Affairs Committee".

That is to say, we are asking the Government to send this text not just to the Foreign Office but to the two other entities that have been so supportive of Gibraltar, our own people in the House of Commons and the Foreign Affairs Committee which has in the past been critical of the shortcomings of the Foreign Office when it comes to Gibraltar.

- (3) And as a consequential that the word "him" should be replaced by the word "them".

Because, of course, it is being sent to them and not just to one person.

- (4) That the final full stop at the end of the motion should be replaced with a comma and the following words should be added: "and further requests the Government to report back to the House on the responses received."

So that in fact on the terms of our amendments the motion would read, if it were accepted,

"This House calls on Her Majesty's Government:

- (1) to provide to this House a copy of the letter received by the Foreign Secretary from the Spanish Foreign Minister requesting to have an influence over military facilities in Gibraltar;
- (2) to reply without further delay rejecting the Spanish request as wholly unacceptable in language which is clear and unambiguous and to provide a copy of that reply to this House,

and requests the Government to write to the Foreign Secretary, to Andrew Mackinlay MP, Chairman of the Gibraltar Group and to

Donald Anderson MP, Chairman of the Foreign Affairs Committee informing them of the terms of this motion, and further requests the Government to report back to the House on the responses received”.

I believe that the heart of the motion, of course, is what is already in the existing text. What we are proposing is an amendment which in our view will make it more difficult for the British Government to wriggle out of this one by making them, if we like, answerable not just to the Government which they are, as far as we are concerned, and as far as we are concerned they should have answered the letters of the Government when the Government asked without the need for this to come to the House but what we are saying is effectively “If you think you can get away with ignoring the Government of Gibraltar then think again because now we are asking you not just to explain your actions to the Parliament of Gibraltar but also putting you on notice that you might well have to explain to the Parliament in the United Kingdom through the work of our friends in the Gibraltar Group and to the Foreign Affairs Committee that has got the right to call in the Foreign Secretary and ask for an explanation” as it has already done over the refusal to act on an EEC issue over our rights to vote in the EEC, over the Brussels negotiating process, over the Matutes proposals. On all these issues the Foreign Affairs Committee has come down more on the side of Gibraltar than on the side of the UK and I think it would be worthwhile trying to get them on side of this one as well. I therefore commend the amendment to the House.

Question proposed on the amendment.

HON CHIEF MINISTER:

Mr Speaker, speaking only to the amendment, I think we first of all just need to clarify what the hon Member is proposing. When he says, delete the words “Gibraltar Government” wherever they appear let us just be clear that the words “the Government” which are not the words “the Gibraltar Government” which he is proposing to delete but the words “the Government” remain in the

penultimate line. So that the amendment would call on Her Majesty’s Government to provide to the House a copy of the letter from Señor Pique, to provide to the House a copy of the reply and requests the Government to write to that expanded list of people. The expanded list of people would include Andrew Mackinlay as Chairman of the Gibraltar Group and Donald Anderson as Chairman of the Foreign Affairs Committee. There is then consequential grammatical amendments with the addition of the point to the last part of the motion that the Gibraltar Government should report back to the House on the responses received.

Mr Speaker, if I have correctly understood therefore the amendment, the Government have no objection in the principle of it to the provision being to Government or to the House except that to the extent that the House asks for something which they can decline to do for extraneous reasons we are just increasing the chances that they will use it as an excuse on procedural grounds rather than substantive grounds but the Government do not mind putting that in. For example, I believe that given that there is a difference between a Government and a Parliament and that a Parliament passes laws and debates things but a Government conduct the day-to-day affairs of a country and given also that any document which is sent to Parliament is necessarily published. In other words, in the public domain there is no way of sending a document to the House of Assembly which does not entail publication to the world of it because unlike governments, parliaments cannot deal with documents in that confidential manner. And here I am drawing a distinction between the document itself on the one hand and its content on the other. I have already had the opportunity to sight the incoming letter from Pique on terms which were not acceptable to me. But if the Government were to receive a copy of the incoming and outgoing letters, the Government might be persuaded to the view that an exchange of correspondence between Foreign Secretaries should not be published in the sense of taking photocopies of the letters themselves with signatures and letterheads and publish the document. But the Government could not be persuaded to the view that even if it were willing to recognise the confidentiality of the document per se in terms of not photocopying them and

circulating them to the public, the Government would not be persuaded of the view that we should not make public use of its content in terms of saying, "This is what the Spanish Government were asking for, this is what the British Government have responded". And the Government have so far been moved by that distinction which Opposition Members may think is too fine to be relevant in the cut and thrust of political life but the reason why the Government want to make that distinction is that we do not want to give the British Government the procedural pretext. We want this motion to read we think it would be preferable for this motion to read, in terms that if we do not get satisfaction we know it is for reasons to do with the merits of the issue and not because the Foreign Office says it is not conventional practice in diplomacy to publish letters written by a Foreign Secretary to his counterpart in another country regardless of the issue, regardless of the controversy. If we call on the Foreign Secretary to do something which amounts to publication of the letter, "Dear Everyone in Gibraltar, Here is a copy of the letter that Señor Pique wrote to me marked 'Private and Confidential' and here is a copy of my reply". Much less likely that they will agree to do that for reasons nothing to do with the substance than it is that they will agree to say to the Government of Gibraltar, "Here is a copy of the letters on the clear understanding" – which the Government of Gibraltar would certainly make clear that the Government would not be willing to keep its contents confidential as opposed to the publication of the document itself. I suppose if one wants to be so cynical as to assume that whatever the text of the motion neither is going to prosper then one could equally take the view that it does not matter if one asks for things which complicate life because in any case the less complicated version of life is not going to prosper either well one might have asked for the lot, that is a matter of judgement here and now in the heat of the moment for us both to take. My own view remains that we should give the British Government every opportunity to satisfy Gibraltar on this issue in a way that does not give them an escape route. But I say to the hon Member in the knowledge that he will support the motion whether or not I agree to his amendment, in that knowledge that having explained what has motivated the Government to draw this distinction between publication of the

letter and sending a copy to the Government that if the Opposition remain of the view that it should nevertheless read that the things should be sent to this House, that the Government are minded in the interests of genuine unity as opposed to just requiring them to support it because they are broadly in agreement with the issues, we will agree but I would ask the hon Member, knowing that he has it in the bag if he wants it, to consider whether or not given that referring to the Government as opposed to the House is (a) not going to prevent either the Government or the Opposition from being aware of its contents, and (b) given the fear that we have that it might give them a means of wriggling off the hook, whether we should not at this stage deprive them of that possibility by playing it cautiously rather than boldly. Then I suppose, Mr Speaker, if the House forms the view that it should be a request to provide the documents to the House as opposed to the Government, it then begs the question of whether the last bit of his amendment is entirely logical because presumably if the House is asking him to provide this to the House it hardly seems logical to request the Government to respond to the House on the responses received. Presumably the response would then not be to the Government but to somebody else or I suppose it is possible that even if he receives the motion asking him to report to the House, if he is minded to respond at all he might still respond to the Government and that would make the final amendment relevant. We are content to subject the Government to the stricture of having to send a copy of this motion to the House of Commons Foreign Affairs Committee and also to Andrew Mackinlay and the Government would do so with pleasure and satisfaction. The Government are always willing to report back to the House on any issue of public importance to Gibraltar, particularly one on which the House is acting as one in the interests of Gibraltar so certainly whatever logical or not, we are quite happy to support the last bit of the amendment and indeed we will support the whole of the amendment if I have been unable to persuade them on the point of leaving the Gibraltar Government rather than the House in sub-paragraphs (1) and (2) of the motion.

MR SPEAKER:

Before I call on the mover is there any contribution from any other hon Member.

HON J J BOSSANO:

Mr Speaker, in the light of what the Chief Minister has had to say I propose to further amend the amendment which I think will take care of that. That is, by adding the words "this House" after "the Gibraltar Government" instead of putting it in substitution. So we ask the British Government to provide copies to the Gibraltar Government and to the House and that does not give them the excuse of saying, "Well, since I do not give it to the House I do not give it to anybody" because they can still give it to the Gibraltar Government but it would then be that they refused to give it to us and not that we have not asked for it. In my view that will take care of the point that has been made that we should not give them an excuse for saying, "Well, since I do not give it to the House and it is only the House that is asking for it and nobody else then I do not give it to anybody". The last sentence, of course, is there because the responses to the action taken by the Government are not just from the Foreign Office but also from the Foreign Affairs Committee and from the Gibraltar Group so the Government might be in a position to report back to the House how the Foreign Affairs Committee has reacted to receiving this motion and that could only come through the Government because we are not asking either the Foreign Affairs Committee or Andrew Mackinlay to send anything directly to the House so that any response from them would necessarily have to come to the Government, this is why the last sentence is relevant even if the Foreign Office, as it were, bypassed the Government and came directly to the House which we all think is not a very high probability there would still presumably be some kind of reaction from the Foreign Affairs Committee and the Chairman of the Gibraltar Group who might want to take the matter up and write to the Government saying what is taking place and we would expect that a report of that would additionally give us an opportunity to

debate the issue further if there was a need for any further debate or any further action.

So I propose that my proposed amendment should be altered so that instead of replacing the words "Gibraltar Government" by the words "this House"; the words "this House" should be introduced after the words "Gibraltar Government" so that it would read, "to provide to the Gibraltar Government and this House a copy of the letter" in paragraphs (1) and (2).

HON CHIEF MINISTER:

Mr Speaker, the Government can support that amendment.

Question put on the amendment. Carried unanimously.

HON CHIEF MINISTER:

Mr Speaker, avoiding dealing with issues that arose in the hon Member's initial contribution and which have been covered in our discussions relating to the amendment, the Leader of the Opposition said that the Opposition are opposed to the visit because the Spaniards have no right to be here. The Government can agree with the reasons that he gives but not for the use to which he puts it. In other words, the Government agree that the Spanish have no right to be here but the fact that they have no right to be here does not mean that they cannot be invited to come here in circumstances which makes it perfectly clear that they are gaining no political advantage therefrom. In other words, not having the right to be here is not of itself a comprehensive reason for not allowing them to come in the proper circumstances for the proper reasons and without the political baggage which the Pique letter seeks to attach to that visit. In Gibraltar we receive visits from Spanish journalists and Spanish policemen and Spanish Customs Officers and Spanish Social Security people and people of that sort and therefore the simple visit to Gibraltar by Spanish functionaries is not, at least insofar as the Government view is concerned, necessarily objectionable. It becomes objectionable if it is done against a political backdrop

which has extraneous and adverse political consequences to Gibraltar and that is why the Government's position is not that the Spanish experts should not be here but that they should not have come until the Pique letter had been properly responded to so that the visit which in different circumstances was not of itself objectionable, could not have the extraneous and adverse political consequence that it might otherwise have and which the Government believe it does have in the context of the non-reply to the Pique letter. Mr Speaker, I think that is an important distinction. I believe that looked at objectively, if there is danger attaching to the Tireless repair it is danger that Spain faces as much as Gibraltar and therefore that the Spaniards, as a neighbour, one does not have to use the adjective 'good' or the adjective 'lousy' or the adjective 'indifferent', if the Spaniards as a neighbour want information and want to be kept reassured about the things that are of genuine and legitimate interest and concern to them, then the Government of Gibraltar think that that is fine. In fact, if the Government of Gibraltar think that it is correct and the Government of Gibraltar would extend that to a visit if and to the extent that the visit is relevant, assists the Spaniards not in managing their public relations disaster at home; not in making political steps forward but if it were genuinely relevant in assisting them to be informed and to be reassured as neighbours given that that is a legitimate aspiration on their part. But, of course, the Spaniards themselves eliminated that scenario when they came out before the visit no less than the Consejo Nuclear Superior saying, "We do not want the visit, there is no purpose in going because we would not know what we were looking at even if we went". If it all boils down to giving them a gin and tonic in the wardroom of the submarine then that does not serve, is not capable of serving and by their own admission, is incapable of serving any genuine technical desire on their part to be informed and therefore can only respond to a desire to visit for the sake of a visit for some reason other than technical education. And that is why in my letter to Mr Keith Vaz that I published I sent him all the press reports of which he was incidentally unaware until that time, of the Spanish nuclear experts themselves saying, "We have no expertise, we do not know what a nuclear submarine looks like and we would not know what we were looking at even if we

bumped into it in the street". In those circumstances, to proceed with a visit without an answer to the Pique letter meant that this visit was some part of some political genuflection in the context of the Pique letter rather than that which the Government of Gibraltar would have thought perfectly okay which would have been a visit by experts from Spain in the context of a genuine process of neighbourly information and neighbourly reassurance but they made that impossible by their own admission before the visit that they did not want the visit for that reason.

Mr Speaker, if Señor Pique has said that he wants a joint mechanism for a joint say over the affairs of the Naval Base and before that letter is answered we have a request for a visit, that visit can either be for technical purposes or for political purposes. At the time that both were a possibility, I suppose that it was open to parties to play one end against the other against the middle and to leave it ambiguous about whether it was for political or for technical reasons. But once the Spaniards themselves eliminated the technical possibility by saying that they did not want it for technical purposes that only left the political possibility, the political explanation for the visit and that is why the Government of Gibraltar believe, with the support of this House, that it is important for political purposes that this matter be dealt with because the way the record stands, the way the chronology of events stand, the way the Spanish statement stands, whatever London may say through the Governor here, anybody in the future studying this affair is much more likely to come to the conclusion that the visit and the joint Comision Mixta is more likely to respond to the Pique letter than it is to any genuine desire on the part of the Spaniards to inform themselves for neighbourly reasons of matters of nuclear safety.

Mr Speaker, the British Government rightly say that it is in the Government's opinion correctly committed to a full and transparent flow of information about the Tireless both to Gibraltar and to Spain. Well, it has not been necessary in order to keep that flow of information and transparency going between London and Gibraltar for London and Gibraltar to form a joint commission. It is perfectly possible to transmit information from one party to

another in the fullest extent without establishing a joint body. There is not a joint body between the United Kingdom and Gibraltar and I therefore do not accept that in order for Her Majesty's Government of the United Kingdom to keep Spain properly informed of matters of legitimate interest and concern to Spain, that it is necessary or was necessary for a Comision Mixta to have been set up. It is just a question of passing over the information and if there is a need for a Comision Mixta, I want to know what Señor Perez Grifo, the Head of the Gibraltar Desk at the Spanish Foreign Ministry, contributes to that Comision Mixta. This is either for technical reasons or it is for political reasons and if the Spanish Consejo Superior Nuclear admit to have been totally ignorant on matters relating to mobile nuclear reactors, I do not suppose that there is anybody in the Spanish Foreign Ministry with a greater degree of expertise in these matters than their own nuclear experts. So wherever one looks at this matter the fact is that it points to events which had a political rather than a technical backdrop but if we are wrong, if we are a bunch of paranoid people it is very easy to relieve us of the burdens of our paranoia and that is simply to write the sort of letter for which I can think of no good reason why it has not been written already. If it is Her Majesty's Government's position that the Spaniards cannot have a say, of course, one would have to carefully examine whether the words "Spain cannot have a role in the control or management of the Naval Base" is actually synonymous with saying to them that they cannot have a say or they cannot have a joint mechanism through which they can express their views to the United Kingdom, one can have a joint mechanism for giving Spain the mechanism to express its views and therefore have her handle that way without it amounting to joint control or management. So even the words that have not been uttered are pretty carefully chosen. The way to relieve us of our paranoia lest we should all be collectively suffering from it, is to write the sort of letter that any British citizen would think would be the natural and immediate response when a foreign Government makes an impertinent request of that sort. Because whenever I speak of paranoia I always remember the words attributed to Oscar Wilde that "the fact that you are paranoid does not of course mean that they are not out to get you".

Mr Speaker, I conclude by saying that the whole issue that we have been debating in this House this morning cannot be totally separated from a press report that appeared in the Spanish press at the same time as all of these although more recently towards the end of the affair rather than at the beginning of the affair, in which the Spanish Defence Minister made a public statement saying, in effect, that the Pique request had to be seen in the context of what he called – and one is only relying on press reports – on what he said were "on-going discussions about ultimate Spanish NATO control over the NATO assets in Gibraltar". As far as the Gibraltar Government are concerned, the British Government's position confirmed in writing to the Gibraltar Government is that Spanish officers even if they exercise a NATO command, for example, in the context of a south-western Mediterranean NATO sub-command, would not exercise command and control over Gibraltar assets. Therefore I believe that it is important that we do not allow any leak to be made in the wall of this particular dam because once it is penetrated by however small an amount it will inevitably lead to bigger and greater things. I would just conclude by expressing to the Opposition Members the Government's gratitude and appreciation for their spontaneous and unconditional support to the Gibraltar Government in our position in this matter which obviously I think we both agree increases the chances of the initiative being successful although we know it to our cost in the past that it does not guarantee it.

Question put. Motion, as amended, carried unanimously.

The House recessed at 11.55 am.

The House resumed at 3.05 pm.

HON CHIEF MINISTER:

Mr Speaker, I have the honour to move the motion standing in my name which reads -

“This House -

Affirms that the judicial independence, namely the ability of the judiciary to dispense justice without interference from any other source, and with the benefit of sufficient resources to do so, is an essential pillar of the rule of law and democracy which is fully safeguarded in Gibraltar by law and long established practice.”

Mr Speaker, the majority, if not by now all the Members of the House will be familiar with Gibraltar's longstanding and hitherto unchallenged system for funding the judiciary and that is that although the judiciary in the sense of its adjudicating function, in other words, administering justice in the sense of adjudicating in cases whether they be civil or criminal, is a function completely divorced from the executive and as the motion recognises from everything else not just the Government from which the judiciary needs to be protected in that respect but indeed from all other sources and it is right that that should be so. But for the purposes of funding, indeed for the purposes of staffing, for the purposes of the provision of the judiciary with buildings, equipment and resources of all types, the judiciary had always been regarded for the purposes that I have described as a department of Government. hon Members will be aware that Head 12 of the Estimates of Revenue and Expenditure which are presented by the Government every year in this House and debated in this House and approved or not, as the case may be, in this House as part of its appropriation mechanism for the authorisation of public expenditure includes the judiciary vote. Accordingly, the entity that provides funding for the judiciary is this House through the appropriation mechanism and once this House has approved a vote for the judiciary it no longer lies in the hands of the Government to deny that funding in the sense that it then falls

under the control of the Controlling Officer of that vote which in the case of the Supreme Court part of the judiciary vote is the Registrar of the Supreme Court and in the case of the Magistrates' Court part of the judiciary is the Clerk to the Justices and, of course, the existing long-established and hitherto unchallenged system has been that. That this House approves funding for the judiciary and thereafter it is not controlled by the Government in any sense that might result in appropriated funds being withheld from the judiciary after it has been approved in this House and after it has come into the control of the Controlling Officer.

Supplementary funding requests, of course, are a different matter. The department, like all departments in Government, submit their bids for funding at the time that the Government are preparing their budget. The House then approves the vote. Certainly I think I can say with confidence that since we have been in office, which is not to suggest that the position might have been any different before, the vote of the Supreme Court has never been reduced, and the Magistrates' Court for that matter. No one has ever said to me or to anybody else in this Government that the judiciary is insufficiently resourced or insufficiently funded. No one has said to me, “Chief Minister you are not voting enough funds for the judiciary and as a result the judiciary cannot dispense justice in Gibraltar as one would expect in a modern western European democracy” which is, after all, what we are and not to be compared with other more far-flung and remote corners of the globe where issues of judicial independence may be at stake and I think it is important not to tarnish Gibraltar with experiences that may have been obtained in other such jurisdictions. Mr Speaker, when during the course of a financial year, and I know that in the case of the Leader of the Opposition I am teaching him to suck eggs because he is familiar with the process, the judiciary wants additional funding for things that they did not seek in their departmental bid it is then a matter for the Government to decide whether sufficient funds or the additional funds can or should be made available from unvoted supplementary funding. And I wish to make it perfectly clear to hon Members in this House that that system has suffered

absolutely no change of any sort certainly since this party has been in office and I suspect it has not changed or had not changed in any of the preceding years, it is a long-established system of funding the judiciary of Gibraltar with which no one had previously taken issue either in the more distant past or in the immediate past.

Mr Speaker, much has been made in the last two years about something called the Latimer House Guidelines. Of course, anyone listening to that debate might have been forgiven for considering or for coming to the conclusion that the Latimer House Guidelines are the very stones on which Moses scripted the Ten Commandments and that life, without the Latimer House Guidelines, is relegated to worse than a banana republic. Well, it is just as well for this House to be aware of what the Latimer House Guidelines are and what their status is so that the House can then form its own view about whether the fuss that has been made about them and the presentation that they have been given in public justifies the potential that there has been for irreparable damage to Gibraltar's international reputation in this respect. If the Latimer House Guidelines were so important that it deserves and justifies the Chief Justice of the day making statements which are so ambiguous that it causes the hon Dr Garcia to issue public statements accusing the Government of interfering with civil liberties in Gibraltar, if that is the extent of the importance of the Latimer House Guidelines well, the least that the Government would have expected before anybody should say anything that causes the hon Dr Garcia to suggest that the very respect for civil liberties in Gibraltar is under serious threat, is at least to have brought the Latimer House Guidelines to the attention of the Government because if the Latimer House Guidelines are what some people, who should know better, have lead public opinion to believe that they are when in fact they are not, then one would have expected an element of prior debate with the Government to say, "Look Government, these are the Latimer House Guidelines, what are you going to do about implementing them in Gibraltar?" and I suppose if they were Moses' tablets, after a period of time and the Government saying, "I want to be a banana republic and I want to interfere with the judiciary and I

want to do all these things and therefore I am not applying the Latimer House Guidelines" it may then be an appropriate case for somebody to say publicly, "Naughty Government will not implement the Latimer House Guidelines".

Mr Speaker, it is just as well to mention that the Latimer House Guidelines are not actually just the Latimer House Guidelines on judicial independence. Their full title is the Latimer House Guidelines on Parliamentary Supremacy and Judicial Independence because it is another basic precept since there are some Members in this House that appear keen to lecture on what are fundamental principles of British constitutional law. It is also a fundamental principle of constitutional law that parliament is supreme which is not to say that parliament interferes with judges so that they cannot make independent adjudications in their courtrooms. But it does mean that parliament controls the purse strings as much in the judiciary as in any other aspect of public expenditure.

The Latimer House Guidelines, Mr Speaker, are a set of guidelines drafted in June 1998 before which, of course, the world used to turn. It is not that the planet started to turn for the purposes of the administration of justice in June 1998 so that before this handful of judges got together we were all practising banana republic administration of justice. But still, I do not for one moment say that the Latimer House Guidelines are not perfectly sensible. What I can tell the hon Members for sure is that they have not yet been adopted by a single country in the Commonwealth. There is not one country in the Commonwealth, there is not one Government in the Commonwealth and there is not one parliament in the Commonwealth that has yet adopted the Latimer House Guidelines. The Latimer House Guidelines are promoted by four organisations all connected with the Commonwealth. One of those four organisations is the Commonwealth Parliamentary Association where hon Members know Gibraltar has many friends and the Commonwealth Parliamentary Association as one of the four sponsoring Commonwealth organisations of the Latimer House Guidelines wrote to my hon Colleague, the Minister for Trade and Industry,

as recently as the 13th October this year saying, "So far as we are aware the guidelines have not been adopted by any Commonwealth country or Government. The guidelines were presented to Commonwealth law ministers at their last meeting in Trinidad and Tobago in September 1999. Although welcomed in principle, some Ministers had reservations about certain parts of the guidelines and after some discussion referred the guidelines to the group of senior officials for further consideration. The senior officials next meet in June 2001" - a date which not only had not arisen when all the fuss was made about them back in 1999 but indeed which still has not arrived. Commonwealth Chief Justices met and considered the guidelines last month just before the Commonwealth Magistrates and Judges Association Conference in Edinburgh and issued a statement on the Latimer House Guidelines. I have here the statement issued by the handful of Commonwealth Chief Justices that met in the fringe of the Edinburgh Magistrates and Judges Association Conference to consider again the Latimer House Guidelines. Those judges included the Hon Sir Dennis Williams of Barbados, the Hon Justice Wall of Bermuda, the Hon Justice Nganunu of Botswana, the Hon Justice Pikis of Cyprus, the Hon Justice Schofield of Gibraltar, the Hon Justice Bernard of Guyana, the Hon Justice Millhouse of Kiribati, the Hon Justice Banda of Malawi, the Hon Justice Uwyis of Nigeria, the Hon Sir Arnold Amett of Papua New Guinea, the Hon Justice Fasholoop of Sierra Leone, the Hon Justice Sappire of Swaziland, and the Hon Chief Justice Ground of the Turks and Caicos Islands. Mr Speaker, hon Members will notice from that list the complete absence of any judge representing a large democratically advanced jurisdiction in the Commonwealth none of which is to suggest that the Latimer House Guidelines are not either in whole or in part, a perfectly sensible set of guidelines which, when adopted by the Commonwealth, will be I suppose implemented by Commonwealth countries including the United Kingdom that has a system for funding the judiciary very similar to our own and all the other countries, for example, New Zealand that actually objects to the Latimer House Guidelines precisely in relation to the issue of funding of the judiciary. And it is against this backdrop that they are presented to public opinion in Gibraltar as

if they are the Gospel in relation to the civilised administration of justice. So that any Government that dares to do something inconsistent with this brand new document that has not yet been adopted by anybody is somehow in the back of the woods of the beyond in relation to matters relating to the administration of justice.

This is a statement that the Justices that attended this fringe meeting in Edinburgh issued on 9th September as a result of that meeting, "At a meeting of Chief Justices of the Commonwealth held in Edinburgh on the 9th September 2000, the Latimer House Guidelines for Parliamentary Supremacy and Judicial Independence were considered. The meeting commended the guidelines for consideration by Commonwealth Heads of Government and expressed support for the efforts of the four sponsoring organisations to refine the guidelines. The Chief Justices welcomed the importance the guidelines attach to the independence of the judiciary and the provisions relating to adequate funding for the judiciary which, when approved by the Legislature, should be under the judiciary's control". And I ask the hon Members to consider when that is not as good a description as any of our system for funding the judiciary. Is our system for funding of the judiciary not one when after adequate, we could argue about whether they are adequate or not but certainly no one has argued that in quantum they are inadequate, the hon Member will have to speak for himself for the years in which he was in office. Certainly no one has ever said to the Government since the 16th May 1996, "You are not providing enough money for the judiciary". Is not ours a system for funding the judiciary which whether approved by the legislature that is us, should be under the judiciary's control? Mr Speaker, once the funds are approved by the legislature they may be spent without further recourse to the Government by its Controlling Officer who are, as I said earlier, members of the judiciary. But of course, consideration has to be given to whether funding being under the control of the judiciary means that we simply say, "£750,000 for the year 2002" and somebody decides how that money is spent. Is it spent on wages? Is it spent on a new building? Is it spent on travel? Is it spent on entertainment? Is it spent on this or on that?

Of course, we do not have that sort of system but I do not know of any country that does. What we have is a system where this House not only decides the amount of the money but votes that money to a series of Heads and subheads, then there are rules about virements which allows departments to transfer money from one subhead to the other provided that in all cases the expenditure is a proper call on public funds. Mr Speaker, I would suggest to the hon Members in this House that the system for funding the judiciary in Gibraltar admirably complies with the as yet unbinding, unadopted, still to be refined, still to be presented for political clearance to the Heads of Government of the Commonwealth so-called Latimer House Guidelines.

Mr Speaker, just to draw from some of the speeches made by some of the Chief Justices present at that conference, Sir Philip Bailhache of Jersey who is the Bailiff and Chief Justice, in Jersey they appear not to be quite so squeamish about the separation of powers. There the Bailiff, who is I understand the Speaker of the House of Parliament is also the Chief Justice so I suppose they are even more backward than we are in these finer issues of the separation of powers which is such a fundamental principle of British Constitution. But I think he gives a perfectly sensible definition of what the average lay person understands by interfering with the independence of the judiciary. Talking about the average citizen and about high sounding principles he says, "What matters to him" – the citizen – "is whether the judge or magistrate before whom his dispute is to be litigated is in fact impartial and independent of political or improper influences". I think that that is a perfectly sensible definition of interference with the judiciary. I would ask the hon Dr Garcia to cast his mind back because I am going to remind him anyway later on this afternoon, to what he thinks happened and of the accusations that he made against the Government from a position of total ignorance of the facts and I would ask him to just ask himself whether he thinks that I or anybody else in the Government was interfering with the judges or the magistrates in a manner in which the ordinary citizen might feel that the improper influences were being brought to bear such as affected the impartiality and independence of the decision-making process.

Mr Speaker, the Chief Justice contributed as well, I think in a very constructive and on the whole enlightened manner to the debate. I think he delivered a speech with much of which we would all agree, I am not sure whether the hon Member would agree with all of it, I think they would wish to read it carefully before they agree with all of it but what our Chief Justice said, amongst many other sensible things, he was addressing the gathering on maintaining judicial independence in a small jurisdiction, apparently and by all accounts a subject all on its own. I do not know whether it is that it is assumed that those of us who reside in small jurisdictions have a larger tendency or propensity to interfere with the independence of the judiciary but still, in it he says, "My experience is that the Cayman Islands" – from which he came, of course, immediately before arriving in Gibraltar – "and Gibraltar are jurisdictions where judges are not subjected to any direct interference in relation to the cases before them". I read this for the benefit of the hon Dr Garcia so that he knows what I meant when I said to him that he was abusing the Chief Justice's statements at the Opening of the Legal Year and whereas the Chief Justice was not trying to suggest that there was that sort of interference with the judiciary, the hon Member was using carefully ambiguous language to try and give as many people the impression as possible that the Chief Justice had been suggesting that there was that sort of political interference. He does not have to recall, I am going to remind him exactly all the things that he said in his various press statements in a while. "There are stresses and strains, particularly in maintaining the appearance or perception of independence but there are none of the problems of direct interference such as I encountered in my previous jurisdiction of Kenya". Well thank the Lord for small mercies, we are at least more advanced than Kenya.

Mr Speaker, there are other things which the Chief Justice said, I think with great astuteness in this statement and to which I will draw the attention of the Opposition Members later. Amongst the things that he said were, "The money available to the courts has to be provided by the executive and in theory, at least, the executive could express its displeasure with the judiciary by denying it the necessary funds; in practice that has never

happened in either Gibraltar or in the Cayman Islands so far as I am aware. Perhaps problems in this area are brought into sharper focus in small jurisdictions with smaller budgets where there is a tendency for small budgetary matters to be subject to central control. For example, if I require the funds to attend a conference, the Registrar has to submit an application to the Chief Secretary. In theory the Chief Secretary or whoever is consulted could prevent me from attending a conference if it was considered that it was inappropriate for me to do so either because of the content of the programme of the conference or because of what I was likely to say. But these are perceptions of possible ways of interfering with the activities of members of the judiciary and I cannot imagine being denied funding on those grounds. In practice, it would be a question of whether funds are available. In my experience, in both Gibraltar and the Cayman Islands, the courts are adequately funded within the budgetary constraints of the respective governments. Similarly with staffing, with goodwill and a sensible approach on both sides, the courts are reasonably adequately manned". And so, Mr Speaker, I do not want anyone to run away with the notion that the Government do not take seriously the Latimer House Guidelines. What the Government do take seriously and indeed grave objection to, is the idea that a document that is still in draft, that has not been adopted by anybody, that has not been presented to governments for adoption in any part of the Commonwealth should be palmed off to and against the Government of Gibraltar as if it were the Gospel, the handbook, the criteria, the yardstick by which the civilisation of our judiciary and our system for administering justice in Gibraltar can instantly be compared. Mr Speaker, I suspect that the Chief Justices and let us not go back 300 years, but the Chief Justices in the last 30 years who have lived with the same system of funding the judiciary as continues to prevail in Gibraltar and which has not changed, they were not presumably administering over a system which resulted in executive interference with the administration of justice which is not to say that new principles do not evolve and that new techniques and that new concepts do not evolve and, of course, one cannot say that just because the system and certainly I do not say that just because we have had a system that has worked

well for 40 or 50 years it cannot be improved on. Of course it can be improved on but certainly I think it is not reasonable to expect Gibraltar to be the trailblazer in the whole Commonwealth on this issue, still less is it fair to suggest impropriety on the part of the Government or somehow improper conduct on the part of the Government for continuing to operate the system that has always existed allegedly in breach of the so-called Latimer House Guidelines which are not themselves adopted by or implemented in any Commonwealth country.

In his address on the occasion of the Opening of the Legal Year this year, the Chief Justice again returned to the question of judicial funding. Amongst other things he said, "My address of last year led to some public discussion. I raised the issue of funding explaining why the judiciary should have control of its own budget subject, of course, to proper accounting and audit safeguards. I attended a meeting of the Commonwealth Chief Justices which immediately preceded the Commonwealth Magistrates and Judges Association Conference in Edinburgh. The Chief Justices made a release after the meeting which was endorsed in an open session of the Association's meeting" – that is the release that I have read to the hon Members – "in commending the Latimer House Guidelines for considering the Commonwealth Heads of State the release welcomed the importance of the guidelines attached to the independence of the judiciary and the provision in the guidelines relating to adequate funding for the judiciary which, when approved by the Legislature, should be under the judiciary's control". Mr Speaker, I regret that there was still not more indication in this year's speech about the exact status of the Latimer House Guidelines. But leaving that point to one side, the fact remains that we have in Gibraltar a system of funding the judiciary which guarantees its independence and leaves it to this House to determine the adequacy of the funding for it and once approved by the Legislature leaves that expenditure under the administrative control of the judiciary. If what the Learned Chief Justice means, although he does not explain it, is that he believes that we should just award a lump sum leaving it, presumably, to him to decide how it is spent, well that is a very radical move away from the

existing system. It is not the basis upon which the judiciary is funded in many other countries, it would give this House absolutely no control whatsoever about how that money is spent. But, of course, this is not the first request. If that is what it means, this is not the first request I get of that sort. Since I have been in this job, I do not know if the hon Member when he was sitting in No.6 had similar requests, but I had also had a request slipped into Police Inspectors' Reports from the UK, Grundy Reports and things of that sort that suggest that the Police budget should be under the control of The Convent. In other words, that they and us should just decide, "Let us vote £7.5 million for the Police this year and then leave it to the Commissioner and The Convent presumably in their Thursday morning meetings to decide how this money is spent". I believe and I do not believe that it raises anything to do with the independence of the judiciary, I believe that the electorate in this community will not understand if this House gives up appropriation control over every part of its budget for which the Government and the House happen not to be constitutionally responsible. When and if it should become the accepted conventional wisdom that that is how it must be and that that is how it should be and is in countries of the Commonwealth that assert more leadership in these matters than Gibraltar is allowed to do, when all of them adopt a different system and it becomes conventional wisdom then, of course, the Government of Gibraltar will not wish to lag behind but in the meantime I think the system that we have, not only serves the interests of public accountability well but indeed has never been thought to prejudice the administration of justice before.

Mr Speaker, the funding issue, to call it that, first arose in the Learned the Chief Justice's speech at the Opening of the Legal Year in 1999. In it, having launched into the public for the first time the draft Latimer House Guidelines, he went on to say, "The judiciary has encountered one or two instances in the past year where their denial or delay of the release of funds by the Government has had the potential to affect adversely the administration of justice". And I have said publicly outside of this House and therefore I am quite content to repeat inside this House that I find it regrettable that the Chief Justice should have

chosen a formula of words that were capable of being misinterpreted to mean something quite different. Clearly the hon Dr Garcia chose to interpret them differently. This, of course, was the first that the Government had heard of these things and indeed but for a coincidence I might have been sitting in the gallery at the Opening of the Legal Year listening to this very public reprimand of the Government by the Chief Justice. In the event, upon hearing of the Chief Justice's words we all put our thinking caps on in Government and wondered what the Learned Chief Justice could have been referring to. We recalled that we had denied a claim to have an entertainment allowance and that as with all Government departments claims for entertainment expenditure are submitted to the Chief Secretary to be paid out of a central fund and some of the judiciary's entertainment aspirations are agreed to and funded and others are not. So we thought, well could he possibly be referring to his entertainment expenses? We were aware, at that time, that the Government had denied supplementary funding for one conference, we had agreed to several others both before and after but we were aware that we had denied supplementary funding to one conference abroad that the Chief Justice had wanted to attend. So we speculated publicly that these might be the two reasons. The Chief Justice subsequently issued a statement saying that those were not the two reasons that he had had in mind thereby leading public opinion to believe that it might be much more serious than entertainment expenses and denial of funds for travel to a conference. I therefore asked the Chief Secretary if he would write to the Registrar, lest there should be any suspicion of interference, and ask him please would he tell the Government what the two instances were that he had had in mind when he made these ambiguous assertions in public about interference in a way that had the potential for adversely affecting the administration of justice. We received a reply, on the 20th October 1999, we subsequently received a reply in which we were informed that the first instance that the Chief Justice had in mind concerned the delay in the decision to finance the agreed proposals for recruitment of members of the Bar to train as potential Stipendiary Magistrates. The second concerned the refusal of funds for his participation in a Judicial Studies Board

Training Seminar on the Access to Judicial Reform and that was it. Those were the two instances of the Government's alleged interference with the judiciary in manner that had the potential to adversely affect the administration of justice. And I would like to report to this House of those instances. The system for the recruitment of Stipendiary Magistrates is well established in Gibraltar. Opposition Members, at least some of them, will be familiar with it. The appointment of the Magistrate is not one of those appointments to which the sections in the Constitution relating to judicial appointments by His Excellency the Governor refer. Those articles of the Constitution do not refer to the Stipendiary Magistrate and accordingly, as the hon Member knows, the Stipendiary Magistrate has always been a Public Service Commission appointment in the usual way. The Chief Justice, the hon Members will recall that we had then in place a contract Stipendiary Magistrate by the name of Mr Mockett who was rapidly reaching the age where he would wish to so give up his post and the question arose of how the Stipendiary Magistrate would be replaced. The Chief Justice held the view, with which I agreed and for which I applaud him, that it was right and proper that such post should be occupied by local persons. There was concern about how such a local person might be found. All of this which I am about to explain to the Opposition Members was eventually overtaken by events because the recruitment process eventually yielded, the current Stipendiary Magistrate who had been in line for the post whilst he had been serving as Registrar, the hon Members I think know who I am talking to, he is the incumbent Stipendiary Magistrate. The Chief Justice, I suppose, came up with the idea that would it not be a good idea if Members of the Bar were invited to come and sit as ad hoc Stipendiary Magistrates for short periods of time to give them the opportunity to see if it is the sort of thing they wanted to do and to give others the opportunity to evaluate their qualities for that post. The Government were asked whether we would be willing to fund this exercise because apparently Members of the Bar were not to be invited to do this on a pro bono basis, they were apparently to be paid a fee for the hours that they sat as Stipendiary Magistrates and the Government indicated that subject to being told what the cost would be, we would be happy

to fund this proposal if that is what the judiciary thought was a good way of rooting out good potential Stipendiary Magistrates for the future. Indeed when we were told that the cost was in the order of £9,000 or £10,000 the Government gave our approval for the proposed expenditure. But when we discovered how it was proposed to implement this novel system the Government took objection to how it was going to be done because the purpose of recruiting these lawyers to act as sort of trainee Stipendiary Magistrates was precisely to evaluate them for permanent appointment after the usual recruitment process. The Government therefore took the view that since anyone that had been selected for this new system of temporary service would necessarily have an advantage in the future over other applicants because they would have been given the opportunity to show their metal because others who were going to make the decision about their selection would have had the opportunity to evaluate their performance in this way, the Government took the view that in order to ensure that the eventual permanent recruitment process was fair and transparent, anyone who might want to apply for the future permanent position had to be free to apply for the pre-selection or pre-assessment process because otherwise what would have happened is that if the novel pre-selection process had been done by private selection and that that had been followed by the usual open process for the recruitment of a Stipendiary Magistrate, namely, advertisement, Public Service Commission open to everybody and that system had selected, as it inevitably would, one of the chaps that had shown their metal in this new novel system, the remainder would complain not to the Chief Justice or to the Governor but to the Government that we had perpetrated an untransparent selection process because they had not had the same opportunity as the others to show their metal and to be assessed and they would genuinely feel at a disadvantage. And all these issues arose because when the system for operating this, the financing of which the Government agreed to, was first put to the Government in May 1998 in a letter from the Registrar to the Chief Secretary, it was made perfectly clear that the Chief Justice himself would identify the Members of the Bar to be given the privilege of being allowed, at taxpayers' expense, to serve as temporary Stipendiary Magistrates in the

run-up or as a pre-process to a permanent selection and the Government simply said that we were not willing to fund a process the openness, fairness and transparency of which we would subsequently be criticised for. The Government expressed the view that just as the permanent position subsequently would have to be put open for advertisement so that anyone who wanted to could apply to, so had this preliminary and novel system also to be put open for advertisement so that anyone who wanted to apply to do it could apply to do it. A view, let me tell the House, which eventually prevailed. And so what the Government refused to fund was a system of hand selection by a person who is not the Constitutional authority for the appointment of the Stipendiary Magistrate, of trainee Stipendiary Magistrates in a way that would have given them an advantage in the subsequent selection process. But of course, Mr Speaker, the Government were not obliged to have agreed to any of this at all. The administration of justice in Gibraltar, whether or not the Government are interfering with the administration of justice in Gibraltar, does not depend on the Government agreeing to each and every change of recruitment policy and to fund each and every novel method that is suggested to us. In the event, the Government immediately agreed to the provision of the funds. We then disagreed with everything that I have explained to the hon Members at length about how it was going to be done but the Government could very easily have said, as a matter of policy, "no, there is a long and tried and tested system for appointing Stipendiary Magistrates in Gibraltar and the Government do not want to fund this novel method of doing it". Do the hon Members really think that in those circumstances it would have been fair to say of the Government to the public at large that that was one of two instances in which the Government had delayed or denied funds to the judiciary in a way which had the potential to adversely affect the administration of justice? Well, the Chief Justice might have said, "I asked the Government to let me handpick trainee Magistrates and the wretched interferers did not" but at least people would have known what the issue was rather than use ambiguous phraseology that was capable of meaning all things to all men and indeed we know

what it meant to the hon Dr Garcia, if his public statements are anything to go by anyway on the subject.

As I say, Mr Speaker, although we are talking about May 1998, by the way, the whole process was initiated in May 1998, it was eventually agreed in December 1998 that it would be done as the Government had wanted. In other words, as it had always been done, that is to say, there would be an advertisement for these trainees, that would be followed by the ordinary selection process including a Public Service Commission Committee to make recommendations to the Governor for the eventual appointment of a permanent and pensionable Stipendiary Magistrate and the Governor would then make the appointment after consultation, which is a separate issue that I will come to in just a moment. As I say, in the event the project did not get off the ground. We got to the agreement in December 1998, it was then overtaken by events. But the point that I would make for the consideration of the House is that between May 1998 when all this issue started and raged through the summer of 1998 and its eventual conclusion in December 1998, there was an Opening of the Legal Year in October of that year as always. No one said anything about the Government interfering with the administration of justice because five months after the proposal we still had not agreed to do this in the way that the judiciary wanted it done. It was therefore surprising that a whole year later, in the 1999 Opening of the Legal Year speech this issue should apparently, it was not mentioned in terms in 1999 but afterwards by this letter to which I have already referred where the Chief Justice eventually told the Government of the two issues that he had had in mind in 1999 when he did not make the statements this had been one of them. And if the issue existed as a live issue in the Learned Chief Justice's mind the first and obvious opportunity that he had had to flag the issue had been the Opening of the Legal Year in 1998.

Mr Speaker, the second issue referred to in the Learned the Chief Justice's letter as being one of the two that he had had in mind when he accused the Government of delaying or denying funds in a way which had the potential to adversely affect the

administration of justice, we discovered upon receipt of that letter was the failure of the Government to approve in December 1998 a request by the Chief Justice for funds to attend something called The English Judicial Studies Board Conference in relation to the Wolfe Reforms at Warwick University on the 1st to 4th February 1999. At the time of course, Mr Speaker, the Government had not been briefed on the extent and importance of the Wolfe Reforms. Indeed, I have only recently been briefed despite the enormous transformation that it has said to have on the system of administering of justice in Gibraltar on what they actually entail. With hindsight I think it would have been a much better decision to have allowed him to go to this conference but perhaps if the Government had been fully informed about the Wolfe Reform then and now the Government might have made a decision to allow supplementary funding given that there were no funds available at that time from the travel vote anyway and would have required supplementary funding. And the response that was given at that time was, "The Government do not consider that the subject matter of this conference is of sufficient value to Gibraltar at this stage. Funds cannot be approved for this purpose. Please note that funds under subhead for conferences are now fully committed for the remainder of the financial year". Normally what happens when requests for supplementary funding arise against the vote which is already fully booked for the year is in the absence of some enormous necessity for the expenditure it is just turned down especially towards the end of the financial year and that is what happened in this case. So the hon Dr Garcia is I am sure as I had asked him to do at the beginning of my speech, Mr Speaker, now contemplating which of these two momentous events he thinks brought the civil liberties of his fellow citizens in Gibraltar to the point of crisis that he described in his press releases.

Mr Speaker, of course having been a Member of an Opposition myself I think I know how to make due allowance for the sort of political process and the political licence that all Oppositions should have in order to keep the Government scrutinised and holding them to account but I believe there are boundaries to what constitutes proper comment, to what constitutes proper

speculation and to what constitutes proper exercise of that political process which is so vital in a vibrant democracy such as ours. The Opposition Member presumably had not overlooked the fact that the Government contained three lawyers, all of them I think enjoying some justified reputation for the roles that they play in private legal practice - I myself a silk, a barrister by profession, committed by profession to the administration of justice and I think the hon Member might have done me the courtesy of at least seeking information from me about what was involved factually in these issues before launching the tirade that he did. I am going to remind him, yes he must not pull faces but I am in a while going to remind him of the extent of the things that he was quite happy to accuse the Government of in complete ignorance of the facts and I think that read now in the cold light of day, read now without a general election around the corner and read now with the benefit of the information that he has and which he could have had if he had sought it from the Government then, I would like to think that he would not be quite as vitriolic, quite as alarmist as he was on the occasion that he did make public statements in that respect.

Mr Speaker, there is a completely separate issue that subsequently arose and that is the question of judicial appointments and the extent to which it had been customary in Gibraltar and separately the extent to which some people think it is proper or not, two different issues, for the Government of the day to be consulted on judicial appointments. Parties close to the Chief Justice and indeed the Chief Justice himself waded into this debate. Amongst the many points that were made were questions turning on the meaning of the word 'consultation'. Does consultation mean that one gets asked before or after? Does it mean that one is the decision-maker or not? Well, I do not think that there is anybody in Gibraltar who speaks English that has any difficulty grasping what the word 'consultation' means. The word 'consultation' necessarily does not mean that the party consulted is the decision-maker. It means that it is one of the parties whose views are sought by the decision-maker before the decision-maker makes his decision. Mr Speaker, I asserted then, I assert now in this House that the practice of consulting the

Chief Minister of the day on judicial appointments has been firmly established in Gibraltar since the early days of Sir Joshua Hassan's tenure as Chief Minister. Therefore when the Government say precisely that, that this is an established and entrenched practice in Gibraltar and the Learned the Chief Justice decides to join issue with the Government by making a public statement saying, this is a press release issued by the Learned the Chief Justice on the 11 November 1999, "It is stated that there is a longstanding practice that His Excellency the Governor consults the Government, through the Chief Minister, before a judicial appointment is made. This is the first that I have heard of such a practice". Well, what is that intended to transmit to public opinion in Gibraltar? Because, of course, if the issue is whether the Chief Justice has heard of the practice or not then his views can be dismissed as the views of the man who is ignorant of the established practices. If the Chief Justice was saying, "Well I do not know if there is such a practice or not, if there is I have never heard of it" then people might have put it all down to the fact that this is a newcomer to Gibraltar who is unaware of the practice but one which was not constructed and the phraseology was not juxtaposed to give people that impression. The impression that it was thought to give was that the statement made by the Government that the practice had existed was not true because "Had it been true I, the Chief Justice of the day would know about it and as I the Chief Justice of the day do not know about it and I say that I do not know about it, ergo it cannot be true and therefore the statement put out by the Chief Minister is false". That is what that statement by the Chief Justice transfers to public opinion. He goes on, "It is stated that there is a longstanding practice that His Excellency the Governor consults the Government, through the Chief Minister, before a judicial appointment is made. This is the first that I have heard of such a practice. My position," - fine, he is entitled to whatever views he likes but he should make it perfectly clear that he is expressing an opinion because it is an opinion that is then actually given effect to almost anywhere in the world as I will explain in just a moment but still the opinion to which he is certainly entitled, he said, "My position has always been that consultation with the political arm of the Government over

appointments has the potential to undermine the independence of the judiciary." And I say to myself, hang on what does this mean? "My position has always been that consultation with the political arm of the Government over appointments has the potential to undermine the independence of the judiciary". And I ask myself, what is this, a colonial point or a principle of judicial independence? Because if it is a principle of judicial independence as opposed to a colonial point then it has to be equally applicable in non-colonial countries because something which is perfectly acceptable in non-colonial countries does not become interference with the judiciary because it has the potential to undermine the independence of the judiciary just as happens in a colony, it cannot be politically undermining of the judiciary for a humble colonial Chief Minister to be even consulted, let alone appoint, about the judicial appointments when in England the Prime Minister makes the appointments of the highest Judges in the land, namely the Law Lords. I say to myself, let us look around because my position is that whatever the practice in Gibraltar may have been, if this business of even being asked one's opinion before somebody else makes the decision on the appointment is so heinous, we must not do it. And I instructed to search around and I said, hang on who appoints judges in the United Kingdom? Well the Law Lords, who are the most senior judges in the land are appointed by the Queen on the advice of the Prime Minister which to anyone who is familiar with the euphemisms in the British Constitution means that he chooses them. The other judges are appointed by the Lord Chancellor who is the Justice Minister and sits in the Cabinet as a Minister of the Crown. And I say to myself, how can it be a breach of the fundamental principles of the separation of powers for the Chief Minister of Gibraltar even to be consulted when in the United Kingdom the appointments themselves are made by politicians and who appoints judges in the mother of all democracies the United States of America, as we are now discovering with all the television coverage on the Florida recount? Politicians make appointments, Presidents of Supreme Court Judges, State Governors of State Supreme Court Judges and no one says that the involvement of politicians in the American judicial appointment system has the potential to

undermine the independence of the judiciary. And who appoints judges in Spain and who appoints judges in France and who appoints judges in Germany, who appoints judges in the whole of the democratic western world? Therefore I came to the conclusion that the Chief Justice was wrong because the Chief Justice was not making a point of the principle of the separation of powers. I believe the Chief Justice was making an exclusively colonial point, that colonial Governments should not be involved even through consultation on the appointment of judges because it happens everywhere else in the world and no one thought it had that effect there so why should it have this effect here? Of course, I have no difficulty in accepting the proposition that what is safe and acceptable in a larger country becomes more difficult in a small country but, Mr Speaker, no one in Gibraltar, I am sure the previous Government have never articulated or advocated it, certainly this Government have never articulated or advocated the idea that the Government of Gibraltar should appoint the judges. I have no desire to appoint judges, I have never expressed the view that the Chief Minister should be the appointee of judges, indeed when the Government drafted our first constitutional ideas paper which we put to the British Government in the private discussion we had with them two years ago, the Government's own suggestion was for the establishment of a Judicial and Senior Appointments Commission. And then it was said again, during our research into how these things happen in other countries, I said, well how does it happen in other colonies? Having now established that it does not happen but it seems to be perfectly okay in the great metropolitan countries for these things to happen without anybody losing sleep as to whether civil liberties are under assault, how does it happen in the colonies and the very first British colonial constitution that we pick up to look at actually requires the Governor to consult, not just with the Chief Minister but with the Leader of the Opposition before he appoints the Chief Justice and that is the Constitution of Bermuda. It used to be, prior to 1979, that the Governor only had a requirement but this is now a formal requirement. In Gibraltar there is no formal requirement, he does so out of established practice but the Constitution does not require him to do it. In Bermuda, until 1979,

he was formally required to consult with the Chief Minister and when they amended the Bermuda Constitution in 1969 it was not to say, "What have we been doing for the last 30 years consulting the Chief Minister of Bermuda on the appointment of a judge in a way that has the ability to undermine the political independence of the judiciary? Let us delete "Chief Minister" immediately". No, in 1979 they amended to add the Leader of the Opposition, another politician amongst those that need to be consulted. And I say to myself, how can a Chief Justice of Gibraltar engage the Government of Gibraltar in a public debate six months before a general election on the basis that the Government's assertion that there has been consultation in the past is false and if there has it is improper when there is a colony that has had it for 25 years and the great colonial master of Bermuda which is our colonial master has happily given them a Constitution that says that and I presume that the Foreign Secretary is not consciously presiding over a system which allows for a politically tainted judiciary simply because the Chief Minister is constitutionally required to be consulted on the appointment of the Chief Justice. But no, that was not enough, all the satellites close to the Chief Justice and his friends immediately started writing letters to the Chronicle trying to divert public attention and minimise the significance of the revelation that if something was a constitutional requirement in Bermuda the very same thing in Gibraltar could not be the most heinous act of political interference in the administration of justice.

How had this issue arisen in the first place, the hon Members might be interested in asking themselves because of course this was not in the 1999 Opening of the Legal Year speech, this business of judicial appointments. Well, I will tell the hon Members how the question of judicial appointments arose, a debate into which the Chief Justice then waded quite happily in public. On the 12th May 1997 I was happily sitting in my office during the lunch hour as is my practice, working and I had the radio on in the background listening to GBC lunch time news bulletin and I learnt to my delight that His Excellency the Governor, then Sir Richard Luce, had appointed two new Justices of the Peace and I said to myself, this is good news but

news nevertheless. And I said to myself, can it really be the case that the Chief Minister of Gibraltar, elected by the people of Gibraltar to preside over their Government discovers the appointment of people to judicial office in Gibraltar on the news? But of course I was then a newcomer to this job, I had only been there a year and of course I did not know, it struck me as odd but I did not know whether this was the usual practice. I could not imagine my hon predecessor having sat back and tolerated that sort of position. So I do what every Chief Minister should do in such circumstances and that is to seek advice from the Senior Civil Servants who have the advantage of continuity in post and the advice that I received from my Senior Civil Servants was that indeed this was not usual, that this was a departure from well established practice which had always been that the Chief Minister of the day is consulted on judicial appointments which, of course, does not mean that his permission is obtained, which does not mean that the Chief Minister as opposed to the Governor makes the decision, it simply means that the Governor consults with the Chief Minister before making judicial appointments. And I said to myself, well I am not one to preside over constitutional retrogression, indeed I would like to preside over constitutional advancement and therefore I do not think that if something has been going on for three or four decades that now is the time for the elected Government of the people of Gibraltar to be deprived of a role in the community, however limited it might be through the process of consultation, which they have always enjoyed and to boot to be unilaterally withdrawn without so much as a by your leave or an indication that it could cease. Of course, we subsequently discovered where Sir Richard Luce probably got his advice for this unusual and unprecedented view, that there should be no consultation with the Chief Minister in Gibraltar on judicial appointments. This is what the Chief Justice who was presumably advising Sir Richard Luce about whether or not he should consult me, I will quote from his speech to this Latimer House Guidelines Conference, "To what extent should the Governor consult locally on appointments. The Governor is, of course, the Head of the Executive but is removed from local politics". So Dr Garcia should bear in mind that when it is said that it is important constitutional principle that there should

be separation of powers between the Executive and the judiciary, that only applies in countries that are not colonies because, of course, what that is converted to in colonies is that politicians, as opposed to the Executive, should not have any involvement in the appointment of judges because in Gibraltar judges are appointed by the very person whom the Constitution says is the Head of the Executive, His Excellency the Governor. So we must not say that the separation of powers between the Executive and the judiciary is thought to be important, what he and I are saying is that it is important apparently that he and I, as local politicians, should not have a say in these matters but not the Executive because our Constitution says that the Executive is precisely the Head of the Executive is precisely the man that appoints the judges, namely the Governor. It will be natural for the incumbent, that is to say, the Governor to want to pass across the other members of the Executive, by which I suppose he means the humble elected politicians, the name of a potential appointee particularly if the potential appointee is or should be known to the members of the Executive if only to ascertain if there is anything known about that person which ought to be taken into consideration. My view is that it is right and proper for the Governor to inform the other members of the Executive, by which he means the elected Government, about a prospective appointment but that he or she should not go so far as to formally consult. The dividing line between formal consultation and requesting formal approval is too fine and in a small jurisdiction it would be dangerous for politicians to become part of the formal appointment process to the judiciary. So there we have it do we not? We have the source of the departure of three decades of consultation with the Chief Minister of the day on judicial appointments and it all comes about because unlike all his predecessors who apparently will not think that this was terrible for the independence of the judiciary, this Chief Justice believes that in his opinion the line is too fine between consultation and permission. Well, I do not know how much power and influence the Leader of the Opposition exercised over the Governors that he served with but I have not yet come across a Governor who was unable to distinguish between formal consultation and requesting my formal approval nor I think is the distinction quite

as fine as the Learned the Chief Justice suggests. Consultation means consultation and approval means approval and decision-making means decision-making and they are three perfectly different principles. Certainly I have never advocated for approval, I have never suggested that I should be the person who appoints. What I have said is that if there is three decades worth of precedent for consultations with the Chief Minister of the day on judicial appointments it should not be unilaterally and suddenly withdrawn without any form of discussion or consultation because that is constitutional retrogression and not constitutional advancement and that is all that has occurred in this matter. In the public statement that he issued in Gibraltar he went on to say, "Having said my position has always been that consultation with the political arm of the Government over appointments has the potential to undermine the independence of the judiciary, my view is borne out by the practice in other overseas territories where the Government are informed once an appointee is selected and is not consulted over the appointment". In other words, having said that what the Government were saying about consultation must be wrong because he had never heard about it, he goes on to say, it must be wrong because it does not happen anywhere else amongst the colonies. But of course he had not done his research properly because he was then taken by surprise when the Government published our discovery that far from it not being the practice in any other overseas territory, in Bermuda it was a constitutional requirement, it was obligatory on the Governor to consult the Chief Minister on the appointment of the Chief Justice, the most senior judge in the land. He then went on, "There is a marked distinction between the Government being informed of a potential appointment and being consulted over such an appointment". Well, there is a distinction and the distinction between being informed and being consulted is as clear in English as the distinction between being consulted and being required to approve and I do not see why the Chief Justice thinks that the line between consultation and approval is too fine but that the line between consultation and information is perfectly clear. They are both perfectly clear and I have yet to meet anyone who does not understand the meaning and limitations of the concept of

consultation. He went on to say, "It would be a bad day for Gibraltar if judges and magistrates were to carry out their functions in fear of representations being made for non-renewal of their contract". Well, all I can say to the Learned the Chief Justice is that every day is a bad day for Bermuda, every day apparently is a bad day for Bermuda because in Bermuda the Chief Minister and the Leader of the Opposition are indeed consulted. And he went on to suggest, "The Gibraltar Constitution sets out clearly a separation of powers between the Legislature, the Executive and the Judiciary." I think that is a constitutionally bold statement given who is the Legislature and who is the Executive in Gibraltar under our current Constitution. "Enshrined in the Constitution is the concept of the independence of the judiciary and Gibraltar must maintain a truly independent judiciary" - as if somehow it was under assault by the simple issue of consultation - "Judicial independence is not only undermined by improper influence in individual cases, it can be undermined by, amongst other things, political interference in judicial appointments". And I want to know why judicial independence is not undermined in the United Kingdom and in the rest of the world by political interference in judicial appointments where the appointments are political. Yet here in Gibraltar the Government have to suffer the public utterances of the Chief Justice of the day in this vein just because the Government are to be consulted by the colonial Governor who then makes his decision as he pleases. I say, what is sauce for the goose has to be sauce for the gander and the difference between the goose and the gander is not whether we are a colony or not. Principles of separation of powers and of judicial independence do not depend on whether we are a colony or an independent country. I agree with the Chief Justice's views in other respects that judicial appointments in Gibraltar should be made by an independent Judicial Appointments Commission. Indeed I would go further and have gone further in the ideas that the Government have put together that it should not be limited just to judicial appointments but indeed it should include a whole series of appointments which should not be made by the Governor because of its colonial overtones but nor should they be made by the Government of the day and they include the

Attorney-General, insofar as it relates to his Director of Public Prosecution function but no other; the Principal Auditor, who is there to keep the Government audited; indeed the Registrar of the Supreme Court, who carries out quasi judicial functions. Therefore whilst disagreeing profoundly not just with the substance of his statements which we have demonstrated to be misconceived by pointing out to practice in other countries indeed to other colonies, but the Government took grave umbrage at the manner in which the Chief Justice, even though he is wrong, engaged the Government in public battle on issues which had not been canvassed privately with the Government before because I understand one can engage governments in discussions privately and that governments can be so dangerously mistaken in their view that no amount of private discussion or private persuasion serves to convince them and that there comes a time when somebody who has the duty to uphold the independence of the judiciary says, "I now have to go public because you guys are as stubborn as mules". This is not the case here. This is engaging the Government of the day in politicised public debate on issues that had never been raised with the Government in private before and I believe that that was wholly improper conduct on the part of the Chief Justice and we said so in public without the privilege of this House, that the Chief Justice's statements went well beyond the bounds of proper judicial comment.

Now that the House is more or less aware of the issues and the facts here, I would like to review some of the Opposition's public statements on this matter. On Friday 15th October sensing, I am sure, that here was an issue in which the Government's reputation could be subjected to assault in the minds of the electorate, the hon Dr Garcia and his Liberal Party lost no time in putting pen to paper. He said in a public statement on the 15th October, "The Leader of the Liberal Party, Dr Joseph Garcia, has said that the Liberals are seriously concerned at claims of potential or perceived interference by the political GSD Government with the judiciary in Gibraltar" – it would have been enough to have just said 'the Government'. If he had been in good faith he would just have said 'the Government', "potential or

perceived interference by the political GSD Government". I do not know what other Government Gibraltar had at the time unless of course he was referring to the Governor part of the Government. "This is a very serious matter and a full and independent public enquiry should be initiated without delay", immediately, without even knowing what the issues were, what the facts were and without therefore being able to form a view of whether the facts warranted a public enquiry. "In certain countries around the world that are less enlightened" – presumably he means less enlightened than Gibraltar – "like dictatorships" – to see if he can attach the concept of dictatorships to the Gibraltar Government by juxtaposition of irrelevant words – "in certain countries around the world that are less enlightened like dictatorships, it happens that Governments interfere directly with the decision of judges who pronounce judgements based on political considerations rather than the application of the law. However, there are more subtle ways in which the administration of justice can be influenced and one such way is through Government controlling the funds that they release". Of course, he has now been in the House long enough to know that I do not vote the funds, he votes the funds with me and I do not release the funds, the Controlling Officer releases the funds against the sole criteria of whether the funds are to be applied for the purpose that he and I voted them for. So when he talks about dictators and subtlety and controlling the release of funds he should know that he is talking in equal measure about himself as about me. "The Liberal Party has long complained at the erosion of civil liberties in Gibraltar by the GSD Government". So here we were on the 15th October in complete ignorance of the facts which he has now been informed of and Dr Garcia was pronouncing that there was an erosion of civil liberties because the Chief Justice had not gone to a Conference in Warwick University for three days in February 1998. "It would be a grave and serious breach of the Constitution if the Chief Minister or the Government were perceived to interfere or potentially interfere with the judiciary in such a way". On the 18th October, just three days later, such was the importance that he attached to this unfolding and breaking news that on the 18th October again he put pen to paper, "The Leader of the Liberal Party, Dr Joseph Garcia, is astonished at the hysterical reaction

of the Government to the comments made by the Chief Justice during the Opening of the Legal Year". I do not know how the hon Member can think that my reaction is hysterical and at the same time believe that the matter is so important that civil liberties of Gibraltarians are at stake. "As is now the custom Mr Caruana and his propaganda machine" – all the sort of pre-agreed little clichés, all the political buttons that they were then busily pressing in the hope of persuading the electorate not to increase our majority – "As is now the custom, Mr Caruana and his propaganda machine react by hurling personal abuse and questioning the legitimate motives of the party instead of concentrating..." I have to tell the hon Member that there is no objective reading of these statements measured against the fact which enable one to come to any other conclusion other than questioning his motives. "The Liberals consider that it is extremely important to place the comments made in their proper context" – well I only wish he had. The best way to place remarks in proper context is to take the trouble to find out the facts before one makes public comments about them. "The Liberals consider that it is extremely important to place the comments made in their proper context and to consider what the Chief Justice said on its own merits without allowing a hysterical outburst by an intolerant Chief Minister to obscure the seriousness of the situation. The Chief Justice was referring to the Latimer House Guidelines" – which presumably the hon Member did not have a clue what they were, never mind suffice it to say that the Chief Justice had referred to them – "and drew attention to his speech to a number of principles including that there should be 'sufficient funding to enable the judiciary to perform its functions to the highest standards should be provided'". Was the hon Member trying to say to the people by saying that, that there were not sufficient funds to enable the judiciary to perform its functions to the highest standards should be provided? Is he doubting for a minute that the Gibraltar Government provide sufficient funds for that purpose? Because if he is I have never heard him express that view in any of the budget sessions that he has participated in. I have never heard him challenge the vote for the judiciary on the basis that it is insufficient. "And that the administration of monies to the judiciary should be under the control of the

judiciary". Well it should not be under the control of the judiciary, it should be under the control of this House in the appropriation sense and once appropriated by this House for specific purposes it should then be under the administrative expenditure control of the judiciary, which is the case. "The Chief Justices of the Commonwealth were all agreed" – they were not all agreed, the ones that were agreed were the ones that were there – "that those who control the judiciary's purse strings exercise enormous influence and have the capacity to undermine the judiciary's independence". That includes us both and everybody in this House, apparently. Then thinking that the matter was going well for him politically and the end of the fourth year in a term of office, this was the moment to press home the political advantage that this situation offered him. On the 15th November again he put pen to paper. This time to announce to the world that he had written to the Foreign Secretary, no less, on the continuing allegations of political interference with the judiciary in Gibraltar. Who on earth had said anything about political interference with the judiciary in Gibraltar? Not even the Chief Justice in his ambiguous choice of words, regrettable as they were, had said anything about political interference with the judiciary in Gibraltar. This is a figment of the hon Member's imagination, pure fabrication on his part. And not content with having invented the concept of political interference with the judiciary in Gibraltar, he went on to say to the Foreign Secretary that it was necessary for him to hold an enquiry on the matter. Dr Garcia has told Mr Cook that the appeal to London was because calls for a full and independent public enquiry or for the Governor to intervene to find out what had happened had fallen on deaf ears. Well, it had not fallen on deaf ears. The Governor, unless of course the hon Member thought that the Governor was in my political pocket and helping me to politically interfere this heinous GSD political Government, that the Governor was also a co-conspirator in this alleged political interference with the judiciary, the Governor put out a public statement saying that he had seen absolutely no evidence of it and he is the man who makes the appointments and he is the man to whom, presumably now, the Chief Justice, the previous ones used to go to other places, this one goes to the Governor for complaints, if any, about funding. Certainly none

reached me. It should have therefore come as no surprise to the hon Member that the Foreign Secretary preferred to follow the judgement of the Governor rather than his own hysterical call for a public enquiry. He added that these allegations "of attempts to interfere with judicial appointments". What attempts to interfere with judicial appointments? What evidence did he have at the time that he made his public statements that anyone had attempted to interfere with judicial appointments or that anyone had said that somebody was attempting to interfere with judicial appointments. They were false, fabricated, irresponsible statements of which only the hon Dr Garcia, since he has been in politics, has shown an inclination to write. He added, that these allegations "of attempts to interfere with judicial appointments and the use or denial of funds to control the judiciary are very serious matters". So now from the two issues that the Chief Justice mentioned and which I have explained to him, without bothering to find out the facts, not content to tell everybody that civil liberties in Gibraltar were under threat, he then embellishes the whole thing to tell the public and the Foreign Secretary that the Government were attempting to interfere with judicial appointments and the use of denial of public funds to control the judiciary. "A dossier sent to Mr Cook traces every step so far in relation to the continuing controversy". What he means is that the dossier contained all his scurrilous statements that is what the dossier included, nothing to do with tracing every step, he did not even know what the steps were, he did not even know what the facts were let alone the steps. Dr Garcia states that he is "very concerned at the situation which has developed in Gibraltar over the past month or so over claims of potential political interference with the judicial system in Gibraltar on the part of the Gibraltar Government". These are the sort of things that he is quite happy just to toss into the public domain. "Serious allegations against the GSD Government have been made by the Chief Justice of Gibraltar and those allegations have been backed up with examples of specific cases". Well I have done it now but he did not have any examples of specific cases at the time that he wrote this statement, no. On the 15th November 1999 he did not know what the specific cases were, he had no idea what the specific cases were, none. I have just told him what the specific cases

are. "There are very serious democratic implications in the notion of politicians running the affairs of the Law Courts in the way the Chief Justice has described". When had the Chief Justice described anything that enabled the hon Member to make the public statements that politicians were running the affairs of the Law Courts? I do not know whether he is squinting because of the poor light or whether he doubts whether I am reading from one of his press releases. I have it here in my hand. It is in the unmistakable letterhead of the so-called Liberal Party of Gibraltar who were not showing very much liberalism when they wrote this statement against the Government.

MR SPEAKER:

The public is excluded. If they stay I will adjourn for 10 minutes and I do not want them back. We will recess for 10 minutes and they are not allowed back.

The House recessed at 4.55 pm.

The House resumed at 5.10 pm.

HON CHIEF MINISTER:

Mr Speaker, I am obliged, I wonder whether I might just be allowed to say, for the purposes of Hansard and indeed for the benefit of those who might have been listening to the debate, or whether Mr Speaker would himself prefer to say it, the reason why he cleared the House lest anyone who was not here should misunderstand or indeed think that it had anything to do with the debate itself.

MR SPEAKER:

It had nothing to do with the debate, merely that I think about four persons took out placards with something in connection with Tireless. The important thing is that the public is allowed here on sufferance, let us put it that way, and they have got to behave.

They have not done anything really very bad but it is not allowed and the best way to get rid of it is just to adjourn.

HON CHIEF MINISTER:

Certainly speaking for myself, Mr Speaker, I entirely agree with Mr Speaker's ruling. It would not be tolerated in any Parliament in the world and should not be tolerated in this one. It is an abuse of the public gallery.

Mr Speaker, I was just concluding my review of the hon Dr Garcia's various press statements in relation to this matter and having told public opinion and the world at large that there are very serious democratic implications in the notion of politicians running the affairs of the Law Courts in a way which the Chief Justice had described which, of course, he had not done, he then goes on to say, "There is a risk that ordinary people could lose confidence in the legal process if they think that the Government interferes in the way that our Senior Judge has explained". The only person who was in risk of causing ordinary people to lose confidence in the legal process was the hon Member by his false, irresponsible, politically self-serving, scandalous statements. This was on the 18th October, three days after this one, this is the last of his many statements that I shall be reviewing, he says, "In defending political involvement in the appointment of judges, Mr Caruana and the GSD Government are going contrary to the Latimer House proposals for the Commonwealth and also contrary to the stand taken..." Why? Because I was defending a continuation of a practice which every Chief Minister before me in modern political history in Gibraltar had enjoyed? Rights which are much less in relation to the judicial appointment system than politicians in England enjoy and in the rest of the world? If political involvement at the level of consultation only, humble consultation, "Chief Minister this is what I propose to do. Express your view but of course I will do what I like anyway", if he thinks that that is in breach of the Latimer House Guidelines he should not be writing to Mr Cook telling him about how bad things are here, he should be writing to Mr Cook giving him a lecture about how he has got to change the English system which is in breach

of the Latimer House Guidelines the way he is interpreting them but of course nobody else does. And then ruffled by what the Government had said about Bermuda, the judge here says it is wrong for Chief Ministers to be consulted because it breaches the principle of the separation of powers and it can lead to political interference in the judiciary. And I say how so? In Bermuda it is done as a matter of constitutional obligation and he says, "The reference to Bermuda are a complete red herring and we are in Gibraltar and not in Bermuda and we are governed by our own Constitution and not by theirs." If it were not so serious it would be laughable for his limpness and his disingenuity. At the very best case for him it suggests that he does not understand the point at all because the Government were not saying, "Consult me because my Constitution says that you must" our Constitution does not say that, our Constitution is completely silent. What the Government were saying was, "How can it be wrong in principle in Gibraltar if it is constitutional requirement in Bermuda?" And he said, "We are not in Bermuda, we are in Gibraltar". Mr Speaker, unluckily for him the people of Gibraltar did not believe a word of it because as we can well imagine if the people of Gibraltar, a sensible and wise community that they are..... [*HON J J BOSSANO: Because of the results.*] No, they have shown consistently in the past they have shown that they are a wise community. If that community had believed a single word of all the rubbish that it was being fed by the hon Member they would not have returned me back to office and they certainly would not have returned me back to office with a large majority unless the hon Member thinks that the people of Gibraltar reward the systematic dismantling of civil liberties, political control over the affairs of the courts, political interference in judicial appointments and political manipulation of the administration of justice, unless he thinks so lowly of the people of Gibraltar that the hon Member thinks that they would reward any of that with an increased political electoral majority. I hope that the hon Member learns his lesson. Public opinion in Gibraltar cannot be deceived with stupidities, they can be fed stupidities but they cannot be duped by it and there is, I believe, a valuable lesson for the hon Member to learn if he has an aspiration to gain the respect and the trust of the people of Gibraltar in a future political career here.

Mr Speaker, whilst other issues have been rehearsed in public in relation to the behaviour of the Chief Justice, the Government have remained scrupulously quiet and detached. Whilst those whose constitutional obligation it is to evaluate the conduct and to decide what action, if any, needs to be taken, made their decision. And the Government have remained silent in the face of the most provocative and outrageous statements all of which I hereby assert here in this House today have been kites flown on behalf of interests linked to the Chief Justice to distract public attention from the only issue then in the public domain which was his failure to comply with his legal obligations in relation to the income tax and social security liabilities of his employee.

In the meantime and so as not to be drawn into a further smokescreen, the Government have sustained and suffered the most outrageous allegations, not just about the Government but indeed playing with the interests of Gibraltar. The Panorama of the 30th May to 4th June reports, purporting to quote Mrs Schofield, "They have dragged me into the fight. I am now fighting for myself" – I do not know who they are but I suppose it just conveniently leaves it open to speculation – "I have reached a point where I feel we are being harassed so much. They have brought the fight into my house" – I do not know who they are or what the fight is – "This is affecting our family life. They" – I do not know who – "are trying to discredit my husband. They are trying to hound him out of office". The Government chose to bide their silence so as not to interfere with or become embroiled in the other issue which was under investigation by His Excellency the Governor at the time. The Sunday Express in a part of their article which they have not withdrawn or even been invited to withdraw, unlike other parts, quotes, "Last October the Judge also upset Chief Minister Peter Caruana. He claimed the Gibraltar Government was interfering in the judiciary by denying or delaying the release of funds for his department. Anne Schofield has accused the Government of tapping her phones and says allegations about her former housekeeper are part of a smear campaign" – they are either true or not but if they are true they are not a smear campaign. One cannot smear everybody

else with outrageous and unproven allegations in an attempt to protect oneself from incontrovertible facts. She said, "I am going to fight for what I think is unfair. They cannot shut me up". I do not know who was trying to shut her up, the Government have played no part in that respect. So there we are, the world at large was now consuming all of that. Obviously the Government took a more serious view of these reports given that they were now being circulated internationally where the damage to Gibraltar was potentially very real and so the Government wrote to Mrs Schofield and said, in an article published in The Sunday Express on Sunday 4th June 2000, "It is reported that you have accused the Government of tapping your telephones. I would be grateful to learn whether you made a statement to The Sunday Express accusing the Government of tapping your telephones and if not, whether you will let me know what steps, if any, you propose to take to rectify the matter". The response was not, "How dreadful, of course I did not mean it was the Government, I meant it was MI26 or MI38". Her reply actually was, "I have not spoken to The Sunday Express either directly or indirectly". Carefully chosen words but the reality is that The Sunday Express was just repeating what is attributed to her in the local Panorama newspaper. And then, of course, whoever it was that was talking to the press, if it is to be on the basis of what she says to the Government she was not talking directly or indirectly, of course that is not to say that somebody else was, but then The Sunday Business of the 11th June 2000, "Foreign Secretary Robin Cook is under growing pressure to intervene in a row between the head of his judiciary and the local Government". In June 2000 there was no row between the Government and the judiciary. In June 2000 the only issue affecting the judiciary was the one that I referred to earlier which does not affect the judiciary but the personal conduct of its most senior officer. I was not having a row, the Government were not having a row with anybody in June 2000 which is the date of this article. In the latest twist to the row, having conveniently linked the row between the judiciary and the local Government, the very next sentence reads, "In the latest twist to the row, Derek Schofield, the Chief Justice, has called the Police to investigate claims that his telephones are being tapped. Senior politicians and lawyers

fear the issue threatens the Rock's reputation as a financial centre". Well one can be sure it does. I just wish the hon Member would have borne that in mind, I certainly do not hold him responsible for these articles but other people who equally participated in other aspects of this dispute are responsible. "Schofield has made no public comment about the alleged tapping but has told friends he believes he is under surveillance because of a clash with Gibraltar's Chief Minister, Peter Caruana, over claims of political interference with the judiciary's independence". There we are, somebody has succeeded in making an omelette or a salad, if we prefer, out of the funding row, all the rows and the political interference, and the surveillance and the phone tapping to give the impression that the Government of Gibraltar are not only rampantly interfering with the judiciary but as if that were not all serious enough, tapping the Chief Justice's telephone as well. His wife, Anne Schofield, a lawyer says that they have also received harassing telephone calls and made a complaint to the Police last October. She told the local Panorama newspaper 'they' – 'they' is after the only party that has been mentioned in the article so far is the Chief Minister and the Gibraltar Government, there is not even an oblique reference to anyone that the Opposition Members might have had in mind when they have thought about who they might be in the context of phone tapping. "They are trying to discredit my husband. They are trying to hound him out of office." By tapping his telephone? First of all, we are supposed to accept the allegation that the Government are tapping the Chief Justice's telephone and then that as we are supposed to accept that it is part of some conspiracy to hound him out of office at a time when the only issue was an issue being investigated by the Governor in relation to the employment by the Chief Justice of domestic staff. I say that this is the shameless flying of kites, raising of smokescreens by unscrupulous people who did not care a jot about the damage that it could have done to Gibraltar, its reputation and its economy, all in a crude and shameless attempt to distract public opinion from facts that, in any way, did not go away. But whoever is responsible for this collage wanted to do justice to the hon Member as well because after associating the Government with phone tapping and harassing phone calls and

hounding him out of office and discrediting him, et cetera, et cetera, Joseph Garcia, Leader of the Gibraltar Liberal Party which is in coalition with Bossano's Gibraltar Socialist Labour Party said, "It is obviously very worrying for people here in terms of civil liberties". He shakes his head but he did write to the editor saying, "What nonsense"? No, it all served a purpose at the time or they thought it would serve its purpose. Peter Isola, who also participated in this debate hon Members will recall, in defence of the Chief Justice and his views, Peter Isola a lawyer and former Opposition Leader said, "An enquiry is needed to protect the Rock's reputation". What is needed to protect the Rock's reputation is not an enquiry, what is needed is that selfish people should not make scandalous and unfounded damaging statements just to help themselves in relation to another issue, that is what is needed to defend Gibraltar's reputation. The whole thing, having gone through that now, then the article finishes, "Schofield clashed with Caruana last October when he said that the Gibraltar Government were interfering with the independence of the judiciary by controlling its budget". Well, of course, the Chief Justice had not said that but I know who has. I know who else said that in public statements, I never heard the Chief Justice say this. He later condemned the local Government for claiming it should be consulted about the appointment of Stipendiary Magistrates. Well, if nothing else, that last sentence is confirmation that I have not done the Chief Justice an injustice by reading too much into his views about whether the Government should be consulted or not because the editor of The Sunday Business also regarded it as a condemnation of the Government. There we are, Mr Speaker, a ripe collage, pottage, let us see if we can mix up maids with funding and funding with telephone tapping and telephone tapping with surveillance and surveillance with blurred images of people walking up Mount Road and let us see if we can rope in the Government and try and paint a picture of Gibraltar which may look like some other jurisdictions in Africa in which I have certainly never practised law before. But certainly those who have done it have shown an extraordinary reckless disregard for the interests of Gibraltar which they have done on the basis of pure speculation. There is not one solid fact because if there were no one is suggesting that

serious facts should be swept under the carpet just to protect Gibraltar's reputation. But what there is in all of this the facts are the ones that I explained to the House about the Warwick University Conference and that the choice of apprentice magistrates and the maid business. Those were the only facts, everything else has been pure smoke. It is not until this opportunity after the Governor had made his decision in relation to that other matter, the Government had kept our silence in order not to complicate that position but now that that is over, I think the Government have a duty to ourselves, to our own reputation, to our own sense of integrity and indeed to public opinion in Gibraltar to speak openly, clearly about what we think has been happening in the last 18 months in this respect. I commend the motion to the House.

Question proposed.

HON DR J J GARCIA:

Mr Speaker, it is always very interesting to witness the theatrical performances of the Chief Minister and let me assure him that should he ever need somebody to nominate him for an academy award I would certainly be the first one to put down my name as a proposer.

The independence of the judiciary is a very serious issue. It is something which should be handled with more tact and with more diplomacy and I think perhaps the Chief Minister has charged into this as displayed with the tact of a charging rhinoceros. In general terms there would be few people in Gibraltar who could argue with the gist of the motion that is being debated by this House today. It is therefore very sad and very regrettable that the Chief Minister should somehow spoil the motion and replace the prospect of harmonious unanimity by a more disharmonious one, thanks to him. I say that because it is important to draw a distinction between the text of the motion and the text of the speech that we have just heard. The Opposition generally would subscribe to the text of the motion. It would hardly come as a surprise to anyone that we do not subscribe to some of the things

which the Chief Minister has said either directly or by implication and I reiterate that it is deeply lamentable that the Chief Minister should be more intense in causing division and strife than in behaving in a more statesmanlike manner taking a broader and less personal approach to this issue in which as a lawyer and a Queen's Counsel he has a clear interest. It is also important to establish the reasons why this motion has been tabled at this moment in time. There may well be those who see in this approach an attempt to intimidate or perhaps even to get one over the Chief Justice of Gibraltar for what happened over a year ago. And that is reprehensible, Mr Speaker, and it is totally wrong to use the opportunity to take a swipe at somebody who is not present in this House to speak for himself.

The Chief Minister continues to behave as if he were the Opposition and this side of the House were the Government. His role is not to use the privileges of his position to launch poisonous attacks on all and sundry, his role is to defend his track record to defend the actions of his Government. We all know by now that he did get very upset when the head of the judiciary in Gibraltar gave his version of events last year on a number of incidents which he thought had the potential to adversely affect the administration of justice in Gibraltar, just as he got very upset when I called for an independent public enquiry into those same claims. Indeed, the Chief Minister seems to be more concerned that I wrote to Cook and he knew nothing about it than about Spanish inspectors coming to Gibraltar to look at the nuclear submarine behind his back which he also claims to have known nothing about until he was telephoned.

Mr Speaker, for the benefit of the Chief Minister, let me explain that any citizen or any Member of Parliament of Gibraltar, of the United Kingdom or from anywhere else in the entire planet is free to write to Robin Cook. It is not a crime and is entirely understandable given the brick wall that calls for an enquiry met with locally. On the other hand, hypothetically speaking of course, it is entirely understandable that anyone with an approach that verges on control mania would have been sent into a frenzy by something like this which he did not control. One can

only but imagine what the Chief Minister would have done had a different or the same Chief Justice made similar remarks with a different person as Chief Minister and with the Chief Minister, the hon Mr Caruana as the Opposition Leader, writing to Cook would be nothing compared to the way he would probably have exploded sending ballistic missiles by post to anybody he could think of and he would have seen that in our colonial Constitution, the Constitution that we are now trying to change, he would have seen that it establishes a line of Government, Governor and Foreign Secretary and after that Prime Minister and all the rest of them to who he could have appealed for an investigation. And all this begs one or two questions. What does the Chief Minister have against public enquiries? Why should the people not be entitled to a full and independent investigation of the truth? Why does anyone who dares to speak out against the Government risk being subjected to this kind of abuse? The hon Mr Caruana should stop being so destructive.

We asked him recently with regard to the dismissal of the consultant radiologist in St Bernard's Hospital, Dr Rassa, in highly controversial circumstances, how the Government again brushed aside the possibility of an independent investigation of the facts. Instead they set themselves up as judge, jury and executioner. They have become the infallible exponents of what is right and what is wrong with the important caveat that everything is right so long as they are the ones doing it. And it is they who are the sole arbiters of who or what is right and who or what is wrong. What do they have to hide and what are they scared of? He said earlier that this kind of comment on the Chief Justice affair was not within the boundaries of what Oppositions do. Yes, that is what he said but the boundaries are decided by them.

Mr Speaker, during his budget speech this year, the Chief Minister alluded to some kind of contact between various parties and the plots to which he has been going on about for the last three hours. At that time he also said that he once played little buttercup in Gilbert and Sullivan's HMS Pinafore and people may well wonder now, if he remains stuck in a pantomime to this day except that it is now called HMS Tireless. He sees plots and

conspiracies and shadows everywhere even when there are none. People should, and I say that not just on this incident and from the wider things which have been mentioned in the media, be able to live in a Gibraltar where they are not afraid to speak on the telephone or meet or talk in case someone is listening or watching. The day that happens is when democracy dies.

The Chief Minister was very quick to display a chronology of the various press releases and the various events that took place, particularly the press releases in the media. If one analyses those and I was looking at them as he went through them, what we find is the abuse of the Chief Justice's statements was not done by myself or by my party or by the Opposition, it was done by the Government and I will give the House a number of examples. The whole issue chronologically started with the Chief Justice's claims during the Opening of the Legal Year and there he said, "The judiciary has encountered one or two instances in the past year where the denial or delay of the release of funds by the Government has had the potential to adversely affect the administration of justice. The matter is one of practical importance but there is also a fundamental principle involved. The Chief Justices of the Commonwealth were all agreed that those who control the judiciary's purse strings exercise enormous influence and have the capacity to undermine the judiciary's independence". Mr Speaker, if it is not the duty of an Opposition to comment on this statement then I do not know what the duty of an Opposition is. The response to that on the 15th October 1999, which the Chief Minister did refer to, was to call for a full and independent public enquiry. On that same day, also on the 15th October, the Government issued their own press release and in that they rejected the call for a public enquiry into this serious matter; they stated the Chief Justice wanted the extra funds to attend a conference in Malaysia and for social entertainment. "In the opinion of the Gibraltar Government" they said, "neither of these issues raise matters which adversely affect the administration of justice or the independence of the judicial process". So the ones who were giving the misleading impression was them and that was proved three days later when on the 18th October the Chief Justice issued a statement under

the seal of the Supreme Court where he made clear that those were not the two instances that he was referring to that had the potential to adversely affect the administration of justice. He would ponder the legal implications of releasing this information into the public domain. But the information was later released by the Government following the correspondence which the Chief Minister has already alluded to and in that correspondence one was the attendance at the Wolfe Reforms which, as he said, a Government which contains three lawyers and were not aware of the importance of the Wolfe Report is rather surprising but we take the Chief Minister by what he said, that they were not aware of it and how important it was. Secondly, the question of training Stipendiary Magistrates by sitting as temporary magistrates. Those were the two issues which the judge has pointed out, not the conference in Malaysia and the social entertainment as the Government have tried to imply originally.

So, Mr Speaker, I think going through the chronology of events there is a clear attempt not by anyone else but by the Chief Minister to distort what the Chief Justice was saying to the degree that the man had to come out and say, "No way, this is not what I mean. What I mean is this."

I said earlier that there would be few people in Gibraltar who could find anything objectionable in the wording of the motion in question. It must also be said that the definition of judicial independence which it gives is a very narrow definition. The motion defines the term judicial independence "as the ability of the judiciary to dispense justice without interference from any other source and with the benefit of sufficient resources to do so". This is rather restrictive. The standard textbook on Constitutional Law, says, "like other constitutional principles, judicial independence has many facets only some of which are expressed in definite legal rules." Some of these facets, Mr Speaker, are best put forward in an examination of how some international organisations have dealt with the definition themselves. The first one I wanted to look at was the Commonwealth Parliamentary Association publishing in 1998 what the Chief Minister has already mentioned and these are the Latimer House Guidelines. It is obvious that that is what they are and that is what they are

called 'guidelines'. It is not something, at this stage, which anybody or at least which from the Opposition we were saying was anything more or anything less than that. These were published as a result of the conference attended by over 50 participants helping to formulate these rules. These represented 20 countries of the Commonwealth including three overseas territories. It was sponsored by the Commonwealth Lawyers Association, the Commonwealth Legal Education Association, the Commonwealth Magistrates and Judges Association and also the Commonwealth Parliamentary Association. The participants did include the Chairman of the Law Commission of the United Kingdom which the Chief Minister failed to mention and the Chief Justice of Gibraltar was also present. In the guidelines on parliament and the judiciary, Latimer House says that "while dialogue between the judiciary and Government may be desirable or appropriate, in no circumstances should such dialogue compromise judicial independence". There follow three general criteria for preserving judicial independence. These are – judicial autonomy; the question of funding; and the question of training. With regard to the first of these three, judicial autonomy, the guidelines mention the question of judicial appointment which is one issue which we have touched upon; the question of vacancies and also the question of security of tenure which we have not touched upon at all. That is particularly relevant in view of the coming into force in the United Kingdom of the Human Rights Act as the implementation of the European Convention of Human Rights. In a judgement handed down on the 11th November 1999, and which was published freely in The Times under the heading "Appointments system destroys judicial impartiality", a court in Scotland held that Article 6 of the European convention of Human Rights provides that a man charged with a crime is entitled to a hearing before an independent and impartial tribunal. The judge who had no security of tenure and whose appointment was subject to annual renewal was not independent within the meaning of Article 6. It was therefore unlawful for the Crown in Scotland to prosecute a man before such a judge by virtue of the incorporation of the convention into the Scotland Act of 1998. And it goes on, "Security of tenure to independence could reasonably be said to

be one of the cornerstones of judicial independence. Judicial independence could be threatened not only by interference but by a judge being influenced consciously or unconsciously by his hopes and fears about his possible treatment by the Executive. The inadequacy of judicial independence could not appropriately be tested on the assumption that the Executive would always behave with appropriate restraint as the European Convention of Human Rights had emphasised. It was important that there were guarantees out against outside pressures". Secondly, the Law Society in the United Kingdom has recently taken issue with the manner of appointments of judges in Britain which the Chief Minister has already alluded to. The position of the Law Society, this is quite recent, in October, is that now they are refusing to participate in appointments of judges in the United Kingdom, the present system in Britain is non-transparent and contrary to the Convention of Human Rights. The Lord Chancellor is a Member of Cabinet and he makes the appointment and what they are proposing is an independent commission to appoint judges themselves. Another issue has recently arisen in Britain also with regard to assistant recorders which in Britain in some cases form part of the Crown Prosecution Service and again because they fear a challenge under the new Human Rights legislation, many of these are stepping down and being replaced. Having mentioned the latest new developments in the United Kingdom I will go back to Latimer House and go on to the second issue which is the question of funding and there they say that it is more important than simply supplying sufficient resources as stated in the motion, "the administration of monies allocated to the judiciary should be under the control of the judiciary". Finally, the importance of training is also stressed. While accepting that these are only guidelines they do represent the preferred option of the Bar Council of Gibraltar and the preferred option of the judiciary and the Chief Justice of Gibraltar. So if the Chief Minister is not very happy with the Latimer House Guidelines then it is something he should say to the Bar Council and not to us.

Mr Speaker, that covers the area of the Commonwealth which in itself is obviously quite wide. Also the United Nations set out to define the independence of the judiciary and it does so not in one

short motion of one sentence but in 20 substantial points some longer than others. The set of standards in the United Nations is known as the basic principles on the independence of the judiciary. These were adopted following the Seventh UN Congress in the Prevention of Crime and Treatment of Offenders held at Milan in August and September 1985 and it was subsequently endorsed by two resolutions of the General Assembly. The policy of the UN is to offer these principles as a model for law makers everywhere and it says that some have already incorporated them into their own constitutions or enacted them into law. Looking at the issue of independence of the judiciary it also divides it into four categories or groups relating to general points, to matters of freedom of expression for judges and freedom of association for judges; the question of conditions of service and tenure; and also discipline, removal and suspension. The first of these principles establishes precisely that independence of the judiciary "shall be guaranteed by the State and enshrined in the constitution or law of any country". This is something which certainly to my knowledge, from our own research, we do not think we have in Gibraltar and it is not explicitly mentioned or laid out in the Constitution. "It is a duty of all governmental and other institutions", says the UN, "to respect and observe the independence of the judiciary". This means that according to UN principles it would be an improper interference in the independence of the judiciary for anyone to seek to meddle in matters relating to the tenure of office of any judge and presumably this includes all other conditions of service. The basic principles declared in accordance with universal declaration of human rights, members of the judiciary are like other citizens, entitled to freedom of expression, belief, association and assembly provided, however, that in exercising such rights they do so in a manner as to preserve the dignity of their office and impartiality and independence of the judiciary. The reference to freedom of expression of judges is particularly relevant in the case of Gibraltar. What has never happened before here and what has never happened until the hon Mr Caruana came along is the witch-hunt of a judge because he felt he needed to express certain views, that is what has never happened.

As I said earlier, the UN principles were endorsed by the General Assembly. The definitions provided by the Commonwealth in the Latimer House Guidelines and by the UN, I think, show up the inadequacy, perhaps, of the definition provided in the one line motion before the House. In a concept paper on judicial independence, Britain, by itself an international jurist and published last year, the American Bar Association highlights several components of an independent judiciary as one that is free in the discharge of its duties and responsibilities from the influences of persons or institutions in the Executive and legislative branches of Government and from persons and organisations outside the Government who might wish to encourage the making of judicial decisions otherwise done by law. Within an independent judiciary orders, decisions and judgements are made by a judge on the basis of law and the application of recognised and established legal principles and rules and not on the basis of the status of one or more of the parties before the courts or by influences of some person within or without the Government or by the direction or influence of some Government or non-governmental agency or official. The concept paper goes on to stress how the principle of judicial independence should extend to judicial appointments; to the length of tenure of a judge; to judicial removals; to judicial discipline; to codes of conduct, administration and budgets. The paper sets out that although the independence of the judiciary may be set out in a constitutional separation of powers where the respective powers of the executive and the legislature and the judiciary are all separately defined, the independence of judges is not guaranteed simply by what is set out in the Constitution. Other important elements work in tandem with the provisions set forth in the Constitution to guarantee judicial independence. Among these elements is the need for a self-governing framework by which the judiciary can define and administer its own financial and administrative needs. This is a similar point to that made by the Latimer House Guidelines. Indeed it must be clear to the House by now that the fundamental principles of judicial independence set out by international organisations and by international experts is very similar. An international judicial conference which took place in Moscow last year discussed the question of judicial independence

and the means of establishing it. It also pointed to the need for judges to create their own unions or associations. These could perform a wide variety of functions including proposing legislation or rules; training members; monitoring the judicial system; disciplining judges, and even filling judicial vacancies. Another important issue raised was the need for adequate staffing, adequate resources, the selection of judges and judicial discipline. The more that one delves into the question of judicial independence the more that its detailed complexities emerge. It is clear that the system that we have in Gibraltar while very broadly keeping within the text of the motion, does depend on the kind of definition of judicial independence that is used and the definition is important, Mr Speaker. Somebody famous once said that when words lose their meaning people lose their freedom. International evidence points to the fact that this is a wider concept and a wider definition. The President of the Law Commission of Canada said in October last year, that the question of judicial independence, its true meaning and its requirements is, above all, about impartiality that flows from institutional competence.

Mr Speaker, the hon Mr Caruana has done Gibraltar a disservice. The obsession with who meets who, who speaks to who, who rings who, is not a healthy one but it does not detract from the central issue at stake. In a democracy people are entitled to talk and to meet with whom they like. As usual, the Chief Minister has painted a picture of conspiracies, of plots, of fairy tales, of people meeting in street corners or huddled, whispers over drinks in cocktail parties. The plain fact is that the Chief Minister will go, despite everything he has said about me, down in history as having the dubious distinction of being the first Chief Minister of Gibraltar that any Chief Justice has seen fit to raise the public concern about and this is no laughing matter. I regret once again that instead of having a reasoned approach to this subject, the Chief Minister has chosen once again to personalise the issue and take the level of politics in Gibraltar to the gutter. Thank you.

HON ATTORNEY-GENERAL:

Mr Speaker, as you will be aware, it is fairly rarely that I speak in this House but I think, as Attorney-General, it is right that I should make a contribution given the subject matter of this motion.

Three reasons why I think that is right. First, one of my roles is as Titular Head of the Bar; secondly, my Director of Public Prosecution role, I have control of all proceedings before the criminal courts in Gibraltar, and third, I think I am the only Member of the House who currently regularly appears in front of the judiciary. Right to say this, that I intend to support this motion but I would like to make it clear why. Judicial independence is an essential pillar of any democracy and I think that perhaps even more in a small jurisdiction than in a large one because in a small jurisdiction there are sometimes less checks and balances.

I can say this, that in the time in which I have been in Gibraltar I have never seen any signs of a judiciary lacking in independence nor have I seen any signs of any interference with judiciary. In the time that I have been here now spans not only the present Government but also the last year of the Opposition in power.

The Latimer House Guidelines have been mentioned quite a lot in this House and I think it is right that I should say something about them. As the Chief Minister has said, these were guidelines put forward in Latimer, in Buckinghamshire by a Commonwealth sponsored group mainly of judges and of other Commonwealth lawyers. They went forward as draft proposals to, first of all, the meeting of Senior Officials of the Commonwealth. They then went onward to the meeting of Commonwealth Law Ministers in Trinidad and Tobago and the proposal was that they would go forward from there to Heads of Government. I was at the meeting in Trinidad and Tobago so I think I am fairly well placed to say what happened. I was there as a representative of Gibraltar and with other Overseas Territories made up the joint UK delegation. The proposals never got further than Trinidad and Tobago and they came to grief on two issues: one was the issue of control of funding and the second, was the issue of a Judicial Appointments Commission. It is right to say this that by far the more emotive

issue was the issue of control of funding. A lobby was formed at that meeting and in broad terms it was Australia, New Zealand and Canada who were very adamant that as far as their Governments were concerned, they were not prepared to sacrifice sole control of voted funds to the judiciary and I stress the words "sole control". There was an animated debate, the lobby stood firm, the United Kingdom took a neutral position on this, [Laughter] and at the end of the day the result was a diplomatic compromise, the proposals referred back to senior officials. Well effectively that means being sent to Siberia. It is the kiss of death because what happens, they go back and in four years time they may resurface. But that I fear is what happened.

The only point I would make is this, but I do not think it is suggested that the independence of the judiciary in Australia or New Zealand or Canada is in doubt despite the fact that they were the people who took very seriously this issue of sole control of funding.

I support the motion because in the same way I do not see the independence of the judiciary in Gibraltar as in doubt. I would like to make it clear it is on those grounds that I support this motion.

HON J J BOSSANO:

Mr Speaker, I do not intend to speak for three hours or to compete with the Chief Minister for his theatrical performances. I have never been 'buttercup'.

I will go through the points that he has made which I think require an answer and, of course, let me say that little of the contribution was necessary in terms of persuading this House to vote for the motion that there is on the Order Paper. Clearly the Government felt a need to say the things he has said although I am surprised that they should have felt the need to go on at such length since it is not true that it is all new. Many of the arguments that we have heard here today we have heard before, I have read them in Government press releases. The questions about funding were dealt with at the time that the matter was raised in October 1999

so it is not that we are not until now aware of the nuances of the differences about whether the funding was being done in the right way or not being done in the right way. So when the Government say in the House that funding and building and staffing have always been in the case of the judiciary, no different from any other Government department, well I do not think anybody has ever been contesting that assertion although there is nothing sacrosanct about it one way or the other. If the Government felt that there was something terribly wrong about each item of expenditure not being controlled by the House, then they apparently are quite relaxed about the fact that £28 million of expenditure in the Health Authority is not controlled item by item. So the two systems exist in parallel in the Estimates of Expenditure to which he drew the attention of the House when he made his contribution. We have not got any strong views one way or the other. We are not saying, "How terrible it would be to lose control of the budget of the judiciary or a part of the budget of the judiciary". In fact, we think that the system that exists already gives quite wide flexibility for departmental votes to be altered during the course of the year if a need arises. So it is not as if we have got a straightjacket that if one puts money for one thing and then something breaks down in the office one has to come back to the House and get another Supplementary Appropriation Bill. The reality of it is that throughout the year there are excesses and shortfalls in what are estimates of expenditure and that within the Head of Expenditure the department is given the authority to use what is not required for one particular item for another item. So I do not think that the budgets that are presented by the estimates in the House and approved by the House are, in practice, or have ever been or intended to have been a religious demarcation of every penny that is voted so that no department may spend any money on anything else other than what the House said. That is not the case, that has never been the case. On top of that the Government [HON CHIEF MINISTER: *Subject to virements.*] Subject to virement, obviously, within the Head and therefore normally a department would not find political differences in that area because the virement is done mainly by the officials in the Treasury approving the money being moved from one subhead to another. In that context the fact is that the

issue has been focused, if I may say so, slightly wrongly because it is not a question of "do we hold control of the purse strings in this House tightly or do we give it away?" Well, we have got already a system where the control of this purse is sufficiently lax for, I would have thought, the sums of money available, £9,000 to be easily capable of being accommodated within the existing virement provisions on top of which, of course, there is a block vote of supplementary funding which we put as the final item in the Appropriation Ordinance where again it is possible to supplement the funding that is voted.

There is, in my judgement, no need for a change in the system that we have got in order to give the flexibility to the department in terms of the courts to have access to funds which they did not anticipate they would need at the beginning of the year anymore than for any other department. I do not see anything in what is happening now, in that respect, that suggests that they are being constrained from having access to funds because we get Supplementary Appropriation and virement notices throughout the year which shows that there is movement of funds away from the original presentation of the estimates. So really if the problem is that the political case was what prevented, as opposed to the lack of funds, then that is a different issue. Should, in fact, Heads of Department, and not just the judiciary, be freer to control the composition of their budget? Well, in some places they do to a greater degree than we do here. I can tell the House that I have seen estimates of other dependent territories where in fact the amounts that are voted by the House of Assembly are bigger chunks of expenditure than we vote here and we go down into more detail. By and large, I think, it is better to retain the system of more detail because it does not stop the money being used for something else and at least it gives the public, and not just the House, a clear idea of where their money is going, so there is nothing wrong with the detail. If there was to be a debate on whether the practical operation of the system is perceived by those who are in the system, in the judiciary as potentially reducing their capacity to deliver the quality of the service in terms of its provision of effective justice to those who have recourse to the courts, then clearly I think if they feel whether they are right or

they are wrong that that is potentially a danger because of insufficient funding for training or because of the method of recruiting trainees, I think that there is nothing wrong in that being put in the public domain and a debate ensuing and these matters being thrashed in the open although I must say I would tend to sympathise with the Government if the first time they hear of it is when it is put in the public domain and there has not been an internal debate first and an attempt to reconcile positions first which is what I would have expected to have normally happened. Clearly I am not in a position to judge, I am not privy to what has gone on but I would have to say that in Government one does not expect that some department uses the media to put pressure on a particular thing on which they may be lobbying unless they have really exhausted every other avenue put to them but that they should, at the end of the day, may be uncomfortable for those who are in office but I think it has to be part of the price that we pay for being in a democracy. If people write to the Chronicle and support the Chief Justice well they are entitled to do it. That may mean that depending on one's character or personality one may take it with more like water on a duck's back and some other individual with a more volatile character might feel that he has to say that it is outrageous and that they are all cronies. I put it all down to our genetic make-up these days, the more I hear about the human genetic project the more I am convinced that we are in a factory which produces us at birth with a personality with which we finish up at the other end. So I really think there is no hope for the Chief Minister however much I preach intolerance to him from the Opposition. [INTERRUPTION] Well, I can tell him now that I do not know what stories went round when I was in Government and they went with stories to him but if they are half as awful as the ones they come to me about him, they must be bad. Of course I never heard the other ones before just like he is not hearing the ones I now hear.

I think some of the things that the Chief Minister has said in seeking support for this motion are an exaggeration perhaps to make the point that they are the offended party instead of the offending party and that therefore they have been at the receiving end and that this is really their way of putting the record straight

and exonerating themselves. He chooses to explain things in a particularly exaggerated fashion, that is his style of explaining but, of course, as my hon Colleague mentioned, when we come to the Latimer proposals, first of all, we have the Latimer proposals rubbished in his speech and then he rubbishes those who defend them. The people who met in this conference were Kiribati, who has ever heard of Kiribati? Is that supposed to indicate to us his ignorance of geography or the unimportance of Kiribati? I can tell him where Kiribati is if he wants. Of course he says no large democratic jurisdiction was present. Nigeria only happens to be the largest parliamentary democracy in the whole of Africa, I do not know whether that counts or because they are in Africa we do not discount or that does not make them large or makes them democratic. Certainly compared to us they were all large. Cyprus is 750,000; Botswana is several millions; we were the smallest jurisdiction there but the issue is not how large or how important or unimportant they were but what is the value of these Latimer House proposals. Having told us that we should not pay much attention to the people who supported it because either they were from Kiribati or as small as Nigeria, we then get told but that in any case he is not against the Latimer proposals, he is quite content with the Latimer proposals. I have difficulty in understanding, if the Government are not against them why does he put so much energy and effort into downgrading them and removing their importance in the context of this House. It is not as if the motion was saying that in order to maintain the rule of law and democracy we need to have the Latimer House proposals or not have them. The motion is silent. However, the position that was adopted by the Bar Council on the 24th November when they said, "As far as the Bar Council is concerned, it reiterated yesterday that it is against any consultation for judicial appointments and that the Bar Council will not accept any process other than in strict adherence with the Latimer House proposals". Well, with all his friends in the Bar Council surely he ought to have told them that only people in Kiribati believed in the Latimer House proposals before they got themselves all worked up about it. We in the Opposition have not made up our mind whether the Latimer House proposals were all that important or not all that important but now that the hon and Learned Attorney-General has

assured us that they have had the kiss of death, I do not think we need to bother anymore about the merits because it is obvious that it might have been a good idea but it is a good idea that is not going to get anywhere. Obviously we are in the Constitutional Committee with the Government and there are proposals there on the judiciary and I think that that is the right place in which we debate the future and, of course, anybody in Gibraltar is welcome to put proposals to the Committee on that particular subject. The Committee has come out inviting it. Where we are looking at a situation that we have at present, although the Government say in the motion that it is fully safeguarded by law, I am not sure what is the law in question. We looked at the Constitution and we could not actually see that this question of the safeguard of the independence of the judiciary is as clear even in the Constitution as is being made out to be. I would have welcomed if the Chief Minister had told us what was the law he was thinking about when he said in his motion that it is safeguarded in Gibraltar by law. Certainly by long established practice we accept but the law in itself has not been identified.

The point about the selection, well, Mr Speaker, when the present Chief Justice was appointed he came to see me as the others. Certainly he did not come to see me as an applicant being interviewed by his prospective boss, he came to see me because it was a practice that I did not ask for but it was thought presumably desirable that there should be personal contact between those who might become the Chief Justice of Gibraltar and the person who was the Chief Minister of Gibraltar. And I can tell the House, as I have already said publicly, that we said one of the areas that is of concern to us is the question of the penalties that are imposed for offences related to drug trafficking because we have found, with our experience in the House of Assembly, that we keep on pushing the penalty up and then when the person gets taken to court and gets convicted the judges impose a very small penalty and they do not seem to be taking any notice of what is presumably implicitly the expressed desire of the elected legislature which ought to be reflected in sentencing policy. I said to Mr Schofield, we have not done anything about it because our advice is that it is unconstitutional to try and require a penalty to

be imposed, we can only set a maximum. So what we would look to an applicant would be that he should be in tune, he is free to do it because we do not want to interfere with the judiciary but he should be in tune with what is the sentiment of parliament in putting penalties, that he should take that into account. We said that to every single candidate and we did not say to any of them, "And if you are not you will not be selected" because we did not know who was going to be selected. The only input that we had was through the Administrative Secretary who sits on the selection board and when we looked at the candidates we said, "On the elected Government side there is only one person that we know. He has been in the Attorney-General's Chambers in Gibraltar many years ago, he proved to be somebody that was committed to Gibraltar's interests and therefore based on the fact that all the rest are strangers, we would rather have somebody that we know than somebody that we do not know". But at the end of the day the decision was that he was not selected and therefore the Governor informed me of what the decision was. He did not call me in and said, "Look, I am going to consult you now so that I can take a decision". He said to me, "This is the recommendation that I have had and this is what is going to happen and I am telling you so that you will learn it from me and not from other sources" It seems to me that what is provided in Bermuda is more than that because there is not just a requirement to consult with the Leader of the Opposition and the Chief Minister in Bermuda, the Prime Minister or the Premier or whatever they call him, but that consultation there must mean more than information and therefore when the Chief Minister was drawing this distinction between information and approval and consultation, well I think that when it came to the last appointment of the Chief Justice what I had was information of the decision that had been taken as far as the exchanges between the Governor and myself. But I believe there ought to be consultation before the decision is taken but I do not think that that happens and I think that the input of the Government of Gibraltar is already secured at the moment through the fact that there is the Senior Civil Servant on the Gibraltar Government side in the board that knows the Government's thinking just like the others know the thinking of the Foreign Office before they get here. I have no

doubt, although I have no proof that a decision is already in the pipeline on the basis of the selection process even when the thing is put out. The system of the judiciary here and the system in many of the other civil service positions that we used to have which were filled by people from outside, were filled by people who went round colonies. In fact, they quite often knew each other from their previous colonial postings and I think that is the system that is a remnant of the past. The Governor's appointment of the Chief Justice technically is the same as an appointment by the Crown but that is true of every civil service appointment. Mr Speaker, I do not think and in fact the mover himself has said that although he has accused basically, in so many words, the Chief Justice of being a neo-colonialist whose concern is that the system will not do for us because we are a colony, it is quite all right for the independent nation states to have politicians in America or in the United States or whatever selecting the judges but it is not all right for a colony. Well, I do not think he has produced any evidence to this House that that analysis of his is correct because he has also said in the same breath that he recognises that there are problems with small places that do not exist with big places. If he could say, "The Chief Justice has said that it would not be okay if Australia was still a colony but it is okay because Australia is independent and it is okay in Liechtenstein because it is independent but not okay in another place which is not independent". Well, I do not think that the influence or the concern about the influence or the concern that there should be an independent judiciary and should be seen to be independent is a function of our colonial status. The function of our colonial status is throughout our society just like there are arguments that can be put ideologically and philosophically that the class structure which some of us are not convinced has disappeared, although some who used to think it was there now believe it has disappeared, believe that the class structure is also reflected in the values of the judiciary and that it will take many generations for that not to be the case but it is not something that one can rule out constitutionally or legally over-easily. But when we are looking at the question of the independence in terms of people feeling that they have got nothing to fear from the system, well the fact that Tony Blair selects who goes to the House of

Lords as a Court of Appeal, he advises the Queen on who to select, what is it that he does then? I will give way.

HON CHIEF MINISTER:

This is not a question of who goes to the House of Lords as an ordinary peer. He advises the Queen on who are appointed Lords of Appeal in ordinary so-called Law Lords not to be confused with ordinary peers of the realm which he also advises the Queen on.

HON J J BOSSANO:

I think the fact that the Prime Minister advises the Queen on who should be the Law Lords, I do not think would cause the same kind of concern if he also selected who was going to be every single person in the judicial system down to the magistrate in every town of 30,000 people. That is the parallel. We are not here saying who should select the court of Appeal for Gibraltar and it is one thing for the Chief Justice appointment to move perhaps to the Bermuda situation but the Bermuda situation, from the quotations the Government have put in the public domain of their Constitution and I am sure that if there was anything else there they would have put it, refers just to the Chief Justice not to everybody else. So it is true that in some of the exchanges of the correspondence the Government denied that there was any question of them wanting to select who obtained or did not obtain the opportunity of training and today, in fact, they have said, I think that possibly is the first time that that has been said, today they have said the very opposite, that their position was that everybody should be entitled to apply and be given an equal opportunity to be participating in..... [HON CHIEF MINISTER: *I said it publicly then.*] He said it publicly then, I am grateful for that clarification but I had not picked it up before, I thought it was being said for the first time today. And I would have to say that I would agree that that is a better approach and a fairer system. If at the end of the day the training that is going to be obtained is going to put people in a better position to become selected at a later stage than everybody that wants to do the training ought to have the chance of doing the training otherwise obviously they

are going to be able to argue at the end of the day that they have been handicapped in the competition for the vacancy, I thought it was self-evident. I would not have had any argument in supporting that and I am glad that, in fact, that bit has finished like that and that that difference was eliminated. The approach of the Opposition on this motion is really that on looking on the surface of the motion and rather than on what has been said and I am certainly not going to indulge in any comments on what is extraneous to this debate under the rule of justice but certainly I would think it would be wrong if in our system the way people are required to meet their obligation is dependent on whether they are critical or not critical of the system, that would be wrong and that is important in terms of the independence of the system not just in judicial decisions but in people feeling that they have different roles in life and they are unconnected and what happens in one role should not then colour everything else that they have to face in every department as if we were in a situation where one is being watched by the much maligned KGB or the CIA. Given that, we are going to be voting in favour of the motion but we are going to propose an amendment which I intend to move now and that is to replace the full stop at the end of the motion with a comma and add the following words:

“and is fully committed to ensuring that the independence of the judiciary is maintained and protected in the future in accordance with the Basic Principles of the Independence of the Judiciary endorsed by the General Assembly of the United Nations”.

Unlike the Latimer House proposals this has not received the kiss of death so it is alive and kicking. I have got the text here which I will tell the House about. Really we are talking about principles which were adopted by the United Nations in 1985 in Resolutions 40/32 and 40/146. It follows similar intellectual concepts to the ones that we have seen in a different form reflected in the Latimer House proposals and to the ones that will be discussed in the need to ensure that the administration of justice is independent. But, of course, this is from 1985 and the resolution of the United Nations called on Member States

to adhere to the principles and to incorporate it in their national laws and constitution where applicable. We of course believe in this House in upholding the principles by which the United Nations are governed because we are very conscious of the need to persuade them that they should apply all those principles to us in our right for self determination. So what better than we should forget about poor old Latimer and concentrate on the UN which is closer to our hearts. It deals with the independence of the judiciary and it says, “the independence of the judiciary shall be guaranteed by the State and enshrined in the Constitution or the law of the country”. We are being told that it is already guaranteed by the law. So the first principle is that it should be and if it is then that is fine but if it is not there ought to be a commitment to doing it so that either in the new Constitution that we are working on or in the laws of Gibraltar there is such a provision. But this is the first principle in the list of the basic principles which have been adopted by the resolutions of the United Nations in the General Assembly. “It is the duty of all governments and other institutions to respect and observe the independence of the judiciary”. “(2) The judiciary shall decide matters before them impartially on the basis of the facts and in accordance with the law without any restrictions, improper influences, inducements, pressures, threats or interference direct or indirect from any quarter or for any reason”. I am sure that that meets fully what the Chief Minister said when he was moving the motion which is that they should not just be protected from possible political interference or interference from the Government but from any quarter. Well, that is the second principle of the United Nations basic principle list. “(3) The judiciary shall have jurisdiction over all issues of a judicial nature and shall have the exclusive authority to decide whether an issue submitted for its decision is within its competence as defined by law. (4) There shall not be any inappropriate or unwarranted interference with the judicial process nor shall judicial decisions by the courts be subjected to revision. The principle is without prejudice to judicial review or to mitigation or commutation by competent authorities of sentences imposed by the judiciary in accordance with the

law. (5) Everyone shall have the right to be tried by ordinary courts or tribunals using established legal procedures. Tribunals that do not use the duly established procedures of the legal processes shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals". I believe some of these things reflect what we already have in the existing Constitution in terms of people's rights to a fair trial. "The principle of the independence of the judiciary entitles and requires the judiciary to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected. (7) It is the duty of each Member State to provide adequate resources to enable the judiciary to properly perform its functions." That is quite an interesting one because since we are not a Member State maybe we could get the United Kingdom to pay for the judiciary. "Freedom of expression and association. In accordance with the universal declaration of human rights, members of the judiciary are, like other citizens, entitled to freedom of expression, belief, association and assembly provided however that in exercising such rights, judges always conduct themselves in such a manner as to preserve the dignity of their office and the impartiality and independence of the judiciary". So I think the principles here seek a balance in that they say, well like any other citizen in the community the judge is still entitled to express his views but he has to exercise self-restraint, if one likes, in the manner in which he does it but it does not mean he does not have the right. "Judges shall be free to form and join associations of judges or other organisations to represent their interest and to promote their professional training and to protect their judicial independence." (10) deals with qualifications, selection and training – "Persons selected for judicial office shall be individuals of integrity and ability with appropriate training or qualifications in law. Any method of judicial selection shall safeguard against judicial appointments for improper motives. In the selection of judges there shall be no discrimination against a person on the grounds of race, colour, sex, religion, political or other opinion, national or social origin, property, birth or status except that their requirement that a candidate for judicial office must be a

national of the country concerned shall not be considered discriminatory. (11) Conditions of service and tenure. The terms of office of judges, their independence, security, adequate remuneration, conditions of service, pensions and the age of retirement shall be adequately secured by law. (12) Judges, whether appointed or elected, shall have guaranteed tenure until a mandatory retirement age or the expiry of the term of office where such exists. (13) Promotion of judges wherever such a system exists shall be based on objective factors, in particular, ability, integrity and experience. (14) The assignment of cases to judges within the court to which they belong is an internal matter of judicial administration, professional secrecy and immunity. (15) The judiciary shall be bound by professional secrecy with regard to their deliberations and to confidential information acquired in the course of their duties other than in public proceedings and shall not be compelled to testify on such matters. (16) Without prejudice to any disciplinary procedure or any right of appeal or to the compensation from the State, in accordance with national law, judges shall enjoy personal immunity from civil suits, for monetary damages, for improper acts or omissions in the exercise of their judicial functions. (17) A charge or complaint made against a judge in his or her judicial capacity shall be processed expeditiously and fairly in appropriate procedures. The judge shall have the right to a fair hearing and the examination of the matter at its initial stage shall be kept confidential unless otherwise requested by the judge. (18) Judges shall be subject to suspension or removal only for reasons of incapacity or behaviour that renders them unfit to discharge their duties. (19) All disciplinary suspension or removal proceedings shall be determined in accordance with the established standards of judicial conduct. (20) Decisions in disciplinary, suspension or removal proceedings shall be the subject to an independent review. This principle may not apply to decisions of the highest court and those of the legislature in impeachment or similar proceedings". These, Mr Speaker, are the standards that the United Nations expects of its Member States and I think that they are already, in many of the areas, covered by either the practice or the Constitution or

the reference to the list of rights that we grant to citizens in Gibraltar. The motion just says about what happens until now; the amendment says what should happen in the future from now on and I can think of no better way than demonstrating our commitment to an independent judiciary than to use the guideline and the standard that the General Assembly of the United Nations recommended to the civilised world in 1985. I therefore commend the amendment to the House.

HON CHIEF MINISTER:

Mr Speaker, speaking to the amendment at this stage, somehow I do not think that the United Nations is recommending that in 1985 to the civilised world, possibly to others. I am quite happy to try and agree with the hon Member words that do not just talk about the past but I am not willing to support those words. The Government would need to study each of those statements of principle carefully to see what their implications were and indeed what their application is in a modern western society and certainly we will not agree to a motion amendment which flags or is capable of being misinterpreted to flag a non-existent problem here. Gibraltar is not a third world banana republic in the administration of justice or anything else and I am not going to support the adoption of resolutions in this House which may give others the opportunity to think that we are. However, if the hon Member wants some language which commits us all to upholding the integrity and independence of the judiciary as we have done in the past, then I have no difficulty with that and I would propose to the hon Member instead of his words the words, "and is fully committed to ensuring that the independence of the judiciary is maintained and protected for all time in accordance with" – not that list of outdated principles. He has condemned Latimer to the dustbin, I have not.....[INTERRUPTION] Well, I think the Leader of the Opposition perhaps has seized on the Learned Attorney-General's words too literally. I think Siberia is a place that it is possible to come back from but it takes longer and I think that is what the Learned Attorney-General says, that if this is the

equivalent of being sent to Siberia. I would say, "is fully committed to ensuring that the independence of the judiciary is maintained and protected for all time in accordance with recognised and established best practices in western democratic societies". I am prepared to align Gibraltar to any standard that is adopted as conventional, best practice, as accepted established best practices by the world's leading democratic societies. [HON J J BOSSANO: *I imagine it is this list.*] Well, if it were, then there might not have been any need for these judges to get together in Latimer. There is obviously a difference between Latimer and that, because if there were not, Latimer would not be necessary and therefore I think we should accept, rather than commit ourselves to a rigid document, I think Gibraltar is a Member of the family of modern western democratic societies and it is better to commit ourselves to accepting change as and when it occurs in those modern western European societies. We are not going to be at the forefront of evolution nor are we going to be at the tail end of accepting that evolution. When these things change when the conventional wisdom of what is best for ensuring the independence of the judiciary changes in western democratic societies, Gibraltar must demonstrate that it is ready and willing to follow. What I object to is to being suggested that we should be the first to implement the Latimer House proposals whilst Canada, Australia and New Zealand send it to Siberia, that is the difference. Therefore, Mr Speaker, I would suggest an amendment to the Leader of the Opposition's amendment which is to delete all the words after the word "protected" and replace them with the words "for all time in accordance with recognised and established best practices in western democratic societies". That is even wider than his rather limited 1985 doctrine.

Question proposed.

HON J J BOSSANO:

Mr Speaker, we will support the proposed amendment of the Government for the simple reason that we would rather that the

motion on the independence of the judiciary should be carried in this House by unanimity and not by Government majority but I really must say that I do not know why the Chief Minister finds it so difficult to argue a case for anything without having to either rubbish it or find ways of describing it. Nobody is suggesting that Gibraltar is a banana republic because we should subscribe to this, this is not something that is out of date because it was passed in 1985. If it were out of date then where would we be with the resolution of 1954 on self-determination which we are still seeking to exercise? The fact is, as he knows or he ought to know, that when the United Nations General Assembly passes resolutions it then takes many, many years for all the Member States to incorporate it and adopt it and make it because this is not a mandatory thing. This is something where the Assembly calls on its members to be guided by this set of principles. This is why I am saying that to the extent that it is already implemented anywhere it is likely to be implemented in modern western societies so since the Government are prepared to commit themselves to pursuing the maintenance of judicial independence in accordance with the practice then I would say that practice is likely to be in accordance with these basic principles because these basic principles may take some time to be implemented in far away small countries but we would expect it to be implemented in the United States and in Australia and in other places well before that and also in western Europe. So as far as we are concerned, having done the research into the question of judicial independence because of the motion being brought to the House, we came across a document which seemed to us to be the best guidelines, what the international community recommends to the world and that we thought it would be good for Gibraltar's image and reputation which worries him so much that we should be able to say, "We stand by the United Nations standards of basic principles of independence". Then he can write to The Sunday Express and prove them wrong because here we are, we stand by best practices. But rather than have a position where we divide the House on this, we will accept his proposed amendment to my amendment but we intend to pursue this matter on the basis of seeing to what extent in fact the principles that are

enshrined in this are the ones that exist elsewhere and see them translated into our own laws.

HON CHIEF MINISTER:

Mr Speaker, I realise the hon Member would just not want me to reply so that his pearls of wisdom remain the last on record but the fact of the matter is that he cannot sensibly expect a Government on the basis of a cursory five minute reading of 30 alleged United Nations or whatever number, even if it was only two, alleged United Nations principles that we have not had the opportunity to study, that we have not had the opportunity to see to what extent they have been overtaken by subsequent pronouncements, that this is a General Assembly resolution which necessarily is not binding as a General Assembly resolution; we do not know the current status of that resolution; we do not know who voted for and who voted against and where the civilised world stands on that resolution. The hon Member assumes that the United Kingdom supported it, for example. But from the very quick hearing of the 20 principles there were two or three which to my knowledge the United Kingdom nor he has systematically subscribed to. He knows that in practically all the overseas territories including Gibraltar, judges are on contract, he knows that. I do not know if the United Kingdom and other modern western societies subscribe or do not subscribe to these principles but if the United Kingdom does subscribe to these principles it has not done very much to apply them in its overseas territories. *[INTERRUPTION]* It proves the difficulty of expecting the Government to support an amendment on the basis of a quick hearing of his reading of 20 principles. If the hon Member had wanted us to consider an amendment based on 20 principles and he was genuinely interested in trying to secure the Government's support for it, he has had notice of this motion for over a month. One would have thought that he would have sent the 20 principles to the Government so that we could consider them and therefore be in a position to support or not support. If the hon Member thinks he is going to stand up and expect us to support an amendment incorporating 20 principles on the basis of a quick hearing of them he has got to understand that it would simply not

be safe or prudent for a Government to act on that basis. But now that he has reread to me this business about semi-retirement age or contract, of course that would be a breach of Latimer. This business of the contract because, for example, the view has been taken by many actually not just by our own Chief Justice, but the view is taken by many that it is wrong for judges to be on contract because if a judge is on a contract then he is in the hands of those who gave him the contract as to whether they renew it or not and if that is the case there is an argument that one has got to, some contract judges – I have never seen any evidence of it in Gibraltar but some contract judges..... [INTERRUPTION] No, the first thing that one gets taught as an advocate as opposed to theatre is that one must always understand the other people's point of view otherwise one cannot do the debate justice. The hon Member wants to present a motion dealing with the question of contracts he will hear me when I respond to the principal motion what judges think about contracts and about the very existence of contracts so there is one principle there. If that is what that principle says that is already a principle that has been overtaken by modern developments. It is not a question of rubbishing them, it is a question of not being able to assimilate that the 20 principles are our feet and support them and find ourselves committed as a Government to 20 principles which has taken him over 10 minutes to read and that the Government should adopt them as policy for the future on the basis of one cursory hearing of them. I have to tell him that if he were serious in the intent of seeking Government support for them he would have provided them to the Government ahead. The formula that I have suggested to him, if he is right that those principles are already reflected in best modern democratic society practice then the formula that I have suggested to him incorporates them and therefore it seems to me that if he is right he has his way and if he is wrong the Government are protected from having adopted language which locks us in to a set of specific principles which may no longer be the flavour of the decade given that it is several decades ago. Therefore it seems that rather than support our language for the expediency of not dividing the House he should rather support our language because it is more sensible because if he is right that our language incorporates his principles and if he

is wrong and we have not had the opportunity to consider whether he is right or wrong but if he is wrong then Gibraltar is not saddled with the principles which no longer apply and I think that is the basis upon which I would recommend to him support for the Government's amendment to his proposed amendment.

Question put on the amendment to the amendment. Passed unanimously.

HON J J BOSSANO:

Mr Speaker, I am sorry that in the background to his motion which has been as long with the Government as it has been with us if not longer, they never thought to look at other standards beyond Latimer, that is not our fault. If we were able to find this information and take it into account as being pertinent to the motion I would have thought they could have done the same thing. But be that as it may, we are supporting the motion, as amended, and we shall be pursuing these proposals on the basis of coming back in future Houses to the Government to see how close we are moving in that direction.

Question put on the amendment.

Question proposed on the motion, as amended.

HON CHIEF MINISTER:

Mr Speaker, I marvel at the speed with which the hon Dr Garcia is able to write out his speeches because, of course, one does not wish to be too Machiavellian but if one were, which one of course is not, one could come to the conclusion that so justified as opposed to unjustified which is what he has said, so justified are the Government's comments in this debate that he had assumed that the Government would make them and had written out a long speech before he had even heard my address in this House and I ask the hon Member how he could possibly have written out a, yes it has been obvious to everybody in this House that the hon Member was reading his speech. [HON DR J J GARCIA: *The Chief Minister is very predictable.*] Fine, well if I am very

predictable it is because what I am going to say is predictable and if what I say is predictable it is because it is natural in the events which have happened and if he without even hearing me was able to prognosticate what the Government were going to say it can only be because he knew that that is what the Government needed to say and would say and had scribbled out, like a sixth former, his contribution in this debate verbatim. I do not know how the hon Member can stand up and say, "I do not agree with this, I do not agree with that....." when he has already got it all written down before I have even opened my mouth. This is mind boggling.

HON DR J J GARCIA:

If the Chief Minister will allow, he said all this before that is why, it does not take much to realise what he is going to say when he has said it all before.

HON CHIEF MINISTER:

My advice to the hon Member is that he does not make his position worse. I have not said before half of the things that I have said here today I have not said before nor let me tell the hon Member, nor do I accept that he is the author of the speech that he has read out. Yes, I am asserting to the hon Member that I do not accept that he is even the author of the speech that he has read out.

HON DR J J GARCIA:

Mr Speaker, then the Chief Minister is completely mistaken.

HON CHIEF MINISTER:

Well, I may be completely mistaken but there are views contained in that speech which come from other quarters. If one puts two and two together one gets four if one knows how to count or four and a half or five if one does not but he comes to this House with a prepared text containing arguments that I have heard in other

quarters and which I have never heard from him because all he has ever said in public is vitriol distortion of what others who have said those views before have themselves been saying. The hon Member can stand up in the hope.....

HON DR J J GARCIA:

Mr Speaker, if the hon Member will allow. I have all the research in front of me, all these documents.

HON CHIEF MINISTER:

The hon Member has to wait until I give way. The fact of the matter remains that he comes to this House with a prepared speech, criticising me for my speech before he even knows what my speech was going to be. Those are the inescapable facts and I say this in case what he was trying to do was give the impression to those who are hearing this debate but are not here present the impression that somehow this was a spontaneous and considered response. It is not spontaneous, it is.....

HON DR J J GARCIA:

On a point of order.

MR SPEAKER:

What is the point of order?

HON DR J J GARCIA:

The point of order, Mr Speaker, is that every Member who speaks in this House is responsible for what he says and I think that should be accepted.

MR SPEAKER:

All right but that is not a point of order.

HON CHIEF MINISTER:

The fact that he is responsible for it does not mean that he is the author of it. Mr Speaker, therefore the only point that I am making to him is that in having himself foreseen as he must have done in order to prepare his speech, in order for him to have foreseen what I was going to say, what I was going to say must have been foreseeable and if it was foreseeable it cannot be quite as outlandish as his prepared text provides. He says that the independence of the judiciary should be dealt with with more tact and diplomacy. He is the only person in Gibraltar who frankly is disqualified from making that point unless – I am not going to waste the House's time – he considers that his own remarks to which I have made full reference is tact and diplomatic. What I do not do in the name of tact and diplomacy is to ignore the facts of a debate and simply abuse it as he has shamelessly done in the past and has continued to do it here today for his own narrow-minded politically opportunistic tendencies. That is what I do not do. Tact and diplomacy is not to wait seven months before answering some of the things that we have waited seven months to answer so as not to interfere, so as not to colour, so as not to complicate another important issue affecting the judiciary which had to be dealt with tactfully and diplomatically but, of course, the Opposition have not expressed a view on that. The Opposition have never expressed a view on that. I think the Government have been very patient, not very impatient as the hon Member suggests and I think that we have been very tactful and very diplomatic none of which prevents us but we now know that it would prevent him, from saying what we think needs to be said in protection of the public interest and in protection of Gibraltar. The hon Member thinks that standing up in this House and saying the things that we have said is an attempt to intimidate the Chief Justice and to get one over him. I am as free to say what I like in this House as the Chief Justice has felt free to say in his courtroom. He is not here to answer me on this occasion just as I was not there to answer him on the occasion in which he expressed his views. Nothing that I have said, I am certain, will intimidate the Chief Justice; it is simply exercising Government's legitimate right to defend ourselves in a place where we expose

ourselves to challenge by the Opposition. This is the place where it is right for matters such as this, affecting the public interest to be debated and not through silly little press releases of the sort that the hon Member issued in the hope that he would gain some political advantage from the complexity of dealing with these issues in a press release battle. He says that the role of the Chief Minister is not to launch poisonous attacks but to defend his track record. Well that is exactly what I have attempted to do, to defend mine and the Government's track record. It is not for him to defend his track record, he has the privilege of being able to utter the endless string of nonsense that he likes and never be held to account for it because he has no responsibility that goes with his freedom to utter what he pleases. The Government are not in such a comfortable position. The Government, as Government, have responsibilities to defend our track record and that is what we have done here, in the place which we consider to be the appropriate place. He says that we are upset by the Chief Justice's claims. We certainly are, of course we are upset by the Chief Justice's claims, we are upset by the Chief Justice's claims not because he made them if they were true but because he made them in public first. That is why we are upset and we are upset because he chose unnecessarily ambiguous language which gave people the scope for misunderstanding the implications of what he is saying and gave the hon Member the opportunity which he waited not five minutes to seize to try and make political capital on the basis of the distortion and twisting of the Chief Justice's words. That is why we are upset. We are upset much more by his distortion of the whole debate than we are by anything that the Chief Justice said. He continues to shake his head. I will explain to him what happened in fact and he must now search his conscience to see whether all these things that I read to him from his press releases are actually justified on the facts of the matter even if they were all true. Even if it were right that the Government were wrong in saying, "No, you have got to advertise the trainee magistrates" and even if the Government were wrong in not giving the Chief Justice money to go to Warwick University for three days. Does the hon Member think it warrants the remarks that he has uttered in public and which I have reminded him of this evening? The hon Member has not got a clue of the

seriousness of the affairs in which he has chosen to involve himself. He has not got a clue of the damage that his utterances are capable of inflicting not just on Gibraltar but on the reputation of its Government. My extreme consolation is that the people of Gibraltar are wiser than he is and knew when they had to ignore rubbish as rubbish. What, he asked would the Chief Minister – me – have said or done if some other Chief Justice had said this of some other Chief Minister? I will tell him, exactly what I said when the previous Chief Minister made similar remarks about his new political master, the present Leader of the Opposition, nothing. Yes, the hon Member may dedicate time researching 20 United Nations principles but he does not do enough local research on matters of real importance because I do not know whether in 1995 he was tuned in or not tuned in to local politics or whether in 1995 he attached less importance to matters of judicial independence than he appears to attach now or whether the importance that he attaches to matters of judicial independence depends on whether he thinks that I can be attacked for them as opposed to his new political colleague. Because contrary to what he said I am not the first Chief Minister – this is another thing that he said – I am the first Chief Minister that any Chief Justice has seen fit to raise a public concern about. First of all, and it just underlines the sheer bad faith that the hon Member employs in his debates. First of all, the Chief Justice has not raised any public or private for that matter, concern about the Chief Minister. If he has I have obtusely not noticed. But if the hon Member is wondering whether I preside over the first Government to come under criticism from the bench for matters to do with resourcing and the ability of the judiciary to function given that position, I have to tell him that he is mistaken. I am the second, the first one is sitting next to him. Because on Thursday 5th October 1995, on the occasion of the speech by the Chief Justice at the Opening of the Legal Year on that occasion, the Chief Justice said, I am reading from the press reports of it but I will happily provide for him a copy of his speech which I will have to obtain from the Supreme Court, “The Chief Justice has reserved some of his vintage humour for the occasion but not without pointing to the deficiencies in staffing levels and accommodation which have become the fixed theme of these occasions. There was thanks to

the Police, the Prison and Probation Officer. Chief Justice Kneller noted the drop in staff and situations such as the absence of a Registrar for seven months listing statistics for cases handled. An up and running offshore finance centre must surely have a Supreme Court and staff it deserves, he asked out loud. So if there is a gravy train around Gibraltar I hope it arrives and stops a while here. It is time we had a master or a third judge to cut down the delay in client applications being given a hearing date. The earliest one can have and he carried on and he carried on. Judges, the hon Member may not be aware, have been pointing out apparent deficiencies in resources for many many years and all deficiencies in resources and staff reflect a decision of Government either not to give more money or not to give more staff. I did not jump up and down when this was published accusing the Chief Minister of the day of undermining civil liberties in Gibraltar, of political interference, of politicians taking control of the day to day affairs of the court, because he was failing to keep the court properly staffed and the Judge will say, “we are under staffed, we cannot do our work”. If he wants to know what I would have done, since he does not, if a different Chief Justice had made similar remarks about a different Chief Minister, the answer is that he does not speculate because it happened in 1995 and before, practically every year, and the answer is that no Opposition has launched the tirade against a serving Government of Gibraltar that the hon Member has in bland ignorance of the facts launched on this particular occasion. And if he is not persuaded by what I am telling him, I will publish for him a complete litany of all such statements that have been made in the past by Chief Justices.

Mr Speaker, in case he is tempted to run away with the notion that this Government are somehow indulging in practices that he needs to speak in those terms about, compared to previous practices, he is mistaken as well, because if he has read Chief Justice Schofield’s speech to Latimer, he would have come across the following statement; “The Registrar and Deputy Registrar of the Supreme Court of Gibraltar, according to Section 3 of the Supreme Court Ordinance are attached and belong to the Court. These officers are of course provided by the Government

but are appointed by the Governor. They carry out some judicial duties as well as being responsible for the administration of the Court. A few years ago a Registrar was removed on the directions of the then Chief Minister and transferred to the Attorney-General's Chambers. How this came about in the face of the Statutory provision, I do not know. I can only assume that this was an abhorration that would not be repeated today. This is what Chief Justice Schofield had to say towards his fellow Chief Justices about things of this sort in Gibraltar. I was not moved at that time, I was Leader of the Opposition at that time and I was not moved to issue a Press Release. We all know the case in question, we all know what happened and when. I did not come out with statements accusing the then Government of all these things which the Chief Justice subsequently described as an abhorration. If the hon Member wants to know what would have happened if a previous Chief Minister had had these things said of him by a previous Chief Justice, the answer is that the public record speaks clearly as to what the answer to this question is. The Hon Dr Garcia asks what the Government have against public enquiries. Mr Speaker, the Government have nothing against public enquiries except that we are criticised for not having called more of them on many issues and the reason is that we call public enquiries when we think the facts require it and we do not call public enquiries when the facts do not require it. I must ask the hon Member to explain to me which of the facts he considers deserves a public enquiry. Is it the fact that the Chief Justice was not funded to go to Warwick University? Is it the fact that we took the position that we took on the trainee magistrates? Is it the fact that we want to be consulted like all previous Chief Ministers have been consulted on judicial appointments? Which of those three facts did he have in mind when he wrote to the Foreign Secretary demanding an immediate public enquiry? Which of those three facts, even if they were all true and improper, and I do not concede that any of them are improper, which of them deserves and justifies a public enquiry? That is why the Government have not called public enquiries, but we will call public enquiries on other issues upon which they can now be safely called. He should not worry. We would demonstrate to him that the Government have nothing against public enquiries

when they are justified on facts. Of course, as always he asks, "why this personal abuse by the Chief Minister?". Mr Speaker, I very much regret it if the hon Member considers that simply having the outrageousness of his own statement pointed out to him is personal abuse of him. What I consider to be personal abuse is his quite gratuitous, unprovoked, unjustified and completely unnecessary statements in his own press releases. That is abuse. Trying to paint the Chief Minister and his Ministers as meddlers with the system of administrative justice, giving people the impression, if one could dupe them into believing it, that this somehow involves the fact that judges could not make decisions without political pressure. That is abuse and it strikes me as odd that the hon Members think that they are free to say whatever they like whether it is the truth, whether it is not the truth, whether it is justified, whether it is not justified in whatever terms they like and then when the Government stand up and simply spell out the reality and expose their statements and their positions for the rubbish that they are, then it is always the safety net, arrogant Chief Minister, personal abuse, terrible style, terrible ogre. That does not wash either anymore. They have played that part once too often.

"What is the duty of the Opposition?" he asked, as if to suggest that he had discharged it through his disgraceful little batch of press releases. I will tell him, since he appears not to know the answer, I will tell him what the duty of an Opposition is in a parliamentary democracy when the Opposition thinks genuinely that the Government are interfering with the Judiciary, they bring debates, they bring motions to the House. How many motions have they brought to the House? None. They ask parliamentary questions. How many parliamentary questions have any of the hon Members and specifically Dr Garcia, and all of them for that matter, how many parliamentary questions have they asked since the Chief Justice delivered his opening of the Legal Year Address in October 1999. This is one year ago. How many parliamentary questions have they put down to hold the Government to account for what he was happy to tell public opinion was a threat to the very existence of civil liberties in Gibraltar. He appears to have thought that the Government were politically controlling the affairs

of the Courts and he was not driven even to put down a single parliamentary question. What it demonstrates is that he is not serious in his job as an Opposition Member. He is not interested in the answer, 'what is my duty as an Opposition'. He is only interested in what he can say and do to bring discredit to the Government regardless of whether it is true or justified. That is all that interests him. Otherwise he must tell me how many motions he has brought to this House and how many parliamentary questions he has put down in this House on such a gravely serious issue that he felt justified in writing to the Foreign Secretary demanding a public enquiry, because neither the Chief Minister nor the Government would take him seriously. That is the acid test of the responsibility and seriousness with which he discharges his duty as an Opposition Member. There appears to be no limit to the infantile debating techniques that the hon Member is willing to employ in this House. He says that it is clear that the Government are the ones that are doing the distorting and the misrepresenting because look the proof is here. They put out a public statement saying that the two reasons that the Chief Justice had in mind was the entertainment expenses and the foreign conference and the Chief Justice had to put out a statement contradicting. The problem is that of course he heard the proper chronology of events and explanations during the two hour speech that I gave him, but as he had already prepared a speech before, he was not quick enough to amend his speech, at least to reflect what he had just been told. Even if the hon Member has a written speech in front, surely the hon Member must have the intellectual nimbleness to depart at least from three lines when he has heard an alternative explanation. Instead of recognising or challenging the truth because the hon Member is free to say, "I have heard the Chief Minister's explanation and I do not believe him". He is free to do that. What he is not free is to rabbit on about how the fact that the Chief Justice had to put out a statement contradicting the Government on the two reasons he had in mind, that demonstrates that it is the Government that have been distorting the debate. Not three quarters of an hour after I have explained to him that the Chief Justice's language did not enable the Government or him to know what the true issues were that he had in mind and that when the Government put a

public statement of the only true issues that it thought the Chief Justice had in mind, the Chief Justice did not put out a statement saying "no, those are not the true issues, it is these two". No, he just puts out a public statement saying those are not the two issues I had in mind, leaving the Government presumably to carry on playing 20 questions with itself. We played 20 questions when he delivered his first speech and then we played 20 questions again when he tells us we have not got the right answers to the first 20 questions. When the Chief Secretary writes to the Chief Justice and asks him what are the two reasons he has in mind and the Chief Justice writes to the Government through the Registrar to tell us what the two reasons were, the Government issued a statement saying we have been told by the Chief Justice that these are the two reasons and we gave a public explanation of both. The hon Member believes that that chronology of events and facts supports his contention that it is not he who has been distorting the debate. It is not he who has been misrepresenting the facts but the Government. I do not know why the hon Member insists on systematically underestimating the intelligence of everyone that could be listening to him. I wonder, Mr Speaker, because the hon Member Dr Garcia, who accused the Government in his Press Release of political interference in the appointment of Judges, that is what he accused the Government of, political interference in the appointment of judges. When I have brought a motion to the House and spoken at length about the extent to which the Government have been in the past and should continue to be involved on the appointment of judges, he has not even addressed the issue in his reply. He has not even addressed the question of the Government's involvement. No, the Leader of the Opposition has addressed, and I will come to that in a moment, that he has not even addressed the question which he thought last year amounted to the Government's seeking to have political interference in judicial appointments. And when we come to Parliament to debate it, when he has the opportunity to get it all off his chest, he does not even address the issue. In those circumstances the hon Member will forgive me if I come to the conclusion that he is not interested in discharging his role as an Opposition, what he is interested in is putting out little poisonous Press Releases when he does not have to face the

person that he is accusing. That is what he is interested in and that when he finds himself on his feet in this House, debating face to face, he simply does not have the courage to repeat the statements that he has made in the past because he knows that he is unable to defend them. There is no other explanation for his failure to have a go at the Government on what he told the public in Gibraltar was the Government attempting to politically interfere in judicial appointments. I do not know whether the hon Member is so naïve or ill informed to believe or to think that the previous Government never denied supplementary funding to the Judiciary. I hope that the hon Member is not so naïve or ill informed as to believe that the previous Government never denied judges money to go on foreign conferences or foreign trips. He cannot believe that surely. If he indicates to me that he believes it I will make public statements explaining it. I do not criticise. This is not intended as an attack

HON J J BOSSANO:

As a point of order. If the Chief Minister is going to make an attack on what the previous Government did or did not do, he should not do it in the rounding up after I have spoken. He had plenty of opportunity to make it before and I would have dealt with it. If he makes them now, I hope he will give way.

HON CHIEF MINISTER:

The hon Member must not interpret what I am saying as a criticism. I am saying that what the hon Member considers is so heinous of denying a Judge money in mid financial year beyond voted funds to go on a conference. If he thinks that that is new or unusual or that it did not happen under the time of the previous Government, he is mistaken, and that is not an accusation against the previous Government. I believe it is perfectly okay. That is what I am saying. The hon Member cannot build a case for the collapse of civil liberties in Gibraltar on a set of facts which have happened frequently with all previous Governments. Or does he think that any Government of Gibraltar opens the cheque book on its table to allow judges to travel abroad whenever they like and

for whatever they like. Mr Speaker, I do not know whether the hon Member wants me to give way in the context in which I have made the point, but certainly that is the point that I was making. Does the hon Member believe having accused the Government of taking day to day control of the Judiciary because of reasons of not providing money for this conference to Warwick and if the other accusation that he makes against the Government is that we allegedly politically interfere in judicial appointments, I ask him in respect of the second, does he really think that the previous Chief Minister and his predecessors before him, were not consulted on judicial appointments to the same extent, because all I have done is ask to be consulted to the same extent as my predecessors were. All I personally have ever said to a Governor is "I want to have the same degree of consultation as my predecessors have enjoyed, and if you want to deprive me of that same degree of consultation, you have got to give me good reasons why established practices have been terminated". That is all I have ever said. The Chief Minister, the heinous ogre, that the hon Member think is a murderer of civil rights here in Gibraltar. Does the hon Member believe for a moment that the previous Chief Minister and his predecessors were not consulted. I tell him that they were. I tell him that the Leader of the Opposition was consulted, and quite rightly so. I think it is "an aberration" – to borrow the Chief Justice's own words – if judges were appointed in this jurisdiction without even a consultation which is not to say that the Government appoint or prohibit or give approval but simply a consultation of a judicial appointment and no amount of judicial utterances and no amount of statement by the Chief Justice and no amount of ill-informed press releases by the hon Member is going to dissuade me from the view that the sort of consultation that the previous Chief Minister enjoyed which is the same sort of consultation as I was seeking to uphold is proper. It is proper, it is not wrong and the Chief Justice can utter the contrary view as often and as intensely as he likes and in whatever court he likes, it is perfectly proper. What is improper is the suggestion that something which is a constitutional right in Bermuda should not even be done informally in Gibraltar advocating principles of separation of powers, that is what is improper.

The hon Member reviewed all aspects of security of tenure and all aspects of judicial independence admirably. If he wrote that speech himself I think he is in the wrong job. I think his talent is wasted in the job that he is doing if he is capable..... [HON J J BOSSANO: *And so is the Chief Minister.*]not just of writing that speech but indeed of conceptualising all the points that he has made without being prompted by others, I think he is grossly under-employed, not here as an Opposition Member, I am pleased that the House has members of that calibre, he is under-employed in his job outside this House. But the Chief Justice does not agree with him on security of tenure. This is what Justice Schofield had to say on the question of contracts and security of tenure, this is the same speech as at Latimer, just before it went off to Siberia, "It may be that a judge recruited from an overseas territory does not want to be committed to the jurisdiction and to the retirement age. It may be that the recruiting territory does not want to commit itself to an expatriate judge until retirement age, particularly in a small jurisdiction where some provision ought to be made for the emergence of local candidates for the very few judicial posts available. Furthermore, judges from overseas are very much an unknown quantity and it is often uncertain whether they will fit within the local perceptions of judicial conduct. It may be that the contract system is therefore a necessary evil but it is an evil which ought to be contained better within the written law or within the terms of the contracts themselves by more rigorous provisions in favour of judges who seek renewal of their contracts". And I agree with every word, indeed I agree with almost everything that the Chief Justice has said in this speech to the Latimer Conference. There is very little at issue between us in this speech but what the hon Member cannot do is abuse the points that the Chief Justice makes and fail to take notice of his own very recent pronouncements on the matter. Mr Speaker, I regret that the hon Member should assert that judicial independence is not guaranteed because one could meddle in the terms of the office holder and other conditions of service and salary. If there has been such meddling it has not been by me, the Chief Minister of Gibraltar does not appoint the judge so when he talks about the potential for meddling with contract officers presumably he is talking about the Governor because it is the

Governor who makes the decisions on the appointment of judges and the extension of contracts and things of that sort. I will limit myself in the interests of winding this debate down, I can well understand that Opposition Members are not enjoying it and for that reason they are keen to see it wound down. But for the hon Member to say that the Government are engaged on something that has never happened before which is a witch hunt of a judge, well on what basis does the hon Member make that further preposterous statement? Because we put out public statements defending the Government against statements made by others, mostly he himself? What have the Government said or done which represents a witch hunt? Now I know the source of the stories to the international press about hounding them out of office. The difference between hounding him out of office and a witch hunt are practically indistinguishable. The hon Member simply does not understand the responsibility of office and if he believes that what the Government have done here today represents a witch hunt of a judge or that the impeccably responsible manner in which the Government have behaved in relation to the other matter that affected the Chief Justice until recently, if he believes that that is evidence of a Government conducting a witch hunt, all I can tell him is that I hope that he acquires a better sense of what the burdens and responsibilities of being in Government in this community are before he offers himself for re-election to the people of Gibraltar for that office because if he believes that this Government have conducted a witch hunt of the judge, I do not know which of all the allegations he now attributes to the Government, does he think that we bugged his phone? Does he think that we have had him under surveillance? Does he think that we invented all the stories about the maid? Which of the facts that are in the public domain, on most of which the Government have not commented, which of those does he think constitutes the witch hunt? The hon Member who is devoid of rational argument in this respect simply thinks that he can wave away the ineptitude of the position that he has defended for the last two years on this issue with little clichés such as witch hunt of a judge in the hope that that will capture the headlines. Mr Speaker, the hon Member must have learnt by now after so many unsuccessful attempts at elections that he does not

achieve that in that way. I do not know why the hon Member should think that we have done Gibraltar a disservice unless he believes that doing Gibraltar a service requires shutting up and accepting everything that others say about Gibraltar and its Government. I do not see why he thinks that Gibraltar is done a disservice by the text of a motion that he had indicated he was going to support, that is another thing for him to answer.

Opposition Members have heard from the Attorney-General the status of the Latimer House Guidelines and I propose to add nothing further to that.

If I can just respond to the points made by the Leader of the Opposition. I note that the hon Member did not wish to compete with me on theatrical performance but, of course, I suppose that if the dividing line between consultation and approval is a fine one, so is the dividing line between advocacy and theatre. I must say I have enjoyed this debate enormously, whether the fact that one enjoys advocacy makes it necessarily theatre, of course is a matter for others to think but certainly if it was theatrical it is because the statements that the hon Member has made publicly on this issue over a long period of time, yes the hon Dr Garcia deserved to be treated theatrically which is what his statements were, pure science fiction theatre.

Mr Speaker, I do not know if the Leader of the Opposition was intending to create the impression that when he was consulted this was somehow more akin to information than consultation. The hon Member must surely be aware that he was consulted by which I mean consulted, not just informed, on the occasion of every judicial appointment that occurred during his term of office. *[HON J J BOSSANO: As simple as that.]* Well, I have here in front of me a letter dated the 19th April 1994 addressed to the Personnel Manager, I was not in office in 1994 and it says, "Chief Justice extension of contract" - the sort of extension of contract that the Chief Justice says politicians must not be consulted about - "I have been asked to inform you that His Excellency the Governor, after consultation with the Chief Minister, has agreed to offer Mr Justice Kneller a further extension and at a recent

meeting with His Excellency the Governor, Mr Justice Kneller agreed to undertake a further one year contract". *[HON J J BOSSANO: Now will he give way?]* Well, I have not finished, he may want to wait to hear them all. *[HON J J BOSSANO: Yes, I will hear them all.]* I have here in front of me a minute headed "JPs", it is dated March 1994, I was not Chief Minister in March 1994, he was, and it reads, "Ad Sec has cleared with the Chief Minister the selected list". I do not know whether "cleared with" represents more or less than consultation. I actually think that "cleared with" is much closer to "approved by" than the sort of consultation that I had asked for. Therefore, Mr Speaker, I do not know what sort of consultation the hon Member engaged in when he was Chief Minister. I have here with me a minute dated the 29th June 1993, another date on which the hon Member was Chief Minister and it is headed, "Additional Judge", it referred to Mr Justice Harwood and it reads, "I have only just been able to clear my lines with the Chief Minister on the Board's recommendation with which he is content". I do not know whether a statement of contentment represents consultation, information or whether it represents more. But certainly if this were a linguist conference I would say that "cleared with" and "is content with" is much more strong than simple "consultation". In relation to the procedure in 1993 for selecting the Additional Judge, the exercise that we politicians must have nothing to do with, "Please refer to your letter of the 12th May. I confirm that the Chief Minister is content with the proposed arrangements". I do not know why the Chief Minister needs to be content with proposed arrangements for the selection of a Judge which is a Governor's appointment and which he claims he was never consulted about. This is what the record shows. *[HON J J BOSSANO: Has he finished?]* No, I will tell him when I have finished. I have here a memo dated the 21st February 1991 and it reads, "Chief Justice extension of appointment", and it says, "As you are aware His Excellency the Governor and the Chief Minister have agreed to offer Mr Justice Kneller a new contract". Well, I do not know why the Chief Minister is agreeing with the Governor or why the Chief Minister's agreement was even sought for the giving of Mr Justice Kneller a new contract but it certainly would appear to suggest that there was a good deal more consultation on judicial appointments under his term of

office than he cares to admit or that he has informed the hon Dr Garcia about. On the 8th October 1990, in respect of the Judge then, "I am glad to say that with the agreement of the Chief Minister, His Excellency has approved your being re-employed for three years in the first instance". The hon Member must not misunderstand me. I do not criticise him at all for any of this. I think it is quite right that he should have been consulted to this extent on all of these issues, on all of these occasions. All I was trying to do was to ensure that whatever was the established practice, not just in his favour but in favour of his predecessor as well, should be continued until there was agreement that it should be discontinued, that is all. Therefore, Mr Speaker, I think that when we are debating between us, as is perfectly legitimate that we should do, whether or not Gibraltar Governments should be consulted on judicial appointments, we ought not to try and spin the argument on trying to confuse on the basis of what the word "consultation" means if one is consulted before or after the appointment board or whether I think we should accept at least this is what I would do on any debate between us on the extent to which the Chief Minister should be consulted that judicial appointments in Gibraltar are under the current Constitution exclusively decisions for His Excellency the Governor – I will give way as soon as I finish this – are exclusively a matter for Governors but Governors have for many decades consulted Chief Ministers which does not mean that the Chief Minister makes the decisions which does not mean that if the Chief Minister says, "No, I do not agree with that appointment" it does not get made. Consultation means consultation, it means that the names are run past one, I do not know, the hon Member gives an explanation, which I am happy to accept if that is how he saw it at that time, why he interviewed every applicant for the post of Chief Justice on the occasion that Mr Schofield was himself appointed. Every applicant went to the interview board and also for calls on His Excellency and the Chief Minister. I think this is absolutely right that they should, I do not say if it is right or wrong, I think that because one is going to be consulted one is entitled to have a view about the candidates so that one can express a view when one is consulted which does not mean that the Governor is going to say, "Well, Chief Minister, because you did not like this Judge's

sentencing tendencies" which is what he said he questioned them all on or he explained to them all, "and therefore I will not appoint him". I am sure that is not what he expected from a consultation process and it is certainly not what I expect from a consultation process. A consultation process is a consultation process where one's views are sought without prejudice to the fact that the decision-maker, namely in this case the Governor, then makes his decision and I see absolutely nothing wrong in any of this. What I see wrong is that the hon Dr Garcia should have tried to heap the criticism that he tried to heap on the Government for doing no more than asking for the established practice to be upheld, that is all. That is what I think is wrong, for the rest of it we can debate in the Constitutional Committee as the hon Member has himself indicated what we think the position should be and what we want to propose to the UK Government as a consensus of what Gibraltar believes, taking into account or not taking into account the fact that we are a small country. It may well be that we think that it should be taken into account for future appointments of the judiciary. Mr Speaker, I regret that the hon Member should think, does he want me to give way before I move on?

HON J J BOSSANO:

Mr Speaker, I wanted him to give way for the very reason that I stood up and said it but if the Chief Minister chooses to rummage through the files in No. 6 Convent Place to find out what civil servants wrote to other civil servants so that he keeps them in his back pocket and brings them out when he has the final word and nobody can answer, then I am afraid it is a practice he indulges in on more than one occasion. I do not know what rights he has but I can tell him that if the person who is now the Chief Secretary writes to somebody saying, "The Chief Minister has agreed or no objection", I can tell him that as far as I was concerned, things were put in front of me on the basis not that there was an active process of involvement in the selection of anything but on the basis that if somebody's contract was going to be renewed as opposed to somebody new being appointed and the Governor thought it was a good idea to give an extra year to Mr Justice Kneller who wanted to stay an extra year, whether he stayed

another year or another 200 years, the man had already been here and what has that got to do with my putting my candidate as Judge or as Magistrate or as JP or as anything else? I think whether the present Government have been consulted by other Governors to the degree that I was or not, I am not in a position to judge. All I can tell him is I do not know why he is being ill-treated in this manner unlike every predecessor. What is wrong about him that the Governors do not want to consult him anymore? I cannot help that and I do not think he should hold us to blame for it. The facts are that the example that I gave in relation to the issue of judicial independence was that when Mr Schofield was selected he was not selected after consultation with me. I was not asked by the Governor. *[HON CHIEF MINISTER: Nor were we.]* "We are thinking of giving it to Mr Schofield, do you want Mr Schofield or do you want somebody else?" and the only reason why I said that was because the Chief Minister when he moved the motion had said, "Well the way that they are talking is about whether there is a difference between consultation and approval and between consultation and information and the dividing lines are very clear and somebody has said that the dividing line is not clear". Well, whether it is clear or not it is very clear to me because I have got a very clear recollection of it that the only input in that selection was that when I discussed it with the Chief Secretary I said, "Well on the interview board the only person that we know is David Hull who has been in Gibraltar many years ago and from what you tell me was very supportive that the Government of Gibraltar was responsible for pushing ahead with the Lands Memorandum and therefore since the rest are all strangers from a Gibraltar point of view, if he meets the necessary qualifications to be a Judge better somebody that is familiar with Gibraltar", end of story. At the end of the day the board took the decision, the board made the recommendation to the Governor and the Governor informed me who was being appointed. If they are not even doing that with him then I cannot explain why. But I am afraid no amount of memoranda written from somebody to somebody will convert it into a situation in where I had a voice in the selection of the individual because I did not.

HON CHIEF MINISTER:

Mr Speaker, in the first place, let me hasten to reassure the hon Member, first of all that I am not just talking about the appointment of Mr Justice Schofield, I do not care whether he participated in the selection of Mr Justice Schofield at all. These memoranda and this record which shows that he was consulted go back to 1990. *[HON J J BOSSANO: So?]* But look, the hon Member is feeling defensive about it, he should not. The issue here, he appears to have missed the point, is not his attitude upon being consulted, the issue here is that he was consulted from across the street and the Chief Justice challenged me publicly when I said that Chief Ministers are consulted and he said, "Well I have been through that earlier on today, I have never heard of it and it certainly has never happened anywhere else" and the records at No. 6 Convent Place which I do not rummage around in, I only have access to what I am told I am allowed access to. I do not even know where these files are kept. There are rules and I have every confidence that those who are employed to administer them keep them. The files at No.6 Convent Place are replete with incontrovertible evidence, unchallengeable by anybody with a modicum of integrity that there is consultation, at least anybody who knows the facts. I am quite happy to accept with no difficulty at all, that this Chief Justice, having just arrived or having arrived just a couple of years earlier, he may not have known. Well if he did not know he should just have said that he did not know rather than challenge the Government publicly, impugning the accuracy of the Government's statement. That is all the Government were saying. I have had no consultation at all, no one has ever sent me lists for clearance, no one has ever asked me whether I am content, no one has ever said in a memorandum about me "with the agreement of the Chief Minister I am happy to offer you an extension of contract". I started this debate by telling the hon Member that I discovered about the judicial appointments listening to the radio and that is the whole issue. This is how this issue began. Because that happened and I asked for advice, how could I possibly have known whether Governments and Chief Ministers are consulted or not on judicial

appointments? But when I heard the radio, I said, "This cannot be right, it just cannot be the case. I refuse to believe that my predecessors had learnt about judicial appointments on the radio". And when I asked the Chief Secretary, "Is this what there is?" The advice was, "No, this is the first time that this has happened in recent memory" and then I enquired "Your Excellency, what on earth is happening?" I do not want to politically interfere in judicial appointments, all I want is that there should not be unilateral constitutional reform or practice by the Convent behind the backs of a new Chief Minister, that is all. That, at the end of the day, I would have thought was something that the hon Members would support the Government on instead of rushing to the conclusion that the hon Gentleman rushed to, that all the Government were defending political interference in judicial appointments and the Government were trying to politically interfere. These are the simple facts of the matter.

Mr Speaker, I think I have not exaggerated any issue as a result of feeling to be the offended party although I do think that the Government have been the offended party. In different circumstances the Chief Justice's remarks and the subsequent public debate in the run-up to a general election in Gibraltar could have been very consequential if public opinion had not apparently been so ready to accept what I was saying. This could have had an affect on an election result and I think the Government are the offended party, not only on the facts, not only on the merits of the facts but on the timing and on the procedures that were followed to conduct this public debate. I do not think I have exaggerated any issue at all. I have not rubbished, as he eventually himself recognised, the Latimer proposals. I said repeatedly this should not be misinterpreted to being that I am rubbishing the Latimer proposals. No, Mr Speaker, I was careful to explain to the hon Member that what I was rubbishing, what I was being extremely critical of, I do not know if that is what the hon Member interprets as exaggeration, what I was being extremely critical of was somebody who should have known better launching a public debate on the Government of this consequence on the basis of a document of that status and he has not heard it now from me he has also heard it from the Attorney-General and I had no idea

what he was going to say here today, none at all. That is what I think is objectionable, that public opinion in Gibraltar should have been lead to believe that in not following to the letter the Latimer House Guidelines the Government were somehow being bad, a bad boy in matters of judicial independence. The Latimer House Guidelines are not adopted by anybody. That is what I made clear. I made clear that my principal objection was the abuse of the Latimer House Guidelines by serving them up to public opinion as if it was the Gospel – I used the words "the Gospel" and "Moses' tablet", hon Members will recall – when they are nothing of the sort and I believe that the Government have also been hard done by on that aspect as well.

It is perfectly okay for the Bar Council to think that the Latimer House Guidelines are a good thing and should be adopted just as it would have been okay for the Chief Justice to have said "I think", as he obviously does, "the Latimer House guidelines are a good thing and should be adopted". What I think is not okay is to launch the Latimer House guidelines in Gibraltar without explaining what their international status currently is, so that people can objectively judge the Government against them for non-compliance with them. That is the issue to which I take objection. The hon Member says we have not made up our minds or we had not made up our minds until we heard the Attorney-General on the merit of the Latimer House proposals. Mr Speaker, he may not have made up his mind about the Latimer House proposal, but the hon Member sitting next to him Dr Garcia had made up his mind about the merits of the Latimer House proposals because he had put out public statements lambasting the Government on the basis of the Latimer House proposals, so he at least must have made up his mind about the Latimer House proposals. I do not know whether now that he knows that the Latimer House proposals are in Siberia, whether he will now retract any of the accusations that he made against the Government on the basis of reliance on them. But the Leader of the Opposition who did not himself express a view on the Latimer House guidelines is free to say that the Opposition had not formed a view on the Latimer House guidelines. The Hon Dr Garcia is not free to say that. Mr Speaker, the hon Member said

that he could not identify whether we could identify the law, the hon the Chief Justice appears not to have that difficulty. He put out a public statement on the 11th November 1999 saying, "The Gibraltar Constitution sets out clearly a separation of powers between the Legislature, the Executive and the Judiciary. Enshrined in the Constitution is the concept of the independence of the Judiciary. This is what he says and obviously his search of the constitutional text must have been more productive than the hon Member's has been or alternatively if there is nothing to state his statements in that respect either. That is his view. I would have to admit that I have not studied the Constitutional text so closely that I can get on my feet and express a view as to the extent, if any, to which it sustains the principal. I would be very surprised if it did not. There is also the concept of common law and that is to say principles of law established not in Statute but in the decision of cases, convention and practice of that sort. I must say it is interesting but I have never heard anybody express the view that perhaps the concept of the independence of the Judiciary is not sustained in local law and is perhaps something that others will have the time to look at and indeed that we will bear in mind when we make constitutional proposals.

HON J J BOSSANO:

It is not then that there is a specific Ordinance which they have in mind when they say, safeguarded in Gibraltar by law?

HON CHIEF MINISTER:

No, Mr Speaker. I have no doubt that the law does uphold the concept of judicial independence whether or not there is a Statute that says so specifically. Therefore, Mr Speaker, if I correctly understood the hon Member when he said, "I believe that there should be consultation", I think that we are therefore agreed. I think we have both said here today that we think that there should be consultation with the Chief Minister of Gibraltar on these issues and that is the only proposition that the Government have sought to uphold. Mr Speaker, I therefore hope that the hon Members will accept the factual of the political points that the

Government have made to them. At the end of the day they are only voting on the text of the motion, but I hope that they are able to accept much, if not all, of what I have said to them and that the issues here will now be more sharply in focus and context for them in relation to the whole of the last 18 or 24 months. I should just finish by saying that I have not defended or sought to defend the principle in large or in small countries or rather in small or in large countries whether or not judges should be appointed by politicians or not. I have never expressed a view on that except to say that in our constitutional ideas we had pencilled in a judicial appointments commission, independent of the Government. This debate has never been, as far as the Government are concerned, about whether the politician should or should not appoint judges. I agree that they should not in a small jurisdiction and I think certainly whilst we are in Government and from what they have said today whilst they are in Government, should they return, that is not going to be the case. The debate as far as the Government are concerned is about consultation, it has been about defending the integrity of the Government's funding of the Judiciary and it has been about defending the Government's credibility when its simple statement that there has historically been consultation on judicial appointments was falsely challenged in public. That is all this debate has been about and insofar as consultation is concerned, all that I have asked is that I should enjoy the same degree, no more and no less, the same degree of consultation as my predecessors and really my most immediate predecessor has enjoyed given that it has got to be recognised that with the passage of time Gibraltar makes constitutional progress and that we all benefit from some of the advancements made by our immediate predecessors and I think that that is good.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Could I just say something on a point of clarification?

MR SPEAKER:

How can you clarify if you have not spoken? But anyhow say it.

HON FINANCIAL AND DEVELOPMENT SECRETARY:

Well for the record, on a point of order. It is coincidence obviously that I am here today standing in for the Financial and Development Secretary but I detected some concern on the part of the Leader of the Opposition regarding access to papers from the previous administration and I think I should clarify the terms on which those papers were released. I was asked whether the Government at the time were consulted in respect of different appointments and obviously I go to the files. The papers which the Chief Minister has quoted are taken from Personnel Department files, not from files in the then Chief Minister's office at No. 6. They do not reveal what the Chief Minister may or may not have said although obviously they do record that he was content or not content, in this case content, with the procedure followed. It does not mean to say that the Chief Minister expressed a view in favour or against and my recollection certainly is that he was neutral insofar as the individuals were concerned but the reality of it is that the Government of Gibraltar were consulted and I in fact was among the first to join the interview boards for all these appointments to represent not just my own views as to the quality and potential of the candidates but also to express the Government's own views about matters which related possibly to policies, and so on. That is all I wanted to say, thank you.

Question put on the motion, as amended. Passed unanimously.

BILLS

FIRST AND SECOND READINGS

The Hon the Minister for Tourism and Transport moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed to the First and Second Readings of the Bill.

Question put. Agreed to.

THE TRAFFIC ORDINANCE (AMENDMENT) ORDINANCE 2000

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, Section 99(9) of the Traffic Ordinance up until now has had a fixed penalty for a parking offence, that would be £5. The Government consider it unhelpful that primary legislation should spell out the amount, which needs to be paid as a fixed penalty. This requires a Bill before the House everytime that the Government wish to review the scales of penalties and the reality is that the level of penalty and indeed fees properly belong in secondary legislation. This Bill therefore provides for this. The Bill also addresses the second issue, the power to fix the level of the penalty that would be vested in the Minister with responsibility for transport rather than the Governor. This brings the legislation in line, the provisions for this purpose elsewhere in the laws of Gibraltar. I commend the Bill to the House.

Discussion invited on the general principles and merits of the Bill.

HON J C PEREZ:

Mr Speaker, I think the Minister is wrong in thinking that he has to amend the Bill in order for the fine to have to be changed by legislation rather than by regulation. As far as we can see, the Governor is, in terms of this Ordinance the Minister, and if we are going to change therefore the Minister can by regulation change

the fee without introducing this in the House. If what the Government want to do is change everywhere that it says Governor so that it should say Minister, then we ought to start by doing it through all the Bill, because by this amendment, what we are going to have is a situation where in other parts of the Bill we are talking about the Governor, whereas on the penalty side we are talking about the Minister and given that the Governor is the Minister, it does not make sense that we should do this. If the Minister for Traffic wants to raise the fine, we would certainly not vote in favour, but if that is the purpose of it, he has got the power at the moment under the Ordinance of doing it by Regulation if he wants to without having to bring this Bill to the House.

HON CHIEF MINISTER:

Mr Speaker, my understanding is that we need not pursue the Bill. We can leave it on the Order Paper for future amendment or future consideration. If we are wrong on that we welcome Mr Speaker's guidance.

MR SPEAKER:

If you adjourn sine die today, you have got to re-introduce the Bill.

ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House sine die.

Question put. Agreed to.

The adjournment of the House was taken at 8.30 pm on Monday 20th November, 2000.