

# GIBRALTAR

## HOUSE OF ASSEMBLY



# HANSARD

**13<sup>TH</sup> FEBRUARY 2002**

(adj to 14<sup>th</sup>, 19<sup>th</sup>, 27<sup>th</sup> February;  
7<sup>th</sup> and 25<sup>th</sup> March)

**REPORT OF THE PROCEEDINGS OF THE HOUSE OF  
ASSEMBLY**

The Seventh Meeting of the First Session of the Ninth House of Assembly held in the House of Assembly Chamber on Wednesday 13<sup>th</sup> February 2002, at 10.20 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 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

**PRAYER**

Mr Speaker recited the prayer.

**CONFIRMATION OF MINUTES**

The Minutes of the Meeting held on the 5<sup>th</sup> November 2001, having been circulated to all hon Members, were taken as read, approved and signed by Mr Speaker.



## **COMMUNICATIONS FROM THE CHAIR**

The Speaker informed the House that he had received a letter from the Chair of the Executive Committee of the Commonwealth Parliamentary Association – Isle of Man Branch in which they assure that the people of Gibraltar are in their thoughts during this time of uncertainty about the future of Gibraltar and hope that the concerns and hopes of Gibraltarians will be fully taken into consideration in any decisions about the future, in line with basic democratic principles.

## **DOCUMENTS LAID**

The Hon the Chief Minister laid on the Table the following documents:-

- (1) The Annual Report and Audited Accounts of the Elderly Care Agency for the period ending 31<sup>st</sup> March 2000.
- (2) The Ombudsman's – 2<sup>nd</sup> Annual Report for the period January to December 2001.

Ordered to lie.

The Hon the Financial and Development Secretary laid on the Table:-

- (1) The Pay Settlement – Statement No 2 of 2001/2002
- (2) The Supplementary Funding – Statement No 3 of 2001/2002.

Ordered to lie.

## **ANSWERS TO QUESTIONS**

The House recessed at 12.40 pm

The House resumed at 12.45 pm

Answers to questions continued

The House recessed at 2.00 pm

The House resumed at 4.10 pm

Answers to questions continued

The House recessed at 6.00 pm

The House resumed at 6.10 pm

Answers to questions continued

The House recessed at 6.35 pm

The House resumed at 6.45 pm

Answers to questions continued

## **ADJOURNMENT**

The Hon the Chief Minister moved the adjournment of the House to Thursday 14<sup>th</sup> February 2002 at 9.30 am.

Question put.            Agreed to.

The adjournment of the House was taken at 8.25 pm on Wednesday 13<sup>th</sup> February 2002.

## **THURSDAY 14<sup>TH</sup> FEBRUARY 2002**

The House resumed at 9.30 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 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 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 J J Holliday - Minister for Tourism and Transport  
The Hon H A Corby - Minister for Employment and Consumer Affairs  
The Hon R Rhoda QC - Attorney General

### **IN ATTENDANCE:**

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

## **ANSWERS TO QUESTIONS (CONTINUED)**

The House recessed at 11.45 am

The House resumed at 11.55 am

Answers to Questions continued.

The House recessed at 2.05 pm

The House resumed at 2.10 pm

Answers to Questions continued.

## **ADJOURNMENT**

The Hon the Minister for Trade, Industry and Telecommunications moved the adjournment of the House to Tuesday 19<sup>th</sup> February 2002, at 9.30 am.

Question put.            Agreed to.

The adjournment of the House was taken at 2.40 pm on Thursday 14<sup>th</sup> February 2002.

**TUESDAY 19<sup>TH</sup> FEBRUARY 2002**

The House resumed at 9.30 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 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 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 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 Mrs Y Del Agua - Minister for Social Affairs  
The Hon R Rhoda QC - Attorney General  
The Hon Miss M I Montegriffo

**IN ATTENDANCE:**

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

**ANSWERS TO QUESTIONS (CONTINUED)****ADJOURNMENT**

The Hon the Chief Minister moved the adjournment of the House to Wednesday 27<sup>th</sup> February 2002, at 10.00 am.

Question put.           Agreed to.

The adjournment of the House was taken at 12.15 pm on Tuesday 19<sup>th</sup> February 2002.

**WEDNESDAY 27<sup>TH</sup> FEBRUARY 2002**

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

**ABSENT:**

The Hon Miss M I Montegriffo

**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 documents on the Table.

Question put.            Agreed to.

The Hon the Chief Minister laid on the Table :-

- (1) The Annual Report and Audited Financial Statement of Gibraltar Community Projects Limited for the year ended 31<sup>st</sup> March 2001;
- (2) A letter from the Rt Hon Peter Hain MP Minister for Europe, Foreign and Commonwealth Office in reply to the Chief Minister's letter of the 11<sup>th</sup> January 2002.
- (3) The Report of the Select Committee on Constitutional Reform dated 23<sup>rd</sup> January 2002.

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 Pensions (Amendment) Regulations 2002."

Mr Speaker, hon Members will be aware that the Pensions (Amendment) Regulations 2001 were published on the 12<sup>th</sup> July 2001 and came into effect on the 1<sup>st</sup> January 2001, their implementation was made retrospective by about six or seven months. These regulations provided for industrial employees of the Government to retire having attained the age of 60 to receive a pension and gratuity at the same level as that payable to non-industrial employees of the Government. This represented a first step towards the equalisation of pension benefits between industrials and non-industrials. The Pensions (Amendment) Regulations 2002 extends this principle further and equalises the pensions benefits payable in circumstances where an industrial employee retires or dies prior to reaching the age of 60. The difference between these and the previous ones is that the previous equalisation only applied from 60 onwards, the new amendments extends that regime to various circumstances in which someone could terminate his employment through death or early retirement prior to reaching the age of 60 which is of course the case with non-industrial employees already. The application of these regulations will also be backdated to the 1<sup>st</sup> January 2001. The following are the main areas covered by this amendment. Retirement on medical grounds, retirement in the public interest, death in service, abolition of office, any other early retirement that may be approved by the Government.

Mr Speaker, one of the main, for the benefit of the Opposition, differences between the benefits payable to industrial and non-



industrials is in the gratuity payable. The maximum gratuity payable to an industrial employee on retirement is equivalent to 52 weeks of basic wages whilst his/her non-industrial counterparts in the service would receive a maximum gratuity of just over two years basic salary. Another main difference is in the normal retirement age. The normal retirement age of an industrial employee is 65 whilst that of a non-industrial employee is 60. These are the ages which these officers must retire from the public service. Both industrial and non-industrial employees may however take early retirement up to five years earlier than their normal retirement age, thus an industrial employee can retire at age 60 but must retire no later than age 65. A non-industrial employee can retire at 55 but must retire not later than the age of 60 and of course we have not yet by any of these amendments equalised the retirement ages what we have done is equalise the financial packages that they are entitled to and the circumstances in which they can access that equalised financial package, but we have not yet equalised the retirement ages for industrials and non-industrials. The Pensions Ordinance requires Regulations made to be brought to this House and approved in motion. I commend the motion to the House.

Question proposed.

**HON J J BOSSANO:**

Mr Speaker, we will be supporting the motion bringing in the Regulations, can I take the opportunity to bring to the notice of the Government as I did the last time when I suggested that they might look at specific cases that fell out, that I know of one case where a person was retired at the end of December and paid under the Industrial Regulations because the new regulations came in on the 1<sup>st</sup> January. I know that there is always an argument that if one has a specific date it will always affect somebody but in this case it cannot happen because nobody else can be retired in the year

2001 again. I think that it is quite possible that there might have been a big gap between the one of the 31<sup>st</sup> December and it seems that just for one day that one person should be affected after 27 years as an industrial worker. I do not know whether that would require amending legislation or whether it can be done administratively but I know that it is not a political decision to do this and that it is just that the regulations have been applied according to the letter of the law but I thought it would be an opportunity as I did on the last occasion to draw attention to a specific case which is an unintended oversight in my view and perhaps the Government would look into it and certainly we are happy to support the motion.

**HON CHIEF MINISTER:**

It is not an unintended oversight, unfortunately whenever one makes any regulations by reference to a cut-off date there is always going to be somebody just on the wrong side of the cut-off date. That is true as a general statement whether it is a tax law or pensions. Wherever there is a law which establishes rights by reference to a cut-off date, wherever one draws the line there are going to be people who are just left out. I do not know the case the hon Member is referring to nor do I think it would be appropriate to identify it across the floor of the House but there is one case which sounds similar with which the Government are dealing but in a different way to the one that the hon Member suggests. The case which has been brought to my notice is a case of somebody actually who only retired on the 31<sup>st</sup> because that was the last working day before reaching retirement age, actually she reached retirement age on Monday but that happened to be a bank holiday so we believe that without amending the law we could take the view that that person reached retirement age on the first day of operation of this. The fact that she was not required to come to work on that day, the 1<sup>st</sup> January, because it happened to be a bank holiday cannot prejudice her. If the 1<sup>st</sup> January had been a working day, that is, the day upon which she reached her 65<sup>th</sup> birthday she would have been all right because her 65<sup>th</sup>

birthday happened to be on a bank holiday and that cannot leave her on the wrong side of the line. So the view that we are taking is that on a proper application of the regulations she reached retirement age after the commencement of the legislation on the right side of this line, the fact that she was not required to actually attend work because it was a non-working day should not be interpreted to deprive her from the benefit of the legislation. That is the one case that I am aware of that is being dealt with and it is not being dealt with on the basis of making an exception and allowing her to benefit because she is only just on the wrong side of the line we are hoping to deal with it on the basis that on the facts and circumstances properly interpreted she is in fact on the right side of the line and in that case she would benefit as a matter of right and not as a matter of any administrative concession which we certainly could not make without amending the legislation.

Question put.           The motion was carried unanimously.

#### **HON CHIEF MINISTER:**

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

“That this House notes, approves and adopts the Report of the Select Committee on Constitutional Reform dated 23<sup>rd</sup> January 2002 and calls upon the Government to initiate the appropriate discussions with Her Majesty’s Government in the UK in relation to the modernisation of Gibraltar’s Constitution regulating the Constitutional relationship between the United Kingdom and Gibraltar in accordance with the recommendations in the Report.”

Mr Speaker, hon Members will be aware that on the 7<sup>th</sup> July 1999 this House approved unanimously a motion, a resolution which

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

Mr Speaker, the Select Committee was duly convened, met over a period of around two years, its work was temporarily interrupted by an intervening general election but has now reported to the House in satisfaction of the full extent of its remit which was to consider and report to the House. Honourable Members have received a copy of that report in confidence in order to enable them to prepare for today’s debate on this motion and they have had that since on or about the 11<sup>th</sup> February. Honourable Members will therefore be aware of the content of the report. Just for the benefit of Hansard I should say that the report reflects the way in which the Committee went about its work which is using the existing Constitution as a starting point to work through that Constitution on a clause by clause basis and to consider what amendments, what changes we should propose to those existing clauses in the existing Constitution in order to make it a Constitution which maximised our self-government.

The objectives I believe and the representatives of the Opposition will speak for themselves but the objective of the Government is certainly to have a Constitution which represents the maximum possible level of self-government for Gibraltar, that is the language in the United Nations de-colonisation proposals that that would enable the United Nations to take the view that Gibraltar had been de-colonised in accordance with its own criteria to that effect. I think it is the Government’s publicly stated position of sometime that that is one of the objectives of this proposal but not exclusively at least from the Government’s point of view not exclusively the only objective. The Government also attach, which is not to

suggest that the Opposition does not, but the Government also attach importance to the modernisation of our domestic institutions and we believe that as Gibraltar gains more self-government that our domestic institutions should be upgraded to reflect that fact and ensure that the necessary checks and balances exist. So, those were the parameters as far as the Gibraltar Government were concerned that steered us in our position in relation to the very long and with one regrettable exception, with one regrettable meeting I think were constructive and on the whole gave rise to not very much disagreement about the substance of what the Constitutional provisions should be.

The report is in a form that reflects the way in which the Committee went about its work. The report consists of a report of the Committee to the House comprising 45 numbered clauses which describes generally the nature and the philosophy and the principle underlying the conceptual changes that are recommended in respect of each chapter, each heading in the Constitution and then the detail of the recommendations are reflected in greater detail in the annexe to the report which takes the form of the text of the Constitution with new language proposed in bold, and old language proposed to be deleted in italics, so that one can read it as a document and see at a glance what the Constitution is and what the Committee recommends to the House that the Constitution should be in respect of different paragraphs dealing really with all aspects of the Constitution including some proposed changes in relation to Chapter One dealing with the protection of fundamental rights of freedom of the individual, that part of the Constitution which more or less makes the European Convention of Human Rights primary statutory law in Gibraltar, there are proposed changes also to the office and status of the Governor, there are changes proposed to the House of Assembly, to the number of seats that there should be in this House, there is a proposal that it should be called the Gibraltar Parliament as opposed to the Gibraltar House of Assembly. There are changes proposed in relation to the Executive, to the appointment of Ministers and things of that sort. There is a recommendation that there should be a public service or rather

that in relation to senior appointments in the Public Service that in addition to the current Public Service Commission there should be a judicial and senior officer's appointment to deal with judicial appointments of Attorney General, Principal Auditor, Registrar, certain appointments the appointments of which should not be under the control of the Executive. In other words it should not be controlled by the Government of the day.

There are some minor amendments in relation to the financial aspects of Government, there are proposals that all Crown Lands other than lands in the occupation of the Ministry of Defence should vest in the Crown in right of the Government of Gibraltar and there are a series of more minor amendments to the miscellaneous parts in Chapter 10. I think one significant recommendation, that is what they are, unanimous recommendations of the Committee to this House, is that in Chapter One dealing with the fundamental rights and freedoms of the individual the House is recommending the insertion of language relating to self-determination which reflects the United Nations Civil and Political Covenant in that respect. That language is worthy of pointing out, it is not home-made language it is the language of as I say the United Nations Civil and Political Covenant and it reads "*Whereas all peoples have the right to self-determination and by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development, and may for their own ends freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation based upon the principle of mutual benefit and international law.*" That is the very same paragraph in relation to the self-determination of peoples and the nature of that right as is contained in the Constitution of the Falkland Islands. Ours goes on to say, not just ours it is also part of the language " *...and whereas the realisation of the right to self-determination must be promoted and respected in conformity with the provisions of the Charter of the United Nations.*"

Mr Speaker, just to conclude, in the area of Chapter One, the fundamental rights and freedoms of the individual, there are one or two minor amendments which relate to some points in relation to the current European Convention of Human Rights which are not fully reflected in our Constitution and there is also a proposal to insert in the Constitution a mechanism that would allow the Gibraltar Constitution to keep up-to-date with any future amendments through protocols to the European Convention of Human Rights without it requiring the very difficult Constitutional reform proposals. Exclusively in relation to Chapter One dealing with fundamental rights because the position is that Gibraltar's primary laws respect human rights in terms consistent with and that reflect the European Convention of Human Rights it should not require the very difficult Constitutional Reform process for Gibraltar to have the legislative mechanism to ensure that our human rights domestic legislation complies with any future changes of the convention as they may from time to time occur.

I commend to the House the recommendations of the Select Committee which it constituted. They are the unanimous recommendations of all five Members and I would like to take this opportunity in the presence of the whole House to express our gratitude and our appreciation to all those officers of the House namely the Clerk of the House of Assembly and also to the two members of staff in the Chief Secretary's Office who acted as Secretaries to the Committee and to enable the Committee to proceed with its work with a very good standard of documentary support and I would also like to take the opportunity to thank all those members of the public who submitted written representations or availed themselves of the opportunity to make oral representations to the Committee, all of those were carefully taken into account and discussed by the Committee and many of those recommendations are reflected in the recommendations that the Committee adopted and are contained in this report. I commend the motion to the House, I commend to the House its approval and adoption of the Report of the Select Committee.

Question proposed.

#### **HON J J BOSSANO:**

Mr Speaker, if the motion before the House ended after the figure 2002 in the second line and did not have "and" with the following sentences, I would have no difficulty in joining the Chief Minister in commending to the House the adoption of the report and of the recommendations of the Select Committee but in fact the recommendations of the Select Committee ends in the first sentence and what follows after the "and" is not the recommendations of the Select Committee it is the policy of the Government and unfortunately that policy was not discussed in the Select Committee, has not been achieved by consensus between the two sides and was not on the basis upon which we left the Report of the Select Committee as far as we understood it. As far as we were concerned what was supposed to be happening at this meeting was precisely that the House would receive as the motion of the 7<sup>th</sup> July 1999 required a report with desirable amendments presented by the Chairman of the Committee to the House and what we have is the sentence that reads, "*This House notes, approves, and adopts the Report of the Select Committee on Constitutional Reform dated 23<sup>rd</sup> January 2002.*" This is what has been recommended by the Select Committee and is before the House. Where do we go from there after we have approved that? Well we have not discussed it, we were under the impression that it was going to be discussed in fact I think it was suggested by the Chief Minister that when that other Committee that he is going to set up to deal with international lobbying on the UK issue met it might give us an opportunity to discuss where we went on the Constitution on the margins of that meeting, but be that as it may the fact is that we have been presented with a motion which calls on this House not simply to approve what the Select Committee has agreed but also to approve what the Government independent of the Select Committee and independent of this House has decided is going to do next. On that basis I propose to move the amended motion, of which I have given notice, which is the

deletion of all the words after the figure 2002 in the second line and insert the following words:

*"This House also notes and rejects the view expressed by the Secretary of State for Foreign and Commonwealth Affairs that Gibraltar's constitutional proposals and its decolonisation can only be discussed within the Brussels negotiating process and as part of a comprehensive agreement with Spain and declares that the negotiation of a new Constitution for Gibraltar is exclusively a matter for this House and the United Kingdom without any reference to or input from the Kingdom of Spain. It therefore calls upon the Leader of the House to transmit to Her Majesty's Government the text of this motion as well as the text of the revised Constitution and invites the Secretary of State to agree a timetable for opening negotiations on a revised Constitution which, upon acceptance by the people of Gibraltar in a referendum would constitute an act of self determination. It further considers that in that negotiating process, the Gibraltar delegation should contain representation from both sides of the House,"*

The Chief Minister has said that there are two objectives, one is in the recommendations and in the revisions of the Constitution, one is to achieve the maximum possible level of self-government which would enable the United Nations to agree that Gibraltar on acceptance of that maximum possible level of self-government would have attained decolonisation.

#### **HON CHIEF MINISTER:**

Would the hon Member give way? It is not likely that I should wish to speak more than once but is the hon Member now speaking only to his amendment or is he speaking in response to my motion just so that we know where we are in his discussion. I ask because the points that he is making just sound to me to be points in response to my motion, I do not mind how we do this so long as we all understand how we are doing it.

#### **HON J J BOSSANO:**

I am responding to the original motion and speaking to the amendment at the same time I do not think I could do one without the other. The Chief Minister has said that as far as speaking for the Government there are two objectives in the revisions to the Constitution one is to achieve the maximum possible level of self-government which is the terminology of the United Nations in defining what decolonisation constitutes irrespective of the form of that decolonisation. Obviously the maximum possible level of self-government for one state may be that it attains sovereign independent status and the maximum possible level for another colonial situation might be that it achieves association with an existing sovereign state. Under the second objective which he was not saying whether we shared or did not share was that at the same time we should attach importance to modernising our institutions and the modernisation of the Constitution and the answer is we subscribe to the two objectives as well, if there is a difference between the two sides is that we are not interested in pursuing with the United Kingdom a discussion which achieves the second objective and fails the first objective. So if the answer is that the purpose of the exercise is to enter into discussions with UK to modernise the Constitution, which is the second objective, then we are not a part of it, we would not have joined the Select Committee, we think there is no need for unanimity on that and in any case we were told in 1997 that that was already being done and it was being done between 1997 and 1999 by the Chief Minister and Mr Cook. We really think that to go back now to mentioning modernisation and not mentioning decolonisation when it is clear that we have agreed that there are two objectives and that one objective is not synonymous with the other, they are two different things, and the Government are saying they are not interested exclusively in decolonisation they are interested in both decolonisation and modernisation and we agree. We are interested in both but we are not interested in the second if we cannot get the first and as far as we are concerned getting the second and relinquishing the first makes the first less attainable by pushing it further into the future and we would not be a party to it. So, if this is the signal that the position of the Government now is



that they are going to pursue the second and we do not know whether it is or whether it is not because there have been no prior indication or discussions of the second half of this motion so we are only acting on interpreting the meaning of this on the basis of what he has read and when the Chief Minister has moved the motion and asked the House to support it he has not said one single word about everything that comes after the word “and”. Everything that he has said he could have said if the motion had been simply ending after the figure 2002 and if that had been the case he would have made exactly the same speech today because he has not said one word in this House in his opening remarks in asking the House to support the motion to say and support my call for me to go to UK to discuss with UK modernisation of the Constitution. He has not mentioned it once as if it was not there. Since it is there and if it had not been there as I said we would simply have voted on the motion as it was and then outside the House discuss what was the next step that we should take to see if it was possible to reach a consensus on that but given that the Government have put their stall out as far as we can tell by adding that additional sentence we feel that we have to put ours out at the same time and certainly given that in the Select Committee it was not possible to reach an agreement making it clear to the Foreign Secretary that the work of the Select Committee was not so that he could then take the report of the Select Committee and hand it over to Señor Piqué but that was not what was intended and we thought that we should make that clear to him as Select Committee since that was not done then we feel it needs to be done now and we think that if the Government are going to send a copy of the proposed revisions to the Constitution to the United Kingdom Government to get a response from them it has to be accompanied by a very clear caveat that this is not to be taken that this House has accepted that the work of the Select Committee is being done as he has suggested so that it will be incorporated in the proposed comprehensive agreement with Spain and the implication of saying that as far as we are concerned in the absence of a clear statement to the contrary from the British Government is that they are now reneging on the commitments that we have been told the Government of Gibraltar were given by Mr Cook. We have been told publicly that the

Government of Gibraltar had been told by Mr Cook that Spain had no say on changes in our Constitution and that they did not require to be consulted and that they did not require to give their consent. Well, if we are being told by the United Kingdom now that we can ask for what we have got in the Select Committee recommendations and more, provided it is incorporated as part of an overall deal with Spain but if it is not incorporated then we can ask for nothing. That is really telling us to negotiate our Constitutional future with Spain and not bother to do it through London as far as I am concerned. So, the first part of my amendment is intended to make clear that that is the common position of both sides of the House and that the adoption of the Report of the Select Committee by this House is for the purpose of negotiating with UK and not for the purpose of negotiating with UK and Spain under the Brussels umbrella, certainly if it was for the second and if that was acceptable to the Government of Gibraltar which I would say it ought not to be from previous public statements that they have made on that subject we would not be a party to that.

It is quite possible that the matter will not get beyond that point, that is, that the British Government will not be prepared not withstanding what they said previously will not be prepared to discuss Constitutional change with us unless we agree that it is as part of a negotiation with Spain and I think then that we will need to think again what is the next step we take in that scenario. The second sentence in the amendment assumes that in the absence to-date of a clear statement to that effect from the British Government there is the option of negotiating with the United Kingdom Government which we feel we are certainly entitled to under the Charter of the United Nations and under the obligations that the United Kingdom Government have and under the things that the British Government have told the British Parliament including the fact that Mr Hain has told them that short of independence we are entitled to self-determination and that they accept it and this Constitutional proposals are not recommending independence. So, there is nothing to stop what we want happening on the basis of the statements that they have made.

We feel that therefore the way ahead once we have adopted and approved the Report of the Select Committee is to put the ball back in the UK's court, to ask for a clear statement that it will not be incorporated into the current negotiations with Spain and then to ask them to tell us what time-table they suggest we should follow to proceed with the recommendations in the revised Constitution. We feel that if we get that far and that is a big if, then we would want to discuss with the Government how that negotiating process is proceeded and how both sides of the House are represented but certainly as far as we are concerned if the Government maintain that they have now taken a policy decision that they are going to go ahead on their own to discuss modernisation then it leaves us no option but to vote against the original motion even though effectively we would be now rescinding our support for the Select Committee Report. We have no option because as far as we are concerned there was absolutely no need to link the policy of the Government with the Report of the Committee but that is what the original motion does. I commend the amendment to the House.

Question proposed.

**HON CHIEF MINISTER:**

Mr Speaker, obviously I will take my guidance from you, the Leader of the Opposition said he was basically dealing with both at the same time whether that means that he does not expect the right to respond to whatever I say to him on the amendment because if he does then of course I must have the right to response. So in fact we are not dealing with it together. I thought that dealing with it together meant that we would just debate the two things together.

**HON J J BOSSANO:**

What I am saying is that I have already spoken on the original motion and on the amendment and obviously I have the right of response on the amendment but I will not speak again on the original motion.

**HON CHIEF MINISTER:**

Mr Speaker, I cannot help saying that the hon Members are making much fuss about nothing and I am glad that he has not repeated in this House the vitriolic argumentation that he used in his press release on the same subject dated the 11<sup>th</sup> February 2002. I said to the hon Member at the last meeting of the Select Committee that the Government had not yet decided how the matter would be taken forward once the Committee's Report had been tabled in and adopted and approved by this House. I am sure he will recall my saying it. The Government's language in the Government's motion contrary to the assumption to which he has come is not intended to adjudicate that question against him or against others because when the Government say that they have not yet decided how the matter will be taken forward bilaterally between Gibraltar and the UK he should not assume that there are only two options, that it is the Government by themselves or the Government with the Opposition. There are other options, the participation in what might originally have been called in days gone by a Constitutional conference may be wider. The Government may take the view that because this is a Constitution for the future as well that it may be appropriate to include people who are not in this House in the process. All I am saying to the hon Members is that the Government have not made that decision and the call for the Government to initiate appropriate discussions is intended, obviously they do not do so with enough clarity for the hon Members purpose, is intended to leave completely open the question of what the appropriate discussions are and the parties to it because at the end of the day the hon Members are always in the hands of the Government's decision on this issue whatever we

put. Whether the decision is made in this House we have the majority therefore we can make the decisions, whether we make it as a Government, whether we take the view that once Parliament approves a text it is then a matter for the Government. It is always ultimately in the nature of our system a decision for the Government. It would be a very peculiar position for the hon Members to adopt but I take note of the fact that they propose to adopt it anyway, namely, that we agree with the text of the Report, in other words we agree with the text of what we think the new Constitution should be but only if we can participate in its negotiations. Well either one agrees with the text of the document or one does not but if one agrees with the substance of the content of the document I do not see how that agreement or disagreement to the context depends on whether the negotiations are done by the Government, whether it is done by the Government with the Opposition, whether it is done by the Government, Opposition and others or indeed whether it is done only by the Opposition in the unlikely event that the Government would be tempted to commission the Opposition to conduct this negotiation on their behalf. The hon Members can use whatever tactical device they wish by threatening to withdraw their support from the substance of the Report, the report has nothing to do with what happens to it after this morning's debate.

The remit of the Select Committee as I read out in my opening address, the remit of the Select Committee which is all that has happened to-date is that the House commissioned the Select Committee to consider the Constitution, consider any desirable reports and report back to this House and that is what the Committee has done and that is what the House is doing today. The House did not give the Committee any remit to conduct negotiations with the United Kingdom or to write letters to anybody expressing some bilateral transacted view. So were we are at the end of this debate is that the House hopefully by unanimity will have adopted this report, the Government still need to decide and have not yet made a decision on the question of how that should be taken forward and the language in the Government's motion is I regret if it is so ambiguous that the hon Member either did not read

it in that way or worse still thought that it was premeditatedly ambiguous so it could mean both things which is I suspect knowing the hon Member the conclusion to which he might have come is intended to just leave the matter open, all options open as they are now, as they were on the day that we met in the Select Committee and as reflected in my statement to him. At the end of the day the option to the hon Members to withdraw their support, they can withdraw their support from this motion what the Leader of the Opposition and the Hon Dr Garcia cannot do is withdraw their signatures from the text of the Report which is appended to it and has just been laid in the House. I did not want to put the hon Members in that position, this language was not intended to have the effect in the Government's view does not have the effect and I do not want to put the hon Members quite unnecessarily in the position of having to do the somersault of saying "*well the Leader of the Opposition and the Leader of the other party in the so called alliance agrees with the content of the Report but we will not approve it because the Government will not let us take place in the negotiations.*" That is the position in which they are putting themselves, I think it is a politically and intellectually untenable position. I do not want to put the hon Members in it it is not the purpose of the Government's choice of language in this motion and therefore we have no difficulty in stopping the sentence at the end of 2002. The Government then remain, the hon Members say yes, yes, yes when actually they ought to be thinking about whether they should be saying no, no, no because if the Government were being Machiavellian I would be offering that simply to get their support for the text and then do what I am free to do anyway which is subsequently to say "and now I decide that the Government are going...", so thereby depriving themselves of the opportunity to adopt the position that they have threatened this morning and all I am saying to the hon Member is that the original position that they had chosen to adopt is as irrational as the solution that they offer to the Government because the solution that they offer to the Government actually puts them in a bigger potential trap than the current situation if the Government were minded to trapping anybody which they are not. All the hon Members have done is offered me the opportunity to get a motion of this House which approves and adopts the Report dated

January full stop and then this afternoon I can make an announcement saying the Government have decided to negotiate this unilaterally with the UK Government. So I do not see how that implements the threat. All I am doing is pointing out that they have misunderstood the Government's position. The Government will be making these decisions in due course, we will be conferring the hon Members on this issue and that decision will be made after the Report has been adopted by this House. If the hon Members notwithstanding everything that I have explained to them wish the Government to stop at 2002 and then bring a different motion to this House, if it were necessary at some later stage, dealing with the question of how the matter goes forward, the Government are perfectly happy to do that. Let me say just in answer to the point that the hon Member has made about this business about wanting to make perfectly clear that the Constitutional negotiations, the issue of the Constitution between Gibraltar and the UK, is a bilateral matter between the UK and Gibraltar. There are two things I want to say to the hon Members about that, the language which I am now offering to withdraw is intended to cover that point as well. Yes, because it says, why else would the Government have chosen to say "*...and calls upon her Majesty's Government to initiate the appropriate discussions with Her Majesty's Government in the UK in relation to the modernisation of Gibraltar's Constitution regulating the Constitutional relationship between the United Kingdom and Gibraltar in accordance with the recommendations of the Report.*" Those last three lines say that the discussions about Gibraltar's Constitution should be between Gibraltar and the UK Government and therefore not anybody else and that the Constitution regulates the relationship between the United Kingdom and Gibraltar not between the United Kingdom, Gibraltar and Spain otherwise why does the hon Member think that we would have had to add after the words Gibraltar's Constitution regulating the Constitution of Gibraltar relationship between the United Kingdom and Gibraltar. It is self evident but for the Spanish dimension that the Constitution regulates the relationship between the United Kingdom and Gibraltar and the purpose of stating it is the very one that the hon Member mentioned before.

Mr Speaker, it is not correct that the Government declined to write to Mr Straw pointing out to him that very fact that the Constitution was not a matter for the Anglo-Spanish agreement and not a matter for Spain. The hon Member will be aware that I wrote to Mr Hain on the 4<sup>th</sup> December 2001 a letter actually which I published as Chairman of the Select Committee attached to a local press release and which says, "*The Select Committee is engaged in drawing up proposals for the reform of the 1969 Constitution Order which sets out Gibraltar's bilateral Constitutional relationship with the United Kingdom. Accordingly the Committee unanimously believes that the reform of the Gibraltar Constitution is exclusively a matter between the United Kingdom and Gibraltar and not a matter for discussion or negotiation with Spain or for inclusion in any proposed comprehensive Anglo-Spanish agreement.*" I recall a discussion subsequent or before or around this time in the Select Committee in which the hon Member said, "*Well what I had been asking was that you should write, you should say that to Mr Straw not to Mr Hain,*" and we said, "we have said it to Mr Hain it is the Foreign Office" there is a difference in writing something to Mr Hain and writing something to Mr Straw. We do not believe that there is any need to write another letter to Mr Straw saying exactly what we have said to Mr Hain already as the unanimous position of the Committee on this issue.

On that basis the Government do not support the hon Member's amendment, he makes several points in his amendment one is the Opposition's participation in the negotiations and I have said that I had explained that the Government's text was intended to leave that question open, he also then goes on to cover two points and we take the view that those points about the non-Spanish role and the fact that our Constitution is a bilateral document between the UK and Gibraltar are both specifically covered in our own language. Mr Speaker, we will not support the hon Member's amendment but if despite the explanations that I have given him he is not content to accept the explanations of the Government's language that I have offered him, if he wants the Government to stop at 23<sup>rd</sup> January 2002 as he has suggested in his address he would be willing to accept, if despite my explanations the

language does not have the effect and is not intended by the Government and is not considered by the Government to have the effect that he feared it had, if not withstanding that he is unwilling to support the Government's motion then of course we will amend the motion as he requests to end at 23<sup>rd</sup> of January 2002 so that the motion deals only with the question of the House noting, approving or adopting the Report.

My last point on the hon Member's amendment is this, this motion is not moved as Chairman of the Select Committee or what was agreed or not agreed, quite apart is the fact that the Select Committee has no remit to what happens to this Report after it is Tabled in this House, I just mention it to deal with this point that this motion and the language in it was not agreed in the Select Committee, I accept that it was not agreed in the Select Committee, it is not intended from our point of view that it should have been and this is a Government motion not a Select Committee Chairman motion to obtain the approval and adoption of the Report. Any of us could have moved the motion given that all that has happened this morning, all that I have done as Chairman is that I have laid the Report of the Select Committee. There had to be a mechanism for the House to pick it up and have a motion and that is the motion that we have moved here. In other words it is not intended to be a motion as the Chairman of the Select Committee, the Select Committee is defunct the moment that it reports to the House. It exhausts its remit and it reports to the House the moment that I laid the Report on the Table of the House.

#### **HON J J BOSSANO:**

I do not think it will surprise the Chief Minister if I say notwithstanding his explanation that we prefer that the motion ends after the year 2002. It is quite true that the Government have the majority inside the House in the Select Committee and in anything that is set up and is free therefore to pursue what they

consider to be the appropriate policy but of course the difference between that and what we have been presented is that as the motion unamended stands it is not possible for us to vote for the first sentence and against the second one, therefore we have no choice but to vote against the two sentences unless the second one is not there, it is as simple as that. If there were two separate motions we would have voted for the first one and then for the second one, so the answer is it is not that we are being contradictory notwithstanding what the Chief Minister may think and I am sure that he thinks that everything we say is contradictory and we think so of much of what he does as well. That we are making it conditional on supporting the Report that what we have put in in our amendment should happen because in fact I make it clear in moving the amendment that we would not have moved any amendment to the motion if the motion had not included the calling upon the Government to initiate appropriate discussions. How are we supposed to know what is in the mind of the Government as to what constitutes appropriate discussions. As far as we are concerned it could be anything and we are not prepared to say we call on the Government to take what in their judgement are appropriate discussions and we do not know that that may mean a round table conference, it might mean involvement by the Opposition it may mean none of those things nor do we believe that there has to be that guess work in saying, "ah, regulating the Constitutional relationship between UK and Gibraltar means we are against its inclusion in the Brussels process." Well we think if that is what we are against that is what we should say so that people reading that do not have to again decipher cryptic messages which may be or may not be lost on the Foreign Office but are going to be lost on a lot of other people and certainly given that even when we tell them bluntly what our position is it does not seem to make much difference I do not see why we have to be so economic in the use of words. So, as far as we are concerned on the basis that the Government are prepared to remove and amend the motion in the second half we have no problem indeed noting, approving and adopting the Report of the Select Committee and in welcoming the Report to the House and in expressing the full commitment of all Members of the Opposition to see those recommendations or as near as we can get to them being



translated into a reality and into a new Constitution for Gibraltar which will take our people into the future in a relationship with UK which is non-colonial and that frankly is the kind of speech that we would have made without reservations had the motion been drafted along those lines in the first place.

The other point that I want to make is that in terms of the letter to Jack Straw that I proposed in the Select Committee to which the Chief Minister has referred I think the difference which I made very clear in the Select Committee is that were as we had written to Mr Hain saying this is what the Select Committee believes what I had proposed was that Jack Straw should be told that we were rejecting his position and that any proposals emerging from the Select Committee would be submitted to the United Kingdom Government on condition that he was not free to discuss them with anyone else and that position of being given to him on condition that he was not free was not reflected in the letter to Hain and therefore some people would have liked to have seen that. Obviously it was not possible to reach agreement. Mr Speaker, can I just say I am quite happy with your leave not to proceed with my proposed amendment in the light of the Government's position that they will amend the original motion rather than take it to a vote.

**MR SPEAKER:**

So you are formally withdrawing your amended motion?

**HON CHIEF MINISTER:**

Mr Speaker, there is something that I have to say about that because I do not think that the hon Member can have it both ways. I do not think that the hon Member can say, "I am fully committed to the content of the recommendations because it is the way

forward for our people" which is what he has just said but then adopt the position that "notwithstanding that I supported as the way forward for our people I will vote against it if the Government go to London" because in this House today he has focused on the not understanding or assuming that the Government's language meant what it may have meant or not have meant. In his public statement on the 11<sup>th</sup> February 2002 the position was very stark, "*The Opposition will attempt to amend the motion to ensure its participation in negotiating Gibraltar's Constitution with the UK and will vote against it if the Government insists on proceeding unilaterally.*" The hon Member's commitment is not to the content of the Constitution but to his insistence on being part of the negotiating team because what he is actually saying is, "*look Chief Minister even if you obtain everything that we have all jointly recommended to the House, if you obtain it by yourself without me by your side I will vote against it,*" and that is not a commitment to the content of the document it is a commitment to his desire to be part of the negotiating process and I think that if that is the position that he wants to adopt fine but let him not try to hide it behind different choice of language. He can either be committed to the content of the document because it is the future of our children in which case it should not matter to him who negotiates it and who obtains it or he is committed more to the concept of making himself a negotiator of it in which case that is not a question of what is in the document or not.

Mr Speaker, I have to say to the hon Members that I really do not see how they have improved their position. The Government are happy to shorten their motion because it leaves the Government in the same position as they were even if the motion had been passed in the full text. The Government remain as free after the truncation as before the truncation to decide how the matter is taken forward bilaterally with the UK. I therefore do not see why the hon Members feel that they have improved their position. I hope that the hon Member's sedentary comments does not mean that he has failed to understand the points that I have made to him, the hon Member has said to this House "*I will not support the Government's motion adopting the content of the Report because*

*it contains language in it which I [Opposition] think is at worst against me and at best ambiguous as to whether I am going to get a role in the negotiations and unless that language is removed I will not vote to approve the text of the motion because I cannot vote for one without the other”* but the effect of removing the sentence that the hon Member regards as dubious is not to achieve the result upon which he bases opposition to the motion in the first place. Therefore it is in that sense that I do not see and the hon Member can withdraw his motion if he wishes to if he does not the Government will vote against it but the hon Member should not believe because it is not the case that the Government’s amendment to the Government’s motion upon which he bases his decision to withdraw his own signifies or means that the Government accept either the content of his public statement of the 11<sup>th</sup> February 2002 or the content of the motion that he chooses to withdraw. I want there to be no doubt, I do not want the hon Member to subsequently say that he withdrew his motion under false pretences. The Government are truncating their motion because we believe it is not necessary, we agree with him that everything that happens after the full stop is not necessary to the question of whether this House adopts the motion or not and I just do not want misunderstandings, I just do not want him or anybody else to believe, at the end of the day when the Government discuss the issues of how to go forward we may decide to do it in the way that he obviously prefers, we may decide to do it in another way I am not saying that the Government are going to decide the issue one way or the other, all I am saying at this stage is that the withdrawal of the motion should not be said or thought to have been in exchange for any indication by the Government that we accept the reasoning in his proposed amendment. In those circumstances I move the amendment by simply putting in a full stop after 2002 and deleting all the language that appears after it.

Mr Speaker, if I could say something very briefly just really two points on the original motion, is that were we are now in the discussion or not yet?

**MR SPEAKER:**

I thought you were at the end of your.....

**HON CHIEF MINISTER:**

I had not, we are talking about amendments.

**MR SPEAKER:**

The amendment has been withdrawn you are now asking for leave to amend your own motion.

**HON CHIEF MINISTER:**

Yes and when I have finished with amendments there is still the question of my closing address of the original motion.

**HON J J BOSSANO;**

Those are the rules that he has set up.

**HON CHIEF MINISTER;**

Well there are points which as I have said on several occasions during my address I have been leaving until we come to the stage of responding to his opening address on the motion. I am happy to do that later.

**MR SPEAKER:**

Later this afternoon or when?

**HON CHIEF MINISTER:**

Later this afternoon or when the Government choose.

**HON J J BOSSANO:**

Mr Speaker, I was exercising my right of reply to the amendment, then the Chief Minister stood up to speak, in what capacity was he speaking at that point in time was he not making the closing speech as the mover of the motion or if not what was he? He had already spoken on the amendment and I had already replied if not, Mr Speaker, just go and listen to the tapes.

**HON CHIEF MINISTER:**

Fine then, the question is whether I finish now or whether I do not finish now and I finish after somebody else, all the hon Member has done is just talked himself out of another opportunity to speak.

**HON J J BOSSANO:**

Just stick to the rules.

**HON CHIEF MINISTER:**

He thinks that I am now the last speaker in this debate on this occasion well fine because that is all I ask for clearance of because then now I can go on to answer two points that he made on the original address. *[Interruption]* I have not sat down, I do not understand, well actually I do understand the hon Member's reluctance to hear me make the points but what I do not understand is that I am willing to do this in a way which gives us all the maximum opportunities to express our views, it was the hon Member who departed from established procedure in this House by saying that he wanted to speak jointly at the same time in reply to my original motion and to his amendment and it is that that has caused the confusion. If he had not done that we would all be perfectly clear, yes he must not frown, does the hon Member not recall that he said he had to speak with both at the same time because he could not distinguish between the two?

**HON J J BOSSANO:**

Mr Speaker, he asked me which I was doing and I answered that I was speaking to the original motion and in the same process to my amendment and that has been done countless of times in this House, it was not a precedent and he ought to have known that when he spoke after I made my reply on the amendment he was speaking as a mover of the motion, there is no other capacity in which he can speak.

**MR SPEAKER:**

All right you have the last word on the whole of your motion.

## HON CHIEF MINISTER:

Mr Speaker, people have been hearing this debate and they can form their own view of who said what, the hon Member is increasingly suffering from amnesia. The Opposition Members draw this distinction between the two objectives of the Constitutional Reform Process and they agree with the Government's two objectives. Indeed they are objectives that we have often discussed in the Select Committee so there is agreement across the floor in the House of what the two objectives should be and now the hon Member correctly identifies what he thinks is a difference between the two sides and that is that they are not interested in the second objective unless we also obtain the first. I hope the hon Member will accept that it is not rationally necessary to adopt that decision, even if one cannot have the first which at the end of the day is not in our hands because even if the United Kingdom gave us the Constitution that we wanted, the one that we have asked for, the one annexed to the Report of the Committee it is still a matter for the United Nations to decide whether or not they de-list us. So certainly we can seek to obtain the best possible constitution that we can and once we have got it we can then lobby in the United Nations or ask the United Nations or ask the UK to ask the United Nations or all of us together ask the United Nations to de-list us on the basis that we have been decolonised but if notwithstanding all our best efforts that should not be the result, I do not see why that is a reason why we should reject other also desirable, albeit desirable for a different reason, Constitutional advancement proposals simply because they do not achieve what the hon Member thinks is decolonisation. We have taken a view that a particular Constitutional text is sufficient to justify de-listing as having complied with the declaration, de-listing for proper reasons not de-listing for improper reasons, the United Nations may take a different view, indeed the United Nations may take a view that they are not willing to address the question of Gibraltar's decolonisation. All I am saying to the hon Member is we understand what the Opposition's position is but I believe that there are many people in Gibraltar who will welcome whatever Constitutional advancement is obtained provided it is obtained in an exclusively bilateral relationship with the UK and being willing to

accept that does not signal a weakening or a lack of commitment to the first objective. In other words the fact that one will take one without the other means that one has any less commitment or less weakening for the first objective which is certainly not the Government's position.

The hon Member believes at least he appears to believe by the statements that he makes in this House that modernisation is only the language relating to the second objective but that is not so the Government's policy is that through modernisation of the Constitution both objectives can be achieved. The hon Member must have heard me I am sure he has and has seen written statements of Government policy to the effect that we believe that through modernising the Constitution so that it no longer reflects a colonial relationship between Gibraltar and the UK that that amounts to decolonisation and he has surely got to agree that the decolonisation process has got to be divided into two separate bits, one is the Constitution and the other is what happens at the United Nations after the Constitution is adopted which is the bits to which he attaches particular importance and he should not draw or derive from the use by the Government of the word 'modernisation' and that is how he has interpreted the word, he says, "*well I do not like modernisation in the motion because it suggests a commitment only to the second objective,*" Government use the word 'modernisation' in relation to both objectives and it is through modernisation which is the process that we have been working on in the Select Committee, that is the process which we call modernisation of the Constitution which when given and accepted by the people of Gibraltar amounts to the decolonisation of Gibraltar through the modernisation of the Constitution so that it does not reflect a colonial relationship in the historical sense. Of course it will continue to reflect a relationship with the United Kingdom a constitutional relationship with the United Kingdom but its modern content if I could just put it that way in order to more clearly articulate the point that I make by virtue of the modernness of its content it will no longer be a colonial relationship and if our relationship with the UK is not colonial in nature then necessarily we have been decolonised and then what we do at the United Nations is a matter for us or what we try to do at the United

Nations whether we succeed or not ultimately is for the Committee of 24 and for the Fourth Committee so all I am saying is that he should not interpret the word modern as focusing in in the Government's view on the second objective to the exclusion of the first.

Mr Speaker, as to the remarks the Leader of the Opposition made on reneging on Robin Cook's commitment at the outset of the process the hon Member was present at the recent Chamber of Commerce dinner and heard what I had to say about that. Robin Cook said to me, "*we will consider your Constitutional Reform Proposal to a fair wind,*" but he need not stop at Robin Cook to detect a self-serving change of direction on the part of the United Kingdom on this issue, he can also look at the United Kingdom's white paper on overseas territories in which the United Kingdom adopts for all its overseas territories except Gibraltar not for the whole of the overseas territories because of the Spanish dimension, for all its overseas territories the United Kingdom accepts the policy of I cannot remember the exact words but I think it says, "*maximising the self-government of the people by the peoples of the territories,*" or words to that effect and indeed in a recent Parliamentary answer or debate the Foreign Secretary and this is much more recent this is in the last two or three months, Jack Straw himself said that he accepted the case for Constitutional reform and modernisation I think the words he used were, "*I accept the case for maximising self-government in Gibraltar.*"

#### **HON J J BOSSANO:**

Did he have anything about Spain in that particular occasion?

#### **HON CHIEF MINISTER:**

I believe that he did not. I have not got the full quote with me but I did quote it at the Chamber of Commerce and I believe that there was no qualification, this was not a formal statement this was something that he says during the debate and therefore, Mr Speaker, were it to be the position of the British Government let me put it that way and I have given indications in the Select Committee of the latest things that the British Government are saying to us on that issue and if it were the position of the British Government that unless it is in the context of an Anglo-Spanish agreement involving joint sovereignty or joint responsibilities or things of that sort Gibraltar cannot have any further Constitutional change let alone the changes to the extent that the hon Member wants in terms of objective one, then that will be a very radical change of direction on the part of the British Government even though in fairness to them they have always spoken of the Spanish dimension. If the hon Member looks to the non papers that were exchanged between the Gibraltar Government and the British Government in the pre Select Committee phase when we were discussing, the hon Member will recall that on the 13<sup>th</sup> December 2000 or it might even have been 1999 I have not got the year here that as I Tabled a document which we called Item A which they have had since that time, I think it was 1998 or 1999 probably they were already in that document referring to the fact that whilst Her Majesty's Government's position is that the Constitutional change remains the matter for the British Government and the Gibraltar Government to decide, that said we do not believe it realistic simply to ignore the Spanish dimension. So, subject to those indications and I agree with the hon Member if that is the United Kingdom's position, I have said publicly recently what I believe that would be if the people of Gibraltar are put in that undemocratic position, I believe that they would choose to forgo further Constitutional Reform if the price of getting it is some joint sovereignty position. They are all things which are offered to us which we are entitled to and which the UK seeks to convert from an entitlement to a pre-condition to convert from an entitlement for us without a sovereignty deal into a justification for them for doing the sovereignty deal and this would be no more unfair to Gibraltar



than saying, “ that we need to do a sovereignty deal to respect your way of life” or “that we have to do a joint sovereignty deal to ensure your economic stability” or “that we have to do a sovereignty deal to obtain respect for your EU rights.” These are converting things to which we are entitled without a sovereignty deal into completely disingenuous justification on the part of the UK for doing the sovereignty deal that they want to do for other reasons that they do not want to explain and because they do not want to explain the other reasons they use these three pretexts for announcing it and it would fall into that category and therefore I commend to the House my original motion amended to read:-

“This House notes, approves and adopts the report of the Select Committee on Constitutional Reform dated 23<sup>rd</sup> January 2002.”

Question put.                      The House voted.

The amended motion was carried unanimously by all the Elected Members.

The Hon the Attorney General and the Hon the Financial and Development Secretary abstained.

## **BILLS**

### **FIRST AND SECOND READINGS**

#### **THE INVESTOR COMPENSATION SCHEME ORDINANCE, 2002**

##### **HON CHIEF MINISTER:**

I have the honour to move that a Bill for an Ordinance to transpose into the law of Gibraltar European Parliament and Council Directive 97/9/EC on Investor Compensation Schemes, be read a first time.

Question put.                      Agreed to.

#### **THE GIBRALTAR SPORTS AUTHORITY ORDINANCE, 2002**

##### **HON LT COL E M BRITTO:**

I have the honour to move that a Bill for an Ordinance to make provision for the provision of sports facilities and sports development programmes in the community, and, in that regard, to establish the Gibraltar Sports Authority; and for matters connected thereto, 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 Bill before this House seeks to establish a new entity to be called the Gibraltar Sports Authority which is being constituted to operate all the new sports facilities and sports at Bayside and subject to agreement with the existing staff to take over the current functions of the Sports Department. The Government have made the decision to create the authority as a result of advice received from the Sports Advisory Council of direct representations made to the Government of an assessment of the working arrangements of the Sports Department and of the creation of the new sports facilities at Bayside.

The establishment of the Gibraltar Sports Authority is considered the best way of providing and managing our sports facilities and sports development programmes and of improving the service to all sportsmen and sportswomen in Gibraltar without the constraints of Government departmental procedures. The provision of this ordinance are expected to take effect early in the forthcoming financial year and initially the Authority will be responsible for all the new sports facilities being constructed at Bayside. It is intended to encourage by negotiation the existing members of staff of the Sports Department to seek their voluntary transfer to the Sports Authority but no one who does not wish to do so will be compelled to transfer. If the transfer exercise is successful it is intended that the Authority will take over responsibility for the Sports Development Unit, the management of the community use of school sports facilities scheme and for all those other facilities at present under the responsibility of the Sports Department. If the transfer exercise is not successful the Authority will take responsibility for the new facilities including the hockey pitch as these become available and the old facilities at the stadium will continue to be the responsibility of the Government's Sports Department. As the Authority takes on new responsibilities

arrangements will be made for the engagement of the necessary staff to provide the services required. It is envisaged that this will be a gradual process between now and the end of the year 2003 by which time the sports facilities extension project at Bayside is programmed to end. This arrangement will have the undoubted benefit of enabling the Sports Authority to employ persons interested and qualified in sport or willing to train in these new posts. It will result in an improvement of the service to be provided to the Gibraltar Sports Community and will help to meet the demands of the new extensive sports facilities being constructed.

The Gibraltar Sports Authority will be funded by the Government as is the case in other similar entities like the Gibraltar Health Authority or the Elderly Care Agency. The Authority will be provided with the ability to generate income to assist in the development of sport and sports facilities, however I want to make it absolutely crystal clear that it continues to be Government policy not to charge our sports people for the use of Government sports facilities and therefore the Authority will not be introducing any charges for such use. Existing and new facilities will continue to be fully subsidised and Government will make the necessary financial provision to the Authority to enable the continuing free of charge use of sports playing facilities. It is intended that the present Sports Manager be appointed as the Chief Executive of the Gibraltar Sports Authority. I commend the Bill to the House.

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

### **HON S E LINARES:**

Mr Speaker, in the absence of my Colleague the Hon Miss Marie Montegriffo who is ill and has not been able to attend today.....

**HON LT COL E M BRITTO:**

Mr Speaker, I was not aware of the reason for the hon Member being absent but there is no desperate urgency to proceed with this Bill today. Although it would be desirable, if hon Members prefer it, I am quite willing to suspend discussion until a day when the hon Lady is present in the House.

**HON S E LINARES:**

Mr Speaker, that is appreciated we would rather leave it for another day so that the right Opposition spokesman will be dealing with the issue.

**ADJOURNMENT**

The Hon the Chief Minister moved the adjournment of the House to Thursday 7<sup>th</sup> March 2002 at 10.00 am.

Question put.           Agreed to.

The adjournment of the House was taken at 11.50 am on Wednesday 27<sup>th</sup> February 2002.

**THURSDAY 7<sup>TH</sup> MARCH 2002**

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 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 Minister for Tourism and Transport moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the laying of reports on the Table.

Question put.            Agreed to.

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

- (1)    The Air Traffic Survey 2001;
- (2)    The Tourist Survey Report 2001;
- (3)    The Hotel Occupancy Survey 2001.

Ordered to lie.

## **BILLS**

### **FIRST AND SECOND READINGS**

#### **THE INCOME TAX (AMENDMENT) ORDINANCE 2002**

#### **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, this Bill follows on from reforms made to the Income Tax Ordinance in 1997, hon Members may recall that in 1997 this House amended provisions of the Income Tax Ordinance setting the time with which payment of tax was to be made and the amendment that we made at that time was that we shortened what were two instalments one due three months from the date of assessment and the second due six months from the date of assessment, they were shortened to one month and two months respectively that is what we did in 1997.

The Commissioner of Income Tax under the Ordinance is required to levy penalties in respect of both instalments this is administratively impractical given the delays that there are in receipt of assessments by tax payers and therefore the amendment before the House today seeks to eliminate the first instalment and give the benefit of it to the tax payer. Instead of one instalment being due after one month and the second instalment being due at the end of the second month it will now all be due in one instalment but at the end of the second month. The Government give up getting half of it a month earlier and accepts it all at the time that the second instalment would be due and this will save I suspect some inconvenience to taxpayers but also much administrative work for the Income Tax Office. 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, the Opposition will be supporting the Bill.

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 GIBRALTAR SPORTS AUTHORITY ORDINANCE, 2002**

**HON LT COL E M BRITTO:**

Mr Speaker, I have already spoken on the general principles and merits of the Bill at the last meeting of the House. I assume there is no need to do that again.

**MR SPEAKER:**

Not unless you want to.

**HON LT COL E M BRITTO:**

No I have already spoken on the general principles so I suggest we move on to other speakers.

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

**HON MISS M I MONTEGRIFFO:**

Mr Speaker, first of all I would like to thank the Minister for giving me the opportunity to reply to him on this Bill as I was unable to be present at the previous meeting of the House. Let me start by saying that the Opposition will be abstaining on the Gibraltar Sports Authority Bill. I always like reminding the House of our consistency and so I would like to refer to the position and the action we took in a similar situation reference the Gibraltar Health Authority as soon as we took office in 1988.

In my very first budget speech then as Minister I said and I quote, *“The first problem we confronted was the new management structure. The GSLP immediately froze even the first phase because we wanted to be absolutely sure that the money would be spent adequately when compared to other more important areas within the medical services and this Government [that is meaning us Mr Speaker] is concerned with how best to use the money available primarily for the benefit of the patients.”* We did in fact cut down the number of posts that had been earmarked by the previous administration and we were successful in the utilisation of existing civil service resources. The money that we saved in the process we injected back into the service but into areas which were directed later to patient care it was a question of spending monies that would provide better results for the users of a particular service. However, in 1996 when the GSD took office they again went back to the previous policy of having a new

structure with new posts. We believe that the action we took was correct and that indeed the many posts created then in 1996 by the GSD did not mark a significant improvement within our Health Services, I would say quite the very opposite. Nonetheless the Government are still intent on taking the same similar path with regards to the Sports Authority Bill before us. We took this position 14 years ago and today we still stand by it. We believe the Minister for Sport is creating a top heavy structure which is going to cost a lot of money the resources of which we believe can be utilised from within the civil service, for example, we do not see the need for more money to be spent for a Finance Officer or for a Human Resources Officer and we honestly do not believe the increased funding for the extra posts would provide a better service for the sports people of Gibraltar. We support however the commitment to provide sports facilities but we believe as I have already said that the work for the running of the facility can be done from within the Sports Department or from civil service resources which already exist. At this rate this Government may well be ending up with different authorities all over Gibraltar. Today a Sports Authority and perhaps who knows tomorrow a Post Office Authority, a Port Authority, an Electricity Authority and so on. Therefore for all the reasons that I have mentioned we are abstaining on this Bill.

#### **HON S E LINARES:**

On the general principles of the Bill I have got a few questions which the Minister might well want to answer in his reply. When employing a Facilities Manager what qualifications are going to be necessary? What qualifications are going to be needed for the Members of the Authority? We are also concerned about the employment of people and in his statement at the beginning the Minister said that if the employees of the Sports Department now did not wish to be transferred to the Authority that he would create a two tier system were he would have the Victoria Stadium part with the civil service employees and then create the Authority and have completely different people who will be running the new

facilities. I would like to ask the Minister what sort of consultation has been made with the Union, with the employees, and who up to now has decided to go either way? What is going to happen with these civil servants who are currently there? Are they going to be part of the Authority, are they going to be part of the Victoria Stadium? Will it entail extra costs and one thing that is even more worrying is that he has put in a clause, as far as we are concerned, that it seems as if at a later stage and I know that the Minister said the last time that everything would be free for the public but he has left the door opened so that he will be able to charge.

#### **HON CHIEF MINISTER:**

Mr Speaker, the hon Members may not be aware that the philosophy behind this approach has widespread support within the sporting community in Gibraltar who generally believe that the civil servants, which is administrative in its approach, is not the best equipped in Gibraltar to provide sporting facilities. The sporting fraternity generally believes that sporting facilities should be run with the philosophy and the attitudes and in a manner by sports people for sports people and that is the reason why the Government choose to deliver these new facilities through the Gibraltar Sports Authority so that it should not be the straight jacket that a Government department imposes for reasons that the hon Member is presumably well aware of. The existing facilities and the existing staff will remain providing a Government service by Government staff without any change, that is to say, the existing Victoria Stadium facilities. The staff may wish to join the new Authority facilities and if they choose not to they will be allowed to stay as they are, but what the Government are not going to do whatever the staff of the Victoria Stadium decide in respect of the existing facilities, the Government will not inject the new facilities into the Government Department structure. So the new facilities will go, the Government are perfectly free to deal with those facilities as it pleases and when those new facilities will be injected into the Sports Authority and they will be run by the new

structure that the Government intend without any interference whatsoever with the position, status either of the employees or of the assets which presently comprise the Victoria Stadium facilities. Obviously the Government hope that the existing Victoria Stadium staff will see the benefits to the sports fraternity in Gibraltar and indeed to themselves as employees of injecting the existing facilities into the Authority as well but that will require a process of discussion, negotiation, persuasion and at the end of the day the staff will make their own decision.

The hon Member has asked a series of questions which I would have thought were more appropriate to raise at the time of the Committee Stage but certainly what the hon Member is not going to get in this House today is answers to questions which are designed to pre-empt the negotiations that we may have with the existing staff side. All we are going to say on that is what I have already told them and that is that no one will be forced to do anything, the facilities will stay as they are and the staff will stay as they are unless they freely choose to participate in the new arrangements.

The final point that I would make is to make it perfectly clear that in keeping with all the philosophy at a time when it used to be the policy of the Government to charge for parking, previous Governments that is, our philosophy is that public parking in Gibraltar should be free. We have the same view of sports facilities. Government do not consider that sports facilities should be charged to the user and let there be no ambiguity about this, there will be no charges for the use of sporting facilities. The hon Member can seek to cloud that question by raising the issue even though the Minister at the last meeting of the House made it perfectly clear that it would not be so. It would not be the first issue upon which he ignores answers that he gets and continues to raise the issue. There will be no charges for sports facilities in the new or the old for that matter sports facilities. The Government believe that providing these facilities through the Sports Authority will enable the quality of the enjoyment of the sporting facilities by sportsmen in Gibraltar to be vastly, vastly improved as well as improving vastly the opportunity for sports development amongst

our children and youth in Gibraltar all of which is curtailed by the straight jacket system that operates presently within the existing Sports Department facility.

#### **HON J J BOSSANO:**

Mr Speaker I take it from the last remarks that it is not the fact that the individuals that are employed there are in the civil service but the system that the civil service has operated under presumably in terms of expenditure and the way public spending is controlled out of the Consolidated Fund and that they would have, *[Interruption]* well if it is both then it is peculiar because if it is the individuals then I cannot understand why the Minister hopes that they will decide to go to the new Authority. Therefore I take it then that it is not the individual and it is not both it is in fact the system, the people were the Government feel that it would be better or easier or more effective to provide a service with the structure of the Authority than with the structure of the department. Well we do not think there is evidence in support of that but we will have to wait and see how it works out in practice and whether the sportsmen feel they are getting a better.....

#### **HON CHIEF MINISTER:**

The evidence that the Government have so far is that these types of structures do deliver a vastly improved service. Take, for example, the example of the Elderly Care Agency. One only has to visit Mount Alvernia now to see the enormous difference that there is. It is not a question of individuals, it is a question of working practices, enshrined methodologies, historically going back many decades within Government departments and that these structures offer a painless opportunity for a new start in a way that vastly improves the quality of the service to the ordinary citizen and also the value for money. So, this is not about individuals in the sense that the five or six people that happen to

be holding the jobs now are more or less, it is not about individuals in that sense but it is about whether the sort of persons by their qualifications, by their background in terms of whether they are industrials or whether they are sports professionals, whether they are interested in sport, whether they are not interested in sport, it is about the whole culture ethos of the sort of employee. This has happened in the UK as well were sports and leisure facilities are run by people who themselves are sportsmen interested in sports development and this contributes significantly and at very little additional cost to the whole value of the facility. The hon Members want to wait to see how it works that is perfectly okay but the Elderly Care Authority Agency is as far as we are concerned an early example of how these structures can work well.

#### **HON J J BOSSANO:**

Mr Speaker, he has picked a particularly bad example which is using the Elderly Care Agency because the Elderly Care Agency did not in fact replace a Government department.*[Interruption]* Then presumably we ought to have Government agencies replacing the whole private sector because this was a private institution not subject to civil service rules, funded predominantly by Government although it did not start life like that it was funded at the beginning almost entirely by the Mackintosh Trust and the users of the home. That there should be an improvement in the care of the elderly is to be expected because each elderly person under the Mackintosh Trust was costing £9,000 a year to look after in Mount Alvernia and in the Elderly Care Agency each person costs £27,000 to look after. I think if the cost has gone up from £9,000 to £27,000 and there was no improvement it should be enough to abolish the agency overnight I would have thought. So certainly with a per capita increase of that order one would expect an improvement and certainly one assumes that we are not going to see a 300 per cent per capita cost in the running of sports facilities on this occasion as compared to it being done departmentally. I think it is true to say that obviously if the people that are involved in providing the service are themselves keen

sports people they are more likely to put that extra bit which goes beyond the call of duty because it is something that they like doing and they enjoy. That is true of almost every other profession in every other walk of life but do not think that taking into account in a selection process people for the job with those qualities necessarily requires the setting up of the agency. I think another thing that is not clear from what has been said is that it seems as if the choice to move or not to move will be on an individual by individual basis which is fine because we believe that the persons that are now employed by the Government have got a contractual right to stay in the Government and that they cannot and should not be forced and we do not think it is a good idea anyway to force people to move were they do not want to be if one wants the new outfit to work well because if they are there under duress they are not likely to be delivering to the satisfaction of the Authority, but what that raises is if some people move and other people do not move then presumably the jobs that are left vacant by the people who move will then be replaced from the system as it exists now with the same pay and conditions and everything else but it is either a question of the new Authority taking over the existing facilities because people are persuaded or encouraged or it is made attractive to them or alternatively two systems are going to be running parallel but not with a mixture of people in the two systems. That is to say as two separate systems, if it is not like that then we would like to know that because we think we would advise against frankly having a mixture if they really want the new outfit to get on the road. The Government may or may not take our advice but if they are thinking of mixing the two my advice from experience is that I would not recommend it.

#### **HON CHIEF MINISTER:**

Part of what the hon Member says correctly reflects on what the Government intend to do and the other part does not. The jobs of the existing staff in the public sector doing the jobs that they are doing today are secure which is not to say that the Government commit themselves which they do not to replacing those jobs with



public sector jobs as and when there are natural vacancies in the existing jobs but that is a part of his statement that did not correctly reflect the Government's intention but what does correctly reflect the Government's intention of what he said was that it was not a good idea to mix. One cannot have people working side by side in the same organisation earning different amounts of money and on different terms and the way that that would be resolved is that as the current positions in the department are reduced through natural wastage then more facilities may be transferred to the new structure always leaving enough facilities within the department to keep fully occupied the staff that are left as departmental employees.

**HON J J BOSSANO:**

Mr Speaker, one final point that is not clear from what has been said in terms of the staffing. There is already speculation that the new Executive of the new Authority is likely to be the person that is now running the stadium, does that mean that if that were to happen presumably that person would be entitled to apply if it goes out or maybe offered the job in terms of the fact that other people in the stadium are being offered the opportunity of transferring. If that happens would that mean that the Executive of the Authority would be sort of the head of the stadium as well and if it does not happen would that then be two separate heads because I would have thought that was one of the first things that needed clearing up in terms of the dual structure and that is the last point that I want to make.

**HON LT COL E M BRITTO:**

Mr Speaker, first of all I did in fact announce when I initially spoke on the general principles of the Bill I did say that the present Sports Manager would be appointed the Chief Executive of the

Sports Authority. The intention is for the present Sports Manager to do both jobs in tandem until such time as hopefully it will not be necessary. I have to say quite honestly and sincerely that I am disappointed in the reaction of the Hon Miss Montegriffo speaking on behalf of the Opposition. I thought she was very courageous and very fair when in the past she has approved and congratulated the Government on the initiatives at Bayside but I now detect a certain lack of courage and a certain lack of vision in the comments that have been made. By all means the Opposition may abstain and wait and see, that is their job, but I would have thought that the hon Member would be pleased to have seen the further stage in which the improvement to sports facilities are now moving into. Let us be quite clear, maybe the hon Member has still not grasped the scale of the development at Bayside and for that to a certain extent I can understand it but very shortly the Government will be putting on a public exhibition in a public place in Gibraltar so that people as a whole can get a better idea of what these facilities at Bayside will entail.

**HON MISS M I MONTEGRIFFO:**

Mr Speaker, at no stage in my contribution have I said anything that can be taken as a criticism about the facilities on the contrary in my contribution I did say that we welcomed the commitment to provide more sporting facilities, I said that quite clear this morning.

**HON LT COL E M BRITTO:**

Mr Speaker, I beg to differ, the hon Member gives the impression of reservations, she talks about excessive staff, she talks about large potential costs and therefore that, *[Interruption]* well the hon Members may giggle and laugh if they want to but if they say things then they cannot stand up and say they did not say them. What I am saying to the hon Member is that she has not grasped the scale of the developments at the Victoria Stadium and that

maybe when she sees the public exhibition that will be put out shortly in a prominent public place for everyone to see she will realise that yes there will have to be increases in staff, yes that there will have to be a major change in thinking, that yes we are doubling the size of the existing facilities, that yes we are providing a new sports hall which is double the size of the existing one and however much the hon Member may like to think that this can be done with present staffing numbers and human resources the answer is that it cannot and the answer is that there will have to be some increases in staff in order to provide those facilities at the level that the Government envisage them being provided. The Chief Minister has already dealt with the civil service side so I will not dwell on that.

I will take up the Hon Mr Linares on the question of charging, as has already been said I will repeat for the record what I said in my original speech which was, "I want to make it absolutely crystal clear that it continues to be Government policy not to charge our sports people for the use of Government sports facilities and therefore the Authority will not be introducing any charges for such use. Existing and new facilities will continue to be fully subsidised....." and I went on. Yes, of course the legislation being put through today makes provision for charging for certain things but Mr Speaker, that is nothing new, the Government today without this legislation could introduce charging whenever they wanted, this is nothing new. The provision is there and I reiterate we will not be charging our sports people but yes there are certain areas where the Authority will be able to charge, for example, in having advertising at the new Bayside facility, by allowing some of the new facilities to be used for commercial purposes. So yes, there will be opportunities for charging and for raising money and I am sure the Authority will take those opportunities to raise that money for the improvement of sport.

The question of transition of staff has already been dealt by the Chief Minister so I will not deal with that but I will end by saying that the whole concept, the whole ethos of what we are doing is

two-fold firstly to improve and extend the existing facilities at the Victoria Stadium by providing a vast array of new facilities next to it at Bayside which will provide a window of opportunity for sport in Gibraltar that has never been so in the past not in the previous Government, not under any other previous Government prior to the previous administration and secondly, that the accent will be on the new facilities that I am providing and encouraging the people who are currently in the stadium side of sport to move into the new facilities so that eventually the Authority if the transition is successfully achieved eventually the Authority can be the overall umbrella over the management of all sport in Gibraltar.

Question put.

The House voted.

For the Ayes:

The Hon K Azopardi  
The Hon Lt Col E M Britto  
The Hon P R Caruana  
The Hon H A 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 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.

### **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 Income Tax (Amendment) Bill, 2002;
2. The Gibraltar Sports Authority Bill, 2002.

### **THE INCOME TAX (AMENDMENT) BILL, 2002**

**Clauses 1 to 3 and the Long Title** – were agreed to and stood part of the Bill.

### **THE GIBRALTAR SPORTS AUTHORITY BILL, 2002.**

**Clauses 1 to 4** - stood part of the Bill.

### **Clause 5**

**HON LT COL E M BRITTO:**

I move the following amendment:

In section 5(2) delete the words "*calendar month*" and insert "*every three months*."

Clause 5, as amended, stood part of the Bill.

**Clauses 6 and 7** – stood part of the Bill.

### **Clause 8**

**HON S E LINARES:**

I move the following amendment:

In section 8(1)(b) delete the word "*authority*" at the end of the sentence and insert "*authorities*." I think it should be in the plural.

Clause 8, as amended, stood part of the Bill.

**Clauses 9 to 23 and 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 A 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

### **THIRD READING**

#### **HON ATTORNEY GENERAL:**

I have the honour to report that the Income Tax (Amendment) Bill, 2002; and the Gibraltar Sports Authority Bill, 2002 have been considered in Committee and agreed to with amendments. I now move that they be read a third time and passed.

Question put.

The Income Tax (Amendment) Bill, 2002 was agreed to and read a third time and passed.

The Gibraltar Sports Authority Bill, 2002.

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 A 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 25<sup>th</sup> March 2002 at 10.00 am.

Question put.       Agreed to.

The adjournment of the House was taken at 10.50 am on Thursday 7<sup>th</sup> March 2002.

**MONDAY 25<sup>TH</sup> MARCH 2002**

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 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 documents on the Table.

Question put.                      Agreed to.

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

- (1) Statement of Supplementary Estimates No 1 of 2001/2002.
- (2) Supplementary Funding – Statement No 4 of 2001/2002.

Ordered to lie.

## **BILLS**

### **FIRST AND SECOND READINGS**

#### **THE INVESTOR COMPENSATION SCHEME ORDINANCE, 2002**

#### **SECOND READING**

#### **HON K AZOPARDI:**

I have the honour to move that the Bill be now read a second time. Mr Speaker, we took the Investor Compensation Scheme Ordinance first reading last time and we agreed to take the second reading this time. This is a fairly short Bill but it is one that goes back some time and in fact there have been questions in the House of Assembly about this issue from time to time and I think the hon Members are well apprised of the Government's position in regard to the directive and in relation to Investment services passporting generally. The main effect of the ordinance as drafted is to put into effect the Investor Compensation Directive by which each Member State is required to have an Investor Compensation Scheme in effect within that jurisdiction that guarantees a minimum level of protection, a so-called safety net for the small investor in the event of an investment firm being unable to meet its obligations to its clients. Under the directive firms are authorised to carry on certain types of investment business by the home state. Once authorised they are entitled to carry on that same business in any other Member State without needing the host state authorisation. The Investor Compensation Directive links the provision of compensation through authorisation under the Investment Services Directive. The competent Authority in Gibraltar for the purposes of the Compensation Scheme will be the Financial Services Commissioner who is also the Banking Commissioner and there

will be as was the case with the Deposit Guarantee Scheme there will be an Investor Compensation Scheme Board that will govern the workability of that body. Under section 4 of the Bill Members will see that the composition of the Gibraltar Investor Compensation Board is similar to the Deposit Guarantee Scheme issue.

Mr Speaker, I remember when I gave answers to the hon Members in relation to investment services and Investor Compensation Schemes generally I think the Hon Dr Garcia asked me for a copy of the consultation paper that went out to the industry and I gave him a copy of that. That consultation paper itself dated May 2001 is quite extensive and really would answer most questions than any hon Member would have on this piece of legislation so I do not propose to really go into the details of that scheme. All I will say is that the Government propose that the Investor Compensation Scheme should be financed in the same way as the Deposit Guarantee Scheme, provision will be made for any shortfall to be recovered on an annual back-dated basis and for the annual fee to be varied, the aim would be solely to cover costs not to build up a reserve.

Mr Speaker, as I say I gave hon Members a copy or at least the hon Member responsible for this area a copy of the consultation paper that went out to the industry and I invited him to make any comments to me in advance of this together with any questions he might have. I am certainly happy to answer any that he or any other hon Member may have in the future about this. We are not taking the Committee Stage today it will be taken at another meeting, there has been as I say wide consultation and there may be a need to introduce amendments at Committee Stage that reflect some of those discussions we are not yet ready to take those but the second point that I should also make is that clearly this is a Single Market measure and the Government's policy is that the implementation and enactment of this measure on Investor Compensation should be co-ordinated and should be run simultaneous with and be made available with the introduction of

Investment Services Passporting to Gibraltar which I think I have said also on other occasions in this House. I commend the Bill to the House.

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

**HON J J BOSSANO:**

Mr Speaker, Dr Garcia informed the House that he would not be getting back in time for this morning's session but he will be back by this afternoon and the Committee Stage will be taken later. Can I just say therefore on a general point in what the Minister has just said, does that mean that unless there is an undertaking from the United Kingdom on the passporting aspect, the Bill will not be passed through all stages?

**HON CHIEF MINISTER:**

Mr Speaker, the Government take the view that this is a Single Market measure a Single Market to which we presently do not have access and therefore we certainly are working on the basis that there will be synchronisation and co-ordination in time between the introduction of this legislation and access to the Single Market of which it forms an integral part. The directive itself says that this is a Single Market in investment services measure and the position that we adopt is that it would be therefore unusual if we had any of the burdens of the Single Market without actually access to its benefits and we believe that there is a wide measure of sympathy for that, in certain more reasonable quarters of Whitehall but on the other hand this is one of those directives in which infraction proceedings are at an advanced stage and therefore we hope that the minds on both sides will be focused and concentrated on this issue so that it

brings about what is a fair and proper result for Gibraltar and everybody else.

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 will be taken at a later stage in the meeting.

**THE SUPPLEMENTARY APPROPRIATION (2001-2002)  
ORDINANCE 2002**

**HON FINANCIAL AND DEVELOPMENT SECRETARY:**

I have the honour to move that a Bill for an Ordinance to appropriate sums of money to the service of the year ending with the 31<sup>st</sup> day of March 2002, be read a first time.

Question put.                      Agreed to.

## SECOND READING

### HON FINANCIAL AND DEVELOPMENT SECRETARY:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the Bill is to seek an appropriation of a further £3.5 million from the Consolidated Fund for departmental spending in the current financial year ending the 31<sup>st</sup> March 2002. The purposes for which these monies are sought are set out in the explanatory memorandum to the Bill, in addition a further £560,000 is being sought for the Education and Culture Head of the Improvement and Development Fund. All heads of expenditure concerned are set out in the schedule to the Bill with further details contained in the Statement of Supplementary Estimates No 1 of 2001/2002 which was made available to hon Members last week and laid in the House this morning.

The Chief Minister will be setting out the Government's requirements for the additional funds but I would first like to make a few points which may assist hon members in considering this Bill. First taking into account the Statement of Supplementary Funding No 4 of 2001/2002 laid in the House this morning, the £1.5 million of Supplementary funding provision in the approved estimates has now virtually all been re-allocated. Second, with regards to pay settlements some £316,000 has been re-allocated today and the remaining £1,183,000 was already committed. Issuing reallocation statements in this area has been delayed whilst the impact of pay awards announced earlier this year are being worked out by the departments concerned. Thirdly, should all the Supplementary Appropriation of £3.5 million be spent it will be covered by higher overall revenues than were anticipated at the time of the estimates last year, and finally Mr Speaker the overall spending of the Improvement and Development Fund is expected to be within the total provision of £25 million in the approved estimates, that is inclusive of the £567,000 that the House is being asked to vote this morning. I commend the Bill to the House.

### HON CHIEF MINISTER:

On the whole, Government are satisfied that the Bill presently before the House on Supplementary Funding being almost all of it explainable by reference to extraordinary things, which I will take the hon members through in just a moment, I think represents the culmination of the improvements that the Government have tried to introduce over the years in financial discipline within Government departments. When this House votes on the Estimates which now contain the whole of the recurrent revenue and expenditure of the Government as well as the whole of the capital development expenditure of the Government it is made clear to Heads of Departments that they are expected to live within those limits so that this House is really and genuinely to the greatest possible extent exercising its control over public expenditure. Inevitably there is a need in a budget decisive Government to top up towards the end of the financial year and the hon Members have before them this Bill to do it on this occasion. They have in front of them the Statement of the Supplementary Estimates so that they will see in terms of heads where there has been neither an increase in spending or perhaps in some cases a shortfall of revenue that has created the funding gap. The Gibraltar Health Authority is the first item and that accounts for £900,000 being a contribution to the Health Authority of the monies now being sought. Basically Mr Speaker, set against a small surplus elsewhere and a surplus carried forward in their own accounts from last year the main item that on a net of basis explains the £900,000 that we are now increasing the contribution to the Health Authority by, is basically £900,000 worth of GPMS prescriptions. There are other items, dressings, medical gases and tests, £120,000 there has been an increase in expenditure in the ambulance service as we have improved the staff conditions there and there are several other items of a much more minor nature. The Gibraltar Development Corporation contribution too accounts for another £800,000 of the monies now being sought and the reason for that is two-fold there was an accumulated deficit in the Gibraltar Development Corporation at the start of the financial year and that had been forecast at the start of this financial year to be £280,000. This proved to be an



optimistic forecast and the actual accumulated deficit in the Gibraltar Development Corporation at the end of the last financial year was £464,000. Hon Members will see that we provided for £280,000 of those £464,000 in this year's estimates as a contribution to the Gibraltar Development Corporation and therefore in addition of £184,000 over the £280,000 that we provided for in the estimates is now required to accommodate the full shortfall that actually materialised and with which we started the financial year. In addition a further £336,000 of this money now being voted is required to meet the projected overall shortage of this year's financial performance in the Gibraltar Development Corporation and that is mainly in respect of shortfalls in actual revenue from the European Social Fund and the training levy.

Mr Speaker, the third major item as the hon Members will see from the Statement of Supplementary and now under the heading Supplementary Provisions is pay settlements which is Head 15 subhead 1A. The latest available forecast out-turn suggests that the excess expenditure in respect of personal emoluments in industrial wages for the financial year just ending, that is 2001/2002, is projected at about £2.1 million. That excess in other words shortfall in funding includes payment of arrears of salaries, wages, and allowances totalling about £1.3 million and that is in effect the payment of arrears in respect of previous and current year awards which were paid during this financial year. Although we are seeking £800,000 for this head it is hoped that only about £600,000 may be required but we are seeking the £800,000 in case more awards come for actual payment before the end of the financial year. The second subhead under supplementary provision relates to the supplementary funding element of supplementary provision, hon Members will recall that the supplementary provision head breaks down into two, the first is pay settlements, the second is supplementary funding. On supplementary funding hon Members will see that we are seeking an additional £1 million there and the additional departmental spending net of savings elsewhere basically amounts to the expenditure, that is, the urgent expenditure that

has been necessary in relation to the highways of sewers vote mainly the urgent repairs to the sewers on which we envisage that we will have spent £400,000 before the end of this financial year. Hon Members will be aware not only of the collapse in the main sewer at Rosia Road and the considerable work that has had to be done to bypass the collapsed section of the sewer but indeed they are also aware, from the inconvenience to which we are all sometimes subjected during the night hours, that there is an on-going contract for the desilting of the main sewer to ensure that it does not become further clogged at this delicate stage. We also have a significant provision for legal fees arising mainly from the court action in relation to State Aid but other court actions as well. As a result of the September 11<sup>th</sup> events we did significantly enhance security in Gibraltar's entry points and that was funded by Government resulting in excess expenditure of £170,000.

As the Financial and Development Secretary has himself mentioned the original £1.5 million provided for supplementary funding under this subhead has just now all been allocated so the additional monies that we are now voting is over and above that and in respect of the main headings of expenditure that I have described. There is also monies sought for the Improvement and Development Fund and hon Members will see from the Statement of Supplementary Estimates that they have in front of them that it relates almost entirely to excess expenditure of £560,000, expenditure connected with capital infrastructure works related to the change of school hours. 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 shall be raising a number of points at the Committee Stage which is when we will be discussing the Schedule obviously and therefore on the general principles I asked a question earlier on this year in this meeting of the House in fact about whether the forecast out-turn for the year was in fact in line with the original estimates and I was told by the Government that the figures were not ready, indeed the Chief Minister expressed surprise that I expected it to be ready until I pointed out to him that it was normal for the Treasury to produce this at the beginning of January. I take it that since we are now five days away from the end of the year they know now how the year is going to finish and we have been told by the Financial and Development Secretary that the £3.5 million additional expenditure is covered by higher overall revenue and therefore I would like to know what the higher overall revenue is over the figure in the projected estimates of revenue given to us at the beginning of this financial year.

In terms of the final estimated figure for the Consolidated Fund balance I think in answer to a question I was told that in fact the actual Consolidated Fund balance at the beginning of the financial year was £1 million more than expected. I think I was told that possibly in the November session so that in fact what we are being told was that we started in April 2001 with a figure closer to £26 million than the £25 million shown in the estimates of revenue and expenditure and therefore what I would like to know is whether in fact that £1 million is still reflected down or whether if the statement that the expenditure has been covered by higher overall revenue the Government, the Financial and Development Secretary is taking into account the additional £1 million that they received in the preceding financial year. I also asked at Question Time whether it was intended to credit the higher sums of money that were obtained as opposed to the estimates because of the high value ships that were sold by the Courts in Gibraltar after being arrested and the Bill we introduced here to amend the charges and therefore what I would like to know is whether the Government, presumably that money has now been paid and I

would like to know whether the Government have credited that revenue to the Improvement and Development Fund or to the Consolidated Fund and if that is indeed the higher revenue that is covering the £3.5 million of higher expenditure.

As regards the shortfall of revenue, although this is really something that can be taken up at Committee Stage since it has been mentioned, can I just point out that I questioned at the Budget last year the figures of receipts from the European Social Fund which were on Appendix 'B' page 124 of the Estimates which showed that the estimate originally for 2001 was £850,000 and that the forecast was a mere £67,000 and at that time I was told that this was because the money was not arriving before the end of the financial year in time to be included. So, is it that the 2000/2001 money still has not arrived because if we take that of the £1 million expected in the current financial year some £800,000 was in fact delayed payment from the previous year then how much of the shortfall is due to the money that was included in the £1 million estimate in respect of money that should have been paid in this year and not money that was a late payment for the previous one. I am dealing here with this under the general principles because these are revenue shortfalls and we are not voting on revenue we are voting on expenditure but when we come to the need to make an additional contribution to the Improvement and Development Fund perhaps an explanation can be provided at the Committee Stage if it is not readily available to the mover at this stage. I will also remind the Chief Minister that in fact in terms of the pay settlement again at last year's budget I questioned why it was that the provision was £1.5 million as opposed to £2.5 million in the preceding year and I was then told that the bulk of the back payments had already been made so how is it that the bulk of the payments had been made in April last year and we now discover in March, 11 months later that there is substantial back payments still being made and that it may not be the end of it.

In terms of the Supplementary Funding vote let me say that I would have expected that the House should be asked to vote the money directly to the areas in which they are required at this stage in the proceedings. I can understand the logic, indeed I was the one who introduced it, of putting in a lump sum of money at the beginning of the year when one does not know for what one is going to need the money but if one needs the money now for urgent repairs to sewers then there is nothing to stop the supplementary provision being an additional amount to the original sum under the head and the subhead that is relevant because one knows where the money is going to be used and presumably although we are voting it for supplementary funding immediately after we vote it the Financial and Development Secretary is going to remove it from Supplementary Funding and pass it over to the sewer subhead. So, obviously the value of that is that we are then able to relate the £200,000 to the figure on page 58, Head 4(f) of the Estimates were I assume what we are talking about is subhead 4(a) Maintenance of Sewers £70,000. I take it that that is where the additional £200,000 is going. If that is indeed the case we know that there is a problem with the sewers but certainly I was under the impression that much of the renewal of the sewers was being done through the Improvement and Development Fund not as an annually recurrent expenditure though it seems something odd in the explanation that we have had about the renewal and the collapsing of the sewers which we know about and which is of course a capital expenditure as opposed to annually recurrent. I took the maintenance of sewers of £70,000 to be the sort of run of the mill care and maintenance that has to be done all the year round and therefore I would like confirmation now or at the Committee Stage of whether the £200,000 is on top of the £70,000 and obviously we will want to relate the other elements in that Supplementary Funding to the original subheads.

#### **HON CHIEF MINISTER:**

Mr Speaker, if I can take those points in the order that the hon Member has made them, the current projected figures for the

forecast out-turn for the financial year about to end are the following. We project a forecast out-turn revenue of £158.5 million that is the Consolidated Fund and we are projecting a forecast out-turn expenditure in the Consolidated Fund of £145.1 million and we are therefore projecting a forecast surplus of £13.4 million. The hon Member has asked what sources of revenue lie at the root of that increased projected forecast surplus notwithstanding the projected forecast increase in expenditure during the year. Despite increase in the expenditure by nearly £5 million we are actually still going to generate higher surpluses than we anticipated. There are basically three main items that account for it. The first is that as a result of the buoyancy of the economy the yield from income tax is higher notwithstanding the significant tax reductions that we have made; secondly, there has been a contribution we estimate will be no more than £1 million this year from ship arrests and of course that is less than was earned during the actual financial year, the Renaissance ships by themselves was more than £1 million. That is all that has been received in the Treasury's books in cash which probably means that the Admiralty Marshal has not yet finished her account of the Renaissance arrests and therefore has not actually paid the cheque over to Government. Whilst they remain with the Admiralty Marshal they are Trust Funds, they are not Government funds. It is only when she has finished her account and distributes the money that Government's share is paid over by cheque to the Accountant General at which point it becomes Government revenue. So, although there is about a £1 million worth of contribution to that revenue it must be from the Abu Dhabi ships that have already cleared. There is more money due and there is still time for it to come in before the 31st March but if it does not come before the 31<sup>st</sup> March so that it falls into this year's accounts it will fall into next year's revenue and finally we have a first instalment from selling the Government's share in Gibtel and that amounts to about £1.5 million and the Government are still debating whether that should be taken in the Consolidated Fund or the Improvement and Development Fund and it may be that that would be relocated if the decision is reversed. At the moment the preferred view is that it should flow to general reserves through Consolidated Fund. If one takes it through the

Improvement and Development Fund we have to carry it forward as a surplus and that is the picture as it looks at the moment. I can confirm to the hon Member that the Consolidated Fund opening balance was the £1 million higher than we had forecast but of course that does not contribute to any concept of surpluses because of course the opening balance is not taken as revenue during the year. So whatever might be the figure of the Consolidated Fund it contributes to whether or not one has a bigger or smaller surplus at the end of the year because of course one has an extra £1 million to set off but it is not accounted for obviously, as I am sure the hon Member will have realised, is not accounted for as revenue in itself. I have explained to him the position in respect of the ship arrest from memory I think I gave him the information last time and I cannot recall the figure but I think I calculated for the purpose of an answer to his question that on the Renaissance ships alone, the Government's take on the Port poundage was something like £2.5 million so it certainly cannot possibly be included in the figure of £1 million that I have given him as having been received so far. I will come back to the hon Member during the Committee Stage with a full explanation of exactly where we are on the Gibraltar Development Corporation shortfall. There are monies of the sort we discussed last time that appear still not to have been corrected and I will just like to get to the bottom of whether that is because they were overestimated in the first place or whether there is some failure to chase them up properly or whether indeed there is some delay on the part of the Commission of the UK paying them through and I would just like to take this opportunity to make the full position clear to the House during the Committee Stage.

Mr Speaker, on the pay settlements I think both statements are true that the hon Member will be aware that because there had been that difference of opinion with the civil service staff association in respect of the non-industrial pay review in respect of 2001 that in fact has not been paid in many cases until January of this year so there are a large group of non-industrials mainly who have not, for example, the educational grades did not receive that pay review until June 2001 which would have fallen into this

financial year and also January 2002 also during this financial year. The same for the Audit Office they got theirs in January 2002, the clerical grades also got theirs in January 2002 and the support grades and the technical grades, the fire service grades got it in December 2001, the Police got it some of them got some arrears in November the main award for Inspectors and upwards was delivered in April and in November 2001 also in this financial year. The youth workers, the social workers and the local authority grades got theirs in July 2001 so there have been a series of payments of pay awards which includes arrears as well as current increases from the month in which they are paid out. All the awards that have been paid this financial year relate to the 2001 pay review some of them with effect from the 1<sup>st</sup> April others with effect of the 1<sup>st</sup> August which are the two dates in which the pay review is paid, with the exception of the Police from Inspector up who had a historical claim settled on the 1<sup>st</sup> September 1998. I think it was some miscalculation or something to which they had become entitled which had not been given to them when it was due on 1<sup>st</sup> September but with the exception of those four ranks in the Police Department all the pay awards relate to 2001.

Mr Speaker, the hon Member made the further point that he would have thought that it might be possible or desirable and possible that by this stage we might have been able to allocate the additional £1 million that we are seeking under Supplementary Funding to specific heads. At the time that the Bill was published it was done really for two reasons. I have tried to partially remedy that by running the hon Member through what are the main items of expenditure and no doubt we should be looking at them more closely in Committee Stage but the reasons why it has not been done in that way in the Bill itself basically are two. Firstly at the time that the Bill was written the level of expenditure in these heads was still uncertain and the Treasury likes to keep flexibility, not just for that reason, this is expenditure that is still being contracted but secondly as the hon Member will recall before having recourse to Supplementary Funding the practice in Government departments is for virements to be effected from as

many subheads of their existing votes as may have surpluses. That is a bookkeeping exercise that takes some time and very often it is still being done so doing it this way maximises the flexibility once one has done ones virement tidying up to see exactly where are the subheads whether it is still a shortfall after the virement and I would ask the hon Member to distinguish between what is a bookkeeping exercise of that way which will of course still be reflected in statements of reallocation. So the information will still come to the hon Members about how we pass monies around from one subhead to the other but I would suggest that he might be willing to distinguish between that accounting function and reporting function and the actual substantive issue of well what are the elements of Government public expenditure that have actually cost more and why which is something that I hope that I can give him across the floor of the House so that we will have the information that the hon Members want to know and are entitled to and also the flexibility to allow the Treasury to do their tidying up exercise.

Just one final point he did raise the question of the sewers that he would have thought that they might have fitted better elsewhere in the Improvement and Development Fund, my understanding is that this is expenditure I suppose it could be things that one spends on maintenance and operating expenditure if it results as a result of a need of some capital investment project it has in the past been dealt with itself as capital expenditure but the reality of it is that this expenditure that we are voting here does not relate to the actual works of rebuilding the sewer. They are actually operating expenditure it is the cost of desilting, it is the cost of operating the pumps, it is the cost of actually bypassing the sewer, the collapsed sewer section so that the sewer system continues to work. In that respect it has been taken as operating expenditure rather than Improvement and Development Fund capital expenditure which is how presumably we would treat when we actually issue the contract for the repair of the sewer. That would be regarded as capital investment and any expenditure that we need to incur in the meantime just to keep the sewer system working is regarded as operating expenditure and

therefore properly dealt with through the Consolidated Fund as unforeseen expenditure.

Question put. Agreed to.

The Bill was read a second time.

#### **HON FINANCIAL AND DEVELOPMENT SECRETARY:**

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

Question put. Agreed to.

#### **PRIVATE MEMBERS' MOTION**

#### **HON J J BOSSANO:**

I beg to move the motion of which I gave notice, namely:

(1) "This House –

**Regrets** the failure of the Secretary of State for Foreign and Commonwealth Affairs to provide in his reply to the motion of 20<sup>th</sup> December 2001 the assurances sought that there can be no question of changes to the Customs and VAT regime of Gibraltar

in the EU being considered other than at the request of the Gibraltar Government after consultation with this House;

**and calls upon** the Leader of the House to inform the Secretary of State of the terms of this motion and to seek from him confirmation that this is indeed the position of Her Majesty's Government as stated by the FCO Director for Gibraltar James Bevan in discussions with Members of the Opposition."

Mr Speaker, in the original motion of December which I brought to the House which was passed with amendments from the Government, we finished up with a position in which it was the unanimous view of this House that it was not up to the United Kingdom on its own initiative to undertake any negotiations which would bring about changes in the terms of membership of the EU which Gibraltar obtained prior to 1973 with its accession negotiations and which in fact was Gibraltar's choice although it was the recommended choice of the United Kingdom at the time but it was nonetheless Gibraltar's choice. The Government of Gibraltar of that day were given the option of either joining the Customs Union and VAT or staying out. In the reply submitted by Mr Hain through the Leader of the House on behalf of the Foreign Secretary that request did not contain that assurance since it seemed to leave the door open to the United Kingdom taking the initiative and then consulting after the event the Government of Gibraltar and whether consulting means doing what the Government want or not is a matter which is increasingly put in doubt with every passing moment. I mentioned previously in the House that in the meeting that I had with Mr James Bevan I raised precisely this point with him and that meeting took place in-between my giving notice of the motion and the motion actually being debated and I just took the opportunity to do it and indeed issued a public statement on the reply I had received. So therefore it looked at this stage as if the British Government had no difficulty in accepting the position that we want in this House.

I am going to read in the House and for Hansard record what is my record of what Mr Bevan said in our meeting because I think it is impossible for the statements that he made to be interpreted in any other way and when I asked him on what basis was it that, for example, Jack Straw was saying that Gibraltar's Customs and Tax Regime could not continue independent of any deal with Spain or otherwise that it had nothing to do with any negotiation with Spain that this was driven by other considerations of the EU, where was the basis for that statement to be found was it in some directive or is it in draft directive or where? Because we were being given the impression that what the United Kingdom was saying was our position is not sustainable because we have got to scrap the regime we are joined today whether we like it or we do not and that did not seem to be compatible with our terms of membership and that therefore the alternative was supposed to be better simply because we were scrapping what we had not because it is better than what we have. His reply was that this was not the case that we were not being told that and he said that the message from London was and I am quoting the words that I took down as he said them, "*...that there may be a case, that is to say, the people of Gibraltar might need to take a view that maybe there is an argument in 10, 20, or 30 years time that we would be better served by having the remaining barriers removed which exist between us and the EU and that might mean having to introduce the Common Commercial Tariff and VAT.*" I have heard few statements with so many if's and but's and qualifications as this one and certainly I do not think any of us in Gibraltar would lose a night's sleep with this formulation of the nature of the threat to our Customs and VAT regime. Since Mr Bevan was sent out here to bring messages from his political masters, either the guy got the message totally garbled up on the way to Gibraltar or else his political masters ought to do what we are asking him to do which is to confirm that that is the position. In my motion what I am essentially saying is we should go back and insist on the assurance and I am making specific reference to the statements made by James Bevan to me. I feel that by sharing my notes of that meeting with the House I do not think that anybody can be in any doubt as to the clarity of that message. I do not think it is capable of being interpreted that the United Kingdom may be

talking to Señor Piqué about getting rid of Gibraltar as a duty free shop which is what Mr Piqué seems to think is happening and therefore on that basis and with that explanation and given the unsatisfactory nature of Mr Hain's reply to the previous motion, I commend this motion to the House.

Question proposed.

#### **HON CHIEF MINISTER:**

Mr Speaker, I detect from the remarks that both he and I make whenever we discuss this issue that we are probably agreed that there is no obvious visible and certainly no current advantage to the cause of action that would involve the inclusion of Gibraltar in the Common Customs Union. I have already had occasion to comment publicly that it is odd that a kite of this sort should be flown in Gibraltar by the Foreign Office notwithstanding the fact that it has never been raised by the British Government with the Gibraltar Government and I think they understand that if they fly this kite with anyone that has the preparation and the arguments available they will never get any positive response from it, they only pursue the debate on the basis of floating it to people who perhaps have not given or are not able to give the matter the fullest widest and comprehensive consideration that it requires. But I repeat to this House that this is not an issue that the British Government have raised with the Gibraltar Government and therefore when I have made comments at the Chamber of Commerce Annual Dinner and also at the Chamber of Commerce Annual Meeting it has been on the basis of my reactions to what I have read in the press that people have been told. All of a sudden Gibraltar finds itself debating this and one does not know exactly why it is one of these kites that have been flown I have no doubt from the Foreign Office meetings with the likes of the Chamber of Commerce but I think that we should resist in Gibraltar people making us debate issues other than through the

usual and conventional channels. I think it is wrong that Gibraltar at large should be debating the question of membership or not of the Common Customs Union at a time when the political class Government and Opposition, for example, the House, the Government have not yet been engaged by whoever is interested in promoting this view. Let me say that I do not know what might happen in the next 30 years which is a period of time that Mr Bevan appears to have mentioned to the hon Member but certainly it is unlikely that we will see the benefits of membership of the Customs Union before Ceuta, Melilla and the Canary Islands do and one of the things that I find completely disingenuous completely disingenuous when I hear on the lips of Foreign Office officials that this is something that we are thinking of doing or including in the package of measures and let us not forget they say it is to obtain a prosperous, secure and stable future for Gibraltar. Mr Speaker, if there is anybody in the Foreign Office who thinks that the economic stability and security of Gibraltar can be obtained on the basis of Common Customs Union membership it shows either a complete lack of understanding of the economy of Gibraltar or otherwise an indifference to it and I would like to prefer that it is the former. How the United Kingdom in a bilateral political process with Spain should be even mooted the question of altering Gibraltar's custom status, never mind behind the backs of the Gibraltar Government, with the very country that insists on maintaining that different status for its own territory Ceuta, Melilla and the Canary Islands. If the British Government do not believe what the significance of this issue is I suggest that the British Ambassador goes to Ceuta, Melilla and the Canary Islands and moots with the politicians responsible for the economies of those territories what they believe are the possible advantages to those territories of Common Customs Union membership. The Gibraltar Government remains firmly opposed to this initiative on the basis of the economy as it is presently structured. We see no benefit whatsoever to the elimination of the so called remaining barriers and therefore to the extent that we participate in the debate we will continue in fact I said at the Chamber of Commerce dinner that after the question of sovereignty this is possibly the most important element of what may emerge in a package that we

need to be wary of as being a threat to our future. I do not believe that flying this kite is motivated by a concern for our economic stability and prosperity at all I think it is much more likely to be motivated by a desire to offer Spain elements of a package that Spain may want and one of the things that Spain may want is things that have the effect of reducing our well documented ability to ensure that our economic success means that we do not find ourselves under unfair pressure to do the sort of deal of which the people of Gibraltar may not approve or may not wish in a referendum. Our finance centre is one, our status in respect of the Common Customs Union is another, and these are important pillars of the economy which frankly in the Government's view should not be debated in a destabilising fashion in the way in which this debate has been irresponsibly initiated.

All that said, Mr Speaker, and whilst the Government agree entirely with the first paragraph and we will support the first paragraph of the hon Member's motion the hon Member has developed the unconventional habit of late of setting homework for the Government so to speak by including some chore that he thinks that the Chief Minister as Leader of the House should be doing and I am very happy as he knows to confer and consult with him and to receive his views either publicly or privately about issues of this sort. I do not think frankly that as a matter of institutional relationship it is right for this House to with such frequency set down tasks that it thinks the Chief Minister or the Leader of the House or the Government should do. We therefore propose an amendment to delete the second paragraph and simply to replace it with a sentence or a new paragraph which would read "*and reaffirms the motion of the 20<sup>th</sup> December 2001,*" the amended motion to read:

"This House –

**Regrets** the failure of the Secretary of State for Foreign and Commonwealth Affairs to provide in his reply to the motion of 20<sup>th</sup>

December 2001 the assurances sought that there can be no question of changes to the Customs and VAT regime of Gibraltar in the EU being considered other than at the request of the Gibraltar Government after consultation with this House;

and reaffirms the motion of the 20<sup>th</sup> December 2001."

Mr Speaker one of the difficulties that I have with what the Leader of the Opposition asks me to do in the second paragraph which is basically where he calls upon me as Leader of the House "*to inform the Secretary of State of the terms of this motion and to seek from him confirmation that this is indeed the position of Her Majesty's Government as stated by the FCO Director for Gibraltar James Bevan in discussions with Members of the Opposition.*" I think I indicated to him last time that we discussed this that it was either difficult or unusual or unconventional for the Government to act on the basis of what was an oral conversation. I can suggest to him two alternative courses of action in that respect. The first that I would welcome is that he who had the meeting with Mr Bevan should write to Mr Bevan and say, "look this is what you told me in the meeting that you have had with me, the Leader of the House has given to the House copies of the letter that he received in reply to the motion, they do not seem to square, will you please confirm that my recollection of the meeting is correct." I would find that actually useful if the hon Member would do it, alternatively he could write to me with a more comprehensive version of the sort of summary that he has just given across the floor of his note and recollection of the meeting and in response to the letter from the Foreign Secretary I could then write saying, "this is what the Leader of the Opposition's recollection or version of what Mr Bevan said to him, can you please confirm that that is indeed the British view." I would prefer to proceed in neither of those rather than in the way that he suggests in his motion and therefore, Mr Speaker, I commend the amendment to the House.

Question proposed.



**HON J J BOSSANO:**

Mr Speaker, I will accept the amendment moved by the Leader of the House and let me say that he has volunteered to be given these constant jobs of carrying out things because my original suggestion was that it should be your job to do it and he preferred that it should be his.

That is fine, but then he says that he does not want to do it because he has got too much on his plate, well then he ought to let somebody else do it so.....

**MR SPEAKER:**

Have I heard the hon Member correctly, you accept the amendment?

**HON J J BOSSANO:**

I accept the amendment and I am now speaking to the reasons that the Chief Minister has given for moving the amendment which is that the first part is fine but in the second part I am calling on him as Leader of the House to convey something to Her Majesty's Government and that he does not think it should be done with such frequency. Well obviously the only reason why I am asking him to do it frequently is because if he had not indicated the first time it was done that he thought that it was something that he should be doing as Leader of the House rather than you as Speaker all these motions we would be asking you to do it and you might not find the frequency unacceptable. He volunteered to do the job and then he does not like doing it well I am afraid I will have to continue whenever I think we ought to communicate the collective view of the House to the British Government or to anybody else to seek to do it through him unless he indicates that he is willing to let the Chair do it, I always

thought that it was perfectly okay for the Chair to communicate the views of the House but given that in this particular case he suggested two alternatives which as far as I am concerned meet the objective which is to pin the British Government down to either stand by what it said or not, then I accept the amendment on that basis and I will have something later to say when I close on the original motion unless you tell me that I am now making the final speech in which case I will carry on and say it.

**HON CHIEF MINISTER:**

Mr Speaker, the hon Member has misunderstood me it is not a problem with frequency and it is not a problem of too much on my plate thankfully I am endowed with considerable stamina and volume of work has never been a problem for me it is just that I do not think it is right for the hon Member to be seeking to do these things, the House is a Parliament, it is a legislature it does not transact business with any other person and it is not for the House of Assembly to be in correspondence with the British Government this is just unheard of in western parliamentary democracies. There is a Government in Gibraltar and in the United Kingdom for the purposes of transacting business between Gibraltar and the United Kingdom and there is a parliament in which Gibraltar debates its affairs and passes its laws in which there is a Government and an Opposition and the hon Member with the greatest of respect and through this device has sought to obfuscate those different institutional functions and it is not a question of whether I do it or whether the Speaker does it, I think it is as inappropriate for the Speaker to be writing these letters in fact it is even more inappropriate the idea that the Chair of the House should be used as some sort of executive secretariat through which Parliament seeks to conduct the Foreign Affairs of Gibraltar with the British Government. This is an absolute nonsense and the Government would no more than allow that to happen using their votes in this House than we are willing to allow ourselves to be used as an instrument of the hon Members desire to do things of this sort. This House is perfectly free to express its

view on any issue through a motion and it could even in that motion express the view that the Government should make these views known to the British Government and that certainly would be all right but to actually say who the Government should write to, who should do the writing, who should be the recipient of the letter and what the letter should contain I think is completely unconventional and it is not a procedure that the Government are any longer willing to allow the hon Member to have recourse to. So, Mr Speaker, the Government obviously will vote in favour of their own amendment and will vote against, my recollection of procedures on these occasions is that of course one does not vote on the unamended motion once it has been amended because there is nothing to vote on but that is what the Government will be doing.

**MR SPEAKER:**

The thing is the amendment has been accepted so really the question of voting is a foregone conclusion.

**HON J J BOSSANO:**

Mr Speaker the capacity for work is not joined by the capacity for memory of the Chief Minister. We have done lots of motions lots of times and the position is quite simple, I move a motion in this House and if the Chief Minister takes away one word from that motion in an amendment it is my motion as amended by the amendment moved by him. What I was asking for on the assumption that he would want to intervene again when you asked me to reply to his amendment I was pointing out that if I replied to the amendment and I replied to the original motion I would be depriving him of the opportunity of saying all the things he has had the opportunity of saying and he would have burst and I did not want that to happen to him.

Let me say Mr Speaker, that the new formulation that the Chief Minister has made today seems to me simply because he is niggled that I have done it once too often and not because I am obfuscating, to quote his peculiar word, anything or anybody. There is a reason for this and the reason for this is that when we have passed previous motions asking the United Kingdom Government to behave in a particular way he did not think we were conducting in some peculiar way foreign affairs through Parliament what happened was that we did not get any replies and then when I asked the Government whether they had obtained a reply, for example, going back to the 1987 Airport Agreement motion, which was still standing there he said to me, "*Well look I am not going to use an Exocet missile to get the British Government to reply,*" and when the British Parliament debated in Question Time whether the Government of the United Kingdom had given us a reply on some of the motions that we had put in this House on self determination and the Treaty of Utrecht, the reply of the Foreign Secretary was to tell the House of Commons that no reply had been requested. So, if the Foreign Secretary says that he did not reply to this House because no reply was requested then if anybody was obfuscating anybody it was the Foreign Secretary obfuscating the House of Commons and me and not me obfuscating the House of Assembly. The logic of the request is that before that request was included in the motion the British Government took the absence of the request as a signal that no reply was expected or anticipated and therefore to pass motions which then are carried unanimously in the House and are not transmitted to the British Government because we are not asking for them to be transmitted and then it is transmitted to the British Government because we asked for it which was stage one. Stage one of this innovation was asking for the motion to be brought to the notice of the Foreign Secretary and then when the Foreign Secretary said in the Commons, "I do not reply because they just bring it to my notice but they do not ask for a reply," the second stage was to say, "okay we now bring it to your notice and we want an answer" and I did not think it was anything unusual to ask the Chair to transmit that request from this Parliament to another Parliament because precisely it was on the basis that it was not a party political issue but a unanimous view of the

Parliament of Gibraltar seeking of the colonial power, it may be that inevitably non-colonised territories who are not under the rule of a foreign country do not need to do this kind of thing but we still are until they accept our new Constitution. Therefore Mr Speaker there is nothing more sinister in a list than that there is a logical sequential order of things. I know how difficult it is for the Chief Minister to believe that there is anything at all anywhere that is not sinister but believe me there is not, *[HON CHIEF MINISTER: On your part]* on my part anyway I know that I accept that, I am sure that I am not alone in that category but maybe I am high up on the list of sinister, I can assure the Chief Minister that he thinks I do it more often than I do and this is not one of those occasions when I am doing it. Let me just add one important element, in respect of the original motion the atmosphere that has been created in Gibraltar, the Chief Minister is quite right it is completely unorthodox on the part of the British Government to be sounding out other people without having first raised it with the Government of Gibraltar as to whether it is the route that they want to go down or not want to go down and in any case it is a matter of public knowledge that we see no advantages whatsoever in going down this route. I think it is important that as well as these unattributable articles in the press we have had it directly from the Foreign Affairs Committee of the House of Commons in that when I went over there and I spoke with them they had just returned from the visit to Madrid and they said that they had had a meeting with Ramon de Miguel and Señor de Miguel seemed to be almost certain that the disappearance of our so called fiscal privileges which is simply our fiscal status which privilege is because other people are worse not because we are better, we have got what we negotiated, in any case even if we were the only ones those were the terms that we negotiated and I believe we have a legal right to those terms and therefore they cannot be changed without our consent. Ramon de Miguel seems to think that indeed this was not something that would or could remain and that is really, we are talking about a totally different scenario, if on the one hand we are being told as I have been told without being specific I have been told that myself originally in my meeting with Mr Hain that it is just the world moves on and in this moving on world what was considered acceptable in 1973 is not going to be considered

acceptable for much longer because we have now got a barrier free community but of course we are not inside that barrier so the argument does not seem to hold water. If the Spanish position has been raised it indicates that this must be something that is quite high in that negotiating process and I certainly think that the most obvious explanation that occurs to anyone is that the reason why it is high is because the idea that the economy of Gibraltar should be independent of the economy of the hinterland goes contrary to the long term project. The long term project, the more closely integrated we are the more likely we are to fall into their laps and therefore I hope Mr Speaker that following this motion we will be able to put this particular threat to bed once and for all.

Question put. Amended motion carried unanimously.

#### **HON J J BOSSANO:**

I beg to move the motion of which I gave notice, namely:

(2) "This House notes the explanation provided to the House by the Minister for Europe Peter Hain that the British Government aims to agree proposals with the Spanish Government based on the following four pillars:-

- (a) Safeguarding Gibraltar's way of life;
- (b) Measures of practical co-operation;
- (c) Extended self-government;
- (d) Sovereignty.

**Declares** that it is totally opposed to any sovereignty concessions being offered to Spain in exchange for achieving safeguards for Gibraltar's way of life, extended self-government or measures of practical co-operation.

**Therefore rejects** the framework of the four pillars upon which the British Government aims to agree proposals with the Spanish Government and calls upon the British Government to discontinue its negotiations with Spain on this basis.

**Requests** the Leader of the House to transmit the text of this motion to the Minister for Europe and to seek from him written confirmation that the British Government will abide by the wishes of the people of Gibraltar as expressed by their elected representatives in this motion.”

Mr Speaker, I do not know whether the Leader of the House has been persuaded by my closing remarks of the preceding motion but I believe it is important that if we are able to have unanimity on this and I do not see why we cannot because frankly it seems to me that it seems to be consistent with the position that the Government have taken of saying no proposals that are rejected should permit this framework to survive and in any case saying the framework is one that we are opposed to I am opposed even to the existing framework never mind this one but I am limiting myself to getting a unanimous view which I think ought to be possible to say we are not in agreement with the new architecture to use Jack Straw's words, that is being built on these so-called four pillars and I think this is entirely consistent with the statements that have been made by the Government in the press and indeed on National Day last year that we are not willing to trade for any of these things which are ours by right any concessions on sovereignty to Spain and consequently if we are not prepared to consider this as any kind of basis for any improved relations with our neighbour then the British Government must discontinue this process because in fact to continue the process against the views of this House, against the view of the Government and the Opposition, against the views of the overwhelming majority of the people of Gibraltar who attended the demonstration the other day I think is to give the impression to the Spaniards that they are willing to deliver something notwithstanding the fact that they are committed to respecting our

wishes. It is entirely inconsistent for the British Government to know that our wishes are in one direction and to continue working in the opposite direction to the one where our wishes lie and I believe that everytime we debate this in the House and everytime we make our position clear we give the necessary ammunition to our friends in the United Kingdom Parliament to point to the British Government that they are acting as if they did not intend to honour their pledges notwithstanding the fact that they keep on repeating their pledges and the more effective we are I think in the strategy of exposing this inconsistency the better I think it is in terms of the aftermath of the rejection in relation to Spain. Frankly it seems to me that the more those expectations are raised as I said in the previous motion as they appear to have been raised according to the Members of the House of Commons, Foreign Affairs Committee who got the impression that the Spanish side were almost convinced that in barring minor details and barring the exact timing it was almost in the bag already. The message to London and therefore the message to Madrid who monitors everything we say and do in this House is that we are not going to permit it and I think the right way to do it is to seek an answer from the British Government given the fact that they chose, they have deliberately chosen Mr Speaker in the text of the Hain reply to bring these matters up in the reply to the House. They make it an issue and I think having had a reply from Mr Hain setting out this basis we should not simply ignore what he said, I think we have got to go back and reject that position and tell them that once rejected by us they need to abandon that foolhardy course that they have undertaken which can only end in tears but not necessarily for us.

Question proposed.

**HON CHIEF MINISTER:**

Mr Speaker, the Government agree with much of what the hon Member says and also with something that he has said that

regrettably is not reflected in his motion and which we would like to insert and that is this concept of things surviving the referendum rejection. The hon Member knows that the policy of the Government is that we are in favour of participation in open agenda dialogue with Spain, the Gibraltar Government have no difficulty with proposals being put to the people of Gibraltar in a referendum so long as there is real and complete respect for the wishes of the people of Gibraltar once they have been expressed in a referendum and we believe that that requires that nothing survives a referendum rejection.

The Gibraltar Government's campaign is focused sharply on trying to expose in Britain what the British Government in my opinion obfuscates in Britain and therefore try to prevent which is that whereas the British Government say to public opinion in the UK *"the people of Gibraltar will have the last word in a referendum and nothing will be implemented against their wishes,"* this sounds very good, people in the United Kingdom might say *"well what a considerate Government we have in the United Kingdom how respectful they are of the wishes of the people,"* but what they do not get told in the United Kingdom is that and this is the bit that they leave out which is why we are focusing on it as our campaign, what he does not say in the United Kingdom is *"but whatever they vote in a referendum we are going to make in principle political concessions to Spain in a manner which survives politically and diplomatically whatever they say in a referendum."* In other words that the referendum will be about implementation or non-implementation in practice of proposals but the referendum will not be about whether the British Government should or should not adopt in principle positions in relation to our sovereignty and our future which are against our wishes and contrary to our views as we have expressed in a referendum. We believe that real respect for the wishes of the people of Gibraltar has to comply with both, respect for their wishes in the practical sense, implementation non-implementation, but also that the British Government should not make political concessions whether or not they are implemented in practice which have the effect of restricting, curtailing, adjudicating our rights for the future

in a way which is contrary to the views that we express in a referendum. All that is one important pillar of the Government's policy, another important pillar of the Government's policy is that we want public opinion and Parliamentary opinion in the United Kingdom and elsewhere in Europe and more globally even than that to understand that we are not against dialogue that we are actually pro dialogue and therefore I would like to make this motion positive in that respect. We are not saying no to dialogue, reasonable dialogue on an open agenda basis safely in which nothing can emerge contrary to the wishes of the people of Gibraltar, we are saying no to participating in dialogue which is booby trapped, which starts with an Anglo-Spanish agreement of applicable principles which principles, including we all suppose sovereignty concessions, will predetermine the outcome of the bits of the dialogue in which we are invited to participate and which principles will survive even a referendum rejection by us of proposals based on those principles. In other words we want dialogue, proposals, referendum, if we say no nothing is left on the table and we all go back to square one. That is what we are willing to participate in. What we are not willing to participate in which is what is going on and what is on offer and which is the chair that we leave empty I call it the "booby trapped empty chair policy" is declaration of principles by the UK and Spain over our heads including sovereignty concessions to Spain.

Phase 2, dialogue to work up detailed proposals implementable proposals based on those principles, the proposals based on the principles but not the principles themselves will get to be put to the people of Gibraltar in a referendum. If we turn down the proposals the proposals will not be physically implemented but the principles upon which they are based remain on the table for all time as the agreed Anglo-Spanish position of the principles applicable to the solution of the Gibraltar problem. That is the process that is going on, that is what we will not participate in, that is not what is being explained fully to British public opinion, that is what we are trying to explain more clearly to British public opinion and we would like this motion to focus much more sharply on the Government's view of life rather than this which contains nothing

with which we would disagree but which nevertheless does not focus the issue as the Government are actually focusing the issue in the politics that they are producing or in the demonstration that was supported by almost the whole of the population of Gibraltar. We would like therefore this motion to be much closer to the approach to this that we now know has the overwhelming support of the people of Gibraltar.

Mr Speaker, in order to assist hon Members with the amendments that I am proposing I have prepared two documents and I am going to ask the Usher to distribute them both. One sets out the original motion as moved by the hon Member which shows in italics additional language which my motion seeks to introduce and shows but crossed out language included in the hon Members' motion which my amendment would have the effect of dropping. So in other words at a glance the hon Members can see what the original motion looked like, what it will look like with the additional language which I propose to amend and what it will look like with that of the Members' original language that my amendment seeks to delete and then also for the record the second document that I am circulating is the motion in clean as it will read as amended only with the language that survives the amendment including obviously the language that is introduced by the amendment. I beg to move that the motion be amended as follows:

“ This House notes the explanation provided to the House by the Minister for Europe Peter Hain that the British Government aims to agree a framework with the Spanish Government based on the following four pillars:-

- (a) Safeguarding Gibraltar's way of life;
- (b) Measures of practical co-operation;
- (c) Extended self-government;
- (d) Sovereignty.

Declares that it is totally opposed to any sovereignty concessions being offered to Spain against our wishes in exchange for achieving safeguards for Gibraltar's way of life, extended self-government or measures of practical co-operation or for any other purpose.

REJECTS AND condemns, as a betrayal of our rights and wishes as a people, any Anglo Spanish declaration, agreement or framework of principles which makes in-principle sovereignty or other concessions to Spain against our wishes.

CALLS ON THE British Government not to enter into any such declaration, agreement or framework.

SUPPORTS Gibraltar's participation in reasonable dialogue AND SUPPORTS good neighbourly European relations with Spain based on reasonable dialogue and mutual respect.

Requests the Leader of the House to transmit the text of this motion to the Minister for Europe.”

Mr Speaker, as I have said before, the text of the motion as it will now stand appears in clean in the second piece of paper that was distributed. In my view and the views of my Colleagues the amended motion retains the essence of the hon Members' motion, it retains the expression of the House's view on the striking of agreements based on those four pillars but then goes on to deal explicitly with Gibraltar's position on dialogue and reasonable dialogue and in doing so sets out and explains the reasons why the dialogue to which we are currently invited is neither safe nor reasonable in the context of the threatened framework of declaration of principle. I keep on using all these labels for it because really the British Government have not themselves baptised it in a letter to me by the Foreign Secretary who called it an agreement, in another letter and in another

statement indeed I think it was in an interview that he gave to the Gibraltar Chronicle he spoke of a framework in which quote if I am correctly recalling him, “ *some of the edges are greener and harder than others*” meaning that some of what could be in that declaration was negotiable but other bits no. In other words the greener and the harder edges would not be negotiable and all these things are just different euphemisms to describe the same thing namely a process, a procedure, a chronology, a choreography of events and documents that will have something at least at a political and diplomatic level surviving the result of whatever referendum we may have in relation to proposals based on the principles contained in that document and that is what the Gibraltar Government are opposed to. We are not opposed to the process of dialogue, we are not opposed to the emergence of proposals, we are not opposed to these proposals being put to the people of Gibraltar in a referendum. What we want is the results of that referendum to be fully and properly respected in the theory and principal as well as in the practice and not for a distinction to be drawn between theory and practice and just before I sit Mr Speaker, I would just like to make this remark and that is that hon Members will be aware that the British Government’s commitment to the people of Gibraltar as set out in the preamble to the referendum speaks of not entering into arrangements. Mr Speaker, it would in my opinion be a wholly unjustified, self-serving, and unilateral interpretation of that to assume that the word arrangements as used in the preamble only extends to practical implementation of things. If one signs up to principles whether or not one implements them one is entering into arrangements and therefore the entering into, in the Gibraltar Government’s view, the entering into of in principle political positions affecting the subject matter albeit in principle and not in practice of the subject matter of the preamble itself namely sovereignty is in breach of the preamble because it constitutes an arrangement entered into whether or not that arrangement is entered into in terms that requires one to implement them without the consent of some third part in this case the people of Gibraltar and therefore if only in accordance with honouring the terms of the preamble the British Government should desist from entering into any arrangements against our wishes. The in principle

diplomatic and perhaps even legalistic effect of which survives a referendum rejection regardless of the question of practical implementation or non-implementation of the proposals themselves upon which I have no doubt the British Government’s assurance is entirely reliable. I therefore commend the amended motion to this House.

Question proposed.

**HON J J BOSSANO:**

Mr Speaker, the first thing is that there are a number of amendments, for example, I certainly cannot accept the last amendment and would want to vote against the last amendment to the last sentence because I have already made the position clear that passing motions here which express our view and we tell them and we do not ask for anything to come back is something that we have done in the past, tested and has produced no results. The reason why we do not want to continue doing that is because we think it ends up in a wastepaper bin in the Foreign Office. As far as we are concerned the removal of the last sentence where the Leader of the House simply sets the text of this motion which of course they will have already because this is live and there are people here whose job it is to send the text of everything we say in this house to London all that we are doing is effectively doing what we know is happening already but it does not require the British Government to give any indication to us that it is going to pay any heed to what we have said here and therefore if the Government feel that to ask them to reply to us is something that they cannot support then we cannot support the elimination of that request either. We have put it there because it was introduced sometime ago and it has produced the result that for the first time ever we are getting answers in this House to things we have said. This has never happened before, the Chief Minister does not seem to realise that unsatisfactory although Mr Hains’s answer may be, it is the first time the British Government take notice of something that we have said here which in the past

has been invariably totally ignored irrespective of who has been in Government. Therefore we need to vote on the different amendments because we might vote in favour of one and against another but I am putting the House on notice that certainly the one deleting the last sentence we will vote against. I beg to move the following amendment::

After the words "Minister for Europe" in the last paragraph add the words "and to seek from him written confirmation that the British Government will abide by the wishes of the people of Gibraltar as expressed by their elected representatives in this motion."

Mr Speaker, the original text says that the reply from the Minister for Europe Peter Hain was that they aimed to agree proposals based on the four pillars because that is what the letter says. The letter says, "*we hope to agree proposals resting on four pillars.*" So, since we are replying to the letter I am quoting what the letter said and the letter does not say "aims to agree a framework," the letter says "*aims to agree a framework resting on those four pillars,*" as if in this letter it is not called framework or anything else. The letter suggests that it is the proposals that are going to be agreed with Spain, I know that they have shifted or appear to have shifted between two different scenarios, one is agreeing proposals which go to a referendum which will not happen without an input from the Government of Gibraltar which we are against the Government of Gibraltar putting and which the Government of Gibraltar seem to be not against putting provided it does not survive a referendum. So that is the difference between us. Now obviously as long as they do not go because they have not got a clear commitment that it will not survive a referendum then we do not need to disagree because they are not going for one reason and we do not want to go for a different reason but at least we can be united in the fact that we are not participating. The letter from Mr Hain seems to suggest that they are going ahead with the proposals which was the bit which would go to the referendum because it says they aim to reach an agreement by the summer and that they hope to agree these proposals resting on four

pillars. So the four pillars are really already there and the proposals are based on those four pillars, chapters, areas of agreement or whatever they call them. It is only in the absence of proposals, it seems to me that since they do not want to finish empty handed in the summer, they have suggested that the alternative route is in fact that this so called four pillars would be the text of the agreement that would bring to a close the Brussels negotiating process, that is I think what Jack Straw has said. Now we have no problem with the first amendment replacing "*framework*" for "*proposals*" but except that it is not accurate because the word "*framework*" is not in the letter and we are reacting to the explanations provided by the Minister for Europe in the letter that he sent us. My motion seeks to take a policy decision rejecting those four pillars, that is rejecting that framework. Obviously if the Government are not in a position to do that then we cannot reach agreement on that so, the Government are saying the four pillars are unacceptable if they are against our wishes, well are they against our wishes? I know it is for the people to decide and the people can decide differently but I think the people in this House have got an obligation as well to express our view where we stand and if the Government of the United Kingdom are saying anything it is saying that we the political class have got a view which is not the view of the people and I think that .....

#### **HON CHIEF MINISTER:**

Will the hon Member give way? Mr Speaker, the motion as amended continues to declare that this House is totally opposed to any sovereignty concessions being offered to Spain against our wishes in exchange for achieving safeguards for Gibraltar's way of life, extended self-government or measures of practical co-operation. We are opposed to that I suspect for two different reasons, one is because in principle we are damned if we are going to have to trade things that are ours by right anyway and regardless of that not small fact principally because we are opposed to the quid pro quo for them. So not only do we think



that these things which are ours as a matter of right anyway should be currency in any barter but having made that point we then object to the deal being bartered. The hon Member was beginning to speak as if that sentiment had been eliminated from the text and it has not been eliminated, the House is expressing its view on that in the paragraph which remains as he drafted it and into which I have simply added words "*against our wishes*" to make it clear. The Gibraltar Government do not consider that it should be the censor of what is put to the people of Gibraltar or not put to the people of Gibraltar. We regard our job as primarily protecting the people of Gibraltar from things that they cannot protect themselves from and that is things that never get put to them in a referendum and rejected and then are removed from the table and therefore qualified by the words "*against our wishes*" saves the Government's position. We have views and indeed the whole of Gibraltar appears to have expressed a view last Monday about what its wishes are but there is a difference between saying "*do not do this against our wishes and do not do this when these are things the contents of which we are unaware of.*" The Government of Gibraltar's campaign against the British Government in this respect is focused on the lack of full respect for the wishes of the people in a referendum namely as physically manifested by anything surviving that referendum to our prejudice. Nothing that is said to be in accordance with our wishes can conceivably be objectionable in a democracy unless the Government or the Parliament are seeking to set themselves up as somehow as the protector of the people against their own wishes which I have never regarded as my role in politics.

#### **HON J J BOSSANO:**

Mr Speaker, it is not for me to tell the Chief Minister what he regards as his role in politics what is very clear to me is that there is a difference between saying we reject this proposed framework "we" the people who are here, *[interruption]* well I am not sure that we are because if the original says the House declares that it is totally opposed to any sovereignty concessions

being offered to Spain, period, or we add the words "*against our wishes*", is the Chief Minister saying against the wishes of the people who are here voting or "*against the wishes*" of the people who are outside. Well it does not say that it says "*against our wishes*" here and our wishes are the people here and if it is against our wishes then let us express our wish. We wish this not to be done, now we have no problem and that is not imposing anything or setting up ourselves as the sensors of what the people of Gibraltar may or may not decide. What we think is that the people of Gibraltar are entitled to expect us also to say where we stand and where we stand is that we are against negotiations taking place with the Government of the Kingdom of Spain in order to reach proposals based on the four pillars. *[HON CHIEF MINISTER: Against our wishes]* We want to express our wish now, I want to express my wish now and my wish now is and I do not know what his wish is but if he has got the same wish as me let us say it. What we are saying is Mr Hain has told us, "this is what we propose to do we hope you agree proposals resting on four pillars." Are we in this House content that this should be so? If we are not let us say so let us say to Mr Hain, "*Look we do not want you to negotiate with Spain proposals that rest on these four pillars for the reasons that we have all given because three of these pillars are things that we are entitled to and why the hell should we barter what we are entitled to for a deal on sovereignty.*" If the "*against our wishes*" insertion is not qualifying as declaring our position then what is it doing there? If it is qualifying it and that is my only reservation it is not that I want to overwrite the wishes of the people of Gibraltar I cannot even if I want to. If it goes to a referendum and the people say yes to a deal with Spain I will vote against and I will campaign against but there is nothing that I can do to overturn the results so this is not about overturning the result of a referendum this is about us expressing our position in reply to a letter sent to us by the Minister for Europe and the Minister for Europe has told us what he is going to do and I think we should tell him do not do it, we should tell him do not do it and I think that is what the people of Gibraltar were telling him in the demonstration. Clearly in wanting to achieve a common position with the Government on this we recognise that there are areas in which we hold different views

and what we said about the demonstration was we support it and the Chief Minister knows that there was an exchange of letters and it was on the basis that the text here basically was the same text that we all signed for a previous demonstration when it was done by the Voice of Gibraltar and Self-determination Group.

## HON CHIEF MINISTER:

Will the hon Member give way? Mr Speaker, I just asked the hon Member to give way so that we can just debate this point rather than have to return to it. I honestly do not understand the distinction that the hon Member is making, I am very happy if he thinks the words "*against our wishes*" is ambiguous as to whether it refers to the wishes of the people of Gibraltar or this House. I am very happy to amend my proposed amendment by saying "*against the wishes of the people of Gibraltar*". We are expressing our wishes in the language and the terms that the hon Member is urging on me in the paragraph immediately before and the paragraph immediately after. In the paragraph immediately before the one that I am deleting we say, "*we*" that is the House, "*declares that it is totally opposed to any sovereignty concessions being made to Spain against* " now you can read "*against the wishes of the people of Gibraltar,*" in exchange for the things that we think should not be coinage, safeguarding our right way of life, extended self-government and practical co-operation and I am strengthening it by saying "*or any other purpose.*" In other words, that there are no other lists I have only chosen three, safeguarding our way of life, measures of practical co-operation, extended self-government but anything else that they might dream up one does not know because one week the great allure of this to Gibraltar is that we could be the regional financial services hub and 10 days later when we pointed out to him the irrationality of the point now we are no longer going to be a regional financial service hub, the latest is this container hub. Let us be clear, what is our economic future is it as a regional financial services hub, is it as a regional container hub but certainly it cannot change every 10 days. So we do not know

what else is going to come up in this respect and then he asks, "are we content that this should be so, are we content that the British Government should end it?" Let us express our view now saying that we are not content but that is what we do precisely in the next paragraph, "*rejects and condemns*" that is to say the House "*rejects and condemns as a betrayal of our rights and wishes as a people,*" and it could barely be stronger "*any Anglo-Spanish declaration agreement or framework*" not just the one being worked on but any Anglo-Spanish declaration or principle or framework principles which makes in principle sovereignty or other concessions to Spain against our wishes.

Mr Speaker, I think that the Leader of the Opposition ought to be able to conclude that the remaining paragraph, the one of his that I have left with minor amendments and the one that I have added drawn from the declaration I read at the demonstration, makes it perfectly clear that this House is opposed to the point of regarding it as a betrayal of our rights and wishes as a people. Any declaration, framework or agreement and I use all those words precisely because this thing has not been baptised and they change their own terminology which makes in principle, in principle because that is where we are, we know it is going to be a pre-referendum document not for implementation unless we agree and therefore we are in the realms of in principle concessions and my qualification is simply "*against our wishes*" only I suspect because I have conceptual difficulty with not making allowance for the wishes of the people. I do not want people outside of Gibraltar to think that somehow we are opposed to the wishes of the people of Gibraltar being expressed as if we were somehow doubtful of what result the expression of such wishes will provide and I think we should not lose any opportunity to maximise the transparency and political normality and correctness of what we are saying "yes" to so that what we say "*no*" to then becomes much more credible, much more reasonable, and much more easy to understand and I would ask the hon Member to consider that he can safely support this element of the amendment without thinking that it is having any of the effects which he was fearing or describing when he was

urging a change of language just before. The two surviving paragraphs are intended to have precisely that effect.

**HON J J BOSSANO:**

Mr Speaker, on that basis I accept the amendment which is what I want and is now on the record and it is public and therefore the only amendment we will be voting against will be the one were we are leaving out the requirement that the United Kingdom comes back confirming that they will be abiding by the wishes of the people of Gibraltar as it is being expressed today in this House by us as their elected representatives.

**HON CHIEF MINISTER:**

I would ask the hon Member to reconsider that because it will prevent him from voting for the motion as amended. In a situation in which I have left the request on me to transmit the text of the motion to the House what the hon Member is not paying sufficient regard to is that there is nothing new in the amended motion as far as interaction between the Gibraltar Government and the British Government are concerned.

The British Government are well aware that the position as described in the amended motion is the Gibraltar Government's position, we spent a year negotiating with them on it. When I have told public opinion in Gibraltar that we are trying to have our terms for participation in dialogue met, the famous two conditions, it is exactly all this and Her Majesty's Government do not ignore them it simply does not suit them to accept them and therefore does not accept them but it does not ignore them. If the hon Member is focusing on this matter I have lots of correspondence and lots of meetings and lots of conversations with British Government ministers in which in their refusal to meet the second

of my two conditions, namely no agreements above our heads, they are in effect adopting the position which we know to be their position and that is whether the Government calls for it or whether the whole House calls for it or whether the Opposition separately calls for it. They cannot live with it? Why? Because just to borrow colourful language perhaps that I have used in another place it defeats Baldrick's cunning plan. Baldrick's cunning plan is essentially the distinction between in principle political agreements and implementation and non-implementation of proposals and they are quite happy to say, "*well nothing will be implemented against your wishes in a referendum et cetera et cetera.*" The essence of what they are engaged in because they know that we are going to vote it down in a referendum is that notwithstanding our wishes something will emerge despite the referendum which will represent progress in the bilateral, diplomatic management of this matter between the UK and Spain and the acid test, given that we are all in the realms of speculation, I do not know if the reports attributed to the hon Member that he intends to go to Madrid to find out what these details are but given that we are all in a significant measure in the realms of speculation as to what actually is going to end up in this declaration or framework or agreement with hard or greener edges but the circumstantial evidence is that it is going to represent something that is politically progress for Spain why else will they volunteer to tear up the Brussels Agreement in favour of trilateral dialogue if it was not in exchange for a political framework which was at its most generous to us at least as valuable to them as the Brussels Agreement but probably and realistically speaking more valuable to them than the Brussels Agreement. We do not know and therefore we are commenting on things hypothetically but reading between the lines with what we are told, what we read in the Spanish media with what we are told will then be possible at the end of phase one declaration I think any reasonably intelligent political observer can deduce if not the detail at least the nature of what this document would have to be and this is not a case in which we do something in this House and we send the text to the British Government to find out what the British Government's position is. The Government know what the British Government's position is, the hon Member heard

me deal with it in some detail in my evidence to the Foreign Affairs Committee. He has heard the declaration, he knows the declaration in the demonstration, he has read all the public statements that I have issued in the context of my discussion to the British Government and about the meeting or non-meeting of my conditions for my participating in dialogue and we have pushed the button on the next phase of the campaign precisely because we have reached the conclusion that the British Government do not intend. So this is not a case in which we need any confirmation from the British Government about whether they agree or disagree or whether they will abide or not abide, it is self evident that as the position currently stands they are not abiding and they do not intend to abide which is why what we should be concentrating on is simply making politics mainly in the UK but elsewhere of the sort designed to persuade the British Government or to convince the British Government not to do all of this.

I would urge the hon Member in those circumstances specifically that this is not an issue in which the views of the British Government are unknown or whether we need a reply to the letter to see whether or not they will abide by the wishes of the people of Gibraltar. Within 30 minutes of the people of Gibraltar on their feet expressing their wishes in the demonstration the Minister for Europe was on Sky News saying that he could not understand what was going on in Gibraltar and that the Gibraltar Government were being mischievous and that was obviously the prepared response to the expression of the wishes of the people of Gibraltar in a way and with a volume and with a passion and with a dignity that I think for a long time may never have been expressed in such amount, in such volume and so clearly. So I would urge the hon Member in the interests of unity in this House, if he likes I would accept his support for this motion without prejudice to the views that he expressed before on this issue of asking the Leader of the House to write letters and the record can show that his support for the motion as amended is entirely without prejudice to that issue which in any case in this case is

capable of being distinguished on the basis that the views of the British Government are known.

#### **HON J J BOSSANO:**

Mr Speaker, even if we vote against this particular amendment we will still support the amended motion anyway so the amended motion will be carried. I know there is a slight inconsistency but we do not want to put anything else at risk in terms of the kind of message that we are sending the UK or anybody else. I really believe that if the motion was based on the fact, I think as the original one was, that the transmission of the text should be on terms which require a reply which was one of the phrases that we used at the beginning, it is not capable of being ignored. I know that within 30 minutes of the demonstration Mr Hain was saying something about the Government being mischievous and what was this about the wishes of the people of Gibraltar but I think the focus of the original motion which is being amended has to be understood and that focus is that we will be rejecting in this House their proposals to the extent that those proposals are reflected in the letter from Mr Hain. Mr Hain has not given us the kind of categorical assurance that our status in the EU is sacrosanct which we were seeking and then he volunteered and asked the information that they had the intention of agreeing proposals resting on four pillars. As far as we are concerned the House having been informed of their intention to do this, I think that the House is perfectly entitled to write back and say, *"well okay I know you have the intention to do it we are now asking you not to do it and we are asking you not to do it on the basis that we the elected representatives at this moment in time are the way to ascertain the wishes of the people of Gibraltar"* because the motion says we are rejecting it in the name of the people of Gibraltar. Indeed I think that to some extent it is fully reflected in the amendment that repeats the statement that was read out because those were as far as we are concerned, the statements that encapsulated the wishes of the people of Gibraltar at the demonstration and it gives us an opportunity to reaffirm and

reassert that and I think that it is a good idea but if I am not able to persuade the Government to at least say on terms that require a reply then we will vote against that but we will support the rest of the motion.

#### HON CHIEF MINISTER:

Mr Speaker, the problem that we have is that we have the Government's reply and it really is a nonsense for me and anybody in the Government to vote in favour of language that asks for a reply when my file at No 6 Convent Place is full of replies at one time or another in one way or another to this business of things not surviving the referendum and things of that sort. I do not have replies on the question of whether the deal should be about, whether the counter barter should be safeguarding our way of life, practical co-operation or self-government but on the terms for dialogue involving no agreements over our heads and nothing to survive a referendum which this is just a reflection of, the Government have the British Government's reply and therefore what the hon Member might wish to consider doing is once we have passed this motion himself write to the British Government. I intend to write to Mr Hain today in more or less the similar vane following his "*mischief*" remark and I intend to say to him, "*well look Minister if we call the demonstration the front banner of which and all the statements leading up to which have made it clear behind the banner and with the objective that you should not make any in principle sovereignty concessions to Spain against our wishes that survive a referendum, 25,000 people marched behind that banner on that question and within half an hour you say that the Gibraltar Government are being mischievous. Well the only mischief to which you could be referring to is that the British Government do not intend to do any of the things that we are marching about. Therefore in order to render your remark about mischievousness defensible and accurate and fair and truthful please now confirm to me that you do not intend to enter into any form of agreement which makes concessions to Spain, because only if you are*

*willing to say that is your remark about mischief explicable in any honest political debate and therefore in a sense it is more or less the same issue but I am not signing up to language which suggests that I do not know what the British Government's position is.*" I am grateful to the hon Member the Government just simply do not want to be incoherent with the state of their bilateral discussions, negotiations, correspondence position in the British Government. I am grateful to the hon Member for his expression of intention to support the motion and I for my part simply record on behalf of the Government that the Opposition support does not prejudice or dilute or in any way adversely effects the wishes that they had expressed earlier on today about whether or not it is proper for the House to ask the Leader to do this or that in the context of any past, present or future motion which they may seek to assert.

Question put on the amendment. The House divided.

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 A Corby
	The Hon Mrs Y Del Agua
	The Hon J J Holliday
	The Hon Dr B A Linares
	The Hon J J Netto

Absent from the Chamber:   The Hon R Rhoda  
                                      The Hon T J Bristow

The amendment was defeated.

**HON J J BOSSANO:**

Mr Speaker, I think one of the nuances of the difference is of course that the Chief Minister has said that he has got a long file in his office which deals with this on the basis of the terms for participation. Now if this was a motion saying anything that referred to participation we would not be voting in favour, obviously that is well known. So if tomorrow the British Government said to the Gibraltar Government that the framework itself will not proceed without the agreement we would still be opposed to the Gibraltar Government's participation. We are voting in favour on the understanding that that position has not changed .

**HON CHIEF MINISTER:**

The hon Member knows that I have conceded to him in correspondence it is not that we understand that they would not be in favour of the Government's participation in dialogue even under our own conditions provided that it was under the Brussels process.

**HON J J BOSSANO:**

Mr Speaker that is correct, so I think it is important that we know where we each stand and that in fact fortunately for us the British Government have made it possible for us to be united thanks to

the way they are handling this. I think it would have been worse for Gibraltar if we had not a common position which we approach from different angles. Certainly I believe that this motion which is, as far as we are concerned, the rejection of the methodology and not just what will emerge but the methodology which is the methodology which has been described by the Chief Minister as "Super Brussels" he described it in those terms at one stage and it has been described by the Foreign Secretary as the completion of the Brussels Process. It is impossible for the Brussels Process to be completed unless Spain is satisfied that it has achieved what it set out to do when it signed in 1984 because the alternative would have been that they have had a complete change of heart for which there is absolutely no evidence. Therefore in going forward with this motion in the House we are putting another piece in the armoury of the campaign that we need to prevent this being concluded by the summer as the United Kingdom wants.

Question put. The motion, as amended by the Hon the Chief Minister, was accordingly carried.

**HON J J BOSSANO:**

I beg to move the motion of which I gave notice, namely:-

(3) "This House considers that the celebration of International Labour Day on 1<sup>st</sup> May is an important commemoration of an event in the protection of workers' rights and that therefore the public holiday remembering this should be retained on that day of the month."

Mr Speaker, I think last year there was an indication that the date on which the public holiday is taken was going to be changed and

then it did not materialise and I think we were given to understand that there had been some kind of misunderstanding or confusion. This year again although initially it was indicated that it was going to be the 1<sup>st</sup> May the information that came out then was that in January schools were told that the public holiday would fall on the 6<sup>th</sup> May as opposed to the 1<sup>st</sup> May. It is probable that for most people the May Day Bank Holiday is a holiday and that they have got little knowledge of what it was that created it in the first place but it is equally clear that if what took place in the 1860's when workers lost their lives because they were demanding an eight hour day if that had not happened the 1<sup>st</sup> May would not exist. That is the reason for its existence and it is something that in the vast majority of countries the 1<sup>st</sup> May continues to be celebrated in commemoration and in memory of those people who sacrificed their lives so many years ago.

In the United Kingdom it was a Conservative Government that changed it and I think it is very wrong that a Labour Government should not have changed it back and I know that at least there are two Members of the Government, Dr Linares and Jaime Netto who have felt as strongly about the importance of preserving that link with the past and it is an issue frankly which it may be more convenient for people to say *"well look I have a long weekend"* but I believe that since it is something on which many of us feel very strongly it is preferable that it should stay as it has been kept here in Gibraltar and as it is kept in many other places in Europe on that particular day. Indeed I remember in the days of the AACR when they tried to change it at one stage the Trade Union Movement was prepared to go to the lengths of actually calling a strike on the 1<sup>st</sup> May so that people would not work on that day and certainly I think the significance and the importance of that day was something that was highlighted many, many years ago by Dr Linares and the people close to him in the YCW who were particularly the ones who made Gibraltarians of that generation aware of the significance of that with the celebrations that they held in those days. Many of us regret that the day is no longer celebrated as we would like it to be but if it is not, it is not and we cannot force people to do things that they do not feel inclined to

do but I commend the motion to the House on the basis that I believe that it is important and that I believe it is unnecessary to change it and that there is not a level of demand that requires us to move in that direction and that it is unnecessary for us to have quarrels over things which matter to some even if we are not as many as we used to be and that we ought to preserve it and be in line with main stream Europe and not in line with the United Kingdom frankly where the only country that did it to my knowledge and a decision that should have been reversed. I therefore commend the motion to the House.

Question proposed.

#### HON J J NETTO:

Mr Speaker, I rise to speak in this motion which the Leader of the Opposition has given notice not to disagree with the content of the motion but rather to unmask this latest political hypocrisy on his part. The Leader of the Opposition would wish to think that by giving notice of this motion he might still cling on to an image of a working class hero. Unfortunately for him his shameful track record as a Trade Union Official or in political life whether in Opposition or in Government means that he will never have a favourable account in the history books.

Mr Speaker, the Opposition Member has worked hard to portray a distorted vision of political and trade union life in Gibraltar so it is important to lay the facts in front of us so that the public at large can assemble them in a clear picture of reality for what it is. The reality is that the union has been and continues to be for the hon Member little more than an instrument to satisfy his own self-interested political aims to undermine the Government of the day or for the purpose of using the Union as a platform to get elected into Government. The hon Member's entry into the TGWU was not for his love of the trade union movement or for making a sincere and disinterested contribution to improve the condition of

workers, it was as he personally put it to Maurice Xiberras in his resignation letter....

**HON J C PEREZ:**

Mr Speaker, on a point of order, may I ask whether this is a personal motion of censure against the Leader of the Opposition or are we debating the motion that has just been moved because I see no relevance whatsoever with the motion that has just been moved or the manner in which it has been moved and the Minister is being shameless in the way he is carrying on.

**MR SPEAKER:**

Keep to the May Day as much as possible.

**HON J J NETTO:**

As he put it to Maurice Xiberras in his resignation letter of the IWPB quote *"by being really seen as a socialist and identifying myself with socialist policies."* Mr Speaker, in giving a brief account of the Leader of the Opposition's passage through the Union I will give some of the salient issues to be highlighted.

The hon Member would have us believe that he single-handedly achieved parity of wages in Gibraltar. The reality is that throughout the industrial strife of the 1970's to achieve parity that struggle meant two different things for two opposing forces within the Union.

**MR SPEAKER:**

I have to tell you to keep to the motion.

**HON J J NETTO:**

Mr Speaker this is about the motion, it is about the worker's rights and about him trying to cling on to an image to portray himself as a working class hero and I think I have the right to say what he used to do when he was in the Union to undermine working class conditions of employment. The reality is that throughout the industrial strife in the 1970's to achieve parity that struggle meant two different things for two opposing forces within the Union. There were those that by achieving parity of wages meant an end to discrimination by MOD in paying different rates of pay for the same work depending on the nationality of the worker and for the other camp led by Mr Bossano.....

**MR SPEAKER:**

I am going to stop you unless you come down to the motion and forget this attack which should be a substantive motion.

**HON CHIEF MINISTER:**

Mr Speaker, let us be clear the Minister has his views and I believe that he is free to express them. My own view on this matter is that if a motion is moved which suggests a certain affinity and commitment to principles that it is perfectly in order for Members when debating that motion to examine the credentials of the mover in respect of those issues. This is not a court of law where one has to stick to points of relevance, there is a substantive motion here, I think the House and this is my only interest in the point, I think we are getting into very deep water if in order to proceed in a debate on a motion one has to satisfy the House that all that one is saying is relevant to the motion.



What is relevant for one person may not be relevant to the other and certainly quite apart from the ruling that Mr Speaker may wish to make in this particular motion on this particular fact in relation to what my Colleague is saying at this moment in time which of course is a matter for Mr Speaker, but the concept of having to stick to some objectively defined line of relevance I think is a novel one here for the debating of substantive motions and I think it will put the House in difficulty on other motions on other issues.

**MR SPEAKER:**

Rules of debate section 45(12) of Standing Rules and Orders says, "the conduct of Members of the Assembly or other persons engaged in the administration of justice shall not be raised except upon a specific substantive motion moved for that purpose."

**HON CHIEF MINISTER:**

Mr Speaker, the Minister is not questioning the conduct of the hon Member in this House. He is speaking to whether the hon Member is or is not a credible mover of the motion given the sentiments that the motion appears to contain. As I say and it is my only interest in this issue that it will have the effect of narrowing because of course the same rule must apply to the hon Members on any future motion. The theme has got to be strictly relevant, the test will be, if what one is saying would not be relevant to a jury in coming to its verdict on the question posed by the motion then one would not be allowed to speak. Mr Speaker it is up to you.

**MR SPEAKER:**

I rule you can continue but no further attacks on the Leader of the Opposition.

**HON CHIEF MINISTER:**

Mr Speaker, it is not a question of attack or not an attack if the Speaker is ruling as he is perfectly free and entitled to do because what a Member of the House says is critical of the mover of the motion in a way which is relevant to his credibility as the mover or examining the genuineness of the spirit with which he moves the motion, if the Speaker is saying that anything which one says on that issue and that amounts to an attack on the mover of the motion is out of order then I think that the hon Member.....

**MR SPEAKER:**

I rule on two grounds first it is out of order and secondly that it is not relevant, carry on with the main motion.

**HON DR B A LINARES:**

Mr Speaker, I would like to speak and I would certainly like to stick to the terms of the motion. I have no intention in sniping at the Leader of the Opposition. I want to say that I share the sentiments expressed in the content and substance of the motion put before this House but I also have to say if Mr Speaker allows me to express my own feelings running through my mind which I think are feelings that probably I reckon differ from those of the Leader of the Opposition and I say this again without any intention of sniping but simply as a matter of historical fact. Let me explain, I refer to those historical facts those days that the Leader of the Opposition referred to, late '60's and early '70's those glorious May Day rallies when the Regal Cinema and the Prince of Wales Cinema filled to capacity with workers showing their solidarity and the fire officers having to put people away because of safety reasons. "*Concientisacion*" we used to call it using the language of the liberation movements in Latin America. Now some of the

Opposition Members will remember those days but not the Leader of the Opposition.

Unfortunately he was not around at the time, no doubt he was celebrating May Day elsewhere in UK but he was deprived of this very historical local experience that I was privileged to enjoy. Yes, as the Leader of the Opposition said *"those were the days,"* the Union membership had risen from 2,000 members to nearly 8,000 members and there is no doubt in my mind that this was largely mainly due to the fact that at last the Union had been freed from party political influence and control.

In 1974 there was a dramatic turn of events, again I will not enter into any argument or valued judgement as to the merits of these events but it is a historical fact that on the 10<sup>th</sup> May 1974 pretty well the whole of the Executive Committee of the Transport and General Workers Union and many other hundreds of members, the artificers of the Union growth and rise both in the public and private sector felt it necessary to resign upon the sudden arrival on the scene of a Mr Joseph Bossano who was then the Shadow Minister for Labour for the Integration With Britain Party in the House of Assembly who ably succeeded in obtaining a full time job as Branch Officer of the Union. So much for the party political independence of the Union as from that day.

In a way, Mr Speaker, coming back to the issue of May Day, was it coincidental that as from that day the great May Day rallies were never to happen again? I seem to recall that for some years the Union organised bingo sessions on May 1<sup>st</sup> but even that also faded out after a while. May I also in terms of expressing my own feelings with a certain degree of nostalgia also express another concept which again differentiates me from the concept of the Leader of the Opposition with regards to International Labour Day and I think I owe it to myself to put it on record. I have to declare that my commitment to Labour Day and indeed to the worker movement in general is greatly motivated, flavoured

perhaps so to speak, by Christian ideals. I and many of my young militant friends in the Union at the time saw in the Chicago martyrs a reflection of the Gospel, *"A man can have no greater love than to lay down his life for his friends."* This is something that we cannot share and again I say so quite objectively with the hon Member he is an avowed atheist and of course I respect him for this, I respect his views as held in conscience but nevertheless to say that I wish he had equally respected my Christian standpoint at the time when he nastily I think accused me of attempting to gain control of the Union for the Vatican. Even at this late stage I wish to assure the hon Member that I am no fan of the Vatican perhaps because I lived within a stone's throw away from that establishment and as they say familiarity breeds contempt but I do want to profess that I am a fan of Jesus Christ who said, *"Blessed are those who hunger and thirst for justice and they shall be satisfied,"* that inspires me in my attitude to May Day as I see it and what it is all about but I do respect those who see it in a different light.

#### **HON J C PEREZ:**

Mr Speaker, the hon Member perhaps through age seems to have forgotten a lot of the things that happened in the late 1960's and the early 1970's. He has got a way of reviewing history in those days which not all of us share. Even the Hon Mr Netto did not share that view of events as they took place then in the same way as he is depicting it today nor did his father or very many other people. Let me say that the Minister is wrong in saying that the only rallies that were organised were the 1971, 1972, 1973 rallies by the Young Christian Workers, the Transport and General Workers Union continued to organise rallies and got to organise rallies well into the 1970's. Of course he had gone to greener pastures and he might have not even participated anymore because afterwards he took different political views and different standstills and let me also say that never ever and he can never find it recorded was there a remark by Joe Bossano or by any of us fighting him in the union about the Vatican wanting to take over the Union. It is the first time I have heard it and I was

involved in those regrettable divisive days for the working class which some people might blame on one person and others might blame them on others as I blame them on him. But let me say that we all have a way of looking at history and writing history and looking at events and in the same way as he says he respects, and let me say that he does not have to remind the House or the people of Gibraltar that I am an avowed atheist I do so myself without any problem but I respect all kinds of religions, I respect all kinds of beliefs and perhaps we atheists respect more the beliefs of other people than other people tend to respect us and let me say that the motion as it stands is about a very important day in the calendar of working people. That there has been a clear attempt by the Government to use this motion against the person and the record, the very good record of Joe Bossano in public life in Gibraltar and that it is regrettable and that it is shameful that they have attempted to do this and attempt to rewrite history and if they want to move a motion of censure against any of us in Opposition or against Joe Bossano let them do it openly and let them come with a motion and do it and say why they are doing it but to be so opportunistic and to try and be so divisive when they seem to be saying that they are supporting the motion is regrettable for the word that the Minister uses so much the “*dignity*” of the House and for the way that Parliamentary procedure is being abused and for the manner in which they try and utilise positions just to get a kick out of hitting at the person of Joe Bossano or anyone else. It is incredible that we have come in good faith with two motions this morning, we have gone the extra mile to agree with the Chief Minister on those motions which are of great importance for Gibraltar and where the views of the Opposition Members is being taken into account and we have made an effort to agree and that there should be this type of conspiratorial manner in coming and addressing this motion is regrettable and shameful on the part of the whole Government.

## HON CHIEF MINISTER:

Mr Speaker, the Government needless to say bow to the ruling from the Chair but the hon Member would be severely mistaken if he felt that the fact that we bow to the Speaker’s ruling and do not seek to pursue it further through the procedural devices open to us he would be greatly mistaken if he were to interpret that all of that to mean agreement that nonsense that he has just finished his own contribution with.

Mr Speaker he has used the word “*politically opportunistic*” I think the essence of what my hon Colleague Mr Netto was beginning to say and of course he has not been given the opportunity at least not in this House to continue but I am sure he would wish to consider other options open to him to put his views in the public domain, I think the views that he was beginning to unfold was that if anyone is being “*opportunistic*” the word the Hon Mr Perez used it is the hon Member. That is how I understood the comments that my hon Colleague was beginning to unfold, not that he disagreed with the text of the motion but rather that he felt that it was a piece of pure political opportunism on the part of the mover, in this case the Leader of the Opposition, whose conduct in respect of other aspects of worker interests some perhaps more important to workers in Gibraltar than celebrating May Day is not consistent with his alleged subscription to the interests of workers as reflected by the fact that he moved this motion. If there is political opportunism here it is in the hon Members for moving this motion because even though I regard myself as a worker and for that matter one of the hardest workers in Gibraltar I come to this debate with a clean slate and no historical baggage because however hard a worker I might be I am not a trade unionist, I have never been a member of a trade union and therefore sacred cows of the trade union variety are not sacred cows to me but certainly as a worker I would have thought that before becoming obsessed with whether May Day should be celebrated on the 1<sup>st</sup> May as opposed to the 6<sup>th</sup> May I would be more interested in people not raising the taxes of the lowest paid every year by more than the rate of taxes of the highest. If I were

a worker of the sort that the hon Member thinks he has been representing all his life I would want to know this, why does the Leader of the Opposition [*interruption*] Mr Speaker there are rules in this House about interruption which are no less important than the rules about relevance. I can entirely understand.....

**MR SPEAKER:**

If that was a criticism of the Chair I will not accept it.

**HON CHIEF MINISTER:**

Mr Speaker, it is a statement of fact.

**MR SPEAKER:**

It might be a statement of fact but I do not accept it.

**HON CHIEF MINISTER:**

Mr Speaker, the fact of the matter is that I can fully understand why the hon Member would prefer that many of these things were not said but they are going to be said to the extent that they are permitted within this House and to the extent that they are not permitted outside this House. Mr Speaker, the fact is this, if I were a worker and an ex union leader moved a motion in this House setting out the alleged sanctity of the 1<sup>st</sup> May as a day for protection of workers I would wish to look, I would be asking myself this is fine but look so were my rights as a low paid worker in Gibraltar not to have my taxes increased every year in a way that imposed a higher tax burden on me as a low worker than on

anybody else which was the effect of the increase in social insurance every year by 10 per cent, every year except the last year that they were in office. By 10 per cent notwithstanding that the effect of that is that it is retrograde it is a higher tax on the lowest paid. All that I am saying is that these are thoughts that come to my mind as somebody who wants to form an objective view of whether somebody is or is not being opportunistic in that he has raised the concept of "*political opportunism*" in raising motions when there are many other aspects of that person that moves behaviour which are less consistent with this sentiment that lies behind this motion of what is important to workers or not. Government do not have particularly strong views on whether May Day should or should not be celebrated on the 1<sup>st</sup> May. I am told that the vast majority of workers in Gibraltar would prefer to celebrate it in a way that created a long weekend for them rather than a way that it did not.

My own view as a worker is that the relevance of Labour Day is that there should be a day on which one does not work because it is Labour Day a public holiday in commemoration of the sacrifices of workers in previous generations for the benefits that we now take for granted and enjoy today. That is what Labour Day means to me and it is very important to me even though I am not a trade unionist. I believe it is important to commemorate the sacrifices made by generations in the past, the evacuation and things of that sort of which we now enjoy the benefits and take for granted because we did not have to sweat to obtain them. What I do not agree and frankly I do not think the facts objectively analysed sustain is the proposition that the important thing is the dates. I believe that the important thing is that there should be a specific holiday to commemorate Labour Day but I do not believe that it is important whether it is on the 1<sup>st</sup> or the 6<sup>th</sup> May, what can I say in support of that proposition, well I can see the following, when the 1<sup>st</sup> May falls on a weekend, on a Saturday or on a Sunday the Labour Day is then moved to the nearest Monday suggesting therefore that what is important is not the date but the holiday because if I were a trade unionist and Labour Day were sacrosanct for me not as a holiday but because it falls on the date

of the 1<sup>st</sup> May first of all I would do my celebrating on Saturday 1<sup>st</sup> May, I see no evidence of celebration. Who in Gibraltar celebrates Labour Day even when it falls on a weekday, who celebrates it other than by workers enjoying a holiday and thereby having something to show by way of commemoration? No one, whether it falls on a weekday or whether it falls on a Saturday or a Sunday it has been many, many, many years in Gibraltar since the trade union movement did anything to celebrate this allegedly sacrosanct crucial date in the history of workers' rights but what we do know is that when the sacrosanct date falls on a weekend then the sacrosanctness of the date goes out of the window. The principle of the Chicago martyrs and the Tolpuddle martyrs and everybody else goes out of the window and then we all grab for the holiday by moving it to the Monday. If the sacrosanctness of the date is not sacrosanct when it happens to fall on a weekend what we are really therefore saying is that it is not the date that is important in modern labour commemorations it is the fact that a working day is given off so that workers can enjoy and contemplate the sacrifices made for them by previous generations of workers which is what we do when it falls on a weekend and if it is not slaying a sacred cow when we do it when it falls on a weekend I do not see how it is any more slaying a sacred cow when we do it for the convenience of work. The Government have absolutely no interest in the matter, for us whether the day that is lost from work is a Wednesday or a Monday there is no issue for the Government here but I have to tell the hon Members that I am told that and indeed some of the Unions represented in the Gibraltar Trades Council agree that the vast majority of workers in Gibraltar prefer to have an additional long weekend in the year than to have a Wednesday off and Government if we were motivated by anything we are motivated only by the desire to maximise the ability of workers to enjoy such holidays as they were available to them and if having an extra long weekend is a better source of leisure time for working people than a Saturday and a Sunday, Monday, Tuesday at work and then off again on Wednesday because the Government have no particular views on the matter collectively, there are two Ministers who at a personal level have views more similar to the ones the Leader of the Opposition has described, I personally do not share those

concerns I share the determination that there should be a Labour Day holiday I do not share the view and I think circumstantial evidence supports my view that it is not important that it should be done on the 1<sup>st</sup> May and that in fact the evidence suggested that it is not done on the 1<sup>st</sup> May when the 1<sup>st</sup> May happens to be a weekend. All that said and having said also that there is no interest for the Government on this issue I intend to amend the hon Members' motion and that is, that we were written to back in November of last year by the District Officer of the Transport and General Workers Union and the Government have agreed that with effect as from next year the holiday will be put back to the 1<sup>st</sup> May. It has not been possible to do it for this year as the hon Members' know these things are gazetted, banks make arrangements, people yes the hon Member is shaking his head, yes this has been gazetted this is not just a question of what schools were told, the Government are told that many workers have made travel arrangements and booked holidays to avail themselves of what has been announced as a long weekend and it would be quite wrong in the Government's view for all those arrangements maybe involving the payment of deposits to be undermined by altering the date of the bank holiday for this year. The Transport and General Workers Union appears to be relaxed what is important to them is the principle as I say a principle which I do not agree with but as it appears to create issues of principle for them but not issues of principle for the Government, the Government are minded to allow the date to remain on the 1<sup>st</sup> May and thus accommodate the principles of those that have a principle position in this matter. The Government's view is that it does not matter whether it is on the 1<sup>st</sup> or on the 6<sup>th</sup> and therefore no issue of principle arises for the Government and therefore there is no reason why the Government should doggedly insist on altering the date when it has no value for the Government but it appears to have a lingering value even though I personally do not share the view that it should have that value for others. The Union's principle concern is the principle the Government have already conceded to the Union, they understand the reasons why it is not done this year but I have to say in the letter that I wrote to the Unions making these points to them I asked whether they would ballot their members to see whether workers in Gibraltar,

members of the Transport and General Workers Union feel that the 1<sup>st</sup> May is important or whether they would welcome that the holiday should be permanently moved to the nearest Monday. I do not know why it was done in the UK or whether Mrs Thatcher did it as a statement of principle, that would not be why we were doing it here, here we would leave it as it is because it is a matter of principle to the unions or we move it to the nearest Monday because workers believe that it maximises their rest day, it maximises the leisure value to them of the May Day commemoration holiday and the Government are perfectly willing to be guided on that issue by the views that might be expressed. I do not know if the Unions are going to be willing to conduct such a ballot, they have not responded, I do not know if they are going to take a view whether the District Committee should impose its will or whether it should go out to ballot. Certainly Government would welcome a ballot because it would be I think silly if everybody in Gibraltar or the vast majority of people of Gibraltar prefer to do things in one way we nevertheless continue to do it in another way in the name of some principle which is capable of being saved and attended and respected and preserved notwithstanding that we change the date. That is the Government's standing. In order to pass a motion in this House that we can all support I beg to move that the motion be amended as follows:

"This House notes the fact that the Transport & General Workers Union and others in Gibraltar consider that the celebration of International Labour Day on 1<sup>st</sup> May is an important commemoration of an event in the protection of worker's rights and notes also that, in response to a letter of request from the District Officer of the Transport & General Workers Union dated 16<sup>th</sup> November 2001, the Government has already agreed to restore the public holiday to the 1<sup>st</sup> May next year."

Mr Speaker, we conceded the principle to the District Officer in response to his letter of November last year and if we want unanimity on this motion I think we should just note the fact that it is important to the Transport and General Workers Union and

others that it should stay on the 1<sup>st</sup> May as opposed to some other date and that is enough for the Government because it is on the basis of the fact that it is important to them and to others when it is not important in the other direction to the Government that the Government have indeed agreed to restore. If there was some issue of principle of importance to the Government or if there were some other issue making this an important question for the Government the Government might have sought to impose their view notwithstanding the principle views defended and adopted by others but this is not the position this is not a big issue for the Government and therefore we do not think that given that it is not a big issue for the Government it is necessary or desirable to impose it upon others when it is a matter of principle for them and that includes the Transport and General workers Union and other Members in this House. I hope that the hon Members will be able to support the amendment.

Question proposed.

**HON J J BOSSANO:**

Mr Speaker, in replying to the Government I have to say that the amendment is not acceptable. Frankly I do not understand why in November it was not possible to change it for May when it was gazetted in October. One can decide a date in October and cannot change it in November? I think that is what the Government did last year they gazetted it first and then they undid it so it could have been done this year. Now if we had been aware publicly that the position was that the Government had already adopted the position that it would not change, my understanding was that the matter was still under discussion between the Union and the Government and therefore we thought we would wait to see if it was sorted out before we brought the motion to the House not because we were being opportunistic but because if it had been resolved there would have been no need for us to do it. We did it because it seemed to us that since we are now in March and May is very near that we needed to do

something about it ourselves as we have got the right to do and the political responsibility to do and the Government seem to work on the premise that anything that we bring to the House is not looked at on its merits but they choose to convert it into a party electoral campaign as if we were in the middle of a general election. That is their style of doing business, well in that case I suppose one would have to interpret the rules of the House so that if tomorrow we are talking about not making concessions to Spain I would say to the Chief Minister, *"Well you did not think that when you were the election agent of the PAG [HON CHIEF MINISTER: You have said it a million times and I have not complained]* I have said it a million times but he has said other things a million times, I never start this business in the House Mr Speaker, I always react to the things that are being said by Government and if the Minister wants to quote this business of the Union being taken by the Vatican let me put the historical record straight for Hansard. The Minister was not being accused, I am answering Dr Linares. He has attributed to me by name a statement that I was opposing his involvement in the union because it was the Vatican taking over the union, presumably since I am replying, that is the note that I made or is that not the case?

#### **HON DR B A LINARES:**

Will the hon Member give way? It was common talk among the circle that supported Mr Bossano's entry into the Union to say that we were comparable to Opus Dei of all things that we were an arm of the Church. I did not use the word Church I used the word Vatican as the institutional expression of the Church but it was common talk and the hon Members must remember it that our objective and aim was to act as an arm for the Church gaining control of the Union and that the YCW was comparable to movements which were very close to the fascist Government then in Spain namely the Opus Dei and this was the common parlance in all those circles of people in the union and within the Integration

With Britain Party that supported the entry of Mr Bossano at the time.

#### **HON J J BOSSANO:**

Mr Speaker, he is right in saying that he was accused and he was accused by the District Officer Jose Netto based on papers produced by the daughter of Mr Netto, Annie Netto the sister of the Minister not by me or by anybody else. Not only was it common parlance that the Union issued a leaflet with the signature of the District Officer accusing him of it. Now I do not see what that has to do with the 1<sup>st</sup> May or this but the fact that he was accused of that let me say that I was recruited by the District Officer as he knows because the District Officer perceived him as a threat before I even joined. So, let us be honest I think this is completely irrelevant and unnecessary I do not think this is remotely of interest to the people of Gibraltar even the people that value the 1<sup>st</sup> May but they have chosen to take this debate in that direction and in my view it is totally unnecessary and if the Minister is going to say that my record in the Union well I have to say to him that his record today whenever he gets approached by Union Members is that the past is the past and he wants nothing to do with the things he used to say as Branch Officer. That he as Branch Officer can occupy 6 Convent Place and he as a Minister can dismember the Buildings and Works and that there is no incompatibility and no hypocrisy.

#### **HON CHIEF MINISTER:**

Mr Speaker, I have to make a point of order. If Mr Speaker is going to be consistent with his own ruling having forbidden the Minister from launching he cannot.....

**HON J J BOSSANO:**

I am answering only what has been said nothing else.

**HON CHIEF MINISTER:**

Mr Speaker I have no difficulty with anything that the Leader of the Opposition is saying and as far as I am concerned he should be allowed to say it all, what I am complaining about is the situation where the Minister has been prevented from pursuing this line and he is now going to get free rein under the name of a response to half a page it seems to me perfectly nonsensical.

**MR SPEAKER:**

Yes, I will stop him when I feel like it.

**HON J J BOSSANO:**

Mr Speaker, I have no wish to introduce any of this matter but I feel that I cannot simply ignore what has been said already I have no intention of introducing anything new. I have been accused by the Minister of being effectively politically dishonest and having double standards that is what he has accused me on a motion that simply seeks to commit the House to having the 1<sup>st</sup> May that is the accusation against me and therefore I am entitled to.....

**MR SPEAKER:**

Order. So long as you defend yourself without attacking you are perfectly all right.

**HON J J BOSSANO:**

All I can do is to say that by that standard it is a rule that the Minister does not seem to apply to himself because he had one view when he was a Branch Officer, for example, he invaded Convent Place because one person's house was being painted and now he thinks that value for money is important and that the Buildings and Works should be put to the private sector and he has got everybody in the Buildings and Works against him. So whatever he may think of himself I can tell him that he is considered the lowest of the low amongst the workers he defended. And let me say that clearly the Chief Minister approves of the way that this is being dealt with by two Ministers of the Government far more aggressively by the Hon Mr Netto maybe to make up for the infrequency of his contributions to the House and certainly with much more grace by the Hon Dr Linares who had the decency to accept that there are differences between us but that we must always respect each others views, but of course the Chief Minister thinks that workers will be remembering that their insurance went up. Yes no doubt they will remember that their insurance went up, they will remember that as well as their insurance going up, which was to pay for the social insurance schemes, Gibraltar Community Care was created. Gibraltar Community Care gives everybody a supplement which helps the lowest pensioners because it is a flat rate and that the £65 million that has continued to pay for it since 1996 has continued to pay without him having to put one penny. They will remember all that if it is the case as he seems to think that a motion calling for Labour Day to be celebrated on the 1<sup>st</sup> of May is going to cost people to remember all those things. They will remember that they were on half of UK wages and that they achieved parity and that I was one in the front line and that at the time the Hon Dr Linares did not believe in parity, so what, the fact that he did not believe in parity in 1974 does not mean that he is not entitled to have a different view now without being called a hypocrite and therefore it is the approach that is regrettably what unmasks the kind of view of life that has made politics what it is in Gibraltar.



**HON CHIEF MINISTER:**

I am sorry I must record once again my objection. The hon Member cannot be allowed to stand there waxing lyrical about views of life in circumstances where the Hon Mr Netto has not been allowed to expand on his view of life. Either we all express our views of life or none of us express our views of life and because we are bound by the Speaker's ruling, the Speaker's ruling is that we stick to what is relevant therefore we speak to what is relevant.

**MR SPEAKER:**

No one kept to that ruling, he has stopped.

**HON J J BOSSANO:**

Mr Speaker, if the Minister in his contribution ridicules by the use of the language whether we are remembering the Tolpuddle Martyrs or the Chicago Martyrs then that is expressing a view of life and I have a different view of life from him but when he then goes the extra mile and seeks to say, "well look the reason why we are taking the view that we are taking is because in 1974 this happened and in 1978 this happened" if we were to do that over every subject and every motion in this House we would spend the whole of our time here simply throwing mud at each other. What I am saying, Mr Speaker, is that I do not think anything in this motion merited, provoked or required the kind of response but I am expressing the view that there was no need, no provocation and no reason for the kind of reaction that we had from the Minister. That is not to insult the Minister by saying that there was no need for him to react he could have easily stood up in this House and given us the benefit of his view in favour or against of retaining the 1<sup>st</sup> May which is all the motion is about.

**HON CHIEF MINISTER:**

The hon Member appears and I am going to make this point without visiting any of the allegations. The hon Member appears to be overlooking the fact now adjudicated on by the Speaker that the Minister appears to believe indeed what the Hon Mr Perez appears to believe of the Government and that is that there is political opportunism afoot here. Whether one agrees with him or not, whether the Chair agrees with him or not indeed whether the rest of the House agrees with him or not, the Minister the Hon Mr Netto appears to believe that in the movement of this motion there is a large measure of political opportunism. He was engaged in trying to justify that view when he was stopped. He has stopped but the fact that he has stopped or for that matter the fact that the Minister is not as free to defend himself does not alter the fact that we continue to believe that there is political opportunism in the context of the motion and that the hon Member feels that there is not and believes therefore that the whole approach from the Minister is completely unprovoked unnecessary and unnecessary belligerent. We understand that, we believe that the element of provocation which he thinks is absent is in the political opportunism in which the Minister has not been given the chance to make his case.

**MR SPEAKER:**

He has not been given the chance because he has not followed the rules.

**HON J J BOSSANO:**

Mr Speaker, I cannot stop the Minister thinking that. I have always had the view that when people go round thinking things about others it is a reflection of their own conduct which they expect others to engage in. He may think it is political

opportunism I have given a straight forward explanation of the reason why we brought the motion and why we did not bring it earlier because we understood that the matter was still undecided. But even if he thinks that it was opportunistic, we thought it was the right thing to do because we thought it would be a highly popular thing to do and the Government have told us that the feedback that they had is that the opposite is true that there may be only a minority of people who prefer to have the 1<sup>st</sup> May and that most people if asked would rather have the long weekend. So how can it possibly be opportunistic to have something that only a minority want? It is not a question of feedback or not it is just a question that we feel strongly. The Hon Dr Linares brings into this his own feelings, attitude and views as a christian and I know that there are many people who are committed christians who use the slogan at Christmas "*Bring Christ into Christmas.*" And of course that is what we celebrate at Christmas but we celebrate it whether we are devout christians or we are not and therefore for the people to whom it has an additional important religious historical significance the day is not irrelevant, one cannot just say "let us have Christmas Day on the 1<sup>st</sup> January this year." I have to say that it may be that the only one that still celebrates the 1<sup>st</sup> May is the GSLP but we continue to do it and we do it every year and we do it whether it falls on a Friday, Saturday, or a Sunday irrespective of whether it is a public holiday or it is not and we will be doing it on the 1<sup>st</sup> May this year again as we have done every year. We do it privately amongst those of us to whom it matters and we get together and we celebrate that day.

Mr Speaker the reason why we are bringing the motion is not simply because we do it we want the whole of Gibraltar to do it, it is because we actually think that the moment it becomes just another long weekend frankly the less anybody will care what happened and why it happened and why we have the holiday. I really believe that to be the truth and it was in that spirit and in that sentiment I was trying to persuade the Government to go down that road. Nothing more than that, it is therefore totally unnecessary for the Government to be constantly obsessed with

the idea that if there has to be a hidden agenda in everything that we bring to this House and that the way to deal with these hidden agendas is to start off by launching an all out attack on the premise presumably that attack is the best way of defence. We did not come here questioning the credentials of the two people who have been in the union on the contrary I started off my motion by saying, "*that I expected support from Dr Linares and Jaime Netto*" that is how I opened the motion. So, to say that there was anything in what I said in support of the motion that merited that kind of response frankly Mr Speaker I do not think that anybody listening to this debate will swallow that one and I regret that we should have this kind of situation in the House. We cannot support the amendment because in fact the amendment is simply leaving the question open. We would support the motion if it was on the basis that this is it and it is intended to carry on and that was the purpose of our original motion.

#### **HON CHIEF MINISTER:**

Not only am I willing, this is in fact not a retreat at all, Government are perfectly content and the word chosen in the motion is to restore the public holiday. There is an element of going back to where we were in terms of it being, the Government would only alter this now if the Transport and General Workers Union did a ballot or the unions or the Gibraltar Trades Council or somebody did a ballot and there was an overwhelming majority in favour of changing it. Absent to that the Government are concerned with the end of the matter this does not mean nor is it intended to mean that we are only putting it back for next year and I think that two things suggest that. One is use of the word "*restore*" and secondly my proposal now that in-between the word "*May*" and "*next*" we should insert "*with effect from*" to make it clear that this is not just a one year wonder. I move that the amended motion be further amended to read as follows:

"This House notes the fact that the Transport & General Workers Union and others in Gibraltar consider that the celebration of International Labour Day on 1<sup>st</sup> May is an important commemoration of an event in the protection of workers' rights and notes also that, in response to a letter of request from the District Officer of the Transport & General Workers Union dated 16<sup>th</sup> November 2001, the Government has already agreed to restore the public holiday to the 1<sup>st</sup> May with effect from next year."

Question proposed.

**HON J J BOSSANO:**

Mr Speaker, we are accepting the amendment in the light of the explanation that it is too late to change it now and we are sorry that it was not done in November. We think it could have been done in November.

**HON CHIEF MINISTER:**

Mr Speaker could I just say something which I have omitted to say. I agreed with him that if we had done it in November it would have been perfectly doable, the fact remains that for reasons of pressure on other matters, which he can guess, neither the Government nor the Union had pressed. Once the Government said, "Okay we will put it back," the failure to gazette it thereafter was an oversight and the Government had been minded to gazette the change as recently as last week when we were told that this would be terribly disruptive for banks who had already had during last week one unscheduled day of closure because of the demonstration, that travel agencies had booking arrangements for people going on long weekend breaks and then the Government said, "*in these circumstances it would be wrong*

*having committed the oversight of not having done it sooner now there are these reasons why it would be wrong to rush it at the last minute,"* and therefore we said we would do it as of next year so that the principle has been conceded to the TGWU. I am sorry he raised it as to why it could not have been done in November this is the reason, it could have been done in November but it was an oversight and by the time we got round to doing it all these reasons why it was now too late were offered and frankly we believe that they are right, many people have made booking arrangements of various sorts for a long weekend which if we reversed it as of this year would no longer be a long weekend and presumably we could not go on trips as planned.

**HON DR B A LINARES:**

Mr Speaker, for the hon Member's comfort let me assure him that the GSLP are not the only ones who will be celebrating the 1<sup>st</sup> May but that the "*Viejas Glorias*" those of us going back to the '70's will also as we have done every year celebrate.

Question put. Amended motion carried unanimously.

**HON DR R G VALARINO:**

I beg to move the motion of which I gave notice, namely:-

(4) "That this House grants leave for the introduction of the Dangerous Dogs Bill 2002."

Mr Speaker, this uncontroversial Bill makes provision for legislation in an area that is presently not provided for by statute

or common law. There have been a number of attacks by pitbulls a breed of dog on other dogs and other animals which have been reported to the Opposition and widely reported in the media in recent months. There has been a call from the Gibraltar Kennel Club and a number of individuals which have been aired in the press and privately to the Opposition for the introduction of legislation along the lines of that in place in the United Kingdom in respect of dangerous dogs. Finally this is not an unusual step in western parliamentary democracies, on Saturday 16<sup>th</sup> March 2002 less than 10 days ago appeared in the Daily Telegraph, "Ministers back Tory Bill to end tobacco outlets." Ministers promised yesterday to back an Opposition Bill to ban all advertising and promotion of tobacco finally making good a 1997 election manifesto. Therefore I sincerely hope that the Government see fit to support the introduction of this Bill.

Question proposed.

**HON LT COL E M BRITTO:**

Mr Speaker, uncontroversial as the hon Member sees it the Government will not be supporting this petition for two reasons. Firstly because the Government have in the pipeline their own legislation and secondly because the Government consider what has been put forward to be inadequate in addressing Gibraltar's needs as seen by the Government. The Government have been in consultation with interested parties since February of last year and monitoring the situation and therefore as I said it is getting very close to providing the legislation. We also doubt whether primary legislation of the type envisaged by the hon Member is necessary or whether the matter can be addressed in a different way and the third point is that the Government intend to tackle this issue in a different way to the way tackled by the hon Member and the UK Government. The reason why the Government consider the proposed legislation inadequate is that, well let me

quote from the first line of an opinion from the RSPCA in the UK, *"I will recommend that you avoid the problems that we had with the Dangerous Dogs Act."* Mr Speaker, the situation in the UK was that the legislation was brought in in haste and [HON J C PEREZ: *For the same reason*] yes much for the same reasons over reactions on a number of attacks. It was much criticised, it has not worked and it has caused many problems in the UK and indeed what is being proposed is only a skeleton that needs to be padded with a lot of rules. It seems to us that there has been insufficient research again to quote one example, the hon Member quotes two breeds of dogs, already the UK legislation includes the Dober Argentino and the Fila Brasileiro which has not been included in the legislation that the hon Member would seek to bring forward. The indications are that not enough consultations have been done locally with interested parties from the feedback that I have.

Finally, Mr Speaker, the word opportunistic has been used several times today so I would like to jump on the bandwagon and I would like to say as I have said before that the Opposition have not shown an interest in this matter until very recently, they have not raised parliamentary questions and it seems to me that it is only through the initiative of someone not sitting on those benches but a non-elected member who has fronted this politically outside in public who has had this brought further and I conclude, Mr Speaker, that it is not the job of the Opposition to bring legislation to this House what is being brought is not considered adequate and therefore it is permissible but we do not think it is their job.

**MR SPEAKER:**

It is the job of any Member to bring legislation if he so wishes provided he gets leave. The Government do not require leave so do you agree whether leave should be given or not.

Question put.

The House divided.

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 A 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 motion was defeated.

### **COMMITTEE STAGE**

#### **HON ATTORNEY GENERAL:**

I move under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with the Committee Stage and Third Reading of a Bill.

Question put.

Agreed to.

#### **HON ATTORNEY GENERAL:**

I have the honour to move that the House should resolve itself into Committee to consider the Supplementary Appropriation (2001-2002) Bill, 2002 clause by clause:

#### **THE SUPPLEMENTARY APPROPRIATION (2001-2002) BILL, 2002.**

**Clauses 1 to 3** – were agreed to and stood part of the Bill.

#### **SCHEDULE**

#### **PART I Consolidated Fund Expenditure 2001-2002**

#### **HEAD 1: Education, Training, Culture and Health**

#### **HON MISS M I MONTEGRIFFO:**

We would like to know how much of the £900,000 relates to the GPMS and the reason for the increase in prescriptions, for example, is it that there are more items being dispensed or is it that the Government are having to pay more to the pharmacists because the prices have gone up? Depending on the figure and the reason then we can determine whether the stringent measures that the Government introduced to control expenditure and increase revenue, at the expense of the patient, are producing or are not producing the results that they were predicting.

**HON CHIEF MINISTER:**

Mr Chairman, we are not debating the success of the Government's policy in respect of the formulary, I am sure that the hon Member would wish to keep to what is relevant but let me just correct her on the premise of her question. The whole of the £900,000, the hon Member may not have heard me when I spoke on the main thing that the £900,000 figure was net and that the total of the overspend in the various Heads in the Health Authority nets out at £900,000 only after we had achieved savings of £373,000 in other Heads. So the £900,000 figure is net it is not possible to therefore answer the question, "how much of the £900,000?" There is £900,000 by coincidence, it is also the figure that we are claiming net but there is £900,000 worth of GPMS subscriptions overspends together with a whole series of other items which add up to about £1.3 million or £1.4 million. When one sets against that the savings of £373,000 in other Heads one has the net new funding requirement of £900,000 which happens also to be the gross figure for the GPMS subscription. I do not know if I am explaining myself, it is not a question of what part of the £900,000. On the basis of taking the figures gross there is £900,000 by coincidence of GPMS overspend and it is a variety of factors. It is the non-payment of the end of the last financial year for medicines that had been hangover medicines consumed in the previous financial year, there is an element of medicines being more expensive going up in price and at the end of the day there is the volume of medications that doctors prescribe is not scientifically set. Doctors prescribe from within the formulary the amount of medicines that they want and it is not possible at the beginning of a financial year to know the quantity of medication that doctors would prescribe in the forthcoming year and therefore that also contributes in other words as a third factor. The hon Member, could ask a specific question, if the hon Member were interested in knowing whether the Government have and if so to what extent expanded the formulary of prescribable medicines then it seems to me that is a question that she could ask at any of the Question Times and it would be a new question that we could all consider. But on the basis of the numbers available to the Government in the context of this Supplementary Appropriation Bill

I am afraid that I cannot tell her whether any of it and if so how much of it relates to medication that has been added to the formulary during the last 12 months. I am not aware that any medication has been added to the formulary but it could have. It is just not possible to deduce it from the figures here.

**HON MISS M I MONTEGRIFFO:**

Mr Chairman, I will be seeking further information from the Government.

Head 1 - Education, Training, Culture and Health was agreed to and stood part of the Bill.

**Head 2 : Employment and Consumer Affairs.****HON S E LINARES:**

On this one I would just like to ask, is it that the Government have expected money from the EU and that the EU have not approved it and is it on the training part of the portfolio that we are talking about more than the employment because if it is on the training part I would like the Minister to say whether any courses have been affected by the money not coming in to the Government coffers?

**HON FINANCIAL AND DEVELOPMENT SECRETARY:**

Mr Chairman, we said we would come back I think to the Leader of the Opposition at the Committee Stage but if I can first deal with the question on the expenditure side. The expenditure on the training was generally in line with the estimate so there are no

reductions there. Turning to the revenue question which I think the Leader of the Opposition was asking about, in the 2000-2001, in fact it would take us back a whole year which is where I think he started, in the estimates for that year I think we had estimated £850,000 would be received in European Social Funds proceeds whereas in actual fact we only received £67,000 in that year and I think at the time we explained that this was due to delays in submitting and processing claims in respect of the programme period up to June 2000. So, in the estimates for the current financial year, of which has a few days to run, we had estimated £1 million which roughly broke down into two thirds which will hang over which we had expected to receive the previous year and a third of the new programme which would end in June 2001. So turning to what actually looks as though it has happened the outturn for this year in terms of the European Social Fund receipts which we project as likely to appear by the end of the financial year is about £450,000 and this really can be broken down into claims in the period up to June 1998 final claims which is about £5,000 and claims into the period June 1999 which is about £445,000 producing the £450,000. In actual fact we have had to make some refunds of those claims which will eventually on a net basis reduce the number to about just over £300,000 but we have still got outstanding claims which are in the UK awaiting payment by the ESF Unit of the Department Of Work and Pensions I think previously Education Employment of about £110,000 and the reason for the delays both in the past and now have been to IT problems in UK. Those problems have equally affected the payment of the initial 7 per cent on offers for new projects taking us up to the year June 2000 and so there is another £80,000 in the pipeline again at the UK end and until one has got those offer letters in place and those have been paid and I think that represents 70 per cent of the project cost one cannot actually process the further claims which will be in the order of about £0.75 million and so we are hoping once these problems at the UK end are sorted that we will be able to proceed. Provided the Government departments involved here process the claims in a timely manner we should be on course to receive these monies next year. I hope that explains the position.

#### **HON CHIEF MINISTER:**

In direct answer to the question put by the Opposition spokesman for Education and Training, the answer to him is no. It is no because that is not how the system works, all training programmes are initially funded by the Government the extent whether, and the extent to which one recovers a clawback from the European Union Fund is then an accounting exercise but projects are done whether or not the EU Funding comes, it is not that we do not do them unless or until the EU Funding comes. So there is no question of any training or other scheme for that matter having been postponed or not proceeded with because the funding had not come through.

Head 2 – Employment and Consumer Affairs – was agreed to and stood part of the Bill.

#### **Head 15 – Supplementary Provision**

**1(a) Pay Settlements** – was agreed to

**1(b) Supplementary Funding.**

#### **HON DR J J GARCIA:**

Mr Chairman the question is in relation to the provision for an extra £400,000 for legal fees. I was wondering whether the Government had any information for what the extra money was required?

#### **HON CHIEF MINISTER:**

I would not wish the hon Member to think that it is the only two issues that contribute to it but there are two issues that must

account for all or as nearly to all that makes the difference and that is the drafting fees for the new tax laws and the State Aid Case in the European Courts. The hon Member ought to bear in mind that again being supplementary funding one could almost decide that any fees relating to any of the many cases afoot is the one that has contributed to the shortfall of funding but in reality the ones upon which there has been expenditure which was not envisaged at the time of the estimates and that therefore really is the culprit is the drafting fees for the Tax Reform and also the State Aid Case.

Head 15 – Supplementary Provision was agreed to and stood part of the Bill.

## **PART II Improvement and Development Fund**

### **Head 102 – Educational and Cultural Facilities**

#### **Subhead 2 – New School Buildings – Westside**

#### **HON S E LINARES:**

Mr Chairman, can the Minister explain what has made the cost higher than budgeted and can I have a breakdown of why it is higher than budgeted?

#### **HON CHIEF MINISTER:**

The explanation is that the school building at Westside, that is to say, the new block at Westside involved a two-storey building and is going to cost more than was originally estimated.

## **Subhead 6 – Capital Works – Change of School Hours**

#### **HON S E LINARES:**

Mr Chairman, here again I am asking for the breakdown.

#### **HON DR B A LINARES:**

What I can do is actually provide the written information with a schedule of all the additional costings and funding in different schools.

#### **HON S E LINARES:**

Mr Chairman that is much appreciated.

Head 102 Educational and Cultural Facilities – 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 (2001 – 2002) Bill, 2002 has been considered in Committee 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.

## **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 2.25 pm on Monday 25<sup>th</sup> March 2002.**

# GIBRALTAR

## HOUSE OF ASSEMBLY



# HANSARD

**30<sup>TH</sup> APRIL 2002**

(adj to 2<sup>nd</sup>, 3<sup>rd</sup>, 7<sup>th</sup>, 8<sup>th</sup>, May;  
14<sup>th</sup> 18<sup>th</sup>, 19<sup>th</sup>, 20<sup>th</sup> June, (Budget)  
12<sup>th</sup> July)

**REPORT OF THE PROCEEDINGS OF THE HOUSE OF  
ASSEMBLY**

The Eighth Meeting of the First Session of the Ninth House of Assembly held in the House of Assembly Chamber on Tuesday 30<sup>th</sup> April 2002, at 10.00 am.

**PRESENT:**

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

**GOVERNMENT:**

The Hon K Azopardi - Minister for Trade, Industry and Telecommunications  
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 Dr J J Garcia  
The Hon J L Baldachino  
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 H A Corby - Minister for Employment and Consumer Affairs  
The Hon J J Bossano - Leader of the Opposition  
The Hon Miss M I Montegriffo  
The Hon Dr R G Valarino

**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 13<sup>th</sup> February 2002, having been circulated to all hon Members, were taken as read, approved and signed by Mr Speaker.

## **DOCUMENTS LAID**

The Hon the Minister for Trade, Industry and Telecommunications laid on the Table the Employment Survey Report for the period ended October 2001.  
Ordered to lie.

The Hon the Financial and Development Secretary laid on the Table the Draft Estimates of Revenue and Expenditure 2002/2003.

Ordered to lie.

## **ADJOURNMENT**

The Hon the Minister for Trade, Industry and Telecommunications moved the adjournment of the House to Thursday 2<sup>nd</sup> May 2002 at 10.00 am.

Question put.                      Agreed to.

The adjournment of the House was taken at 10.10 am on Tuesday 30<sup>th</sup> April 2002.

**THURSDAY 2<sup>ND</sup> MAY 2002**

The House resumed at 10.05 am

## **PRESENT:**

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

## **GOVERNMENT:**

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 Lt-Col E M Britto OBE , ED - Minister for Public Services, the Environment, Sport and Youth  
The HON J J HOLLIDAY - Minister for Tourism and Transport  
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 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

Question put.                      Agreed to.

The adjournment of the House was taken at 1.05 pm on Thursday  
2<sup>nd</sup> May 2002.

**ABSENT:**

The Hon P R Caruana QC    - Chief Minister  
The Hon R Rhoda QC        - Attorney General

**FRIDAY 3<sup>RD</sup> MAY 2002**

**IN ATTENDANCE:**

The House resumed at 10.05 am.

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

**PRESENT:**

**ANSWERS TO QUESTIONS**

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

The House recessed at 11.50 am

The House resumed at 11.55 am

**GOVERNMENT:**

Answers to Questions continued.

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 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

**ADJOURNMENT**

The Hon the Minister for Trade, Industry and Telecommunications  
moved the adjournment of the House to Friday 3rd May 2002 at  
10.00 am.

## **OPPOSITION:**

The Hon J J Bossano - Leader of the Opposition  
The Hon Dr J J Garcia  
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 P R Caruana QC - Chief Minister  
The Hon J J Holliday - Minister for Tourism and Transport  
The Hon R Rhoda QC - Attorney General  
The Hon T J Bristow - Financial and Development Secretary  
The Hon J L Baldachino

## **IN ATTENDANCE:**

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

## **ANSWERS TO QUESTIONS (CONTINUED)**

The House recessed at 11.45 am

The House resumed at 11.55 am

Answers to Questions continued.

## **ADJOURNMENT**

The Hon the Minister for Trade, Industry and Telecommunications moved the adjournment of the House to Tuesday 7<sup>th</sup> May 2002 at 10.00 am.

Question put.                      Agreed to.

The adjournment of the House was taken at 12.45 pm on Friday 3<sup>rd</sup> May 2002.

**TUESDAY 7<sup>TH</sup> MAY 2002**

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

#### **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 T J Bristow - Financial and Development Secretary

#### **IN ATTENDANCE:**

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

#### **ANSWERS TO QUESTIONS (CONTINUED)**

The House recessed at 11.50 am.

The House resumed at 11.55 am.

Answers to Questions continued

The House recessed at 1.10 pm.

The House resumed at 3.00 pm.

Answers to Questions continued

The House recessed at 5.00 pm

The House resumed at 5.20 pm

Answers to Questions continued

The House recessed at 7.45 pm

The House resumed at 7.50 pm.

Answers to Questions continued.

## **ADJOURNMENT**

The Hon the Chief Minister moved the adjournment of the House to Wednesday 8<sup>th</sup> May 2002, at 1200 noon.

Question put.                      Agreed to.

The adjournment of the House was taken at 9.10 pm on Tuesday 7<sup>th</sup> May 2002.

## **WEDNESDAY 8<sup>TH</sup> MAY 2002**

The House resumed at 12.05 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 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

## **OPPOSITION:**

The Hon J J Bossano - Leader of the Opposition  
The Hon J L Baldachino  
The Hon J C Perez  
The Hon S E Linares

## **ABSENT:**

The Hon R Rhoda QC- Attorney General  
The Hon T J Bristow - Financial and Development Secretary  
The Hon Dr J J Garcia  
The Hon Miss M I Montegriffo  
The Hon Dr R G Valarino

## **IN ATTENDANCE:**

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



## **ANSWERS TO QUESTIONS (CONTINUED)**

### **ADJOURNMENT**

The Hon the Chief Minister moved the adjournment of the House to Friday 14<sup>th</sup> June 2002, at 10.00am

Question put.            Agreed to.

The adjournment of the House was taken at 1.45 pm on Wednesday 8<sup>th</sup> May 2002.

### **FRIDAY 14<sup>TH</sup> JUNE 2002**

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 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 K Azopardi - Minister for Trade, Industry and  
Telecommunications  
The Hon H A Corby - Minister for Employment and Consumer  
Affairs

### **IN ATTENDANCE:**

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

## COMMUNICATIONS FROM THE CHAIR

### MR SPEAKER:

Before we start I need to say something, hon Members must be aware of the recent Supreme Court decision were the Honourable the Chief Justice in connection with jury service purported to amend section 19 of the Supreme Court Ordinance. That decision has now been appealed by Her Majesty's Attorney General.

I will not say more at this stage except that this House is very protective of its powers and prerogatives. Should this House consider that the legislative powers of the House of Assembly have been usurped, a situation would arise which we do not need or want.

### HON CHIEF MINISTER:

Mr Speaker with your indulgence if I could make a very short observation on your statement. The decision of the Government to appeal the ruling of the Chief Justice is divisible into two; one relates to the substance to the ruling but the other relates to the very point that Mr Speaker has himself raised and that is whether the correct decision for the Chief Justice to have made might not have been to declare it unconstitutional leaving it to this House to correct the Constitutional defect through its own legislative mechanisms.

## HON J J BOSSANO:

As far as we are concerned there are two aspects to this, one is that it is a political issue which as far as we are concerned if the Government of the day want to move in that direction and that possibility has been there for as long as I have been in the House and no Government have decided to do so then it becomes a matter for this Parliament to debate and consider the merits or otherwise of it. It is difficult to understand how the Constitution could have been there since 1969 and nobody has thought it conflictive with the Constitution since then but I would have thought that even a view that it was unconstitutional would still be contestable and appealed against and I think that a move to change what is there should be a matter for the Government to bring to the House or for the Opposition if we thought it was needed or that we wanted to do.

## 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 documents on the Table.

Question put.                      Agreed to.

The Hon the Minister for Education, Training, Culture and Health laid on the Table the Report of the Gibraltar Health Authority for the year ended 31<sup>st</sup> March 2000.

Ordered to lie.

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

- (1) Statement of Consolidated Fund Reallocations approved by the Financial and Development Secretary ( Nos 5 and 6 of 2001/2002).
- (2) Pay Settlement – Statement No 7 of 2001/2002.
- (3) Supplementary Funding – Statement No 8 of 2001/2002.
- (4) Statement of Improvement and Development Fund Reallocations approved by the Financial and Development Secretary ( No 2 of 2001/2002).

Ordered to lie.

## **BILLS**

### **FIRST AND SECOND READINGS**

#### **THE APPROPRIATION (2002-2003) ORDINANCE, 2002**

#### **HON FINANCIAL AND DEVELOPMENT SECRETARY:**

I have the honour to move that a Bill for an Ordinance to appropriate sums of money to the service of the year ending with the 31<sup>st</sup> day of March 2003, 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 confine my contribution as is customary at this stage of the proceedings to an outlying of the content of the Appropriation Bill for the financial year ending on the 31<sup>st</sup> March 2003. The Bill is in three parts, first the House is being asked to appropriate an amount not exceeding £130,675,000 as set out in Part I of the schedule to the Bill. A further £23,175,000 Consolidated Fund charges not requiring a vote of the House brings the total expenditure from the Consolidated Fund for the financial year 2002/2003 to nearly £154 million. Hon Members will see from the Government's Estimates that recurrent revenue for the year is projected at £162,655,000 producing a budgetary surplus of nearly £9 million. Taking into account the exceptional revenue item the surplus is just over £12 million. This takes us to the second part of the Bill. The surplus of £12 million makes up the contribution from the Consolidated Fund Reserve to be appropriated to the Improvement and Development Fund for various capital and economic projects. The other leg to this second part of the Bill is a small provision of £20,000 for any residual spending by the Government on the Moroccan resettlement scheme. The third and final part of the Bill seeks the appropriation of up to £27,800,000 to the Improvement and Development Fund as set out in Part III of the schedule. The main sources of finance for this expenditure on capital and economic projects is the £12 million contribution to which I referred earlier and a further £8 million of public sector borrowing and various revenues including that from the sale of Government land and buildings and utilising the monies held in the Improvement and Development Fund.

Mr Speaker, I would make one additional remark on this occasion, Members of the House will be aware of recent articles in the UK press touching on doubts about the transparency of the Gibraltar Government's finances. I consider such expressions ill informed and a nonsense as evidenced by the estimates before this House and the debate we are about to undertake. I now give way to the Chief Minister to present the Government's budget and I commend the Bill to the House.

#### **MR SPEAKER:**

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

#### **HON CHIEF MINISTER:**

Mr Speaker, I have the honour to report to the House that the economy of Gibraltar remains sound and stable as I said last year at this time. And it remains sound and stable despite various external factors which are outside of our control and which are having a negative impact on that soundness and stability.

We have had the events of September 11 that have affected the entire global economy and Gibraltar has not been an exception, being as we are reliant on tourism and financial services. Additionally, Gibraltar as the House will know, has faced a challenge from the European Union under a State Aid Regulations to the two tax laws in Gibraltar which are at the core of our financial services centre. We have also in the last 12 months given the commitment to the OECD to implement and comply with their report on so called 'Harmful Tax Practices'. And last but not least the economy of Gibraltar has sustained the

uncertainty and consequent damaging effect of the unwanted Anglo-Spanish negotiations about our sovereignty and future status and that despite these challenges with the case of September 11, the simple loss of customers, in the case of the political situation, the uncertainty that it ejects, in the case of the State Aids challenge, the uncertainty it effected by the transition period until the new Tax Reform is introduced. That the economy of Gibraltar remains in the buoyant state that it is despite these challenges is, I believe, a credit which I would like to recognise here and now to our local businessmen and the expertise and professionalism of those operators in our Financial Services Centre.

It is ironic that Her Majesty's Government in the United Kingdom say that they want to do a sovereignty deal with Spain so that we can have a prosperous economy, yet the only threat to that prosperity comes from her Majesty's Government own conduct towards Gibraltar. The cause of Gibraltar's economic threats and challenges is not the need to do a sovereignty deal with Spain but the uncertainty created by the current negotiations, the way they are being conducted and most shamefully by the remarks being made, not made by Spain but from United Kingdom sources in support of that campaign to denigrate, smear and in that way, I believe, undermine the economic prosperity of Gibraltar which both the UK and Spain see as a threat to their ability to achieve their own political agendas in Gibraltar. It is not I who say this, although I do, but hon Members will have seen in the last Chamber of Commerce survey of trade that when businessmen were asked "which are the uncertainties arising?", well I will come to that question in a moment. When first they were asked "what is the single most important factor adversely affecting business?", the answer was not as the Minister of State of the Foreign Office had us believe that our status is unsustainable, or that there is a need to do a sovereignty deal with Spain. The answer was "uncertainty about our political future". Well that uncertainty has been introduced by the Anglo-Spanish negotiations and the way that they are being conducted. In 2000, hon Members may be interested to recall that the answer to the same question - single

most important factor adversely affecting business - the answers were exchange rates, taxation issues, and staff recruitment. And asked "are the uncertainties arising from current discussions on Gibraltar's political future having a negative impact on investment and planning?" In other words, "is your business suffering from the discussions that are taking place and the uncertainty that they are creating?" Sixty-seven per cent of all businesses in Gibraltar said "yes." So, the second threat to Gibraltar's economy from the current situation comes in the form of what the UK press itself, what UK Members of Parliament themselves, what an American television interviewer on NBC - the famous John McLaughlin, I understand that the programme is being televised in Gibraltar at some stage. What he put to me as being smear campaigns to undermine Gibraltar. Of course, Mr Speaker, smear campaigns whether or not they are true, causes serious harm to our economic prospects. Hon Members know that the stock and trade of economic prosperity is stability and reputation because this undermines stability and reputation and undermines economic prosperity and there are those lurking in the dark corners of the British Government who clearly understand that.

This brings us to the infamous article in the Guardian newspaper with which hon Members will be familiar. Mr Speaker, with your indulgence I would like to quote at length from it. "The Foreign Secretary, Jack Straw has asked the Gibraltar Government to explain why it has failed to publish key accounts and economic statistics amid the growing concern in Whitehall that the colony is being used as a centre for money laundering the Guardian has learned". Hon Members will have read the Government Press Release in which before this article came out, I think it was on a Monday, on the previous Thursday or Friday the Government put out a statement pre-empting this because sources in the British media had contacted the Gibraltar Government and said, "look these stories are being spun out about you. It is not true that the Foreign Secretary has said the things that are in that statement." It is certainly true as I will explain to hon Members in a moment that he had written to me a letter, an erroneous letter, to boot, raising certain issues relating to statistics. It is not true that

Whitehall has expressed and it is not true that Whitehall actually harvests any concerns about Gibraltar money laundering. How could they? Our laws comply with theirs, comply with all European Union obligations. The Financial Services Commission which is responsible for the supervising of money laundering is appointed by and answerable to the British Foreign Secretary and law enforcement in Gibraltar is the Constitutional responsibility of the British Governor in Gibraltar. How could Whitehall have these concerns? If they had them they would be concerned about themselves, not concerned about us. "The Gibraltar Government have not published official figures covering the colonies revenue and expenditure for more than a year." Untrue this is just fabrications based on innuendo, innuendo based on fabrication and it does not appear in the Guardian by accident. I know that the hon Member is probably getting feelings of *deja-vous* then to make sure that in the eyes of British public opinion Gibraltar's principal political advocate, at this point in time me, because I happen to be the incumbent Chief Minister with the obligation to be Gibraltar's principal political spokesman in the United Kingdom. A clear attempt to make sure that this complete fabricated spin lands on my political reputation. Not the Government of Gibraltar, no, no, the person that the British public sees on the screens of Sky Television and on the screens of BBC and listen to on the Today's Programme and radio and say, "who is that? Well that is a chap called Peter Caruana. Ah! Well let us blame him for it." So, how do hon Members think the Guardian discovered and why would they put it in this article "Responsibility for the Statistical Office was transferred two years ago from the Colony's Trade and Industry Department to the Secretariat of Chief Minister, Peter Caruana". There you are all readers of the Guardian next time you see this man on your screens you must dismiss him as a perfidious money-laundering, untransparent fiend who probably has his hand in the till of the Gibraltar taxpayer. That is what that is intended to do. "Mr Straw is understood to have approached Mr Caruana more than once" - not true. And then we get to the real reasons behind this. The latest allegations come up for a series of high level meetings between Spanish and British Ministers over the future of the Rock which Mr Caruana boycotted claiming that Britain was planning to sell us out. Well what is the

relevance of that? Figures published by the Gibraltar Government in 2000 show an estimated revenue. Well look Mr Speaker if on 3<sup>rd</sup> June they had wanted to see the figures, they had more up-to-date figures available to them than June.

“The Gibraltar Government”, this is reason number two for this act of peak and spite. “The Gibraltar Government have spent hundreds of thousands of pounds on a massive newspaper campaign in Britain opposing talks between Mr Straw and Spain over the future status of the colony including the possibility of joint sovereignty.” It then goes on to quote Albert Poggio as having made reference to this having been funded from ‘Special Funds’. I suppose that means from black money, probably the proceeds of at the very least drug trafficking if not arms running or probably the slave trade. And further that it was paid for out of different budgets. These nefarious colonial governments who have different budgets for different things – terrible!

Mr Speaker, hon Members of the House will be interested to learn that in saying that we have spent hundreds of thousands of pounds, the Guardian has been very unambitious. I certainly have no difficulty in revealing to this House that the cost of the advertising campaign undertaken by the Government of Gibraltar has been £1.6 million and I have yet to find anybody in Gibraltar who does not consider that it is some of the best taxpayers money spent that there has been in Gibraltar for some time. The Government would spend more than that if it were needed, and indeed, do not discount the possibility of spending more than that should there be a need to continue with the campaign. “The pressure on Mr Caruana to give a full account of the colony’s economic performance coincide with serious worries in Whitehall that Gibraltar could be used as a money-laundering centre.” I cannot demonstrate this with any figures but I would be very surprised if there was not more money laundering in the City of London in 25 minutes than there is in Gibraltar in an entire year. And then comes what I call the washing machine syndrome. Now that we have created this sort of atmosphere of complete inequity

then throw in the lot. “The Colony has some of the most lax tax laws for companies on the wealthy.” Our tax laws are common to most other international finance centres. I do not know why the Guardian has to put in that we have some of the most lax. They are neither more lax nor less lax than the regimes standard in most international finance centres.

“There are estimated to be some two hundred millionaires” (I wish there were) “living in the territory each paying a maximum of £20,000 tax a year”. It then goes on to say “that there are 28,000 companies of which 8,500 enjoy tax exempt status. No VAT, no gains tax, no gift tax, no wealth tax, no estate duty, and then this 4<sup>th</sup> and 7<sup>th</sup> Company Law Directive” having admitted that of course we have now implemented the 4<sup>th</sup> and 7<sup>th</sup> Company Law Directive requiring us to file accounts. However, we require Gibraltar companies to file accounts at Companies House. It then goes on to say, “However, close examination of the small print” - well, it is most unusual for two journalists from the Guardian newspaper to look at the small print of Gibraltar Legislation. I wonder who has fed that to them? However, “close examination of the small print reveals that unlike Britain, small companies need only file an abridged balance sheet and do not need to publish profit and loss accounts to be independently audited or to be independently looked at.” All I can tell the House, as the hon Members already know, is firstly that the Gibraltar Legislation transposing of 4<sup>th</sup> and 7<sup>th</sup> European Union Company Law directives complies with the 4<sup>th</sup> and 7<sup>th</sup> Company Law Directive that specifically permits these things in the case of small companies and secondly, that our Legislation to implement that directive was approved by London, as it does, all our Legislation to implement EU directives.

There are also laws protecting the secrecy of accounts of companies dealing with Gibraltar residence, I have to say I do not understand what that means, I have not even been able to decipher what the allegation is but there is certainly nothing of the sort. They have to declare figures to the Government but they do not have to make them available to the public. There we have it, a

real attempt to cause as much damage to Gibraltar at a time when the Foreign Office is trying to persuade the people of Gibraltar that the Foreign Office is motivated by our best interests by the need to establish a secure, stable and prosperous economy for Gibraltar. Therefore, in my judgement it is this irresponsible behaviour that is a threat to Gibraltar's economy. Not the unsustainability of our status and not the need to do a joint sovereignty deal with Spain.

Mr Speaker, even though the Foreign Secretary's letter to me about three weeks ago, I think, I cannot remember the date, it was either late April or early May. Even though the Foreign Secretary's letter was confused and mistaken it did raise two issues which are recognisable. Albeit, in a different form and albeit that the position and its consequences are not as he believed them to be or as he set out in that letter but the issues were recognisable as issues that we might debate across the floor of this house, legitimately. The Foreign Secretary, who is obviously a keener follower of the proceedings in this House than the Leader of the Opposition and I had imagined, spotted that the Leader of the Opposition asked me in November a question about the Abstract of Statistics, does he remember that question? He does! As suggested in his letter the fact that there was delay in the publication of this Abstract of Statistics suggested to him that there was an absence of comprehensive statistics in Gibraltar. It is true that the Abstract of Statistics has not been published since 1998 in respect of 1997. Of course, the Abstract of Statistics is not a statutory requirement. Unlike the Tourist, Employment Survey, the Hotel Survey and the Air Traffic Survey which are statutory requirements, but Mr Speaker, what the Foreign Secretary appears not to have been told by those who encouraged him to write that letter and what the Leader of the Opposition appears to understand, because he did not ask this question in order to have the effect in question, is that most of the information published in the Abstract of Statistics is separately published annually in a number of Government Reports, Police Reports, Health Authority Reports, Education Department Reports et cetera and in the four surveys that I have mentioned and that is the Hotel, Tourist, Air Traffic and

Employment Statistics Survey. Therefore, there is very little connection between the publication or not of the Abstract and of the availability of that information in the public domain. But the Leader of the Opposition will recall that when he raised this question with me in November, I think it was of last year, I said that I could not give him an explanation why the Abstract had not been reported but that I would certainly look into it because I could not think of any reason why it might not have been published. I said to him that I would find out and I am very happy to offer him the reasons that I have been given now. The first reason has been that there has been a change during that interim period of the computer system and an upgrading of the software in the Statistics Office. The second is that the Statistics Office thought that it would be a good idea to revamp the Abstracts of Statistics, apparently feeling that the tables and charts are by today's presentational standards unacceptable and I interpret all that to mean that they just wanted to modernise the presentation of the Abstract which I repeat is a compendium of information, the vast majority of which is separately published elsewhere. The revamped Abstract is not yet ready because resources have been focused on the publication of the four statutory reports, the Employment Survey, the Hotel Occupancy Survey, the Tourism Survey and the Air Traffic Survey which hon Members will note have this year been laid before the House in record time in relation to the period to which they relate. That required a transition period whilst the basis of interviewing was changed, the way the information is collated has changed. The Statistics Office have also conducted a Census last year, and therefore, following the Leader of the Opposition's question in November regardless of whether the Statistics Office want to re-vamp the Abstract, that is not a reason why they cannot carry on publishing it in the form in which it was before until they are in a position to re-vamp it if that is what they think ought to happen. I am happy to report to the hon Member that thanks to his raising of this matter in the House, the Abstract will be ready in the next few weeks, I understand it will be published sometime in the next two weeks by the Statistics Office.

The second issue that the Foreign Secretary raised in the letter was National Income Accounts. Now, there appears to be some difficulty, not just in the Foreign Office but indeed some difficulties in the British media understanding the difference between National Income Accounts and the accounts of Revenue and Expenditure of the Government of Gibraltar. Let us be clear, National Income Accounts are not the accounts of the Government's monies or the Government's revenue or the Government's expenditure. National Income Accounts are the accounts of the entire economy of Gibraltar. The Accounts of the Government of Gibraltar are something quite different and indeed it is the expenditure of those monies and the estimating of that expenditure and of that revenue, which we are debating in this House today, as we do every year about this time, when the Government by Constitutional obligation lays the Estimates, and these eventually emerge at the end of the financial year when the year becomes history and the revenue has been raised and the expenditure has been made, those become the Accounts of the Government of Gibraltar, the public accounts meaning the accounts of the income and expenditure of the Gibraltar Government just as a particular company might have its own accounts. Let us be clear, nothing in the Foreign Secretary's letter relates to the financial transparency of the Government of Gibraltar. It is, I think, pertinent to point out, that National Income Accounts for Gibraltar have never been published. The accounts themselves have never been published. The Government of Gibraltar have never published National Income Accounts. We are preparing to do so and that was one of the reasons why we commissioned the Input/Output model, which as I have said to the hon Members I think at the last meeting of the House, we have now received in draft. So for the first time in its history, Gibraltar was in a position to publish full National Income Accounts. It is true that the bottom line GDP figure, not the accounts themselves, the National Income Accounts themselves but the figure that they produce at the bottom, the figure for GDP. Well, one of the bottom line figures that could be extrapolated from National Income Accounts but those have historically been published and that they have not been published since 1996. The reason for this non-publication is nothing to do with Government's reluctance. Given

that any publication of National income figures is bound to show an economy growing healthily and growing steadily why would the Government want for their own reasons to prevent the publication of statistics which will show the Government's handling of the economy in a politically favourable light. The reason why we have not published those National income figures is that there has been no reliable figure to publish. In this respect I would like to refer the hon Member to the public statement that he put out on this issue last week. It says that there is absolutely no justification for estimates of the output of the economy not to have been produced for six years. Well, I hope to persuade him that far from there being no justification, absolutely no justification, for their non-publication, their non-publication was actually essential in the interest of honest and transparent Government. However imperfect the previous method of calculation of GDP was it should have been retained whilst the new one was ready to replace it. This is useful information to have been able to examine how the economy was doing. Mr Speaker, I regret to inform the hon Gentleman that I cannot agree with that statement nor do the Government's Statisticians agree with that statement. Even though we could have done so, we could have continued to publish GDP figures on the basis that they were previously done, which as I say would have put the Government in very favourable political light, I refused to publish figures which I was told, on arriving in Office, by the Government's professional Statisticians and other consultants, were so inaccurate as to be totally unreliable and I refused to publish figures which are capable of that criticism and therefore endorse, through publication, figures which the Government were being advised were wholly unreliable. It is not to provide information, it is not to practise transparent Government to put into the public domain information which at the time that one publishes it one knows, because one is being told by the experts, are so riddled with errors as to be unreliable to the point of being practically useless in relation to the information which they purport to give. That is not transparent Government that would be paying lip service to transparent Government and it would be practising a form of cynicism which this Government were unwilling to practise.



On the 11<sup>th</sup> of July 1997 the Statistician wrote to me, sending me the GDP figures for 1995/1996. The letter refers to residual errors of £109 million in 1994/1995 and £57.2 million in the following year in a GDP that was measured at about £320 million. In other words, the margin of error was in the region of 30 per cent. It is not my job to calculate the Government's economic statistics but it is my political decision whether to publish professionally produced statistics which the professional producers of those statistics are telling me are completely unreliable and error riddled and the very last paragraph of the Government's Statistician's letter to me says, "...the errors are still very large and are no cause for comfort. It is very important that an expert in national accounts should review the accounts and advise us inter alia on how to reduce the residual errors." The actual figure contained in the GDP estimates, that I refused to publish because they were unreliable, actually shows in the last year in respect of which the hon Member was responsible for the management of the economy the economy shrinking. It says, 2 per cent shrinkage in the economy at a time which in the run up to an election the hon Member was bragging a growing economy. Politically, it would have suited me perfectly to have turned a blind eye to the unreliability of these statistics and to publish them. That is what would have suited me politically, it would have suited me to publish them so that I could have pointed to the hon Member, accused him of presiding over a shrinking economy at a time that he was bragging over a growing economy. Yet we did not because as I have explained the Government took the view that it was not willing to continue with the routine and systematic publication of statistics that we were being told were completely unreliable and I will tell the hon Members what we did instead of that unacceptable course of action. The terms of reference, prepared by the Government Statistician, of the Consultants' Report that we commissioned as an alternative to continued published unreliable statistics, say, "During the financial years 1991/1992 to 1994/1995 - the years that we were all saying that we were growing faster than Luxembourg, I do not know if the hon Member remembers that, the residual errors or balancing item between income and expenditure methods of calculation of GDP have been increasing. In 1995/1996 the error had been reduced to around half the

1994/1995 level. However, its magnitude was still quite large still around 17 per cent of GDP." The previous year it had been about 35 per cent of GDP, the error in the figure. The Consultants' Report, when it eventually came, said "the National Accounts Estimates of both levels and changes are weakly based and little confidence can be placed on them." That is why we did not continue to publish, and the hon Member may remember that we used to criticise these figures apparently on the basis of suspicion when we were in Opposition. So what did we do? I accept that just as my Government inherited historical practices, his Government inherited historical statistical practices. I have not said that the hon Member sat there cooking the figures. We all inherit the administrative systems that are dragged in to our administration from history but then we either just carry along with it or we make a decision to break the vicious circle and introduce a new basis and a new status and correct the historical errors in our developing administration, and that is what the Government chose to do. The first act was to issue political instructions to do the necessary to place the Government in a position to produce and provide annual reliable statistics including National Income Accounts, which have never been published in Gibraltar before. The British Government were approached, could they recommend we asked them an expert in National Income Accounts. They recommended a Mr Mansell from the private sector in the UK I understand, who came out at our request and as a result of his report in 1998, which was highly critical, I just read one sentence of his report saying that they were weakly based and little confidence could be placed on the figures that had been historically published. We therefore as a result of that advice commissioned a full input/output model study of the economy in 1999. We acknowledged the changes in the economy meant that devices for measuring economic activity had become inappropriate to the measurement of the economy when it was substantially public sector and MOD based. There was clearly a need to re-measure, re-photograph the economy which had changed enormously to ensure that we had the measurement systems for that changed economy. I do not want to over-labour this point but it is important because it has been the subject matter of an assault on Gibraltar, if it had just been an assault on me or

on the Government we could have dealt with this in the usual way political opponents say things. If the hon Member had said these things we could have had a debate and that would have been the end of it, but this has been used against Gibraltar in a political context and I therefore think it is important that we deal with it.

In my budget speech in June 1999, I had the following to say and again with Mr Speaker's permission if I could read from Hansard. I quote myself in Hansard, "Mr Speaker, the two greatest impediments to economic management and planning are the poor range and quality of statistics available to the Government and the lack of a recent model of the Gibraltar economy, that is, a recent input/output study. This not only impedes economic policy transparency in terms of the information that Government can provide, to the House, to employers and to Trade Unions, it also prevents the construction of credible national accounts and conventional economic growth and performance statistics. There have been two previous Input/Output studies in the economy of Gibraltar. The first in around 1981 and the second in 1987. These studies looked at the economy in the context of specific and major extraneous events happening at that time. In the case of the 1981 study it was the anticipated closure of the naval dockyard and in the case of the 1987 study, it was the impact of the opening of the border with Spain. Since then the structure of Gibraltar's economy had changed significantly, having adjusted to the effects of further substantial defence cuts, the considerable growth in home ownership and the diversification flowing from the development and expansion in financial services, tourism and port activities, including post-GSL construction in ship repairing activity. The economy has therefore not only undergone continuous major changes but has also been increasingly exposed to market forces, such as fluctuation in interest rates et cetera et cetera, and I went on to continue to list the changes that I thought at the time the economy had undergone in the previous decade – diversifying away from the Ministry of Defence expenditure – "In such a situation it is all the more important in order to determine optimum economic policies to be able to analyse each sector of the economy and the way in which they

interact with each other." The Government have therefore commissioned economic consultants to undertake a further Input/Output study of the Gibraltar economy, the purpose of the proposed study is to provide a detailed model that will simulate the behaviour of the Gibraltar economy in response to a wide range of influence. The Input/Output study will take around a year - that is what we were told at the time - consultants have already expressed serious concern about the poor state of economic statistics availability in Gibraltar from the point of view of the Government and private business activities. The consultants, who are the same ones who did the 1981 and 1987 studies, have observed that fewer reliable statistics are available now compared to the situation in 1978 and 1988, which they attribute mainly to the run down in the resources of the Statistics Office since 1988. As the House knows, I have myself lamented the deficiencies in the statistical data base on a number of occasions. Government are determined to correct these at the earliest opportunity. The consultants have been requested to include this in their study. A number of limited steps have already been taken by the Government to improve the situation. With the help of the Input/Output team the Government hope to equip Gibraltar with quality, reliable, economic statistics that are so necessary for sound economic analysis and long-term economic management.

Mr Speaker, since that time the whole House, both Government and the Opposition, have been waiting patiently for this report and I will give the hon Members a situation report, of where we are precisely with that Input/Output study. The last point that I would like to make before I move on just a little is to say this. Of course, we have debated in this House, often the hon Member has asked me questions about the Input/Output study, how is it going, how long is it going to take, why is it taking so long, and I have given him all the explanations. The first one was the earthquake in India where all the numbers were being crunched et cetera, et cetera. Those that are responsible for planting the article in the Guardian newspaper, those that are responsible for procuring the Foreign Secretary to sign the letter that he sent me, of course he does not draft them himself, know this. They know that the Government

are at the tail end, indeed we have already said publicly that the draft Input/Output study had already been received. So what do they do, instead of saying at long last the fruits of the Government's labour is about to yield results, and Gibraltar is at last going to have, at the eleventh hour, in the knowledge of all these things, they choose to make a political issue out of it. In circumstances, where far from the Foreign Secretary having raised with me, on many occasions, false, I get a letter out of the blue, signed it is unheard of, I do not know if the hon Member can confirm this, it is certainly unheard of since I have been Chief Minister, it is unheard of for a Foreign Secretary to write to the Chief Minister on an issue that has never ever been raised before. Usually Foreign Secretaries are wheeled on the last moment when they want to play their last card. Here is an issue, the quality of the financial transparency in Gibraltar, the quality of Gibraltar's statistics, the absence or non-absence of National Income Accounts, had never been raised with me before by anybody not by the Minister of State, nor by officials in the Foreign Office not by the Convent, never been raised with me. The first thing we hear of it is a letter from the Foreign Secretary before they get their response to the letter in writing, which pointed out all the very substantive factual inaccuracies in the Foreign Secretary's letter, even before they had got a response to that letter it had already been leaked to the Guardian.

Mr Speaker, hon Members and others in Gibraltar can draw their own conclusions from that chronology of events. What I will say not just on behalf of the Government that I lead but on behalf of Gibraltar as a whole, and that is that I am actually immensely proud of the contribution that this Government have made to Government transparency and Government accountability. Hon Members will be aware of all the reforms that we have introduced since 1996. They will be aware about how we have restored 100 per cent of Government finances to the scrutiny of this House at budget time by restoring revenue and expenditure to the Consolidated Fund, and in cases where there is still expenditure outside the Consolidated Fund for a particular reason to put as appendix to the Estimates Booklet a pro-forma estimate of

revenue and expenditure for those entities. Hon Members have seen that there has been a reduction in the number of, and the activity of Government owned companies and that their accounts are now laid before the House. That Ministers are no longer directors of those companies and that the accounting and financial affairs have been placed under the direct control of the Accountant General. The House will also be aware of the steps that the Government have taken to distance the Principal Auditor from the Government themselves. We have ring fenced the Principal Auditor as much as is constitutionally possible from the rest of the Government. We have ring fenced the staff from the remainder of Government staff. We have significantly increased staffing levels and other resources and we have taken steps to prevent the Principal Auditor's office from being de-staffed in the future. The Principal Auditor is one of the principal constitutional tools in Gibraltar for invigilating over the proprietary of Government revenue and expenditure custody and this Government believe that the Principal Auditor therefore should be as distant, ring fenced and independent from the Government as possible. The House will be aware how every single Government procurement contract whether it be of goods or services is now open to transparent public tender process conducted by a Treasury departmental tender board and then a Treasury Tender Board. How all recruitment to Government companies, agencies, even single purpose Government contractors is effected by open advertising recruitment process culminating in a selection process conducted by Civil Servants. The Government have established, for the first time in Gibraltar, a public service Ombudsman to provide citizens with a way of reaching into the heart of the public administration and obtain investigation of their allegations of misfeasance and mal-administration which is unprecedented in Gibraltar's entire history. We have introduced open planning laws to give citizens the right to express views and to participate in Gibraltar's planning procedures. Our approach to statistics has been no different, no different at all. It has been the same approach of opening Government out to scrutiny, to accountability, to external and independent audit and the hon Members will be aware that we have done this because it was in our manifesto, it was in our first manifesto to do it. One of my first speeches in the

House after being elected into office related to this issue. We have commissioned a report that I have already referred to. We have increased the staff and resources of the Government's Statistics Office. We have given it new premises. A lot of very good work has already been done in improving the timeliness of the publication of those statistics and I hope that the hon Members will recognise and appreciate that there is no limit. No limit, to the quantity, volume and nature of the statistical information that we provide to the hon Members at Question Time. Even to the point of, in effect, doing on a monthly or on a quarterly basis, accounts of departments that normally would not be done until the end of the financial year to see how much money had been spent out of this Head or that Head and on what. The Government's policy since we arrived in office has been, and I think that we are justly given recognition of this by people at large, is that we have done all that we reasonably can to make the Government of Gibraltar transparent and accountable to an extent which is unprecedented in our constitutional political history.

Mr Speaker, before I leave this area altogether, I have to say and this is another reason why this suspiciously timed attack in the British press is suspicious. It is not just the Gibraltar Government that believe all the things that I have been saying. When the present British Government, in July 1998, gave evidence to the Public Accounts Committee of the House of Commons, the British Government in their evidence, their evidence, the present British Government's evidence said and I quote from their minutes of evidence "The present Gibraltar Government have made a significant effort to ensure that the principles of accountability and transparency are applied to all Government bodies and companies. As a result the accounts for all Government bodies and companies, as well as most public revenue and expenditure, are laid before and subject to appropriation by the House of Assembly. They are now open to public scrutiny." That such a Government or that anybody in it or anybody connected to it, could then perpetrate the events which have resulted in the Guardian leak is something about which each of us should form

their own view. Not just as to the chronology of events but about the purpose of it, the timing of it and the reasons for it.

Mr Speaker, I said to hon Members that I would give them an overview of where the Input/Output study is. As I have reported to this House before the input/output study commenced in 1999 but unfortunately suffered protracted delays beyond the completion date which had been originally fixed at 2001. This was mainly due to problems over the accuracy of available trade statistics and when that was rectified a severe halt to data processing of these statistics, when the major earthquake which hit India at the time, affected the operation of the Indian data processing company which was commissioned by the Input/Output consultancy team to undertake this work. Let me just explain that. When the Input/Output study team came to Gibraltar they found that because the nature of the economy had changed so much, the sort of information that was available within Government, which was adequate to yield the sort of statistics relevant to the MOD type economy, was no longer yielding the sort of statistics that were needed to measure what was now a much more private sector based economy. So they found that there was not available to them the statistics that they needed to build the economic model. They therefore said, well we have got to rectify that and they did. Hon Members will recall that they conducted a survey, a questionnaire in the private sector for which they got, I understand, a very good response. They obtained import and export figures from Customs going back years. All this is data in raw form, some of it from Government some of it from the private sector, was then shipped out after the time it took to collect it all, especially the questionnaire from the private sector, was then shipped out to a company in India which specialises in crunching numbers of this sort and in converting that crude material into the segregated information that was needed for the Input/Output model. No sooner had they started doing that, that the earthquake hit that zone of India and the town in which this company was located and the whole project was stopped for four or five months and until the information could be resent to them again the company was able to get up and running again and the

whole thing had to start again. It would sound like a likely story if it were not actually true, but it is actually true and that is why there has been a delay of about a year in the completion of the Input/Output model. The study is now complete in draft form and as I said to the hon Members at Question Time a few weeks ago, a draft report has now been received. This is now providing a firmer basis for sourcing and validating data for National Income Accounting. Professor Fletcher and his other colleagues that are engaged in this model, will soon be visiting Gibraltar, I understand within the next two or three weeks, for the purposes of reviewing the model and the data with the Government Statisticians to set up the model which actually comes in a computerised disk. It is an organic model in other words it is not just a snapshot of the economy at a given time, although it is a snap shot of the economy at the time that the data was produced, it is also a model that allows it to be used every year, so long as one carries on putting into it the data year after year, one will continue to get snapshots at regular basis every year, and also to train the staff at the Gibraltar Government's Statistics Office into its operation.

Mr Speaker, I can report at this early stage to the House that the consultants have reported that the response that they have had to the data trawl has been good and sufficiently accurate to complete the study with a high degree of confidence. I can say to the House, that once the consultants have finalised their work in Gibraltar, the Government will publish a full report on the study. I have also indicated to the Leader of the Opposition that any aspect of the study which the Government may decide is not in the public interest to put into the public domain, we will certainly nevertheless be happy to show it to Opposition Members.

Mr Speaker, I am in a position however to provide this House with a preliminary outline macro assessment of the findings of the study. The study confirms the significant restructure of the economy over the past 10 years or so. This is the third Input/Output study to be conducted in Gibraltar since 1978. The House will recall that the first study in 1979/1980 analysed the

impact of the Dockyard closure and the subsequent reduction in MOD activities. The second study in 1987 concentrated on the effects of the reopening of the Frontier. The new study has identified the massive changes consequent to those important turning points in the economy led by the development of the Financial Services sector and no less significant to the growth of tourism and port shipping related activities. The consultants point out in their report that the adaptability of the economy to such major changes has been remarkable.

Mr Speaker, not surprisingly, the report confirms that the Finance Centre in Gibraltar is now a major leading activity and a vital segment of the national economy. As expected the linkages of this sector with the communications industry and the business services industry and indeed much of the hostelry and eatery industry are particularly significant. The impact of the Financial Services is seen by the report more widely than just to the income generating activities all over. The Finance Centre is recognised in the report as having the additional benefit in the economy, that it enhances the skill sets and the entrepreneurial expertise of the labour force and diversifies an economy that is necessarily narrow because of its small size. According to the draft report, in 1998 the Financial Services Sector Accounts directly or indirectly, for a total income level of around £130 million supporting unemployment level of 1,847 full-time equivalent jobs directly and indirectly. When account is taken of the multiplier effect the Government receive revenue of about £90 million from this sector. In 2000 the tourism industry has grown substantially and accounts for a total income level of about £107 million. In terms of employment tourism accounts directly for around 2,300 jobs and when account is taken of the relatively high employment multiplier for this industry, the total employment generation from tourism is at around 4000 jobs, Government revenue derived from this sector including direct, indirect and induced is estimated at about £33 million. The other major export earning activity in the economy shipping and port related services which has been a traditional mainstay of final demand is also recognised in the report. Because of the industrial classification used for the study

no detailed breakdown is yet available but disaggregated results are expected very shortly. The contribution to total output is calculated at over 15 per cent that is for port and port related services. The study also highlights the significant contribution which was made to trade, total output in the economy by the retail and distributive trades, the construction industry and Government themselves most of which grows from the high levels of employment in these sectors. Total output for the economy was over £1 billion with total employment at the time around the study said to be at around 12,000 people resulting in a figure of around £96,000 per employee and a per capita income of just over £15,000 per person.

In terms of national income and subject to final validation of the results the consultants estimate that GDP in 1999/2000 was £418 million, that is GDP not GMP. The hon Member I am sure is aware that GDP excludes the Ministry of Defence which is not treated as part of the domestic economy. The last Government statistic estimate for GDP was produced in respect of the year 1995/1996 and was put at that time at £328 million. Although the basis for this latter calculation is different to that applied for the Input/Output study it suggests that the growth in GDP between 1995, 1996 and 1999/2000 was of the order of 27 per cent giving an increase in GDP in real terms that is to say after deducting inflation of around 18 per cent over the five year period an average real growth rate in the economy of about 3.6 per cent per annum.

Mr Speaker, in terms of the segregated sectorial breakdown which are so far available applying the model to the statistics and calculating GDP it has not yet been possible to calculate a figure for GNP, that should be ready very soon, but appears to show that the Financial Services Centre accounts for 25 per cent of GDP, tourism for about 17 per cent, the Government for about 19 per cent, the construction industry for about 10 per cent and also 10 per cent attributable to the real estate sector. The MOD which as I say is not included in the GDP calculations but would be

included in the GNP calculations when they merge, but the MOD is calculated to amount to about 10 per cent of national income.

Moving on to a review of the state of the economy and starting with the Private Sector and in addition to the indicators that I have just given the House on recent and historical GDP figures all the available indicators suggest that the economy remains as I described it in my opening remarks in a sound and stable condition. Unemployment figures remain static, fluctuating within a narrow band of about 310-340 that sort of range. The employment levels show interesting development. Measuring employment as opposed to unemployment levels, measuring employment levels first of all using the Employment Surveys, hon Members will perceive from the information they have been provided that the Employment Survey show that in October of each of 1996, 1997, 1998, 1999, 2000 and 2001 employment levels were 12,975, 12,762, 12,774, 12,936, 13,381 and 13,931 for October 2001. This indicates a growth in jobs of 1,157 between October 1998 and October 2001. That is a 9 per cent growth in jobs in the economy in a 3 year period. Using the other measure available of employment in the economy which is the insured labour force and dealing only with employed as opposed to self employed the figures for each of those six years that I have indicated from October 1996 all the way to October 2001 are 11,508, 11,408, 12,311, 13,138, 13,254, and 14,068 for 2001. If one includes employed and also self-employed people and derive those figures from the insured labour statistics then the figures go from 12,074 in 1996 to 14,695 in 2001. Hon Members will note that there is an interesting converging correlation between the figures under the Employment Survey and the figures under the insurance record, but if one looks at the figures for 2001 the figures under the employment survey show 13,931 and that the figures for employed people under the insured labour force the DSS Statistics show 14,068, a difference of around only 100 people and I do not know what the explanation for that is, probably the results of increased illegal labour penalties and inspections and also the changes that have taken place for the payment of social insurance contributions. In other words, these

things are now paid in cash quarterly and employers are therefore much more up to date and there is less. The figures would tend to suggest not just a healthy growth in the amount of employment in the economy but also a fall in the amount of illegal and unregistered labour in the economy. Of course those figures of growing employment are fully supported by the growth that there has been in the Government's yield, in the Government's collections from personal income tax even at a time when the Government have been year on year introducing substantial tax cuts. If the Government are introducing tax cuts and the Government still collect more money, some of that is explained by the fact that of course wages do go up and therefore Government's share of people's wages amounts to more money but also it is explained by the fact that there are more people paying tax because there are more jobs in the economy.

Mr Speaker, the traditional Port and Tourism statistics show some of the figures continuing to rise but some of the figures for the year 2001 showing the effects of particularly the September 11<sup>th</sup> events. So in terms of the overall number of ship visits again it was up to further record level up from 4489 in 2000 to 4510 in 2001. In terms of the volume of bunkers supplied by our port which incidentally the Input/Output study report identifies as an important part of our economy, the volume of bunkers supplied in 2001 shows a 10 per cent increase over the figure for 2000 and now stands at 2,991,755 metric tonnes.

In terms of air traffic there continues to be a growth of 5 per cent year on year between 2001 and 2000 and indeed hon Members who I know show great interest in these statistics by the assiduousness with which they ask for them, will have noticed, especially the hon spokesman for Trade and Industry, that arrival seats used have increased from the 83,300 in 1997 steadily increased to 108,833 in 2001. That amounts to a 5 per cent increase over last year and to a 31 per cent increase in the last four years. The Frontier statistics also show a small increase up to 7.48 million from 7.31million so a very small increase 2001 over

2002 but historically still at near record high. Hon Members will recall that the figure for 1995 was 5.3 million but then there are a number of areas which show albeit small but still declines at a time when we would all have wished to see increases. This is absolutely the result of September 11<sup>th</sup> event which hon Members will know resulted in an almost complete cessation on travel for a period of about two weeks and then for a steep decline in tourist travel for many, many months thereafter. The number of coaches that arrived in Gibraltar in 2001 fell by about 300 in 2001 over 2000, from 14,763 to 14,428. The number of visitors to the Upper Rock fell from 790,000 to 743,000. The number of cruise liners arriving in port fell from 175 to 150. The number of cruise passengers that they carried and brought to Gibraltar fell from 133,000 to 117,000, and hon Members will see that these are the most tourism industry sensitive statistics which certainly show the effect of September 11<sup>th</sup>, but I would comment that whilst they do show a decline, the decline that has affected Gibraltar, the extent to which Gibraltar has been affected by the September 11<sup>th</sup> factors would appear to be considerably less smaller than the extent to which other tourist destinations like London and European capital cities have been affected, other tourism destinations just from what one hears in the press, although one does not have proper statistics to show this but just from the atmosphere created in the press one would think that continental Europe and continental United States have been much more adversely affected by September 11<sup>th</sup> events that these figures suggest we have been affected by. The percentage room occupancy in our hotels has increased from 58.9 per cent to 64.2 per cent and that is up from 43 per cent in 1996. The number of arrivals in our hotels therefore have obviously risen up at 53,000 from 48,000 and the number of sleeper nights have also increased. The yield from company taxation to the Government and here there has not been an increase or decrease in rate except to the extent that we introduce small companies rate, but that is up £11 million. Or rather it is up from £11 million in 1998-99 to £14.2 million in the year 2001-2002. Therefore these statistics sustain what people can see more or less with their own eyes just by walking around town and that is that the economy despite the external challenges that we face continues to be



reasonably buoyant, certainly stable and prosperous. That judgement, is supported and sustained by the findings of the Chamber of Commerce 2001 Business Survey which was published at the same time as the answer that I started with namely the effect of the Anglo-Spanish negotiations. In terms of business performance 82 per cent of businesses in Gibraltar felt that they had done the same or better in 2001 than in 2000, 47 per cent thought that they had done better, 35 per cent thought that they had done the same therefore between them 82 per cent felt that they had done the same or better and that finding also sustains the view that the economy remains very much on an even keel, very much as it was this time last year when we last debated it. In terms of business outlook, at that time and expressing the view, their view, of their business prospects up to December of 2002, 79 per cent of businesses in Gibraltar then expected to do the same or better than they had done in the year 2001. Interestingly Mr. Speaker when they were asked to express the view of their business expectations beyond December 2002 and in the light of the answer to the political uncertainty question, the figure of those who thought that they would do the same or better beyond December 2002 had fallen from 79 per cent to 53 per cent. So 53 per cent thought that they would do the same or better beyond December 2002 and I think that figure shows the concerns in the business community to their prospects caused by the uncertainty in Gibraltar's political status caused by the current Anglo-Spanish negotiations.

Mr Speaker, in relation to the gaming industry I informed the House at the budget last year that there were 629 employees engaged by nine licensed gaming companies at that time. The House was subsequently informed, in answer to Question No 315 of 2002, that there was a total of 412 persons employed by eight licensed operators as at the 31<sup>st</sup> January 2002. The latest survey that the Government are undertaking indicates that there are currently over 500 employees working in the offshore gaming industry. The largest operator Victor Chandler, continues to expand their business and now has about 300 employees. Victor Chandler and the other licensees have reiterated to the

Government their continuing commitment, not only to maintaining it but also growing their Gibraltar based businesses. Three new operators are in the process of being licensed. One of which is expected to create over 100 jobs. This company has already established a head office in Gibraltar and an administrative calls centre employing 40 people in total. The Government therefore remain confident that as we go forward the offshore gaming sector will return to unemployment level of around 600. Following the decision by the British Government to abolish betting tax in March 2001 I inform the House that Ladbrokes had advised the Government that it would transfer its UK call centre from Gibraltar between October 2001 and January 2002. At that time the company had informed us that 138 jobs were at risk out of their work force of 225. Subsequently Ladbrokes not only relocated their UK telephone betting operations but also to the Government's disappointment their international sports book operations. This latter business was the one that they had originally established in Gibraltar in 1993. The hon Member will recall that because he was then in Office, and employed 30 persons prior to Ladbrokes' expansion. This restructuring led to Ladbrokes reducing their presence in Gibraltar from 225 employees in April 2001 to 24 in January 2002. What remains in Gibraltar is the newly licensed Ladbrokes Internet Casino and the internet sports book and casino operation Ladbrokes runs for Playboy co-operation. The Government understand that Ladbrokes have subsequently expanded these operations and currently employ 31 persons and are still actively recruiting. Only one other company subsequently decided to move back to the United Kingdom and that was Coral Eurobet who had employed 18 persons in Gibraltar. The company have retained a presence in Gibraltar through an internet sports book operated by Internet Betting Co Limited and the recent establishment of an internet casino. These operations currently employ six persons. The Government are aware of the prospect of further changes to the UK gaming legislation, following the white paper call a safe bet for success, issued in March this year by the department for Culture, Media and Sport. There has also been a report to the Home Secretary on internet gambling issued by the gaming board for Great Britain. The Government will continue to monitor



developments closely and take whatever steps are necessary to ensure Gibraltar remains an attractive jurisdiction for reputable internet and telephone gaming operations. Whilst on the gaming industry I would just add that the onshore casino in Gibraltar the Gala Casino has given notice of a collective redundancy affecting I think about 15 of their employees.

Mr Speaker, moving on to the Finance Centre, the Finance Centre has perhaps been the sector of our economy that has most been disrupted by events over the last 12 months. Not only has the events of September 11<sup>th</sup> had some impact even on financial services business but also the Finance Centre has had to contend with the fall out in the State Aid challenge to our tax laws by the European Commission by the OECD Report on Harmful Tax Practices and with the Anglo-Spanish political negotiations over the future status of Gibraltar, all of which bring with them uncertainty. Hon Members will know that uncertainty is the worst friend of the Finance Centre which particularly needs and wants stability in order to satisfy customers of the good sense of doing business in Gibraltar. There are some statistics available which suggests the extent to which some aspects of the Finance Centre have suffered during the last year as a result of these factors. So that, for example, were as in December to January 2000/2001, 1,321 companies were formed in Gibraltar. In the same period in the year 2001/2002 only 697 companies were formed and hon Members will see a very significant reduction in just the company formation statistic. Yet I think it is true to say that the Finance Centre remains busy. It remains busy because it is developing a greater portfolio of more sophisticated work than simply brass plate company formation. This is a both sensible and desirable trend for our Finance Centre to follow and adopt and I think it is a tribute to, as I said before, the skills and entrepreneurship of our Finance Centre operatives that they should be quietly but steadfastly relocating the Finance Centre to a more sophisticated sort of work, less to the bread and butter of company formation, upon which we still rely but there are increasing number of law firms, accountancy firms dealing in niche products, in specialists financial services products of the

sort that Gibraltar has historically not dealt with before and that is keeping the Finance Centre really ticking over nicely despite the problems in certain areas.

**HON J J BOSSANO**

Mr Speaker, may I ask the Chief Minister to clarify the figure he gave on company formations, was he saying that this was in one month only?

**HON CHIEF MINISTER:**

No in two months.

**HON J J BOSSANO:**

For the whole of December and the whole of January?

**HON CHIEF MINISTER:**

Yes. Mr Speaker, I think that this a convenient moment to review certain aspects of the State Aids case. Hon Members will be aware that the Government had, before the Commission issued their decisions of July 2000 to launch these investigations, that the Government had submitted argumentation to the European Commission explaining why in the Government's view it would be wrong for the Commission to regard Gibraltar's Tax Laws as State Aid at all and certainly why it would be wrong for them to choose to investigate it as a new aid as opposed to existing aid. Of course hon Members now know, that the vital consequence of the distinction between the procedure under aid

and the procedure under existing aid is that if one is found to be in default of State Aid rules after the new aid provisions have been followed, the aid is repayable for recoverability, if one is found to be in breach of State Aid rules after the existing aid provisions have been followed then the new aid is not recoverable, because until the end of that enquiry the aid is not illegal it is just under investigation. We were unable to persuade the Commission of that view. They proceeded with their decision of July 2000 and therefore the Gibraltar Government initiated, in the European Court of First Instance, the action of which the House is now aware. Members will also be aware of the fact that the Gibraltar Government scored a significant success in that the European Court agreed with the argumentation, of which the Government had been trying to persuade the Commission, in respect of the exempt company. The position with respect to the enquiry on the exempt company is that the Court has told the Commission that the procedure under which it had been conducting that inquiry may be the illegal aid provision is wrong and that therefore that inquiry is discontinued, but it remains important to remember that the Commission is free to and probably will restart that inquiry under the existing aids procedure, which at least will not carry with it the threat of recoverability. So the main achievement, the main achievement and indeed the principal objective of the Government initiating this litigation against the Commission, given that we already had in mind the tax reform. The main reason was precisely to eliminate the risk of recoverability of the aid. So, the Government's objective was completely achieved in respect of the exempt company, but was not achieved in respect of the qualifying company and of course it is important to protect the qualifying companies as well. There was a partial success, I would not put it any more strongly than that, in the case of the qualifying company because even in that case, the Court said that the letter from the Commission in July did not amount to an adjudication, even though it sounded as if it did. Even though the content of the letter would have led people to believe that it did, in fact, according to the evidence given by the Commission in the Court Case itself, contrary to what it said in the letter, the Commission still considers, even on the qualifying companies, the question of whether it is existing or illegal aid to be open.

Mr Speaker, not only because the Exempt Company Investigation can be restarted under the existing Aids provision, not only because the threat to the qualifying company is greater, always has been greater, than the threat to the exempt company. Because of course the qualifying legislation is post-accession to the European Community and therefore much harder to argue that it was existing at the time of accession, not only because the Finance Centre does not want the uncertainty to continue, the Government and indeed the Finance Centre believes that the need to reform Gibraltar's tax system remains as it is, remains now as it was before the Court ruling. The Government therefore intend to continue with their proposed reforms of Company Taxation in Gibraltar which is the only way, in the Government's view, and in the judgement of the Finance Centre, to remove the uncertainty, to remove the instability, to remove the further instability and uncertainty that would result when the Commission starts again the investigated procedure under the alternative procedure and also given that there are other things to comply with not least the EU Code of Conduct on business taxation.

Mr Speaker, as to where we stand on those tax reforms, the scheme is now complete, there has been, as hon Members know, a very long and detailed consultation with all sectors of the Finance Centre industry and indeed with leading players within each of those sectors and also separately with those companies that would be most adversely affected by the proposed tax reforms. There has been an enormous amount of work done, not just at political level, but also by a team of draftsmen that the Government have put together from the Finance Centre industry itself. The advice that the Government have from their European lawyers is that, in order to achieve legal certainty for its tax reforms, that they should be submitted to the Commission for their indication that they will not be challenged by the Commission. That process has begun and it has begun with the assistance of the British Government. Her Majesty's Treasury in the United Kingdom is persuaded that these proposed tax reforms comply, not just with EU State Aid Rules but also with OECD reports, also with the EU Code of Conduct on Business Taxation and are

therefore supporting the reform and supporting and helping the Gibraltar Government in steering them through the Commission. The aim is still to try and launch the reforms by the 1<sup>st</sup> July, although bureaucratic delay in the Commission's machinery may result in some slippage to that date. The basis of the scheme is not one that the Government wish to place in the public domain in the detail of it for a few more weeks yet to come, but I am in a position to indicate publicly, at this stage, that the scheme involves certain principles. Firstly, it abandons the taxation of profit as the taxable event in the case of companies. In future companies will not be taxed by reference to the profit that they make, they will be taxed by reference to other criteria. Secondly, it would be entirely non-discriminatory. In other words, the onshore economy, the butcher on the corner and the shoe shop and the whole of the domestic economy will benefit, will be subject to exactly the same tax regime as will apply to offshore company users of Gibraltar. It will be the same Company Tax Regime for the local businessman as it will be for Finance Centre users of Gibraltar companies. All local companies can expect to be substantially better off under the proposed tax reforms than they are at present, and of course, the Government expect to at least maintain their current level of revenue from company taxation, which is not just for £40 million that we derive from company income tax but also the £2 million that we currently get from exempt status fees. So, we are looking to retain about £16 million revenue at current levels at the same time as completely, to say that it is a reform of the tax may well be an understatement, it is a complete transformation, I do not know if that is stronger than reform, but it is the complete alteration of the very basis upon which taxation is led here in Gibraltar and I am very happy to explain to the hon Member, even at this stage, the reason why it is necessary to abandon profits as the taxing criteria there is absolutely no other way of eliminating the discrimination between local and offshore companies, preserving Government revenue but allowing Gibraltar companies to continue to be competitive for use by offshore Finance Centre users. So those were the three criterias. Government Revenue to be maintained, non-discrimination between offshore and local company users and Gibraltar's Finance Centre to remain internationally competitive

and not just to survive but to prosper under the new regime. I am happy to say, that the Gibraltar scheme has been very favourably eulogised within almost every international, obviously this is conceived for example in the Primarolo group, to where the British Government have taken it. It has been very favourably commented upon. Indeed, if people like Jersey and the Isle of Man are being recommended to come and consult Gibraltar as to how it is possible to comply with all these international initiatives without thinking that the world or that light is going to end as a consequence and I have received a request from my opposite number in Jersey to come to speak to me so that we can indicate to them how we have been able to deal with these factors in our reform proposals.

Mr Speaker, moving on to telecoms, hon Members will be aware that during the last 12 months the telecoms liberalisation regimes have come into full effect and that there are already indications of impact of this on the prices of several telecommunications products. We expect, as indeed the liberalisation legislation intends, that that will increase when a further comprehensive telecoms company is licensed. The intention of the Government are that there should be, at least, a second fully licensed telephone company to compete head on and on equal terms with the combined Gibtel and Nynex and there are such applicants for licences and they are presently being considered by my Colleague, the Minister for Trade and Industry who is the Licensing Authority in Gibraltar, just as is the Secretary of State for Trade and Industry the Licensing Authority in the United Kingdom. I would just mention one point on liberalisation, and that is, I am sure that the hon Members will join the Government in accepting that this concern is a real one and that Gibraltar is right to see that it is protected. With the advent of technology, it is relatively easy for people making a minimal investment in local infrastructure and requiring a minimal amount of local employment to siphon off and export the cream, the commercially, economically valuable parts of Gibraltar's telephone traffic leaving those companies established in Gibraltar who employ people in Gibraltar and create jobs in Gibraltar, and who maintain the local

telephone infrastructure, the network in Gibraltar, to survive as best they can with severely reduced revenues following the fact that part of their revenue would have been siphoned. Not by people who are competing locally on the same terms but by people who are siphoning off revenue without making any meaningful measure of investment in the local infrastructure or contributing to the local infrastructure to local employment. It is not for no reason that the directive allows the Licensing Authority to take such factors into consideration when licensing the applicants and is allowed and entitled under the directive to impose on incoming licensees the obligation to undertake investment in the Gibraltar telecommunication's marketplace. In other words, to invest in network infrastructure, to engage and invest in servicing infrastructure so that they are genuinely part of the domestic telephone industry and competing as such and not sitting with a clever piece of equipment siphoning off revenue from the local telephone industry but actually destabilising the economic liability of the domestic telephone industry which would ultimately lead to a run down of Gibraltar's telephone, physical telephone network, because it would be in no ones commercial interests to maintain it, leading to a run down in employment in the local telecommunications industry. I can tell the hon Members that the Government mindful of that are keen to encourage competition in the local telephone but competition from people who will come to Gibraltar and behave like a local telephone company and invest in the Gibraltar domestic telephone infrastructure so that we do not through these uncompetitive factors end up just becoming an extension of the neighbouring country's telephone infrastructure on the basis of our traffic just being siphoned into theirs. There has from time to time been public comments, accusing the Government of all sorts of uncompetitive attitudes. They are not uncompetitive attitudes. The Government are fully committed to competitiveness in the telephone sector, the Government fully intend that there should be a second fully fledged competitor but that it should be of the sort that the directive allows the Government to insist on, mainly somebody who stands in the marketplace and invests their fair share in the Gibraltar telephone....

#### **HON J C PEREZ:**

Would the Chief Minister give way?

The last sentence is the crucial element here. It is whether or not the Government are able to do it under the liberalisation proposals or the liberalisation terms within the EU because we all know that for example a service that has been present in Gibraltar like "Callback" has been exactly doing what the Chief Minister wants to avoid and because it is acceptable in the rest of Europe it has not been able to be stopped either here or anywhere else. So, what I would like to ask the Chief Minister is whether the legal advice he has is that that can be sustained indefinitely, I understand the argument and we will support it.

#### **HON CHIEF MINISTER:**

Mr Speaker, if the hon Member would permit me for not willing to allow him to convert my presentation of the budget statement into a debate on telephones. I am very happy to debate this with him either at Committee Stage or perhaps later when he answers. So, if I could just very quickly say, he should not interpret this as an assault on "Callback". The point that I was making was much wider than "Callback". The Government are aware of what the legal position is in relation to "Callback" and that does not affect the fact that the directive itself specifically permits licensees to be required to make financial investment in the network. So, we are exercising rights that we have under the directive. We are not trying to exercise rights that we do not have under the directive. Where there are legally dubious issues, the Government may decide to test the matter in Court or not decide to test the matter in Court. I am not aware that any such issue, as I say, I am not conducting these issues myself, but I am not aware that any such issue has arisen and we are not just talking "Callback" we are talking about a comprehensive telephone service. There are people willing to come to Gibraltar and stand up face to face against Gibraltar Telecommunications as I think it is now called,

and that is fine. That is precisely the sort of competition that the Government think is good for Gibraltar, is good for telephone users, will drive prices down, but will drive prices down in a way that the benefit of that stays in Gibraltar in terms of employment, in terms of investment in our telephone infrastructure and not in a way that causes profits to flee and undermines our network infrastructure.

The other aspect of telephones that I would just like to flag up for the hon Members, we have debated it before, is the continuing political problems relating to the numbering issue. Hon Members will recall that at the last Question Time I explained to them the basis of the Spanish Government offer to extend the number of telephone numbers available to Gibraltar and why that was unacceptable to the Government and then I also explained to them how to boot they had converted the original historical 30,000 numbers to the unacceptable basis that they had introduced for the new 70,000 numbers. So, I will not go over that ground because it has already been articulated in the House, except to remind the House that the Spanish Government's offer to extend the number of telephone numbers to Gibraltar is on the basis of a complete usurpation of the Government of Gibraltar's jurisdictional and licensing rights under Gibraltar law, to a complete usurpation of the Gibraltar's Regulators Regulatory Powers under Gibraltar's Regulatory Laws and that it is therefore politically, commercially, and from a regulatory point of view unacceptable. The Spanish Government's statement, as I have also explained previously in the House, suggests that come the end of this year the 30,000 old numbers are going to be withdrawn so that we will only have the 100,000 new numbers which are made available to us on terms that are unacceptable and this is obviously a device to try and force us into accepting, not the 100,000 numbers, but to try to force us to accept the unacceptable terms upon which the 100,000 numbers have been made available.

Mr Speaker, the Government do not intend to subject to that process. I have already said to the hon Members before, that it is not this Government's view, and I do not suppose it was the previous Government's view either, that the 30,000 numbers that we presently have are Spanish numbers that they have lent to us. That these are Gibraltar numbers and that Gibraltar's own numbering plans which the Spaniards have enabled to be reached. They have limited to 30,000 the number of our telephone numbers which are reachable from the Spanish network. Therefore, discouraging us from having more than 30,000 of our numbers in use because if we did we could have a million numbers in use tomorrow, the result would be that only 30,000 of them would be reachable from Spain. So we would have 30,000 numbers reachable from Spain and as many numbers as we wanted not reachable from Spain but reachable from every other part of the world. Now, that is the correct analysis of the position, it is unacceptable, but that is the correct analysis of what the Spanish offer seeks to do now. Not just in respect of the new 70,000 numbers but also retrospectively in respect of the original 30,000 numbers is to make perfectly clear that they are Spanish telephone numbers being made available to Gibraltar. So they are all allocated to Telefónica because they are a Spanish licensee and Gibraltar licensees are supposed to go to ask Telefónica "please may we have some numbers", therefore making it a Spanish owned numbering plan, literally made available through a Spanish licensee, Telefónica, to Gibraltar sub-assignees of Telefónica in that way. I have to say that the latest indications are that the Commission, the European Commission looks at that Spanish offer and says "well, it may not be illegal under EU law", so the question is not whether it is not illegal under EU law the question is whether it satisfies the fact that Gibraltar is not part of Spain. Gibraltar is not part of Spain for telephonic purposes and the Spanish offer, which hon Members will see that British Ministers have stopped warmly welcoming in public once we explained to them the basis of the offer, that the Spanish offer is wholly unacceptable, not just politically but also commercially and from a regulatory point of view and therefore, we have this tiny issue, that if the Spaniards go ahead with their threat to disconnect the existing 30,000 numbers and to say, "well

look, here are the new numbers, use them if you want to but if you do not use them you will be in effect telephonically disconnected with Spain". The price of using them is that we have to accept the basis of the Spanish offer, which is unacceptable. I indicated at the last meeting of the House, that the Government were looking at contingency plans for escaping this alleged catch 22 predicament and hon Members will be aware that they are inconvenient, but nevertheless feasible, technical means available to overcome this problem which the Government will hope to make a policy statement on in the not too distant future. It is clear to the Government that the nature of this Spanish offer and the terms upon which it has been put, the timing of this and the fact that it has been integrally dragged into the current Anglo-Spanish negotiations suggest that they are using this as a first flag-ship example of in effect joint sovereignty and that the implications of this transcends the question of telephones and becomes relevant to the much wider issue.

Mr Speaker, speaking to public sector reforms, the Government, as I hope the House will recognise, continues to show their enduring commitment to the public sector. This has been shown in many ways amongst them, the refurbishment of offices and depots, a very significant injection of staff training opportunities, there are literally hundreds of civil servants undergoing training courses in Information Technology, in Management Courses and within specialist technical functions relating to the particular job that they do. Government will continue to invest in the skills and qualifications of their employees. And thirdly this support for the public sector is shown by further recruitment and further promotion opportunities where the need for public service and the need of the taxpayer show it to be required. In terms of the staff levels in the public sector, the total number of public sector staff expected to be in employment during 2002/2003 is 3,222 compared to 3,140 in 2001/2002. The figure for 2002/2003 of 3,222 breaks down into 2,249 civil servants, compared to 2,203 in 2001/2002 and 973 in statutory bodies compared to 937 the previous year. In terms of civil service salaried staff, the number of salaried staff shown in the Estimate for 2002/2003 stands at

1,682 compared to 1,628 in the Estimate of 2001/2002. The cost of salaried staff has increased by £2.5 million against that estimate but actually has only increased by £800,000 which is 1.6 per cent. That is this year's estimate compared to last year's forecast out turn. In other words this year's estimate compared to last year's reality as opposed to compared to what we had estimated would be last year's reality at the start of the year.

The increase includes the cost therefore of 54 additional posts together with the impact of pay awards and increments. Of this it is estimated that between £500,000 and £600,000 is accounted for by the new posts. In terms of the industrial staff the published number of industrial staff for 2002/2003 stands at 567 compared to 575 last year. Reflecting a reduction of eight posts. Two in personnel, one in the Police, one in the Department of Trade and Industry and five in the Buildings and Works Department which were not posts lost but posts that were re-graded to non-industrials. This was offset by an increase of one in the Education Department making a reduction of eight. The cost of industrial staff increases by 81 per cent overall or 1.03 per cent compared to last year's forecast out-turn. This is mainly due to wage increase. In terms of other public sector employees, not civil servants, the number of GDC employees as at the 1<sup>st</sup> April 2002 was 159 compared to 157, that is two less, as at the 1<sup>st</sup> April 2001. In addition there are 45 temporary posts financed by the GDC comprising 27 lifeguards, 14 visitor information patrol staff and four data input operators to assist in the computerisation of the Government's statistical system.

In addition the GHA, is reported in the Estimates as having 671 employees on 1<sup>st</sup> April 2001 compared to 650 on 1<sup>st</sup> April 2002 that is an increase this year over last year of 21 people in posts as from 1<sup>st</sup> April 2002, as opposed to 1<sup>st</sup> April 2001. The Elderly Care Agency employs as at 1<sup>st</sup> April 2002, 143 people compared to 130 on 1<sup>st</sup> April 2001.

Mr Speaker, I would like to take this opportunity to make a few comments about public sector reforms. There are one or two departments that my Colleague the Minister for Government Services will go into more detail. There are three areas Post Office, Building and Works and to a limited extent Sport, where the Government's wishes are driven by the view that the reform is necessary in order to improve the service to the general public. In the Electricity Department and in the Port the reform is driven by the need to create a structure, that is, the reform in terms of converting a Government Department into a Statutory Authority is driven by a slight different consideration which is the need to create a structure that enables pay and conditions to be improved in favour of the staff to eliminate historical situations and in the third category the Social Services Agency the need to establish a Statutory Agency created by the need to absorb at the end of the Milbury contract by the need to absorb people who are presently employees of Milbury, by the need to absorb them into the public sector given that the Government are going to take over through the Social Services Agency the functions presently being carried out by them. Mr Speaker the Government have got no privatisation agenda. None. Unlike the views apparently held by the Members of the Opposition when they were in Government, we actually are not persuaded that privatisation brings long-term worthwhile benefits. I make a reference to the hon Members Mr Speaker, because I was more than a little bit surprised and also more than a little bit disappointed to read the Leader of the Opposition's public message on May Day on this issue. In that, he says ".....in its May Day message a year ago the Government promised that their policy of replacing Government Departments by semi-independent agencies working outside the rules and conditions of the Public Service would only proceed if there was agreement with the workforce. Regrettably again since then statements in the House have been made suggesting that the Government whilst preferring to obtain disagreement nonetheless believe they have the right to introduce a range of statutory authorities even without such agreement. We believe this is wrong and indeed we have questioned the wisdom or need for this altogether. In the private sector we have seen increasing insecurity of jobs, short-term contracts and cross-border workers

eroding long established pay and conditions achieved since the introduction of parity many years ago. The answer to these challenges is for people to join their union and play a full part in its Committees".

Mr Speaker, workers in Gibraltar would be touched by the Leader of the Opposition's apparent concern for their welfare were it not for the fact that they would still remember what life was like for workers in general and in the public sector in particular under his Government. I really do not enjoy raking up the events of that many years ago but really when the hon Member makes public statements in the year 2002 which are so inconsistent with his ideology in office when he was on this side of the House, it is more than a little bit provocative of the Government.

Mr Speaker, workers will remember the years between 1988 and 1996 the many hundreds of workers that were shunted with poor working conditions and legendary job insecurity in joint venture satellite companies. Members of the public sector who he now encourages to join the Union or to turn to their Union for protection allegedly needed against the Government will remember the manpower reductions in the public service under his Government. They will remember the rundown in personnel not replaced. They will remember the complete lack of recruitment. They will remember the complete lack of promotion and they will remember the complete lack of training opportunities.

Mr Speaker, does the hon Member really think that he can make public sector workers in Gibraltar or indeed any worker in Gibraltar feel a need of protection from his party against my party. If he really feels that, if he really believes that, I have to tell the hon Member that he is living in cloud cuckoo land. In addition to what we have done for public sector workers, which of course includes equalisation of industrial and non-industrial pensions, all workers in Gibraltar and of course, needless to say, restoration of

manning levels, restoration of promotion opportunities. In addition to all equalisation of industrial and non-industrial pensions in relation to everything that we have done for public sector workers, all workers in Gibraltar are infinitely better off under this Government than they ever dreamt of being under his Government or that he ever dreamt of putting them in when he was office. We have frozen the annual increases which he used to have in Social Insurance contributions there has only been one increase in the very regressive Social Insurance Tax. Regressive meaning that it penalises the hardest, the lowest paid. There is only one increase in Social Insurance Contributions since 1996. He used to increase every year by 10 per cent, a tax on the poor. We have introduced very substantial tax cuts which have very significantly reduced the tax burden of ordinary working people in Gibraltar. We have very substantially increased the minimum wage and have extended it to all workers not just to the narrow group of workers that used to benefit from the minimum wage when he was in office. We have introduced redundancy compensation rights for all workers in Gibraltar not just for the very narrow group of workers that used to enjoy it when he was in office. Hundreds of workers in non-occupational, pensionable employment in the satellite companies that he set up have now been given occupational pensions by this Government under the Gibraltar Provident Scheme. Hundreds of workers that he was happy to employ without pension provisions for their retirement now have pension provisions. Why did he not do any one of these things to improve the lot of workers in Gibraltar which he now professes to be concerned about again and which he had the power to do when he was in office, chose not to, we do it and then he has the cheek to suggest to workers on May Day that there is need of protection by him from me.

Mr Speaker, unfortunately for the hon Member the memories of working people in Gibraltar are not as short as they would need to be for the hon Member to succeed with this strategy. Try as he might he simply lacks the credibility to pretend that this Government are a threat to workers' rights. Workers will understand that the very opposite is true. In no period of four

years in the Government of Gibraltar have there been so many improvements to workers' rights as there have been in the five or six years since this Government have been in office.

Mr Speaker, I regret to inform the hon Member that in this respect he lacks credibility even when he distorts and misrepresents the Government's position because, of course, he personally would lack credibility even if what he says is true, but what he says is not true. To boot it is not true. None of the authorities that the Government have been working towards implementation, none of them, not one has proceeded without worker consent. None. So why does he say that any of them are proceeding without worker consent. All of them have been the subject matter of negotiations and agreements - I realise how uncomfortable the hon Member gets when we touch on this area - which he considers to be ideologically his terrain but is now ideologically more our terrain than his.

**HON J C PEREZ:**

I doubt that very much.

**HON CHIEF MINISTER:**

Mr Speaker, the hon Member has to deal with the facts and not with what he thinks he would like the facts to be when they are not and he then has to grapple with this Government's vastly better record on doing things of value for working people than they ever did in eight years in office and I am not even a Socialist. I am not even a Trade Unionist. What I have got is a social and moral conscience and with a social and moral conscience the Government have introduced worker rights and protections and worker benefits in the last six years which they, alleged Socialists and apparently paid up members of the Transport and General



Workers Union, chose not to introduce when they had the power to do so. Those are inescapable facts there is no need to argue about them. There they are what we have done is on the record. What they did not do as well as what they did do is also on the record. It is a matter of public record.

Mr Speaker, all of them have been the subject matter of negotiations and agreements with the Trade Unions and staff. As the Government are tired of saying in this House most recently said by the Minister for Public Services at the last Question Time none will be imposed on staff. Indeed most of the ones that we are working on are intended for the benefit of staff.

Mr Speaker we have privatised nothing. We do not believe in privatisation, we have no privatisation agenda and the reality of it is that we have privatised nothing. Would he care to compare his privatisation record with ours? And when he has recollected the long list of privatisations that he implemented and recalls that we have implemented none, would he like to repeat his May Day warning that "in the private sector we have seen job insecurity and the erosion of long-established pay and conditions." No Chief Minister in the history of Gibraltar has ever tipped more public sector workers into the apparent insecurity of the private sector than he has. On what basis does he pretend to warn the public sector workers about the risk of non-existent privatisation now, when all the privatisation of public sector that has ever happened in the entire history of Gibraltar has been perpetrated by him, not by us. When he laments the job insecurities of the private sector, this is the same job insecurity into which he has tipped hundreds and hundreds of public sector workers.

Mr Speaker, we have privatised no public sector employee and we have no intentions of transferring any public sector employee into the private sector. May I also remind him that even when after agreements with staff when it can be obtained, functions are transferred from Government Departments into Statutory

Agencies, these remain public sector activities and the staff remain public sector employees. Even then, that is to say, even if and when we are able to introduce a statutory agency it is still not true to refer to it as privatisation. There is even then no privatisation. There is only one function in Government where the Government are rapidly running out of options and that is after we have offered a package within the public sector negotiated with the Transport and General Workers Union and what the Transport and General Workers Union has described as generous and attractive. It has still been rejected by the workers and that is the postal delivery workers in the Post Office. That is the only group of workers in which the Government may be forced beyond where its natural inclinations would take it in the interests of the public sector. The Leader of the Opposition's May Day Message does remind me to caution against a worrying and increasing trend, and that is an attempt at the return to the 1970's and 1980's style of party political interference in public sector industrial relations. Let me tell hon Members that we are told this by the workers themselves. This is evident in several areas where the Government are attempting to reform the public sector not just for the benefit of users, not just for the benefit of citizens and the taxpayer but also for the benefit of employees themselves. There are cases of agreements reached with the Union, which have fallen prey to such party political interference and undermining.

Mr Speaker, it is not just I who say so because at the same time that the Leader of the Opposition was making his completely inappropriate and inapplicable May Day message, the District Officer of the Transport and General Workers Union was also making a May Day message and this is what he had to say and I quote him, in the rest of the message he is quite critical of the Government. I can take criticism on the chin, the question is can the Leader of the Opposition take criticism on the chin or does he proceed on the basis that all criticism of him is necessarily maliciously motivated.

"The District Officer of the Transport and General Workers Union, Mr Montiel, to all workers in Gibraltar on May Day. The above scenario creates of necessity a deficit which is constantly exploited by politically motivated competing interests through direct interference in the legitimate affairs of the Union. Within these context certain political interests engaged in discrediting the leadership of the Union and in so doing ensure that no reasonable solutions are found to pure and simple industrial matters even when the worker's pay and conditions are actually improved. Individuals who hide behind the protection of the Union do a great disservice to the credibility of the Union and the reputation and dignity of workers in general. Public Sector-The preservation of an efficient public sector and the economic well being of Gibraltar is in the interest of both Government and the Union and is best secured by a conscientious and professional management and a dignity towards the work ethos and not the advancement of political interests or greed".

Those are strong words in public from the District Officer of the TGWU, it does no more than to support and sustain information that reaches us directly from workers who are exposed to this political pressure. Now, the hon Members may choose to laugh but the whole of Gibraltar remembers how the Leader of the Opposition used the Trade Union movement to reach office in 1988 or does he think that people have forgotten that as well? And does he really think that either the Government or the people of Gibraltar or even the workers of Gibraltar are going to tolerate a repetition of that sort of political manipulation of their interests as workers. I can assure the hon Members that the workers in Gibraltar need no protection from this Government and they certainly need no protection from the Members of the Opposition who were the last people to assault the interests of workers in Gibraltar and now seek to swap the sword that they used for that assault into an alleged shield to protect them from this Government. People have got eyes and people feel and the people in Gibraltar just are no longer willing to put up with that sort of condition.

Mr Speaker, the estimates of the revenue and expenditure that is before the House. *[Interruption]* This is another area which the hon Members appear to have a shortness of memory which is really not good for their political health. When they were in Office, *[Interruption]* when they were in Office, by shouting me down, by shouting me down he can delay for about 10 seconds, no more, hearing the inevitable. When they were in Office there was no reference to the Consolidated Fund at all, indeed, how could there be? Given that the Estimates of Revenue and Expenditure at that time, contained only 60 per cent of Government Revenue and Expenditure how could they possibly have a debate. So when the hon Member giggles as if to say, 'at last you have come on to something relevant!' Can he please recall his own budget speeches which gave none of the information that mine give, which dealt with everything except the Estimates of Revenue and Expenditure and which, of course, did not deal with Revenue and Expenditure for the very simple reason that as a measure of the Government's revenue and expenditure the Estimates that he used to publish were a meaningless document. We only ever used to have 60 per cent of the picture in front of us as we did not have the other 40 per cent we did not know how much there was and how much there was not, how much was being spent on et cetera, et cetera. I am glad to say, that the Opposition is now better able to do their job than I was when I was in Opposition. As the Financial and Development Secretary has informed them the forecast out-turn of last year's figures suggest that we will have a surplus, on recurrent revenue and expenditure of £50.7 million. For a variety of reasons the projected surplus for the current year in terms of recurrent revenue and expenditure is £8.8 million. The attitude of the Government towards recurrent fund management has been to curtail growth in recurrent expenditure unless it could be demonstrated, that the additional expenditure in recurrent terms would deliver a needed and identifiable improvement to public services. So when Ministers put up a proposal to spend more money, on the Elderly Care Agency, and demonstrate that this adds an additional social caring service for the local community, that extra money is made available. When the Minister for Education and Health do the same, the same approach is made. But in terms of recurrent expenditure that just

disappears into a morass of administrative expenditure there is a tight lid kept on the growth of that sort of recurrent expenditure and of course, the majority of increase in expenditure comes from things which are outside the Government's control which is payroll increases which given the parity arrangements these just come across automatically in Gibraltar, and they have whatever cost they have. In terms of the Improvement and Development Fund, Mr Speaker, the ability to spend the estimated funds has increased considerably this year. The hon Members will note that we estimated that we would spend £25.7 million. We have in fact spent nearly £23 million that is £22.8 million. This year, we are estimating an expenditure of £27.8 million and again it may well be that that is not spent in its entirety but all the projects that we would like to make a start on are there. Now, in terms of what these projects are and whilst my colleagues will be giving details of them, they break down basically into the following main projects. There is a very significant amount of money going to be spent in the continuing programme at major remedial repairs and beautification and refurbishment works to the Government Housing Estates. Hon Members will be aware that there is a systematic programme to refurbish all Government Housing in Gibraltar not just to improve the quality of life of Government tenants but indeed also as a contribution to the enhancement of the physical appearance in Gibraltar generally and also there will be significant money spent on the on-going, lift installation programme in Government Housing Estates. Government are focusing, last year, for example we abolished import duty on computer hardware and software in recognition of the fact that Government recognised information technology as an essential aspect of the development and formation of the work force and indeed of the students in Gibraltar and a significant amount of money will be spent in very significantly improving the provision of computer infrastructure within our schools. The Theatre Royal project which is on-going will continue to unfold and there will be significant expenditure on that project this year.

Another project that is underway and hon Members may have noticed, is a project which is estimated will cost in the order of

about £1 million to create a new baggage screening shed at the airport. This is an essential requirement of the current security climate where we have to introduce a conveyor belt and x-ray machine system whereby all luggage is passed through a mechanised x-ray system before it is loaded onto an aircraft, and obviously the land frontier building refurbishment contract will continue. We hope and we have made financial provision this year to proceed with the relocation of the small boats to Coaling Island, and this year also we will be proceeding with the new public transport system about which the Government have been making their ideas known publicly and gradually. There is a heavy programme of road construction and road resurfacing. There is a project to drive a new road through Chatham Counterguard, and there is another project to build a new road up Willis' Road, Castle Road area to facilitate traffic flows in that area and the Government have made financial provisions for proceeding with the construction of parking facilities in the Upper Town Area. There is a significant provision for Rock Safety Coastal protection and retaining walls and indeed for investment in our sewer system. Hon Members may recall in my budget speech last year I warned that there would be a need for substantial investment in sewers and indeed in stabilisation works and then as fate might have it since I made those statements we have had a major rock fall which resulted in the tragic death of a young Gibraltarian man and we have had a major collapse of the sewer system in Rosia Road. Both of those projects will require a very substantial capital expenditure in addition to many other rock stabilisation and retaining wall stabilisation programmes that the Government already had programmed to carry out this year and will continue as well. We hope, to proceed this year with the project for the demolition of the Piazza and the return of the John Mackintosh Square back into a City centre town square at street level. I hope that the hon Members will agree that this is a worthwhile project, and with the Upper Town beautification project as well. There is financial provision this year also for the completion of the new Bayside Sports Facilities which hon Members will know are already underway and of course there will be major expenditure on the new state of the art Hospital for which a very large amount of consultation with employees,

doctors and user groups, a very detailed amount of design work, contract preparation work has been done, the tender that was done according to EU tendering requirements because of the size of the project, this has now been completed. The contractor has been appointed and so the works, physical works will be starting very, very soon. There will also be investment in the Elderly Care Agency where the programme to increase it to nearly double its capacity will get under way and this year we will also be constructing a swimming pool for elderly and disabled persons that we hope to provide in the reclamation area.

Mr Speaker, there is a varied and wide programme of continuing capital infrastructural works. The position of the Government reserves and debt is as follows:-

In terms of Government reserves the forecast out-turn for the reserves as at the 1<sup>st</sup> April 2002, that is to say the beginning of this financial year, was that the reserves stood at £42.1 million and that the estimate as to what the reserves will be at the end of the current financial year and after a significant contribution to the capital investment programme, that I have just outlined, that those reserves will stand at £37.1 million. In terms of the public debt of Gibraltar that is forecast to have stood at £78 million at the 1<sup>st</sup> April and is estimated to have reached £86 million by the end of the current financial year.

Mr Speaker, can I just take this opportunity to correct the Leader of the Opposition on one small point. It was in addition to the programme, I have only listed the major programmes, there is a plethora of more minor programmes that also go up to make the £27 million but can I just correct the Leader of the Opposition on one comment that I detect, since he has taken to make them once again, it is some time since he last made them, but I heard him in a Spanish television interview complain that the Government were just spending the money that he had left. He describes the money that he had placed in reserves, and that sort of thing, but

can I just explain to him, nor that it makes any great difference, because the money is neither his nor mine, it is the taxpayers. But let me just explain that actually we are not spending any of the money that he left. All the money that he left, such as it was, nor was it the figure that he mentioned on that television programme in Spain, but never mind, leaving that aside, all the money that he left is still there. The money that he left, that we all know where, is still there. Indeed, it has been supplemented. The money that he left in the reserves and in the Government companies are still more or less at the same level and all the projects that we have undertaken have been funded either by an increase in public debt or in a minor way given that we have spent nearly £122 million since we have been in office and public debt has increased only £15 million. Most of our capital investment programme has therefore been funded through budget surpluses that have been generated. Finally, hon Members know that the Government have since 1996 taken annual steps to reduce the burden of personal taxation. This has taken several forms. There has been only one increase in Social Insurance Contribution since we took Office. Personal Tax Allowances have been very, very substantially decreased, tax bands and thresholds have been restructured. Last year we introduced a tax credit of £100 for any tax payer with an earned assessable income of less than £7,000. That was a measure designed specifically to target tax reduction at the lowest paid. Last we have also exempted senior citizens from tax on income less than £7,760 with generous tapering off marginal relief all the way up to £13,000 of income. We have reduced the top rate of tax from 50 per cent to 48 per cent. We intend to continue with this policy. Accordingly I can now announce the following measures.

As a further step in Government's continuing commitment to progressive and sustainable reduction in personal taxation and continuing the annual reductions that we have implemented since 1996, there will be a reduction in the tax rate applicable to the first band. At present, tax is payable on the first £3,000 of taxable income at the rate of 20 per cent. This rate is reduced now to 17 per cent. This reduction is worth £90 pounds a year to every

single taxpayer. The 45 per cent tax band will be widened. At present the 45 per cent tax band consists of taxable income of £4,500 after which the remainder of the income passes into the maximum marginal rate which used to be 50 per cent and is now 48 per cent. The tax band of 45 per cent is widened to £8,000. This is worth up to £105 per annum to tax payers with income in this tax band. There will be a further reduction in the top rate of tax. Last year the top rate of tax was reduced from 50 per cent to 48 per cent, it is now further reduced to 47 per cent. In terms of personal allowances we have over the years increased the personal allowances to an extent that more than restores their real value to their 1987 level, which was the last time that they had been increased since before we came to Office. Accordingly, personal allowances this year are all increased by 3 per cent, except the following two allowances which are increased by higher amounts. The Medical Insurance Allowance will rise from £300 to £500 and the Private Nursery Fee Allowance will rise from £650 to £850. In respect of the low income earners tax credit, as I said, last year, I introduced the low income earners tax credit as a means of giving back some of the tax paid by the low income earners in Gibraltar. Anyone with assessable income less than £7,000 per annum would get back £100 by way of a tax credit. This is now increased to £130 and in addition will be payable to anyone with an assessable income less than £8,000 per annum that is up from £7,000 per annum. Now this measure is worth £130 a year in addition to the previous benefits that I have just announced, it is worth an additional £130 a year to every tax payer with income less than £8,000 per annum of which there are several thousand.

Mr Speaker, in terms of savings, in order to encourage personal investment and savings, before I say that, can I just make a public statement reminding people that the low income earners tax credit has to be applied for in tax returns and it arises for the first time at the end of the current financial year. So I would urge people with low incomes, of less than £7,000, as soon as possible after the 30<sup>th</sup> June, to submit a tax return so that they can be in receipt of, in respect of last year the £100 credit that they will get under this

new scheme, introduced last year and of course this time next year the same will be true of more people in respect of a higher amount, £130 per annum and affecting more people because it will benefit anyone that earns less than £8,000 a year as opposed to last year's which was only £7,000.

Mr Speaker, in order to encourage personal investment and savings for the future the first £5,000 per annum of any individual's savings income will be exempt from income tax. Savings income will be widely defined but the definition will be restricted to ensure that earned income, that is wages and salaries, are not disguised as savings income, the exemption will apply to such things as bank and building society deposits, shares in quoted companies and quoted bonds, debentures and gilts and savings products of that sort.

Mr Speaker, last year I announced the abolition for one year of import duty on computer hardware and software. This measure was designed to reduce the cost of information technology thus making it more price accessible to ordinary people. The Government attach great importance to the attainment of computer skills by the people of Gibraltar. This import duty abolition is therefore extended until at least the 30<sup>th</sup> June 2003. Finally, if I can just comment that there are no measures for company taxation and that is because these will be included in the imminent and substantial reform of company taxation in Gibraltar which reformed will deliver substantial benefits and advantages to all tax paying companies in Gibraltar. In overall conclusion, may I once again say as I said last year that this is a balanced and sensible budget. It is balanced because it complies with what is now the hallmark of our approach to the management of the economy and our hallmark to the management of Public Finances and to budgets, and that is that there should be a balance between capital investment in our physical infrastructure and in our facilities and public amenities, that is to say, an investment in the present and future generations of Gibraltar in terms of the physical infrastructure and facilities in Gibraltar. In

addition that there should be investment in modernisation and improvement and upgrading of our more important public services, especially Health, Education and Social Services. Thirdly, that there should be a balancing of expenditure on those two items with reduction in personal levels of taxation and fourthly that the Government should maintain a prudent level of reserves and public debt. This balance is the blue print and hallmark which has underlined every budget that we have introduced since we have been in Office in 1996. It is the best way to balance the interests of present and future generations and to balance the interests of Gibraltar as a whole with our interests as individual citizens. I commend the Bill to the House.

The House recessed at 1.00 pm.

The House resumed at 3.05 pm.

## 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 documents on the Table.

Question put.            Agreed to.

The Hon the Chief Minister laid on the Table the following Accounts:

- (1) Gibraltar Co-Ownership Company Limited –  
Year ended 31.12.1999 & 31.12.2000
- (2) Brympton Co-Ownership Company Limited -  
Year ended 31.12.1999 & 31.12.2000
- (3) Westside Two Co-Ownership Company Limited -  
Year ended 31.12.1999 & 31.12.2000
- (4) GRP Investments Company Limited -  
Year ended 31.12.1999 & 31.12.2000
- (5) Gibraltar Commercial Company Limited -  
Year ended 31.12.1999 & 31.12.2000
- (6) Gibraltar Investments (Holdings) Limited -  
Year ended 31.12.1999 & 31.12.2000
- (7) Gibraltar Land (Holdings) Limited -  
Year ended 31.12.1999 & 31.12.2000
- (8) Gibraltar Joinery & Building Services Limited -  
Year ended 31.12.2000 & 31.12.2001
- (9) Gibraltar Industrial Cleaners Limited -  
Year ended 31.03.1999

Ordered to lie.

## **Debate continued on the Appropriation (2002-2003) Ordinance 2002.**

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

### **HON J J BOSSANO:**

Mr Speaker, last year when the Chief Minister opened the budget debate and spoke for two and a half hours I thought it might be the influence of his recent visit to the Havana seminar, this time it is three hours and he did not even go to Fiji. What is new this year is not the length, although I suppose we can expect three and a half hours next year by extrapolation but the fact that out of the three hours what the House has been told least is why it should be voting in favour of the £144 million expenditure before the House which is what we are supposed to be doing and given that he has established that it is possible on the premise that one is talking about the expenditure for the year 2002/2003, to talk about anything else, for example, one line in my May Day message generated half an hour of the three hour speech. The Guardian article generated another half hour of the three hours speech. The Straw letter and the Hain manipulation of media all led to further explanations from the Chief Minister and in particular explanations about the Input/Output study and the Abstract of Statistics for none of which we are voting. There is one thing in the forecast out-turn which for us is an important issue of policy which has not been mentioned and on which the Opposition feel very strongly and there is therefore a clear political divide in this House. The estimates show that in the financial year just ended, £5 million have been removed from the Social Insurance Short Term Benefits Fund and paid into the Social Assistance Fund. We are totally opposed to this decision. When the Government brought an amendment to this House to provide for money to be taken out from the Social Insurance Fund and transferred to the Consolidated fund or to another special fund we opposed it and

argued against. Social Insurance Contributions are compulsory payments to fund the receipt of identified benefits, they are not taxes on income to provide general revenue. If a private company raided the pension fund of its employees they would be taken to court so in principle we are against this methodology. In addition it is in fact contradicting everything the Government have said in this House since 1996. In the first budget the Chief Minister said that following agreement with UK it had decided to set up an Open Pensions Fund to deal with rights accrued from the 1<sup>st</sup> January 1994 and onwards on a continuing basis in the future, a closed fund for pre-1994 pension rights and a Short Term Benefits Fund. The Chief Minister argued that the Government policy was that the new open scheme should not be a budgetary item and that it should not become an item of expenditure which had to be met from recurrent revenue. He said that it was the policy of the Government that resources would have to be allocated to restore the value of the Pension Fund and that the Pension Fund liabilities should be met from designated income for that purpose. The reality is that the Government have done the very opposite of the policy they announced, he has raided the Social Insurance Fund and removed £5 million of its capital. He stated that the old Social Insurance Fund contained of the order of £17.5 million in 1996 and that traditionally it had consisted of an amount much nearer £50 million. This statement was untrue and utter and complete nonsense. Never in its history has the local Social Insurance Fund had £50 million balance. He announced that they were about to engage in an actuarial process to establish the degree to which the fund had according to him been depleted over the years by the GSLP. No such actuarial process was concluded in 1996 or to our knowledge since, nor is it the case that the Social Insurance Fund was depleted between 1998 and 1996. Later on in the year when the Social Insurance Ordinance was brought to the House he repeated his unfounded and incorrect accusations. He said, "there is a much depleted Pension Fund whereas when the hon Member, meaning me, reached office the Social Insurance Pension Fund had a sum of £55 million, as we speak today there is £15 million in it, that was in 1997. So, there is a substantial problem of underfunding of the scheme which the Government

will have to find resources for. This statement which in a few months had shifted from £50 million to £55 million as the 1988 figure was again a complete fallacy. What are the facts available in published Audited Accounts of the Government? The Social Insurance Pension Fund did not even exist when I took office in 1988. The Social Insurance Fund at the time covered both, Long-Term, that is, pensions and Short-Term Benefits and its balance was £16.5 million, not £55 million as was recently confirmed in answer to Questions in this meeting of the House. The separation into two funds, the Long-Term and the Short-Term took place in November 1988 as a result of our agreement with the UK Government that they should pay for Spanish pre-1969 pensions. In addition to the Social Insurance Fund there was the Employment Injury Fund also paid for by insurance contributions with a balance of £2.2 million in March 1988 the combined balance therefore of all Social Insurance money was £18.7 million in 1988, and of the order of £36 million in 1996. So, far from depleting the Social Insurance Fund in our eight years the accrued capital doubled. It is true that as a result of the separation the balance in the Employment Injury Fund grew from £2.2 million to £4.9 million and that in the Short-Term Benefit Fund it grew to £6.7 million to protect Gibraltar against UK's objective of making us pay for Spanish pensions. The Chief Minister admitted this when he introduced an increase of £1 in the contributions to the Open Long-term Fund he said then, ".....it is intended that the shortfalls in the Long-Term Fund should be met by transferring funds from the currently and indeed historically recent history over-funded Short-Terms Benefit Fund." He told the House, ".....the balance in this fund exceeds £8 million therefore it would be easy to meet the £1.8 million annual shortfall in the Long-Term fund." He has not done what he said was intended. He added, "....even if we use the whole of the £8 million accumulated capital which is in the Short-Term Fund which is in a sense money that might otherwise have gone into the Pension Fund we are still talking about two or three years in respect of the shortfall." That Mr Speaker was in 1997 not only has he not transferred these monies five years later, but instead he has expropriated £5 million to use for something else, why? He said at the time, ".....I recognise that there is this £8 million

which can be easily diverted, " why was it not done? Let us look at the facts and not at the spin. The Short-term Benefits Fund had £6.7 million when we left. In 1997 when the Chief Minister was making these inaccurate statements it had reached £8.3 million. By March 2001 last year, it stood at £11.1 million, and now after plundering it to remove £5 million it stands at £6.4 million therefore below the 1996 level and removing all the money entering that fund since he was elected. What has happened in the meantime to the Long-Term Fund? In 1988 it had £23 million and was dropping by about £2 million a year. By the year 2000 it had £19.5 million and today it is probably at something like £15.5 million, we do not know what the latest figure is. Where does this leave the commitment given by him to this House in 1997 when he said, "...the Government are determined that the financial provision available for the payment of Old Age Pensions will be put on a more secure footing than has been the policy during the last eight years when incidentally the reserves went up. We will also now in the next year or so and then later find ways of making positive capital contributions to it so that the income shortfall is addressed by the allocation of additional capital resources." He did not do this in the next year or so after 1997 and he did not do it later either. In fact, he has just done the opposite, removed capital resources instead of providing it. Unfortunately, Mr Speaker, this is not the end of this sad story of mismanagement and incompetence for which the Chief Minister carries political responsibility and the Financial and Development Secretary carries legal responsibilities.

In the original Ordinance on the Closed Long-Term Fund which pays Spanish pensions, the Government introduced a clause to unfreeze their level and pay increases and we warned them at the time and questioned the wisdom of this provision but they refused to listen. Subsequently, they brought an amendment to this House to remove the provision that they had put in at the insistence of the Foreign Office. I said about this provision, "...it seems to me that by putting that clause there what we are saying in this House is that there is a possibility that this rate, that is, the pension rate which has been frozen since 1989, will be increased



or could be increased if the Minister so decides and the House approves it and that possibility as the Chief Minister has said can only come about by one of two ways, either by the UK agreeing to pay or by the Government of Gibraltar agreeing to pay, both of which seems to be highly unlikely sets of circumstances." His reply was, "...I may be as successful as the Leader of the Opposition in negotiating with UK." Well, Mr Speaker, recent events do not seem to indicate that he is particularly successful at negotiating with the UK Government. Be that as it may he was certainly indicating the political will to see Statutory Social Insurance Old Age Pensions from the Closed Fund increased for Spanish Pensioners. We know Spanish Pensioners are asking for revalued pensions from 1989, we are talking about an increase of 45 per cent in the level of the Index of Retail Prices since they were frozen which probably translates into more like a 60 per cent cost increase when the accumulative effect is taken into account. Suppose UK agrees to pay the back-dated inflation increase to Spanish Pensioners, the fund will then have to do likewise for local pensioners, Gibraltarians and Moroccans and the estimated balance of £15.5 million currently there would be wiped out overnight. Let me say for the avoidance of doubt that I am talking exclusively of Social Insurance Statutory Pensions and not payments which are discretionary by a local charity which has nothing to do with this issue and which is merely a transparent attempt by the UK to pass the buck, but if the Government way back in 1997 were willing in principle to see Social Insurance Pensions increased for Spanish and local pensioners, where is the logic of removing the money from the local insurance fund at this particular time when it has become a hot issue. What is more Mr Speaker, if the economy was in a bad way, if Government revenues were weak, if there were other competing overriding national needs, I might understand though not necessarily support the decision for this unprecedented radical move but it is not the case if we are to believe the glowing picture of solvency which we have heard from the Chief Minister.

Since the Government have collected £10 million more than budgeted last year why on earth do they need to make use of that

£5 million in the Short-Term Social Insurance Fund which clearly has been identified since 1997 and 1996 as required to top up the money in the Open Long-Term Fund which is where the current contributions go or to be transferred directly into the Closed Long-Term fund which is where the bulk of pensions are paid from.

Mr Speaker, here we have an example of how the Chief Minister makes statements in the expectation that people will forget them and not be challenged on them like he did on these £55 million which when I asked at the earlier meeting of the House nobody seemed to know where it had come from and just like he paints a picture of saying we depleted the Social Insurance Funds in eight years when the opposite was taking place, the same applies to his whole approach to politics in that when he entered the political arena there were two pillars to his philosophy, one was anything that was good was an optical illusion and anything that was bad whether it was real or not did not matter because it was perception. I am afraid that he is now at the receiving end of somebody in London who shares his philosophy and believes in perception and in optical illusions. I will grant him one thing Mr Speaker, he is the master of spin and propaganda. He has sequestered practically all my arguments against the Brussels process but still supports it and he has regaled this House year after year with glowing accounts of economic success but dismissed my request for figures to back it up with an alleged obsession on my part with statistics which is what he accused me of in the last budget.

Let us look at the statistics as it is supposed to be my obsession. Let us dissect the Caruana economic miracle. I will not dwell on the number of buildings that have been repainted many times over, or the number of plants that have been planted, or the number of pavements that have been repaved all of which are laudable projects that will go up to make a year's GDP when the Input/Output study is finally completed but do not generate income and economic growth. We will have to await for the full report although we have been given an initial glimmer and I will be

commenting on that later on of its structure and content. We will reserve our final judgement of that new methodology when we see the thing finalised but I have to say the initial figures presented today are not encouraging.

Let us look in terms of the revenue and import duty. He knows as I do that what I might call general merchandise now provides the same amount of import duty as it did in 1994/1995 and that the balance comes from items potentially susceptible to hostile neighbourly actions. Let us look at banking statistics, during what he describes as the bad GSLP years bank deposits grew from £500 million to £3.4 billion at the highest, a figure that has never been surpassed since then. Let us look at expenditure from cross-frontier visitors with the numbers every year exceeding the previous year and of course prior to 1996 the view of the Chief Minister was that cross-frontier visitors should not really be counted as tourists because all they used to buy was Edam cheese and packets of sugar. The Chamber survey from which he has quoted shows that the percentage of trade generated from such visitors goes down every year as the number goes up. The survey this year shows that the dependence of the retail trade on resident consumers is higher than ever. Let us look at this engine of the economy that is the private sector and who it employs. Let us look at the employment survey reports tabled in this House. We now have the most recent figures available, the October 2001 Survey and I acknowledge that this is better than we were ever able to produce in terms of the time between the production of the information and then tabling in the House and we were promised that when the system was changed and we doubted that it could be achieved but it has been done this year. The important thing of course is what it does show. It shows for the first time since 1996 an increase in private sector employment and an increase that is taking year 2000 with the year 2001 and it also establishes a clear trend since 1996 of the deterioration in the quality of the jobs in the private sector. The numbers employed full-time in the private sector had shown no increase between 1996 and October 2000 in spite of the fact that every year we were being told that there were other indicators and every year when we pointed out

that the indicators were not being reflected in the official statistics of the Government of Gibraltar tabled in the Parliament the answer was that we were obsessed with statistics or that we used or I used statistics to change them around and paint a picture that was not real. The statistics are there and we are talking about simple arithmetic and one number is either higher or lower than the other. It is only in the last survey covering October 2000 to October 2001 that the figures have gone up by over 500, half of these being in the construction industry and some certainly being in Government funded agencies which as we have known from answers to Questions in the House appear here as private sector. However, even though there are more full time jobs in 2001 than in the previous year, Gibraltarian employment is still some 500 jobs less than in 1996, yes, "where are they?", the Chief Minister asks and that is what he asked me last year, he said "if they are not in the private sector and they are not unemployed where are they?" Well I know where they are not, they are not in Gibraltar because if he knows of a better explanation it can only mean that we are losing Gibraltarians and replacing them with Spaniards, and they are not finishing up on the dole, they are finishing up outside our shores or else contrary to what he has told us there has been an increase in illegal labour but this time all the illegals are Gibraltarians.

Mr Speaker, the Chief Minister brings the Survey to the House and quotes those figures in support of his analysis, well then he has got to live with the figures in the same report that do not support his analysis. There is a clear trend and that is that the private sector every year since 1996 has been relying more, and more on Spanish workers. Even when we exclude construction which traditionally since 1986 has acted as an area which absorbed Spanish labour in line with demand, if construction went up Spanish construction workers came into the market and if construction went down they left, and that has been going on since 1996 and therefore there is no clear trend every year up, there are less, for example, in the survey of 2001 than there were three years ago. If we take that out and we look not at the construction industry but at the rest of the private sector, what do

we find?, what we find is that in the rest of the private sector there has been between 1996 and 2001 a 255 per cent increase in Spanish labour from 484 to 1,234.

When the Government first announced measures of financial assistance to businesses, in fact in a Chamber dinner, the Chief Minister said that he had expected that that would result in more jobs for local residents otherwise the purpose of the exercise would have failed. I am afraid the surveys produced by the Government and Tabled in the House shows that they have failed to meet this objective.

Mr Speaker, I think it is also interesting that in the analysis that we have had about economic activity we have been told that the greatest threat comes from uncertainty and that the Chamber survey shows that in the year 2001 the negative impact of adverse publicity was affecting 67 per cent of the respondents. It is very strange that we have had between 1996 and 2000 no increase in jobs and no negative impact and this year is the year of negative impact and 500 extra jobs. The Chief Minister can shake his head as much as he wants, I can tell him that if he cares to do the exercise or get somebody else to do it for him he will find that there has been no improvement in private sector full-time employment since 1996 until this year. If he does not believe me I will give him some figures so that he can have them looked up. In the private sector in 1996 there were 7,736 jobs, in the year 2000 which was the highest before this one it was 7,742 a difference of six and in those six we have to discount the people of the Elderly Care Agency and the people in GBC and any other areas which are shown here as private sector. Areas that are paid not from private sector activity but from the Estimates we are voting today of expenditure, so, the fact that it is in the private is one thing to have GJBS in the private sector because GJBS is actually selling to the Government the product of its workforce and why should it not be there simply because it is Government owned. It is in fact acting as a commercial construction company like AMCO or anybody else but when one has for example, an

area where the Government simply votes money in the House and hands it over and there is no correlation between that money and a product which is identified, contracted or unpaid for then that is no different from the rest of the public sector. Indeed, the Gibraltar Development Corporation is in the private sector in these figures, we have been told that in answer to Questions. In 1996 full-time Gibraltarians were 4,950, in the year 2001 it was 4,379 and this year it is slightly above but very little difference. So, if it is indeed the case that the effect of the things to which the Chief Minister made reference when he opened this debate, if those things are going to have as he believes a negative impact, and as he says is predicted by 67 per cent of the Chamber of Commerce then I am afraid the welcome increase in this year in the private sector is going to be very short lived.

When he was making a reference to what happens when things get planted in the UK media as an aside, he says, "I might get a feeling of déjà vu," well yes, I can tell him that when the UK media said I was being threatened with 'direct rule' and I challenged the Minister who I think was David Davis at the time because it was attributed to a senior, I was not even sure it might not even have been the Guardian as well, attributed to a senior official in the Foreign Office, I can tell him that what Mr Davis told me over the telephone, because I rang him up in London was that they had no knowledge who this unnamed official was and that they were investigating it and searching for him and that he would end up in the Tower of London if they caught up with him. They never did, I hope they have better luck this time but of course I can also tell the House that when I issued a press release saying, "this is what the Minister has told me," the Minister rung me up very upset because he said, "look you are not supposed to make that public, I was only telling you that for your benefit." So, that might help him to pre-empt the next stage in this comedy that we face in dealing with our friends in London. Although we have put questions in this House about the non-publication of the Abstract of Statistics and about the delay in the production of an estimate of GDP as we have made clear publicly it is utter and complete rubbish to suggest that the fact that the figure and the document

in question have not be made publicly available has absolutely nothing to do with money laundering or anything else and therefore it will be an incredible level of ignorance of anything to do with Gibraltar and its economy if it were true that people in the Foreign Office are worried that because the Abstract of Statistics has not been published since 1996 there must be money laundering so we have absolutely no problem in condemning that for what it is and in guaranteeing to the Government that the British Government cannot count on us to do their dirty work for them and that therefore we will reserve our right as we are elected to do to criticise the Government in our Parliament which is where they are answerable because they are answerable to this Parliament and to the people of Gibraltar and not to the guys in the Foreign Office.

I am not sure whether the £1.6 million that has been the cost of advertising is one that everybody in Gibraltar thinks that it is the best spent money that we have ever had. The Chief Minister may not have found anyone, I can give him a list of names who think otherwise, but everybody is entitled to give their opinion and as far as I am concerned it is the judgement of this Government that that is the way in which to defend Gibraltar's interest and they come to the House and we will vote for the money to be spent because we agree in the defence of Gibraltar. It is probably the case that if we were in Government we would not be dishing out £1.5 million in advertising but certainly long after the advertisements are forgotten it seems clear that we are going to be still fighting to defend our corner and I imagine that that rate of expenditure and advertising cannot be kept up indefinitely.

In telling us of the letter from Mr Straw, the Chief Minister said that he had answered a question, initially from me saying that he did not know why so many years had passed without the publication of the Abstract and that he had promised to investigate it, and he gave us a number of reasons. In fact subsequent to that answer I have asked him in this meeting of the House what was the reason and what he told me most recently was that his investigations had

produced no reasons and that he could not give me any. [*HON CHIEF MINISTER: At the time*] No, no Mr Speaker, the first time I asked he said he would investigate and the second time I asked, when I asked "when is the Abstract for 1998 going to be produced" I was told, "...what has been decided is that we are going to publish the Abstract in the year 2003 and it will cover all the years up to 2002," but the investigation has not produced an explanation as to why it stopped. We have been given an explanation today as a result of him feeling that he should tell the House what the reason is following Jack Straw's letter or maybe because he has gone back to the department and insisted on getting an answer which was not there before but I must say that as he himself acknowledged, if one wants to change the presentation then there is no reason to stop the thing being produced in the old system, and as he has said, and I accept, it is not as if it was information in the main that has to be calculated anew because some of that information has been in the public domain because it has been given in answers to Questions, for example, import and export figures.

Then there was the question of National Income Accounts, we have been told that they have never been published and that for the first time it will be when the Input/Output model comes out that this account will be published. Presumably what we are being told is that it will contain some kind of breakdown of the global figure which has always been published in the past. As the Chief Minister acknowledged, the system in place was the one that was there before 1988 and on which the 1988 GDP figure was calculated which was supposed to be £150 million. As far as I am aware, as far as I was told when I asked how this was done, I was given a thick tome which is called 'The Blue Book' on UK National income and National Accounts and that adapted to Gibraltar was the basis of the calculation. I was also told that this was not peculiar to UK but this is the methodology that everybody else uses for their national income figures, so it seems to me that what is being proposed here is something that may well be peculiar to Gibraltar for the purpose of calculating national accounts, I do not know and as I have said we will see what emerges, but I have to

say that the Statistics Office never said, "We need to scrap this system and put another one in its place before 1996." It is true that there was this discrepancy but let us be clear what we are talking about. There are two methods to arrive at the figure and one is called the 'Income Method' and the other one is the 'Production Method' and in one what one does is that one adds everybody's income in Gibraltar and that gives one a figure and with the other system what one does is that one adds up the value of the goods and services produced by everybody in Gibraltar and in theory the two should be the same because for every penny that somebody has received, in the sale of a product, somebody else must have paid a penny for that product. So, one can either count the money received by the seller of the service or the product received by the buyer and the discrepancy arrives because the two figures did not tie up and that was the residual error. The residual error was the difference in the calculation between the two. The fact is that the correlation on the income side was the one that was most consistent with other figures because if one looked at earnings from employment in the Employment Surveys which can be arrived at by getting the table of average earnings and multiplying by the number of earners, and one gets the global figure, the changes from year to year in that correlated with the changes in national income from year to year. Therefore the most reliable element in the equation was in fact earned income which was a big chunk of total national income. When the Chief Minister was talking about these preliminary figures I did not interrupt him because I know he does not like being interrupted by me, and sometimes he refuses to be interrupted by me, but he said that the preliminary figure on output was £1 billion and that that meant that per person employed in Gibraltar we produce on a per capita basis, £95,000. There must be some people producing a hell of a lot of millions because I do not know how many of the ones on that side are currently generating goods and services or having earnings of £95,000 a year but there are none on this side. So, if we start removing all of us who are below the £95,000 and adding it to the ones who are above the £95,000 it must come to a very substantial sum of money. I am afraid I do not understand the relationship between output being £1 billion and Gross Domestic Product being £480

million. I am prepared to give way to the Chief Minister if he knows what the £1 billion is, I do not.

#### **HON CHIEF MINISTER:**

Mr Speaker, the £1 billion is what I said to him this morning, the total output in terms of his kitchen explanation of the difference between the Income and the Production Model, £1 billion is the total invoiced value of the production of the economy. If one adds up all the sales of the finance centre and the banks and all the companies in Gibraltar, that is the output of the economy, nothing to do with national income. It is one of the statistics that is produced by this economic model which is of some value but it is not part of the national income in terms either of the Gross Domestic Product calculation national income or the Gross National Product calculation. I am only a humble lawyer, I am not a qualified statistician but the Chief Secretary is a qualified statistician and Professor Fletcher who has produced this model is the UK's foremost expert in the production of National Accounts and National Economic Models for small economies. When the model is available I have said to the hon Member he can see it, he will be able to examine it and I hope he has many enjoyable evenings in the pub with Professor Fletcher over pints of beer to try and pick holes in his work. I am certainly not in a position, and for a start I have not yet seen the model. The model is locked up in a disc and until Professor Fletcher arrives and reveals it and explains it to the local Statistician all we have is the accompanying explanatory notes.

#### **HON J J BOSSANO:**

Mr Speaker, I will tell him what is the connection between what he calls my 'kitchen explanation' of the output and the income method and the figures that he quoted and the explanation that he has just given.

The Output Method it seems to me from what he has just told us which is to add the values of all the output in the economy, of all the goods and all the services in this model produced £1 billion and the income method produces £480 million, so now we have a residual error of £520 million because the residual error was always the difference between the two approaches of calculating it. Therefore whether one is talking about Gross Domestic Product or Gross National Income which he told us did not include the MOD which I am not sure that he is right about that, and national income collectively, the national accounts are also described as national income. I must say that I am not impressed by the fact that the Chief Minister tells me that Professor Fletcher is the top authority in the United Kingdom on national accounts and I shall tell him why. The last time I heard a Chief Minister saying something like that was in 1987. In 1987 and previous to 1987 when we were arguing in this House that it was possible to do something to pre-empt the Spanish pensions liability, Sir Joshua Hassan stood up in this House and told me almost with the same inflection that Sir David Hannay was the top authority of the European Union, that Mrs Thatcher used to call him Mr European Union and how could I possibly pretend to know better how to deal with the Spanish pensions than Sir David Hannay. I am afraid that history has seen proof that Sir David Hannay did not have a clue what he was talking about when he came to Spanish pensions, created a £200 million liability which the British Government tried to pass on to us and we have been told today as we were told initially that the approach that was made by the Government was to people who had done the Input/Output model in 1981 and in 1987. Well, the 1981 Input/Output model of the economy and the 1987 Input/Output model of the economy proved to be totally useless, totally useless. I do not know whether there were world experts on Input/Output models or what they were but they proved to be of no use at all to us and I would have thought that before going back to the same people who had already produced at some expense to us two useless models we would question the wisdom of engaging them to do a third and of course this one has taken a hell of a long time in being produced, there have been attempts to disrupt the work by creating earthquakes in India and all sorts of things and therefore we will see to what extent the earthquake has

affected the accuracy of the results of the model when we see it, but I find it odd that when we have just been told when I gave way to the Chief Minister, that he does not even know what is in the model because he has not seen it yet and because it is in a disc and it has to go into a computer, that the figures that he was plucking out of thin air a couple of years ago appear to be substantiated by the figures that he has quoted today as a preliminary result. We have been told that the finance centre provides 1,847 full-time equivalent direct and indirect jobs. We have been told that it contributes £130 million to the economy, I am not sure whether the £130 million is to the £1 billion because it is the sale of services or whether it is of the income side that they had a wage bill of £130 million.

Tourism we are told provides £107 million. I am not sure how that figure compares with the figures tabled in this House by the Minister for Tourism on tourism expenditure from the Tourist Expenditure Surveys but certainly if the tourist industry provides 4,000 jobs, it does not leave a great deal of the private sector, by the time we take out from the private sector Nynex, GJBS, Community Projects, GBC, GDC, shipbuilding which does not depend on tourists and the banks, there are not enough jobs for tourism to generate 4,000. We are not mentioning the gambling. I suppose all these gambling dens are not here because of tourists since they are doing all their business over the telephone and on the internet. I find these preliminary figures do not encourage us to believe that we are in for something that is going to be an improvement on what used to be there in the past and certainly look forward to having the opportunity to meet Professor Fletcher so that he will be able to clear my doubts once the report is finished and published, but, I would certainly be very surprised if the £150 million that the Government spend on recurrent expenditure and the odd £20 million that they spend on capital expenditure was no more than 19 per cent of our economy. From recollection I think that the Government of Gibraltar historically has always been 40 per cent or 45 per cent of Gibraltar's economy not 19 per cent.

The Chief Minister gave figures from October 1996 to October 2001 on the total level of employment in the private sector according to the Employment Surveys. I note that when he was quoting the employment levels based on the model he used full-time equivalents. Of course one of the things that one needs to look at in the survey which started off with 12,975 total employment in Gibraltar in 1996 and showed less in 1997, 1998 and in 1999 we have 12,936 so it is only in the year 2000 and 2001 that the global employment goes up, but of course the global employment includes the Gibraltar Government and if we are looking at what is happening in the economy I do not think that Government can say we are being successful in economic growth because we are employing more people. This is why the figures that I have given him and he was shaking his head are entirely consistent with the ones that he has given because I have spoken about full-time jobs in the private sector and he has talked about jobs in Gibraltar including the Gibraltar Government, the Gibraltar Development Corporation, all the agencies and including full-time and part-time and it would be absurd to argue that if for example, Safeways decides to reduce full-time shop assistants and split jobs and employ two part-timers the economy is growing because there are now two jobs where there was one. In looking at that one cannot simply use a global figure but even the global figure given by him shows that the 1998 figure is below the 1996 figure and it is only in 2000 and 2001 in the very recent years that the employment surveys indicate global growth. The comparison with the Social Insurance records I do not think can be taken to mean anything. I am not sure how we can have a figure for Social Insurance records for the year 2001 given that we have been recently asking questions about the Social Insurance schedules which are sent out which were introduced in the year 2001 and the information that we got back is that this is still in the process of being brought up to date and in the past the other source of possible levels of employment was the records in the Employment and Training Board of open contracts but we all know because the figures have to be revised retrospectively that at the end of the year one cannot assume that every open contract means that the people are still there working. So the employment Survey is based on what the Employer's claim are the numbers working for

them in October and on the assumption that employers are not lying when they fill the questionnaires, if an employer says that they have so many people employed and the figure that they give for Gibraltarians is 500 less than the one that was there in 1996 then it must be because they have got less Gibraltarians employed, I do not see how else one can interpret that.

I think it is true that there has been increased profitability in the private sector and I would remind the Chief Minister that in 1996 he had little confidence in the yield from company tax remaining at the level of £11 million to £11.5 million which it was then because he argued that this probably contained an element of arrears and because at that point in time he was arguing that the economy was on the point of collapse. In fact not only did it not collapse in 1996 but it has kept on with a steady pace, *[Interruption]* yes of course because he came in and he grabbed it just before it was going over the edge of the lighthouse, this is precisely what the British Government are doing to him. They are saying to him "we are going to save Gibraltar in spite of everything you are doing by not producing the Abstract of Statistics" and just like they are doing it to him he attempted to do it to me.

Mr Speaker, the growth in profitability in fact would be consistent with static employment because if businesses are able to have higher turnover and manage it with the level of labour they have got then obviously they become more profitable and pay more company tax but it does not necessarily produce more jobs and therefore increased company tax yields in the years up to 2000 and static employment levels do not contradict each other. There is of course something else that was happening in those years and something else which the extra payment of allowances, this is something that came out in the course of the election debate when we debated the economy on the eve of polling day in the year 2000 and that is that the one thing that has now gone out of the system is the millions of pounds in tax reductions that were made available to encourage home ownership. The £10,000 deduction from one's income in respect of the capital cost of the house has



tbeen declining since 1996 and is now out. Therefore, what does that mean? It means that if the money that one used to have reduced because one was claiming the allowance is no longer there even though the tax rate may have gone down by 1 per cent or 2 per cent one may still be paying more tax. It was 2 per cent last year and it is 1 per cent this year. Yes from 50 to 48 is a drop of two points and from 48 to 47 it is one and if one is a homeowner, and one is saving before on one's £10,000, £5,000 the fact that one pays 47 per cent instead of 48 per cent will not bring ones tax bill down. Obviously if the thing had not come down one would have paid that extra £1 out of every £100 but that is part of the element that has been reflected in increasing tax yield with a static workforce because the earnings do not show vast increases in pay levels in 1996, 1997, 1998 and 1999 so it is all very well for the Chief Minister that brings the statistics to this House to interpret them as it suits him and then when I question and quote him to say that I am trying to interpret them as it suits me. If the people are not unemployed they should be working and he says they are not working and then he says to me, "...well tell me where they are?" Well I do not know where they are, he is the Chief Minister so he can tell me where they are. I am here to ask questions not to give answers, I used to give answers before.

Obviously what has continued to grow and I imagine that this must be included in other services in the surveys and it is good to hear that the concern about the collapse of the gaming sector has not happened, but of course, that has never been identified as a pillar of the economy by the Government nor did they have it in any of their manifestos nor did they say, "we have sent out roving missions to bring in people to open gambling things here." Neither have they appointed a director for gambling at £80,000 tax free like they have a director for finance at £80,000 tax free. So, what it does show is that we do not necessarily have to spend vast amounts of money to attract new businesses to Gibraltar and what it also shows is that in fact to the extent that we have got growth in the economy and to the extent that the growth seems to be better in the last 12 months than in any of the other previous years since the Chief Minister came in, we are talking predominantly of organic

growth of staff that was already there. There is very little that has come in that is new and when the Chief Minister spends half an hour on one sentence in my May Day message to which he will be getting soon half an hour answer and when he picks on an answer that I gave in a debate 'Canal Sur' where they said to me, "...is there anything that you regret about your eight years in Government?" I think they expected me to say the lack of negotiations with Spain, I imagine that is what they were after, the answer that they got was "yes what I regret was that I did not spend more of the money that was made in our eight years on things that I felt personally were deserving...." because we used to have the philosophy of what we called the 'rainy day fund'. The first thing that the Chief Minister says, "People are mistaken if they think that we are spending all the money that you left, this is not true it is still all there." Well, one cannot blame them for thinking that he has spent it all because the first thing that he did in his first budget was to come here and say, "the rainy day is today," and I am now going to start taking money from the 'rainy day fund'. Mr Speaker, he was the one telling people I am taking money from the 'rainy day fund' in 1996 because "it is a rainy day today." Well, I do not think that we have been hit by the storm yet and let us hope that it never happens but if it does I am not sure how solid we are to face it but I am totally convinced that the economy of Gibraltar is built on solid foundations and that those solid foundations were not there in 1988.

However much he may want to rewrite history it is all very well to say when he suits him in the context of the May Day Message, "Ah but you privatised things." In 1988 the municipal telephone department had a cross bar exchange which was a museum piece and a situation in which the Government of Gibraltar were running a recurrent annual deficit of £2 million and had to borrow money to pay wages in 1988 and what we did because there would be no finance centre, no gambling, no internet, none of the other things for which the Chief Minister takes credit if we did not have Nynex and we would not have had the equipment and the infrastructure if we would have had to do it ourselves because we did not have the money, what we did was try and find somebody with the expertise



and the capital and an interest in putting a foot in Europe to come to Gibraltar and then we went to the Union and said, "Look, everybody in the Government have got a job guaranteed for life but there is an opportunity if you want to go to this new company which is vital for Gibraltar survival because we need the new technology and we need the telecommunications before we can attract any other business and anybody that does not want to will continue to be paid in the job that he is doing with the wages that he is doing even if he does nothing for the rest of his life." I do not think that is the kind of offer that he is making to people today and that is what he accuses me of doing when I was privatising people against their will? Every single person that left to go to Nynex, left voluntarily and if the Chief Minister thinks that I run the Union in order to get myself elected into Government then of course I can only put it down to the fact that in the years when I was in the Union fighting battles for improvement of working people, he was nowhere to be seen. He did not know who was in the Union or who was not in the Union, or who worked in the Dockyard or who worked in the City Council. He did not even know where Varyl Begg or the Laguna Estate was he discovered all these posts and all this brand new world after 1991 when by accident he found himself in this House in a by-election. In a by-election where the person sitting next to him told the people of Gibraltar not to vote for him because he could not be trusted.

**HON LT COL E M BRITTO:**

Mr Speaker, on a point of order. The person sitting next to the Chief Minister never said that, in that by-election I did not take part, that by-election was fought by somebody else not by me.

**MR SPEAKER:**

All right.

**HON J J BOSSANO:**

That is not a point of order because I am not lying and because in fact the Minister was in fact at the time supporting the candidate that was saying that on a manifesto of the party to which he belonged and since the party of Mr Henrich had a manifesto making that kind of accusation and he was a member of that party.....

**HON CHIEF MINISTER:**

Mr Speaker, would the hon Member give way?

**HON J J BOSSANO:**

Of course.

**HON CHIEF MINISTER:**

Was this before or after the Hon Dr Joseph Garcia tore up his manifesto in GBC?

**HON J J BOSSANO:**

That was before Dr Garcia tore both our manifestos in GBC, yours and mine. But the difference between that and the situation that I am pointing the Minister is that in 1991 Dr Garcia said that the policies of the GSD and the policies of the GSLP were rubbish compared to his policy which seems a perfectly sensible thing to say if one wants people to vote for oneself. [*HON CHIEF MINISTER: Rubbish*] Of course he thought this was rubbish

because he was trying to persuade people that his manifesto was better than ours but he did not think then that I would do a deal with the Spaniards. We both thought and so did the Minister that he would, the three of us.

**HON CHIEF MINISTER:**

Mr Speaker, on a point of order and whilst we are engaged but the same presumably does not apply to his Colleague Dr Valarino who was in the AACR Government that signed the Brussels Agreement which he thinks is the worst thing that has ever happened to Gibraltar. This exchange is completely irrelevant and I am very happy to leave it at that, but there are people in all corners of this House that have at one time or another been on different opposing political thoughts. Actually on the Government side there is much less than on the Opposition benches but I do not point it out. We both have one AACR member.

**HON J J BOSSANO:**

Mr Speaker, I have given way to the Chief Minister but let me say that this debate has taken this route because he chose to raise things that are totally extraneous to the money that we are voting in this budget.

**MR SPEAKER:**

It enlightens the House.

**HON J J BOSSANO:**

It enlightens the House, well, I am going to enlighten it even more. Since the Chief Minister has chosen to point to the contradictions supposedly with Hon Dr Valarino having been a member of the AACR that signed the Brussels Agreement let me remind the Chief Minister that the AACR did not sign the Brussels Agreement, the Brussels Agreement was signed by Sir Geoffrey Howe. The Brussels Agreement was something that meets his criteria because first of all the Brussels Agreement would not survive a rejection by this House and that is the only condition he puts to the British Government. The Brussels Agreement was made at referendum to the House and Sir Joshua Hassan committed himself to come and defend it here and we debated it and we voted on it. The vote was carried eight to seven but since he says his only objection is to done deals which will survive the vote, well that one would not have survived a negative vote according to the terms that were put to us at the time. Secondly, the AACR saw the errors of its ways in the by-election the Chief Minister stood, in 1991 the AACR disowned the Brussels Agreement and he fought the election saying as the defender of the Brussels Agreement, "I am entitled to the AACR vote."

The other point that he has made in relation to the AACR is that it is not just a question of people having people from other parties it is just that when the Hon Mr Azopardi was a member of the National Party he actually said in a by-election that they should not support the GSD precisely because it was against the Brussels Agreement. The one thing that the Chief Minister said that he cannot accuse me of is of ever having changed my position on the Brussels Agreement, ever, since it was signed or of the Lisbon Agreement in the 1980's since that was signed, or on the Strasbourg Talks since 1976 when that was signed. If the Chief Minister is not sure whether it is true I can tell him that the British Government never had any doubts immediately after my election in 1988 that I would ever participate in the Brussels talks. *[Interruption]* Well the perception that the British Government had last year was that the Government of Gibraltar was going to

participate in the talks and I am not saying that the Chief Minister was going to do it, I am going to use his terminology, that is the perception that they had. I do not know whether he would have gone or he would not have gone prior to his ultra nationalist statement of National Day which seemed to have set a new route but the British Government seemed to have that perception and I do not know to what extent that encouraged them to go down the route that they have done. I can tell the Chief Minister that certainly I remember him saying at one stage when he first offered himself that it was perfectly safe to go to the Brussels talks as Sir Joshua Hassan had done, that we must have trust in the British Government, and that we had a veto on sovereignty because it said so and it made a reference to the preamble. He then at a later stage said he supported tripartite talks. The Chief Minister then went on in 1997 to say that he was going the extra mile to try and meet the Spaniards and in an interview on GBC he said he was giving up tripartite talks because it was impossible to convince the Spaniards to accept two flags three voices and that if one was insisting on two flags three voices one might as well say one was against dialogue. Then of course he now says he has three flags, three voices although it does not mean the same thing that it meant in 1996. I think those nuances of position for which he is well known which allow him to claim when it suits him that he describes something in black and when it suits him otherwise to say that he described it as white because probably on one occasion he has done one and on another occasion he has done the other. That is the approach which enables him to stand up here and say if I say in a May Day Message as I did this year that he had told us in the House that he would not move people out of the Government into Government Agencies. I did not use the word privatisation, I said into Government Agencies because that is what he had said, only if it was possible to reach agreement but that subsequently the position had been changed. It was because of answers that we have been given in this House. I think that the only person so far as I can recall that sticks to that original position is in fact the Minister for Tourism and Port who told us that if the Port Authority was not possible to man with the existing workers of the Port Department because it was not possible to reach an agreement with them then the Port Authority would be there on

paper and the workers would still continue working in the Government as civil servants in the Port Department. That is what he told us in this meeting of the House at Question Time. That to me is consistent with the original statement that people could not be moved out and the fact that he says, "....well it does not matter because if they are in the agency they are still in the public sector." Well it is not a question whether they are in the public sector or not, the terms of the contract that they are being asked to accept, the restrictions on their rights to take industrial action, like the other things that he has done in that area where for the first time since the AACR lost the 1988 election, a Government in Gibraltar has said that secondary action in support of fellow workers or action which falls short of strike and involves selective stopping of some elements of one's job are not acceptable as a matter of Government policy. There have only been two Governments in Gibraltar's history that said that, those were the AACR prior to 1988 who never actually did much to implement it but asked for a mandate to take action in selective industries which were considered to be essential services to limit the right to take action and they did not do it because they lost. When we came in in 1988 the first thing we did was to change the Post Office Ordinance to extend the right to take industrial action of the postal workers even though as the Government we did not particularly enjoy when it happened to us. No Government likes to have their employees taking industrial action but one has to live with it if one believes that trade unionists and workers are entitled to it, and I am afraid I am not living in 'cuckoo land' as the Chief Minister thinks because I can tell him that whatever he may want to say in this House about how cruel I have been to the workers of Gibraltar and how much he loves them, I am afraid that the perception is the opposite and I do not make these perceptions, I just note them from this side of the House just as he noted all the perceptions that he used to say he saw when we were in Government. Election results are made up by a lot of things, by his analysis everything that we did against the workers between 1988 and 1992 met with the approval of 73 per cent of the population because all the things that he said we were doing wrong after 1988 was tested in an election in 1992 and we got 73 per cent and he got 20 per cent, so what does that mean? That we

did nothing wrong in the first four years and everything wrong in the second? No, we all know what it means. It means there was a concerted campaign which may well be restarting but if it restarts this time we will do absolutely nothing, absolutely nothing, to aid and abet it because as far as we are concerned our policy is that it is not a question to try to tarnish somebody with a brush because it suits outside interests, and it should not even be happening because it suits internal interests but at least for internal interests it happens everywhere in the world. When it happens for external interests which is what we are talking about, it is colonialism and all the colonies have been subjected to that kind of tactics since time immemorial.

Mr Speaker, it was the work that we did in the Trade Union that gave us the ground support that we have but the Chief Minister must know that I was elected to this House before I took up employment in the Union. I was not elected here on the basis of being an officer of the Transport and General Workers Union and when I joined the Union what everybody used to say to me was that being on a picket line and the first picket line that I joined was in 1972 when I had been a Member of the House for three months, and it was a picket line outside the Generating Station, when we were taking the troops out, and when the Minister for Education had not yet joined the union, he joined in the general meeting that took place *[Interruption]* yes, I was there with a sticker on my arm and I was the only Member of the House there. *[HON DR B A LINARES : I was there too.]* So was I. *[HON DR B A LINARES: You must have been standing at the back]* And when the Minister went back to the Cathedral to say Mass I came back to the House of Assembly to defend the position of the workers and the union and we each did what we believed in and what we thought was right but the fact is that the argument that I heard in those days was not that being involved in the frontline when people were on strike was vote winner but a vote loser, so, now the Chief Minister is trying to rewrite history to say I put people on strike so that the community that had the consequences of those strikes would vote for me, presumably by that distorted logic which can only occur to a very sick mind it must have been that the people

felt hijacked by me and that they thought the only way to end the strikes is to put him in Government. That must be the theory. They did not live to regret it ever after because they were so happy about it four years after that they increased the support of the Government by 50 per cent. So the Chief Minister is wrong. *[Interruption]* Yes, we then proceeded to lose very quickly and we all know what started very quickly after I went to the United Nations in 1992. The Guardian articles, that is what started in 1992 and 1993 with the now Government Ministers aiding and abetting it because I can tell the Chief Minister that if there is one thing that the British Government are interested in transparency is to find out how much money we have got, not so that the guy in the street wants to know whether the vote this year is £106 to £150 million which means nothing at all to him, because he is only interested in is where at the end of the week he is going to be better off or not better off in his home. The people in London want to know whether he is going to be able to pay the millions they want us to pay in Spanish pensions and the more he puts here the easier they will know how to do it.

Mr Speaker, we have been told about the latest position on the State Aid Case and the new tax system because it is not a tax restructure if profits are not going to be the basis for paying taxation. I certainly look forward to being given outside before the thing is made public an indication of what it is because the Chief Minister offered to do so but it certainly does not occur to me that there are many alternatives to profits from the options that I can think of. If one has a business and one wants to pay tax and it is not going to pay tax on the profits that it makes, then it must be related either to the sales volume or to the assets or to the number of persons it employs because I cannot think of another variable that can be quantified in a way which shows activity. If we are not talking about profits, or assets, or turnover or employees then it is difficult to see what else there is, but if this scheme meets the requirements of the Code of Conduct which until very recently we were being told we did not have to meet anyway because it was a political agreement which was not binding and it addresses the question of State Aid, and it addresses the OECD requirements

then what I cannot understand is why given that uncertainty is so bad for business, why is it that we did not adopt this approach at the beginning, why did the Government not come back right at the start of this process?

Mr Speaker, the Chief Minister has told us that they hope to bring in a competitor to provide an alternative to the present telephone system. The present telephone system which I was mentioning earlier was one of the things that we did in 1989 when we brought in Nynex, here we have a situation where in this year's estimates we have the revenue from the sale of Nynex shares. When the Chief Minister says that it is not true that what he inherited in 1996 is what is producing the wealth that we have got today, it is true that when he says to us much of the capital programme of the Government, £122 million since 1996 has been the result of property sales, a big chunk of those property sales are land sales because the land existed when he got elected and because when the land was being created we were being told not to do it because we were being accused of taking a gamble which would put a millstone around people's necks. The guy that first says to us "do not do it because you are going to ruin future generations of Gibraltarians" eventually finds himself in Government sells the land and says, "look how clever I am and how much money I have made this year," from selling land he was saying should not be there in the first place. The Gibtel shares which we got for nothing and which he has just sold to Nynex. The dividend that he gets from Nynex and from Gibtel and the dividend that he gets from Lyonnaise, all these things which are all in the estimates of expenditure were all there before 1996 and since 1996 there is very little that is new. There is much that is repainted but there is very little that is new and the fact that the business community has started employing more people in the last 12 months is still only very little to do with new businesses. We have to see whether there is going to be more growth in the gambling areas but certainly in the other areas it is very little. Where there is more employment in retail trade it is employment which is increasingly part-time and increasingly cross-border.

Mr Speaker, I do not know to what extent now in the economy of Gibraltar cross border workers spend their wages here and take goods back home as they used to in the pre-closure days. Obviously the terms of the contributions to the economy it makes a big difference whether they spend the bulk of their earnings here or they spend the bulk of their earnings there but I will imagine that it cannot be almost 100 per cent as it used to do in those days because we both know that prior to the closure a Spanish worker in Gibraltar could double his wages by taking goods back instead of taking the cash.

Mr Speaker, after telling us about the position on the telephones the Chief Minister then went on to tell us about the Spanish numbers and the implications of the offer made by Spain. I have to tell him that I do not know how long he has been aware of this but I think it is the first time that we have heard him give this explanation in the House. I think it is the first time that he has actually said, "...what we are trying to do is remove the 30,000 that we have got." The law published in the Spanish official bulletin in November last year the text clearly said, "the existing access code for Gibraltar" *[Interruption]* I am sure that it will not stop him saying when he uses the right of reply, there is no need all along and that he has been saying it all along notwithstanding the fact that that is not the case. He has not been saying it all along in fact although he objected to the conditions attached to the 70,000 the Government press release that was issued rejecting the 70,000 when it was originally offered did not say "we reject the 70,000 and we condemn the fact that they want to take away the 30,000." It did not say that but the official Spanish 'Boletín del Estado' already made clear that, and I said so in an interview at the time that it was published, already made clear that the code 9567 would disappear on the 31<sup>st</sup> December 2002 and that the new number, the new access code to ring Gibraltar from Spain which would come into effect on the 1<sup>st</sup> January 2003 would run in parallel with the old number and then at the end of the year that access code would go back to the Regulator and the 30,000 numbers would only be capable of being accessed by the new

code and that has been there from day one and therefore it was obvious from day one that if one did not accept the new code and one did not link the switch at the end of this year one would lose the 30,000 numbers because nobody could use the 9567 anymore. It would no longer exist. Throughout the public statements that have been made and the statements that have been made to the British Government that was not being said. I do not know whether the Government have woken up recently to this and we were not conscious of it at the beginning or the people who had looked at it had not flagged it to the Government, but all I can say is that it is quite obvious that it was not known in the business community because the business community at the time was urging acceptance of the 70,000 numbers just like the business .....the Chamber of Commerce element of the business community was urging us to be reasonable and accept what the Foreign Office wanted us to do or is it that the Chief Minister has forgotten that I spoke at a dinner of the Chamber of Commerce where in fact I took the opposite view to what the Chamber was taking which luckily now seems to be universally accepted but at the time what was being said was that we had to be realistic and that the British Government were asking us to be realistic and that we had to accept the extra 70,000 numbers and that we had to accept that the only way ahead was to go along with what the British Government wanted us to do, a position that I assume the Chamber has now abandoned as its view given that it has not repeated it recently. I cannot imagine that the business community was aware that there was a problem beyond this year not just of any new numbers not being accessible from Spain, because as the Chief Minister has said there is nothing to stop us issuing the numbers tomorrow but one would not be able to ring from Spain one of those new numbers. I am not very sure what will happen if one rung from Spain with the old code, whether it would mean that two telephones would ring, one here and one on the other side but I remember that at the time that we came out with this analysis of what the official 'Boletin del Estado' meant, people in the business community thought we got it completely wrong. They said nobody in the Government are telling us that and certainly the British Government are not telling us that and even the roaming ambassador that the Spanish Government have

in Gibraltar was saying this is not what it means and we did not push this more forcibly other than making that original statement than that original analysis because we thought perhaps we are reading more into it than is indeed the case. Since other people do not seem to be aware of it I have to say that for the Government to confirm this now it seems to me an astonishing thing that when we are six months away from the deadline we have confirmation that this is so and that in all the statements that have been made in the House of Commons by Ministers there has not been an immediate response on the terms that we have had today because if this is a flashing example of joint sovereignty then I think that should have been said on day one, the day the thing was published, and it is being said today for the first time. [HON CHIEF MINISTER: *Rubbish*] I know the Chief Minister says it is absolute rubbish because he has always been saying the same things from the beginning. In his many interviews he says, "...my position on Brussels has been the same since 1991, I have never changed." I have quoted three changes. "Sir Joshua Hassan was right it is perfectly safe to go under the old system of Brussels" - in 1991, in 1996 - "...we will go only if it is tripartite," in 1997 - "...we will go the extra mile and we are not demanding tripartite, we will now go as part of the British delegation, but it has to call itself the British delegation and not the English delegation." The Chief Minister may have made a living by playing on words like that in court, but he cannot expect to get away with it in Parliament. For heavens sake does he really expect us to swallow that the dividing line between going to the Brussels talks was whether the delegation of which he would form part was called the British delegation or the English delegation. [HON CHIEF MINISTER: Yes] That was the position in 1997 [HON CHIEF MINISTER: It still is the position today.] So he is claiming that Sir Joshua went along as part of the English delegation. That is nonsense, it was never called the English delegation, he invented the English delegation in order to show the progress that he was making. [HON CHIEF MINISTER: UK not English, the distinction is between the UK delegation and the British delegation and the two flags and three voices.] No, the two flags three voices as he well knows because he supported the concept at the beginning was tripartite and when he spoke to the United Nations very recently he

seemed to be going back to demanding three separate voices, that is, tripartite. Therefore I am afraid that it would be better for all of us if he made up his mind once and for all what is his position and then stuck to it. Preferably sticking to a position in which we can both be in total agreement because that is better for all of us but if he cannot, at least we would know whether he was closer to our position or closer to the position of the British Government which is that the Brussels Agreement that was there from day one, it was always unacceptable to us but the British Government have always argued that there is no alternative to the Brussels Agreement and that indeed he holds that view that there is no alternative to the Brussels Agreement. We do not hold that view and it is quite obvious that independent of any other consideration the degree to which we proceed with the development of our economy in the immediate future is going to have to be assessed on the basis of whether the attempts at persuading us to go down the route that we do not want to go, and we have no intentions of going, are going to be limited to articles rubbishing the Government in the Guardian because frankly if the best that the British Government can think of is the kind of rubbish they publish in the Guardian then I do not think we have got anything to fear about and I as I have said the growth in Gibraltar's economy between 1988 and 1996 shows that Gibraltar can still prosper and push ahead notwithstanding the fact that the relationship with the United Kingdom may be strained or the fact that Spain may be hostile. The Chief Minister argued entirely on the basis in 1996 that the problems with London were my fault and the problems with Madrid were my fault so it is quite obvious we are back to this question of perception on the one hand and the way that one presents facts to suit ones interests. It is quite obvious that if they attack me I am to blame and if they attack the Chief Minister they are to blame. I think he can be confident that not only am I not to blame but that I am prepared to stand in his defence when they attack him because I think that the only guy that is entitled to attack him is me. *[Interruption]* Well the Chief Minister ought to because it is something that impressed people in the United Nations, the Chief Minister ought to because I can assure him that it is not something that happens very often in politics elsewhere and I am prepared to do it because I believe

that it would be a nonsense for any serious politician to want to be a party to things that hand Gibraltar on the basis that is going to help him get into Government. Therefore given that scenario the position we have before us is that the Government expenditure over the next 12 months is based on revenue streams which in the last 12 months have exceeded the prediction by £10 million. We have already made clear how strongly we felt about the decision that was taken notwithstanding that extra £10 million to use money in the social insurance fund and it is an important issue of principle for us and if there was a way of remedying that, I wish the Government would do it because there would have been absolutely nothing to stop them putting £5 million from import duty into the Social Assistance Fund on top of the amount that they have already provided in these estimates. Beyond the current 12 months and of course, the current 12 months do not appear to be estimating an increased revenue stream which is consistent with much increase in economic activity because when we look at the global figure if it goes from £160 million to £162 million and in fact last year they were expecting £150 million and they finished at £160 million it would mean that without a slowdown in the economy one would expect that the revenue estimate here would be on the conservative side, especially when we have just finished a year where the employment survey shows for the first time more jobs and I do not know whether the jobs would have come in throughout the year but if one takes the figure which is the difference between October 2000 and October 2001 one would expect that the full effect on economic activity and revenue yields would be more likely to be seen in the estimates for the next 12 months than the last because the increase happened in the last financial year and therefore it would not have happened, all the jobs would not have come into existence on the 1<sup>st</sup> of April 2001. Next year in the year 2002/2003 will be the first year in which a full 12 months effect of those additional jobs for last year will be seen and we will have to see to what extent the trend continues or whether it comes to an end.

Mr Speaker, in looking at the level of debt the Chief Minister always used to be very critical of the debt of Gibraltar and one of

the things that he did was to do away with the General Sinking Fund which as I pointed out at the time was not an invention of the GSLP. The Ordinance provides discretionary powers. One can have a General Sinking Fund if one wants it and not have it if one does not want it. We inherited a system where there was a Sinking Fund for each loan and we decided that rather than have a Sinking Fund for each different loan we will have one for all the loans. On the basis of course that in looking at the money that needed to be put into that Sinking Fund we did what I think would be considered to be a prudent way of amortising debt which was to say, if one buys something that has a life of 10 years and one borrows money for 10 years then each year one puts aside from one's annual revenue one tenth of the cost. That is in fact how it used to be done in the old Municipal Accounts in the City Council so that at the end of year one is putting one tenth and then at the end of the 10 years *[Interruption]* if the Minister thinks that that is not a prudent thing to do then he had better ask his financial advisers whether it is or it is not. Actually it is not something that many countries do because many countries do not do it, they just keep on mounting debt and hope that when the time comes either they have the money or they will be able to reschedule the debt by borrowing to pay and there is now one single reserve where the surplus is in a savings bank in the Note Security Fund, in the Consolidated Fund were they were all put in 1997. There is no leeway to pay off the £50 million debt in a few years time but what we are being told is that the Government have no intention of paying it off, what they intend to do is to issue new debt to replace the existing one. That is what I was told sometime ago. Fine, but issuing new debt to replace the existing one with the existing borrowing ceiling limits one's borrowing capacity. If they are actually redeeming maturing debt, one can then borrow to spend, but if one borrows to redeem the debt one cannot borrow. As long as the Government are in a position to say, "...I have got a surplus that I am going to be using for capital," that is fine but the moment that they do not have that position then they may have a difficulty given the present unhelpful position that the British Government are adopting. I do not think that they have any right to do it but I can tell the Chief Minister that originally the British Government's position in 1988/1989 was that the level of Gibraltar's public debt

was a matter entirely for Gibraltar and I had it in writing and then when they became less helpful after 1992 they suddenly decided that it was not a matter for Gibraltar that it required ministerial consent from London to set a new ceiling and since the ceiling is set by an ordinance they cannot prevent it happening. The point that I am making in relation to the level of debt certainly we are not going to be scared because the Government are borrowing extra money this year in order to fund expenditure in the Improvement and Development Fund, we believe in it, but we think it would have been wiser to do that unless of course the Chief Minister is confident because I remember he said at one stage it was up to the Government and it was open to the Government to decide to fund long term projects by borrowing and service the debt from recurrent revenue. That would have meant given the level that we are already projecting this year I think it is £78 million, then we are coming up against the possibility of exhausting the £100 million capacity. I do not know whether the Government are confident, I have to say that we do not think that the £100 million is a high figure in relation to the sense of our economy or the level of revenue but I do not know whether he is confident that there is no problem with that and I can tell him whether a problem exists or not seems to me to be determined less by the technical scientific analysis of what is a reasonable prudent level of debt than by whether the British Government believe he is behaving himself or not.

Mr Speaker, since the year 2000 the income of the Government has grown in a way which obviously the Government were not as confident of as we were because their main argument against us in the last election was that the list of measures that we proposed to introduce at specific dates could not be done. We have no doubt that with the level of income that there is here they could have been done and not only could they have been done, all of them could have been done probably quicker than we anticipated and it might well be that some of the other things, we might have decided to spend less on advertising in UK newspapers but the Chief Minister says everybody in Gibraltar is happy that it is money well spent, I can tell him that there are some people in Gibraltar



who believe that the competing aim of the advertising campaign is whether the main target is persuading public opinion in the UK and the second target is persuading public opinion in Gibraltar to vote for him or vice versa but I think in most people's minds it is a close thing between the two. It may well be that the degree of exposure [Interruption] of course I think it is valuable [Interruption] no, no I do not enjoy anything that the Government does, period, whether it is successful or a failure [HON CHIEF MINISTER: *Exactly, analyse that statement tonight*] the Chief Minister has a picture of himself when he was explaining all the awful things that I was doing to working people in Gibraltar and all the wonderful things that he has done since 1996, he was painting a picture of himself which is not the perception that many people have of him. The perception that many people have of him, at least when they talk to me, they may say the opposite when they talk to him, but when they talk to me it is that he is a vindictive guy that humiliates everybody around him and makes life a misery for them. Not this cuddly Father Christmas figure that he would have us believe. Maybe he is a cuddly father figure to the rest of the Ministers but certainly he has a reputation for all he says about transparencies of making sure that everything has to get past him before it happens, not just the umbrellas in the restaurants in the Casemates and their colour, or the pastel colours of the buildings, or who gets the tenders and who does not, who gets a job and who gets the promotion, I do not know whether it is true or not but I can tell him that there is a perception of this and we all know how dangerous perceptions are. He kept on warning me about these perceptions because he wanted me to protect myself against these malicious perceptions so that I would not lose votes and since I owe him the favour I am now telling him all the perceptions, all these nasty perceptions that there are in town so that they will not cost him votes and he hopes I am doing it out of gratitude for all those perceptions that he constantly paraded when he was the Leader of the Opposition. Thank you, Mr Speaker.

## HON MRS Y DEL AGUA:

Mr Speaker, Social Services are not about Gross Domestic Product, on national income figures or statistics, I am sure listeners will be glad to hear. Social Services exist to provide a wide range of care and support for the many who need it in our community. These include, amongst others, elderly people, people with physical or learning disabilities, people with drug or alcohol abuse problems, ex-offenders who need help with resettling into society, or children in care. In reality, social services are for all of us. Many of us are likely, at some point in our lives, to need to turn to these services for support, whether on our own behalf or on behalf of a friend or relative. Often this will be at a time of personal and family crisis – the birth of a disabled child, a family break-up, or maybe a death which leaves someone without the carer they had come to rely on. Any decent society must make provision for those who need support and are unable to look after themselves, and I have no qualms in stating that I am proud of my Government's track record in this regard.

Mr Speaker, the delivery and extent of social care in Gibraltar has indeed come a long way. From a small team of social workers running the services from very cramped conditions with limited facilities, social services has developed into a much larger, properly structured department in its own right. The heavy investment by Government into this arena and the recognition of the important work undertaken by this team of dedicated professionals, has provided them with much needed motivation and has allowed social services to expand in a much more structured, coherent and effective manner, for the benefit of all service users. Credit must be given to the contracted agent, Milbury Care Services Ltd, who have been instrumental in developing this service and imparting their expertise and well tested operational policies as a sound base from which to continue to develop the service even further. Milbury retires this coming November and plans are well underway for the creation of a statutory Social Services Agency, fully funded and supported by Government as is the case with the Elderly Care Agency.

Without doubt, the most important and innovative achievement in the field of social care within this last financial year has been the closure of Bishop Healy Children's Home and the end of large scale institutions for children in care. These children have now taken up residence in four flats within residential areas in Gibraltar. The tremendous improvement brought about by this change to their quality of life and the enthusiasm with which they spoke to me about their new homes when I visited them, has made every single penny spent in providing this new service more than worth it. Government have now asked the Social Services Agency, in conjunction with the Disability Society, to consider the possibility of a similar supported living scheme for those people with disabilities, currently living in Dr Giraldi Home, for whom this might be appropriate. A report is expected very shortly.

Mr Speaker, since this Government amended the Criminal Procedures Ordinance and made Community Service Orders available to the Courts, all of these (Juvenile, Magistrates and Supreme) have made use of this sentencing option to a much greater extent than originally anticipated. Offenders on the scheme have generally responded well to the stringent conditions attached to community service, with only one offender having been breached for non-compliance. The value of this new service has been greatly appreciated by the Courts and has also proved extremely beneficial to those offenders for whom a stay in prison would not serve much purpose. The placement of offenders in a working environment with a non-offending group is proving to have a very positive influence in changing the offender's attitude. The concept of reparation, that is, paying back to society, is evident to the offender. By working in places like Homes for the Elderly, youth clubs, voluntary groups and charities, which are the main placement areas, the offenders open their eyes to the needs of other more disadvantaged people than themselves. Out of the 27 people who have received Community Service Orders since the introduction of the scheme, 15 are currently on the scheme, and 11 have successfully completed their hours with none of them re-offending. It is also most encouraging to note that out of the

11, six have subsequently found employment. All in all, the introduction of this scheme has proved extremely worthwhile.

Mr Speaker, with regard to the Prison, work has already commenced on the introduction of sanitary ware for the cells. The cells are being equipped with a toilet and wash basin incorporating hot and cold running water. This will represent a significant improvement for all inmates and will bring our penal establishment in line with the United Kingdom and other European countries in this regard. In addition to this, the flooring of walkways within the different wings and cells are all being fitted with appropriate ceramic tiles which will greatly enhance the overall appearance, cleanliness and hygiene of the living accommodation. In relation to the treatment and training of inmates, we are looking at the possibility of introducing a scheme whereby inmates could undertake modules of a construction related National Vocational Qualification. The idea behind this is to explore whether inmates can obtain some form of qualification for the voluntary work they carry out whilst in prison. These types of training courses offer a comprehensive package of qualifications covering basic craft skills in many occupational disciplines at three different levels. Initially, the intention is to take these steps gradually and encourage prisoners to commence at certificate level. It is envisaged that the starting date for this scheme would be September of this year. The Department of Education and training are also willing to assist those prisoners wishing to enter the Vocational Training Scheme. This will provide offenders, up to the age of 25, with the opportunity of seeking employment on completion of their respective sentences and assist them in their social rehabilitation and transition from prison life to freedom.

Mr Speaker, turning now to the Elderly. Yet another important development in the provision of support for elderly people is the Government's initiative to fund food and provisions for the four day centres which exist in Gibraltar. These centres have historically been run by volunteers, who meritoriously give of their

time to look after the many elderly citizens who attend. The volunteers, some of them elderly themselves, enjoy the work that they do which consists of driving the less mobile clients to and from the centres, cooking for them, entertaining them, and taking them on outings. What I think is unacceptable however, is that these volunteers should be paying for meals, daily provisions, outings and Christmas parties out of their own pockets or relying on charitable donations. Government are therefore now fully funding these centres and two social workers are deployed to manage the service and work with the highly committed volunteers. In addition, and I know these will be welcome news for those citizens who attend the day centre at Bayview House, provision is being made to move this facility to very suitable premises within the building which currently houses the Social Services Agency. Government are also pursuing the possibility of funding training for those volunteers who wish to undergo courses in first aid, food hygiene, manual handling et cetera.

As the Chief Minister has already briefly mentioned, Government have committed £100,000 this financial year for the provision of a purpose built swimming pool for elderly people and others with physical disabilities. For many reasons, beaches are not the most accessible of places for some elderly people or people with mobility problems, and since the disappearance of the Montagu Bathing Pavilion many of our residents have been unable to find suitable alternative venues affording access and safety for swimming or bathing. These new bathing facilities in the reclamation area, will consist of a shallow pool with handrails, wide steps into the water and possibly seats that would enable adults to sit in the water. It will also incorporate changing facilities and amenities and hopefully, if logistically possible, access to the sea. By so doing we hope to considerably improve the quality of life of those people who have for many years been unable to enjoy this sort of amenity or pastime.

Mr Speaker, I believe that my Government's commitment to our elderly is clearly evident. The first step that we took after coming

into office was to give specific responsibility for the elderly to one Minister in order to ensure that top priority was given to all issues relating to elderly people. This move was followed by the creation of a statutory Elderly Care Agency. We then took the bull by the horns and set about tackling what was then a political hot potato in our society which previous Governments had not had the courage to handle. I am talking about Mount Alvernia, Mr Speaker. The injection of very considerable human and financial resources on the part of Government, coupled with the dedication and willingness of the staff to make things work, has paid off. Not for Government to claim success, but for the benefit of the residents whose home it is. It is they who are reaping the rewards and so it should be.

Only a few months ago, faced with the ever increasing demand for admission into Mount Alvernia, Government made available further funds which enabled another 11 staff members to be employed in order to increase occupancy from 78 to 90 residents. An activity coordinator has also been employed. This has been greeted with enthusiasm and delight by the residents, primarily because the range of social activities like arts and crafts, bingo, film nights and other recreational pastimes have been greatly increased. We have also committed the sum of £160,000 this financial year for the introduction of domiciliary care to assist those in the community in most urgent need. The structural mechanism is being set up and will be implemented shortly. A fuller domiciliary care package will be available once the modification works in the home are finalised. Which brings me to that very topic, Mr Speaker. After some unavoidable delays, the contract for the modification and refurbishment of the Home has now been awarded and works will commence on the 17<sup>th</sup> June. The completion date is estimated to be June 2003. The much needed works will consist of the renewal of mechanical and electrical services, renewal of existing lift facilities and the provision of an additional lift, the replacement of all windows, a complete refurbishment of the kitchen and equipment, specially designed bathrooms for people with disabilities, together with an increase in the number of bedrooms. The fabric of the building will also be generally improved in quality and appearance. After

refurbishment, the bed occupancy will increase to 138. The total cost of these works will be in the region of £2.1 million.

Also as part of the development and promotion of Elderly Care, the concept of an annual award to an Honoured Elder has been introduced this year. The purpose of the award is to give recognition to one elderly person in Gibraltar who has achieved something outstanding or exemplary, despite any difficulties they may have due to their advanced age. The overall aim is threefold:

1. to motivate elderly people to retain or develop mental and physical activities;
2. to promote the concept that the elderly are capable of carrying out activities commonly associated with younger people; and
3. to encourage others to support our elderly in such activities.

The response of the community to this scheme has been excellent with 59 nominations being received. I am pleased to say that the recipient has already been chosen by an independent panel and I will be presenting him with his award next week.

Mr Speaker, I now turn to the matter of Social Security Benefits. As from the 1 January this year, Industrial Injuries Benefits have been increased by 33 per cent. These benefits, which have not been up-rated since 1990, include Injury Benefit, Industrial Disablement Pensions and Industrial Death Benefit. Injury benefit is payable to employed persons who are unable to work because of an accident at work or due to certain contracted diseases. This benefit has been increased from £56.70 to £75.60 per week. In the case of a married couple with two children, the rate of injury benefit has increased from £79.80 to £106.05 per week. The

industrial death gratuity, which is a lump sum payable to widows and widowers when an injury at work results in death, has increased from £16,050 to £21,350. In addition, the recently introduced Maternity Allowance has also been increased from £56.70 to £76.60 per week.

Finally, Mr Speaker, I am very pleased to say that most of our manifesto commitments relating to social security, social services and the elderly, over which I hold ministerial responsibility, have been met or are well in the process of implementation. I am hopeful of being in a position to announce the few unimplemented items in next year's budget, well before our term of office is over. In concluding, I would like to once again sincerely thank all of my support staff. It is all very well for Governments to take credit for their achievements, but recognition should be given to the fact that however many good policies Government come up with, successful policy implementation is mainly due to the efforts and dedication of the employees within our departments. I thank you Mr Speaker, and the hon Members, for your attention.

#### **HON J L BALDACHINO:**

Mr Speaker, as spokesperson for employment and social services, I will be dealing with these two departments in my contribution. I will start with social services. As I did last year I will be dealing with Milbury first of all as most of the users and relatives were not happy with the service that Milbury were providing at Dr Giraldi home. Especially, as tax payer's money to the tune of £1.6 million was being paid to Milbury. The forecast out-turn for the financial year 1998/1999 was £897,000. This figure then increased progressively every year, to reach the £1.6 million. The hon Lady, Minister for Social Affairs, gave us an explanation as to the increases. We will therefore be asking in Committee Stage, why she is budgeting for this year £150,000 less than in the 2001/2002 forecast out-turn. In the light of the explanation she gave us previously on the increases. We would

like to know what has changed since then? The Chief Minister in his opening speech and now the hon Lady have touched upon, we were not sure what was going to be replaced in Milbury Management Structure. The hon Lady just indicated that it would be in the "something like in the Elderly Care Agency," in those lines. We will reserve our position on that until we see actually when the Minister brings a Bill to the House establishing that.

Nevertheless, neither her or the Chief Minister have said if this will be ready before November which is when Milbury's contract expires. I do hope that Milbury's contract will not be extended when it expires in November of this year.

Mr Speaker, during the budget speech of 2000 the Minister for Social Affairs said, " as promised in our manifesto and as part of our commitment to improve the quality of life of senior citizens, a free minibus service to and from the town centre will soon be in operation to assist elderly people who live in the upper town area." There have been questions asked in this House in relation to the minibus service for the elderly by my hon Colleague Mr Perez and myself. Initially the Government said that the bus service would be provided by the Government, then I recall telling the hon Lady that the existing private bus service could be used as an interim measure. It made sense, more so, as the hon Lady had said in her contribution that such a service was necessary for the quality of life of our elderly citizens.

Unfortunately, my suggestion was not accepted by the Government. They argued at the time that they were not prepared to subsidise a private bus operator. Yet, in a following question by my hon Colleague Mr Perez, after they had said this, they told him that they were in contact with private sector operators so that the service would be provided by them. Two years, have now elapsed and our elderly citizens have still not had their quality of life improved as promised by this Government.

Seeing how long it takes this government to put into place their commitments, it could well take another two years for them to deliver. I hope that the pool that they have just mentioned does not receive the same fate.

Mr Speaker, I would now like to turn to another matter. It has also been brought to our notice that staff at the frontier have been given instructions that disabled car passes are not to be accepted by them, unless the four lanes are in operation. I do not know who has taken that decision, neither can I understand the logic behind such a decision, as there has not been a public outcry against the granting of car passes to disabled persons at the frontier since its introduction. The Minister must be aware that there are cases when any sort of waiting, irrespective of the length of time, constitutes, stress and discomfort to those who suffer disabilities. I trust that this decision is reverted for the benefit of the disabled.

Mr Speaker, a policy which we are against, was the decision taken by the Traffic Commission to refrain from accepting applications from disabled persons for car parking discs. In answer to my Colleague Mr Perez's question in this House, the Hon Mr Holliday, Minister for Tourism and Transport, defended that decision on the basis that there were persons abusing the system. We are not against the system being reviewed but we believe that the fairest way to have dealt with this situation would have been to carry out a review of the system but in the meantime the old system should have continued so that genuine cases would not have been adversely affected, as has been the case. I have had at least two persons coming to me and saying that their application has not been accepted. I think that they are genuine cases, I am not in any position to verify whether they are or not but I think that if the Government were going to review the situation which we do not know how long it is going to take, the most obvious thing is that before one replaces anything with something else the old system should have been kept in place and then once they had whatever they wanted to implement then the other one should have been taken off.

Mr Speaker, the Government announced during the budget of 2000 that they would issue cards to women 60 years of age and over and men 65 and over, which is the pensionable age. These cards would enable the Senior Citizens Association, to negotiate with the private sector, so that discounts and other benefits could be provided to our elderly. I do not know how effective this has been but that is not the point we want to make. The point we want to make is that the Government should have taken the lead by showing that they are willing to participate as well. They could have exempted elderly citizens from paying their annual television licences, even though in the last House the Minister said this was under review but this has been under review for nearly a year and six months. In this manner, the private sector could have seen that in the same manner the Government expects it to do something, the Government would also be seen to be providing financial assistance as well.

During the last two budget sessions, I spoke about the Working Time Bill which the Government passed in 1999. It gave effect to Council Directive 93/104/EC. My argument at the time, was that what we were passing was inferior than what we had in our law already, which protected young people, as persons aged 17 were going to be treated as adults under the new Bill, which was not the case in other clauses of the same Ordinance. A young person is considered to be between the ages of 15 to 18. In answer to the point I raised, the Hon Mr Netto, the then Minister for Employment, said, "but I can say that that particular point that the hon Member has just said now, will be covered in a following Bill to come to the House on the EU directive on the protection of young workers."

Three years have since elapsed, and the Government have yet not brought this Bill to the House. If the Government knew it was going to take that long, surely they should have accepted my suggestion not to repeal the part of the Ordinance that gave protection to 17 year old persons, thus leaving them exposed. Moreover, if there is an EU directive on the protection of young

workers, by what date and year should it have to be transposed into the national law of EU countries.

Mr Speaker, moving to employment, the minister responsible, the Hon Mr Corby, said in his contribution of last year that persons who had completed a drug rehabilitation programme, were having difficulties in seeking employment. He said the following, "....my contention is that if a person completes a programme and lives a life free from drugs, it is essential that this person be given a second chance to reintegrate into society. The Government will be looking at ways and means in which it might help, in order to assist them back into employment." I would not agree more with those sentiments, as a job is essential for any person who has the misfortune to fall under the influence of a drug addiction, to once more feel useful in the society he or she lives. They are then able to build up their confidence. I would therefore like the Minister to confirm at Committee Stage whether he has done what he said he would do, or whether he has already done so. If so, what measures has he introduced.

I will now like to refer to the employment surveys, looking at the situation for Gibraltarians and other nationalities, I will do so on an employment basis rather than economical basis. During the years 1995 and 1996, and comparing these years with the figures of 2001, which are the latest figures, that have been published by the Government. Even though the figure for persons in employment in the year 2001, is higher than the previous year 2000, and even though it is still higher than the figures for 1995 and 1996, the reality is that when one compares the number of Gibraltarians in employment, there are less Gibraltarians today in employment than the previous years. The figure for October 2001, shows that there are a total of 13,931 persons in employment, which includes part-time jobs. The comparable figures for 1995 and 1996 were 12,713 and 12,975, respectively. But, to whom have the extra jobs gone to? For example, in the year 1995, there were 9,206 Gibraltarians in employment, UK nationals 1,553, Moroccans 910, Spaniards 600, EU 200, others

244. In 1996, the Gibraltarians' employment element was 9,390, UK nationals 1493, Moroccans 907, Spaniards 793, EU 188, others 204. In the year 2001, which are the latest figures that we have, the figure for Gibraltarians is 9,154, UK 1,879, Moroccans 812, Spaniards 1,566, EU 278, others 242. This, therefore, means that the situation today is that there are not only 52 Gibraltarians in employment less than in 1995, and 236 less than in 1996, but in contrast there are 326 more UK nationals than in 1995, and 966 more Spaniards than in 1995. If we compare the figures for 1996 with the figures for 2001, there are also increases in all of the nationalities, with the exception that the figure for Gibraltarians and Moroccans in employment has come down. So, the true picture is that even though on paper there are 1,218 more persons in employment than in 1995 and 956 more than in 1996, the increases have been taken up by other nationalities and not by Gibraltarians or Moroccans. I have used the 1995 and 1996 figures, because they relate to when the GSLP was in office.

Mr Speaker, let us look at the situation in the financial sector, an area the Government give a lot of importance to. In the year 1995, I refer to direct employment in this area, there were 1,584 Gibraltarian employees in this sector. In 1996, there were 1,596 employees. In 2001, there are 1,183, which means that the figure here also goes down by 401 compared to 1995, and 413 compared to the figure for 1996.

Mr Speaker, there was a statement made in this House, by the Hon Mr Netto when he was the Minister for Employment, with which I certainly do not agree with. He said that he did not consider women seeking part-time work, were genuine job seekers. He fails to understand that working mothers are playing a vital role in our economy and quite a number of them prefer to work part-time because of the duties at home.

More so, there are more women now working part-time than before. Both them and the economy benefit, their standard of living improves and our economy is injected with further spending. So women should be encouraged to seek part-time work and full-time work, which is a far healthier situation than having more foreign labour taking up jobs in our community, as they are already doing. So, I hope that I can now convince the Minister and if I cannot convince the Minister by what I have just said I think he should read the Employment survey of 2001, to accept our argument that women seeking part-time employment should indeed be considered by Government to be genuine job seekers.

Finally, Mr Speaker, I move on to unemployment. In the first quarter of this year, there have been 1332 vacancies filled, of which only 625 have been filled by Gibraltarians. This means that more than half of these vacancies have been taken up by others, a trend that started in mid 1996 and has continued up to this day. In 1996 Gibraltarians taking up employment in the whole year was 72 per cent. In 2001 Gibraltarians taking up employment was 41.5 per cent of the vacancies filled making it a great difference between one and the other. New entrants by Spanish labour was 712 and Gibraltarians employed which were 1,118 of job vacancies taken only 581 were unemployed registered with the Employment Agency.

Mr Speaker, the unemployment level for the first quarter of 2002 is slightly lower than 2001, but it is still higher than it was in the year 2000. The average unemployment figure for the first quarter of the year, that is, for 2000, 2001 and for 2002 was 304, 358 and 346 respectively.

Mr Speaker, therefore, every effort must be made to ensure that Gibraltarians fill up as many of the vacancies available, something that has not been happening since mid 1996, as the figures that I have quoted in my contribution prove.

## **ADJOURNMENT**

The Hon the Chief Minister moved the adjournment of the House to Tuesday 18<sup>th</sup> June 2002 at 10.00 am.

Question put.                      Agreed to.

The adjournment of the House was taken at 5.45 pm on Friday 14<sup>th</sup> June 2002.

## **TUESDAY 18<sup>TH</sup> JUNE 2002**

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

### **ABSENT:**

The Hon R Rhoda QC - Attorney General  
The Hon J L Baldachino

### **IN ATTENDANCE:**

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

**Debate continued on the Appropriation (2002-2003) Ordinance 2002.**



## HON H A CORBY:

Mr Speaker, as Minister for Employment and Consumer Affairs I should first like to turn to the Employment fund. Gibraltar's economy continues to generate wealth by way of job creation. Whilst it will be the goal of this Government to aspire to full employment like all Governments within the EU, present day circumstances do consequently determine the existence of some unemployment. In our particular case the figure of just over 300 appears to be the mean over the last few years and that is the lowest level of unemployment as a mean over the last 10 years at least. Still, it will be the top priority of this Ministry to ensure that every effort possible is made to assist the registered unemployed back into the labour market. It is now evident that the Gibraltar economy has been transformed from being public to private sector led. The changes that this transformation has brought about still demands high levels of adaptability and flexibility all round. I realise that this is an issue which I have referred to in some depth in previous budget speeches. I consider this issue of such vital importance that I must again reiterate this year and in future years if need be my strength of feelings. These were my words last year and I make no apologies for repeating them again this year and again next year if necessary. Of course one can sense the growing awareness of the need to adapt to new employment opportunities and to the notion of flexibility. Change in our economy has naturally brought about new projects, expectations, new and different challenges and with all this has come about new employment opportunities. Slowly the competition edge that dominates private enterprise, and the emerging picture cannot but portray the change and adaptability that the circumstances demand and that the labour market, employers and employees in particular need to fit into. It is imperative for our economic growth to maximise a locally available resourcing, indeed how often do we hear the term that we must make maximum use of available resources, yet I must quickly draw distinction between available resources and locally available resources, so much more when I refer to human resources or workforce. Still on the issue of adaptability and flexibility this is where I cannot stress enough the importance of our potential

workforce, that is the unemployed and people in employment alike and our job providers that is employers at large coming to terms with each others expectations. Whilst Gibraltar has always remained and will probably for ever need to maintain a foreign labour contingent it is evident that maximum use of locally available resources will remain a target so long as we have locally available human resources in unemployment.

Mr Speaker, my ministry through its employment service will forever attempt to maximise the use of locally available human resources much as it recognises and values our foreign labour contingent. Employers much realise that the ready response of the Employment Service to any notified vacancies will be the submission of suitable resident and registered unemployed persons. Who could possibly act any differently? But employers are increasingly notifying a vacancy at the same time as notifying the corresponding recruitment not even for meeting the submission of suitable candidates by the Employment Service. Much as one can accept that as long as it was a resident worker that was engaged it will not make much difference. Nothing much the same can be readily accepted when a worker has been drawn from a non-resident available workforce and worse without even having attempted to find out from the Employment Service if a resident worker was available from the unemployment register. If we have compulsory registration of vacancies it is clearly to be able to afford the registered unemployed at least the possibility of attending a job interview in the genuine expectation of a possible job offer. It is far too readily accepted by employers and potential employees that vacancies arising within certain sectors often referred to as non-traditional work sectors will be impossible to fill within the resident workforce. Such a barrier must come down and it will only be brought down if the key players, employers and employees, the workforce both employed and unemployed are prepared to be flexible and adaptable. For its part the Employment Service will endeavour to bridge any possible gap through its efforts to truly maximise locally available human resources and the endeavour and efforts of the Employment Service to assist the resident registered unemployed back into the

labour market will, and continues. Through its Job Club many of the unemployed persons who are assisted in being submitted to job interviews on vacancies filled and many are those who in this way manage to secure employment in much the same way those registered unemployed who find it more difficult to secure employment are further assisted through the Job Club.

Although primarily aimed at the longer term unemployed the Job Club offers an all round job seeking assistance programme aimed at enhancing the individuals employability. Whilst greater employability is usually associated with possessions of relevant qualifications or experience the employability aspect that the Job Club sets to develop evolves around a more specific job search fundamentals, such as the basic but increasing important job seeking document that is a person's CV. Other such employability fundamentals include the all important concept of motivation and self-esteem, interviews, skills et cetera. All in all the invaluable assistance that this recent and different service affords to the registered unemployed again particularly long term registered unemployed is noteworthy and of further assistance to the long term registered unemployed much also ranks highly the various wage subsidy schemes that the Employment Service currently administers.

Whilst traditionally wage subsidy measures have been geared and continue to be geared towards assisting the long term unemployed back into the labour market, other wage subsidy measures are now being considered in order to assist other disadvantaged groups like for example, ex-offenders and those returners wishing to take up employment after having taken time off for personal or family reasons. Always subsidy measures are in any case designed in such a manner that they afford the greatest possible opportunity of not just a job but a permanent one which will provide longer term employment beyond merely the period of wage subsidy. All efforts therefore continue to concentrate in assisting those unemployed who are actively seeking employment and not merely registering as unemployed as way of being able to

continue indefinitely drawing unemployment related benefits. To this effect both the Ministry of Employment and the Ministry of Social Affairs continue to work very closely and have jointly devised and set up a liaison system which allows for monitoring and detection of benefits claimants who fail to keep up the conditions of benefits by not demonstrating basic job seeking efforts, for example, not attending the weekly appointments with an employment officer or refusing a reasonable job interview offer.

In such instances the unemployed person risks and may indeed end up losing altogether the unemployment related benefit he or she would be drawing. The message Mr Speaker is quite clear, people registering as unemployed and actively seeking employment will be supported and assisted by the Employment Service and no effort shall be spared to this effect. Those who may choose to register as unemployed for reasons other than actively seeking employment will find themselves caught out, certainly with no efforts being spared to this effect either. In consequence and in the light of positive combined effort by this Ministry and that of Social Affairs the Government are currently reviewing the best way in which to take forward the job seeker's agreement.

Mr Speaker, turning now to issues relating to employment legislation, a number of developments need to be highlighted, June of 2001 saw the introduction of the announced conditions of the Employment Redundancy Pay Order. The Redundancy Pay Order was long overdue, for contrary to what has been common belief, not all employees whose employment was terminated as a result of having been made redundant were entitled to redundancy pay. Only employees covered by industry specific pay orders were so entitled, like for example, the retail of wholesale trades. All employees with very few exceptions are now entitled to redundancy pay should their employment be terminated by way of redundancy. In similar manner the Conditions of Employment Standard Minimum Wage Order 2001 introduced last July not only afforded a review of the minimum standard wage rate and

corresponding increase to £3.75 an hour. It goes from making the standard minimum wage payable to all employees irrespective of whether they are paid monthly or weekly. Before it had only applied to those who were paid weekly, pre-empting the obvious unfairness and even unscrupulous abuse. The increase to £3.75 also went a long way to bridge the gap that had been created over the years for the lower paid workers. With regards to family friendly policies September of last year also saw the introduction of the Parental Leave and time off work for dependent regulations taking effect from the 1<sup>st</sup> December 2001. Comprehensive guidelines on the new regulations were circulated to all employers in an effort to create general understanding on the new rights. Coupled this with the Maternity Leave Regulations the new regulations allow for a more family friendly employment scenario which no doubt employees with young families will better appreciate.

Mr Speaker, all in all the legislation package I have just highlighted no doubt enhances employment conditions generally and brings about a far more fair and just employment scenario in tune with modern day working and family life patterns. While on legislation I must make reference to the Employment Regulations of Expenses Ordinance, the legislation that allows for the position of six penalty fines to the tune of £1,500. As I have done on previous occasions I should once again like to emphasise the work of the Labour Inspectorate and the deterrent effect of the legislation but fines still have to be imposed. I say fines have unfortunately still to be imposed because certainly it would be in the best interest of all if fines were not imposed, a sign indeed of compliance with the law. All the more reason I believe to better appreciate the work of the Labour Inspectors and the so often unpleasant task. The imposition of a £1,500 fine is one that cannot be taken without the exercise of good judgement and where appropriate reasonable discretion. Such is the degree of responsibility demanded of these officers and which I am satisfied they exercise with all due diligence and attention.

Mr Speaker, as a general note on employment legislation, much work has now been dedicated to completing a comprehensive Employment Legislation Guide in a user friendly frequently questions asked format. It is also expected to make this guide available as an electronic service, details will be made public as soon as this guide is completed. Another area in which Government hope to be able to make an announcement is that in relation to Social Insurance Contributions in respect of casual and part-time workers. Through the forum of the Labour Advisory Board, the social workers have been engaged in a consultative process which has made possible the various options that Government could consider introducing. Government are now in the process of considering all options open in order to alleviate what it considers to be an obstacle to employment particularly for those people who only want or can only work part-time.

Yet another area in which the Government persist and which remains high in the agenda is their commitment for occupational pensions for private sector employees, with equalisation of pensions, gratuities and retirement age in the private sector now formally addressed by Government the challenge now rests in ensuring that over a reasonable period of time all private sector employments in Gibraltar will be pensionable by law and that has reached this regrettable gap that exists between public and private sector employment. At this point I would like to take this opportunity to convey my gratitude to the officers of the Ministry of Employment for all their work and efforts. Employment work is about working with people, and working with people is about caring, and the staff of the Ministry for Employment certainly care and before turning to other areas of responsibility within my ministry I wish to commend the valuable contribution made by the social partners through their representations in the Labour Advisory Board. Their efforts and contributions towards matters affecting the labour market are well appreciated. Their valid contribution and spirit of co-operation always supports Government assistance in their deliberations.

Mr Speaker, turning now to those other responsibilities in my ministry, I wish now to briefly report on consumer affairs. Government continues making progress in consolidating provisions for an efficient and reliable consumer protection and trading standards office. Whilst a Consumer Advisory service has operated since the end of 1995, consumer affairs generally in this area still requires to be developed. Nevertheless the present Consumer Advisory Service continues to provide the general public with the basic consumer protection office. Within its limited capacities this office has responded and taken appropriate action in respect of the many claims and complaints they have received on a daily basis. The effectiveness of the Consumer Advisory Service however needs to be supported and developed by adopting appropriate legislation in this area. Towards this end the Misleading On Comparative Advertising Ordinance has already been enacted and much work has been progressed on the Price Marketing Ordinance, the latter is currently a subject of consultation with the business community. At the same time relevant training has been afforded to one officer having recently attended a very intensive course on training standards organised by the UK Trading Standards Institute and held in London. Attendance at this course has also opened up a number of useful contacts and sources of information which no doubt will prove most useful in the development of our own consumer protection and trading standards office. As for the Citizen's Advice Bureau progress is well under way and such a service will soon be available. This will centre around an Advisory Service to the public on their rights in general inclusive of course to the rights to Government services and benefits.

Mr Speaker, I would now like to report on Bruce's Farm Rehabilitation Centre.

Bruce's Farm Rehabilitation Centre was established in Gibraltar by the New Hope Trust in September 1999. It is a non profit making organisation and sponsored by Government. This is a free service offered to all Gibraltarians. It provides a fully comprehensive

health care package for the treatment of all addictions, alcohol, drugs, eating disorders, gambling and related family illnesses. The philosophy of the treatment programme at Bruce's Farm is that addiction in itself is a primary disease. The disease is characterised not only by the inability to control whatever substance, but also by the state of mind which the sufferer is quite unable to recognise his or her dependency or the behavioural or consequences of that dependency. The goal of treatment at Bruce's Farm is that of total abstinence from all mood altering substances. Treatment approaches involve medical assessment and evaluation, detox, medical care, individual counselling, group therapy, rehabilitation and aftercare planning. The treatment programme is based on the Minnesota 12 Step model and the duration of an inpatient may range between 12 to 20 weeks. Bruce's Farm has now been operational for 32 months. During this time 205 patients have benefited from the residential programme offered but needless to say this service has also been extended to the families of all patients where help and guidance has been instrumental for the wellbeing of the family as a whole. The necessity of the family of a person suffering from addiction to meet, talk, discuss and plan the way forward ahead is a reality which also requires constant attention. As addiction is a family illness, children as well as adults suffer throughout the active using days of the addict, at the moment we offer children and family therapy. The numerous calls received at Bruce's Farm from families, employers and friends for information seeking help or just support are far too many to log down. Every call is heard, supported and guidance is given. Without any publicity whatsoever Bruce's Farm has become a help line for the whole of Gibraltar. On completion of a treatment programme the patients are offered an official after care service every Wednesday, however we find that most of the people who leave Bruces' Farm and leave in abstinence need to maintain their sobriety, so counsellors are constantly working with them as well as in-patients. The additional service allows the patients and the families the best all round treatment and to ensure their on-going continuing care for patients. The Centre has also been approached by the Prison Service to help them formulate a

programme through active participation on Bruce's Farm's part to create Drug Free Zones within their environment.

Mr Speaker, in order to afford the best possible to patients it gives me great pleasure to announce today that the new aftercare centre will be operational within a few months. This facility will be situated in the heart of town at 304A Main Street opposite the Wesley House. It will offer a follow up programme to the work undertaken at Bruce's Farm by holding AA sessions as well as providing a safe home where patients and families can meet socially and discuss their successes and failures with an atmosphere of solidarity and understanding. There will also be a counsellor in attendance should anyone need his or her services on a one to one basis. This centrally situated facility will be acceptable to all patients which was not the case when the service was operated at Bruce's Farm.

Mr Speaker I was not here when the memorial to Mrs Gladys Perez was said in the House so I would like to take this opportunity to say so now.

Mr Speaker, I would like to take this opportunity to pay tribute to Mrs Gladys Perez who was taken away from us on a very significant day, Ash Wednesday. As a trustee and counsellor she performed her tasks with determination and courage spending endless hours in the service of others. Even when told that she had to undergo surgery her first thought was to prepare a comprehensive programme for the after care service before her departure. This shows the metal of this great woman who was a shining example in the realms of drug rehabilitation. She is sadly missed by all of us but her legacy I am sure will linger on to encourage all of us to follow in her footsteps in the quest to help those who are caught in the web of drug rehabilitation. I will finish with a quote from Matthew, Chapter 25 verse 37 which was one of her favourite sayings and which sums up her dedication to others, " Truly I say to you, whenever you did this to one of the least of my

brothers, you did it to me." Finally Mr Speaker I wish to conclude by placing on record once again my most sincere gratitude for all the good advice and generous assistance afforded to me by the Management and staff at the various sections of my ministry. I truly value their support which greatly assists me in better discharging my responsibilities as Minister for Employment and Consumer Affairs.

#### **HON J J NETTO:**

Mr Speaker, in Friday's sitting, the Shadow Spokesman for Employment, the Hon Mr Baldachino in his speech, made two separate references criticising me during my time as Employment Minister. It is a pity that he is not in the Chamber, for reasons that we all know but I am determined to put the record straight. These two references by him refer to the introduction of the Working Time Directive and alleged statements by me purporting to suggest that women are not genuine jobseekers.

With regard to the Working Time Directive, he intimated that following the introduction of that Bill, Government had given notice to further bring separate legislation on the protection of a Young Workers' Directive. And given that this has not materialised, I was personally guilty of leaving young workers unprotected from the application of the Working Time Directive.

My interpretation of the Working Time Directive, subject to advice by the Legislation Unit, is that the Bill as transposed then, also implements the provision of the Young Workers' Directive which relates to working time, and this is stated in Hansard. It is a separate issue, as I was informed then by the Legislation Unit, that there were other aspects of the Young Workers' Directive to be applied, but that would depend on existing local legislation, because in some cases it offers locally more protection than the UK one. However, one would have hoped that rather than personally demonise me in such a crude way, he would take it up

with the current Minister for Employment, as to any development or clarification in this field.

Mr Speaker, the other outrageous comment attributed to me by the Hon Mr Baldachino, was to suggest that I believe women not to be genuine job seekers. The context of the arguments then about genuine job seekers was not in relation to gender, but rather about some unemployed persons who, whilst registered as unemployed, are not either available nor seeking employment. I would have thought that this is a well known fact. Women, just like men, do a very valuable contribution to society through their efforts, regardless whether they are paid for it or not. However, I have to say that I have been taken aback by the manner in which the Hon Mr Baldachino has thought to score cheap political points, or whether this is just his style. The fact remains that it is very unparliamentarian to try and tarnish one's reputation with such baseless and personal arguments.

Mr Speaker, given the amount of reviews and projects initiated in the last financial year, this one will prove to be an eventful one in which Government will peg the pole of reforms and services at a higher level than ever before in its history of Housing services. We will endeavour to ensure that both the Ministry for Housing and Buildings and Works have the necessary capacity and know-how to deal efficiently with the duties they are entrusted with by providing a better benefit to its users.

Mr Speaker, what I intend to do is to initiate my speech on matters of finance first, followed by the projects that will be initiated through the Improvement and Development Fund and provide an outline view of the Government's new Housing schemes, and lastly, mention aspects of reforms that will be implemented within the Ministry for Housing and Buildings and Works.

In matters of recurrent expenditure, in this financial year just passed, the Ministry for Housing has kept expenditure within the approved estimates in this House. With regard to Buildings and Works, for the first time in five years, supplementary funds were obtained last February to finance over expenditure in its bonus payments and materials subhead. With regard to Head 3 – Housing, in this year's estimates of revenue and expenditure, hon Members will have noticed various changes in both the establishment figures and the new subheads to take account of the increase in the complement.

Mr Speaker, I will be giving the hon Members at the Committee Stage of the Appropriation Bill a clearer picture as to the numbers of new employment, transfers and non-industrialisation of some industrial jobs. And later on in my address I will be covering the role and functions that these individuals will be performing in the two distinct organisations referred to. An amendment that the Financial and Development Secretary will be making at the Committee Stage, will be the substitution of the Controlling Officer for revenue and expenditure for Head 3. This is as a result of the restructure taking place in the Ministry for Housing, and Buildings and Works. The new Controlling Officer will therefore be the new Principal Housing Officer – Housing.

Mr Speaker, major remedial works completed in the last financial year were the Glacis Estate beautification together with the lift installation, MacMillan House, Sandpits House and Anderson House.

Projects started in the last financial year and continuing in this one are the Laguna Estate beautification, Heathfield House, Coelho House, Tankerville House and the Prison Quarters. With regard to this financial year, the Government will be hoping to start the following major projects:

- Electra Flats
- Penney House
- Kent House
- Belvedere Flats
- Scud Hill House and Upper and Lower Witham's House.

As hon Members will have noticed, Government have already advertised for the tenders at Varyl Begg Estate. Finally on the topic within the Improvement and development Fund, I would also like to mention the buildings that we will be hoping to have works commence for the installation of lifts in this financial year. This will be in:-

- Knight's Court
- St John's Court
- Penney House
- Alameda Estate
- Varyl Begg Estate
- Schomberg.

However, I would like to stress that this is only part of a rolling programme, and in subsequent years other buildings in other estates will be included.

Mr Speaker, without a shadow of doubt, this Government's record in major remedial works is most unprecedented and reflects this Government's firm and enduring commitment to refurbishing the Government housing stock in Gibraltar in order to create the best possible living environment for tenants. The Government are determined in this, as other areas of housing policy, that Government housing and their tenants would fully participate in the upgrading and beautification of Gibraltar.

Mr Speaker, as this House will be aware the Government's manifesto commitment with regard to the provision for new housing is of three types:

1. Home ownership
2. Senior citizens for rental
3. Government Housing list for rental.

During the next month the Government will be announcing these schemes and projects. Together they will provide 500 new apartments. In addition, there will be more than 100 existing Government housing flats that will be released from current sitting tenants who would then move into the new constructed apartments.

Mr Speaker, the level of rent arrears continues to increase as we have seen from year to year. Consequently, Government are considering a new approach to ensure that tenants, who capriciously opt not to pay, in future will do so. In order to be taken seriously, a number of things need to happen. For a start, one needs to recognise that the current joint approach between the Housing Agency and the Central Arrears Unit has not worked well. So during the course of this financial year the Ministry for Housing will be provided with a new dedicated unit, for the purpose of concentrating exclusively on rent arrears. Additionally, they will be resourced with new software programmes that will make their task easier to pursue, and to remind debtors continuously of their obligation to pay. Finally, on this aspect, the Government are considering the introduction of primary legislation to introduce 'An Attachment of Earnings Order', that will allow Orders to be placed on employers for the recovery of rent arrears by deduction from wages/salaries an amount towards the arrears.

Mr Speaker, another area under review is the application of the Rent Relief Formula. As hon Members may be aware, the allowance has remained unchanged since 1988, when the AACR

Government last updated its value. Therefore today they do not reflect current living costs. This means that some tenants will not be entitled to rent relief even though their gross income is low because the value of rent relief has been eroded by inflation. The fact that rents in Government Housing stock have also remained unchanged generally does not impact on this issue, other than those critically on the poverty trap. So, on this issue Government will review the rent relief formula in order to increase the amount of relief to be provided and the number of people to obtain it. In reviewing the current standard rent relief formula, we note that the previous GSLP Government decided to apply a different albeit more punitive formula to obtain relief from pensioners living in Sir William Jackson Grove (Gib V). I have tried to find out the reason for such a departure. However, no written instructions for such a formula exists, nor is the methodology or reasoning behind it available in written form. This situation creates confusion and frustration particularly amongst pensioners and friends who live in Gib V and Varyl Begg Estate.

The effect of having a higher application in the formula at Gib V, even if the household income is the same to any other pensioner elsewhere in Gibraltar, is that the Gib V pensioner will not be entitled to rent relief whilst the pensioner elsewhere in Gibraltar with the same level of income will be entitled to rent relief. Government believe that there should not be any difference to the application of the rent relief formula, especially when it comes to having two different treatments to our pensioners. For this reason and in the interest of consistency and equity, we will bring the rent relief formula in Gib V into the standard one applicable elsewhere in Government housing.

Mr Speaker, the subject of reforms within the Ministry for Housing and Buildings and Works has been much talked about both in this Chamber and with the unions. Unfortunately, as we are aware, the degree of progress in addressing those vital issues in the consultant's report has been minimal and of a late start. Regrettably, as hon Members are aware, last December the

TGWU/ACTS withdrew from the negotiations with Government which would have provided for a radical overhaul of the structure, procedures and services available to the tenants in return for an improved package of pay and conditions of employment for the staff within a new Authority to be established. However, as we have made clear to the unions, Government are not prepared to allow a situation in which tenants generally have been historically at the receiving end, and continue to be at the receiving end of a service which leaves much to be desired. The Government wishes there to be significant improvement to the service available to the user. Therefore, to the extent to which Government can reform Buildings and Works for the benefit of tenants, we will continue to do so in the absence of the unions resuming the negotiating table.

Mr Speaker, for those hon Members familiar with the consultant's report, they will know that the most important issue to be addressed is the role and positioning of Buildings and Works in relation to the Ministry for Housing. In essence, what the consultants were criticising was the fact that Buildings and Works historically were themselves doing their own specifications and working towards their own outcome as specified by themselves. Therefore, in addressing this core issue, in future it will be the Ministry for Housing that will be responsible for producing a strategic plan for works. It will also be the Ministry that will set the specification and standards of work to be applicable, and it will be the Ministry that will conduct the monitoring of what I have just stated. The Buildings and Works Department will then execute the work in accordance to the programme given to them by the Ministry. This will include the target time set and standards given to them by the Ministry. In setting the target times, the Ministry will emulate to some extent the UK Local Authority Performance in this field. This will mean that in the category of Response Maintenance (known locally as minor works), the Ministry will codify and categorise the works under four main pillars. Namely, 'Emergency', 'Very Urgent', 'Urgent' and 'Routine'. In introducing this new system, and modelling the procedure to those applied by local authorities in the field of housing maintenance, the Ministry



for Housing will be able to assess the performance of Buildings and Works in this category of works, and judge the service given to tenants. Tenants likewise locally will then be able to compare this service against the service given in the UK.

Mr Speaker, with regard to the category of flat refurbishment, I want to say firstly that in the UK the National Target Time for Local Authorities to refurbish an empty flat and re-let it is eight weeks. However, any UK Local Authority that aspires to be a benchmark in this area would have to carry out the refurbishment and re-let the flat in four weeks.

In Gibraltar, with regard to information given by me to this House on the 30<sup>th</sup> April 2002 as to flats that have become vacant and awaiting refurbishment this means that we still have flats awaiting refurbishment going back even five years. The total number of flats awaiting refurbishment by Buildings and Works was then 132. The Government consider this situation to be inadmissible and one that causes much frustration and anguish to both applicants for housing, and also to staff members of the Housing Agency who are at the receiving end of some individuals who vent their anger against them. The Government believe that this situation cannot remain unremedied. Buildings and Works exists for the benefit of tenants and applicants in the waiting list. Their interest must therefore take precedence over all others. Government would much prefer to have the work done by their directly employed labour in Buildings and Works in a timely fashion and will therefore continue to reform the department in order to have the work done in reasonable time.

Mr Speaker, It is the view of the consultants as stated in their report, that Buildings and Works should be a lean and focussed organisation in the area of maintenance alone. Areas of work such as the cleaning of estates, is not a core activity of the department. It is the consultant's opinion that there should not be any distraction away from this focus in maintenance. Their

recommendation was therefore to transfer this activity away from Buildings and Works. It is true that all Tenants Associations are not happy with the level of cleanliness of their estates. Indeed, some like Glacis and Laguna Estates are clearly pressurising Government for the contractorisation of the functions given the millions of pounds this Government are investing through the beautification schemes.

Government intends to make new arrangements for the cleaning of streets, pavements, and open areas, to ensure that this is kept to the standard tenants expect to be maintained. This new arrangement will not affect the job security or earnings of the existing staff members of the Wardens Section.

Another innovative introduction to value for money that I have commissioned for is to produce an independent performance audit. This exercise will allow the Government to know at what rate of production Buildings and Works is operating, and what the All-In-Rate of cost will be to Government to have Buildings and Works perform their duties. The first exercise has already started with completed works done in the first six months of the last financial year. Obviously, this first exercise would probably take more time to do, as there is no existing methodology in place. However, once done I intend to have at least once a year an independent performance audit. Once carried out the results will be made public.

Another GSD manifesto commitment is to empower Tenants Associations as much as possible in the running of their estates. In looking back many years, one service which was very popular amongst tenants in the estates was what was then referred to as "El casero". However, this service was discontinued by the GSLP Government. Tenants Associations argue that since then, services such as cleaning, replacement of faulty lighting and having a more human touch to the need of senior citizens during working hours has deteriorated. Needless to say, Tenants

Associations have made representations to me in order to have this service restored.

In considering the matter, the Government have concluded to reintroduce it and upgrade the service by having Estate Managers introduced in the estates during this financial year. Secondly, in allowing the Associations a greater say in their estates, at least those wishing to do so, we will allow them to have a day-to-day monitoring and supervision of certain defined devolved services. Namely, cleaning and lighting, upkeep of planted areas, parking control, et cetera. The Ministry for Housing will remain in overall strategic control of such services.

Mr Speaker, during this financial year, the Ministry for Housing will be introducing a Charter of Tenants Rights. The Charter will illustrate the rights and responsibilities of both the Ministry for Housing and its tenants. Amongst other things, it will indicate the target times the Ministry is setting for Buildings and Works to respond in terms of every category of work.

Another different pamphlet that the Ministry for Housing will be producing is a framework document in which it will define, amongst other things, the functions of the Ministry and the reformed Buildings and Works, as well as the inter-relationship between them two. This document will set the aims and objectives of both organisations, and how they will discharge their responsibilities. Once finalised, copies of this framework document and any future amendments will be published.

And on a final point, regarding publications, it is my hope to further publish an information pamphlet to tenants regarding Housing Services generally, in which whilst driven by the Ministry, other useful amounts of information by other Government departments and NGOs will be made available.

Mr Speaker, both the new Ministry for Housing and Buildings and Works are together an important sizeable organisation. In the past, there has been very little political will to modernise and upgrade its infrastructure and its resources.

Mr Speaker, within my speech I have passed review almost of all aspects of Housing services generally. The Government have a need to overhaul such services for the benefit of its users, the tenants and those applicants on the list. But everything I have said or spoken about, is not in isolation, all the various aspects follow a careful Government strategy that will transform the way we provide the service and the new standards our customers will become to depend on. In summary during this financial year we will:

1. Continue to invest in maintaining our Housing stock;
2. Continue to restructure both the Ministry for Housing and Buildings and Works;
3. Continue to invest in new software programmes for both the Ministry for Housing and Buildings and Works;
4. Launch a Tenants' Charter;
5. Amend the Housing (Special Powers) Ordinance, the Regulations and Allocation Rules;
6. New arrangements for the cleaning of Housing estates;
7. Reintroduce the Estate Managers in Estates; and
8. Build more for home ownership, senior citizens and rental.

All of this and much more will mark this new financial year as one of the most important one in the history of Housing. All of this has been possible thanks to a GSD Government, which is well-rooted in the community and is eager to give local issues the importance that they deserve. Finally, once again my sincere thanks to my staff for all their efforts in bringing about changes that will pave the way for the future. Thank you.

## HON DR R G VALARINO:

Mr Speaker, as hon Members will know Housing and Housing Maintenance come under my area of responsibility in the Opposition benches together with the environment, heritage, urban renewal and beautification. Throughout the past financial year I have asked numerous questions in the House in order not only to find out how Government are tackling the issues facing them in the Housing Agency but to ensure that these are solved quickly and fairly. However, if I may refer to the second annual report of the Ombudsman covering the period from January to December 2001, the Ombudsman again reports that in this year the Housing Agency and Buildings and Works Department have again attracted the most complaints with 29 per cent and 14 per cent respectively. A total of 43 per cent of all complaints. The Minister continues saying that although some of his recommendations have been acted on, the Housing Agency still attracts a large number of complaints. Out of a total of 618 complaints received by his office against Government Departments or Agencies, 184 were against the Housing Agency. I hope that this number will decrease this year as the Minister has pointed out that certain changes will take place.

Despite the monthly meetings of the three committees set up under the Housing Allocation Scheme and allocations to the Housing Waiting Lists, too few houses are being allocated. The constant complaint confirmed by figures provided by the department is that there are too many houses lying empty and too long before they can or are allocated. This is an issue which the Minister has to address as it is the most common complaint I hear. The Housing Agency tell those waiting for an allocation that there are no flats available for them. People live in hope and a more tolerant and sympathetic attitude towards those who need rehousing should be shown by the department. Some people have no recourse but to approach me, the Ombudsman and often the Chief Minister and we all have to try to help. This is what we are getting paid for. At present there are nearly 600 in the waiting list and over 300 on the pensioner exchange list, no wonder

people complain. In this day and age there should be a reappraisal of the award of points of the Housing allocation scheme with special emphasis on waiting time and overcrowding. Talking about tolerance let me give an example, there could well be a couple 50 years plus living in a 4RKB yet they prefer a smaller house and are keen to move to a 3RKB for reasons that they may have, often they take care of one of their grandchildren. However as their entitlement is a 2RKB they get nowhere fast and the end result is that they stay in their original flat as the Housing Agency is not willing to allow them to move to a bedroom less accommodation. I mention this because this is a case that has been brought to me, and the other one is that the pensioner exchange list remains in more or less in status quo yet according to the Holy Bible, the GSD manifesto, in page 7 it states, "...exchange rules will be changed so that it will always be possible to exchange for a similar or smaller flat even if the smaller flat exceeds your entitlement. There will be an active management of the pensioner exchange list." I also urge Government not to increase rents over their next two years in office. There is a fear amongst certain Government tenants that this revenue raising measure may be needed to provide monies for the building of new flats. Government should also seriously consider a discount of 20 per cent for rates paid on time for residential premises. This discount applies to both rented and owner occupied accommodation. This will help all those in the lower income group together with the first-time buyers. The plight of those who genuinely become homeless is something that must be looked at more carefully. The department seems not to be properly equipped to deal with these cases. If, for example, a person finds himself or herself living in a car for explainable circumstances there is no recourse for immediate remedy. The department knows that cases of these nature exist and the length of time it takes to find a solution. A mechanism should be found to tackle these cases more expeditiously. Another problem is how to help those couples who experience the break-up of their marriage and have children, often these are young people and instead of penalising them the children should be encouraged to be able to spend time and weekends with either their mother or their father. Such an arrangement would provide the children with a more

settled way of life and in this way encourage them to a permanent relationship once they become adults, it needs the Housing Agency to take a far more relaxed view in these matters.

Mr Speaker, buying a home is by far the biggest transaction and investment an individual or a couple will make in their lifetime. At present house prices are so high that first time buyers are finding it very difficult to obtain a reasonably priced home. The only opportunity to purchase at lower prices have been resales by 50/50 owners which have become available on a 60/40 basis. In the last election the GSLP and Liberal Alliance had a manifesto commitment to build 500 housing units in a four year term and to provide for rented, 50/50 and also to provide 100 per cent finance to cater for different income groups. Even if Government were now to announce a new project of providing about 500 flats within the next month these would not come into the market until at least two to four years time thus it would be over eight years since the present Government took over and during this time the only new flats built have been the 86 flats at Bishop Canilla House and these are for elderly tenants. There are no more 50/50 schemes available since no new ones have been initiated since 1996, those estates completed after 1996 were those in respect of which a commitment already existed and which the GSD honoured after the 1996 election. There has been a clear housing problem for some years now and many young Gibraltarians are being driven once again to find homes in the Campo area because they are being priced out of the local market. The same situation which existed prior to 1988 and which the GSLP addressed by the land reclamation scheme, the construction of new estates and the introduction of the 50/50 scheme. In the meantime Gibraltarians have been forced to live in the hinterland because of economic necessity with all the social, economic and political implications that this has for Gibraltar. Furthermore even when new extra housing appear on the market, mortgage facilities have changed out of recognition within the last year. Homebuyers are finding that the old repayment back type of mortgage or mortgage through endowment policies are not only expensive but often do not meet the required amount needed to pay outstanding amounts. Last

week in UK several lenders said they were allowing borrowers to repay their mortgages over periods as long as 40 years. The extended terms are intended to help first time buyers, however even these schemes have been criticised as simply another way for lenders to make more money and tie in borrowers for longer. Another way of being able to live in their own home has been homebuyers in the UK resorting to never-ending mortgages that can be passed down from generation to generation in a bid to keep repayments to a minimum. People are being forced to take out interest only loans which cost less in capital and repayment schemes. Mortgages of 100 years have already appeared in Japan. The property is so expensive that buyers have no option but to pass the debt on to their children. Government in Gibraltar have to address this issue in consultation with building societies, banks, et cetera and come up with appropriate proposals. Life expectancy has nearly doubled with people living longer. Life expectancy for men in 1901 was 45 years but will reach 80 by the year 2010. This tends to favour longer periods as far as mortgages are concerned. Whereas at present 20 per cent of the population are aged 60 and over, by the year 2040, this figure will be over 35 per cent bringing added problems to Government. These figures come from the Actuary's Department in UK and there is no doubt that similar figures will be reflected in Gibraltar. In our press release of the 18<sup>th</sup> April 2002 we stated that any new houses had to be modestly priced at around £60,000 for an average unit and be available on a 50/50 basis in order to address the needs of those wanting to buy and currently unable to do so. By appointing contractors direct the profit margin would be limited to that required by the contractor to carry out the works, that is, building costs plus overheads and profits. The land would be the asset that the Government provide as investment, the process would have beneficial effects in other ways ensuring the survival of small to medium sized contractors and employment to workers, however, in order to do this the infrastructure must be set in place. Homeownership should not remain a status symbol but a right.

Bishop Canilla House despite the Government's euphoria and well named because whenever winter comes it is like a "canilla" and

there is water pouring in from every layer. It is obvious that these have been due to architectural design faults and I would urge Government to look into this problem before they plan and build further housing units. The implementation of building designs should be carefully considered, certain areas would benefit from certain types of housing over others. It is necessary for Government to investigate different building techniques that would result in cheaper buildings. There are various systems ranging from pre-fabricated timber elements to pre-cast concrete however, the quality of the building must be high regardless of the systems used. Sir William Jackson Grove is an excellent example of a high quality components fabricated development.

Mr Speaker, as far as the environment is concerned, let me add that both the Upper Rock area and the Lighthouse area need a speedy clean up. People, not only Gibraltarians have already expressed their disgust at the state of these areas. Both are tourist sites and need repeated cleaning especially during the summer season. The threat of fire in the Upper Rock during these months is ever present.

On heritage I am glad to see that the Theatre Royal refurbishment is proceeding albeit with an extended date of completion. The Chief Minister has mentioned in his speech the redevelopment of the Piazza, surely the time has come to move the House of Assembly to the Garrison Library and therefore not only bring into use this wonderful building but also providing better facilities to all Members and staff of the House. I notice that no provision has been made for air conditioning in this year's estimates and certainly this building needs major repairs if it is to continue as the seat of our Parliament. Whilst on the subject of redevelopment of the Piazza I wonder whether Government have considered the possibility of providing underground parking at this site or at Governor's Parade, if they have considered it maybe they could let us know what are the architects' views.

Finally, to finish my contribution let me express the hope from the Opposition benches that the Dangerous Dogs Ordinance will soon be ready and can come to this House for us to approve, and I quote from the Gibraltar Chronicle dated Friday 14<sup>th</sup> June 2002, from a press release from the Gibraltar Women's Association, "The Women's Association feel that due to the apparent increase of these dogs in Gibraltar and with the warm weather upon us coupled with children finishing school for summer holidays, there is a potential attack waiting to happen." The damage that these dogs are capable of is well known to all of us and I fail to see the delay in the presentation of this Bill.

#### **HON DR B A LINARES:**

Mr Speaker, it is my privilege to present to the House the Government's budgetary provision for Health, Education, Training and Culture for the current financial year and as it is customary I will also outline the progress and developments in these areas of public service during the past financial year and our plans for the future.

Health Services - before entering into details I wish to make a point of a general nature. I want to say that I do believe in the goodwill, the dedication and the tireless efforts of the vast majority of those who work for the Health Authority and wish to commend them for the service that they give to our community, but we do live in a society where the blame culture prevails and in a sensitive and complex area such as health care it is easy to disparage the work of these practitioners who as a result often feel demoralised as they work under constant stress and in some cases facing threat of abuse and even violence. Our health services in Gibraltar are marked by the same problems, difficulties and strains on its resources as those in other western countries today such as Britain and Spain, but it is important for me to assure the community as a whole that there is no question of crisis. It is a verifiable fact that over the last six years there has been an

impressive development in our health services, the expansion of Primary Care Services and secondary care technology, properly structured training for local nurses and continued professional development for all clinicians and professionals allied to medicine, the School of Health Studies validated up to diploma level by the University of Sheffield, the increased provision of Elderly Care both residential and domiciliary, the increased deficiency and availability of the ambulance service, the recognition of the nursing unit not only through regular constructive meetings with management but also by funding a full time convenor, increased security protection for staff offered, as I said exposed to abuse and aggression, preventive medicine and public health education promotion and increased staffing resources at all levels. More consultants, doctors, general practitioners, professionals allied to medicine, nurses, hospital attendants, administrative staff et cetera.

The Government have had the courage to embark on a multi-million pounds enterprise to provide for our people a state of the art new general hospital which will be the pride of our community. Only last week we were able to announce that Fitzpatrick Contractors Limited jointly with Rotary International Limited were the successful contractors selected through the open tender procedure to carry out the reconfiguration and fitting out of buildings 1 to 4 at Europort to the tune of £23,240,000. Having completed the detailed design produced by the multi-disciplinary team led by Devereaux Limited, the appointed contractors are now ready to commence work on the 1<sup>st</sup> July with an anticipated completion date in mid-November 2003. The prestigious new hospital which will replace the existing St Bernard's Hospital, the main facilities include 201 public in-patient beds comprising surgical, medical, maternity and paediatric together with critical care and trauma departments, a suite comprising three operating theatres, a dedicated accident and emergency department with separate children's area, radiology department with four diagnostic rooms, dedicated out-patients department, a medical investigation unit including an endoscopy suite, full support services including the provision of a School of Health Studies, day surgery suite,

integrated rehabilitation services including hydrotherapy, staff and visitors canteens, a chapel with a seating capacity of 100, a mortuary with a room for reflection and comprehensive data and IT cabling throughout.

In my budget speech last year and in subsequent statements which I have made in this House I have committed myself to ensure that the creation of a new hospital should serve as a catalyst so to speak for renewed attitudes and heightened expectations. I have also explained that as a form of protocol for the operation of the new hospital it is our intention to carry out this year a comprehensive audit of all aspects of our health services led by the UK National Clinical Governor's Support Team under the direction of Professor Aiden Halligan. Only last week Mr Ron Cullen, Deputy Director of the NCGST and Miss Terry Hobbs of the same organisation were in Gibraltar drawing up together with our own Chief Executive and the Director of Operations a nine month programme which will bring under review all aspects and areas of our health services, clinical practices, systems and procedures. This is a crucial and historic exercise aimed at achieving standards of excellence as we approach the opening of the new general hospital.

Mr Speaker, there is no doubt that the vital human infrastructure of all our aspirations in terms of improved health care is the development of professional training which was sadly neglected during the previous administration. The policy of this Government have been since we came into office to invest unreservedly in properly structured training and continued professional development of all our staff at all levels. The School of Health Studies was created in 1998 under the auspices of Sheffield University and since then its growth and attainments have been truly impressive. But it is not I who claims this. In recognition of the achievement by all those engaged in the School of Health Studies please allow me to quote from the report by the validation panel of Sheffield University who visited Gibraltar in January to monitor progress in the school and they say, " The panel was

extremely impressed by the progress achieved since the initial validation in March 2000. The Panel was particularly impressed to hear the culture shift that has taken place in nurse education in Gibraltar. The Panel commends that the Gibraltar School of Health Studies for its work in bringing about a change in the way that nursing and nurse education are viewed and welcomes the evident enthusiasm for continuing professional development and lifelong learning that the Diploma Programme has generated. The Panel recognises the efforts that have gone into introducing the Diploma in Nursing as a viable and innovative force within Gibraltar and commends the teaching staff and Government for their support and initiative. Students speak highly of the exciting programme and clearly feel that they have contributed to the development of the course as it has been delivered to date." I am pleased to report that eight local staff nurses who have been locally trained up to Registered General Nurse level, were taken into our complement last year. At present there are 11 students in their second year studying for the Sheffield Diploma and they are due to complete their training in September 2003. The next entry for the Diploma Course is due in September this year. We have received 23 applications with the correct entry requirements, that is, five GCSEs and a total of 15 have been selected for the course. At present there are also seven pupil nurses who will complete their training in March 2003. Parallel to these structured courses leading to first level nurses, Staff Nurses, the School of Health Studies requires all employed nursing assistants to undergo basic training leading to NVQ's. At present there are eight candidates, six working for the GHA and two for the Elderly Care Agency. All these pre-registration courses carry a strong element of ward practice which has to be methodically supervised by qualified nurses and assessed by qualified mentors. Accordingly the School of Health Studies also runs courses to this effect for all staff nurses and a more specialised recognised course, the ENB997/998 for senior nurses to qualify as assessors in clinical practice settings. Seven of our senior nurses completed this course in September 2001. At a higher level the Government are sponsoring post registration courses in UK in various specialisms. Six of our senior nurses were selected for promotion and are currently training in teaching hospitals in UK for various

specialisms. Sick children nursing, surgical nursing, medical nursing, district nursing, theatre nursing, and health visiting. Another local nurse is pursuing a distance learning course leading to an MA in Health and Social Care Management. Apart from these systematic courses the School of Health Studies holds regular seminars and study days for nursing staff and other medical practitioners such as advanced life support, lymphoedema management, wound care, law and ethics in nursing, food hygiene, manual handling and accident reporting. Finally with support from training funds provided by the Department of Education and Training, eight of our qualified nurses are currently engaged in distance learning courses aiming at higher qualifications, however, an area focused by Sheffield University as underpinning a proper academic provision was the serious need of investment in their library and information technology services. Historically these have been disjointed and piecemeal and Sheffield recommended indeed as a condition for validation the creation of a central health studies library staffed by a qualified librarian and adequately stocked. I am pleased to report that a qualified librarian together with a library assistant have now been employed. The Information Technology to run the system has been installed and over 2,500 text, medical nursing, management and paramedical have been acquired and we now subscribe to over 50 medical and 20 nursing journals. At present all these are housed in Bleak House but with the planned incorporation of the School of Health Studies within the general hospital all these facilities will be much more available, accessible, to all our professional practitioners.

Mr Speaker, only last month the Derek Wanless Report commissioned by the UK Government entitled "Securing our Future Health: Taking A Long Term View," argued that Primary Care as an interface with home based community care and as a substitute in many cases for hospital care is the point of the future delivery of top quality health service. The Wanless Report indeed recommends an increase in UK of two thirds GPs and one third of specialist nurse practitioners. There is no doubt that we have to move in this general direction in our own Primary Care Service

and I am pleased to report of the following developments in the past year and our planned developments during the forthcoming year. We have increased the GP complement from 13 to 14 and another GP will be recruited in the course of this financial year. This has allowed over the past two months the use of two GPs at any one time to run a rapid access emergency acute illness clinic and the other GPs are consequently seeing a smaller number of patients per session and they are thus able to improve the quality of their care and attention to these patients. The return of Gibraltar born GPs to work in the Primary Care Centre, Dr Negrette and Dr Monique Risso and the decision of Dr Luis Mañetto to take up permanent and pensionable status, this is highly indicative of the sense of hope and purpose that is now felt in the Primary Care Centre. A recent appointment, 2<sup>nd</sup> May 2002, of a highly qualified and experienced UK trained nurse practitioner, these nurse practitioners are in short supply and high demand in the UK may I say. The Wanless Report states that 20 per cent of the work currently done by GPs and junior doctors could shift to these highly trained nurse practitioners thereby reducing the load on doctors. The introduction in the Primary Care Centre of open access echo cardiography for GPs in an organised way, within an organised protocol. Our GPs are very satisfied and our patients are well served by the current arrangements with two Spanish Radiologists to obtain open and direct access by them to CT and MRI scans. The groundwork has been done to begin re-registering the patient population on a computerised database. Re-registration of patients should be finished in about a year. Five clerks have been engaged on a temporary basis for this purpose and the new computerised register will form the demographic cornerstone of the Primary Care Centre, Health Authority Patient Computerised database. It will establish entitlement to treatment, demarcate more closely and fairly the catchment patient groups for each GP and involve the issuing of up-to-date Health Authority Cards to each patient. The Primary Care Administrative and clerical staff continue to give a highly efficient and courteous support service that is greatly appreciated by all the medical staff and by the general public. All of the GPs, administrative staff, clerks, nurse practitioners, professionals allied to medicine will be now soon networked on a computerised database system in the

next year and the computerisation of clinical past medical history summaries will be given high priority. This will be the first time that such information has been available in Gibraltar and it will have a vital part in future strategic health planning. The implications for GPs with such a system are immense. For the first time in Gibraltar it will be possible to address systematic risk management and clinical effectiveness. Electronic aids to clinical decision making will be built into the network. The appointment system should be fully computerised within the next year and computerised communications between the laboratory and some hospital departments should help with the flow of information.

Professions allied to medicine, perhaps it is in this area so important in rehabilitation, community and supportive therapy that we have invested largely in additional qualified staff during the past year. We have engaged two additional Occupational Therapists, a Physiotherapist an Orthoptist, Dietitian, and a Dental Officer. This has not only greatly reduced waiting lists for these services but also enabled us to develop more widely community based services, for example, increased visits to patients' homes, hydrotherapy, pain clinics, palliative care, community psychiatry away from the KGV, aids to daily living, for example, bathing and physical exercise in the home for elderly patients in the Bishop Canilla Housing complex and elsewhere. The employment of an Orthoptist last year and a further Optometrist in the course of this financial year both operating from the Primary Care Centre will greatly release the pressure on the consultant Ophthalmologist who will be able to concentrate more on acute surgery and consequently reduce his waiting lists.

A number of innovations are also planned for the coming financial year. Diabetic screening for adults by the Orthoptist, cardiac rehabilitation and parentcraft by the Dietitian and education sessions for nursing staff on nutrition and feeding. Development of in-patient services with a use of a nutrition screening tool, improvements in audiology which are already being brought about



by the speech therapist, a multi-disciplinary seminar to be held soon on dysphagia which is a sort of eating disorder.

Mr Speaker, I have already indicated increased staffing resources in various departments as I reported on them but it may be useful, in order to convey the considerable investment that the Government are making in reviewing manning levels in all areas as we move closer to the expanded facilities in the new hospital to list here the additional posts created during the past year.

- 1 Consultant Gynaecologist
- 1 Consultant Elderologist
- 1 General Practitioner
- 2 Senior House Officers
- 1 Ward Pharmacist
- 1 Medical Librarian
- 1 Orthoptist
- 2 Typists (1 Primary Care Centre and 1 in the School of Health Studies)
- 1 Physiotherapist
- 2 Occupational Therapists
- 5 Registered Nurses
- 1 Hospital Attendant
- 1 Dietitian
- 1 Dental Officer
- 1 Executive Officer
- 1 GHA Clerk.

Mr Speaker, we have traditionally looked at the UK for specialist investigations and medical treatments which are beyond our limited resources, whereas the clinical expertise and attention received by our patients generally from UK consultants would be difficult to match anywhere in Europe, a certain disquiet has been expressed from user groups locally such as the Cardiac Rehabilitation Group concerning standards of cleanliness, catering

and nursing care in some hospitals in UK. I am pleased to say that following strong representations from us and indeed pressure in UK itself these identified hospitals have reportedly shown a marked improvement in these aspects of patient care.

In my budget speech last year I was able to announce that we were discussing with relevant authorities in the neighbouring regions of Andalucia practical ways of expanding the availability to Gibraltar of medical centres in Spain. Since then some of our consultants have been surveying existing facilities in Spain relevant to their specialisms and have referred patients to freely opt for this facility. As a result over the past year an increasing number of patients have been referred to medical centres in the neighbouring region not only as emergencies but for on-going specialist treatment, but at all times as I have said the Spanish option if I may put it this way will be offered to individual patients on a voluntary basis and when judged by our own consultants as clinically indicated.

A further and very positive development in the administration of our system of patient referrals to UK which is being considered at present is the possibility of entering into a consortium arrangement with the health authorities in Guernsey and Jersey. Like ourselves the Channel Islands operate a system of referrals to UK NHS hospitals for specialised investigations and treatments. We have held discussions with health authorities in Guernsey and Jersey who would be prepared to accept our own authority into their consortium. Although there has been no commitment on our part there is evidence that the system presently operated by the Channel Islands not only results in reduced costs but also improved quality of service, both clinical and also in terms of patient and relatives accommodation, transport, escort service to patients, shortened waiting times, guaranteed access to major teaching hospitals and improved relations with provider Trusts and hospitals. However, the logistics and financial implications of such a move are being carefully considered by the GHA management at present.

Mr Speaker, health awareness, health education, health promotion, comprise an area which often goes by the name of preventive medicine. The responsibility comes under the Public Health Department which over recent years has developed a wide programme of health promotion initiatives in liaison with other relevant bodies especially the Education Department, the Sports Department and other agencies and voluntary bodies. An intensive programme of events, campaigns and activities were organised throughout the past financial year. No Smoking Day, the Asthma Awareness Day, Diabetes Awareness Day, the parents of children with Diabetes actually helped immensely with the campaign and their effort is to be commended, Sun Awareness Campaign, the Miss Gibraltar contestants helped here in many ways helping to promote the concept of sun safe behaviour relevant to beauty care. Child Safety Day, World Aids Day, the Good Health Award aimed at catering establishments a criteria for restaurants and other catering establishments to gain the award will continue to be passing a dietary questionnaire, No Smoking areas assessment and qualified staff in food hygiene. A health promotion group is in the process of completing a health pack for nurseries and play groups and the health promotion group is also involved with the Gibraltar Inter-Agencies which is made up of a number of Government Departments some of which have an enforcement role within our community and the campaigns that have taken place are Drugs Awareness Day, Fireworks Safety, Drink and Driving Awareness Campaign, Child Safety Day and Summer Safety Day. The Public Health Department is also responsible for the GHA's programme of immunisation, infection control, and the Cancer registry. The most significant new measure by far this last year has been the introduction of the Meningitis 'C' immunisation campaign for the entire child population. The ambitious programme intended to cover nearly 8,000 children has progressed well, faster than expected, and is due to be completed by April next year. Meningitis 'C' vaccines are given to children from two months to 18 years of age, the actual dosing depending on age. Once the entire population of current children have been vaccinated the Infant Meningitis 'C' vaccine programme will continue as routinely part of infant immunisation schedule. Infections due to food poisoning bacteria

continue to rise, principally from salmonella and campylobacter, which is a bacteria which causes food poisoning, usually related to contaminated meats and dairy products. There were five notifications of meningococcal disease in 2001 including three tragic deaths but despite exhaustive search no links were found between the individual cases which were spread out in person, place and time and the serogroups 'B' and 'C' were also evenly divided.

The Cancer Registry continued to record notifications in accordance with policy. It was started in November 1999, the intention being to establish a scientific base following guidelines from the International Association of Cancer Registries and produce an analysis and interpretation of our compiled statistical database. The statistics were published in the GHA's annual report but it still remains to carry out a scientific comparative study of our incidents statistics with those in other relevant areas in Spain, Britain and other parts of Europe.

Mr Speaker, in order to guide the new hospital design team, the GHA has carried out with advice from computer and telecommunications experts a comprehensive policy on the installation and use of information technology and other advanced telecommunication techniques throughout the health services. The preferred model is one which integrates multiple health care levels with a simple software solution and a network cabling design. This would link Primary Care data with other areas of health care such as the laboratory, radiology department as well as general administration and records. The system will be the main tool for the re-registration process that was previously explained. During last year we have installed much of the required hardware, for example, in the Primary Care Centre including all the doctors' clinics, KGV, Community Care office and some departments at St Bernard's Hospital. It is expected that during the current financial year the Primary Care Centre and other management and administration services including the laboratory and the radiology department and the IT system as I have just

outlined will be fully functional operating the appropriate software, and it is intended, to make available in the new General Hospital what is called a "touch screen information kiosk" enabling users to obtain information on services, appointments et cetera at the touch of an icon or a label on a screen. There will be one for wheelchair users and another for able-bodied persons. Needless to say this revolutionary but nowadays essential development of information technology in our health services will run parallel to a programme of skills training for the practitioners at all levels from departmental specialist operations to generic computer familiarisation of all staff.

Mr Speaker, as the House is aware I am also privileged to hold ministerial responsibility for Education and Training another area of vital importance for the quality of life in our Community in its broadest sense, that is, spiritual, moral, social and indeed economic. I do believe that we can be justly proud of our educational system which has been built over the years through the dedication of professionals at all levels, wise planning and investment on the part of Governments and administrations and above all supportive commitment of teachers, parents, children and the community as a whole. As Members of the House are aware our educational system is entirely modelled on the UK system. I was personally involved as a Member of the Commission appointed by the Government at the time which recommended the adoption in Gibraltar of the National Curriculum. I believe today that this was a wise decision since our opportunities for higher education in realistic terms reside in Britain where we currently sponsor 559 students in British Universities and Colleges and the most effective way of gaining access to these institutions is through the academic route of the National Curriculum, the GCSE examinations and the GCE advanced levels. Following this route has not been without serious difficulties not always have recent changes in curricular reforms and teaching methodology been received in UK itself with enthusiasm by educators and teachers. It is claimed for instance that the teaching process has been straight-jacketed somewhat at the expense of the natural creativity, flexibility and spontaneity of the teacher in the classroom situation. When I met recently with

Nigel de Gruchy, the Secretary General of the Teachers' Union, I asked him what was the root cause of this exodus of teachers and the difficulties in recruiting teachers experienced in UK. He answered simply that it was the unacceptable workload and stress brought about by the bureaucratic measures introduced into the schooling process by recent reforms. Fortunately we have no problems of recruitment and retention of teachers in Gibraltar but in trying to keep pace with developments in UK as we should the Department of Education is sensitive to ensure that the morale and commitment of our teachers is maintained at the level which is traditional amongst us and of which we are rightly proud.

The toughest challenge for our teachers in secondary school has been the adoption of post-16 developments in the UK. The post-16 curriculum will offer students a broader and more flexible programme including the opportunity to combine academic and vocational study while maintaining rigorous academic standards. This has presented our comprehensive schools and the College of Further Education with a real challenge in terms of resources certainly, but also established teaching methodologies. There is no doubt that the present tripartite segregation of Bayside School, Westside School and the College of Further Education is open to review. For this purpose I have appointed a working group chaired by the Director of Education and Training with representation of the relevant institutions together with representatives of the Training Unit and the Employment Services to review all aspects of the current curricular delivery in terms of the sample duplication of resources as isolation of teaching and learning experiences, social and gender segregation, constraints on children's options and lack of interaction between academic and vocational courses. The aim is to foster greater collaboration between the three institutions to offer a wider choice to 16 year olds after the GCSEs. The target date for the implementation of joined programmes is September 2003 and as we speak the Director of Education, the Education Advisor and the NASUWT President were in UK to discuss with local authority officials and headteachers how schools have got together to form this sort of consortium between them to enable them to pull resources and

offer greater and more varied choices to students. At the same time they will also learn at first hand how the new very important green paper on 14-19 education published recently by the UK Department of Education and Skills is being implemented in practice, it is worth quoting the intent and aim of this far reaching document, "...more people need to be better educated than ever before to improve economic competitiveness and promote social justice, we need to develop the skills and talents of young people across the full range of abilities. Young people need to continue their education and training past 16 and must be challenged to reach their full potential and this is as true for those who face significant barriers to learning as it is for natural high-flyers."

Mr Speaker, the fact that we are ready to review and indeed widen and improve our post-16 educational provision should not be seen as a mark of dissatisfaction on our part with our current public examination results. The fact that over 40 per cent of our annual intake gain access to higher education is proof of our success in preparing our pupils not only at secondary levels but throughout their school career for public examinations. The statistics speak for themselves. Our pass rates are well above national averages in the UK and our results place our schools amongst the top ranking schools in national league tables. In 2001 at GCSE our pass rate, that is:-

- 'A' star to 'C' grades was 64 per cent,
- 'AS' level 91 per cent,
- 'A' level 92 per cent.

The number of students in UK universities and colleges during the past academic year as I have stated is 589. The cost of tuition fees for these students which is no longer paid as previously by the British Government but continues to be paid by us is £585,864. Maintenance grants continue to be means assessed and currently 247 students obtain maximum grants of £4,320 in the London area and £3,513 elsewhere and 70 students obtain minimum grants of

£1,466 in the London area and £776 elsewhere. These grants are increased annually to keep up with inflation rates in UK but as the House is aware, last year the Government increased substantially these grants not only through an overall increase of 10 per cent as had been promised in our manifesto but by actually reducing the so-called parental contributions which is an element in our system of means assessment. I would venture to say that our Government's investment in Higher Education has been historically unique and significant offering a record number of students the opportunity of Higher Education abroad.

Mr Speaker, I spoke earlier of the department's sensitivity to the issues on morale and welfare of teachers. In this respect I have to put on record the genuine co-operation of the Teachers' Union, the NASUWT Branch in Gibraltar. This is clearly demonstrated by the very satisfactory pay settlement between Government and the Union which was signed earlier this year and which has brought considerable improvement to teachers' salaries at all levels. I wish to put on record the boldness and the integrity demonstrated by teachers and their union in submitting their pay claim, I believe for the first time in Government pay negotiations, to a system of performance management assessment. Performance management affects all teachers, from the Director who will be assessed by an OFSTED trained educational consultant from the UK, to the teacher who has just completed the compulsory induction year. Team leaders have been identified within each school and a 'cascade' model operates, the benefits of target setting and working towards them are already being felt. The department is confident that the introduction of performance management has not introduced unnecessary bureaucracy or has increased workloads substantially. Schools have been advised to fine tune their priorities. The introduction of the new salary scales also enabled all teachers who are eligible, that is, those already on the maximum of the main scale the opportunity of crossing what is called the "threshold" to an upper pay scale. Progress up the upper pay scale as is progress up the leadership scale in which Heads and Deputies are placed, is dependent on success in performance management.

Mr Speaker, the Department of Education has in recent years leaned heavily on professional development relying on the expert advice and services of OFSTED assessors. There is no doubt that this programme of school focus visits by external monitors has sometimes placed increased stress on our teachers and it is to their credit that they have borne the strain in such good and co-operative spirit. They will be comforted to know that the UK advisors have highly commended our local profession generally as well above average in the established rankings prevalent in UK. The department is currently offering an educational management course in conjunction with Sheffield Hallam University, 20 teachers started in October 2001 completing their studies for the post-graduate certificate in September 2002 and a second cohort of 18 teachers started in February 2002 and they will be finishing in February 2003. On successful completion of the first two modules, teachers will be awarded a post-graduate certificate in leadership and management education. Those aspiring to promotion particularly to the senior posts, deputies and Heads, obviously will be required to go through this course.

Mr Speaker, whereas I have highlighted the Government's investment in Higher Education I want to assure the House that the Department's philosophy and indeed practical policies are in no way elitist or exclusivist. The department has adopted whole heartedly the UK code of practice on the Identification And Assessment Of Special Educational Needs 1994, and its revised version which came into effect in UK on the 1<sup>st</sup> January 2002. The department's policy is spelled out in a booklet published this year entitled, "Meeting Special Educational Needs - Guidelines For Gibraltar." Our policy is based on the principle of equal opportunities. In broad terms and as far as resources allow children with special educational needs will be educated in ordinary schools and will be engaged in the activities of their peers but never at the expense of prejudicing the learning opportunities of others who do not have special educational needs. For those children for whom mainstream education is not appropriate, specialist provision is made within the pre-school unit which we created last year as an annexe to St Martin's School, in St Martin's

School itself or in the Special Resource Unit within main stream schools. In order to ensure an effective implementation of these programmes we have appointed in each school teachers with special responsibility for special educational needs and they have all undergone specialised training. In terms of resources to carry this programme through, we have engaged:-

- 10 classroom aides in main stream schools,
- 4 nursery nurses employed in main stream nurseries,
- 2 vehicle escorts for children with special needs,
- 15 full-time equivalent classroom aides in St Martin's Special School, where the children have to be attended throughout on a one-to-one basis.

Classroom aides have also been given foundation courses by the department's Education Advisor for Special Educational Needs and for children with more specific physical disabilities, for example, visual impairment, experts from UK are engaged to visit us regularly to monitor progress and induct our own dedicated teachers to adopt appropriate methods and resources. The department has also set up a referral unit with a behaviour support team made up of three peripatetic teachers highly qualified in supporting children with emotional and behavioural problems. These teachers will work closely with special needs co-ordinators in each school and in the case of pupils who are excluded or suspended, arrangements are made for them to be attended offside by the Behaviour Support Team teachers assisted also by the Special Needs Advisor and the Principal Educational Psychologist.

Mr Speaker, most of the construction work during the past year has been directed to the creation of suitable lunch facilities in the schools. The only other works carried out have been essential

repairs and when safety was at stake but the programme of works during the current financial year is the following:-

- Construction of a Computer Suite in Bayside School
- Removal of the carpets at St Mary's School and refurbishing of existing flooring.
- The replacement of windows and rendering of cracks at the College of Further Education.
- The construction of a mezzanine floor and a small building at the Gibraltar Training Centre.
- The replacement of windows and repairs to the roof at St Joseph's First and Middle Schools.
- The refurbishment of the gymnasium and music room at Sacred Heart School.
- The resurfacing of the playground and installation of new playground equipment at St Martin's Special School.
- The replacement of a complete staircase at St Bernard's First School.
- Repairs to part of the roof at Notre Dame School.

The department is planning to carry out this year a major programme to equip all our schools with ample resources for information technology. ICT is now included in the core subjects of the National Curriculum and Government are committed to promoting e-commerce and e-business which necessary requires a proficiency in computer technology. We have budgeted £200,000 for an initial programme this financial year which will include not only many more up-to-date

computers in all our schools but also easy access to internet for the pupils and networks which can link interactively the schools and indeed the individual classrooms and the individual pupils to centralised resources. The greatest constraint in terms of school accommodation continues to be the increased demand for school enrolments in Bishop Fitzgerald and Governor's Meadow School, as a result of the great increase in population in that catchment area. Government have actually increased this year's intaking to Bishop Fitzgerald School from the traditional four groups of entry to five groups in order to keep class sizes within acceptable teacher-pupil ratios and we are building two temporary classrooms on one of the tennis courts adjacent to the school and we have to increase the teacher complement in the school accordingly. During this financial year we will carry out a pre-construction logistical survey and design with the aim of building a new first and middle school complex in this area so that hopefully by September 2003 we will have found a more permanent solution to this problem.

Mr Speaker, perhaps the greatest challenge faced by the Department of Education in the past year was not of a strictly educational or academic nature, but certainly it taxed the department's managerial ability in steering through logistically a huge change in the pattern of school life requiring a radical change of school hours and an extensive reconfiguration of school buildings to enable over 4,000 children to have their mid-day lunch within the school premises. I am delighted to report that the whole thing has been a resounding success. There is general satisfaction about the way all the necessary arrangements have fallen into place and I have put on record my appreciation of the efforts of all those who have ensured this successful outcome. The Director, the officers in the department, the contractors of GJBS who worked against time, the agency Serviceall Limited who are responsible for the supervisory service, the Luncheon Supervisors themselves who are giving excellent service and of course the Headteachers and Deputy Headteachers in the schools, and last but not least the parents and the children for there excellent and co-operative

response. This success is also the outcome of heavy Government investment which we thought was warranted by the fact that we are responding to a very real sociological need in our community and which would add as it has done to the quality of life of many of our families. Mr Speaker, £2,232,231 has been spent on the construction of the necessary facilities in our schools. The number of parents now availing themselves of this facility has also increased because of the increased popularity of the service over the past year to 90 per cent of parents in the First Schools, 92 per cent in the Middle Schools, and 60 per cent in Secondary Schools and this has also entailed an increase of Supervisors from 117 initially to 140 currently and the cost for the first term has been £129,289. I am glad to say that all those prophecies of doom from the Opposition spokesman who spoke of shambles, mismanagement and warned me pointing his finger in a TV programme of impending disaster and chaos, I am glad to say Mr Speaker, that all this has come to nothing, and I am indeed happy to note that his only problem at the moment appears to be just the question of 'peanuts' in the suggested menu, a matter which in any case has also been satisfactorily resolved.

Mr Speaker, I have spoken before about educating the whole person and about education for life. This are constant fears to me and to which I have been deeply committed personally throughout my life as an educator not just as a teacher but well before that. I am glad to see that the pendulum somehow is now swinging from an overemphasis in recent years on academic attainment and methodologies to once again focusing on aspects of spiritual, moral, social and civic awareness faced with Britain's woeful record on divorce and family breakdown, educators there are now turning to strategies in their educational programmes to teach pupils those traditional values of citizenship, of moral integrity, social commitment, environmental concern and healthy lifestyles. Our own educational advisors are now launching a series of inservice activities to encourage and prepare our teachers with the necessary resources to promote these programmes under

timetable sessions of religious education and personal and social education. In this context perhaps it is appropriate that I should also make reference to the wide programme of educational exchanges between teachers and pupils from our schools and from schools over the frontier. Despite the Spanish Government's abrasive attitude towards Gibraltar, educators on both sides of the frontier realise and understand the importance of forging links of friendship and understanding amongst our peoples, especially the young. Countless activities and events have taken place during the past academic year but perhaps I can highlight the very successful sports fun day only a few weeks ago organised by the Department of Education and the Sports Department which brought together hundreds of children from our own junior schools and from similar schools in Los Barrios. Finally I would also like to congratulate the teachers and pupils in all our schools for their generous efforts throughout the year and every year in raising thousands of pounds in aid of a whole range of worthwhile charities, not only local but in support of children suffering poverty and hunger in other parts of the world.

Mr Speaker, the Government believe that training to ensure the development of skills at all levels and in all spheres of activities is a crucial vehicle to sustain economic growth and permanent employment and at a deeper level to bring about a sense of purpose in our community. During last year's budget debate I gave detailed account of the many schemes now operating 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 but what I do want to state is that the progress has been nothing short of impressive and I want to congratulate all staff involved for their good planning and excellent strategic implementation. I will now just give an updated account of the schemes and courses that are functional as at present –

- **Maritime Sector**

The Department of Education and Training has recently received notification from the UK Warsach Institute that 12 of the 13 candidates who undertook the NVQ Level 2 Navigation Watch Ratings accredited to SDCW 1995 Standards, have passed the formal assessment conducted in March 2002. The Department of Education and Training will be considering a third intake during this year.

- **Tourism Sector**

Up to 46 people have completed the School of Tourism course of which 30 trainees have gained permanent employment within the sector. Presently we have nine trainees from the ninth intake which started in April 2002 and we envisage a tenth intake later this year.

- **Financial Services Sector**

The local branch of the UK Institute of Financial Services conduct regular weekend revision exercises to help local professionals to acquire CIFA qualifications. Over 100 people have attended these programmes. Normally the local branch invites professional trainers from the UK Chartered Institute of Bankers to deliver indepth tutorials during these weekends. Students who are undertaking the Certified Accountancy Examinations known as ACA are provided with a Government subsidy of up to 75 per cent. This has greatly helped members of the Gibraltar Society of Chartered and Certified Accountancy bodies to obtain professional qualifications in an increasingly important profession. There are currently about 12 people benefiting from this facility. The Department of Education and Training continues to liaise with the two main local insurance associations in an effort to provide seminars based around the Financial Planning Certificate, parts I, II and III professional

qualifications. A turnover of around 123 people have attended these sessions.

- **Construction Industry**

A new three year NVQ Level under the Gray Scheme will be replacing the former two year scheme, in addition there will be a much greater emphasis in gaining skills at the workplace instead of just simulation based at the Construction Training Centre. Up to 52 people have achieved NVQ Levels 1 or 2, of these up to 21 managed to obtain permanent employment within their respective trades and up to six have obtained permanent employed in Buildings and Works and seven gained employment in GJBS Limited. The UK joint awarding body is the City and Guilds London Institute and Construction Industry Training Board. Gibraltar received its licence to issue NVQ's in 1998 and not as sometimes claimed by the Opposition spokesman for employment within the time of the previous administration.

Mr Speaker, recent notification from the joint awarding body has announced that one of the Level 3 apprentices in the Gibraltar Training Centre, Mr Shane Smith, a bricklayer, achieved a medal of excellence in the UK Official Construction Trades Competition. He has been invited to receive the medal at a special ceremony in UK and I am sure that all Members will join me in congratulating Mr Smith and indeed the management instructors in the Training Centre as Mr Smith's success clearly reflects the high standards in the Centre having been declared by the official awarding body officially as I reported last year a Centre of Excellence.

- **Engineering**

The main source for engineering apprenticeships is the joint Cammell Laird/Government Training Centre. This November



2002 will see the first apprentice intake complete their four year training programme around 11 are left of the original 15 that started and it is expected that Cammel Laird will employ a number of these apprentices. There are three other intakes which comprise an additional 36 apprentices of which 12 are deployed from the Government's Electricity and Technical Services department. The Government in conjunction with Cammell Laird are considering a new intake this October 2002.

- **Business Administration**

The Department of Education and Training is presently engaged in a third intake, 10 trainees who undertake the London Chamber of Commerce and Industry examinations through the College of Further Education in Business Administration over two afternoons per week, the rest of the time is based at a work placement, up to 11 trainees completed training in intake one whilst similarly from intake two up to nine people completed.

- **Information, Communication Technology**

The Department of Education and Training is planning to launch a wide ranging programme of basic courses of a general nature leading to the ECDL, European Computer Driving Licence, this is being planned in partnership with local established trainers and in liaison with local firms who can express their real needs particularly in respect of e-commerce and e-business. The College of Further Education is also offering a substantial number of courses to help people both from the private and public sectors to gain skills in ICT packages, Windows, Access, for beginners, intermediate and advanced levels, Excel for beginners, intermediate and advance, Powerpoint and finally Word for beginners, intermediate and advanced

- **Management**

There has been an increasing awareness of the importance of sound management skills at all levels including the civil service, consequently the University of Durham was invited by the Department to deliver a one year certificate/diploma in business management. Up to five programmes have now been delivered and a sixth course is being considered. Well over 80 people have completed this increasingly popular course. The Diploma with a badge of the prestigious Durham University's Business Studies School has also been offered to 20 senior civil servants, of which 17 went to undertake the post-graduate diploma in Strategic Management. They are currently awaiting the results of this but indications are very positive. In addition to the above the Government and Durham University is currently involved in the delivery of a Certificate in Management for Administrative and Executive Officer grades. Up to 42 civil servants are currently undertaking this programme and there are plans to offer another 40 staff the opportunity to undertake this course late this year or early in 2003.

- **Vocational Trainer Scheme (VTS)**

This is on-going and replaced the former fudged and discredited vocational cadet programme of the previous administration. The main difference is that the new scheme is structured, it is closely monitored by the monitors of the Training Unit with a pledge by all parties, employers and trainees to follow a predetermined and agreed training plan. There are currently 122 trainees placed within 91 companies.

- **Culture**

Mr Speaker, culture is a vague notion, for some it is an elitist indulgence in its sophisticated artistic pursuit, for others it is pretty well everything under the sun. In setting out a policy on cultural development we have to start by asking ourselves what

is culture. My favourite definition is that of Matthew Arnold if I may quote in his brilliant book "Culture and Anarchy" - "Culture is contact with the best which has been thought and said in the world," and he also says, "...culture is the crucial component of a healthy democratic state." Mr Speaker I am conscious that this is not the moment to engage in the philosophical disquisition on the nature of culture but I do want to say that the Ministry of Culture's policies and general approach is based on an understanding that the human, social, and ethical quality of our community must be reflected and measured by our cultural pursuits. In this spirit the Ministry has indeed sponsored and supported a whole range of artistic and cultural events and evidence of the vibrancy of the arts in our community at the moment is that packed programme of events that we have just recently enjoyed during the Spring Arts Festival including the increasingly popular Spring Art Exhibition which now complements the International Art Exhibition which this year actually attracted 278 artworks from 140 artists, painters and sculptors from Gibraltar, Britain, Spain, Holland and Germany. Government policy has been to encourage the creation of collective groupings, associations, in various spheres of the arts and I believe that this has been the key to the surge of artistic activity that we have witnessed in recent years. Most of these associations have now been allocated premises and especially attractive are the Art Gallery of the Fine Arts Association in one of those magnificent vaults in Casemates, and also in Casemates the Gallery ran by the Arts and Crafts Association. All of which has become a very popular venue for tourists. Similarly the Drama Association has been allocated premises at the Ince's Hall complex and in the Ince's Hall there have been theatrical productions almost every month, from jazz concerts, drama performances, zarzuela, pantomimes, and flamenco shows and both the theatre and the adjacent refurbished rehearsal room have been used on 93 occasions during the past year for rehearsals and drama and music workshops. Those of us who have attended shows in recent weeks in the John Mackintosh Hall Theatre bless the installation of air-conditioning in the theatre at a cost to Government of £40,661. I am pleased to announce that the upper floor of Watergate House in the

Casemates area which used to be the Health Centre, presently occupied temporarily by the Post Office, will be refurbished during this year to create a communal art gallery where we will be able to exhibit fine works of art which the Ministry has collected over recent years including magnificent paintings by worthy local artists such as Gustavo Bacarissas, Jacobo Azagury, Rumecindo Mania and Lenny Mifsud. £80,000 in the Improvement and Development Fund have been budgeted for this purpose. The Ministry of Culture continues to sponsor three musical events in the year which coincide with key moments of celebration in our community. The National Week Concert in St Michael's Cave, the National Day Pop Concert in the Naval Ground and the New Year Concert in St Michael's Cave. A total of £27,000 has been given out this past financial year in the form of cultural grants to 27 groups and organisations and a total of £90,000 have been budgeted this year for cultural grants and activities.

The Ministry of Culture continues to pursue joint cultural activities with our neighbours in the Campo Area and indeed with the University of Cadiz especially significant have been the conferences and seminars organised and funded by the Transborder Institute which was founded by the Chief Minister and the President of the Diputación de Cadiz in November 2000, with the intention of providing a forum for serious academic lectures and debates. Some of these conferences such as the one on World Wide Migration Movements attracted experts from Mexico, California, Guatemala, Costa Rica, Morocco, Ceuta, Holland and Poland. Another important conference dealt with the impact of the Euro on the distinct economies and currencies in the regions around the Straits of Gibraltar. Our Finance Centre was represented by Mr James Tipping, the Finance Centre Director and during Holy Week the Bishops of Gibraltar, Cadiz and Tangier came together at the Instituto to discuss the role of popular culture in the Catholic Churches Holy Week Liturgy.

Finally, Mr Speaker, the exciting prospect of the renovated and restored Theatre Royal will from now on become an increasingly manifest reality. The final design by the architects was displayed in an open exhibition last April and the response both from persons attached to the world of theatre locally and from the general public has been very positive indeed. The tender has now been awarded to Haymills Gibraltar Ltd and the construction price agreed is £5,932,855. The work of renovation will start early next month and curtains will rise again in the great Theatre Royal early in 2004.

Mr Speaker, having been trained and educated by the Jesuits I do not believe in fake humility. I am indeed very proud indeed of this Government's record in all the areas in which I have the honour to preside ministerially. Areas which are of vital importance since I have explained into the well-being of our people. I have presented to this House a factual account of progress in the Health Services, Education, Training and Culture and only those who are politically blind will fail to acknowledge the impressive achievement by our staff in all these areas and at all levels. I want to thank them for their loyalty, commitment and hard work and I trust that all hon Members of this House will join me in congratulating them on their achievements.

Mr Speaker, I thank you and all the Members of the House for your attention throughout this lengthy report and I commend to the House approval of the items of expenditure under Heads 1a, 1b, 1c, 102, Appendix 'B' and Appendix 'C' of the Estimates of Expenditure 2002/2003.

The House recessed at 12.20 pm.

The House resumed at 12.25 pm.

## HON S E LINARES:

Mr Speaker, with the economy of Gibraltar buoyant as the Chief Minister has stated on numerous occasions abroad to all and sundry, or 'sound and stable' as he has mentioned at the beginning of the statement on Friday, this budget as far as the Education and Training is concerned is very disappointing to say the least. I would like at this stage to give notice that I intend to ask a number of questions but I will be making these at Committee Stage to give the Minister an opportunity to explain a few matters.

In last year's budget statement the Minister mentioned the fact that our system is modelled on the UK system anchored on the National Curriculum and leading to GCSE and 'A' Level examinations validated by the UK examining boards. He went on to say that it was important to keep pace with UK developments, in fact he has mentioned this even this year. Indeed we must keep up with developments in the UK not only on areas that suit him such as examinations but also for the other end of the spectrum since in this area the Government are failing to tackle the alarming numbers of children suspended from schools and truant children. It is very disappointing to see that despite the fact that he has announced having employed two peripatetic teachers to tackle behavioural problems, in actual fact all he has done is snatch them away from the existing complement since as can be seen in the estimate of accounts there is no increase from the already existing 286 in the establishment of teachers shown on page 31, Head 1(III). It is also disappointing that he has not seen it fit to employ more Speech Therapists for the Department of Education that is desperately needed due to the identification of children's learning difficulties. I wonder whether any of the extra Occupational Therapists will be attached to the Department of Education to ease schools in order to fulfil the inclusion policy. It must be said at this point that he has done this to the detriment of some other school. The Minister is recognising that behavioural problems exist and seeing the number of children suspended, that is, 19 already this year, it is highly irresponsible of him to dismiss this fact and not consider having a Pupil Referral Unit, which he saw fit when he

was a headteacher, yet numbers of suspended children then were few and far between. What the Minister calls a Pupil Referral Unit this year with two peripatetic teachers, is just a cover up of what is really needed. His explanation of inclusion and lectures he has given us in this House to justify that there is no need quite frankly are ridiculous. I am a believer of inclusion but there are limits to this. Specialist Educational institutions are needed, we have already got them and this has again been recognised by the Minister even this year. It is obvious that if he does not take developments in the UK seriously or probably cannot keep up with them since he has too much on his plate because just two days after I had come out with a press release and an interview in GBC on this precise issue, the UK Government were announcing the fact that they are to open and set up Pupil Referral Units across the country to tackle children who are suspended from schools. This, despite the fact that in the UK they also have an Inclusion Policy since children should be put into a learning environment and not left out in the streets to cause a nuisance to others and make a nuisance of themselves.

Mr Speaker, how sad it is that although the Minister, an ex-teacher himself, recognised behavioural problems in our education system, he is dragging his feet to bring to this House the long overdue legislation to tackle truant children from schools, despite the fact that this issue has recently been highlighted in the UK media where a mother was sentenced to 60 days in prison for not sending her daughters to school. I would like to make it clear that I do not believe that parents should be sent to prison but likewise a £5 fine and a lot of red tape is ludicrous. It is incredible that we waste so much time passing EU Directives and laws that are important to our children and the community at large are left to one side. I have been consistently asking the Minister at Question Time about this legislation and all he has been able to say is that it is at the drafting stage. His commitment to this issue is nil despite the Minister recognising that it has to be implemented and that it is also an issue in the UK education system.

Mr Speaker, another worrying factor is the fact that subjects both in Westside and Bayside are restricted to pupils choosing their options in Year 9 for entry into Year 10 for GCSE. This has been due to the complicated time-tabling that needs to be done as the Minister knows from the time he was the Head of Bayside. It is therefore important for us in Gibraltar to look closely at this if we are to continue comparing our results with those of the UK. Children should be given a wider choice of subjects. Core subjects should be compulsory and all other foundation subjects available to students at GCSE and 'AS' and 'A' Level. I am happy to hear that the Minister has recognised that there is a constraint of students options and we hope that his announcements are not only announcements but a reality.

Mr Speaker, this unfortunately is also the case with Nursery Education. In my first budget statement in 2000 I said that the Minister had recognised the importance of nursery education. His words were, "...effective pre-school education is recognised today as a key factor in successful schooling." I then went on to say that it should be Government policy to have 100 per cent of 4 year olds in Government nurseries since it was discriminatory to have 315 albeit sharing sessions instead of the approximately 450 children that are of that age range. The Chief Minister had the audacity to say that, ".....as an aspiration of reaching 100 per cent publicly funded pre-nursery school places at least for the four year olds, I would agree...." and he went on to say, "...one cannot go from a position of 120 to a position of 140 within a year, he must understand that the deployment of public resources have to be paced and the improvement to public services need to be gradual." In last year's budget the Hon Dr Linares said, "it is recognised by educators that pre-school education is a crucial factor influencing a child's whole school career." The fact is that with the buoyant economy obviously what they also inherited and not only the figures of 120 in nursery placings as the Chief Minister also stated, there is no financial provision to having more nursery schools for the second year running which shows that this Government have not got a coherent policy at least in relation to education. There incompetence to bring to this House legislation

to regulate nurseries is yet another case that clearly shows the lack of direction of this GSD Government but most importantly it shows that they do things only if it is popular, if there is a photo opportunity and only when they think it is going to create an impact to their petty political goals. Since the regulating of nurseries has not got any public appeal they continuously put it to one side.

Mr Speaker, from the moment this GSD Government took the decision of implementing the change of school hours all it has tried to do is to look as if they knew how and what to do. The opposite has been the case since it is clear that the Government were to change to a one hour break despite producing questionnaires that were mishandled to obtain the result that Government had already decided. This was made clear by the fact that Government started their work to accommodate for a one hour break even before they knew the results of the questionnaire. The Minister promised that parents were going to be able to have the option to, "...continue to go home for lunch if they so wished...." The reality is that any parent who has a child in the First School and a child in either a Middle School or a Secondary School will find it impossible to eat at the same time since the lunch breaks are at different times anyway. The attitude of the GSD Government towards the change of school hours which affects the lives of people has resulted in Government wanting to use wipes to clean childrens' hands and the Health Authority having to state that it was unhygienic and that basins and soap and water had to be provided. This again shows the lack of co-ordination between departments. Two ministries that one would say should be co-ordinating well since they are the responsibility of the same person, that being the Hon Dr B A Linares. The attitude of this GSD Government have resulted in children having to eat on the floors at least a month during the winter period since even the timing of the change was miscalculated. It has resulted in schools being disrupted unnecessarily, it has resulted in patching up facilities from the beginning after representations from parents, it has resulted in more workload on the Headteacher and Deputy Headteacher to the detriment of education generally since both Heads' and Deputies' time has been taken to administer the lunch break. It

does not only boil down to peanuts. The Government apparently have to-date spent approximately £2.2 million on capital expenditure to accommodate the lunch break but again to the detriment in some cases of other facilities to which schools had needed and requested years ago. This means that the figure of £2.2 million which was originally stated for the change of school hours can easily be put down to approximately a mere £1.4 million. Trying to give the impression that the £750,000 spent on St Joseph's First and Middle Schools to accommodate the lunch break is to try to mislead the public. The £750,000 that has been spent in St Joseph's First and Middle Schools has been to build two gymnasiums that were desperately needed, this is not reflected in the estimates of accounts. The money spent on the new building at Westside School, although a separate item, has in this case been used to accommodate the lunch break to the detriment of what was originally going to be built. This again is not reflected in the estimates of accounts as a capital expenditure of the change of school hours as it should be.

Mr Speaker, yet another disappointment in this budget is that although the Minister recognised the need for more secretaries in schools he has not moved to rectify this historic anomaly. There is no sign in this budget to state the contrary despite it being sound and stable, in fact, he has seen it fit to employ a secretary in the School of Health Studies and yet a typist for schools for our children there is none. Any institution that is expected to run smoothly needs a full-time secretary at least to be able to alleviate its staff from normal secretarial work. What is happening at present is that Headteachers as well as teachers not only have to comply now with the school hours, but have to do things such as photocopying, filing, typing lesson worksheets et cetera. This means that the time spent on doing these things are to the detriment of the teacher's preparation time.

At this stage I would like to take the opportunity of commending the work done by the present secretaries, since they are also working against all odds. Clearly what is happening is that the

teachers in Gibraltar are encountering the same sort of workload which he has this year mentioned in the budget speech, that the NASUWT are campaigning against their Government in the UK. Having a full-time secretary in every school as a minimum can alleviate this. In the estimates of accounts we can see clearly the shortfall. We have 14 schools and only 10 secretaries. When one considers that the two comprehensives have two full-time secretaries each, then the rest of the schools share six secretaries. This information was the one the Minister gave me in answer to Question No 518 of 2002 in this House. I wonder what Convent Place would do if the Chief Minister had to share a secretary with other ministries and only working mornings.

Mr Speaker, another worrying issue is the fact that the Minister has announced that in Bishop Fitzgerald there is to be a five form intake. He was the one that thought that small schools are better for children, he did that during his campaign to keep the Governor's Meadow School open when the previous administration were thinking of closing it down.

Mr Speaker, though the Government have invested sums of money for training, we believe that the Department of Education in co-ordination with the Employment Board should monitor whether these courses are value for money. It is interesting to note that the Minister for Buildings and Works is constantly looking at value for money in his ministry yet when it comes to training this is not the case. Training should be:-

To qualify and prepare people to be able to apply for employment,

For professional development for the public service and the private sector,

for leisure, as some adult education courses.

Most of these should be on a self-financing basis. At present training does not seem to have any specific direction, what is worse is that none of the departments concerned seem to be bothered on monitoring the effectiveness of its training in relation to its long term development and progression. This was the case with the course such as training for the unemployed. On the cultural front, apart from the amounts spent in the Theatre Royal which is running to millions, the Minister is constantly boasting about the fact that he re-constituted the Arts Advisory Council yet in nearly seven years of Government, it has met the grand total of five times. Four in 1998, once in 1999 and as far as we know has not met since. This is yet another year that we have not had the Drama Festival, it seems to have been kept very quiet with only a mention by the Director of Culture when exposing the events for this Spring Festival. This despite the fact that Government are spending more money on cultural activities, the Theatre Royal and Ince's Hall. Cultural grants are taking very long to reach the groups. The fact is that these groups apply in June/July and groups do not get their monies until late October and sometimes November. It is totally unacceptable since groups cannot plan their itinerary and programmes of work for the new term which most groups start in September. All these inefficiencies again show that there is no substance in what this Government do yet when the Art Advisory Council was reconstituted the Government did a great deal of song and dance, never a better word said, and a great media show to make people believe that things are being done. When the Drama Festival was restarted the same thing happened. In the UK the Blair Government are constantly being accused of spin but in Gibraltar the GSD are the masters of spin.

Mr Speaker, on the youth front this Government have ignored the advice from the voluntary youth workers and they have treated these people who have given a lot of time and effort throughout in an unacceptable way. These people have brushed aside without giving them the credit and recognition they deserve, be that as it may, Government have now decided that they do not need these voluntary youth workers. What is worrying is that although Government have dismissed or at least quietly marginalised these

voluntary workers, the Government still have not got a comprehensive short, medium, and long term policy for our youth service. I therefore think that it is totally irresponsible of Government to have ignored these people without first knowing what direction they are taking. We still believe that the youth service should have been kept within the Education Department since the drawing up of policy would have been done with a general development of young people which is one of the functions of the Department of Education. This was another decision that was taken to suit the minister concerned rather than having the concerns of our youth at heart.

In conclusion, Mr Speaker, though Government finances are sound and stable as has been mentioned, the Government are clearly not focusing on the real needs of people. They are out to give the impression that they are delivering yet all they have done as far as education and training is to spend lots of money in things that are visible and at times these are not even practical. By not bringing the legislation needed to improve children's lives, by taking decisions without having thought of the long term consequences, by trying first and foremost to look good even though in the long run it is not. Thank you, Mr Speaker.

#### **HON LT COL E M BRITTO:**

Mr. Speaker, I once again rise to address this House and inform it on all aspects of my Ministerial portfolio. I will address my political responsibilities in the following order:

1. The Environment
2. Technical Services Department
3. Information Technology Services Unit

4. The Electricity Department
5. The City Fire Brigade
6. The Post Office
7. The Sports Department
8. The Youth Service
9. Public Service Broadcasting
10. The Government Lottery
11. Gibraltar Nynex
12. Gibtel
13. Lyonnaise des Eaux
14. The Philatelic Bureau

Mr Speaker, when I have spoken in previous years about the Environment, I have highlighted the challenges and demands on both manpower and financial resources, which come to us from Brussels in the form of Environmental Directives and Regulations which we are required to transpose into our legislation and subsequently to implement. The position has not changed and I will shortly be bringing before the House legislation transposing directives on:

- 1) the limitation of emissions of volatile organic compounds due to the use of organic solvents;
- 2) landfill; and
- 3) amendments to existing legislation on waste and hazardous waste.

We will also be bringing in legislation on ambient air quality. This will provide for a framework for the management and assessment of air quality and provide limit and alert values in respect of a number of pollutants such as sulphur dioxide, nitrous oxides, particulate matter and lead. Because of the low values to be monitored and the need to update data on an hourly basis, the monitoring equipment required is sophisticated and expensive. However, we need to provide for this since, not only will it allow us to comply with EU obligations, but it will also allow us to monitor and assess our air quality in a manner which has not been possible up to now.

Inspection levels of imported food during the year needed to be increased and additional requirements put in place as a result of the Foot and Mouth epidemic in Britain. These increased measures were necessary to protect other countries from the risk of spread of the infection. Britain recently once again obtained its Foot and Mouth free status and the increased measures and additional requirements have now been reduced to previous levels of normality.

As regards other areas that come under the umbrella of 'environment', we shall be continuing the comprehensive programmes already in place for the cleaning of Gibraltar. I think that the effects are there for all to see and we shall continue to monitor closely and to ensure the standards are maintained and, where possible, improved even further.

There are also programmes in place for the maintenance and upkeep of planted areas. These are working well as can be seen by the many embellished places throughout our town. More areas have been added during the course of the year and we shall continue to upgrade areas in a reasonable manner within our resources.

Playgrounds are also the subject of continued programmes of cleaning and maintenance. During the past year the Moorish Castle Estate playground has been refurbished and can now be better enjoyed by the younger residents of the area. Other playgrounds will continue to receive the attention required to ensure they are kept at a standard that young users deserve. I would like to end my contribution on the Environment, Mr. Speaker, by again thanking and expressing my appreciation to the many individuals and groups that continue to give invaluable help, advice and support on the many and varied issues which encompass this particular responsibility of my Ministry.

Mr Speaker, Technical Services Department has undertaken a total of 27 significant civil engineering and building projects during the last financial year. Some such projects having already been completed whilst others are scheduled for completion during the current financial year. I will now give more details of some of these.

In respect of Rock Safety, work was undertaken and successfully completed on the stabilisation of a large boulder, above the MOD water catchment on the east side, which was identified as having been partially undermined and in danger of being displaced. In the context of the eastside, I have to regrettably mention the tragic incident that occurred at the entrance of Dudley Ward Tunnel and which sadly resulted in the death of a young man. I again take this opportunity to offer my most sincere condolences to the family. As a result of this tragic incident, an in-depth investigation of this area of Gibraltar's cliff face has been undertaken, the results of which are currently being considered. The closure of the east side road will therefore have to continue for a prolonged currently undefined period of time until this matter can be adequately addressed. The design work for the stabilisation of the cliff face bounding the south extremity of the Brympton housing estate was also completed during the last financial year with tenders for such work already having been invited. As a consequence of the major cliff face collapse that



occurred at Camp Bay some years back, the sewer serving the Old Royal Naval Hospital complex, which originally was affixed to the collapsed cliff, was severed during the collapse. Work was commenced last year in reconnecting this sewer and the works have continued and will continue into the current year.

Works on the reconstruction of a retaining wall outside the northern entrance to The Mount was undertaken and practically completed during the last financial year with the few remaining minor items having now been completed.

Work was completed last year on the matting and seeding of the newly exposed sand slopes on the site of the decommissioned water catchments at the east side. This has proved to be a very successful project with the newly planted vegetation having taken hold and contributing to the stabilisation of these otherwise potentially unstable sand slopes.

A number of beautification and refurbishment projects were undertaken and works continued during the year on the City Centre Beautification scheme with the commencement of the current phase of the project. This current phase includes the section of Main Street, from its junction with Library Street up to its junction with Secretary's Lane, Library Street itself as well as the whole of Cathedral Square. Last year the section of Library Street was completed as was the section of Main Street from Library Street to Cathedral Square and the project as a whole is due for completion during the course of the current financial year. The project for the realignment of the 'black spot' was completed during the last financial year although the affected section of the road has only just been opened due to some extra road marking works requested by the Royal Gibraltar Police subsequent to project completion. The realigned road should significantly improve road safety of this notorious 'black spot'.

Work progressed during the year on widening and realigning a section of Europa Road near its junction with South Barrack Road. These works were due for completion some months ago but the discovery of uncharted services as well as the need to undertake the reconstruction of a number of retaining walls in the area regrettably delayed its completion. This project is now complete and has made travel easier and safer along this section of Europa Road.

Following the Government's commitment to assist the residents by carrying out certain remedial works within Sir William Jackson Grove Housing Estate to correct unsatisfactory works undertaken during its original construction, a number of projects were undertaken during the last financial year. All such projects were in relation to health and safety aspects affecting the well being of all the Estate's residents. Such works comprised:

- i. The replacement of the dry risers within all the blocks following the unacceptably deteriorated state of the original risers due to the use of sub-standard materials.
- ii. The complete overhaul and upgrading of the Estate's fire detection and emergency lighting systems.
- iii. The redesign and installation of the smoke extraction systems and louvres in the atrium.
- iv. The re-fixing of the roofing sheets following the corrosion of the original roof fixings.
- v. Alterations to the external open staircase of this building to bring these in line with British Standards.
- vi. The replacement and/or refurbishment of fire doors.

For similar reasons, the Government have committed themselves to undertaking certain works within Brympton Estate. Works commenced this year on the enclosures to the previously open stairwells providing access to the flats within these towers. These open stairwells were a major cause of dampness in a very large number of flats and its closure will resolve a large proportion of such problems.

Works also commenced last year on the new Retreat Centre at Lathbury Barracks. The old Sergeant's Mess is currently under conversion into this multi-function centre, which is due for completion during the current year.

Demolition works undertaken by Technical Services Department during last year included the demolition of the isolation wing at the Old Naval Hospital site as well as the demolition of all buildings within Landport Ditch. A number of other demolitions were undertaken by this department on behalf of other departments. These include the demolition of the buildings comprising 10 Fish Market Lane as well as the demolition of the burnt section of the Devil's Tower Workers' Hostel, and these latter works are now practically complete.

The major project in relation to sewers and storm water drains undertaken during the last financial year was the desilting of a section of the main sewer from its head at the American War Memorial down to North Jumpers Bastion. This proved to be a very successful project judging by the large volumes of sediment removed and the resulting clean condition of the sewer as was evidenced from the subsequent video footage taken. It is hoped that on completion of the repair work envisaged to the main sewer, further such works will be undertaken in the near future to complete this worthwhile and badly needed project. The collapse experienced in the main sewer at Rosia Road prevented further desilting works from being undertaken at the time. The collapse of the main sewer in Rosia Road has necessitated the installation

of an over-pumping operation to ensure the continued flow of the sewer. This enabled the department to undertake detailed and in-depth investigations of the damage as well as to prepare the necessary design and contract documentation for the engagement of a contractor. The very significant depths involved together with the complexity of the works to be undertaken, both in respect of the specialist execution methods needed to be employed and the fact that work will be undertaken within a live sewer, has resulted in unavoidable delays. Nevertheless, a contractor has now been appointed and has currently taken over possession of the site. These works are currently anticipated to take approximately 15 weeks to complete.

A related project commenced during the year was the refurbishment and bringing back into operation of the flushing tanks originally designed to cleanse the contributory and the Main Sewer. Two such tanks were completely refurbished and commissioned during the year and will soon be brought back into service. Work is currently being undertaken on four more such tanks with the idea being to systematically undertake remedial works on all such tanks.

Mr Speaker, this Department has acted as Design and Project Manager on a number of other projects financed from Heads controlled by other Government departments. The projects undertaken under this heading are too numerous to mention individually, but the following are the main projects which were completed during the last financial year:

- 1) Refurbishment and replacement of balconies at Heathfield House.
- 2) Repairs to the Western Arm coping stone and culverts as well as the second stage of the repaving of the area.
- 3) Construction of a footbridge at MacFarlane House.

- 4) Provision of new electrical installation at Devil's Tower Road Workers' Hostel.
- 5) The installation of a new lift at No 6 Convent Place.

The following projects are still on-going and are again being managed by this department:

- 1) Repair of balconies and refurbishment of Coelho House – 40 per cent complete.
- 2) The construction of a new industrial park at Lathbury Barracks – 50 per cent complete.
- 3) The laying of new infrastructure and resurfacing of a section of Rosia Road – 80 per cent complete.
- 4) Frontier refurbishment – 70 per cent complete.

The House recessed at 1.05 pm

The House resumed at 3.05 pm.

#### **Debate continued on the appropriation (2002-2003) Ordinance 2002.**

#### **HON LT COL E M BRITTO:**

Mr Speaker, before I conclude my remarks on the Technical Services I would like to put on record that Mr Michael Pizzarello, a

Clerk of Works within this department, this year successfully completed a three-year Diploma course in Surveying, which he has attained with 'Distinction'. This was an excellent performance on all accounts particularly this year and as a result, the Royal Institute of Chartered Surveyors has awarded Mr Pizzarello a prize for the 'most distinguished student of the year'. In addition, the College of Estate Management has awarded Mr Pizzarello the Walfords Prize, which is awarded to the 'best student of the year' in the Quantity Surveying Division of the Diploma in the Surveying course.

I want to take this opportunity to extend once again my most sincere congratulations to Mr Michael Pizzarello on such an outstanding and meritorious achievement and wish him every success in his chosen career in Quantity Surveying. In this respect, I also congratulate him on his recent promotion to the post of HPTO Quantity Surveyor within the Technical Services Department.

Mr Speaker, The Information Technology Services Unit continues the on-going process following on from previous years of networking Government Departments. The Police Headquarters at New Mole House has been wired up and work on setting up the network and providing the necessary software will start soon. Similarly, the main office of the Education Department has had the cabling infrastructure set up. The Procurement Unit has been made ready and the possibility of introducing an electronic purchasing system to be used by all Government departments is being explored. The Treasury Payroll section is ready for the introduction of a new Payroll System, which is being developed to consolidate and centralise all departments' salaries and wages. The Central Arrears Unit has been networked in their new offices and the facility to access Income Tax and DSS arrears is now available to them.

The Motor Vehicle Licensing at Eastern Beach will soon be ready and will accommodate the existing Licensing staff located in John Mackintosh Square together with the Motor Vehicle Licensing System. Other departments networked during the past year and which are having the infrastructure set up at the present moment, are the Port Department, Income Tax, Audit Office, Statistics, Tourist Board, Department of Trade and Industry, Main Street Post Office and No. 6 Convent Place.

A Unified Collection System at the Income Tax Department now allows the collection of Social Insurance Contributions in addition to Income Tax payments. The new Income Tax System and the new DSS contribution system now run on the same platform and a shared database of common data, which will be the Central Government Database, is already in place.

A collection system for the Port Department has been implemented which will be used by other collection offices throughout Government and other systems which have been developed include a new system for the Register of Gibraltarians and one for parking tickets and the issue of summonses for the Ministry of Transport.

Systems that are being developed or in the design stage include:

- New Payroll System
- DSS Benefits
- Electronic Purchasing System (to replace the manual LPO system)
- Enhancements to Motor Vehicle System

- Enhancements to Income Tax System due to changes in legislation
- Enhancements to ID Card System
- Inventory System for the Electricity Section of the Technical Services Department.

The Information Technology Services Unit has also been involved in the design of the network infrastructure for the new hospital and advising on software requirements.

A general review of information technology within Government have been conducted by Price Waterhouse Coopers and their report has been presented to Government for consideration.

Mr Speaker, I would like to open my contribution on the Electricity Department by recording that on the 31<sup>st</sup> March this year Tony Aguilera retired as City Electrical Engineer and was replaced by Francis Xavier Pons. I would like to thank Tony for his noteworthy and faithful service to the Department spanning a period of 34 years of unbroken service.

In respect of the Electricity Department, the units generated during the last Financial Year saw an increase of approximately 1.8 per cent in comparison with the previous year. The amount generated totalled 127.2 million units. Of this total production, OESCO generated 64.56 million units and Waterport Power Station 62.64 million units. The total number of units billed during the same period amounted to 110.56 million units, a similar percentage increase as the units generated. The total amount billed was £10.365 million.

The total number of active consumers stood at 15,446 an increase of 129 from last year, representing 0.8 per cent. These figures confirm the continued growth in the demand for electricity by consumers. The requirements for an additional generating plant are now being studied.

Fuel prices have remained steady since November 2001. Fuel continues to represent by far the major item of expenditure incurred by the Department. Any move, which is not upwards, is therefore welcomed.

The Consumer and Metering Section moved into the new Electricity Centre at Rosia Road during the course of last year. Once the refurbishment works to the main stores building and the works compound yard are completed, the Distribution Section will be doing likewise. The new premises provide the employees with excellent facilities and consumers are finding the new offices pleasing to do business in.

Mr Speaker, an essential service like electricity must continue to look forward and progress if the demands of a modern society like Gibraltar are to be fulfilled. There is an ever-increasing dependence on this utility. The Government are presently involved in on-going negotiations with the employees and Unions with a view to forming an Electricity Authority. This will be a statutory body wholly owned by the Government and the employees will be public sector employees within an autonomous entity. The attendance of faults resulting in power failures is the number one priority of the Electricity Department. The occurrence of these, in the majority of cases caused by third parties, lead to inevitable slippages in the works programmes.

Mr Speaker, I would like to end by thanking all those employees whose efforts continue to ensure that our electricity service is available at all times of day and night.

Mr Speaker, during this past year, recruit training and specialised training has continued to be the priority for the City Fire Brigade. This has resulted in the attendance of a number of officers at the Fire Service College in courses relating to Command & Control for junior officers, Fire and Safety and Civil Defence. Recruit training has also been carried out at the Fire Service College in conjunction with four other brigades, namely, Oxfordshire, Gloucestershire, Buckinghamshire and Wiltshire. The standard of these courses has been extremely high and our local recruits have fared extremely well.

Since April, Selective Industrial Action has been taken by the Fire Service personnel, excluding controllers, in support of their claim for additional sick leave entitlement for injury at work on a parity basis with their UK counterparts. The dispute commenced on the 8th April and has escalated to the point where maintenance and training are no longer taking place. It should be noted that the CFB are on parity with the UK only in respect of Pay and Annual Leave. Other conditions of service as applied in the UK are not automatically applicable locally.

The Brigade also purchased a considerable amount of 'HAZMAT' (Hazard Material) equipment in order to cope with any possible Anthrax incident or alert. Further training is envisaged in this area due to the sensitivity of the subject and its implications for all sectors of the population. The Brigade also acquired an all-purpose 4 x 4 vehicle to replace the existing Land Cruiser, which had been operational for the last 14 years. This appliance is a support vehicle and is used extensively for rescue and diving purposes. A further asset, which was acquired, was a new on-call vehicle, which is manned by the Senior Duty Officer and is equipped with strobe lights, radio communications and operational kit. This vehicle is a front line command and control vehicle mainly used by the Station Duty Officer when units are mobilised in response to an incident.

Brigade staff have refurbished main parts of the Station, which include the recreational facilities, the administration offices and

entrance corridors to the Station. A mini museum has also been set up to display the history of the service.

The Brigade has recently introduced a new working and walking out uniform which conforms to health and safety regulations and which mirrors those used by the UK Northern Brigades.

Mr Speaker, on the operational side the Brigade responded to 1,747 calls between January 2001 and December 2001. These were classified as follows, 181 fires, 998 special services, 335 false alarms with good intent and 233 calls to turn out with the third ambulance operated by the Brigade. The St. John Ambulance operated service was mobilised on over 4,000 calls. The Fire Safety Department has also been delivering basic fire safety presentations to major institutions like the Elderly Care Agency, GHA and other private entities.

Mr Speaker, when I spoke last year during the Estimates Debate regarding the Post Office, I said that Government were determined that the various problems affecting this department and which resulted in unpredictable and unnecessary delays to the delivery of mail would be resolved so that the Post Office would, in future, provide an efficient level of service that the public and the commercial sector were entitled to expect. I regret to advise the House that, despite the considerable efforts that Government have made to find a permanent solution to this problem, this has not yet been forthcoming. For many months, Government have negotiated at a very senior level by a team headed by my Colleague, the Hon Mr Keith Azopardi, and myself, with the Transport & General Workers Union, at the level of the Branch Officer, Mr. Charles Sisarello, who led a team which included representatives of the postal grades. These negotiations lasted for over seven months and ended in a draft agreement, which was approved in principle by the Union. Regrettably, and inexplicably, this agreement was subsequently refused by the postal grades. The Government consider that the

offer that was made to the postal grades was both fair and generous and, in a nutshell, would have ensured the following:

1. The introduction of a single grade for all postal workers (as in the UK) with the consequent increase in basic pay from the present levels of £10,409 (for postmen) and £11,871 (for sorters) to the current UK equivalent of £12,680 for both of them. For postmen this represents a basic pay raise of £2,271 per annum.
2. The introduction of a bonus scheme conditional on satisfactory attendance at work and the sorting and delivery on a "same day basis" of all mail received.

The introduction of such a bonus scheme would have been of benefit to both users of the postal service and the postal workers alike. It would have guaranteed the timely delivery of mail and substantial improved conditions of pay for postal grades by allowing them to earn a sum of £8,800 per year over and above their UK counterparts and their basic salary as long as they:

1. Maintained and improved attendance at work by not being absent from work for any period in excess of 10 days per year over and above their normal holiday entitlement.
2. Sorted and delivered the agreed volumes of mail on a same-day basis.

The Government made clear throughout the negotiations that acceptance of the proposals would ensure that the postal service would remain entirely within the public service and that the postal grades would continue to be Government employees. The position taken by the postal grades in rejecting the agreement is that they wish to "maintain their status quo" and only to "improve

the postal service in a manner acceptable to them". This is completely unacceptable to Government. It is clear to everyone – users, Government, the Consultants who reviewed the postal service (and presumably even to the Union and the postal workers) that the postal service is in need of radical improvement. It is precisely this attitude of holding the community to ransom with unreasonable demands in exchange for a deficient service that needs to end.

The statement by the postal grades that they want the system to remain as it is, is wholly unacceptable to the Government and to the community at large. The problems at the Post Office cannot be resolved simply by employing more postmen under the current system. The Government already employs more postmen than there are postal delivery walks. This would leave those who abuse the system by appalling levels of absenteeism, which results in the creation of backlogs of mail, to continue to do this, and then to claim extra money through overtime to clear these backlogs. The Government's offer was designed to significantly increase the postmen's earnings in exchange for improved attendance at work and the delivery of the agreed volume of mail on a daily basis. The Government are not prepared to allow the postal service to continue to operate in such a manner and have tried over many months to arrive at a point of consensual improvement through negotiations but it is now clear that despite their efforts and the Union's efforts, the postal grades continue to hold out for the maintenance of the status quo. Government are now considering options for action to deliver on their commitments to ensure that improvements are brought about to this important service on a sustainable basis.

On the 1<sup>st</sup> March this year, a new Management Team was employed by Government with the objective of improving all sections of the Post Office but, in particular, the postal sorting and delivery side, so that an efficient level of service is provided. A new sorting office and postmen's room is now almost ready for accommodation at a location in the North Mole and this will

provide more spacious and better working environment with new postal equipment once the restructuring of the existing situation at the Post Office is carried out. The administration side of the Post Office is still situated at the old Health Centre building at Line Wall Road due to on-going delays in the completion of the Post Office premises at Main Street, but are expected to return there as soon as these premises are ready for occupation and of service to the public.

Finally I would like to record that in September last year, the then acting Director of Postal Services, Mr Alfred Pizarro, retired and I take this opportunity to pay tribute to his work in this post in very difficult circumstances.

During the last financial year, the Sports Department continued to build on the work carried out in previous years in the provision and management of:

- Sports facilities, including the community use of the schools scheme
- Technical support, assistance and advice to the schools and sports associations
- Training, support and sports schemes, through the Sports Development Unit
- Financial Assistance, through the Gibraltar Sports Advisory Council.

Sports facilities available were increased with the opening of the new hockey pitches at Bayside. These are now in regular use and two international official competitions, the Mediterranean Cup and the European 'B' Group Cup Winners Cup, have already been played there. A number of teams from abroad, including the

full England squad, have also visited Gibraltar to play on these splendid facilities. I would like to take this opportunity also to record the very favourable comments on these facilities that have been made by all these international teams that have used them and all the coaches, managers and officials that have accompanied them. The new Skate Park and rink at Coaling Island is also now in full use.

The demolition works at Bayside have now been completed. Although this has caused a delay in the start of subsequent phases of the project, it is still programmed that all the new facilities will be completed, in phases, by the end of 2003. It is also expected that the new sports halls at the St. Joseph's schools will become available for community use, when the installation of all the equipment is completed.

The Sports Department continued to provide support, assistance and advice to the schools and the sports associations in the provision of facilities and equipment and in the organisation of events such as, among others, the Powerboat Festival and the European Shore Fishing Championships, which culminated with Gibraltar winning the Gold Medal.

The Sports Development Unit successfully continued to expand the Summer Sports Programme last summer, including a wider variety of leisure and educational activities. An increased number of National Coaching Foundation courses together with other generic coaching courses from the British Sports Trust, SAQ International and the Youth Sports Trust, have again been run for local coaches. Assistance and support has also been provided to sports associations in the organisation of accredited sports specific coaching qualifications in basketball, football, shooting, skating, rugby union, squash, badminton, hockey, volleyball, swimming, rowing, sailing, table-tennis, tennis, gymnastics and rhythmic gymnastics. The tutors delivering these courses have included separate school in-service training days ensuring that

many teachers and coaches have been able to achieve some level of accredited qualifications, which will assist in the development of sport in Gibraltar. The objectives remain to achieve, eventually, as much self-sufficiency as possible in the delivery of coaching and training.

The Gibraltar Sports Advisory Council, and in particular, its sub-committees, have been meeting regularly. On the advice of the Council, financial assistance has been provided to sports associations through the three funds involved.

The Government provided £95,000 to enable participation by a large number of teams from over 20 different sports to compete internationally and locally at different levels of officially recognised competitions. A further £65,000 was provided by Government to finance Gibraltar's participation in the Straits Games and the Island Games, both of which were very successful. The Sports Development Fund of £65,000 has, together with the involvement of the Sports Development Unit and the efforts of the sports associations, enabled a larger number than ever before, of sports specific coaching courses to be held in Gibraltar. The I&D Improvements to Sports Facilities fund of £100,000 enabled the provision of specific assistance to associations running their own sports facilities, as well as the purchase of essential safety and other equipment and the refurbishment of existing facilities.

In the financial year 2002/2003 the administration of Sport in Gibraltar will be changing when the Gibraltar Sports Authority assumes its responsibilities for the new sports facilities being built, including the hockey pitches. Financial provision is being made to enable the Authority to operate. Negotiations are in progress with the existing departmental staff to find ways in which to incorporate all existing sports facilities into the Authority. As I have already explained, the staff will not be compelled to join the Authority, but will be incentivised to do so. However, if they do not voluntarily agree, no changes will be imposed on existing



staff. I will also take this opportunity to reiterate that, although the Authority will have the power to raise income, it is not the Government's intention that charges be raised for the normal use of sports facilities, which, as at present, will remain free. I repeat that although I have repeated it both in this House and in media interviews because I still get questions from sports associations and in one particular major user of the stadium in particular still appearing to believe that the Government have some hidden agenda for the charging of the use of Government's sports facilities. I will say it again, sports facilities will continue on the same basis as up to now. This of course does not imply that new sports facilities are going to be charged because they are not.

Funding for sport in this year will again be increased, the main aim will be to progress with the next phases of the extension to the sports facilities project. In this respect, the works on the new spectator stands and changing rooms are expected to commence very shortly and immediately afterwards the construction of the new sports hall is due to start. A large amount of infrastructural works in preparation for the subsequent phases of the project are also scheduled. For these purposes, £1.5 million is being provided in the I & D Fund.

Gibraltar sports will continue to participate this year in many official international competitions, including the 2002 Commonwealth Games in Manchester where we will see quite a large Gibraltar contingent representing seven different sports. In the summer of 2002 the Gibraltar Cricket Association will again be hosting a European Junior Championship. Government, on the advice of the Gibraltar Sports Advisory Council, will be providing £95,000 to enable our sports men and women to represent Gibraltar internationally for these events. In the Sports Development Fund, £55,000, is being made available to assist sports associations, based on the submissions received, to cater for the provision of accredited sports specific coaching courses and participation in internationally recognised training programmes in support of the development of sport in Gibraltar.

The number of sports associations organising such courses and events is expected to increase and the level of coaching courses will be progressive leading to highly qualified coaches who will mentor our other coaches leading to the raising of standards of sport generally. The Sports Development Unit will continue to supplement coaching strategies with generic courses and qualifications and with sports development schemes such as the Summer Sports programme. The Unit will also be introducing schemes for outdoor adventurous activities and the older age groups as part of its policy to expand its role in the support for sport, exercise and fitness for all.

Sports facilities available for use will be greatly enhanced with the opening of the new sports halls at St. Joseph's, which will be included in the Community Use of Schools Scheme. These additional facilities may allow the introduction of new indoor sports into the programme. The excellent co-operation that has been built up between the Sports Department, the Education and Training Department and the schools augurs well for the future. Let me explain that the number of indoor sports practised in Gibraltar are at present curtailed by the number of allocations available within the existing sports halls and with the availability of the new sports hall at St Joseph's and the new indoor hall at the stadium it is expected that new sports which are presently not catered for will be able to be introduced.

Mr Speaker, the sum of £100,000 will be provided to further improve existing facilities. The Stadium's squash court repairs will soon be completed and as a result a multi-purpose lecture/meeting room will become available. The sum of £150,000 is also being provided to refurbish vacant premises for use by Associations and Clubs, although this is not restricted to sports and youth societies is also available for similar premises in general. In this connection, a study is being carried out into the feasibility of refurbishing South Jumpers Bastion, on similar lines to what was done in North Jumpers. The provision of adequate

facilities at the Giralda Gardens for petanque will also be carried out, and in fact are also being carried out as I speak.

The demands on the Sports Department and the Gibraltar Sports Authority are expected to continue to increase and Government will continue to review resources in order to ensure that the quality of service is maintained as is being provided.

Sports makes a very valuable contribution to Gibraltar's quality of life and therefore it is Government policy to continue improving facilities and supporting the sports associations in their efforts. Government recognises and appreciates the great work and commitment of the large number of volunteers in the sports associations in clubs and elsewhere who ensure that sport thrives and develops in Gibraltar for the enjoyment and benefit of all. I think words are never enough to praise the efforts of these volunteers who throughout the year provide as the name implies free of charge to all the clubs and associations for which they work such an excellent service which as all who have been involved in sport in one way or another well know, if such volunteers were not involved, sport would grind to a halt not only in Gibraltar but throughout the world.

Mr Speaker, although the Youth Service is an intrinsic part of the Sports Department, I am reporting on it separately to highlight the continuation of changes and improvements to the good work done by the Youth Service for the community. After more than one year since moving from the Department of Education, the Youth Service has now found its rightful place within my Ministry and has established a close working relationship. For the last year, the service has been appraising the delivery of its work and emphasising to users and the community as a whole what the value and role of youth work is in effect. Whilst acknowledging the value of past efforts, the ability to adapt to new developments is crucial too. Government continues with their commitment to consolidate and improve the youth service generally. A lot of its

time has been dedicated to improve its youth work delivery and is committed to continue this work in order to ensure that youth workers deliver programmes that "encourage the physical, mental and spiritual development of young people".

Government will continue to finance not just the Government youth clubs but also those associations that have the interests of young people at heart such as the Gibraltar Scouts Association, the Guides Association and the Duke of Edinburgh's Award Scheme.

Youth work is a form of informal and social education. It empowers young people. The Youth Service is much more than a "provision" service. It seeks to do much more than treat young people as mere customers and consumers. Government recognises the value and contribution that young people can make not just in their own lives but also in the community as a whole.

With these aims in mind, Government provides funds for the Youth Service to equip its youth workers with the skills and support necessary to deliver these objectives and Government will soon be appointing a new full-time youth and community worker bringing the current complement to four full-time workers.

Government have also shown their commitment to the future of the youth service by employing a new Trainee Youth and Community worker. He will be ready to join the current team three years from September on successful completion of a "Degree in Youth and Community Work". A training programme for part-time youth workers started earlier this year and introduced youth work to over 30 people. This was followed by a course which is scheduled to end in July that will give those who successfully complete it a locally validated qualification. This will enable the successful candidates to be able to deliver youth work

within a Government funded youth club or project, as a paid or voluntary youth worker. Government are keen to encourage everyone to undertake training in youth work that conforms to recognised standards in England, Europe and beyond. All these initiatives underline Government's commitment to ensure accredited youth workers deliver competent youth work.

Mr Speaker, at this point, I would like to answer the ill-founded and erroneous criticism made earlier today by the Hon Mr Stephen Linares against the Government in respect of past voluntary youth workers and the alleged wrong attitude of Government of not listening to their advice. The voluntary youth workers to which he referred are a historical appointment dating back 10 or 12 years to a period when Youth Clubs were run by volunteers. These voluntary youth workers (about 6) were formed into the Youth Centre Management Board. These so called volunteers, none of whom are trained or qualified, through the management board developed a system were for all practical purposes and in practice they were the ones who decided the programme for Youth Clubs being run by the Government but this management board in which these volunteer youth workers were participating decided the programme for the Youth Clubs, in other words, set the policy. Having set the policy they then participated in the Youth Work and in the programmes and got paid for it, and so much for the voluntary aspect of the title. There is nothing wrong in being paid for it, there are plenty of people being paid for youth work but the point being that since the Youth Service came under my Ministry, there has been a change of policy, and I have explained this change of policy to the hon Member before, so if he persists in bringing up the same points again and again I will have to explain it to him again and again. The new policy is now very clear, the Youth Clubs programme is the direct and sole responsibility of the Senior Youth & Community Officer in conjunction with the full time, paid Youth Service Officials. They are the ones who decide the programme, they are the ones who carry it forward and they are the ones who bring in the full time workers and any volunteer workers. Consequently, the Youth Centre Management Board was disbanded because it was no

longer necessary, but the voluntary youth workers to which the hon Member referred were offered training modified to take into account their experience and to continue as part-time paid youth workers, but they refused to do so and they decided to leave the service. If they had accepted the training, they would have continued to work within the Youth Service as part-time paid workers and they would also have been in a position to give advice. They would not have had any managerial or executive responsibilities for decision-making as they had in the past. Their decision to leave the Youth Service was their own, so therefore it is pointless and erroneous of the hon Member to accuse the Government of not listening to their advice or not using them when they were the ones who decided to leave.

Parallel to these new initiatives, the Youth Service continues to develop opportunities for young people that are educational as well as fun such as:

- (a) A youth exchange that concentrated on "environmental issues".
- (b) The cavalcade floats involving young people from the Youth Centre, from rock bands, dance groups and disco enthusiasts in the construction of two floats highlighting live and recorded music.
- (c) Year 9 pupils who identified women's issues during a school visit to Montagu Bastion youth complex.

It is important to note that these young people identified the topics and with the support of youth service staff and other volunteers, carried out their own research and helped in putting the projects together. Credit must be given to the youth workers who were able to respond to the young peoples' initiative and worked with them to create a relevant learning experience. This is the real

value of youth work and the importance of having competent and properly trained youth workers.

Opportunities for young people to visit local places of interest continues with groups visiting Lower St. Michael's Cave, the City Fire Brigade, the local Museum and GBC. Local enthusiasts and professionals have visited youth clubs to talk to members about health hazards, skiing, local projects for disabled and women's groups.

Mr Speaker, The Duke of Edinburgh's Award also gets support for the delivery of its programme. This year a member from the Youth Service attended the meeting of the International Council and Trustees of the Award held in Manchester, at the invitation of the International Secretariat. He was chosen from Gold Award candidates coming from over 80 countries to represent the Award's Youth Forum at this meeting. The Award is a successful youth development programme that attracts young people from a wide diversity of backgrounds and with different levels of ability. This year the Award has moved to the Youth Centre providing a central venue for participants to continue with their respective programmes. Government have already provided a site for a new Duke of Edinburgh Award Centre that will commence construction soon and will be situated in the new Sports Complex at Bayside.

Government will also be assisting the Guides Association with funding to help them pay the cost for six of their guiders to attend the Jubilee Camp, which is part of the Friendship Festival of the Manchester Commonwealth Games once again underlining Government's support to those groups and associations who are willing to support their young leaders.

For the remainder of the current financial year, the Youth Service has plans to continue its work with the Personal Social & Health Education (PSHE) programme. There are educational trips

planned to France, Spain and Morocco. The Youth Service will also be exploring new avenues with the Sports Development Unit as well as contributing to the organisation and running of the Youth Pavilion at the local fair. Government are considering reviving the Youth & Employment Board as a new Youth Advisory Council. This Council will participate in helping to formulate Government policy. It will open the door to yet more voluntary groups and agencies to have their work considered for funding assistance. This will make it possible for more young people to be reached by "youth work trained" volunteers, encouraging more agencies and dedicated volunteers to share their expertise, knowledge and commitment to young people. The Youth Service also contributes to the Drugs Advisory Council, the Royal Gibraltar Police Youth Forum, and the Community Consultative Group and works closely with schools and other agencies that deal with the welfare and personal development of young people.

Soon, works at Plater Youth Club will be finished giving a newly refurbished and improved youth club. A full-time youth worker will be working from this club ensuring more time and easier availability for young people and the neighbourhood as a whole. The same will soon happen at Laguna Youth Club and plans are already submitted to do similarly at Dolphins Youth Club. Discos for young people continue at the Youth Centre and Laguna Youth Clubs, again a new policy, alcohol is no longer sold at any youth club. All these projects underline the importance that Government gives facilities that are of direct benefit to young people and the reasons why we will continue to support the Youth Service in achieving its goals.

Mr Speaker, moving on to public service broadcasting which as the House is aware, is another of my political responsibilities. This service has been provided by the GBC since the Gibraltar Broadcasting Corporation Ordinance was enacted. Prior to this, Radio Gibraltar was already in existence having commenced its transmissions in February 1958. I have made this historical reference as a couple of years after the commencement of the

regular radio broadcasts and for a continuous period of more than 40 years, the transmissions have counted with the services of Mr Gerry Martinez BEM. He retired from the service last May and since then has continued to contribute to the output as part of his work with Community Care. His contribution and total dedication to public service broadcasting has been outstanding and merits mention in this House.

Last year, during the course of my contribution to the budget debate, I said that the Corporation planned to offer a dual programme service during the late evening. This was introduced last October with a four-hour programme between eight in the evening and midnight. The service continues to be developed and this year will see the dual programme service extended until the start of the next day's transmission. Additionally, as from the 6<sup>th</sup> May 2002, the Corporation has been piloting an evening radio programme generally targeted at an expatriate audience. The programme offers an opportunity for the sale of more commercial airtime. Throughout the year, the Corporation continued to identify itself with the community and in the aftermath of the events in New York on 11<sup>th</sup> September 2001, the Corporation with the support of the City Fire Brigade and the Defence Fire Service, produced a Radio Road Show in aid of the USA Victims Fund. The event raised over £15,000 and the funds were earmarked towards the New York Fire Department Emergency Fund. Once again the now traditional GBC Open Day proved to be a resounding success. An all time record of £50,000 was raised.

During the year the Corporation played an important role in keeping the community informed of Gibraltar related matters raised in UK Parliament. In addition to the day-to-day news coverage, it provided extensive coverage of Parliamentary debates, Prime Minister's Question Time on a number of occasions and of a meeting of the Foreign Affairs Select Committee of the House of Commons when it considered matters relating to Gibraltar.

"On the ground" support given to the numerous radio and television news crews that visited Gibraltar in recent months is worthy of note. The level of support peaked on 18<sup>th</sup> March 2002, the day of the public demonstration. The demonstration was covered "live" on both radio and television. In addition to the local coverage, the Corporation provided "live" broadcasts via satellite. The broadcast was utilised by two international news agencies in the United Kingdom and by the European Broadcasting Union in Geneva, Switzerland.

Mr Speaker, Members are aware that the Corporation is empowered to collect and issue television licence fees. During the course of last year it requested that it also be empowered to initiate proceedings against individuals who on the strength of the information received, may be operating a TV receiver from unlicensed premises. Government have agreed to delegate such powers to the Corporation and the necessary legislation is in the process of being prepared. The move should result in an increase in the number of licensed premises.

The sale of commercial airtime during the year increased by 9 per cent as compared to the previous corresponding period and the provisional end of year out-turn indicates a small deficit of £5,800, which the Corporation advises me may be reduced to a break-even result when the accounts are finalised.

The Improvement & Development Funds made available to the Corporation during the financial year just ended, were in the main utilised to fund the on-going capital replacement plan and the completion of the Radio Gibraltar digitalisation project. This year the Government propose to continue to support the Corporation and will be making available a subvention of £990,000. It will also be allocating £150,000 for capital expenditure within the Improvement & Development Fund.

Mr Speaker, the forecast out-turn for the Government Lottery for the financial year ended 31<sup>st</sup> March 2002 is shown in the Estimates of Revenue and Expenditure as a projected surplus of £550,000 which will clear the previous year's deficit of £12,247, leaving an estimated net surplus of £538,000 to be transferred to the Consolidated Fund. The projected surplus for the current Financial Year is estimated to be £545,000.

The number of returned tickets during the year ended 31<sup>st</sup> March 2002 was 174,000 out of a total of 515,000, that is, 33.8 per cent. Sale of lottery tickets during the last four years has remained on a par at 66 per cent. Government recently invited the public and other interested parties to submit ideas and proposals in order to assist the Government with a review of the Gibraltar Government Lottery in order to enhance the sales of lottery tickets. Eight submissions have been received by the Treasury.

Mr Speaker, The Telecommunications Ordinance was brought into operation on 19<sup>th</sup> July 2001 and the Gibraltar Regulatory Authority appointed to regulate the telecommunications industry. In answering questions in this House since then, I have drawn attention to the fact that Gibraltar Nynex and Gibtel no longer consider it appropriate to provide information that could be commercially sensitive in a liberalised market. To do so, would give commercial advantage to their competitors and be detrimental to the interests of the companies and the employees concerned. I will therefore endeavour to limit my remarks this year to telecommunications matters which do not impinge on their commercial sensitivities.

Last year saw the implementation of the Government's policy of bringing Gibraltar Nynex Communications Ltd (GNC) and Gibraltar Telecommunications International Ltd (Gibtel), the two telecommunications companies in which the Government have a shareholding, together under common ownership. On 26 September 2001 the Shareholders of GNC and Gibtel

successfully concluded the extensive negotiations to bring the two companies together. The Government and Verizon Communications Inc, through GNC, are now the owners of Gibtel. I will take this opportunity to record our appreciation for the assistance provided by Verizon in achieving this outcome and to British Telecom for their contribution to Gibtel over the past 14 years. The purchase price paid by GNC was £7.5 million. The shares are being paid for in two tranches. Members will see from the Estimates that the Government received £1.5 million in the last financial year and £2.25 million will be paid in 2002/2003. The Companies paid dividends to the shareholders in line with previous years, except that Gibtel's dividends are now distributed to shareholders as part of the GNC dividend. Gibtel have filed their annual report and accounts for the year to 31<sup>st</sup> March 2001 at Companies House, in accordance with the new statutory requirements for filing company accounts. GNC and its subsidiaries are expected to file their accounts for the calendar year 2001 later this year. The companies continue to trade separately. GNC and Gibtel employees, although continuing to be employed by their respective companies, are now working closely together in the provision of telecommunications services. The Directors of GNC have formed the new Board of Gibtel. The Board has reaffirmed the shareholders' commitment to employees that there will be no compulsory redundancies arising from the change in ownership and merger of the businesses.

To carry out the process of business and people integration and oversee the running of the companies, a new Management Board has been formed. This comprises Tim Bristow, a Director operating on behalf of the boards of both companies; Charles Fortunato, Managing Director, GNC; and Lucio Randall, General Manager of Gibtel; with other members of management participating as required. The Union is being fully consulted by management on human resources issues arising from the merger. The company's aim is to integrate GNC and Gibtel in an efficient and cost effective manner, in order that the new business can reap the benefits and synergies of coming together and enhance services to customers. Further announcements on the way

forward can be expected from the company as the integration process moves forward. The complaints submitted by GNC and Gibtel to the European Commission regarding the “350” and roaming remain unresolved. In November 2001, the Spanish Authorities announced that the prefix 9567 would be replaced by the prefix 8563 in December 2002. This offer remains unacceptable on political, regulatory and commercial grounds and the Government are currently considering the way forward. The companies have made direct representations to the EU Commission and the Foreign and Commonwealth Office on their objections to the offer at meetings held in April this year. Verizon directors of the two companies participated in these meetings.

Finally, the Government welcome the company's long-term investment earlier this year in a 45 Megabit internet hub using fibre optic technology. Arrangements are also being made to provide resilience via a microwave route to Morocco. This means that the company is now in a position to provide substantial bandwidth to Internet Service Providers whether it be to its own GNC networks or to their competitor Gibnet or to any other licensed provider who enters the market. This readily available bandwidth is an improvement that has been welcomed by the business community and will facilitate greater e-commerce activity in the future.

Mr Speaker, during the last financial year, Lyonnaise des Eaux (Gibraltar) Limited supplied a total of 1,170,000 cubic metres of potable water. Lyonnaise pumped a total of 3.1 million cubic metres of sea water to the various sea water reservoirs. The sewage pumping stations were operated at 100 per cent availability. Following the general review of security worldwide as a result of the September 11<sup>th</sup> occurrence in the United States, the guidance standards for chlorine levels applicable in the water industry were increased. For a period and whilst additional security measures were taken, the level of chlorine dose had to be increased. Inevitably, when there is a change in the level of chlorine in the water on supply, customers noticed a change in the

taste of water. Once the additional security measures were in place, the chlorine dose was decreased to normal levels for our type of water supply system. Throughout the year the quality of potable water supplied by Lyonnaise complied with the requirements of directive 80/778/EEC and the recently introduced directive 98/83/EC.

The company has acquired two 1000m<sup>3</sup>/day desalination plants at a cost of some £2 million, thus ensuring that Gibraltar remains self sufficient in respect of this essential service. These plants are now operational and producing excellent quality water at their full rated output. There is still a need to run the Waterport Distillation Plants in order to cater for the increasing demands. The need to burn fuel, as the main source of energy to power the Waterport plants, means that the company is vulnerable to fluctuations in the price of oil and the value of the pound against the dollar. The company has made substantial efficiencies to be able to absorb a substantial part of this increase to date.

This last financial year, Lyonnaise has continued to invest in its water mains replacement and asset renewal programmes. In the last financial year Lyonnaise has spent some £850,000 on top of the investment made on the new Reverse Osmosis Plants. The company has developed its billing software to enable those customers that so wish to receive bills via electronic mail. The system is now operational. The next step is to enable the payment of bills on-line.

Lyonnaise des Eaux (Gibraltar) Ltd currently employs 104 persons. Of these 16 are Government employees seconded to the company. Together they provide the company with the wide range of skills required to operate effectively. The training and development of employees is a priority for the company. A training and development review is carried out at three-year intervals. The organisational, occupational and individual training needs are assessed and a training programme developed. All

employees are invited to participate in this training and development review with an interview with their immediate supervisor to agree their individual skills requirement. The first phase of the current three-year training programme was successfully completed in this financial year.

Mr Speaker, last year the Gibraltar Philatelic Bureau not only set the Guinness World Record in producing the world's fastest stamp but the stamp also depicted a portrait of Her Majesty Queen Elizabeth II. This not only added to the complexity of the task but it made the record even more unique as it is also the only stamp of Her Majesty produced in one day. The event gathered cheerful crowds and a small street celebration outside the Philatelic Bureau's offices in Gibraltar to greet the arrival of the stamps. Last Christmas the third 'Snoopy' issue in the world was issued following USA and Portugal demonstrating a strong profile of the Gibraltar Philatelic Bureau in line with larger postal administrations. This year the bureau also intends to produce the world's first ever Rock Stamp made in part with actual rock bored out of the Rock itself. The issue date is September and all trials are going according to schedule. Our latest issue commemorating the history of the World Cup concentrates on the triumph by England at Wembley in 1966. The Gibraltar Philatelic Bureau will raise more money in aid of Cancer Research from the sale of these stamps. There will also be joint promotions with Royal Mail, Ireland Post and the Isle of Man Post Office to promote the stamps. The bureau continues to enjoy great international success.

Mr. Speaker, in conclusion, I would like to pay tribute to my personal staff in my ministerial office as well as to management staff and all others directly or indirectly involved in the daily running of my Government departments or those commercial entities for which I have political responsibility. The great majority of them remain unseen by the general public and their efforts generally unrecognised. However, without those efforts, many of the things that we take for granted, be they water coming out of a

tap, a room being illuminated when one presses a light switch, or even the occurrence of a scheduled event like the lottery, would simply just not happen. I would like to take this opportunity to thank them all for doing a good job.

In particular, I would like to single out my Principal Secretary, Albert Finlayson, my Personal Assistant, Denise Chipolina and my Personal Secretary, Olga Palao, for their committed, loyal and effective support and for their loyalty and understanding without which I would be unable to meet the wide range of political responsibility in all the areas which I have just spoken about.

#### **HON MISS M I MONTEGRIFFO:**

Mr Speaker, another financial year has yet again been completed, and during this time, we have not only monitored the Government's performance, and the results of their policies, but we have also been questioning them in this House, on the more important issues, which, in my case, relate to health and sport. I have listened very carefully to the contribution made by the Minister for Health, the Hon Dr Bernard Linares, and I am afraid that nothing he has said convinces us that he is actually redressing what has been a declining situation since the GSD took office. He has failed to make any significant progress. There is still very little to show after all he has said about the so-called impressive improvements. On top of it all, the Minister has conveniently left out of his contribution, any reference to the many problems and complaints voiced by the users. I am tempted to believe, that the bar at Casemates called "All's Well", must have been named after him. He is the only minister who constantly refers to areas as being in the state of the art condition. What do patients care anyway if, for example, the library happens to be in that category. What is needed are solutions to the many existing problems rather than states of excellence and states of the arts.



I do not know whether it is exceptionally hot today, or that my blood is boiling because of the nonsense he has said in his contribution. More importantly, how does he expect the improvements that he has announced today to take place when he has only increased the budget for this financial year by 1.2 per cent as compared to last year's.

I would tell the Chief Minister that the person who is really living in cloud cuckoo land, a favourite phrase of his, is the Hon Dr Linares, and no-one in Gibraltar believes his assertions anyway. Today, he has said that those people who do not see the improvements are blind. He needs an urgent appointment with the Ophthalmologist.

The real truth is that the GSD Government during all of their years in office, have not only allowed the services to decline but have been unable to come up with the answers to adequately deal with the many ails afflicting them. The Minister, is therefore, only lying unto himself if he believes our health services are doing so well as he says. In this area, the propaganda machinery of the GSD, has definitely failed, for the simple reason that propaganda fails when the people themselves sooner or later are required to sample the product. No matter how well the Government wrap it up, once the inside is exposed, no amount of camouflaging can hide what is inside. The Government have tried every trick in the book, to try and convince everyone that things are not as bad as we really say. They have tried to pinpoint the blame on the Opposition and even the users saying that we were only trying to score political points and that the users are too fussy. Then they said we were exaggerating, and when we brought the many complaints we receive to their attention, they did not want to know or hear about them. They simply said we should channel them through the Complaints Procedure. A Complaints Procedure that does not even work. After that, both the Minister and the Chief Minister have stated in this house that the problems in our health services are the normal everyday ones that can be expected. We have seen that when the Government's line of attack does not work,

they change it, and then they start to use other tactics. When blaming us did not get them anywhere, what did they do? They started to blame the patients. But, the Government have failed in their attempts to exonerate themselves from any political responsibility. They better believe that the people of Gibraltar are as convinced as we are that they are totally irresponsible and that they have made a mess in their handling of our health services.

Mr Speaker, as is customary with this Government, they have given a lot of publicity to the measures they have introduced within the services. Yet, each and everyone of them have not improved matters, rather the opposite has occurred, they have worsened the situation. What has become of the medical & nursing reviews? The Government hailed them as a milestone in the history of our services. Where are the great improvements the Government predicted they would produce? Where are the results of the extra administrative posts they created? What about the mess they have made of the Chief Executive post grading? What about the fiasco of their Complaints Procedure? It was going to adequately deal with all complaints, they said. What about the acute shortages of beds? What about the Gibraltar Formulary Committee, that by the time it takes them to hear a complaint the patient has given up? What about the constant cancellation of routine operations? The many complaints there now are about private practice? Waiting lists are higher with the GSD than when we were in office. What about the unprecedented number of complaints that keep pouring in? All manner of cost saving exercises have been introduced, in return for a complete deterioration in the service. It seems that the list of their blunders is endless and the Minister has had the cheek to sweep them all under the carpet today. He has made no reference to any of the issues that I have just mentioned. He has conveniently forgotten them. So, no matter how hard the Hon Dr Linares tries to paint the picture, no matter how often he says that things are better and will get better, the people have now lost all manner of confidence in the way that his Government have handled the health services. The Government have made a shambles of it, and there is nothing that the Hon Dr Linares has

said today, to make us all think that he is capable of curing the disease his Government has created and how can they cure it if they do not even want to see or acknowledge what is happening, they are faultless according to them. A scenario that they should be utterly ashamed of.

Mr Speaker, in this House, the Minister comes up with three answers. One, where we believe he is treading on dangerous grounds, by looking more and more towards Spanish medical institutions. The second one is yet another comprehensive review, and the third one is his constant reminder of the eventual moving of St Bernard's Hospital into the Europort Building.

As to the minister's performance in this house, it really leaves a lot to be desired. Half of the time he is not aware of what is happening within his department. There are occasions when he says he has not got the information at hand, but promises to pass it over to us, but then he does not keep to his promise. By the time another session of Question Time comes up, which could take months, I have to remind him that he has forgotten to comply with providing the information. We could forgive him, if his memory is failing him but then, there are other occasions, when he suddenly refuses to pass the information over and gives us no valid explanation as to why he has changed his mind. I think it is an opportune moment to remind the Minister, that he still has not been forthcoming with the information requested, as a result of supplementaries in the last Question and Answer session, which he promised to give me.

Mr Speaker, I will refresh his memory. Matters like prescriptions for diabetics, more details on the extra supplementary funding required for prescriptions to the tune of £900,000, information on the temporary non-pensionable employees of the Health Authority. I do not really want, again, to have to wait for September or November for this information, when the next meeting of the House is due. So, I hope that on this occasion he will comply.

Mr Speaker, now as to the Chief Minister's attitude in this House, it can only be described as personally insulting, rather than informative. Perhaps he enjoys being disrespectful, or perhaps that's the only way he knows how to defend himself.

During the course of this last financial year in the House, the Chief Minister has come up with some very extraordinary statements that lead us to believe that he is either ignorant of the true facts, or that he does not want to admit the truth. In his winding up budget contribution of last year, when no-one can reply and he has the last word, his behaviour, reminded me of that of a dragon. Everytime he opens his mouth, only fire comes out of it. The Chief Minister quite honestly sees "red", even though he is far from being a socialist, I think, he does that in the hope, that the fire that comes out of his mouth, will scare us and shut us all up. How dare we question his decisions, or even worse, how dare we offer suggestions! He cannot take them.

The Chief Minister has had the following to say about me and quite honestly I think he goes to extremes. I quote, ".....how ignorant and how arrogant can the hon Lady get"..... ignorant and arrogant was only referring to the cost-saving measures the Government had introduced within the Health Services. ".....I am going to tell her why she is a politically dishonest coward". This was in answer to my allegation that the Health Services had declined. "The Health Authority, I say this to her looking her straight in the eye, is definitely better now than at any time she presided over it." I think that the Chief Minister has flipped his lid and he has got to the stage when he actually believes he is infallible and that what he says is the gospel truth.

Mr Speaker, intimidating tactics might work with some, but they definitely do not work with us. He does not scare us in the least. We do not think he is witty or funny. We think he is just downright rude, acting most of the time like a spoiled public school boy brat. We will continue doing our job in Opposition, regardless of

whichever manner he wishes to behave towards us. However, as the saying goes, what goes around, comes around. Today, at last I have the opportunity to look him straight in the eye and tell him that the only political coward here is none other than himself for not wanting to admit the truth, when the truth is staring at his face.

I will quote a few statements the Chief Minister has made in this House, which are incorrect, not only because we say so but because Government departments in their reports also prove him wrong. He has said the following quotes:-

- “....no surgical operation has been cancelled to date because of a shortage of beds.....”
- “Mr Speaker, there is no acute shortage of beds”.
- “...she could say that the chaos is due to the absence of a Complaints Procedure, but she cannot, because there is now a Complaints Procedure..”
- “...private patient waiting lists, private patient surgical interruptions no longer have the effect of extending the waiting time of the public waiting lists.”
- “....the hon Member is living in cloud cuckoo land ( that is him talking about me still) if she believes that waiting lists are longer now than before.”

How does he substantiate his argument as to the waiting lists? He has the incredible cheek to say that I invented the waiting lists when I was in Government. Of course, in this manner, he can argue everytime that whatever the state of their waiting lists, they are bound to be better than ours, which did not exist at all, according to him because I invented them. How can anyone really believe that I would stoop so low? In any case, if I would have done so I doubt very much if I would have been able to get

away with it. I am sure, the first to have come out in public would have been the consultants, who would have had every right to complain of my unprecedented behaviour. But, Mr Speaker, only someone like the Chief Minister, would think or would have the nerve to say such a thing. In any case, as is usually the case, ultimately right prevails over wrong.

Only a few weeks ago, I was looking over at some of the papers from when we were in Government and lo and behold what do I come across? None other than a letter from one of our resident consultants writing to the Hospital Administrator giving his waiting time for operations. I have it here in my hand, he even provides a diagram as proof that the Chief Minister's allegation was indeed false. He provides the waiting status for day case procedures, minor operations, intermediate, major and extra major surgery. Attached to this letter also, is the waiting time for surgery for all of the practitioners at St Bernard's Hospital produced by the Gibraltar Health Authority, produced by the consultants and not by me. Moreso, the figures when I was in office, do most certainly prove, what I have said in this House, that the waiting lists before 1996, were by far shorter than what they are with this present Government. We know, that the Chief Minister will resort to saying “anything”, to get his own way. Who then is the real arrogant fool, who invents things, I ask myself?

In view of the other allegations made by the Chief Minister I would like to quote statements and figures produced by the Gibraltar Health Authority, and other Government departments in their latest reports, which also totally contradict what he has said. Let me start with the annual report of the Gibraltar Health Authority. It is quite a glossy booklet, with attractive colours and photographs, with the prime aim of engaging again in a propaganda exercise, something, I must admit, the GSD are good at. However, if we study the tables carefully, at the back of the book, table 34 says: “reasons for cancellation of operations” underneath there is a column headed “resource lack – no beds available.” The percentage of operations cancelled due to the availability of beds

is stated there to be 37.5 per cent. Furthermore, the figures we have been asking in the House, for the last two years, confirm the number of routine operations that have been cancelled because of beds not being available. The Minister himself, the Hon Dr Linares, has said in this House, in answer to my questions, on more than one occasion that he is not happy at all with the situation, no one has said that the GHA report is inaccurate. Also one only needs to remember all the measures the Government introduced in trying to combat the acute shortages of beds. They have mixed all of the wards with female and male patients. They have tried to get verbal commitments from patients that they should leave when told, they have recently introduced more beds in the leisure areas of the wards.

It is therefore either one of two things, that the Chief Minister is ignorant of all that is happening, of all the reports, and of all the statistics, or as I have already said, that he does not want to admit the truth.

Mr Speaker, the question of the Complaints Procedure is proof of yet another fiasco, and we told the government so, when we saw what the procedure entailed. The many complaints about the Complaints Procedure, have come from the users, from the Ombudsman and from the GHA Board. However, much, the Government have tried to blame it all on our inventions for political gain, the users, the GHA Board and the Ombudsman cannot all be wrong and the Government right. Their analysis coincides completely with the Opposition. For example, in the first report of the Ombudsman, his comments were most critical of the efficacy of the system put in place. He said that not one clinical complaint had been investigated. In his latest annual report, he goes even further by saying the situation is still inadmissible and that the Government must either equip the GHA with the necessary resources or that complaints against the GHA should be referred to an independent authority that will properly and more effectively investigate such complaints. This last suggestion, seems to us to

be the most appropriate course of action, yet the Government have not accepted it.

The Minister, the Hon Dr Linares, has stated in this House, that the number of complaints have been decreasing and he has put this down to an improved situation. We do not agree with his analysis, again we agree with the analysis of the Ombudsman and with the users of our Health Services who still come to see us in numbers. The Ombudsman expressed the view that the decline in the number of complaints lodged could be attributed to the public being disenchanted with the procedure. He continues by saying that in fact the GHA Board in their report stated that confidence in the procedure had been badly dented. If there are less complaints, therefore, that does not mean, that the procedure is working, it is that the users have lost all confidence because it is not yielding any positive results. We honestly believe that the best way forward, is for an independent body to investigate the complaints against the GHA, rather than the GHA investigating themselves. Unless, this is done, I am afraid the procedure is doomed to failure.

Mr Speaker, and now to the waiting lists under this Government. We have been monitoring the situation, and we have brought the matter up here in the House for the Minister for Health to answer. However, his replies have been quite unsatisfactory and prove that he does not do his homework very well. He questioned the accuracy of my statement when I told him his waiting lists were far longer than mine, when the GSLP was in office. However, I reminded him that I had gathered the information from his answer to one of my questions. He then simply replied he would need to study the matter. Very feeble replies from a Minister who is continuously proving he does not do his homework at all. Also, if we do a comparability study from the information available in Hansard provided by Government themselves, in relation to the waiting lists for public and private patients, the picture is as follows:-

1. Surgical waiting time for ear nose and throat - 1 year.
2. Private patients ear nose and throat - no private surgical waiting list.
3. Orthopaedic public patients - eight months.
4. Knee operations - 2 years
5. Private patients Orthopaedic routine operations - 2 to 3 weeks, major - 2 months.
6. Ophthalmology public patients - major 12 months.
7. Ophthalmology private - 3 to 4 weeks
8. General surgery public - 6 months, private - 4 weeks.

We are talking about increases in the order of 300 per cent to 600 per cent for public patients and if we then compare the public lists with the ones the Health Authority provided to me in 1994, which in turn I then gave this information to this House at the time, the public waiting lists with a GSD Government have now more than doubled. So I am not living in cuckoo land, after all.

Furthermore, even the Chief Minister in answer to Question No 702 of 2001, had the following to say about private practice:

“ .....the Leader of the Opposition does put his finger on one aspect. The new system with which the Government are not entirely satisfied and are looking at, the hon Member is absolutely right, (“they” meaning the consultants) use the public list as a marketing tool for their private practice, that is absolutely correct.”

The very analysis concluded by the patients who approach us and the words are attributed to the Chief Minister's statement in this House.

I am also disappointed that whereas the Minister for Health in February of this year, finally agreed to provide us with the number of private patients being seen on a weekly or monthly basis, in the last meeting of the House, he changed his mind and went back on his word giving no explanation why he had done this. So no matter how much the Government have tried to substantiate their decision to allow private practice for all consultants, because according to them allowing it enables them to control it, the truth of the matter is that the public patients are more than ever being adversely affected.

Mr Speaker, I move on now to the issue of enrolled nurses which the Minister I believe has not made reference to today either, and having been given the opportunity by him to train up to the level of staff nurse. We are again seeing negative effects of the Government having implemented the policy of requiring applicants who wish to join the nursing profession to be in possession of a certain number of GCSEs, depending on the grade. We honestly believe that this was the wrong move. Nurses are required, anyway, to do a 3 year course in the School of Nursing in order to acquire Staff Nurse grade. The Minister, in the last meeting of the House, agreed with us that those enrolled nurses already there and without GCSEs, should be given the opportunity to progress to Staff Nurse. We hope he will put the arguments we discussed in this House, to the University of Sheffield, and that he will be successful.

Talking about the University of Sheffield, I recall that the Government have on occasions and they have done so today, accused us of having closed the School of Nursing when we were in office. This is far from the truth, and I said so, in my contribution of last year. I even gave a list of the training we had

initiated with the help of the University of Sheffield, a contact we made, and they were useful in helping us acquire automatic registration for our nurses with the UKCC. Indeed we trebled the funds for sending our nurses for specialist training in the UK and also for the first time we linked the School of Nursing in Gibraltar to the Sheffield University by computer. It was the GSLP who convinced the UKCC that we could continue with the grade of enrolled nurse in Gibraltar, even though it had disappeared in the UK. Again, I have been looking and I have found proof of what I have said in this House, which, again, is not what the GSD have been alleging all this time. I will therefore also quote as the Minister has done today from two letters sent to me during the time I was Minister for Health, by the UKCC, and by the University of Sheffield. Again, I have both letters here with me, what they said about him they also said about me and I will quote:-

“it was extremely helpful to have the opportunity to meet with you on our recent visit to Gibraltar. We appreciated your time and the attention that you gave to matters relating to nursery and midwifery practice and education. Although our visit was brief, your officials had planned a comprehensive programme which enabled us to see the delivery of health care in Gibraltar, in a wide variety of settings. We saw many examples of excellent nursing and midwifery care and were impressed by your continuing increasing commitment to nurse education.” Mr Colin Ralph, UKCC.

Quote from the letter from the University of Sheffield:-

“.....we provided an overall evaluation of nursing and midwifery education and visited all wards and departments. Our findings indicated that the standard of nursing and midwifery care in Gibraltar was equal to that provided within the United Kingdom and the commitment of the Government to the education and training of nurses and midwives is such that.....” and he goes on to list the significant moves we made when we were in

Government, but in any case not exactly, the picture the GSD have tried to paint all of these years about the GSLP. It has been their word against ours, except that today I have found the proof and I have presented it to this House black upon white that what I have said in this House is correct. It is nonetheless, unfortunate, that with this Government we need to present to the House, proof of what we say, but, I do it with the utmost of pleasure, because I have always maintained that the allegations against us were unfounded.

Mr Speaker, turning to the question of the acute shortages of beds, I can also say with conviction that I stand by the statements I have made in this House. With the same number of patients and the same number of beds we never had the same problems as we have witnessed under this Government, and as much as the Minister has said “All’s well, the problems are being tackled,” the milestones and the improvements within services that he attributes to himself, they have allowed the situation to develop for far too long. The people of Gibraltar no longer believe what he says. More so, we find it most unworthy of this Government now to blame the question of shortages of beds on the elderly. They no longer refer to shortages of beds, today the Minister has not even spoken about the shortages of beds, he now calls it bed-blocking, so as to confuse the issue. It is pertinent to recall that initially they said we were exaggerating and then they said the problems had arisen due to clinical procedures. It is precisely the elderly who need to be cared for far more than anyone else, and asking them to give a verbal commitment that they will leave, puts an enormous amount of unfair and unnecessary pressure, on citizens who more often than not, live on their own, or anyway find it enormously difficult to care for themselves. It is shameful for the Government to now use them as scape-goats. I do sincerely hope that the Minister for Health, the Hon Dr Linares takes the advice I gave him in the last House and puts a stop to this inhuman practice with regard to our elderly citizens.

Mr Speaker, I now turn to another matter, that of dialysis. I have been questioning the Government over their intended provision of facilities within the Europort Building since they announced it during the last general elections. Again, the Government have been evasive, but when further pressed by us, they have admitted that our patients will still require to go to La Linea. Again we need to await the results of yet another report commissioned by the Government on another matter. I think that they commission all these reports because they want to hide behind them. It seems to us that it makes a lot of sense, seeing the way they spend monies on reports, studies, experts, etc. Indeed, during the Chief Minister's contribution of last Friday, he confirmed the Government had spent £1.6 million in advertising. He called it a good investment. Surely, now that they are investing huge sums of money in the Europort Building, they should at least provide exactly what is being offered in the La Linea clinic. This is a good investment, and I would have thought the Minister should be looking at making the Gibraltar Health Authority, more self-sufficient, rather than having to rely more and more on Spain as to what he has termed to day as being the "Spanish option." A dangerous road to take. The Minister has said on several occasions that he is keen on matters of co-operation with Spain. We, however, have warned him that by now we all know what co-operation to Spain means. However, he still persists to go down this route. Just a warning, whenever the Spaniards get upset the Minister ought to remember that if they do not get their own way, they stop co-operating, they have done so before.

Mr Speaker, there has definitely been a clear indication given by the Minister that things are "...definitely not well within our Health Services." This is the public announcement he made on the 12<sup>th</sup> November 2001 and which he has again repeated today, that a comprehensive review of the services will be carried out early this year. He said and I quote, "...it is to be expected that there will be failures, mistakes, deficiencies," he also said that we live in a blame culture which permeates through society. However at the very same time he announces the comprehensive review of the services, another review, another one. This is a tacit admission

that he wants to be seen to be doing something. He has not learnt his lesson. The two previous reviews, the Medical and the Nursing commissioned by the Government got them nowhere. It appears that the Minister does not know what else to do to get out of a very sticky situation. Ironically he more than anyone else has and continues to practice the blame culture. He has been quick to blame everyone else for the failures of the Health Services in a bid to clear the Government from what is after all their political responsibility. The users expect answers from him and not from the staff.

As I said he looks more and more towards Spain, next he tries to placate the users by steering them towards the hope of yet another review, and of course, we now have the Europort phenomenon. From now until the Health Services are transferred from St Bernard's Hospital to the Europort Buildings, I predict we will have Europort for breakfast, Europort for lunch, Europort for tea and Europort for dinner. God spare us of the indigestion we will all be suffering from.

On the 11<sup>th</sup> July, an announcement was made that the works would commence shortly but at the same time it was mentioned in that same report, that there was scepticism about the Europort Building not being very well suited for a hospital, as it was not purposely built to house one. Therefore, I would welcome clarification from the Government as to the source of this scepticism. Whether, in fact, it has been mentioned in one of the studies or reports that the Government have commissioned. They have not been made public and that is why we are seeking the information. I would also like the Government to give us a breakdown of the total monies spent to date on Europort included in which we would also like to know how much they have spent in all the experts they have commissioned to produce studies, reports, and the like.

Mr Speaker, another of the latest tactics employed by the Government are to try and get the staff of our Health Services against us. Even as far back as in 1984, when we first became the Opposition Party in the House, we started to say that the dedication and standards of our nursing and medical professions are exemplary. I have said so in every contribution I have made since in this House. We have the greatest of respect for those who have the unenviable task to treat the sick and the dying. We have also said that were it not for their dedication the services today would have collapsed. They have kept it running through their efforts. We have also always maintained that whatever happens in a Government department the responsibility does not lie with the civil servants it lies with the Government as happens everywhere else. However, the Government have done the very opposite of what they preach. They have used civil servants to answer our press releases. They have indeed put civil servants in the front line and they have hidden behind them, something we never did. So much for the so-called alleged political interference they used to accuse me of when I was Minister for Health. Civil servants are there to serve whichever Government is in power and not to enter into political debates with the Opposition.

Finally on health, I am afraid, that however, the Government have tried to cloud the facts, on this occasion, they have not got away with it. If they do not already know that practically the whole of Gibraltar is dissatisfied with the manner in which they have handled our Health Services, they are only kidding themselves. As I said a few months ago, during a TV interview, the Government may improve the image, the fabric of the building with the transfer to Europort, but they will not cure the disease which is inside, a disease they and only they have created, and have allowed to spread and I predict they will never be able to cure it and more so after having heard the amazing contribution made by the Minister for Health today.

Mr Speaker, now to sport. I recall years ago, that the Hon Mr Featherstone of the GLP/AACR when pressed by us from the

Opposition benches, very often referred to the following Spanish phrase: "las cosas de palacio van despacio". This phrase comes to my mind with this Government, as well. Roughly translated, it could read in English like ..... "matters of greatness move slowly". 'A la GSD', matters take an eternity to materialise. I am referring to the sports city, for which the Minister last year at last agreed to give us the estimated date for its completion. He said it would be in the year 2003. I doubt it very much, that it will be finished by then, I hope it will because we do actually welcome a new Sports City being built but I am afraid, the area is still barren.

Much, as we accept that a new Sports City is most welcomed, we are naturally disappointed that, since this was a GSD commitment given during the elections of 1996, it will have taken them more than 7 years to deliver. Another GSD commitment which was made this time during the 2000 elections and one which the Minister has made no reference to today, is that they would build a leisure centre within the King's Bastion. Up to now, the Minister has only confirmed to Questions in this House that works will begin before the end of 2004. This too could prove to be a long-drawn affair.

Two other long-drawn affairs, are the move of the boats at Western Beach to the area of Coaling Island and the handover of the Europa sports ground by the MOD to the Gibraltar Government. In turn, the Minister promised the Gibraltar Cricket Association that it would be passed over to them.

These two matters have been going on for a number of years, something like two to three years and we have pressed the Government on every occasion we have had in this House. Their answer is as usual they have put the blame on others for the delay. It has either been the MOD or Queensway Quay. So, we continue to await developments. Another thing that the Minister admitted last year, had taken him longer than he had hoped, was the refurbishment of the squash court at the Victoria



Stadium. The works began only some months ago, and the Minister confirmed in the last meeting of the House, that the last heavy rains appeared not to have caused any damage. I am glad to have heard today that it will soon be completed but I would like to tell the House that again it has taken the Minister since 1998, four years to do something about it.

Mr Speaker, I now come to a matter on which we have expressed reservations. This relates to the Gibraltar Sports Authority. The Government brought a bill which they passed very recently in this House. As I said at the time we are against the number of new posts the Government are creating. They now appear to be obsessed with the idea of eradicating Government departments and replacing them with Authorities. We naturally support the commitment to provide sports facilities. However, we believe that the work of, for example, a finance officer, or a human resources officer, can be undertaken within the existing resources of the civil service. Indeed, we carried out such an exercise, when we came into office in 1988, with the Gibraltar Health Authority. The previous Government had agreed to a string of new administrative posts. When we came into office, we did not implement the new structure but instead, injected the monies that we saved in the process, back into the service, into areas directly related to the users, and we were indeed successful in the utilisation of existing civil service resources. We therefore believe that the Government are embarking into more unnecessary expense with the creation of the Sports Authority and its new posts. We are most sceptical that the Authority will provide a significant improvement to sports generally.

The Government should remember that they also created a string of new administrative posts within the Health Authority, and the services did not improve as a result. The opposite was the case. We have also warned the Government of possible problems they might encounter with their employees. Problems have already occurred. The first problem they encountered with the staff was over the water-based hockey pitch. The staff consider this to be

an added responsibility which was given to them in September of last year. The Government instead contracted the services of AMCO, whom, we have been told, they are paying the sum of about £3,000 a month to maintain the pitch. It is actually costing the Government more than if they had agreed to give some financial compensation to the groundsmen for the added responsibility.

As regards the new Gibraltar Sports Authority, the employees are alleging, and so is the union, that the Government did not consult them on the matter. In fact, last month, on the 20<sup>th</sup> May, the T&G issued a press release warning the Government that there could be problems, especially, as they said, and I quote:-

“.....the union say that it has not been consulted over the setting up of a Sports Authority and was only informed officially without seeking its position or that of its members.”

If the Government indeed decided to go ahead with their plans as the unions and as the employees have alleged, this is a sure recipe for disaster.

I now come to a matter which is dear to my heart, and that is the artificial surfaces which we installed at the Victoria Stadium in 1991. I have indeed reminded the Minister in this House that its lifespan has already expired, and hence the deteriorated condition of both the omniture and the athletic track. I hope that the Government will see sense in investing in having these surfaces replaced. This is what we would consider to be a good and worthwhile investment.

Mr Speaker, we have had reservations about the Straits Games, something again that the Minister for Sport has not mentioned in his contribution today. We have had reservations in the knowledge

that we know that the Spaniards also mix politics with sport. We only need to remember that they are still blocking Gibraltarian Associations from joining International Federations. We know what they are capable of, as we had eight years in Government in which we experienced quite a number of their manoeuvres. The one I remember the most, there was a delegation of the Campo Area came to see me in 1989, with what they said was a marvellous opportunity for our youngsters to improve their standards. Because our sporting associations are autonomous I told them that they needed to make the offer to the Gibraltar Junior Football League, and they did so. Integration via sport was the offer. Our junior football league at the time met with them and they did not accept the offer. However, together with representatives of other local associations they gave them a complete rundown of all the problems that were still being faced by sports people. They never came back. The Spanish Federations are dictated to by the 'Conserje Superior de Deportes' and most of the time they succumb to its political pressure. I hope this serves as a lesson to the Government, Spain only has one aim and they stick to it. Whatever opportunity they have to put into question the sovereignty of our land they will gladly take it.

Finally, Mr Speaker, I also always give credit to our sportspeople for the simple reason that they show courage and determination, however mightier and more powerful the opposition happens to be. Therefore, they must be commended for the many times they win in international events and for the good ambassadors they are to our country. Today, more than anytime in our history we all need to show that same courage and determination against mightier and bigger nations. Last year I remember telling the Chief Minister that he should take note of the way our sportspeople competed and he should learn from them. I said that I did not agree at all with the attitude of appeasement shown by the Chief Minister during negotiations over the Tireless affair, the fishing dispute, the ID cards and the Gibraltar telephone code. I said he had let us down and lost all those battles.

What also really worries us about the Chief Minister are the statements he has made in this House since. He has said, for example, that in any negotiations there is the element of give and take. If he negotiates further, we are naturally worried at what he might again give into. Furthermore, in a debate over the telephone numbers issue he said that he would not hold out regardless of the cost to Gibraltar in other aspects of life, until an opponent lowers his pants to his ankles, regardless of whether these opponents are bigger or more powerful.

He has also said that he does not enter into battles he thinks he cannot win. He has not only shown his attitude is one of appeasement but now he has also shown the attitude of a defeatist. He is not prepared to hold out and he is not prepared to enter battles he thinks he cannot win.

Therefore, when the Chief Minister talks about reasonable dialogue with Spain, (whatever that may mean to him), because we all know what the Spaniards want, his statements send shivers down our spine. Its enough to really scare those who have heard these statements in the House. However, the Chief Minister is like a chameleon, he changes colour according to the surroundings. One day he says one thing and the next he says another.

In his contribution of last Friday he took a very tough line with the British Government. In fact, a line which reminded me of the line we used to take when we were in Government. Except, then, the GSD constantly accused us of being confrontationalists and that we would ruin Gibraltar in the process. They never ever closed ranks with us for the good of Gibraltar. They jumped on the band-wagon of the campaign the Foreign Office mounted against us then. We on the other hand have proved that we put Gibraltar first and indeed we have already shown solidarity with the Government and offered them here in this House our support against any threat from outside quarters.

Mr Speaker, I end my contribution with a very appropriate quote that was said by Mr Willy de Clercq, when he came to Gibraltar in 1998, one which we entirely subscribe to. He said: "Those who do not fight their battles never win".

Thank you, Mr Speaker.

The House recessed at 12.20 pm

The House resumed at 12.25 pm

#### **Debate continued on the Appropriation (2002-2003) Ordinance 2003.**

#### **HON J J HOLLIDAY:**

Mr Speaker, I wish to give you an overview of the performance of the Ministry for Tourism and Transport looking back on achievements in the last financial year, and looking ahead to what will be delivered during the next 12 months in accordance with Government strategies. In particular I will be dwelling on the impact of revenue and expenditure of Government policies. I would first like to focus on tourism. This is the principal source of income for the economy and so the achievement of growth in this sector is important. Unfortunately 2002 will be a difficult year for many tourist destinations. The impact of the events of the 11<sup>th</sup> September are still being felt. Many principle tour operators have badly miscalculated the demand for tourism with the result that there is an enormous oversupply of holidays in the market. Tour operators desperate to cut losses have substantially discounted the price of many holiday packages that they offer which means that other destinations such as Gibraltar which offer value for

money are perceived as expensive by comparison. It is against a scenario of falling demand and heavy oversupply in the marketplace that one needs to consider the situation of Gibraltar. I am pleased to say that Gibraltar has performed well and compared with many other destinations which have reported drops in business in excess of 40 per cent we have indeed emerged relatively unaffected. In so far as business through the frontier to Gibraltar in 2001 is concerned, our total figure was £7,048,000. This figure is up on the previous year which in itself was a record year. The increase in visitors came to just over 0.2 per cent over the 2,000 figures, but this is an achievement when set against a scenario of major drops in visitors numbers elsewhere.

Visit arrivals by air were up by 8.6 per cent in 2001 compared with 2000. Arrivals by land were slightly up, and most importantly in my view, room occupancy at our hotels stood at 64.2 per cent in 2001 compared with 58.9 the previous year. This was the highest percentage hotel room occupancy figure recorded by the Government Statistics Department since this figure that was first published in 1988. The only downward trend of 2001 was the 11.9 per cent drop in visitor arrivals by sea and cruise ships as a result of American cruise liners cancelling their Mediterranean calls after the 11<sup>th</sup> September. This is something which affected all Mediterranean ports and not just Gibraltar. Another blow came with the loss of the Renaissance cruise company which went bankrupt. I nevertheless draw comfort that over 117,000 cruise passengers came to Gibraltar in 2001 which is the third highest figure on record. I am pleased to report that the cruise industry has bounced back more vigorously than had been anticipated. The number of cruise ships which have arrived in 2002 and which are booked to arrive before the end of this calendar year come to 152 calls as I speak, an increase of 2 calls over the figure of cruise calls for last year. However, a word of caution, as cancellations and new bookings are the order of the day. This put pay to those who foresaw that it would take years for our cruise industry to recover from the loss of regular calls by the American

operators who went bankrupt and from the sharp drop in calls by American cruise ships.

This year also saw the arrival and successful handling of six cruise ships at Gibraltar on the 29<sup>th</sup> April. This is the highest number of cruise ships Gibraltar has ever had in one single day. Gibraltar also successfully handled the 'The Belgian Princess', the largest of the Princess cruise ships and a record ship for us. P&O have recently announced an increase of calls at Gibraltar for 2003 and the future for Gibraltar's cruise industry is starting to look optimistic again.

I attribute the success of Gibraltar's tourism in 2001 primarily to two reasons. Gibraltar offers a good tourist product and above all the Government's marketing strategy to tourism has paid dividends. For the first time last year the sum dedicated to marketing tourism was increased to £950,000. This level of investment by Government in tourism is to be maintained this year. What this means is that for the first time this last year it was possible to develop a larger advertising campaign for Gibraltar's tourism primarily in the UK and in Spain. The sum of £450,000 was dedicated to above the line advertising and much of this was spent last winter to counter the impact of the September crisis. For this year I have looked at the structure of the marketing budget and I have earmarked £500,000 for the above the line advertising through restructuring the focus of this band. The UK market has responded strongly to the home from home campaign which I launched at last year's World Travel Market to counter the impact of events on the 11<sup>th</sup> September. New advertising media has been used by Gibraltar for the first time, they include radio advertising in the UK, 100 poster sites in the London Underground network and a fleet of 52 taxis in London promoting our destination. One result of the advertising campaign which run last winter is that we received a record number of brochure requests. Almost all the 150,000 brochures printed have been distributed. Consideration is currently being given to reprint the brochure if this is necessary prior to the launch of the new 2003 brochure due in

September, particularly given the heightened interest in Gibraltar as a result of the political campaign which was run in the UK newspapers by the Government. The political budget is making the tourism promotional budget stretch further this financial year given that they will cover some of the costs of the advertising on taxis and on poster sites in the Underground.

I have also instructed that new activities should be undertaken by the GTB in the marketing of Gibraltar. I have approved a three pronged strategy to target consumers, in other words potential visitors, travel journalists, and travel agencies staff. I have sought the advice of the UK GTA of having a Gibraltar stand at consumer events in the UK and as a result there will be a Gibraltar presence at a series of travel fairs this next winter which are aimed at the general public. I have also given the go ahead for a series of travel press briefings which will take place after meetings of the UK GTA in London. In fact I gave the first of these briefings in London on the 26<sup>th</sup> May during the last meeting of the UK GTA. Another series of briefings is planned for the Travel Trade. This activity will compliment the Roadshows organised by the GTB in London and which are aimed at travel trade personnel and the programme of educational run by the Gibraltar Government London Office under which tour operators and travel agencies staff are informed about the Gibraltar product.

Mr Speaker, I will now turn to the tourist product. In the first instance this year we will see the completion of the refurbishment of our entry point. The Government strategy was to completely and systematically upgrade all entry points in order to ensure that the first and last impressions of Gibraltar should be positive. The last of the entry points to be tackled is the land frontier building. The first phase of the refurbishment building is now complete and in use and the remainder of the works should be completed by the end of the summer. The total cost of the project comes to £700,000. The comments attracted by the first phase of this project have been extremely positive and the finished building will doubtless live up to the expectation of the Government and of visitors. Works are also in progress at the airport on an extension

to the checking area to accommodate the x-ray equipment for holding baggage. Since 11<sup>th</sup> September all hold baggage is being screened. It was already the strategy of the Government at that time to introduce screening on hold baggage and plans were at an advanced stage to implement this policy. This issue sprung into greater prominence and works were brought forward to achieve this end. It is regretted that passengers should be subjected to inconvenience whilst the works are in progress but the improvements which will be achieved at the air terminal on conclusion of this project will be considerable. The total cost of this project would be approximately £1 million.

The Government have already planned other plans for the airport. It is recognised that the arrival hall is too small, the departure lounge is crammed when two flights are scheduled to leave at the same time, the duty free shopping experience could be improved, airport car parking needs to be expanded, the cargo handling area is now inadequate given the growth which has been achieved in recent years and there is a need to look critically at the facilities enjoyed by airport operators and handlers. As a result the Government are considering a wide range of issues in respect of the facilities at the airport. When this exercise is finalised decisions will be taken and the structured series of improvements to the airport will be undertaken in phases over a period of time. It is expected that the start to this programme will be made during the course of next year. The continued growth in air arrivals means that the development and improvement of the airport has to be a priority for the Government. Air arrivals in 2001 totalled 109,000 compared to 104,300 in 2000, 98,309 in 1999 and 78,190 in 1996.

Mr Speaker, when one hears Opposition Members accusing the Government that a particular air route to Gibraltar has been lost, I believe it is essential that issues of air communication should be placed into a proper context. The essential question that has to be asked is whether or not the number of passengers flying to Gibraltar has increased. The answer is that there has been a

massive 40 per cent increase in air arrivals since 1996 when this Government came into office. This is the reality. Obviously the Government wish to see direct flights to Gibraltar from new airports, however, at the end of the day it is up to an airline to make commercial decisions on the viability of the route. Attracting new airlines, new services to Gibraltar, continues to be a priority for the Government but this process takes time. Discussions continue with several airlines which could result in new services operating to Gibraltar both from UK and non-UK airports. This is something that the Government would welcome. As from May this year, the support package offered to both GB Airways and Monarch Airlines ceased. This package was instrumental in growing the capacity on the London/Gibraltar route and with the case of Monarch of increasing the frequency of service from three and then four times a week to a daily service in the summer. The Government nevertheless remain prepared to talk to operators and to support ventures which will open up new routes and increase the number of services to Gibraltar without a reduction in existing capacity.

It would be easy for the Government to open up new routes. Government have been in discussion with one particular airline. Government have had a proposal from an airline who proposed to fly to Gibraltar daily from the UK and also from a non-UK airport, provided that they would do so at no cost to the airline in respect of landing charges, handling and other expenses at Gibraltar. This would cost the Government over £1 million per annum. The Government are not prepared to stand in the commercial shoes of airlines or destabilise the market by agreeing to such demands. Existing airlines would not be able to compete in such a scenario and the short term gain to Gibraltar would have been obtained at the expense of long term damage.

Similarly, Regional Airlines continues to be interested in offering a service from Tangier and Casablanca to Gibraltar but it currently seeks an annual subsidy of £140,000 which is excessive given the potential value of the routes to Gibraltar. This does not mean that

Government will break off dialogue with this operator. I am convinced that it may be possible to arrive at a position when an airline will be able to take on an acceptable level of financial risk and the Government in turn will assist in whatever way possible and which does not create an unlevel playing field.

The latest position in respect to Fly Europa is that I met them earlier this month and they confirmed to me in writing that they plan to start their operation from Gibraltar to Stanstead and Manchester as from the 16<sup>th</sup> July. However, an official announcement by the airline has not yet been made. I will obviously make a public statement as soon as there are any further developments.

Mr Speaker, the Government's pricing strategy in respect of tourist products have now been shown to be successful. There were those who said that increasing the parking fees at the Coach Park to £10 last year would spell the end of the coach arrivals in Gibraltar and that this business would end up in our neighbouring town. They were wrong. Although there was a drop in coach arrivals in Gibraltar in 2001, this was directly related to the substantial fall in visitor numbers in the hinterland after the 11<sup>th</sup> September and not to any other reason. The revenue generated by coaches arriving in Gibraltar in 2001 came to £110,700 an increase of 77 per cent over the £62,561 collected in 2000.

As far as the Upper Rock admissions are concerned the revenue generated in 2001 as a result of the new fees structure that came into operation on 1<sup>st</sup> April 2001 came to £2.4 million as compared to £1.6 million collected in 2000. The 45.8 per cent revenue increase was achieved notwithstanding the small decrease in visitor numbers accessing the Upper Rock which fell from 790,000 in 2000 to 743,000 in 2001. Let me say that the Government have been monitoring on a daily basis the market share of the Rock Tour business which taxi drivers and coach operators enjoy. Government are keen to ensure that the August

1999 Regulation which provides for taxis to enjoy a share of the cruise business attracted to Gibraltar do not result in a significant change in a division of existing market share. I am pleased to report that this has been the case and there has been no significant change in the way the market is divided between the different forms of transport. The Upper Rock represents excellent value for money and the product has been enhanced this year by the introduction of the new Light and Sound Programme at St Michael's Cave which will be launched later this month. Shortly to follow is the opening up of the section of the World War II Tunnels. This currently requires some logistical works to operate as a tourist site and it is anticipated that the attraction will open to the public later this season. I wish to inform the House that as a result of all these improvements being taken in the Upper Rock I do not rule out an increase in respect of the price of admission to sights in April next year. There is no merit in underselling the Gibraltar Tourist product. Once the World War II tunnels project comes on stream I will be focusing my attention on the east side and on the area of Europa Point.

There are two elements to the east side project, on the one hand the Government wish to refurbish and enhance the beaches at Catalan Bay and Eastern Beach, in the case of Catalan Bay the works to the beach will complement the project now in hand to embellish the village. Secondly the Government wish to see the rubble tip between the beaches develop. Tender documents are currently being prepared which will invite entities to develop this large land mass for hotels and other forms of touristic holiday accommodation and associated sports and leisure amenities. This could include shopping areas, nightclubs, restaurants, swimming pools, holiday villas, flats or marinas as well as residential development. The east side project follows on from Sir Herbert Miles Road scheme for road widening and beautification. It will be followed in due course by the embellishment and improvement in Devil's Tower Road. Already the Government have commissioned the study to develop and embellish Devil's Tower Road which any request for planning permission and

improvement from private landlords in respect of properties facing on to the road would need to comply.

In reviewing the statistics for last year earlier in my intervention. I pointed to the way in which hotel occupancy had been increasing steadily. This has been the situation since the Government took office in 1996 when the trend of falling occupancy year on year was first stopped and then successfully reversed. We are at a stage where during certain months of the year hotels are full and during certain periods clients are turned away. This is a new situation which Gibraltar is facing. We are now at a stage where Gibraltar needs more hotel beds. A hotel is not developed overnight. It takes time for the building to be erected and ready to be fitted out. It is now the time to look towards the expansion of our hotel stock so that given the continued trend of increased hotel occupancy we will be ready with additional capacity to meet the growing demands. I have already pointed to the east side as the location where a new hotel could be sited. There are other possible locations like the Victualling Yard where one developer has proposed its conversion into a hotel and the site of the Stone Block at Buena Vista Barracks. There is interest from potential investors and developers in building new hotels for Gibraltar and the Government continue in serious discussion with various interested parties. The Rosia area has already been put out to tender, the Buena Vista Barracks, North Gorge site and the east side site will go out to tender shortly. I am hoping that one result of these tenders will be a commitment from all the development of at least one or two new hotels in Gibraltar. I believe there is a need for an additional 1,000 beds over the next five years if we wish to continue to grow our tourist industry. The Gibraltar Hotel Association maintains that there is already enough hotel capacity in Gibraltar. The Government do not accept this view. The market is growing and it is Government's duty to anticipate the trend rather than react after the event. Indeed in my discussion with major tour operators who currently do not offer a Gibraltar programme I have been informed that one of the main reasons for this is the lack of sufficient availability of hotel rooms. I know that given an increase in our hotel bedstock there would be an

increase in the number of persons coming to Gibraltar and in hotel occupancy. It is a potential win win situation. One has to remember that many of the major tour operators have their own fleet of aircraft to service their destinations with charter flights.

The possible new hotel development will give added impetus to the school of tourism. This has already trained a number of young Gibraltarians for positions in the hotel and catering industry. More could be trained. The School of Tourism is already performing a very useful job and I am currently exploring with Julia Sibley and Associate at ways of expanding the type of courses on offer so that even more students can be attracted to train for jobs in the hospitality industry.

The further element of the city centre beautification strategy will be concluded this financial year. This is the Main Street project from Library Street to the Law Courts including the recovery of Cathedral Square as an open area. The cost of the project is £850,000 and work is progressing satisfactorily. The next stage of the beautification would be the complete redesign and enhancement of John Mackintosh Square, the Piazza. This will be a very important project, tender for the works will be invited later this month. Side streets leading off Main Street have not been forgotten and a programme to enhance Cornwall's Lane, Engineer Lane, City Mill Lane and Governor's Street will follow in 2003. These will not be pedestrianised and the finish that is chosen for these sites will be different to those we have given to Main Street.

This financial year will also see the start of phase two of the works to embellish Catalan Bay. The works done to-date have given the village a much needed facelift. The second phase will include works to Catalan Bay Hill and to the steps giving access to the village from Sir Herbert Miles Road. I would like to finish my intervention on tourism but before doing so I would like to refer to the issue which affects rock apes.

The Government are aware that apes are sometimes seen in town and that some members of the public find them amusing when they enter a built up area. The Government are not satisfied with this situation and has brought to the attention of the contractors serious specific issues which need to be addressed immediately. I am pleased to say that some of these issues have very recently been addressed. The Government are also aware that apes are being fed by the public and by tour operators within the Upper Rock and also by well meaning but uninformed people who lure them into town to the promise of unsuitable food. It is not in the animals interests that this practice should continue. As a result an amendment to the Criminal Offences Ordinance has been brought to this House making it an offence to the general public including tour operators and tour providers to feed the apes anywhere, be it in town or the Upper Rock. I intend to be monitoring all issues which affect apes and the incursion of apes into built up areas and will take whatever action is needed.

Mr Speaker, I would now wish to focus on maritime issues which impact on the Gibraltar Ship Registry and the Port. I will first cover the ship registry dimension. The Maritime Administrator has been charged with growing the Gibraltar Ship Registry and he has achieved excellent results. When Gibraltar once acquired the ability to grow and develop its ship registry in December 1997 there were 27 vessels flying the Gibraltar flag. The attracting of new ships to the Gibraltar Ship Registry was initially a slow process but by January 2002 when the present Maritime Administrator was recruited, there were.....

**HON J J BOSSANO:**

I wanted clarification before the Minister moved on to the Port in one of the things he mentioned in relation to tourism to make sure that I have got it right. I thought the Minister had said that there had been an increase in cargo in recent years and in fact the table the Minister produces in the survey tabled in the House.....

**HON J J HOLLIDAY:**

No, is the hon Member referring to the airport facilities?

**HON J J BOSSANO:**

That is right.

**HON J J HOLLIDAY:**

I was saying to the amount of trade that operators of the airport, meaning courier companies, air freight operators, there are a number of none actual cargo operators within the airport, the freight terminal which today do not really enjoy proper facilities.

Today there are 130 ships on register many of which are newly built quality ships. The growth of the registry can only be described as a runaway success story. The Government are committed to increasing the resources of the registry in order to give it the tools to further expand. The demand for Gibraltar as a reliable flag which is attractive to prudent ship owners continue to grow. This year will see further expansion of the registry. The development of the registry should not be seen in isolation, shipping is perhaps one of the most international businesses in the world and administration of a large fleet of ships acquires an important say in the field of shipping. Gibraltar now has a sizeable fleet which continues to grow rapidly and this indicates that Gibraltar will play an increasing role in world shipping. I now wish to encourage young people to look afresh at training in the maritime sector. There are important opportunities which are opening up, some of them on the back of our ship registry. Already one member of the registry team has been appointed as a trainee Marine Surveyor following his studies and on the job training. Another member of the registry has also been



undergoing training. The Government wish to offer further training opportunities to those young Gibraltarians to meet the demands of the Maritime Sector which traditionally have looked abroad for qualified personnel. This is essential in order to sustain the growth enjoyed by the maritime sector and to ensure its potential for future developments.

Another area which has not been tapped is the development of ship financing in Gibraltar. A seminar on this will be held in the early autumn organised by the Ship Registry. There are opportunities here to grow both the Finance Centre and the maritime sector. The aim of the Government is to encourage young Gibraltarians to undergo training which will allow them to manage in time the entire maritime sector in Gibraltar.

The Port has also had a good year in 2001 and the prognosis for this year is stable. Progress on implementing a new structure for technical grades within the port has been slower than Government wished. However, I am confident that the new structure will be in place soon. Discussions and negotiations continue with the staff association concerned. In so far as the Port's activities are concerned the number of ships that called at Gibraltar in 2001 was 4,510 a slight increase over the 4,489 that called in 2000. Bunkering continues to be the biggest activity in the port, almost 3 million tonnes of bunkers were supplied to ships in Gibraltar in 2001 thereby consolidating Gibraltar's position as the largest bunkering supply in the western Mediterranean. The volume of lube oil supplied has also been very significant. The Government nevertheless believe that there are opportunities for further growth in our bunkering market. Two new operators who wish to supply bunkers at Gibraltar have recently applied for licences. The Government have drawn up a series of conditions which will need to be met by these entities for any more wishing to work in the Port. If the relevant conditions are met by these two new possible operators, they shall be granted bunkering operator licences by the Port. The licence carries a premium payable of £250,000.

Mr Speaker, safety and environment control are two vital issues in relation to shipping. The increase in bunkering activities in Gibraltar will therefore be accompanied by the introduction of the Bunker Code of Practice. This is based on the Singapore Code which is acknowledged to be the international bench mark. Failure to comply with the Code will result in the bunkering operator licence being withdrawn by the Port. A Bunkering Superintendent will shortly be appointed by Government to monitor compliance. The cost of employing a Superintendent will be met by the bunker suppliers themselves through a bunkering charge of a formal environmental levy. The appointment of the Bunkering Superintendent will trigger into operation the Bunker Code of Practice. The Government believe that there is little point in introducing regulations that cannot be policed. It is for this reason that the appointment of the Superintendent has to come first.

The bunkering business in Gibraltar is now generating direct income for the Government through tonnage dues. They amount to £470,000 in the year ending 31<sup>st</sup> March 2002 as compared to £300,000 in the year ending 31<sup>st</sup> March 2001. This represents an increase of 51 per cent. Obviously vessels calling at Gibraltar just for bunkers were exempt from these duties previously, now they are liable to tonnage dues albeit at a reduced rate. The bunkering business has traditionally generated considerable income for Gibraltar and it is also now providing income directly to the Government.

This last year saw the arrest and sale at Gibraltar by the Admiralty Marshal of the two fleets of vessels the Abu Dhabi tankers and the Renaissance cruise ships. In addition to the commission of payment by the Government on these sales the ships contributed sizeable sums in the form of tonnage dues and berthing charges during the time they were in Gibraltar.

There is considerable competition in the maritime field and the Government have in place a marketing strategy to develop and grow the ship registry and the port. This includes attendance at trade fairs and exhibitions such as Sea Trade Exhibitions in Miami and Genoa and the Posedonia Exhibition in Piraeus. In addition the marketing presentation that is planned in Athens in October 2002 which I will head. This Government's initiative will be supported financially by players in the maritime sector and the Government look on these kind of events as partnership with the private sector.

There has been considerable interest in the four units built by the Government in the Industrial Park at North Mole which will put out to tender both from shipping related entities and from others. These units will be allocated shortly. As a result of the interest shown the Government are considering further ways of providing companies with units such as these in the proximity of the port.

During the course of this financial year, feasibility studies will be carried out on projects designed to improve the port such as the provision of additional berthing for work boats and the creation of more land within the port. Medium and long term strategies have been developed in order to focus the growth of the port. The Government will also be restructuring pilotage during this financial year. For the future the Gibraltar Pilots will be entrusted with collecting Pilot fees which are to be revised. Although the Captain of the Port will continue to be the Pilotage authority the Pilots themselves will have a greater involvement in the day to day control and management of pilotage. The pilots will need to acquire two new pilot boats in order to conform to EU requirements and they will be granted a Government loan for the purchase of one of the vessels.

Mr Speaker, the development that is most eagerly awaited by many people in relation to maritime matters is the move of the small boat owners from Western Beach to Cormorant Camber.

The release of the necessary land to the Government by the MOD will enable this project to proceed. I am now assured that the land should be handed over shortly. All the necessary work and preparation for the project have been long completed in consultation with the Committee and the tender notice is ready to issue. Once the move of the small boat owners to the Cormorant Camber is complete the Government will then assess the berths remaining at Waterport and will take a view on the Marina at Western Beach which may have to close down.

The three lane motorvehicle test centre is scheduled to open for vehicle testing later this month. This project has been delayed for a number of reasons not least of which was the fact that the original contractor went into liquidation. The new Centre provides state of the art vehicle testing equipment and the additional capacity of the Centre will assist in reducing the waiting time for MOT tests. The clerical staff of the Department of Transport will shortly move to the Centre at Eastern Beach so that the general public will be able to enjoy a one stop shop.

Mr Speaker, in so far as the public bus service is concerned the Government have now practically completed their discussions with the existing bus operators. In parallel to this and in order not to delay the introduction of this service any further, the Government have drawn up the tender notice for new buses which will be published shortly. This is an important part of Government's transport policy. The specifications for the new buses have been carefully drawn up to ensure that the buses deliver the sort of quality that the Government consider essential for the new generation of buses for Gibraltar. These buses must be low floor buses so that there will not be a need for elderly or disabled people to have to manage steps. The buses should be able to tilt towards the pavement when stopped at the bus stop. They must have air conditioning and heating, they should perhaps make special provision for disabled passengers. Certain routes will require buses with greater seating capacity, others with more

standing room. The buses will have a propulsion system which is as environmentally friendly as possible. Provision will be made for Smart card ticketing so that a range of different types of fares can be offered, such as weekly or monthly passes, discount cards to entitled persons and so on. As part of the tender process companies may require to bring their vehicles to Gibraltar so that this can be assessed. The Government have to be satisfied that they are suitable for Gibraltar's geography and in particular problems posed by the steepness of our hills and narrow streets. It will take some months for the order for the new buses to be processed as a considerable number of vehicles will be needed. Some larger buses will be required for certain routes and smaller buses for the Upper Town.

While all this is happening the Government will conclude their discussions with existing operators and will set up a new company structure to operate the bus service which will deliver the service which the Government wish to offer. This is a frequent affordable bus service operated on new clean vehicles. The intention is that the passengers should find the bus service attractive and a viable alternative to the use of cars. The introduction of an up-to-date public service is a manifesto commitment and I have every confidence that this will be achieved long before the end of this Government's term of office. I expect the new service to be operational during 2003.

Mr Speaker, this next financial year will also see a major initiative commenced to develop additional car parking facilities. The Government have already got a good track record in this respect. The car park at USOC the former pre-fab site and the old Rodney Hut site speak for themselves. The areas that are now going to be concentrated on are the Landport Ditch and the Upper Town. The creation of a car park in Landport Ditch is about to go out to tender, the documents are almost complete. The Upper Town car park will follow later on in the year. Sites earmarked for car parking are the old Police Barracks next to St Bernard's Hospital and a site close to the top of Tank Ramp. These new car parks

will address a serious need of these facilities in the Upper Town Area.

Work is scheduled to commence this year on a new link road from the entrance of Moorish Castle Prison to Willis's Road. This will allow for the introduction of a one-way system along Willis's Road which will be for southbound traffic only, along Castle Road will be for northbound only and will be of particular benefit to the residents of the area. It will also allow for a pavement to be constructed in the vicinity of St Bernard's School on Castle Road to make it safer for schoolchildren walking to and from school.

This year will also see the introduction of a new concept for road maintenance. Apart from the problem which has been encountered in the past since the difficulty in generating tender documents for each project individually. It is now intended to go out to tender this year on a term contract for resurfacing and maintenance of roads. The successful tenderer will then be charged with carrying out a series of work up to a certain value. I am confident that the general public will see the benefits of this, the larger volume of resurfacing works being completed this year. Under the term contract it is intended to resurface the following roads:-

- Cornwall's Lane
- George's Lane
- Governor's Parade
- Lower Witham's Road
- Alameda Gardens (part only)
- Red Sands Road

- Varyl Begg Estate

In addition major works will be undertaken to replace the parapet walls which are in a poor state of repair bordering –

- Europa Road
- South Barrack Road ( part of)
- Scud Hill

Other works which will be completed this year include:-

- the resurfacing of Europa Road by the Casino
- the resurfacing of Rosia Road by New Harbours
- Work on some retaining walls in the Upper Rock
- Paving works at South Pavilion, Rosia Lane and Rosia Parade

This is an ambitious programme, it is being prioritised so that if there are any slippages the most important works will be tackled first.

In so far as traffic improvements are concerned, a pelican crossing will replace a zebra crossing at the junction of Queensway with Waterport Fountain. This will be of particular benefit as a contributor to traffic hold ups which occur in the area and the steady stream of pedestrians who cross over at this point heading between Casemates and the Coach Park. Finally Mr Speaker, the Government have a series of strategies to address a

wide range of issues which impact on tourism, shipping and transport. I am confident that there will be a number of important steps taken this year in all these areas which will result in significant progress and improvement. Thank you.

#### **HON J C PEREZ:**

Mr Speaker, we heard the Chief Minister on Friday trying to re-write history by distorting the truth in respect of the achievements of the GSLP in Government on industrial relations. He continuously refers to our years in Government with his own interpretation of events which is neither accurate nor politically honest in order to attempt to justify his shortcomings and failures. We have seen him shamelessly misquoting statements by other people, twisting and distorting history, covering himself with spin, and propelling himself as a right wing hero of working people who is motivated by a social conscience which everybody in Gibraltar knows, he, of all people has not got, because he has to admit to failures in achieving his hidden agendas, he then talks of political interference in industrial relations with the usual innuendo that there is yet another conspicuous plot underhand to undermine him. This is not paranoia this is just plain cheap propaganda.

I do not have to defend the GSLP's record in Government on industrial relations or on anything else because people do have memories and have now had six years of Mr Caruana's medicine and can compare like with like. In any case we are here to review the policies of this Government and I will not be side tracked by the Chief Minister into speaking about my two terms in Government. The duplicity and hypocrisy of it all, words he uses constantly, is that he is governing on the backs of the wealth created by the GSLP and on the structures left in place by the last Government for producing finance for Gibraltar year in and year out. Yet, he continues by attempts to discredit and rubbish everything achieved in order to give the impression that it is his

policies that have turned the economy around when the opposite is true.

When Gibraltar was on its way to self-sufficiency, he was still of the political conviction that a deal with Spain was necessary if Gibraltar were to survive economically. I am glad, since then, we have converted him to the contrary philosophy.

Let us now review his record in office. Slowly but surely since 1996 Gibraltar has been witness to a deterioration in industrial relations within Government departments which is adversely affecting the general public through the services that are being provided. We are being led to believe on occasions that the opposite is true, that Government's strive to improve the services is what is causing the friction and unrest that exists within some Government departments. Yet what everyone can see is that issues that could be solved by normal negotiating procedures become the subject of costly reports by consultants engaged by the Government and that most of the recommendations made by these consultants are then kept away from the public domain whilst lengthy discussions with the unions concerned take place, these on many occasions ending in deadlock. In the meantime, whilst Government tries to enforce their will by force rather than by agreement with the trade unions concerned, the services provided to the public suffer. The shortfall in those services is then portrayed back to the public as justification for Government's arrogance and intransigence when they only have themselves to blame for being incapable of handling industrial relations properly. The GSD whilst in Opposition criticised the GSLP for moving sections of the Government service out of the public sector into a more commercially orientated environment. Every move taken then had a purpose and a long term objective sometimes creating partnerships that brought in expertise and capital and on other occasions improvements in the working environment which in turn improved the output with the end result being that the public service was being improved. Every move that was taken was in partnership and with the consent of the vast majority of the

workforce in the areas concerned and through negotiation and agreement. All the moves resulted in better working conditions, a better working environment and huge increases in salaries for the workers concerned. Indeed most of these entities are still there producing the goods today, and the desired results, and being congratulated by the same persons who in Opposition criticised their creation and their performance, the Ministers themselves.

What we have today is something very different in both nature and approach. We have first of all criticism being levelled at the performance of the workforce by Ministers as a prelude to forced privatisation for the sake of it outside the umbrella of confidence and partnership that must prevail at all times. At least that is the perception that there is.

For nearly three years now Gibraltar has encountered problems with the delivery of mail. This situation naturally gets worse during Christmas because of the normal seasonal increase in mail. There are 20 delivery workers and 13 delivery walks. The postmen not only cover annual leave and sick leave for themselves but also for the Sorting Office given that the absence of a sorter represents a temporary promotion for a delivery worker. Inevitably everytime there is absenteeism within the department it is on the delivery side where the lack of manpower is felt. Is it that difficult to sit down and review the walks and the manpower requirements of the postal workers? It should not be, instead what we get is more consultants, another report with recommendations and the employment of a Commercial Manager bang in the middle of the civil service structure well before any of the unions concerned or the workforce had accepted, even in principle, a move to the private sector. To add insult to injury the post of Director of Postal Services remains unfilled, the working environment is much to be desired and the vehicles are in a state of disrepair. Now we hear in the grapevine and nothing that the Hon Mr Britto has said today denies that rumour, that another Government tactic is to refuse to move the sorters and delivery workers into the alternative site chosen for them until and unless

the Government proposal is accepted. I hope this is just hearsay and that Government will refrain from adopting blackmail as their industrial relations policy. Departing for one minute from this theme I must mention here that the promise of a newly refurbished Main Street Post Office in January has still not materialised and July is nearly upon us. The new target for completion is now October, the Minister mentioned this afternoon that he is still on target, we live in hope.

What then can one say of the fiasco in the Buildings and Works Department which is different to the Post Office? Very little Mr Speaker. Here the contradictions are even worse since the Minister on the one hand echoes some of the criticisms of the Ombudsman and places the responsibility fully and squarely on his workforce whilst on the other hand and in the same session of the House we are presented with a request for additional expenditure to be approved for the Buildings and Works with the justification being that there is increased productivity in the department. This without any type of restructure whatsoever. Here too this Government have spent years identifying the problem. In their first budget we heard the Hon Mr Netto's desire for wanting to clearly identify the management structure in a pyramid fashion, six years ago. After thinking about it for two more years we hear that Government commissions a report, when at long last the report is finished again costing thousands of pounds, negotiations with the relevant unions commence and reach a sort of deadlock in which the lines of communication are still open but no progress is made. The Chief Minister must admit that after six years in Government and broken promises of increases in manpower levels many employees are in their right to feel exacerbated and cheated. Yet, despite this ugly mess and despite the absence of any kind of restructure, the Government do admit that there is greater output although when pressed by the Opposition they say that this is not at the desired level. Again we have here a situation of provocation and confrontation. When I asked earlier in this session of the House whether the relevant union or staff association had agreed with Government the posts that had been advertised in the press the reply of the Government

was that it did not need to do so. Ministers gave the impression that they had encountered no opposition to opening up vacancies for jobs in the proposed new structure of Buildings and Works. When reminded by the Opposition of what has been the standard normal negotiating process in these instances whereby new posts are cleared and agreed by the union with negotiating rights for that particular grade, Ministers looked at each other as if they knew not of what we were talking about. However, it so happens that on the same day as the adverts appeared in the press, the union representing the grades in question, Prospect, wrote to the Chief Minister copy to Hon Mr Netto, objecting to the recruitment of the post without prior agreement with the Union as has been the established practice until now. They knew this all along and said nothing whatsoever. Here again we can see how Government tries to force a managerial private sector of structure in the Buildings and Works Department without even a hint from the workforce that they are prepared to go down the proposed road of authority, or privatisation. If this move is designed to break the impasse let me say it does the complete opposite. It undermines the managers presently in post and creates a climate of suspicion and mistrust. Moreso coming as it does at the end of what seems to be a somewhat more successful outcome in the Electricity Department where negotiations have also dragged on for two years now. I say this because Government confirmed in this House in answer to Questions from me that employees at the Buildings and Works Department were looking at the offer made by Government to employees in the Electricity Department as the kind of incentive that might be considered acceptable. Not every grade within the Electricity Department is agreeing to move to a proposed authority although the Minister told this House that the majority have indicated a willingness to do so. However, we do not know whether those that refused to move will be offered alternative employment within the Government, will be seconded to the proposed Authority by agreement or will remain in post as Government employees under a different managerial structure. We cannot gauge whether the offer made to employees in this area is the result of recommendations by the consultants engaged given that the report continues to be secret. What we do know however is that the deal struck in this particular department has

created expectations amongst employees in the Buildings and Works Department which the Government have said they are unwilling to match even were grades are directly comparable.

Mr Speaker, let us now for a moment look at the Port Department to see whether the pattern changes. Without in any way wishing to cast doubt on the ability, capability or performance of the person in post, the Government decided without consultation to move an individual they employed for his skills in the Tourism Industry to the Port Department, with the objective of creating and heading a new Port Authority. At this stage although discussions had been opened with the Union concerned there was no hint whatsoever that the employees in the department would accept the Government proposals. We have exactly the same scenario as before, consultants being engaged, a report submitted with proposals, and a series of meetings and offers to staff representatives which go on for a couple of years. I keep on asking whether there is any progress in the negotiations and the Minister keeps on telling me that the negotiations are on-going and that he prefers not to say anything so as not to prejudge the outcome. Recently however the Minister confirmed that Government seemed to have reached the end of the road and that a final offer was to be put to the staff side. Indeed he confirmed in the House later that the final offer had been rejected although talks were still being held. In fact, the Minister has just said the same thing now, that the negotiation routes are still open. However, we also found that in the middle of the negotiations and without prior agreement the Minister or his department on his instructions gives out a contract for the security of the Port, it seems that once the contract had been awarded the Minister found the contract could not be realised because this was part and parcel of the on-going negotiations and there was no agreement for this to happen. The Minister was kind enough to write to me after our recent exchanges in the House on this matter informing me that those contracted were presently being used as extra bodies in the Upper Rock were they are not needed.

I also raised last year at the time of the budget session the existing vacancies in the Port Department and was told by the Minister that there was a freeze in the filling of vacancies until the discussions over the proposed Port Authority had concluded. The same vacancies remain unfilled today.

Government announced last year their intention to do away with the Yacht Reporting Berth and its functions. Recently I issued a statement in which I urged the Government to fill two of the five unfilled vacancies in the Port Department because it was mainly affecting the functions of the Yacht Reporting Berth and this had become evident during the recent 'Amber Alert' security exercise. I sincerely believe it would be a grave mistake to do away with the Yacht Reporting Berth. When Queensway Quay Marina became operational a temporary arrangement was entered into whereby the pier master would report incoming vessels to the Yacht Reporting Berth whilst a more central location for the berth was found. A mobile Customs Unit cleared vessels for Customs and Immigration. Before leaving office several sites were being considered including one at Coaling Island, no further decision over this was taken given the elections of May 1996. I understand however that the situation today is such that the mobile Customs unit is no longer in place and that yachts arriving at Queensway Quay Marina are not subject to proper Customs and Immigration controls. I also understand that yachts arriving after 10 pm when there is no pier master are not being recorded as having arrived at Gibraltar and that as a result records are not up-to-date. It is the function of the Yacht Reporting Berth to check that the papers of the vessel are in order, see what was the last port of call, log this, keep a record, and alert other authorities if they suspect something undue or abnormal. A Customs Officer is also at hand for customs control. To do away with this control and place the burden of responsibility on a commercial operator, that is, the Marina itself rather than on a law enforcement agency would in our view be a very irresponsible thing to do particularly in the light of recent security considerations. I would therefore urge the Government to reconsider the position and take advice from law enforcement agencies on this matter. There is already a loophole

which needs to be closed, let us not attempt to use that loophole to justify a free for all.

Mr Speaker, during the budget session of 1996 the Hon Mr Holliday had this to say about the Port Department, “....Government plan to have a well resourced and motivated Port Department workforce within the public sector which we believe to be essential.” I would suggest that the Minister looks towards achieving that goal in a more practical and less contradictory manner than he has until now and he will probably find he is more successful.

Mr Speaker, returning to the general theme of Industrial Relations I could go on mentioning developments in other departments which are being equally mishandled. It strikes me as totally absurd that a uniformed body such as the City Fire Brigade which rightly prides itself in the efficient service it provides the community should be drawn into taking selective industrial action over a matter of such sensitivity as injury protection. We hear now that the Government want to refer the matter to the Gibraltar Trades Council, we cannot understand why. Is it that they prefer negotiating with representatives of the GTC rather than with those directly involved? For two consecutive years the District Officer of the TGWU in his May Day Message has highlighted the centralisation of Industrial Relations decision making in Convent Place. Indeed the vacancy for the post of Personnel Manager has gone unfilled for over a year now with the Government having carried out yet another study to review the responsibilities attached to the post prior to opening up the vacancy again. Filling the vacancy will be no help or progress at all unless and until the person filling the post is given a degree of freedom by the political Government to carry out his functions through fostering good relations and having a certain amount of leeway to negotiate. It should be that person's responsibility to interpret Government policy and put it to the unions. What would be intolerable is that he should simply act as a buffer between the unions and Convent Place with a full decision making powers

resting still with the Chief Minister. We have seen Ministers Netto, Azzopardi, Holliday and Britto the latter to a much lesser degree involving themselves in direct negotiations with the unions and making little or no headway. Indeed in the case of the Electricity Department it would seem that the low profile of the Hon Mr Britto could be the factor that has produced a more positive response for the Government. The Government have got themselves in a mess as a result of their high handed approach to Industrial Relations. They need to show more respect and consideration for the rights and aspirations of their employees if they are to gain their confidence and co-operation in providing the public with the quality standard of Government services they are entitled to. Does the Chief Minister really believe that anything was won in the heated exchanges with the civil service union during the salary dispute when at the end of the day he has now agreed to take the matter to arbitration? Could he not have seen his way to offer that and avoided all the aggro? Was there any necessity to have a row with the TGWU over May Day when the matter had been raised with him months before? If indeed he has too much on his plate and cannot respond to unions within a reasonable time span perhaps he should consider delegating that task to one of his colleagues if he knows how to do that. That is to say, if the Chief Minister knows how to delegate.

Mr Speaker, the same confrontational situation exists although at a different level with the dispute with the taxi drivers which has dragged nearly two years now and which is now the subject of another court hearing. People feel that their livelihood is being threatened by this Government by the actions that they are taking, people feel that there is a witch-hunt against them because for over two years there has not been the possibility of sitting down and negotiating and coming up with solutions which are fair and acceptable to all parties and this is the approach that they have taken on industrial relations and which is failing miserably.

Mr Speaker, turning to other aspects of the Electricity Department I must point out that the recent answers to Questions put by me to



the Hon Mr Britto are a matter of great concern. I asked whether it was the intention of the Government to install more engines at Waterport Power Station and I got an affirmative reply, however, the Minister was not able to say whether the engines would be larger or smaller than the 5.5 megawatt existing ones, what the total capacity installed would be or what was the number of engines envisaged and the estimated costs. Indeed when questioned by the Leader of the Opposition over whether there was a need for land reclamation in order to do this as had been stated in a report commissioned by the then AACR Government and published in 1987, he did not know of the existence of the report. Previously I had asked the Minister whether it was Government's intention to renew the OESCO contract which has a couple of years more to run, "no decision has yet been taken," he told me. When later asked whether the intention of installing more engines at Waterport was to replace the capacity at OESCO again the Minister could not yet say. The point being that matters such as the future source of Gibraltar's Electricity supply must be planned well in advance of requirement, more so if a decision has already been taken to install more engines at Waterport, we presume in isolation and irrespective of any other consideration given the answers by the Minister. We have a situation where he has said this afternoon that the matter is being studied but that there is already a commitment to install engines in Waterport regardless of the study and the consideration that has to be given to the overall matter.

The estimates for this year contain nothing whatsoever to provide that extra capacity at Waterport. It is crucial that these decisions are taken as a matter of urgency if Gibraltar is to continue to be able to generate its own electricity needs for the future. What would happen if the replacement capacity from whatever source were to fall foul to all the hindrances and delays that the Controller Link Project has. Here we have a project first announced by the Minister in his 1996 budget speech, then announced again 1997, a project which would have taken 18 months to complete is now in its fifth year with the completion now scheduled for February 2003, seven years after it was first announced and six years after the

initial funds were provided. Although the damage cost to the software and control equipment was a result of flooding in the area chosen in Gibraltar for its installation, we were told by the Minister that the main cause of the delay rests with the manufacturers. Have Government protected themselves in the contract in order to have recourse to claim against that manufacturer? Not adequately it seems if we look at the published figures of expenditure in the estimates. The February 2003 date is subject of course to manpower resources being available in the department. We could still have the Controller Unit in 2004 or 2005. What would happen to the whole of the economy if such delays were to occur in the provision of extra generating capacity? The delays in the Controller Link Project is not isolated although it is by far the worse case. The number of delays in the completion of public works contracts awarded since 1996 is considerably high, 40 out of 110. Most seem to be related to roadworks thus further exacerbating the unacceptable traffic congestion in our roads. I always thought that these contracts carried penalties for non-completion in time yet everytime that I ask there are unforeseen circumstances that arise to justify the delays in completion. It rarely seems to be the fault of the contractor other than when the chosen reputable contractor has gone bust. I can only hope that now that I have drawn attention to this state of affairs a more cautious and thorough control of contracts is undertaken by Government.

Mr Speaker, despite the Chief Minister repeatedly denying in this House that Gibraltar suffers from an acute traffic congestion problem, the man in the street and in particular the motorists knows this to be true. When I point out that there is traffic chaos the Chief Minister often jumps up in indignation, yet the simplest of changes to traffic flow even of a temporary nature to allow works to take place are absent of consideration for motorists. I mentioned recently that if Lover's Lane needed to be closed on occasions to vehicular traffic might it not be prudent to make Main Street from Referendum Gate to the Convent two way for the duration of the closure, common sense one would think, as it happens Lover's Lane has been closed for innumerable occasions

in the evening with no such accompanying facility to alleviate the effect of the general public. If for example, one needed to get from St Bernard's Hospital to any area to the south of the Convent, one needs to drive to the Convent then through Line Wall back into Winston Churchill Avenue and southbound via Queensway. It is these type of situations that exacerbate motorists and which are totally unnecessary.

The Chief Minister last year mentioned the construction of a new road which would connect Europort to Coaling Island and suggested this would go a long way towards decongesting Queensway. I do not see any provision for this project in this year's estimates although let me tell him that with the huge increase in traffic generated in the area once St Bernard's Hospital is moved to Europort even that new road will have little impact on traffic congestion in the area. The whole approach is wrong. Having spent years saying they were studying the problem, no such thorough review seems to have taken place. Last year the Hon Mr Holliday announced another new road in the Upper Town Area which still has not seen the light of day. This year he has just announced it again for a second year running, that is the road which is to run behind Tankerville House in order to allow the introduction of a one-way system in the Moorish Castle area. This is just a piece in a jigsaw puzzle as is the road at Europort. Traffic Management must be looked at on the basis of looking at Gibraltar as a whole and producing a traffic flow plan which might take several years to introduce in stages but which will ultimately have the desired effect. Reacting to events piecemeal which is what Government are doing will get us nowhere. Again I have to say this year that the decision to insist on annual MOT tests instead of biennial was wrong and that three years after implementing the legislation they still have not got their act together. Delays in obtaining bookings for MOT tests remain with the natural consequence arising being that the RGP have trouble in properly identifying who is in breach of the law given that on many occasions it is not the fault of the motorist that his MOT certificate has not been renewed. It would be in the very interests of the MOT Test Centre and of the Government to write

to motorists advising them beforehand when their MOT test is due and providing a tentative booking but it would be too much for the Government to expect them to 'click' a computer button on a daily basis and write a few letters.

Mr Speaker, I was going to mention the inadequacy of the Licensing Department and mention the picture that came out in the Gibraltar Chronicle but I did note that the Hon Mr Holliday has said that the MOT Test Centre will be opening shortly and that the plans are for the Licensing Department to move to the new MOT Test Centre so that there is one place for every transaction to be made. Given that the staff is being put together and pulled together this might be the time to reconsider writing to motorists beforehand a month in advance and giving them a tentative booking given that the MOT Test Centre is I know one of the first places that have computerisation and it would be a rather simple task to do. Before I move to another issue I have to mention two matters which have been raised by the Hon Mr Holliday. One is the award of a termed contract, I think that at the time of the Committee Stage we will need to know what are the terms of that termed contract in order to be able to gauge in this House the controlled expenditure in a manner which can be done. He has listed the number of priorities on roads that are to be done this year, he has not mentioned whether the term for the contract is a year and the Government identifies the priorities of the roads, whether the roads are measured per square metre in terms of how much money is to be paid to the contractor and for what term and I think these are answers to Questions which we would need to put at the time of the Committee Stage and I am giving him notice of it. The other matter that the Minister raised is the question of public transport. It seems very odd to me that whilst decisions have not been concluded with the existing operators, the last time I raised it the Minister said that he was optimistic that they were going well, they still have not finished and we are making a provision of £1.5 million in the Improvement and Development Fund for Public Transport, this when in years past when I have raised the issue of public transport and told the Chief Minister that the only way of achieving better improvement was to throw money

at it and the Chief Minister has said that in no way was he prepared to subsidise public transport, that improvements were going to come as a result of Government initiative with the companies but in no way did he envisage pumping any money into public transport and here we have this year £1.5 million and we do not know yet whether that £1.5 million is going to be used either to compete with the existing operators which is something the Chief Minister threatened to do if they did not come in line with the thinking of the Government or whether it will be possible to arrive at an agreement with the operators to work jointly with Government. We still do not know that and we are being told that here is £1.5 million we are going to spend on public transport but without being in a position to be able to tell the House yet how that money is going to be spent and in what way. We have heard the Minister say that he is going out to tender for vehicles. Is it that the Government are going to start a competing service or is going to run different routes in competition or is it that the operators are going to come out to tender for the vehicles or is it that the Government are now going to purchase the vehicles for the operators? Because the Chief Minister has in the past said that he did not envisage improving public transport by pumping public money into it. It is not that I would be either against or in favour, I am holding my view until one knows the details of it but this is what the Chief Minister has argued in the past.

Mr Speaker, turning to the Cemetery I notice that although in past years the Chief Minister himself has recognised that it is not up to the standard people expect in respect of cleanliness and general upkeep, there are no funds being provided to correct this. There are many people that feel strongly that we owe it to those that have passed away to maintain the cemetery properly and to regularly cut the weeds around the graves and keep it as tidy as possible. Perhaps the problem lies in that there is no permanent manpower there to do this since Community Projects deploys people to other places on other duties and the cemetery does not receive the treatment it should.

Mr Speaker, if I can now turn my attention to GBC I will not dwell again on the expectations the Government had following the relaunch given that the Chief Minister that year said and I quote from Hansard, ".....the Government do not regard the relaunching of GBC to have been a success." We see in the estimates that the provision of the subvention for this year is £40,000 over the £950,000 figure provided for last year, one would suspect that the increase follows the annual increases in salaries. The figure however is £76,000 lower than the forecast out-turn for the year. This presupposes that either GBC is expected to generate more income or that there are costs attached to last year which will not recur this year.

Mr Speaker, the Hon Mr Britto has announced this afternoon that we are in for night broadcast by GBC aimed at the ex-pat community. I would suggest that the Minister before announcing this as a ministerial achievement in his budget speech should cost it and see the possibilities of success or failure before pinning his little flag on his shirt and saying "look what I have done, I am going to produce night television." I would suspect that if it is increased revenue that they are seeking, they must have taken this strange and odd decision that expatriates do not sleep and watch television, given that if we are going to produce a programme at night aimed at expatriates and we are expecting to increase revenue as a result of that service it would seem to me that there are some expatriates out there that are prepared to sit all night to watch GBC and not sleep at all. It cannot follow any other logic. [*HON CHIEF MINISTER: It is radio*] Oh radio, it still presupposes that expatriates do not sleep and they listen to radio all night. I would be cautious about it and although on other occasions the chief Minister has refused to answer questions about GBC since he has given himself all these responsibilities as Minister for GBC and explained all the good things he has done perhaps at the Committee Stage when we come to vote in the subvention he might be able to explain a little more about that venture before we proceed.

Mr Speaker, if we look at the Improvement and Development Fund we find a provision of £150,000 for equipment which follows an amount of £138,000 in the previous year and an amount of £145,987 the year before. I point these figures out because the Chief Minister said last year that he was not willing to allow GBC to become another Government department in which its source of income becomes academic. He added, "...the Government are not a bottomless pit of funds for GBC nor can its employees consider the Government to be its paymaster when it comes to its pay and conditions of employment." What the situation today shows is that the prospects of GBC being able to generate a substantial amount of income is practically nil that the Government accept this to be the case and that the subvention remains at the level it has always been and that capital expenditure is met from the Improvement and Development Fund. We also have a historic situation under which the extra funds needed in the year for the annual salary review comes out of the Government provision in the estimates for pay awards. For all intents and purposes another Government department. We all want GBC to continue its functions in radio and television in the most successful manner possible. We also want it to strive to increase its income as much as possible but when all is said and done there is one question and one question only that has to be asked, "Are we the people of Gibraltar prepared to pay for the services we get?" and time and time again the answer is "yes" and we are back to that position today, no change at all.

Mr Speaker, I have little option but to dwell on the lottery given recent events when for the first time ever in its history a draw has been postponed indefinitely. That itself could stifle and affect the sales of the bumper summer draw .....

**HON LT COL E M BRITTO:**

On a point of order the draw has not been postponed indefinitely.

**HON J C PEREZ:**

The draw was postponed indefinitely and today or yesterday or the day before it was announced that a date had been chosen for the draw that had been postponed indefinitely when it was postponed. Mr Speaker I have not given way.....

**MR SPEAKER:**

You have not?

**HON J C PEREZ:**

Mr Speaker, when a draw is postponed, at the time one postpones it one has a date then one says "It is postponed today and it will now take place next Tuesday." But at the time they postponed it they had no date, it was therefore postponed indefinitely and later on sine die like this House does and later on a date was found which happily I must say is tonight at 7.30 pm and I hope I am the lucky winner this week. That itself could stifle and affect the sales of the bumper summer draw which is normally successful because it creates a crisis of confidence in the draw and because people are still waiting to check their old tickets before deciding to invest more of their money in the lottery. Be that as it may although this year the lottery has made a profit the problems identified by the Principal Auditor remain. It seems given the record that this Government's answer to any problem is to commission a study and the lottery is no exception. The last time I raised the matter in the House I was told that the matter was still being studied. Many people in Gibraltar feel that the lottery is part of their history and way of life and want to see it survive, we want to see it survive on our part and we hope that the necessary steps are taken expeditiously to enable this to happen. We take note that the Minister has said that eight submissions have been received from the general public with ideas and we would hope that he is in a position to announce some radical change in the lottery which he was advocating since he was in Opposition, soon, so that we can

all have faith that the lottery will survive and that it will continue to generate wealth for Gibraltar however little. In days gone by it used to be a provider for funds for housing and historically it has had a direct link with political projects in Gibraltar which it does not have today such as in the UK it is linked to art and culture. In Gibraltar when it started it used to be linked to housing, the proceeds of the lottery used to go directly to the building of houses.

I now come, Mr Speaker, to what is the engine that spurs any economy today which is telecommunications. I will first touch upon the sensitive political position in which we find ourselves today. It gives us no pleasure whatsoever to have been proved right in the 1980's when we warned the AACR Government that the manner in which telecommunications with Spain had been restored left Gibraltar as an extension of the Spanish network and at the mercy of our neighbours in the future. That future is here now and we have been proved right yet again. The Chief Minister said in his contribution on Friday that it could well be that the European Commission take the view that the offer of extra telephone numbers by Spain does not breach EU Law. I think I am correct in having identified what he said. I find it very odd that measures that remove the ability of Gibraltar as a separate telecommunications entity recognised as such by the EU to have and control its own numbering plan and places that power on another telecommunications entity in the EU that that should not be a breach. If that is not a breach of EU Law then what is? The Government must leave no stone unturned to challenge that judgement legally if indeed the Commission were to take that view. It seems to me that without yet having signed an agreement in principle over sovereignty and without defining what that joint sovereignty might mean, Spain in this area is giving an example of what it means for Madrid. It means usurping our power to independently run our affairs and transfer full power to Madrid. The Chief Minister also said that it now seems that the existing 30,000 numbers will cease to be operational at the end of the year if Gibraltar does not accept the terms of the offer of 70,000 extra numbers. The Opposition had warned that this would be the case

in a press release where we were able to get the text of the 'Buletin del Estado' issued by the Ministry in Madrid. Indeed this is one of the issues I raised in a television debate in which both the Hon Mr Britto and the Hon Mr Bristow also participated and all I got from them was a deafening silence to those remarks. What we have been told by the Chief Minister on Friday is that the analysis that we had made is correct and that come the 31<sup>st</sup> December the possibility of having no normal telecommunications services between Gibraltar and Spain is on the table and that this is being achieved through blackmail. The Chief Minister also indicated that there are certain technical fallbacks which he said we know about and I therefore presume that this is today the fallback position of the Government. I understand how sensitive the situation is and I would therefore ask the Hon Mr Britto to keep us informed of the options being looked at as he has done in the past. There is however one route open to Gibraltar only, for the companies with complaints in front of the Commission to initiate legal proceedings for failure to act against Spain over the non-recognition of the '350' code. This is a battle we must fight and we must win. I am presuming of course that we have now reported to the EU that the Liberalisation Legislation has been transposed in Gibraltar and that there is clear recognition from the EU of our Regulatory Authority and that we are an independent telecommunications entity within the EU. Why else will the telecommunications union in Geneva allocate to Gibraltar the '350' international code? Be that as it may, when the Liberalisation Legislation was transposed in this House, the Chief Minister himself moved an amendment arguing that the Minister responsible, the Regulator, nor the Government could be held liable or responsible for the non-implementation of aspects of the legislation unless and until the numbers issue had been resolved and Gibraltar had a level playing field. This is why I initially queried the wisdom of opening up the market giving that the numbers issue has not been resolved and Gibraltar does not have a playing field. Where are the numbers going to come from? I have repeatedly asked and have been confronted with the same deafening silence from the Ministers. I have repeatedly argued in my contributions to the budget since 1996 that the existing telecommunications companies, that is, Gibtel and Nynex, should

prepare for the liberalisation that is coming by becoming more competitive and more customer conscious. Now we are told that at the time when a competitor is knocking at the door, Nynex have to increase the local telecommunications charges in a supposed rebalancing exercise brought upon us by EU Legislation. In the same breath we are also told that the new operator will be able to offer free local calls. The increases announced this year on local telecommunications charges are in our view totally unjustified and unnecessary. We hope the plans to further increase local charges will not be proceeded with.

The gradual cuts in international charges for telephones commenced whilst we were still in office when Nynex had not yet declared a dividend payment. During the years when the connecting charge by Nynex remained unchanged, the dividend payment to shareholders of the company was in the region of £1.5 million. This current year when we are told that increases are necessary for rebalancing purposes, although the estimate was £1.6 million in dividend payment the result is that £3 million are paid in dividends to shareholders. It could well be that the proposed measure is now streaming the Gbtl profits through Nynex and that this is part of the reason for the increase in dividend payments yet, if we take both companies together for comparison sake the projected dividend payment was £3.2 million and the result is £3.9 million. This is £700,000 more in a year when international charges are supposed to have come down drastically and local charges have risen steeply, and we are only talking about dividend payments and not profits and loss accounts. The figures clearly support our contentions that even with the cut in connecting charges for international traffic the local telecommunications network was still making a profit and there was no need whatsoever to increase local charges other than to continue to produce high profit levels and higher dividend payments as predicted. How else would the forecast for next year be another £3 million dividend payment. Even without the answers to Questions which we have been denied in this House with the excuse that it is commercially sensitive information, the dividend payment outcome and the forecast give the game away.

The only rebalancing exercise that has taken place is that the company is attempting to recover from local charges what it is giving out in reduction in international charges.

Mr Speaker, the Chief Minister talked last Friday about his Colleague's ability in interpreting the law to license potential competitors so that they will invest in infrastructure and not come into the market to reap the cream of the business and leave the traditional supplier of telecommunications to sustain and maintain the network. Without wanting to make judgements over what is right or wrong and just looking at the intention behind the liberalisation within the EU, the Chief Minister might not be able to stop that happening under EU law. He said he was not talking about 'call back' services in this context yet 'call back' has been with us now for many years and this is exactly what it does, reaps the cream of the business which is the international traffic whilst not investing in infrastructure and using the infrastructure of another country. The point being that EU Law might not allow the Hon Mr Azopardi to reject offhand other applicants that do not invest in infrastructure. In any case Gibraltar is too small to justify a competing infrastructure in telephony. We hope that in giving the licence to the new operator the Minister will ensure that the new infrastructure is complementary to the existing one and not in competition to the existing one.

Mr Speaker, indeed I think we owe more the reductions in international charges to 'call backs' than we do to the advent of liberalisation. That is the truth. Everywhere in Europe cheaper rates have preceded liberalisation. Here in Gibraltar what we get is increases in local charges and promises of more increases to come. There is no doubt, when the Chief Minister replies, he will adopt the strategy that we have now become accustomed to. He will launch a vitriolic attack against the Opposition, probably full of misrepresentations and inaccuracies, stretching the truth to the limit, in yet another attempt at concealing his own shortcomings of six years in office. My Colleague the Leader of the Opposition called him "The Master of Spin," perhaps now that he himself is at

the receiving end of his style of politics from those faceless mandarins in Whitehall, he might reflect upon those that still believe in a more honest, less arrogant approach to Parliamentary democracy and to Government in general.

Finally, Mr Speaker, let me say that there was a recent story which quoted him as having said that he wanted to abandon politics and a very quick and strong denial 24 hours later. In the letter that he issued he did not deny the whole story and part of the story read that he would like to see himself living quietly in Sotogrande in the house that everybody says he has and that he does not have, living the rest of his life quietly and in peace. May I suggest that if the Chief Minister can give an assurance to this House that he will stay in Sotogrande and not come back, I will be prepared to open the collection for him and we shall all purchase him that house in Sotogrande he so much desires. With that light remark I conclude my remarks to the budget debate.

## **ADJOURNMENT**

The Hon the Chief Minister moved the adjournment of the House to Wednesday 19<sup>th</sup> June 2002 at 10.00 am

Question put.            Agreed to.

The adjournment of the House was taken at 6.55 pm on Tuesday 18<sup>th</sup> June 2002.

**WEDNESDAY 19<sup>TH</sup> JUNE 2002**

The House resumed at 10.05 am.

## **Debate continued on the Appropriation (2002-2003) Ordinance 2002.**

### **HON K AZOPARDI:**

Mr Speaker, in speaking to the general principles of this Bill as regards my Ministerial responsibility I just want to make a few observations first for the assistance of Members in relation to the particular structure of the departmental budget so that it is clear especially to my shadow spokesman how this department's budget is structured this year. The structure of the budget this year reflects two things which are different;

1. A structural reorganisation of the department and the department's divisions and,
2. a merging of certain heads of expenditure which are to make more administrative sense.

I think I have said in previous contributions to this House at budget time that the department when I inherited it was structured into divisions. I have waited some time to see how those divisions were working with each other and I have taken the view that the department needed some internal restructure and I have done that and this is reflected in this year's budget and so, therefore, the department is now structured in four broad divisions:-

- Inward Investment and Lands which has responsibilities for all land issues but also includes a broad responsibility to attract investments, communications and technology;

Business development which used to loosely be called commercial but really is Business Assistance and Advice and EU Funding and opportunities and that sort of thing. Finance Centre which stays unchanged and Planning and Heritage which stays unchanged as well.

So effectively what I have done is I have taken a view on the commercial and more classical trade and industry side of it and reorganised that together with telecommunications and split it up into those two parts. The administration division has disappeared because it made no sense to me to have an administration division. No department has one and if one does not have a section purely to conduct administrative tasks, I have a small department of about 40 people and I have to deploy them to fulfil responsibilities, aims and objectives. Administrative staff are merely there really to support objectives within a division so it has to be focused in that way. Secondly for the assistance of the Opposition Members they will see in italics in Pages 71, 72, and 73 there is a lot of the budget that used to be there and no longer is there and that the budget this year is much shorter and the reason for that again is that under my predecessor certain Heads of expenditure were separated by division and again it seems to me to make no sense to do that and in the interests of administrative convenience I saw no need to separate Heads 3 to 6 primarily and 7 in the budget. Electricity, Water, Telephone Service, Printing, Stationery, General Expenses should not be split by division, it made no sense to me especially in a department of 40 people. I am used to the Health Department with 700 people, the Environment combined departments of 1,000 which did not have separated Heads, it made no sense to me to have four different heads for eight or nine people each so I have merged them.

Mr Speaker, that is as regards the structure of the department and the structure of the budget as for my own contribution to this year's budget I should say this first, the aims and objectives in relation to Trade and Industry and the philosophy that I set out in previous budgets still stands good. My objective is of course to create a good climate for business development and inward investment and to keep Gibraltar attractive for when we do investment. Those objectives are firm, they will continue and I will not detail them again as I did so in my first contribution as DTI Minister. What we are doing though is in view of certain factors that I will outline in a few minutes, is reviewing those objectives with senior officials within the departments especially in the context of the continuing needs that Gibraltar has in relation to DTI objectives and in the context of the changing international panorama over a variety of fields and I hope that that review process finishes soon so that I can more clearly focus on the objectives for the remaining part of our term of office.

Mr Speaker, before I get to the particular role of divisions within my department and the responsibilities that we have tried to fulfil during the last 12 months, there have been a series of factors that have been outlined in part by the Chief Minister in his contribution but there have been a series of factors that have had and are having an effect on the economy and in particular the Finance Centre that I should outline because they have impacted on the performance of the department and indeed on the performance of Gibraltar's economy generally. I would say that there are four factors that are influencing the way the economy is performing and the way that the Finance Centre is being focused at the moment, it is important to take into account that the Gibraltar economy is not isolated and disconnected from the world, indeed it is a service led economy and therefore is very much the opposite of that and depends on world trends to a large extent so there are things like 11<sup>th</sup> September and those tragedies and the effect that that has had and are influencing the economy and influencing international trends that will impact on certainly regulatory regimes, the visitor patterns, the tendency of people to take cruise journeys, the tourism market generally and investment in particular. The



insurance collapse since 11<sup>th</sup> September again has created challenges but also opportunities in the insurance market that are being seen in Gibraltar. It is still too soon to tell what the final impact of that will be, there will be trends of a regulatory and legislative nature that will continue for many months to come and probably many years to come and that impact is still not known today. What is certainly clear is that there will be a new working environment for us all in a financially economic sense.

The second fact that I want to highlight is that the Gibraltar economy is impacted by the general global economic slowdown. Stock Markets are at their lowest level now since 1996 certainly taking a nose-dive over the last few days and all of those issues in particular in the telecommunications area. There has been such a marked slowdown in the last 18 months, all those issues are of course impacting on the type of investment that is coming to Gibraltar and the type of enquiries we are getting and the type of investment that we are able to attract more readily than before. As I say those are global issues that are affecting us all and when one comes to reflect on Gibraltar's economy and how well or otherwise one is performing I think it is important to take into account that there are many other territories and countries around the world that are suffering substantially primarily as a result of those factors.

In relation to the Finance Centre there have been important international initiatives over the last two years that have gathered pace over the last 12 months on tax and financial regulations. Again I would say that is partly global and partly individual, in this sense it is partly global because the international initiatives on financial regulations and of a fiscal nature as far as the OECD go certainly are affecting all Finance Centres around the world and commitments will be sought from all finance centres and so one cannot say that Gibraltar is being singled out. Whatever working environment that was being evolved, clearly that is something that we would share it. It is partly individual in the sense that while international initiatives are there and impact on everyone, because

of Gibraltar's unique position in some respects, our EU membership, the 35 finance centres on the list, there are special pressures that are brought to bear on Gibraltar, state aids code of conduct and so on that perhaps are not present with other finance centres in such a direct way. They are more present in an indirect way through the third country mechanisms that EU countries are trying to invoke in relation to some of these measures. The fourth factor which is purely individual to Gibraltar but is also important in the context of economies is the political situation, the Anglo-Spanish Talks and all of the events that have transpired since UK and Spain decided to give a new impetus to their discussions since July 2001 and since last year's budget. So, all of that is having an effect. It is having an effect generally on the economy but in particular in the Finance Centre and I would add in relation to my responsibility on telecommunications, what I last year called 'Communications and Technology', that to the factors that I have listed I would also add the special factor of the marked collapse of investment on the dot.com industry and anything connected with information technology. I think that is an important factor.

Mr Speaker, it is against that backdrop that we have got to understand the economy, how it has been developed in over the last 12 months, how it can develop over the next 12 months and indeed it is against that backdrop that we are reviewing the policy objectives that we have in the context of my ministerial responsibilities. I will pass on to the particular divisions that I have just to give the hon Members again an overview and I do not intend to go into the things that we have been doing within the department in a level of minutiae in detail that I think will trouble hon Members but certainly on a broad view of our objectives and the work that we have been conducting. Firstly, in relation to business developments, this division really has responsibility for advice and assistance and funding opportunities and we have seen, and I have taken note even though I think that the position of Government have always been that we do not believe that there have been insufficient regards to public awareness campaigns in relation to funding opportunities, I certainly have taken notes of the comments and we have tried over the last 12 months to give a

renewed impetus to that by issuing not only more explanatory leaflets but newsletters on a regular basis that we now put into as inserts to all the papers in Gibraltar, more adverts and the hon Members will have seen that since the last budget there has been an advertising campaign for funding opportunities and I really do believe that through this campaign of maximising awareness that will continue into the future, I will not be able to understand comments that people are not aware that there are funding opportunities. The only thing that people will be able to say is that they know the funding opportunity would be there and they need advice on it but that advice can be forthcoming from the department. I do not think it would be a justified criticism any longer to say that people are not aware of funding opportunities given that we issue newsletters on a regular basis, monthly or quarterly, we insert adverts into the local papers, we have been screening a documentary on EU funding opportunities recently, that is not to say that we get complacent, obviously we will carry on with our public awareness campaign and we will strive to ensure that everyone is as apprised of funding opportunities as possible.

Mr Speaker, just to give the House an overview, over the last year or so we have had a transitional period hopping from one programme to another, from the 1994 to 1999 programme to the 2000 to 2006 programme, but certainly last year we had 29 EU applications all of which were approved and I have given information about those EU applications in contributions to the House on Question Time, hon Members will also know that apart from EU funding opportunities that are there I want to take the opportunity as well of saying to anyone who is listening today that the Business Advisory Unit and the EU Funding Unit within the department are always ready to advise and assist anyone who wants to bring forward an EU funding application to try to assist them in preparing a business plan, to advise them on the procedure and on anything related to their application the department is always ready to advise anyone and I encourage anyone who wants to get information or formulate an application for EU funding to approach the department because we would be

keen to assist them in trying to do that. I do not want to, we could, but I do not want to have to resort to using the entire EU funding application for public sector projects. Public sector projects will have a big contribution to make and a big slice of the cake because that is inevitable because no private sector project will ever come forward to take the £750,000 we have on an annual basis and so it is important for us to do the large infrastructure projects of the public sector nature but I do encourage the private sector to come forward with projects and that we are ready to advise them when they do so.

Apart from EU funding opportunities hon Members will be aware that when people apply and enquire about funding opportunities, there are also opportunities for them if they do not meet the EU funding eligibility criteria and that is what the Gibraltar Enterprise Scheme is there for. This is a Government Scheme of Government funding for any application that is deemed meritorious but is out with the criteria set by the EU funding rules by the European Commission and last year we had seven applications and here the history of the scheme is that because this is outside the criteria it is far more discretionary and this is really to mop up the residue of applications that have not been dealt with under the EU funding scheme but it is less likely because it is of a more discretionary nature that they will meet the meritorious criteria having already failed at the first hurdle to meet the EU funding criteria. Last year we had seven applications, five were approved, two were not. I will give the hon Members a flavour of previous years so that they understand what I am talking about when I say that this is a discretionary programme.

- In 1998 five were approved - nine were not.
- In 1999 nine were approved – seven were not.
- In 2000 eight were approved – three were not.

Mr Speaker, one of the areas that concerns me greatly in the context of business development and attracting inward investments is infrastructure. The need for it and the provision of infrastructure. We need industrial space and we need land for development, residential, commercial, industrial, and economic development. I am keen that we should in forthcoming years pursue projects to provide Gibraltar with more infrastructure of an industrial nature and with more land for development for economic and domestic agendas. It is clear because of the experience we are having not only with the constant enquiries that we get at departmental level in relation to industrial space but the applications that we have had in relation to the North Mole in relation to the North Mole industrial park that the demand is very high for industrial space. We have got four units at the North Mole, we have had about 40 applications, but certainly many more enquiries and applications than units and it is clear that, and these are the larger units for which we expected less demand because it is always clear that we get much more demand for the smaller units because a trend of business in Gibraltar is that we have many more small businesses than larger ones and it is less likely that people will want the larger units. Here we have four of the larger units that we have available and demand that outstrips the supply that we have got and it is clear evidence that we need to provide industrial space and I want to pursue projects for that. We have some in the pipeline and I hope to be able to make announcements in due course so that we can deal with that demand and create that economic activity.

Mr Speaker, I will just link on to the comments that I will make in relation to inward investment and the lands division because there is an overlap with business development. It is not only industrial space that we want but land needs to be created for other purposes and in my view reclamation is a necessary objective that we must pursue to be able to achieve our objectives. I say that conscious as I am and sensitive as I always am with my heritage responsibility for the need for balance, and for the need to conduct reclamation with a minimum of environmental impact and

conscious as I am of the need to ensure that the environmental lobby are consulted. Gibraltar is a small place, we want to be self sufficient, we are self sufficient, we need to survive going forward. We need to develop the economy and we can only do so in my view if we create more land space and we do so through reclamation if necessary while balancing the environmental impact that that has happened. That will happen especially if we want to constrain developments within the city walls which is also an objective of the department and my personal objective and see no scope if we are going to protect the urban city centre because of tourism and heritage objectives, I really see that there is a need to constrain developments within the city walls and encourage higher rise developments outside those city walls, but to do so we also need to realise that there need to be compromises and some things will have to be sacrificed in that process.

The inward investments and land divisions to give an overview of the department for the first time because I am talking about it for the first time in this budget session, assumes responsibilities over a wide variety of fields. The management of Crown Lands, here I am talking about assignments, rents, consents for mortgages, lease extensions and that sort of thing, the commercial development of Crown Lands, here I am primarily talking about projects, the driving of commercial projects on behalf of the Crown, negotiations with the MOD, we have general responsibilities for commercial marketing in that department and the handling of any inward investment enquiries on a broad front commercial areas and here I include telecommunications and technology in that. To a very large extent the first area is self-explanatory, our responsibility for management of Crown Lands, and in the second one, the commercial development of land there are specific projects that have been talked about in particular by the Minister for Tourism who has mentioned some areas of land that will go out to commercial tender in forthcoming months and announcements will be made in due course. We have also been dealing with issues in relation to Gun-Wharf in respect of which there have been questions in the House before and reclamation issues stemming from the comments that I have made

just a few moments earlier. There are projects that will require reclamation that the Government are looking at that will be announced I hope during the course of this financial year in the context of everything that I have said of the needs to provide land for infrastructure and economic objectives. Before leaving this particular aspect of commercial development I would say that in the next year the Government expect to commence a project to achieve a new road through the Chatham Counterguard. The Government have been negotiating through my department with an industrial user who had vaults within the Orange Bastion Chatham Counterguard area who had requirements for reallocation, we have been able to reach an agreement with them to ensure their reallocation at some point at the end of this year or beginning of next year with a view to demolition of the structures on the interior of the Chatham Counterguard, the accretions that were erected next to the city walls and to allow the Government to run a road through the Chatham Counterguard without in anyway, I should emphasise immediately in case there is any of my friends in the heritage lobby listening, demolishing any of the fortifications, which hopefully together with other road projects that are to be pursued in the course of the next financial year will have some effect in improving issues of traffic flow and so on.

Mr Speaker, the department has regular meetings with the MOD in relation to MOD lands and again we have had Questions in the House before so I do not intend to dwell on the subject only to say that I hope that the negotiations with the MOD progress in the forthcoming financial year to a level that enables more land to be returned to the Government of Gibraltar to administer on behalf of the people of Gibraltar as I think it is important and necessary for there to be a constructive process of discussions with the MOD to enable handover of land when it is surplus to MOD requirements and it is plainly so.

While communications and technology responsibilities are part of inward investments and lands I should highlight a few areas which are relevant to that specific responsibility. I launched a strategy

last year on e-business, communications and technology and we continue to review that strategy in the context of the objectives that we set out in it. I set out and I released the strategy last year, I talked about the objectives in last year's budget but I want to highlight in particular a few areas which are important and as to the rest of the strategy we will of course be continuing the review process because the strategy that I launched last year I said at the time would be for three years until 2004 and set out broad objectives of the Government in the context of communications and technology and I do not want to go too far beyond that strategy until it becomes clearer what effect the economic slowdown in relation to telecommunications is having as to the opportunities that we are able to attract in this field.

Mr Speaker, we did a survey which was one of the objectives of the strategy last year and it follows on from the June 2000 survey. We did a survey between June and September 2001 and we have been able to collate the figures and statistics to make some comments on it which will, and I want to highlight a few areas for the assistance of Members. Drawing from the responses that we obtained I would make these comments, in relation to internet access in the 2000 survey, 55 per cent of those responding said that they had internet access, of those responding in 2001, 83 per cent said that they had internet access. In relation to the year 2000, 22 per cent of businesses said that they had websites and in 2001, 45 per cent of businesses said that they had websites. In relation to IT skills required for e-business 23 per cent of businesses said that they had those skills in the year 2000 and in the year 2001, 32 per cent said that they had those skills. Whilst those responses show a trend upwards in relation to websites, internet access and IT skills I think it is important not to get complacent, first because the response rate was still important to get a good feel of business in Gibraltar but it was not ordinarily high, secondly I think one may have people responding that have the skills in-house, internet access, the websites that are more fair with the industry and one may get other people who either out of lack of interest or lack of skills are not responding to this survey so it is important not to get complacent. I think that the important

issues are to continue reviewing the industry and the economy to understand where we are in relation to e-business skills because whatever happens, whatever the downturn, the effect on global telecommunications and global technology it is still clear to me that what is happening is that people are going back to normal business principles. They are reverting to sound business case and while before it was easy to get investment just because one added a dot.com after one's name, now it really depends on whether one has a strong business case and so one will have a survival of the fittest but within a new working environment and it is important to take into account when one looks at telecommunications and technology not to think that because there has been a slow down in investment that there is no future in this industry, what there is is a weeding out of bad business, a coming out of good business and a survival and prospering of good business within a new working environment that gives business much closer and greater access to markets that were very distant from them many years ago and provides great opportunities for them and I think it is important that we review the e-business and IT skills of the community in that context and we try to do as much as we can to foster and enhance those skills. So, we will do another survey maybe not this year but certainly in 2003 to up-date ourselves in relation to the trends of business.

Mr Speaker, the Government commenced the liberalisation legislation in July last year and we have had several applications for licences for individual licences and for general authorisations. I have had three applications for individual licences, one is under consideration and I have refused one because it did not meet with the criteria set out in the legislation and I have explained that in the letter of refusal to the particular applicant but I have also, and the House should know, recently granted an application for an individual licence from a company that has significant Portuguese backup. A company called 'Broadband Ltd' that intend to provide an extensive range of services and intend to lay their own network in Gibraltar. A company in effect that I suspect will try to hold itself out to compete in the open market with the incumbent players in relation to all services and not just to the cherry picking services that hon Members have been highlighting during yesterday's session. It is certainly my hope as I said last year that

liberalisation will bring better prices, more competition, and a better service for the consumer. It is almost inevitable that that should be the case and I welcome that with my hat as the Licensing Authority. It is relevant to note in this context that in the e-business survey of 2001 some of the comments made by contributors were these, that the most common factor discouraging companies embracing new technology were cost, system security, lack of knowledge, and that the general comments included that there should be reduction on internet calls, flat fees, greater bandwidth, DSL services, more competition on the telecommunications services, a review of the postal system, bondage storage facilities, and financial incentives. It is clear from the comments that people are making because they are very similar to the ones that they made in the year 2000, that cost and competition, greater bandwidth and greater services available to the consumer are important in the context of developing telecommunications and e-business and with my responsibility in mind I am very keen to pursue that and foster it to the extent possible. I hope that greater competition will bring all of that in the market.

Mr Speaker, the Government this year have extended the import duty concession to June 2003 at least and the reason for that is that this has been quite successful and we have seen quite a lot of take-up in the last year or so. It allows the replacement of infrastructure already there, it encourages skills enhancements and it develops this aspect of the economy and we are very happy to be extending this because it is an important measure if we are really to achieve a repositioning of IT skills enhancement and of the infrastructure that businesses have available to them to develop their particular fields within their economic activity. We will review that during the course of the financial year and see whether it needs to be extended further, but certainly it will have been a major contribution over the period of two years to encouraging and providing incentives to people to upgrade their infrastructure and take a step towards dealing in the new economy.

Mr Speaker, I should mention how progress has gone with the issue of the cable link, in fact there has been little substantial progress in the sense of interest in the project. Hon Members will remember that I issued a notice inviting expressions of interest some time ago, almost 18 months, on the cable link project, we had six or seven parties that responded to that advert but their interest has fallen away. We had one particular party that at least was a telecommunications player that were introducing us to two major international carriers, one European and one American, we had meetings with both of them. They both had cable projects of a far greater nature than the Gibraltar cable only and were thinking about doing the Gibraltar project in the context of a much wider Mediterranean cable project but I suspect as a result partly of the macro economic factors that I outlined before on communications and technology and the size of the Gibraltar telecommunications market and therefore the potential customers that they would have, and the fact that the Government's interest was always going to be limited to facilitating, giving them concessions in the sense of assistance, land and other facilities to set up the cable but not actually making a financial contribution. I suspect that as a result of all those factors, those companies decided that there was little commercial viability in those companies taking the commercial risk themselves. This project is always going to be a speculative one. We wanted to increase the routing out of Gibraltar but it was almost always driven more by political rather than economic and commercial factors. It appears that international carriers do not feel that there is a commercial case at present for that to happen. Things may change and the Government will still be ready in a few years time or whenever for the matter and the project to be pursued if there is commercial interest, but it is important that while there are political objectives because the size of the investment is large, possibly between £20 and £30 million, that there is also a commercial case to be made for that project to be fulfilled.

Mr Speaker, there is a need for there to be good physical infrastructure in relation to the Post Office and that is a constant comment coming up in the replies that people have made to the e-

business survey and I will say a bit on that later. Before leaving telecommunications and technology I said that I wanted to have a regular interface with players in that industry last year at budget time. I had regular meetings with the Chamber of Commerce, with the Federation of Small Businesses, Finance Centre Council, indeed I have regular meetings when I look at other responsibilities with the Heritage Trust. There was no entity that was representative of players in the communications and technology field and I encouraged them last year, I had a meeting with as many of the companies that work within this field as possible and I encouraged them to form themselves into a group so that I can have a regular interface with them if they select their own committee. I am pleased to say that I understand that an information and technology association or society will be formed later this month and I intend to ask them to delegate and appoint a committee to have regular interface meetings with me so that I can have their advice and they can have access to me to inject their own views on policy measures, ideas and other legislative or fiscal matters that need to be brought to the attention of Government to develop this important aspect of the economy.

Mr Speaker, passing on to the Finance Centre. This is an area that has been particularly touched by the macro economic factors that I outlined earlier in my contribution and that has had an effect on marketing and the marketing effort of the department, the hon members will have noticed that the expenditure on marketing this year is lower than it was last year and possibly the year before that and the reason for that is that while we remain deeply committed to marketing, vigorous marketing of the Finance Centre, the reality is that there was only a certain type of marketing that we could do after the July decision to launch an investigation by the European Commission into the exempt and qualifying companies. There was already uncertainty in the market in relation to international initiatives that were affecting all finance centres. There was talk of restructure, it has been going on for many years, there is a domestic and international commitment in the manifesto commitment of the Government to restructure the tax base. This was compounded by the state aid investigation and there was a lot

of speculation about where Gibraltar would go, where the Finance Centre would go and we were getting a lot of enquiries and it is common in my experience when we have gone on these marketing trips that we do presentations which describe the tax structure, it describes essentially what is available for people to do and not do in a fiscal sense in Gibraltar because that is what is interesting to Gibraltar. Two sides are interesting to them, the background, the political and economic part but also the very fiscal detail of it and then we usually get very specific questions on direction in relation to international initiatives, restructure and what reforms we are going to put into place to replace structures that are currently there and it was obvious that if we were in a situation where we had litigation of the Commission, the situation of considering restructure proposals, a situation of flux, that it was more prudent to curtail the marketing effort to commitments that did not really involve a high level of detail of presentation of a fiscal nature so that we did not expose ourselves to not being able to fully respond to questions in relation to tax. We have continued our marketing effort but on a smaller scale, we have attended several conferences and carried on with the programme but it has not been as vigorous as I would have liked had we announced the tax structure. I will say this though that once we do launch the package of tax reforms of an extensive nature that we have been working on with the industry and with lawyers in Brussels and in consultation with the Treasury as the Chief Minister pointed out, we will certainly renew our efforts in the marketing campaign in a very vigorous sense. Indeed I think that the launch of a new tax system with a new tax structure will allow us not only to renew our marketing efforts but it will provide us with a good peg to hang a vigorous marketing effort on because it will be a news catching item, the fact that Gibraltar will have restructured its tax base in a radical and progressive constructive way to allow Gibraltar's Finance Centre to progress in a very competitive atmosphere within the new working environment of the regulatory measures that have stemmed from the international initiatives. We will intend to pursue that vigorous marketing policy with traditional markets and also with new markets and that same policy in relation to the finance centre applies as for other inward investment opportunities and communications and technology that

to an extent have also suffered from tax uncertainty in relation to marketing at least and I want to, while we have a vigorous policy in the Finance Centre, I want to give a boost to marketing of communications and technology and other. Gibraltar has a more holistic economic base other than financial services and I am working with my Colleague, the Minister for Tourism with his shipping hat in particular because we are keen to present Gibraltar as a more complete package of an economic base from which one can do financial services, there is also shipping and light manufacturing, communications and technology and we hope to be able to do some joint projects together in forthcoming financial years to be able to maximise those opportunities where they arise in geographic areas.

Mr Speaker, Gibraltar has faced international initiatives also during the last 12 months as it did during the 12 months previous to that which I highlighted in last year's budget and I think we faced them well. Last year we faced the FATF who held us out to be a co-operative jurisdiction, the United States IRS approved Gibraltar's application for Qualified Intermediary Status and our know your customer rules and the banking regime in the first batch of 20 countries to be approved by the IRS. Not a higher pole to scale or standard could be set. This was an international body setting the standard and approving Gibraltar in the first batch of 20 countries and incidentally before Spain's own regulatory regime was approved by the IRS. This year we faced other initiatives. We faced the OECD and the IMF in particular. The IMF conducted a very broad assessment of Gibraltar's financial services, indeed the first assessment which has been so comprehensive in the sense that it has dealt with the four areas of activity in financial services, investment services, company and trust managements, insurance and banking, this is the first assessment that has dealt with all four areas together and the first assessment to be public and have dealt with the four areas. We have done well out of that assessment. The IMF have published the October 2001 assessment actually published in April/May in this year even though it is dated October 2001 and it describes Gibraltar as being at the forefront of the development of good



practices and it says that Gibraltar ranks as a well developed supervisor. It audits us against 67 international standards that arise in securities, banking, insurance and finds us compliant with 66 out of those 67. Non-compliant with one in relation only to insufficient on sight inspections in the field of insurance which the Financial Services Commission are rectifying and which incidentally I should say are not conducted by the Regulatory Authorities in the United Kingdom themselves and I think it holds us as a very good financial centre regulated to not only EU standards but internationally accepted standards and to UK standards where appropriate and where the legislation requires us to. I would say though that it is always important to remain vigilant. Issues of money laundering and crime are a constant factor to take into account when considering applications for new business and it is important for audit inspections and regulatory checks that are mandated by the standards that Gibraltar has approved and adopted that they are all followed strictly and followed well and it is important that the regulatory authorities supervise the bodies that are in the open markets conducting financial services and that the financial services operators themselves are keen and vigilant and are aware of the responsibilities in particular in relation to crime and money laundering but I would say that when the IMF has looked at our systems they have held us out to be a good supervisor and they have given us a glowing report which I think bears us well because this is a report that can be held out high as a report of an internationally credible entity which for the first time has conducted the most comprehensive assessment into Gibraltar's financial services that deals with all areas and that puts to an end the unsubstantiated allegations motivated by political purposes from Spain in relation to Gibraltar's finance centre.

Mr Speaker, we have also been dealing with the OECD in some detail and since the last budget the OECD initiative, I know we were being urged by some quarters in Gibraltar to deliver a letter of commitment to the OECD sooner rather than later but I think our policy of not hastily reforming but giving a commitment in a process of constructive engagement with the OECD has been

vindicated because the target has been constantly changing and that has had to be taken into account in the context of our policy of the OECD. Since the last budget the OECD agenda has shifted twice, it shifted once because due to US pressure the OECD dropped one of the three criteria, they dropped the ring-fencing criteria, the requirements to abolish discriminatory tax regimes, tax regimes that discriminated between residents and non-residents, that has been dropped from the OECD initiative it swung one way and then after September 11<sup>th</sup> even though it had swung one way due to US pressure it seemed between July and September to be watered down. Post 11<sup>th</sup> September there was a new impetus as a result of a desire to get agreement on exchange of information in particular in relation to crime from the US and there was renewed impetus for there to be agreement on the OECD agreement that led to the OECD report being published and a surge of commitments in the run up to January/February this year and the Gibraltar Government giving their own commitment which has been commissioned on the level playing field that has been talked about before and the expectation that other OECD member countries and third countries not OECD countries but also not on the list of 35 finance centres will also comply with this global agenda which is so necessary if a working environment is to work for all. The policy of constructive engagement applies across the board and while the ring fencing criteria fell out of the OECD commitment letter it is still there in relation to code of conduct state aids and so on and it is important to take that into account when looking at measures for the finance centre going forwards and also an important aspect is the savings directive on exchange of information. There is a need to achieve certainty but certainty cannot be achieved necessarily by compromising certainty to speed and it is better to wait sometimes and it is better for there to be some patience if we are really going to achieve certainty and that is what the Gibraltar Government's policy and focus in the forthcoming months while we try to achieve certainty for the finance centre. In that context the decision of the Government to challenge the investigation into the state aids launched by the European Commission is absolutely necessary indeed because we thought that the investigation was flawed and our decision to overturn and to try to challenge that has been vindicated by the



ruling of the European Court of First Instance in relation to exempt companies and it was important because it puts the finance centre in a period of deep uncertainty post July and we needed to clarify the circumstances to give us time also to conduct a process of necessary restructure and reform because we were taking into account other initiatives that were impacting on the system of tax in Gibraltar. Even though we have had a positive ruling in relation to exempt companies the case for tax reform is still strong and it is still strong for domestic reasons because of our domestic manifesto commitment to pursue that policy of tax reform and it is strong also for international reasons because there is an overlap in relation to the OECD, an overlap with the savings directives, an overlap with the code of conduct which is voluntary but an overlap nevertheless and there is an overlap because there is a changing panorama. People are restructuring their tax base and we need to review where we go to achieve solidity, consolidation and certainty going forward. We need to secure a competitiveness on the finance centre to provide benefits and to encourage economic activity and we think that the package of reforms that we have prepared which have taken some time because of the detail and extensive nature of the consultation exercise, the detail of the legislation, there are nine sets of laws that will be required to be triggered to put that package of reforms into place but that package of reforms will work for Gibraltar, will work for the Finance Centre, it will secure the position in the finance centre, it will provide benefits to the local companies also and it will secure our position going forwards in a new environment and as the Chief Minister indicated there are good vibes from the United Kingdom Treasury to the point that they are recommending to other territories that they should have a chat with Gibraltar in relation to tax reform.

While the Finance Centre is of course affected by the macro-economic factors that I indicated earlier, there is still inward investment and Gibraltar is still attracted to inward investment. In part because there is a recognition of the good regulation and I think the IMF, OECD, FATF, IRS exercises all of those have helped us substantially in attracting business to Gibraltar while

there has been this period of fiscal uncertainty. It would have been worse had there been fiscal uncertainty and regulatory uncertainty which is what has faced other finance centres. In Gibraltar at least we have had regulatory certainty in a sense that we have had endorsements from international bodies one after the other about our rules which has helped decisions being made for repositioning of business so we saw when ACE came to Gibraltar. The Chief Executive said one of the reasons they came to Gibraltar was the high standards of regulation. When other companies have come to Gibraltar that has also been a key factor and so, whilst there is tax uncertainty, until we deal with it there is good prospects for continuing business and some inward investment still comes into Gibraltar and that is clear. There is of course the statistics of company incorporation are much lower in the first quarter of this year than they were in the first quarter of last year. I would say this, and I think it is important for us to see these statistics in context. The statistics for the first quarter of this year, they are lower than last year, the year 2000 and the year 2001 were the best years for company incorporation in Gibraltar for about 10 years. When we compare 2000/2001 it is actually a bit unfair to compare the statistics of this year to bumper years. That is the first thing that I would say, secondly I would say the statistics for the first quarter of this year are on the same level as the years 1998 to 1999. That is the kind of statistics that we have at the moment, they are lower than they were last year but the past two years have been bumper years. They are influenced in my opinion by all those factors that I have indicated and so it is not true to say that were we to have tax certainty company incorporations would be at the same level as the last year, were we not to have the issues kicking around on the political field and the Anglo-Spanish talks we would have the same levels as last year because that would be to disconnect Gibraltar from the real world and the real world is suffering substantially after 11<sup>th</sup> September. It is suffering as well as a result of the economic slowdown. We have seen it in the last few months and in the last few days in particular in relation to stock markets, and it is unrealistic to believe that bumper years will carry on being bumper years for year after year. There are economic cycles and it is inevitable at some point in the same

way as the property market is booming now will come down at some point in future, there is talk in the UK of a collapse at some point. There are fears about it because it is so high. The company incorporation, the inward investment financial services will not dry up but it is bound to suffer from the normal global economic cycles that everyone else in the world suffers from. Having said that, anything that the Government can do to contribute to fostering of business and encouraging inward investment we will do and so we will play our part in securing certainty by ensuring that the tax reform package is launched as soon as possible to achieve a competitive package going forward for the finance centre to allow us to at least do that and whilst we have no control whatsoever about the global situation the finance centre will then be able to compete on that level playing field with everyone else taking the risks that everyone else is taking and suffering the same extent that everyone else is suffering. I just want to end on this point in relation to financial services that whilst there are big challenges coming out of all those major economic aspects that are hitting on the Gibraltar economy there are opportunities and one of these is in relation to insurance. Insurance is the one area that over the last 12 months or so has been growing quite rapidly in the number of licensees, enquiries and other aspects that we are seeing partly in due accentuated and accelerated as a result of the 11<sup>th</sup> September tragedies because insurance activity has seen a reorganisation of the way that they do business post 11<sup>th</sup> September and there has been a much bigger interest in protected cell company legislation. Gibraltar is one of the few territories that has it, some American states, Guernsey, Cayman Islands are looking at it, and we saw recently that AOM which are one of the world's larger companies in protected that provide this type of service set up a Gibraltar entity under the protected cell legislation. I hope that there are other opportunities also which will be fulfilled in coming years.

Mr Speaker if I can pass on to my responsibility on heritage and planning.

#### **HON J J BOSSANO:**

Mr Speaker, I am grateful for the Minister giving way but before he moves to heritage, on "...moving ahead as soon as possible with the tax reform package", is this dependant on the response of the European Union, do Government have to wait for the European Union to say 'yes it is acceptable' before they can take that step?

#### **HON K AZOPARDI:**

Mr Speaker, this is a sensitive area and it is not really the time to get involved in this aspect of the debate and I will be grateful if the hon Member desists from questions in relation to that even though I understand his normal interest in that but all of the issues that he is raising are relevant in the context of tax reform.

Moving on to heritage and planning it is still my aim to apply to try and to get Gibraltar to apply for UNESCO World Heritage Status. This goes back some years now. In October 1997 the Culture Secretary in the United Kingdom, Chris Smith, announced during a review of the United Kingdom's tentative list for World Heritage Status. It had not been reviewed for 10 years and it was not likely to be reviewed for 10 years after they announced the new list, 2008, so I was keen to get on the tentative list and there was deep competition to do that. There were about 80 or 90 sites considered, only 3 sites outside mainland United Kingdom were considered for inclusion and after extensive consultation and liaison with the Culture Secretary I was pleased to be able to announce in April 1999 that Gibraltar was indeed on the United Kingdom tentative list for UNESCO World Heritage Status. Being on the tentative list meant, because this is a two stage process, one has to get on the tentative list to be able to apply for World Heritage Status, but one cannot apply for World Heritage Status if one is not on the tentative list of the Member State and so had we not made the tentative list in 1999 it would have meant that we

would not have been able to pursue any aspiration for World Heritage Status at least until the year 2010 or 2011 and in my view that would have been to lose 10 or 15 years of opportunity to pursue a laudable goal which would help Gibraltar substantially. I was very keen that we should go on the list and I was very pleased to be able to announce that we were on it. Having been on the list we indicated to the UK that we wanted to put forward our application during the sooner rather than later, meaning during the course or perhaps a forthcoming year well before 2005. I have had extensive discussions and correspondence with Ministers in the UK on this issue. There are two things which had impacted on the process that I am concerned about, one is that the World Heritage Committee in its meeting in Australia in December 2001 reviewed its rules so that it now restricts the applications that Member States are able to put forward to only one per country which means that we now have to ensure that we are the one that comes from the United Kingdom list whereas before we could have just gone on with other sites on that list, there is now deep competition within the United Kingdom tentative list as well which I am very conscious of. The second aspect is a more political one. We had a whiff of Spanish objection to the inclusion of Gibraltar on the United Kingdom's tentative list, the Chief Minister mentioned that some time ago which frankly would be completely unjustifiable because of the nature of this application. This is an application about heritage but I suppose that if one takes the view that Spain have no difficulty mixing unrelated issues as sport and politics they would have no difficulty mixing culture and art with politics and indeed I remember one of the Spanish speakers that I invited to a Calpe conference that I organised two years ago, showed me a letter that he had received from a Ministry in the Spanish Government saying that he should not come to the Calpe Conference which was ostensibly as the hon Members and listeners know is a heritage and culture conference organised by Gibraltar on an annual basis to foster awareness not only about local heritage but international heritage and we invite speakers and many speakers have come from around the world in to speak of particular themes. Many Spanish speakers have come before but it goes to show the pressure under which some people are put not to come to Gibraltar even for

a cultural and heritage exercise, so I suppose that on that note it is of no surprise that Spain are not entirely happy that Gibraltar is on the United Kingdom tentative list. I received assurances because I brought that to the attention of the UK Government and I received assurances that the UK would strongly defend the inclusion of Gibraltar on the tentative list and of course it goes without saying that the whole ethos of the UNESCO Convention is based on political aspects not forming part of the decision making process in this field. Indeed article 11 of the UNESCO Convention of 1972 precisely makes the point that decisions as to listing of sites on the heritage list are without prejudice to any sovereignty or territorial claims that arise in relation to the particular site. I certainly hope that if there are difficulties the United Kingdom will as they have given me assurances to do that they will strongly defend Gibraltar's inclusion and not only that, that this will not stand in the way of Gibraltar's application being put in years to come and I say that because there is some nervousness now because of reports that I am getting that this may be a factor that Ministers are concerned about in the UK. I would say that Gibraltar's application for Heritage Status must be dealt with on its merits, the booklet that the UK issued on UNESCO on the tentative list starts in its opening line saying, "the Rock of Gibraltar is one of the world's unique examples of a natural beacon and fortress which has been the focus because of its geological and strategic position of the attention of humans since the early days of prehistory. The Rock has long been the symbol of strength and stability and its singular geological makeup has permitted its use in defence by successive cultures". Then it ends saying, ".....the uniqueness of the heritage complex that is Gibraltar makes any direct comparison with other sites very difficult. Similarities of particular elements might be found in other sites but the entire complex of Gibraltar is unique." I hope that Gibraltar's application is dealt with on its merits, our desire to be put forward in a forthcoming year is considered by the United Kingdom on its merits, we understand we have to liaise with them because there is now a quota set by the World Heritage Committee we will do that but we hope that political aspects will not stand in the way of Gibraltar's application. The World Heritage Bureau in Paris themselves when they came to Gibraltar for the Calpe 1999 Conference told me and

encouraged me that Gibraltar should put forward its application. They invited us to go to Korea on a UNESCO sponsored conference to put forward applications where everyone else was a World Heritage Site and Gibraltar was one of a very select few places around the world that were invited by the World Heritage Bureau by UNESCO, to make presentations because they recognised the value of Gibraltar as a potential World Heritage Site. The irony was that in one of the themes we were discussing how to classify World Heritage Sites and what criteria to use and the committee and the UNESCO Bureau in Paris decided to adopt the presentation of Gibraltar and the system that Gibraltar had suggested on how certain things had to be classified. Dr Clive Finlayson who has been working closely with me on this issue has been used by UNESCO as their expert on devising systems and a lot of work has been done by him for them on other aspects of World Heritage. When the Finance Centre did some marketing two weeks ago in Luxembourg it did so in a place that is a World Heritage Site that describes itself as the Gibraltar of the North. The irony is that the Gibraltar of the North is a World Heritage Site and the real Gibraltar, the Gibraltar of the South is not and therefore I want to put forward Gibraltar's application and I hope that political aspects do not stand in the way of a deeply meritorious application that everyone in Gibraltar should support not because we are all purists because I certainly am not a purist but because this is about our cultural identity, our roots, our national identity and this also has an economic aspect, there is a deep link between heritage and tourism, it can foster jobs, it can attract people to Gibraltar, it is a mark of prestige and I am deeply committed to trying to secure that. It may not be possible but I will certainly try to do that.

There are other elements of the heritage strategy that I want to gloss over. One is that we are reviewing a Heritage Chart that I hope to be able to launch at some point and we are doing work towards that. There is an information and awareness campaign that we are going to give an impetus to and I did mention last year that I wanted to issue planning information booklets and the reason that has been delayed is because now that we have

launched the new Town Planning Ordinance and it has been working for about a year or 18 months there are some aspects that have come to light that need to be cleaned up and in the workings of the new system there may be aspects that we want to amend so there will be legislation that I bring to the House hopefully later this year, certainly during the course of the financial year, to mop up the Town Planning Ordinance that will then allow more planning information to be released on advice and assistance to applicants. We will carry on our investment in conferences, research, excavation and culture and so Calpe 2002 this year will focus on Gibraltar/Malta. The reason for that is that we alternate between different themes, history, heritage, natural heritage, Neanderthals last year, there is going to be something on Barbary Macaques next year and ape management and this year I want to do something on an area of history and culture and heritage that I think are very dear to a lot of the people in Gibraltar and indeed is a very important aspect of our history. So the Gibraltar/Malta connection will bring speakers from Malta and Gibraltar to talk about social developments, archaeology but also to talk about political developments and there are very similarities on many aspects of our history during the last 50 years or so but I think very interesting for parallels to be drawn between Gibraltar and Malta which will captivate the local audience. That conference will be held in August and I certainly hope that as many people as possible go to that conference and we will give details of that in due course. There are specific heritage projects that are also important, some of them have been highlighted by my Colleague the Minister for Tourism and I would say Rosia Bay and the Victualling Yard is an important project of a commercial nature which has also heritage elements and we are sensitive to that, close of tenders is next week and we hope to be able to consider that soon and I want to restate my aspiration that we should recover the Moorish Castle as the jewel in our heritage crown sooner rather than later and I am working on ideas that will make that possible in the medium term. I do not know if it will be possible we will require other measures to be taken but certainly it is an aspiration that I have that I think a lot of people also have that the Moorish Castle which is one of the most symbolic aspects of Gibraltar's heritage and one of the most obvious ones should be

opened up for touristic use. Government will continue with their policy of clearing the city walls and we have a policy of doing that, we demolished the ex-Linares building last year and we hope to demolish other accretions and not permit development on the city walls in future. Ideally there should be a buffer zone between the city walls and other developments and it is an aim of the Government to be able to achieve that to the extent possible.

Mr Speaker, the tax relief concessions that we launched in 1996/1997 to the City Centre then extended to Irish Town and then extended to every property within the City Centre have been very successful and the statistics that I had and the take up that we have had has been quite significant over the last few years and over £1 million of estimated expenditure of works in about 70 applications have been made during the last few years. The Government intends to extend those concessions to other areas in Gibraltar and we are working on legislation which we will take by regulation later this year.

Mr Speaker, I have almost finished my heritage and planning contribution, because this is a state of the nation debate I want to stray very briefly into a couple of minor points that other people have mentioned. I would also like to see the recovery of the Garrison Library for a public purpose and I hope that the discussions that my Colleague the Minister for Culture is engaged in with the MOD prosper and come to a satisfactory conclusion to allow that to happen sooner rather than later and I concur with the comments made by the Hon Dr Valarino as regards to the House of Assembly. I think this is an important institution that possibly has not seen refurbishment for many, many, years that now requires substantial refurbishment for it really to achieve and to be consolidated and if we are going to have a Parliament that has the standing and respect of the institution that it deserves I think we also need to invest in our institutions. Investing in our institutions is investing in our democracy and in our future generations and I think that this House should on a cross-party basis agree that measures need to be taken to upgrade these facilities.

Mr Speaker, I was delighted to hear my hon Colleague the Minister for Health give such a detailed exposé of the measures that will be taken on the new hospital. It was my privilege to be the Health Minister which after so many years and so many Governments considering whether a new hospital should be built it was my privilege to be the Health Minister when we made that announcement and to make my small contribution to that attempt. I think it is an important legacy to leave the people of Gibraltar and this Government are committed to achieving that progressive legacy for the people.

Finally, Mr Speaker, there is a crying need for reform in some areas of the public service. There is a crying need to improve the service available to the consumer. People deserve better in many fields, there are antiquated practices and ineffectiveness and inefficiencies in some areas. We need it for the economy and we need it to achieve a well run community and I certainly rise just to end my contribution by saying that I certainly support the efforts that colleagues are making to reform areas of the public service where reform is necessary such as the Post Office and Buildings and Works because I think it is an absolutely necessary contribution that we need to achieve reform in all those areas. I commend all the heads of expenditure standing to my name in the budget.

The House recessed at 11.40 am

The House resumed at 11.45 am.

**Debate continued on the Appropriation (2002-2003) Ordinance 2002.**

## HON DR J J GARCIA:

Mr Speaker, when opening the debates on the estimates last Friday the Chief Minister spoke for about three hours, only thirty minutes of which was directly related to the estimates of its revenue and expenditure that this House is being asked to approve. That says it all. He described this as a balanced and sensible budget. It speaks volumes for the kind of budget that this is that even the Chief Minister himself has paid it so little attention. The last 11 months have been dominated by the news that the United Kingdom and Spain have set themselves a deadline of this summer by which to conclude an agreement on the future of Gibraltar. This would be an agreement that nobody in Gibraltar wants. There is not one single Member in this House or one political party in Gibraltar that is in favour of joint sovereignty with Spain. What the Opposition still cannot understand is why the British Government shows to proceed down this route without discussing it with the Government of Gibraltar first and getting their support for the relaunch of the process if that is what they want to do. The Opposition would have been against the process anyway but at least it would have been a more proper way to conduct themselves. Indeed if we recall that in 1984 the Brussels Agreement itself was only proceeded with and concluded when it became clear that it had the support of the then Gibraltar Government and that it would be carried by this House through Government majority. London then followed the signals from Gibraltar which indicated that the then Gibraltar Government of this House would play ball. Eighteen years later the United Kingdom decided to relaunch the same process. There will be a time to question how we got into this crisis and to ask what signals were being sent to London from Gibraltar and by whom before the British Government decided to relaunch the talks.

The Opposition are and remain totally opposed to the Brussels negotiating process because it is the denial of our right to self-determination. Indeed over the years we have warned of the dangers that could emerge for Gibraltar from these talks and those warnings have now sadly been proved to be correct. We therefore

condemn the decision of the British and Spanish Government to relaunch the process in July 2001 which came shortly after we discussed and approved last year's budget in this House. The Government did not condemn the process, far from it, they said they themselves entered into a dilly dallying manoeuvre which can be best paraphrased by using a William Shakespeare's quote, "To be or not to be." This became to go or not to go. Nevertheless the Opposition welcomed that the Government had chosen not to attend the talks under the Brussels Agreement. We welcome it even though the reasons for staying away are different to ours. In this context I am reminded of that scene in Charles Dickens 'Pickwick Papers' where Mr Pickwick offers the following advice to Mr Snodgrass, ".....that it is always best on these occasions to do what the mob do....", but ".....suppose that there are two mobs..." suggested Mr Snodgrass, ".....then shout with the largest," replied Mr Pickwick.

Mr Speaker, the general perception in Gibraltar is that in staying away from the Brussels Talks the Government too has followed Mr Pickwick's advice. The opposition's reasons why Gibraltar should stay from these talks are well known. The process is the implementation of the resolution of United Nations of the 1960's which declared a referendum null and void and called for the decolonisation of Gibraltar in accordance with the territorial integrity of Spain. The talks therefore take place under the umbrella of these anti-Gibraltarian resolutions and it has long been our contention that this predetermines the outcome. The commitment to negotiate sovereignty under the UN resolutions entered into by both Britain and Spain in 1984 and the reference to the preamble entered into by Britain alone effectively meant that we were being told that the only future for Gibraltar lay in being partly or wholly Spanish but that this would happen when the Gibraltarians decided. This plan which we totally reject is exactly what we are facing today. The Brussels Agreement itself is therefore the ultimate 'done deal'.

The way forward which we have been advocating from the Opposition Benches for some time lies in the new Constitution produced by the Select Committee of the House and approved by this House in February. When the Select Committee started its work there were many who doubted whether an agreement would be possible but a Draft Constitution was produced line by line. We have long advocated that the best way to derail the Anglo-Spanish talks was to have held a referendum at the start and ask the people whether they wanted to go along the Select Committee and self-determination route to decolonisation on the one hand or the Anglo-Spanish route to decolonisation on the other. We continue to maintain that the two routes are incompatible and that a resounding vote in favour of the former option would have been the best way to derail the talks. The Gibraltar Government once again do not agree. Given that both Britain and Spain have said that joint sovereignty is on the cards, that we reject joint sovereignty and that we believe that self-determination and the Select Committee proposals are the way forward we should therefore know precisely what to reject in any referendum and precisely what it is that we want instead.

The message from this House must be that we will never surrender our right to self-determination and that attempts to smear or bully Gibraltar in that direction will be seen for what they are. I now move to matters directly related to my portfolio which are Trade, Industry and Tourism.

Mr Speaker, it is fair to say that initiatives in relation to e-commerce are hardly taking Gibraltar by storm. This is a pity because the Opposition strongly support the development of Gibraltar as a centre for e-commerce but the fact remains that this is not happening. In answer to Questions in the last House the Government confirmed that there were still no applications for certifications service providers to certify electronic signatures in Gibraltar. The e-com project which is supposed to be a \$78 million investment which should create initially about 100 jobs has collapsed. This was the only major investment project of this type

that Gibraltar had attracted. At the time that we passed the Electronic Commerce Ordinance in this House we made the points that this alone did not guarantee e-business. We also pointed out that there were certain requirements which the directive assumed where already in place which were not in place in Gibraltar. This related in part to computer privacy and to data protection matters. It is quite amazing that computer hacking has still not been expressly outlawed in Gibraltar given that at one point the Government's own computers were exposed to being hacked when trojan viruses were found in some of them. The delay in tackling this issue is not acceptable as computer privacy and security are essential to the development of electronic commerce as the directive itself recognises. The Government mention four pillars of legislation. Marketing, education and support in relation to e-commerce in last year's budget and this year that same philosophy and those same objectives have been maintained. I regret to say that we have still not completed even the first of these objectives which is the legislative one and it is also relevant to see that in the Minister for Trade and Industry's own contribution today the only specific target which he said in relation to e-commerce is the question of doing another survey next year.

Mr Speaker, in relation to EU funding which has also just been the subject of the Minister's address there are serious issues which arise in relation to this which the Minister has not touched upon. The President of the Federation of Small Businesses declared at their AGM last year that the procedure for accessing small grants is and I quote, " ....too cumbersome, complicated and not at all conducive to encouraging small businesses to access these funds." She added that unfortunately there is no difference in the paperwork involved for the application for a large grant or for a small one but that resources in larger firms such as Project Managers are not available to the smaller business man. The GFSB further suggested that Ministers should deal with large grants only and leave officials to decide on the award of smaller ones following a stipulated criteria. The main point of concern to the business community is that the procedure is too bureaucratic and complicated. The opposition considers that this is an issue

which should be addressed, if it is not possible under the EU funding mechanisms and certainly in respect of the Gibraltar Enterprise Scheme and Government Grants it is a known fact that the Minister himself confirmed this to this House last year and repeated this year that there are insufficient private sector projects coming forward for this funding. In relation to the points which I remember raised on EU funding particularly the alleged lack of awareness, the comments that were made in relation to the lack of awareness which the Government just sought to correct through leaflets and advertising and newsletters, these were comments which arose in surveys conducted by the Chamber of Commerce and by the Federation of Small Businesses that I understand those have been two separate surveys but the issue of the lack of awareness which the business community claimed was there is quite a separate and different issue to the question of making the procedure less complicated in terms of the Gibraltar Government grants.

Mr Speaker, in relation to doing business in Gibraltar, the basic point is that the cost of doing business remains too high. In addition to this local traders are subjected to unfair competition from cross-border traders who have no fixed premises in Gibraltar and do not have the high overheads associated with such a presence. This unfair cross-border competition was mentioned by the Chief Minister in 2000 and in 2001 in his budget address but nothing has been done to address this. It is not right that whilst local traders abide by a range of rules and regulations cross-border mobile tradesmen come and go as they please and contribute nothing to the local economy.

I come now to the question of licensing hours. Honourable Members will recall the arguments that the Opposition put forward against the new Licensing Legislation and I do not intend to rehearse that debate here again. We were told at the time that the special hours in designated zones was only a temporary measure. The GLVA complained late last year that they were still waiting for a decision on the Government's all hours experiment. In addition

to this at the last annual general meeting of the FSB its Chairperson declared that while a review of the whole Licensing Legislation and the whole licensing system was welcome it did however, ".....it totally ignored the Licensed premises long established in other areas of Gibraltar. It is extremely unfair to discriminate in this way." The federation had submitted its views to the Government originally in November 2000. In the summer of 2001 the Government decided to introduce the new licensing hours on a temporary basis in some parts of Gibraltar only. The Government's consideration of this matter seems to have taken an extraordinary amount of time. The Chamber of Commerce adopted a similar position to the GLVA and the FSB on this issue and we urge the Government to listen. In his last summer report the Chamber says that, ".....it had always been envisaged that the Casemates project could attract increased business to the area but unfortunately this has not materialised." It adds that although the project has had its merits, ".....the fact remains that the other areas of Gibraltar have been affected negatively and argues that the pilot scheme should not be confined to Casemates and the Marinas." The Chamber makes a point that all businesses in the sector pay the same amount of licence fees and concludes that all should be allowed to remain open if there is business to be had.

Mr Speaker, moving on now to the Finance Centre. The estimates before this House show that the marketing of the Finance Centre in the last financial year cost the tax payer £180,000. This fell short of the £240,000 which has been set aside for this specific purpose and we have heard the arguments put forward by the Minister for Trade and Industry in relation to that, in the sense that if there was a tax certainty then the Government felt that it is better not to market. Perhaps there is an argument to be put in the reverse in the sense that in a climate which is bleaker and where perhaps one needs to attract investment and attract people to come to Gibraltar there might be a case for actually increasing the general marketing at that time and not decreasing it. The Opposition in any case fully supports the Finance Centre in Gibraltar and the contribution that it makes to the economy. We



believe that the Finance Industry is an important source of wealth and employment for our people and we want to see it develop and consolidate further despite the various international tax challenges and others that we face. The Government have said that they have in mind the plan to restructure the system of taxation in Gibraltar through which we would keep our competitive edge and comply with the various international initiatives. We now know that this will no longer be a tax on profits. The Chief Minister also said on Friday that the Finance Centre affected companies and leading players had all been consulted. The Primorolo Group of the European Union is now it seems also aware of the details as is the British Government who have taken the decision to defend the tax reforms before the European Union and are pointing to the Channel Islands in the direction that Gibraltar intends to take.

Mr Speaker, it is regrettable that this exercise has involved everybody except the Opposition who have a direct interest in whatever proposals the Government have drawn up. These have not been made available to us even on a confidential basis.

Of interest to the Finance Centre and to trade in general are the questions of VAT and the Customs Union. The Minister for Trade and Industry focused on one aspect of this matter when he told the House at budget time last year that , “....if there is a redefinition of the point of taxation on VAT it will impact on Gibraltar. If the focus on the point of taxation is a location of the recipient it would certainly do so in relation to businesses that may want to set up in Gibraltar as a VAT free zone to transmit, for example, digital music into the European Union.” That was only one aspect but the Opposition is against VAT being applied in Gibraltar and against our joining the Customs Union. In February the Foreign Secretary Jack Straw told the House of Commons that, “.....one thing is certain the as it were duty free low tax status of Gibraltar will end over the next four or five years.” That has got nothing to do with the Government of Spain or the UK. The Opposition were concerned at the statement made by Mr Straw as a reference to the ending of our duty free low tax status obviously implies

entering into the Customs Union and VAT zones. In an address to the Chamber of Commerce that same month which suggested a shared concern the Chief Minister is quoted as having said that after sovereignty membership of the Customs Union and VAT was next on the Government’s ‘NO’ list. Indeed in December of last year the Government supported a motion tabled by the Opposition to note persistent media reports and remarks by Peter Hain, FCO Minister, implying that the current Anglo-Spanish discussions may include the alteration of Gibraltar’s terms of membership of the European Union and calls upon the British Government to clarify whether this is the case and if so to desist on such a discussion of this issue.

In its annual report for 2001 the Chamber of Commerce said the following, the question of VAT and its application to Gibraltar will come to the fore in the coming months. Information available to the Chamber indicates the need for a categorical refusal of and resistance to any implementation of VAT. The Rock must maintain its existing exemption from the Customs Union. The Opposition shares this view. We believe that Gibraltar’s entry into these EU measures would mean that we would lose our ability to be competitive in certain products, Gibraltar would also be expected to join the Common Customs Tariff, would lose control of other revenue that is raised through import duty and would also lose the ability to tax different products as we see fit. The need to apply EU quotas on the importation of certain goods is also an additional administrative burden that may well ensue. The Opposition has no doubt that the cost structure of the economy would rise through the application of value added tax, something that would be further complicated by exposing certain services or products to VAT that are presently tax free. All this would make Gibraltar uncompetitive, it would make us less prosperous and not more as has been suggested by some. In its public pronouncement the Spanish Government have sounded confident that this would happen by 2004. A statement made by Jack Straw to the House of Commons in February of this year serves to intensify the debate. Given this well founded concern the Opposition subsequently sought and obtained clarification from the

Foreign Office that there is no question of Gibraltar being obliged to give up its present position outside the Customs Union and VAT zone. This has served to reassure the business community who as we have seen from the Chamber's Annual Report needed to be reassured.

Mr Speaker, I move on to issues related with tourism and would like to start with marketing. Last year the Minister for Tourism told the House that the Government's plans for marketing Gibraltar were being reassessed. The Budget was increased by about £200,000 to a total of £950,000. We were told that through this initiative the true marketing spend on Gibraltar would top the £1 million mark for the first time. A new public relations agency, a new advertising agency, and a specialist in tourism marketing were appointed. The Minister said, "...all the new contractors have been given a one year contract and they will be judged on their performance. If they deliver what they promise they will be retained on an annual basis. After listening to the Minister's address this year we still do not know what it was that they promised nor do we know what they have or they have not delivered, but certainly as I go through this address I hope to shed light on some of these matters. The Minister also told the House then, last year, that the marketing budget had been strictly scrutinised on the basis of value for money. That was something that we welcomed, we had actually been calling for this to be done so that the value for money consideration to be taken into account for a long time but we need to see whether that has actually happened or not this year. Given that this was the criteria set by the Government and by the Minister himself I now propose to measure the target set with the money spent and with a final result in terms of visitor numbers. The marketing budget for tourism as I said earlier now stands at £950,000. This is the same as last year, it is also three times more than it was in 1996 representing an increase of over 300 per cent. The latest tourist survey published by the Government shows that in 1996 there were 6.5 million visitors to Gibraltar with a budget of only £300,000. In 2001 there were 7.3 million visitors with a budget of £950,000. This represents a monetary increase of about 300 per cent and a return

in terms of the increase in visitor numbers of about 12 per cent. It might well be possible to end this contribution the value for money aspect right there. In his budget address last year the Minister for Tourism mentioned that most of the money for advertising was geared towards the United Kingdom and just over 15 per cent would be spent in Spain. The House was told that there had been a reassessment of the Government's advertising approach programme and timing. We are now told that in March of this year a sub-committee of the UK GTA was formed to report on recommendations for changes to the programme of exhibitions attended by the Tourist Board in both Tourism and specialist conference markets. The new schedule would be rolled out over the next 18 months. The advertising agency, the promotions people, the public relations agency and the exhibitions have all been changed or are liable to change which leads us to question whether the Government have a clear idea of the direction in which they are heading.

In the context of marketing and marketing success or failure it is important to mention the 11<sup>th</sup> September tragedy last year, indeed in the various speeches that we have heard by the Chief Minister, the Minister for Trade and Industry and the Minister for Tourism, all of them referred to 11<sup>th</sup> September several times. It is already clear that when tourism figures go up the Government take the credit for the success but when they go down it is always somebody or something else that is to blame and over various years we have heard the high peseta rate being blamed, the fishing dispute at the border and now it is 11<sup>th</sup> September. When we consider 11<sup>th</sup> September it is important to remember that before the tragedy happened eight months of the year had already passed from January to August and any trend can also be established firstly and secondly if it is a global effect and everybody else is also affected it is important to obtain statistical information to see what the effect was in other places, which is what I propose to do. It is therefore important to look at different sources regardless of that it is important to look at what different sources inside and outside the Government have said on the matter of 11<sup>th</sup> September. In October last year, obviously after

September the Minister for Tourism was telling a Gibraltar Day audience in London that, ".....whilst London had seen a 40 per cent fall in hotel occupancy he was able to report that in Gibraltar hotels and airlines had seen a relatively small impact from the world crisis." The marketing targets remained, short breaks, cruises and yachting. That same conference also heard a different speaker say that the United States and the Middle East had suffered as destinations and I quote, ".....but as a result Europe was now getting some of the market that would have gone to these destinations." This was confirmed further in November by a leading local player in the cruise industry who told the press that, ".....we have already had to cancel liner calls at Tangier, Casablanca and Arcadia and are making calls at Gibraltar instead." Indeed the Chief Executive of the Port Authority himself told the press that the whole of Europe will suffer from the loss of American operators but Gibraltar may benefit from operators coming to the western Mediterranean rather than the east. It is significant to note by way of a general comparison that the number of Europeans visiting the Costa del Sol this year is up and not down. Given that the marketing target set by the Minister during Gibraltar Day after 11<sup>th</sup> September were short breaks, cruises and yachting I intend to look at each in turn in more detail.

The number of cruise liners calling at Gibraltar in 2001 was less than in 2000, the figures supplied to the Opposition by the Government show that there are 173 ships in 2000 and 150 in 2001. Despite everything that has been said about the possible benefits to the western Mediterranean area of the 11<sup>th</sup> September tragedy it is also possible to compare the period January to August 2001 with the same period in 2000 all before 11<sup>th</sup> September. This shows that from January to August there were 88 cruise ship calls at Gibraltar and in the same period in 2000 there were 108. There were already nearly 20 cruise calls less before 11<sup>th</sup> September had happened. The number of cruise passenger arrivals is also down so this does not mean that more people are coming in larger ships, less people are coming and less ships are coming too. For the avoidance of doubt let me say that the Opposition want more tourists and more ships to come to Gibraltar, we value the

contribution that tourism makes to the economy of Gibraltar and we value the role that it plays in creating economic wealth and employment for our people. What we are doing is measuring the Government's performance by the standards and the targets that they have set themselves. It is very relevant in this context to look at what is happening in other Mediterranean ports in the area and to make an analysis of what is happening there given that the trends in the industry or the possible effects of 11<sup>th</sup> September will be felt by everyone in the region not just Gibraltar. As the Minister knows Barcelona is now the President of MedCruise the Association of Mediterranean cruise ports. They obtain 33 of 36 votes cast and regrettably beat the challenge from Gibraltar and also Venice. Barcelona received 547 cruise calls last year with 655,000 passengers. They have five cruise terminals, serve as a starting point for many cruises and expect a growth of 15 per cent in passengers and 20 per cent for ships. In January and February 2002 this year they have almost doubled the number of passengers that they obtained in the same period in 2001. Whilst theirs doubled, the number of cruise passengers calling at Gibraltar fell. In Malaga, for example, they expected 188 cruise liners and obtained 200. It is clear that this is an area in which more could be done as even if we cannot agree on the effects of 11<sup>th</sup> September we should at least agree that these effects would be the same for other ports in the region. The Minister was wrong to suggest yesterday that calls to Gibraltar have dropped because American lines were cancelling Mediterranean cruise calls, Barcelona has gone up while we went down and they are also in the Mediterranean. From January to April this year there were 19 cruise calls at Gibraltar, this compares with 21 in the same period last year and 31 in the same period in 2000 and represents a drop in cruise calls of about 34 per cent from them. The same situation arises in respect of cruise passengers. There were less cruise visitors to Gibraltar from January to April this year than in the same period in 2001 and that was already less than there had been in 2000. The drop of passengers in that period from 2000 is now of 29 per cent. The Opposition want more ships and more cruise passengers to come to Gibraltar and we support efforts made to ensure that the figures go up in this coming year. Having

said that it is clear that the present marketing efforts have not yielded an increase in this field.

Mr Speaker, the second area mentioned by the Minister during his Gibraltar Day address in London was yachting. The Opposition believe that this is also an important industry and that it is something that should be encouraged to develop further. We now need to contrast the Government's declared objective with the results and those results are taken straight from the Government's own figures as published and as made available to the Opposition. The number of yachts that came to Gibraltar in 2001 was less than those that came in 2000 and less than what came in 1999. There were less yachts in 2000 than in 2001 and less in 2000 than there had been in 1999. The decline in trend that the figures show is something that the Government must work harder to arrest, this drop in January to April this year is compared with January to April last year. The figures show a steady drop year after year and we believe that this is not good for the industry and not good for Gibraltar. The same can be said for yacht passengers. The number of yacht passengers who visited Gibraltar in 2001 is lower than in 2000 which in turn was lower than 1999. It is clear that this is a second area highlighted by the Minister where there is room for improvement and it is also clear that the effects of 11<sup>th</sup> September must not have been so considerable because this is a trend which dates back to 1999.

Mr Speaker, the third target area announced by the Minister during Gibraltar Day in London was the short break tourists. Perhaps short is now the operative word as the hotel figures published by the Government show that the length of stay in hotels of tourists has shortened every year since 1999. Those who stay in a hotel stay for less and less time. In his budget address last year the Chief Minister said that links with Heathrow have been restored and a third airline on stream which we believe is imminent. That link with Heathrow which was restored last year was removed again in March this year so it lasted about 12 months. This has been a hard blow for many business travellers and holiday makers

who now find that they have to add to their journey the inconvenience of a bus drive from Gatwick or Luton. The Fly Europa flights from Manchester and London Stanstead have still not materialised although we now hear the 16<sup>th</sup> July as a possible date for commencement.

It is not surprising that the Chief Minister has remained silent on the lack of airlinks this year and that the Minister for Tourism has sought to distance himself from this by saying that this is a matter for the airlines and the commercial consideration which has nothing to do with the Government. The problem is that if they take the credit when airlines are put in they must also take the stick when those airlines or air routes are removed. The plain fact is that Gibraltar airport served five destinations in December 1996 the year they came into office. These were Gatwick, Heathrow, Manchester, Casablanca and Marrakech. By the end of the following year Luton had replaced Manchester, in 1998 the Heathrow flight was stopped only to be resumed again in 2001 and then stopped again this year. By the end of 1999 Manchester had gone, Casablanca had disappeared by the end of 2000 and Tangier had also disappeared. The present position is that we have no air links at all with any airport outside London and that we have no air links at all with Morocco following the expensive fiasco with Regional Airlines. This is a matter of serious concern and not just to the Opposition, flights to an airport in the north of England would open up a catchment area for people who want to visit Gibraltar without having to make the long trek south to Gatwick or Luton. It would have the added bonus of being more convenient for students and others from Gibraltar who study or travel to the north of England or Scotland. It is quite incredible that despite the amount of money that the Government are spending we can fly less destinations from Gibraltar airport than we could before when less money was being spent. Indeed the Gibraltar Hotel Association recently made it clear that establishing flights to a regional airport in the north of England should be top of the agenda for the Government. They were also quizzical of the Government's policy of attracting new hotels to Gibraltar without a new carrier and regional UK air access to Gibraltar.

Mr Speaker, the hotels pointed out that an average 200 bedrooms remain unsold every night and that only 30 per cent of their business comes from UK tour operators. It is clear that there is still a lot of work to be done in this area as well. It is important to bear in mind when making an analysis of the short break tourist that there used to be 11 hotels and 1,050 beds in Gibraltar. There are now seven hotels and only 600 beds which should be comparatively easier to fill. The majority of visitors to Gibraltar airport are in transit and do not stay in Gibraltar. The gap between those who stay in Gibraltar which is central to the short break tourism market and those who leave has widened from the year 2000 to the year 2001. The question of tourists flying to Gibraltar and staying in our hotels is one that the Government set itself the objective of tackling in 1996. There has been little success on this front with more persons flying to Gibraltar but then choosing to go to Spain. In addition to this the Hotel Association also pointed out recently that at times clients wanting to come to Gibraltar for a short break could only do so by paying Club Class fares.

The Government said that they had set themselves the objective of encouraging growth in the short stay market, the figures available to us in this budget suggest the opposite. It is significant to note that the estimates for money from the Airline Assistance Scheme to encourage new airlines to fly here has actually gone down. Last year the estimates were for £0.5 million of which £278,000 were used. The estimates for the coming financial year is £185,000 much less than that estimated and less than what was spent last year. The Government expectations for growth in this sector are not matched by the funds that they have set aside for the purpose which have gone down instead of up. Despite the comment by the Minister for Tourism that it also marks the end of the subsidy to Monarch and GB Airways, it does not show much in the way of enthusiasm at the prospect of encouraging new airlines. In addition to this the position for revenue from airport departure tax that the Government have made for the coming financial year is again the same as it was last year. Once again the figure would suggest no growth.

A claim made by the Chief Minister during his opening address that there has been a very small increase in the number of visitors by land must be the understatement of the year. It is significant to know that despite the increased marketing spend the number of visitors by land has only marginally increased by a mere 0.25 per cent. In an extraordinary statement yesterday the Minister for Tourism described this 0.25 per cent as an achievement and said that his marketing strategy has paid dividends. All the more extraordinary because in some sectors there has been a pronounced decline. During the budget session last year on behalf of the Opposition I noted that there was already a downward trend in respect of visitors coming to Gibraltar by coach. This trend has continued. There have been less pedestrian visitors, less people in cars, and less people in coaches coming into Gibraltar in 2001 than there were in 2000. The number of cars and coaches themselves have also dropped. It makes no sense to those of us in Opposition to note that at a time when the Government intensified their marketing campaign in Spain to include roadshows in Andalusia and other events further afield, Gibraltar actually gets proportionally less visitors over the border and not more.

The figures for visitors to the Upper Rock which the Minister has paraded in the past as a reflection of the Government's tourism marketing success also makes depressing reading. There were over 46,000 less visitors to the Upper Rock last year compared to the previous year. The trend continues and in the first four months of this year we are already over 10,000 people down on last year's figure which itself was already down. The Opposition wants the tourism industry in Gibraltar to succeed, we want more people to come to Gibraltar, by land, air and sea to provide a positive input into our economy. When the Government increases the marketing budget to nearly £1 million it is our duty in this House to establish whether there has been an acceptable return on the investment. It is clear this has not happened and that the three targets mentioned by the Minister himself during Gibraltar Day in London have all been found sadly lacking.

Mr Speaker, we need a policy which is coherent and which is consistent and not gimmicks. The Taxi advertising campaign in London was originally part of the home from home programme which was later adapted for political purposes as well. I remember reading that there were 12 London taxis carrying a Gibraltar advert. If I heard correctly the Minister said 52 yesterday which seems a lot until one considers that there are now over 20,000 taxis operating in London this helps to put things in perspective.

During his budget contribution last year the Chief Minister highlighted a number of tourism indicators to show the success of the Government's marketing policy. When comparing last year to the previous one it is clear that a better return could have been obtained from the money spent. The Chief Minister said last year and I quote, "...every indicator shows a continually growing tourism sector....." those same sectors, coaches, Upper Rock visitors, cruise calls, cruise passenger calls, yacht arrivals, all of which he used to illustrate the success of the Government's policy last year because they were up are now down. In total the record nearly £1 million marketing spend has secured only 1.5 per cent more visitors in 2001 than there were in 2000. When one looks beyond the media blitz, the trade fairs, promotions, brochures and roadshows the stark reality is that there has been an overall growth of only 1.5 per cent in visitor numbers on the nearly £1 million investment. The Opposition is not saying for one moment that people are not coming to Gibraltar, what we are saying is that much more could be done with the money spent.

Mr Speaker, with regard to the trading and business community it is also clear that this budget could have done much more in a sense it did very little and we now have to wait for the reform of company tax of which we know nothing about except what the Minister said in his opening address. We have to wait for that reform to take shape. In conclusion it was John Quinn who said that:-

- Socialism is when one has two cows and you give one to your neighbour;
- Communism is when you have two cows and the state takes both and gives you milk;
- Fascism is when you have two cows and the state takes both and sells you the milk.
- Nazism is when you have two cows and the state takes both and shoots you;
- Capitalism is when you have two cows, sell one and buy a bull; and finally,
- Bureaucracy is when you have two cows and the state takes both shoots one, milks the other and pours the milk down the drain.

Mr Speaker, we need to ensure a better return on our investments, thank you.

The House recessed at 12.30 pm

The House resumed at 2.35 pm.

Debate continued.

## HON CHIEF MINISTER:

Once again this year Government Members find that we are confronted by an Opposition debate on the Government's estimates and also on the Government's exposition of their various departments which is really confronted and replied to with such thin argument that it can only fill the Government with confidence that things cannot be bad, because frankly, if the worst that can be said about the Government's conduct of the affairs of Gibraltar is what we have heard in the last 48 hours from the Members of the Opposition then frankly I think the Government have cause for at least quiet optimism and quiet satisfaction. The Opposition's failure to have pressed the Government even on the issues upon which the Government are open to being pressed is not going to lull the Government into a sense of complacency because we know that regardless of the performance of the Government such as it might be there is always more to do. Two Members of the Opposition chose to begin their own interventions by criticising me for not having spent longer on the detail of the estimates of revenue and expenditure and then went on to completely ignore the estimates of revenue and expenditure themselves, are the hon Members not aware that this debate has long since now been an occasion upon which there is a review of the performance of Government generally and the performance of the economy in particular? Or, have they forgotten as I said, the problem with the hon Members is that as they write their speeches in advance they never reflect anything of what they hear. I pointed out to them in my own address that in the days when the hon Members were in Government there was no reference at all to the estimates of revenue and expenditure because they understood that the estimates of revenue and expenditure was at best half the economic picture of the Government of Gibraltar. I do not see why they want to begrudge me now not just a continuation of 25 years of established precedent in this House but frankly a continuation of that precedent on a basis which is a good deal more informative than they ever produced when they were in Government.

Mr Speaker, if I could start answering some of the specific points that have been made by the hon Members. The Hon Mr Baldachino asked whether the Social Services Agency would be ready to take over from Milbury once their contract came to an end or whether the Milbury contract would have to be extended. I am happy to confirm to the hon Members that it is fully envisaged that the Agency will be ready in time to take over the Milbury function. The Hon Mr Baldachino also touched on an issue which I will deal with at some length when I respond to the remarks of the Leader of the Opposition because they are both completely wrong on the question of these statistical arguments which leads them to believe that there are now fewer Gibraltarians employed in the economy of Gibraltar. They either are unable to grasp the statistics that are placed before them or they grasp the statistics that are put before them and then choose to quote selectively from them in order to create a political impression that suits them. The Hon Mr Baldachino said that the Government had to make every effort to ensure that Gibraltarian fill jobs something which has not happened since 1996, of course the hon Member can ignore the reality if he pleases but he must know that since 1996 the Government have been intensely engaged in initiatives precisely designed to ensure that Gibraltarians have every prospect and opportunity of successfully competing for the jobs that are available. He knows the enormous investment that there has been in training, not just in quantity of training but indeed in the quality of training which is the best investment that the Government can make in ensuring that Gibraltarians aspire to the jobs available in the economy and presumably he is aware that the Government have since late 1996 been running a Job Club on terms precisely designed to enable local residents to get the sort of help, interview coaching, skills acquisition and projection training that will make it more rather than less likely that they will get jobs. The hon Member may wish to say that there is more that the Government can do and of course the Government always accepts that there is more. Political endeavour is never completely exhausted in any aspect of political administrative life there is always more that can be done with resources and time, but for the hon Member to say that nothing has happened since

1996 designed to ensure that Gibraltarians get jobs is a complete and utter nonsense.

The Hon Dr Valarino also raised a couple of points which are worthy of response. He said that 43 per cent of all complaints to the Ombudsman relate to the Housing Agency and to Buildings and Works. Why does the hon Member think that the Government are determined to reform the Buildings and Works Department? If not because both we and the Government tenants who are the complainants to the Ombudsman are dissatisfied with the service that the Government are giving to their tenants, and we do not point the finger exclusively at the workforce as the hon Members pretend that we do but we certainly expect the workforce to take its share of the responsibility to reform the practices, to reform the departments and to improve the service. The idea that the service can be improved in a way that would eliminate the 43 per cent of complaints to the Ombudsman in relation to the Buildings and Works Department by just throwing more money at the existing structure, paying higher wages through the existing structure is completely naïve and therefore, given that the hon Member is concerned at the high level of complaints not just to the Ombudsman but indeed directly to the Government from Government tenants about the performance of the Buildings and Works Department what the hon Members should be doing is supporting the Government in the Government's desire to reform the Buildings and Works Department and in a way as I have mentioned just now includes Government accepting responsibility for resources, management accepting responsibility for management deficiencies that have contributed to the problem but also the work force accepting that antiquated working practices also have contributed to the state of affairs and that we all need to contribute to a solution and not just regard reforms as an opportunity for higher pay. Of course the Government are willing to make reform an occasion for higher pay but not only for higher pay, higher pay is what the Government offer to incentivise workers and recruit their assistance for reforms that are needed in order to deliver the improvements in the service. So, given his remarks I much look forward to the Hon Dr Valarino's support for

the Government in their firm intention to reform the Buildings and Works Department in the way that I have said.

Mr Speaker, the Hon Dr Valarino says that too many houses are lying empty and that they take too long to allocate and I agree with him. That is the second reason why the Government want to reform the Buildings and Works Department, not just because it takes too long to fix the houses of people who are living in them, but also because when houses fall vacant it takes months, and months, and months, when in England it takes a few weeks to turn that house around from the moment it is vacated by the outgoing tenant to the moment when the Government are in a position to allocate it to the new tenant on the waiting list. The current position in that respect is wholly unacceptable. It is unacceptable to the people on the waiting list, it is unacceptable to the Government and I am glad to see that it is unacceptable to the Hon Dr Valarino as well and therefore for that reason also, the Government look forward to his support in the Government's desire to reform the department.

The hon Member also appears to be behind the time with his reading at least, when he suggests to the Government that it was a mistake not to let people particularly elderly people 'trade down' so to speak as we call it in the Government. An elderly couple perhaps occupying a flat that is too big for them, they want to move to a smaller one but one that is bigger than they would have been entitled to under the Housing Allocation Rules. The hon Member appears to be under the impression, since he suggests it to the Government as a very good idea, that that is still the case. It is not. What the hon Member suggests to the Government are precisely what the Government publicly said two years ago that it would do, and has done, over a year ago. The position has been for over a year what the hon Member suggests that it should now be. People are allowed to surrender a larger flat and be given one which is smaller than the one that they surrender but nevertheless bigger than the one that they would be entitled to if they were in the Housing Waiting List.



The hon Member I have to say, it had not reached my ears, and it appears not have reached the ears of my Colleague the Minister for Housing or indeed any other Minister, but it appears to have reached ears of the Hon Dr Valarino that there is apparently a fear out there that the Government would increase rents to finance the new houses. As I say, we have not heard such fear. There would certainly be no need for any such fear because the Government have not given any indication to that effect and indeed there is no question of the Government having or wanting or intending to increase rents to finance these new houses but it is worth pointing out that had we not been elected into office in 1996 and then again in 2000, housing rents would have risen by now because the hon Members will recall that in their 1996 manifesto they only promised not to increase Government housing rents until the year 2000, the year 2000 has now passed, this Government have still not increased the Government's housing rents, but they would have been free and would have done since they chose to give the commitment only until the year 2000. I hope that the hon Member when he gets told of what answer has been given to him in the House given that he is not here to hear it himself, he will immediately put at rest the mind of any person that expresses in his earshot the view that there may be a risk of the Government increasing housing rents to finance new housing. I do however agree with the hon Member when he says that there is a need for more housing. That is why we had that commitment in our manifesto and that the resale market is now such that it is really outside of the reach of first time homebuyers. Indeed in that respect this is not unique to Gibraltar, I read with interest in the UK media that the very same thing is happening, that is why the Government have the manifesto commitment that they have. The hon Member also knows that one of the reasons why the Government did not make an immediate start on this after the 2000 election as I had explained to him in this House before is that the Government had to await the outcome of the Harbour Views situation to make sure that there was not going to be a call on Government finances which would have affected our ability to fund other housing projects. Hon Members are aware that that situation has been properly resolved and that the Government no longer have to make cash flow provision. Even cash flow

provision, let alone cost provision for the refurbishment of Harbour Views following the very successful negotiations that the Government conducted with the original builder resulting in almost a whole of the cost of the refurbishment works having been recovered from them.

The hon Member mentions that Sir William Jackson Grove in his view is a good example of good quality building. I have to say that Sir William Jackson Grove is an example of one of the better buildings in Gibraltar but the hon Member should not run away with the idea that it is problem free as my hon Colleague the Minister for Public Services has said during his address. The Government have had to spend a very considerable amount of money also in Sir William Jackson Grove correcting what were problems of original design, original use of sub-standard material, failure originally to comply with fire regulations. So, yes, Sir William Jackson Grove is the sort of thing that has provided good results but is also an example of a major project also having gone slightly wrong because of lack of supervision. Finally, the hon Member raised the question of the dangerous dogs and brought to this House the views of the Women's Association that the advent of the school holidays raised a spectre of a dangerous attack waiting to happen. I believe that this is the worst form of politics. One can always say this might happen, that might happen of course there is the possibility of a dangerous dog attack at any time but one thing that I can say to the hon Member and this is the reason why the Government have not yet brought their own Bill to the House, one thing I can tell him for certain, the Bill that he brought or he wanted to bring to this House would certainly have done nothing to prevent a dangerous attack from happening during these summer holidays or any other school holidays because the Bill was based on the United Kingdom Act. The United Kingdom Act in this matter has been notoriously criticised, it has failed to prevent attacks and I ask myself when Opposition Members raise this question of dangerous dogs and I read some of the comments made sometimes by people in the press about this issue, whether there is not a confusion of objectives here? The only way to prevent attacks by dangerous dogs, the only way

to prevent the risk of attacks by dangerous dogs is to ban them all together. Any legislation that falls short of banning dangerous dogs from Gibraltar altogether will not succeed in eliminating the risk of a dangerous dog attack because most of the dogs that carry out these attacks are family pets that suddenly behave uncharacteristically. If the hon Member is advocating for a complete abolition of dangerous dogs he should come out clearly and say so. Does he believe that they should be made illegal in Gibraltar? He should come out and say so, if that is not his policy then he should not make statements that suggest that it is because for the hon Member to say that unless the Government brings the Bill to the House there is a risk of dangerous dogs attacks that statement is nonsense, it is meaningless unless his policy is to ban them altogether. Government have taken the view that the United Kingdom's legislation does not go far enough. We have consulted with the GSPCA and others to see how we can increase the protection that the Gibraltar Legislation will provide people in Gibraltar over and above that which the UK Legislation has provided or not provided to people in the United Kingdom without actually banning all these dogs in Gibraltar to the detriment of people who hold them as pets. Let us be clear, when the Government's Bill emerges which will be soon it will not amount to a complete abolition of these dogs but if people who participate in this debate, if their view is that dangerous dogs should be banned altogether in Gibraltar they should say so and let us have a distinction between those who think that dangerous dogs should be banned outright, those who think that they should just be controlled, restrictions should be placed on them because the way I hear the debate both across the floor of this House and also in the press there seems to be a confusion of both those alternatives.

Mr Speaker, turning to the contribution by the Hon Mr Steven Linares. I suppose that the Hon Mr Linares' speech can best be described as the 'no direction speech'. Apparently and according to him the Government have no direction on any of the following:-

- Truancy
- Nursery Education
- School Hours
- Training and Youth

In respect of all of them he has said that the Government have no direction. The problem with the hon Member, if he does not mind my saying it, is that he has the tendency to ignore everything that he is told. Everything that is said in this House in debates, everything that he is told in answer to Questions, everything that he is told he ignores. He ignores the facts and he continues on his own merry way repeating on occasion after occasion the same inaccurate points and then expects the Government not to respond in the way that they accuse me of responding which is simply to point out to them. They say it is vindictive, aggressive, offensive and everything else. Well, they are going to have to put up with a little bit of that today but certainly it will help the quality of debate if at least we were debating around the facts as they have emerged in the House, yes, the hon Member is free to disagree with the Government's version of events but he is not free to conduct himself in debate ignoring the fact that the Government have expressed the view that they have expressed. The hon Member appears to be obsessed with following the practice in the United Kingdom and I will not descend into the detail of the 19 suspensions. He has had an explanation at Question Time from the Hon Dr B Linares the Minister for Education, he appears to have ignored all those facts and continues to make statements suggesting that 19 children stand suspended.

I do not understand why the hon Member is so obsessed with following practice in the United Kingdom, both on truancy and on what he calls unsocial behaviour in schools. The Department of Education take both issues seriously but we deal with it in a way which reflects our sociological makeup in Gibraltar, we deal with it

in a way which reflects the size of the problem of truancy in Gibraltar and we do not deal with it in a way that reflects the size of the problem of truancy in UK, the size of the problem of youth misbehaviour in the UK and the extent of lack of parental interest and control in children attending schools in the United Kingdom all of which are bigger in the United Kingdom for any number of sociological reasons and socio-economic reasons but they are all at a different level in the United Kingdom than they are here. Does he not understand that the problem of misbehaviour in our schools is much smaller in Gibraltar than it is in England, that the problems of truancy in Gibraltar are much smaller and are less serious than in the United Kingdom, why does he feel the need to import into Gibraltar legislation that reflects the social cleanse in the United Kingdom from which thankfully Gibraltar has been small enough to protect itself in very significant measure. Then his definition of lack of direction appears to be that we have not brought the legislation that he wants to bring to the House. The Government will bring legislation on both the issues of truancy and nursery school regulations at a time which reflects its legislative and other workload programme because certainly in so far as truancy is concerned whilst obviously it is important that children should be protected from the consequences of truancy the Government do not think that it is so large a problem in Gibraltar that it is one that needs to be solved as a matter of priority.

He also thought that we had no direction and indeed no coherent policy on Nursery Education and pre-school education. The hon Member can ignore the facts if he wants to, he can ignore the facts that when we arrived in office the Government had two nurseries and that we now have six, that is a 300 per cent increase in the number of Government nurseries since the party which he says he is now in alliance with was in Government. He cannot also ignore the fact that the Government have introduced tax allowances for private nursery fees which are very valuable to children who do that and he can ignore the fact that all applicants this year and last year have been placed in the Government's nursery and that there is nobody who is out so where is the alleged problem in the lack of nursery education. We have 300 per cent more nurseries, we

have increased capacity to the point where all placement requests are satisfied, we provide tax allowances for those that nevertheless send their children to private pre-school year nurseries and the hon Member still thinks that he can get up in the House and say that the Government have no coherent policy. Why? It all boils down to the fact that we have not brought the legislation, this is his definition of lack of coherent policy, that the Government have not brought the legislation that he thinks we should bring and that indeed the Government intend to bring in due course. The hon Member appears to think that legislation and regulation is the solution to everything and in our experience legislation and regulation are rarely the solution to things and they are very much a last resort. Legislation is not a substitute for real substantive policies and it is real substantive policies that my Colleague the Minister for Education has overseen the implementation of over the last five years with the very happy result that I have just described to the hon Member. The most important weapon in the fight against truancy is not legislation but the caring services, the Social Services resources so that they can monitor truant children, provide support to truant children and provide guidance to the parents of truant children and I am happy to say that in that area as well under the stewardship of initially the Hon Mr Hubert Corby and now under the Hon Mrs Yvette Del Agua, the two Ministers for Social Affairs the transformation that has taken place in our social services including therefore the availability of social service resources to deal effectively with the instances of truancy that there are have succeeded in reversing the rundown of resources that have taken place before we arrived in office in this area as in so many others in the public sector and that also has contributed very significantly to the termination to the fight against such truancy problems as exist in Gibraltar.

I am not known for my lack of stamina but I have not got the stamina to continue to debate with the hon Member the question of school hours. He can carry on if he wants to persuading the people of Gibraltar that the introduction of the changes to school hours have been a calamitous disaster, again for lack of direction on the part of the Government. Actually, most people think that it

was a difficult sociological change quite effectively introduced but the hon Member, it is not in his nature, to give credit even when it is due not just to the Minister for Education but indeed to the many professionals in the Education Department who are the real people responsible for the successful introduction of this scheme. It all boils down to the criticisms of this business of the peanuts in the diet, then there was the question of the hand basins missing in one or two places and whether the children were being asked to wash their hands before and after meals or not, and then there was the question of eating on the floor during the initial teething problems in some of the schools. If altering to the extent that this is done with the infrastructural resources that it is required, with the planning that is required, the recruitment of staff, the training of staff, if that is the worst that the hon Member can say of the introduction of school hours again we will interpret that as being no criticism of it at all. Then of course the hon Member has got to decide whether he wants to "run with the hounds or hunt with the hares", is he in favour of the twenty minutes break that the teachers want which would make it impossible for children to go home for lunch or is he in favour of the parents who want to take their children home for lunch and now find that an hour is not long enough if they have got children at two schools, because he seems to be arguing both at the same time as indeed he was doing at the time when this matter was being the subject of public debate. The hon Member cannot ingratiate himself both with those teachers who wanted no lunch break at all and also with the parents who want a lunch break and indeed the parents who want a longer lunch break. I have to say that the Government are entirely satisfied with the way the introduction to the change of school hours has gone, if there are lessons to be learnt from the first year of its implementation I am sure that the department will learn those lessons and will refine the project as necessary.

The hon Member says that there is no direction either in training. I know of nobody in Gibraltar, nobody, who does not recognise not just the vast increase in the amount of training but the vast increase in the quality of that training, in the accreditation of that training, in the accreditation of the training providers, in the

facilities for the training. I know of no one that does not recognise the enormous qualitative and quantitative leaps that there has been in training since this Government have been in office. Quite apart from giving training the structure of bringing it under the Education Department, bringing it under a specifically appointed Director of Training and giving it structural shape. It is one of the issues for which I think this Government are from time to time rightly applauded, yet the hon Member chooses to say that the Government have no direction in training. A series of throwaway remarks completely unsubstantiated.

We have apparently no direction for the youth either. I am not going to stand here reciting to the hon Member everything that this Government has done to improve the lot of the youth, the money, more things that the Government are going to do for the youth, but when he accuses the Government of having no direction for the youth I would ask him to recall that the youth of Gibraltar have never been safer from unhealthy, unsafe, dangerous, morality destroying influences than they have been since May 1996 when this Government replaced the previous Government and condemned the fast launch activity which was succeeding in tainting our youth almost to the point of no return and the Government were able to condemn that which was a real threat to our youth, which was not just a lack of direction for our youth but it was actual recklessness in the affairs, the well-being, and the interests of our youth not just physically but indeed in every other way.

Mr Speaker, what can one say about the contribution of the Hon Miss Marie Montegriffo except that as always it was by far the most entertaining of the contributions from the Opposition Members.

Mr Speaker, it is a sure sign of political despair when a politician resorts as almost the totality of their political contribution to the launching of insults. Who does the hon Lady think that she is

kidding with the incoherent rantings that she has chosen to hurl at me. Her contribution has been limited to personal insults of me, according to her my behaviour is offensive, rude, arrogant, I am a public school brat, a fool, a defeatist appeaser of Spain and I am not to be trusted with the affairs of Gibraltar. Who does she think she is going to kid with rantings of that sort? Does the hon Lady think that she is going to persuade anybody in Gibraltar that I am a fool? Does she mean me a fool compared to her? Does she think that I am more foolish than her and does she really think that she has got the remotest prospect of persuading the people of Gibraltar of that? I doubt she could do it even if it were true, which I think it very probably is not.

Mr Speaker, even though I felt that the hon Lady crossed the line of what is I think usual in such debates it really comes as something of a pleasure and satisfaction to Government Members to see the hon Lady and others on the Opposition benches resorting simply to abuse in that way because until they learn that abuse is not an alternative for vision, that abuse is not an alternative for policy, that abuse is not an alternative for constructive criticism. They have criticised nothing in two days of debate, they have criticised practically nothing about the handling by the Government of the economy and until they realise that abuse is not an alternative to serious alternative policies I fear for them, because I think it is good for everybody else, that they are condemned to stay in Opposition and indeed if they are not careful are in danger of forfeiting even the seats of the Opposition benches.

The problem with the Opposition Members is not that I am a public school brat, it is that they cannot hack the fact that the Government do not let them get away with their untruths, their distortions, their misrepresentations and their hypocrisies and their definition of aggressiveness on my part is when I simply point out to them the untruths, the misrepresentations and the hypocrisies as I intend to do in the remainder of my response to them. It is their political hallmark and has been their political hallmark for

decades, this business of distorting the half truth, the distortion and the misrepresentation. It is prevalent as the Government often says in most of the public statements that they issue on almost every subject. Hon Members will have heard me use the phrase "typically Bossanesque" by which I mean that everything has a twist and everything is an innuendo based on speculation on almost every issue. The hon Lady says ".....that her blood boils..." boils at the rubbish that the Hon Dr Linares has said in the House. I do not suppose that is arrogant, offensive, or public schoolish or brattish, or abusive. For one's blood to boil at the rubbish that somebody has uttered, well the hon Lady should look at the person of Dr Linares and ask herself whether it is likely that he would utter rubbish. He may say things with which she disagrees but it is hardly unlikely to be rubbish as I am going to demonstrate to her now in detail that it is not rubbish and the hon Lady having just accused me in her address of being offensive goes on to say that nobody in Gibraltar believes what the Hon Dr Linares says anymore anyway. According to her the Hon Dr Linares has now been exposed by everybody in Gibraltar as a serial liar and that therefore no one believes anymore what he says. I find that quite offensive as well but obviously our definitions of what is offensive differ.

The hon Lady asks herself what the Government are doing about the alleged litany of problems in the Health Authority? There will always be cases of cancelled operations, there are many cases of people complaining about this or that aspect of their dealing with the Health Authority and she can of course exploit them in a politically opportunistic way if she wants to but when she does so does she not understand that people know that the situation was at least as bad if not worse when she was the Minister for Health or does she think that all these complaints about the Health Authority, private practice, waiting times for operations, people dying in hospitals, does she really think that all this started on the 16<sup>th</sup> May 1996? And since the hon Lady appears to not know what the Government have done in Health I am going to give her a small overview for her education on the matter.

In October 1996 the Government commissioned a Health Service Review in Gibraltar. The only review before that was 1987, we did not arrive in office thinking as she did that she knew best. We were willing to expose the Health Authority under our stewardship to external professional analysis. By 1999 over 90 per cent of the recommendations covering strategic management, nurse training, primary care improvements, secondary care improvements, were accepted by the Health Authority and by 1999 had all been implemented. I do not see why the hon Lady says that we have not learnt the lessons of the two reviews, the 1996 and 1997 Nursing Reviews, not only did we learn the lessons but indeed 90 per cent of them that were accepted by the Government were implemented and then in 1997 came the Nursing Review. The Organisational Structure in terms of grading levels, internal rotation, elderly care nursing, manning levels have all been adopted and implemented, the only pending recommendations about employment, Ward Clerks and the security protection for hospital staff, were implemented during the past year and therefore they have all been implemented. All the recommendations that outside professionals have said to the Government were required have been implemented. We have increased expenditure on public health from £20.7 million in 1995, 1996 to £30.5 million now. That is a 50 per cent increase. In six years. We implement deep structural changes in nursing, clinical organisational and management services, we vastly increase the funding and the hon Lady says that we have presided over all the ills. That we are indeed the cause of all the problems in the Gibraltar Health Authority. We have built a new Primary Care Centre with 60 per cent additional space with an increase in the complement of GP's from 11 to 15. We have appointed a nurse practitioner, we have expanded the services available at the Primary Care Centre, for example, by the introduction of Cardiac Rehabilitation, computerisation, improvements in the appointments system, GP's direct access to echocardiography and radiology, we have employed local GP's. The transformation in the Primary Care System is legion for everybody to see yet the hon Lady ignores all these things and suggests that the Hon Dr Linares is personally responsible for every last case of Influenza that is contracted in Gibraltar. The Ambulance Service which was

run by the Police just as one more of their chores by the shift on duty is now run by trained paramedics on contract from the Government in favour of the St John's Ambulance. There has been a transformation in the quality of ambulance service cover and provision in Gibraltar.

The training in the School of Health Studies, whatever she says and I will come back to nursing and private practice in a moment. There is now an Annual General Meeting of the Health Authority to present the report, something that never took place when she was the Minister and indeed the report which she criticises as being a glossy cover is not only the proof of the Government's commitment to transparency in this as in every other area but indeed is the source of all the information that she uses to debate against the Government in this House so I do not think that she should be criticising the glossiness of the cover, she should just be jolly grateful for the information given in the pages in-between the two glossy covers. These are all improvements to the transparency of the Health Authority because it is with transparency in the Health Authority that comes the possibility for improvements, through criticism her policy when she was in Government was to keep everything so tightly behind closed doors that people either did not dare complain or did not know what there was to complain about because there was no information in the public domain.

The increase in the staffing resources in the Health Authority, the hon Member must be aware of the long list, I could stand here giving her the list not just of the additional staffing levels of the existing disciplines but indeed of recruitment and consultant and other non-consultant level of brand new disciplines that Gibraltar has never had the benefit of before. Surely she must be aware when she criticises the Government's management of the Health Authority that in 1995 the last full year in which she was responsible, there were 292 nurses in post and that there are now 335 nurses in post. That is an increase of over 10 per cent in the nursing staff in post. She can write this off with a flick of the hand

but it is a very substantial contribution to the improvement in health care in Gibraltar. She must know that there has been a very significant increase not just in the number of nurses but in the qualification of nurses that in 1995 there was only 86 staff nurses in post and that there are now 105 staff nurses in post. She must know all these things or does she not think that the qualification of health staff is an important factor in the quality of the health services? It is not that she does not think it, it is more likely that she does not care of it for the purposes of politically opportunistic debate in this House.

Then we come to the issue which is the one that most riles her and which is the one that causes her to launch the tirade that she does against the Government on health and that is that she cannot stomach the fact that this Government where she in eight years failed to launch a new hospital project, that this Government are going to deliver a new hospital and I say to her again this year what I told her this time last year, that her completely unjustified crusade against the Gibraltar Health Authority and its staff is just a cynical political attempt to disillusion the people of Gibraltar with their Health Authority to the point that they will not even welcome the introduction of the new hospital. She is just going to have to work much harder at it than that but it is so transparent as to be almost infantile in every area of the Health Service, whether it be in the number of doctors, whether it be in the number of nurses, whether it be in the qualification of nurses, whether it be in the number of medical disciplines for which we employ consultants in Gibraltar, whether it be in the level of funding, whether it be in the quality of the premises in which these services are delivered, the Primary Care Centre, the new hospital, wherever she looks, wherever she peeps into the Health Authority, the situation today is unrecognisably improved from the fiasco which she left which was described by outside commentators as a Third World health service. And she can pretend otherwise by politically exploiting everytime somebody dies unexpectedly, everytime a child dies she can rush out a completely politically depraved press release suggesting that that fatality is the responsibility of the Health Authority, she can do that as much as she likes. She lacks

credibility with the people of Gibraltar to pull off dishonest political stunts of that sort.

Mr Speaker, as I say wherever we look in the Health Authority which by the way should not be misinterpreted as complacency on the Government's part, we will continue to invest more money in the Health Authority, we will continue to improve the quality of the Health Service in Gibraltar, of course there is always more improvements that can be introduced but the improvements that we have presided over in the last six years make the present Health Authority in Gibraltar the morale of the staff working within it, except to the extent that she undermines it, unprecedentedly high, and then she cannot even give information to this House in a way which is not presented with such spin as being intended to mislead the listeners. Seeing that the Hon Lady leaves the House I am not surprised that she does not want to carry on hearing much of what she is going to hear but I would have thought that if she stayed to listen to the debate on health next time that she has to speak on the subject she may have more sensible things to say on the matter. She said 37.5 per cent of operations had been cancelled because of the non-availability of beds and I turn to my Colleague the Minister for Health and say "how can it be possible that 37 per cent of operations are cancelled because of the unavailability of beds?" And of course it is not true that 37 per cent of the operations are cancelled because of the unavailability of beds. Of all the operations that are cancelled, 37 per cent are cancelled because of the unavailability of beds but 37 per cent of the operations that are cancelled, not 37 per cent of all the operations. But of course she did not think it necessary in the interests of clarity, in the interests of information or in the interests of honesty of debate, she did not think it necessary to formulate her words in a way that would have made that distinction clear. Let us be clear, 2,406 operations were performed last year in St Bernard's Hospital, of these, 128 were cancelled for a variety of reasons including by the way 38 because the patients did not attend or cancelled the operation themselves leaving 98 that were cancelled for other reasons. Forty-eight were cancelled either through lack of beds which actually applies to 34 or 14 because



the theatre was not available. After eight years of her stewardship of the Health Authority we were still in the extraordinary position of having only one operating theatre, so when there is an emergency operation taking place routine programmed surgery has got to be cancelled because if there is an accident victim having an operation or somebody having a life-threatening emergency operation, if one is booked to have their tonsils out at that time then obviously the operation has to be cancelled. All these defects which were caused by her will be corrected in the new hospital which will have several operating theatres. She claimed that knee operations had a waiting time of two years. The two years is not true. There is an agreed and published maximum waiting time in orthopaedics of 12 months and she knows it and that is maximum most of them take place in less than 12 months. For major surgery 12 months is a maximum and 6 months for minor surgery. She then quoted figures to show that waiting lists in the public sector were longer than waiting lists in the private sector and that if one was a public sector patient one had to wait x number of months and if one was a private sector patient one could come next week. That is obvious, it is inherent and implicit in the system of private practice. A system of private practice which when she was in office did absolutely nothing to try to curtail and correct, indeed she did worse because were she had consultants who were contractually prohibited from carrying out private practice she turned a blind eye to the carrying out of private practice by those doctors. She must know that there has been a radical improvement in that problem. She must know that the amount of time that consultants are now allowed to spend on private practice is curtailed, that the time of the day that they can carry out is curtailed, that it has got to be outside of the hours that they are working for the tax payer. That it has got to be the bookings and the payment of the fees have got to be done through the hospital central office. She knows that the condition of private practice is that doctors keep to the agreed maximum waiting list for public patients and that that is being kept to in all disciplines except Ophthalmology. She knows all this but the only way in which it will be true that one will not have to wait longer as a public patient than as a private patient is if one abolishes private practice altogether. She, far from doing anything to abolish it not

only allowed it to happen by contractors who were contractually forbidden to do so but made no attempt to regulate it amongst those who were allowed to do it. She must know presumably that under the new system they are limited, for example in Orthopaedics, they are limited to one major operation, two intermediate or four minor operations a week. Never before has there been the control over private practitioners in the Health Authority, never before has there existed the control that exists today in order to keep to an absolute minimum the effect that the existence that private practice has on the waiting time of public patients. Whilst it exists at all it will always be possible to say that it is quicker to get it in private practice than waiting because in private practice there is no waiting list at all. She produces conveniently now, I do not know why it has taken her six years of purgatory before she gets this convenient letter suggesting that waiting lists are longer now than they were before. Let me tell her that the information that the Government get from the professionals in the Health Authority is that she did not know what their waiting lists were because waiting lists were neither kept nor managed in the Health Authority when she was the Minister. She cannot say whether they were longer or shorter, she does not have a clue, not a clue does she have of what the position was in her time. This is what we are being told by the same professionals that used to serve her when she was in Government and we are also being told that waiting lists now are much shorter than they were, that the time that people wait for operations now is much less than it was when she was in office. On Nursing training she can come to this House and say that she did not close the Nursing School, of course she did not close the Nursing School no one has ever said that she did. What she did was to close the Nursing School for Staff Nurse Training, that is what she did, she deprived Gibraltar of the training of nurses to that higher level of qualification which was necessary for the standards of care in our Health Service. That is what she did. So she can produce all of a sudden convenient letters that deal with the two points that she needs help on but our Nursing Training School is audited every year now by Sheffield University and this is what they had to say in their last report: "The panel (that is the outside panel) was particularly impressed to hear the culture shift that has taken place



in Nurse Education in Gibraltar. The panel commends the Gibraltar School of Health Studies for its work in bringing about a change in the way that nursing and nurse education are viewed and welcomes the evident enthusiasm for continuing professional development and lifelong learning that the Diploma Programme (which did not exist before) has generated.” She can fail to heed the improvements that have taken place but others will not be oblivious to them as she is.

Mr Speaker, bed shortages are a problem from time to time in the Gibraltar Health Authority and she can always try to find a different reason for them than the ones that are offered to her and I remember saying to her what does she think is happening to these beds, does she think the Minister is throwing them out of the window and I then had to listen back to that line misquoted, twisted and misrepresented by her in almost every public health press release that she issued for the next year, but if she will not accept that the reason for the bed shortage is bed blockage, patients staying in the hospital longer than there is a clinical need for, what does she think the reason is? It is all very well to say that there is a bed shortage problem, it is not blockage, it is not this or that it is Dr Linares's fault. What is the problem, what does she think is the reason for the bed shortages in the hospital? The reason is the one that is being given and that is that elderly patients are blocking beds by staying in hospital longer than their clinical condition requires. Unlike them when they were in office we are addressing that problem. We have established the Elderly Care Agency, the hon Members say it did not exist, well if it did not exist and elderly patients were not staying in hospital longer than they needed to when they were in office it can only have been for two reasons either because they used to boot them out or because elderly people are now getting ill more often or because elderly people are now more predisposed to staying in the hospital and not wanting to go home. It has got to be one of those but the Government are not being inactive in response to that problem. We have established the Elderly Care Agency, there has been a vast improvement in Mount Alvernia, the capacity of beds in Mount Alvernia has been doubled, we are introducing a

domiciliary care service to provide care service for elderly people so that they can stay at home for as long as possible, we are providing a respite care service in Mount Alvernia to provide respite services to those that care for elderly people at home, these are unprecedented steps in Gibraltar. I do not say them because this has nothing to do with health this is Social Affairs but the hon Member cannot continue to say “the reason for the bed shortage” on the occasions that it exists, not all the time, is not bed blockage it is something else but does not say what. That is just not rational and then she sees a hobby horse pass and she jumps on it for dear life, diabetes. “Why is the Government putting diabetes patients in the hands of the perfidious Spaniards, do they not realise that all they want is sovereignty and that they can cut it off at any time.....” One could go into a long analysis of why that is so. Of why it is so now as it was when she was Minister but in purely political terms the question that it immediately begs is, “Why did she not in eight years establish a solitary dialysis machine in Gibraltar. If one of the new comers to the House were pressing the Government for this dreadful policy of sending dialysis patients to Spain it could be understandable why did she not do it when she was in office for eight years, not one. I really do not understand it. I really do not understand how she can sit there and complain that the Government do not do what she failed to do in eight years when she had the opportunity to do it.

Mr Speaker, last year I think she took offence because I said that she was a ‘political coward’. I am afraid that I have got to say that she is a ‘political coward’ again for the same reason that I had to say it last year. The Hon Miss Marie Montegriffo thinks that she can at the same time give the people of Gibraltar the impression that they are at the mercy of a Third World chaotic health service in which their lives are not worth tuppence if one is unfortunate enough to find oneself in the hands of the Gibraltar Health Authority all of course for reasons attributable to the Minister and at the same time applaud the people who are delivering that medical service for being super, absolutely super all of them and her political cowardice is that she wants it both ways. She wants to attack the Health Authority but she does not dare alienate the

Health Authority workers. If she thinks that the Health Authority is the calamity that she thinks it is, how can she think that the doctors are so brilliant? How can she think that the nurses are so brilliant? How can she think that the quality of medical care that patients get in the Gibraltar Health Authority is so calamitous and at the same time say that she thinks that the staff that deliver that service are the best things since sliced bread? I agree with her that the staff are very good and deserve all the plaudits that she has delivered but then she cannot have the other side of the argument and the real position is, that the staff is everything that she says that it is but the Health Authority is not the things that she claims it is and this campaign that she has embarked on to try to undermine people's confidence in the Health Authority is sheer political.....I think she reads the English newspapers, she sees that this is working for the Opposition in the United Kingdom and says "I'll try that it is easy to get people to worry about health," and because I think it is easy to get people to worry about health I am going to have a jolly good go at getting people to worry about the Health Authority in Gibraltar. But, what are the allegations that she actually makes beyond wild and sweeping statements? How can the Minister be responsible for a death in the hospital which she has insinuated more than once during the last year but the doctors and the nurses who deliver the medical service be the best things since sliced bread? How does she square that circle? If there were not enough doctors she could say, "Minister you are not providing enough money and therefore there are not enough doctors and that is why people are dying in our hospitals," but there are more doctors than she had when she was Minister, or she could say, "Government you are not employing enough nurses and therefore the quality of health care in our hospital has deteriorated as a result and people are dying in the hospital," but there are 10 per cent more nurses than she left in post, or she could say "politicians in the Government you are not spending enough money on health and therefore people are getting inferior treatment," spending on health is up by 50 per cent in six years. Record sums of money are being spent on referring patients to the UK under the Sponsored Patients Scheme. All the areas of the Health Authority for which politicians could reasonably be held responsible are at infinitely better levels than she presided over,

does she not understand that? I suspect that she does which is what is the saddest of all and then having said that the problem is not the clinical standards because if the problems were the clinical standards she could not criticise the staff, she would have to criticise the staff because one cannot say, ".....the problem in our Health Service is that the clinical standards are terrible" and then say "...but the doctors and the nurses are brilliant." The clinical services are delivered by the doctors and the nurses, not by the Minister. So, having said that the nurses and the doctors are super which I think they are, she then says, the fact that the Minister is introducing a clinical audit review is an admission that to quote her exact words, "...that not all is well." If she thinks that the fact that the Government are bringing clinical auditors is an admission 'that not all is well' then she is saying 'that not all is well' with the clinical standards in the hospital and if she thinks 'that not all is well' with the clinical standards in the hospital does she not accept that she is necessarily criticising the people that deliver those clinical standards, namely the hospital doctors, the Health Authority, the Health Centre doctors and the nurses which she claims not to be doing. The Government are not commissioning a clinical audit review because we think 'that not all is well' with clinical standards. The Government are calling for the review to take advantage of the new hospital to ensure that our clinical practices have kept up with modern developments and to ensure that the equipment that the hospital purchases is compatible with those clinical practices which modern medicine develops. That is why it is developmental, it is not a critical audit. This has been explained to her before but to no avail whatsoever and as I said before, her frustration as happened last year, last year she delivered this tirade she also complains about how little time I spent on the budget but she spent no time she did not even refer to the budget. At this time last year she let the cat out of the bag, I remember her when she had got all the political frustrations off her chest she just could not keep her mask up for long enough and she said, "Oh God, and I suppose now we will have Europort for breakfast, lunch, tea and dinner. We will have Europort indigestion." Ah!, at last the cat is out of the bag. Her problem is that she does not want the fact that the Government are opening a new state of the art hospital to haunt her from now until the next

time that she offers herself for re-election to the people of Gibraltar. I am sorry, it is a political reality, she had eight years in which to initiate a new hospital, she chose not to and now she has to accept that there is a Government that have been more visionary than she has been, but fine she cannot avoid the political consequences of that either by rubbishing the Gibraltar Health Authority or by asking the Government not to mention Europort at mealtimes ever again so that she does not get indigestion. If she develops indigestion I have no hesitation whatsoever in recommending to her the medical treatment available to her under the Gibraltar Health Authority which is an excellent medical service and which will cure her of her indigestion in no time at all.

In answer to a point that was made I think she was asking a genuine question on that occasion there is no one connected with the Government, professionally, politically or administratively having expressed any scepticism about the suitability of the hospital. The Government bought the hospital after we had received expert advice to the effect that it was not just suitable but eminently suitable for conversion into a new hospital and indeed the fact that it is an existing building will be of benefit because she knows, or should know, or may know, that when one builds a building from scratch one decides how big things need to be, because it is a new building most of the departments, indeed I think all of the departments will move into space which in fact is larger than would have been designed specifically for their needs which means that there is much more growth provision built in to the new hospital at Europort than there would have been at any Greenfield site hospital. The hospital will be a magnificent medical facility and it will not just be a magnificent medical facility in terms of the medical clinical services and equipment available, but it will be a magnificent facility in terms of location. The whole aspect of the building, it will have a garden with a waterfront where patients and their families can enjoy. The access has been criticised but I cannot think of a part of Gibraltar in which there is better access and more parking available than that area of Gibraltar. Even from that point of view the Government feel that the new hospital is well located.

Mr Speaker, I suppose that when one cannot criticise the substance the only thing that one is left with is to criticise the timing, the delay. The Government would have liked to have had the Sports City as soon as possible but when one has a wide ambitious capital investment programme, we have spent £125 million in six years in capital investment projects. One cannot do it all at once and therefore things have got to be programmed but one thing is for sure about the Sports City in Bayside, however long it takes to be finished it will be finished long before it would have been finished had they been in office because they had no manifesto commitment to have it at all and therefore, Mr Speaker, frankly for the hon Members to seek to criticise our policies in terms of the time it takes to implement them when it was something that it was not their policy to implement at all seems a most peculiar form of parliamentary politics to me. The hon Member has expressed the view of whether it should be a Government department or whether it should be a Sports Authority. We simply have to agree to differ on that the only thing that I would mention to her as she has been told before is that it was the Government acting on the advice of the Sports Advisory Council who felt very strongly that new sports facilities in Gibraltar should be run by sports people for sports people and the only way of giving outsiders the chance to help in running these facilities is to do it outside the straight jacket of the public administration and the Government have every intention of proceeding with that. The Opposition is incorrect to say that the Government have not consulted the Union. The Government have consulted the Union to the extent that they have an interest in the matter. That is to say we have consulted the Union about whether the existing staff and the existing facilities are to come over or want to come over to the Sports Authority or not and those negotiations continue. In respect of the new facilities which have never been part of the Government, which have never been the job of the existing Victoria Stadium staff the Union has not been consulted because there is nothing to consult them about. The new facilities have never been part of the Government, are not going to be part of the Government and therefore the need to consult the Union on the new facilities does not arise. The need to consult the union arises as to whether the existing staff want to join the Authority. If they

do not want to join the Authority they need not join the Authority and no pressure whatsoever is going to be put on them to do so and if they choose not to come to the Authority the existing facilities which provides them with their work today will stay in the Government and outside the Authority. I hope that that has been made clear for long enough now to have been laid to rest.

Mr Speaker, the hon Lady not content with talking quite a lot of nonsense really on areas of her shadow responsibilities thought it appropriate to stray into areas where she is clearly out of her depth. She said that the Chief Minister, that is me, that I am a "...defeatist appeaser," a "...defeatist appeaser..." she said. She is frightened about my approach to reasonable dialogue because she does not know what I mean by reasonable dialogue and she said that the Government's attitude and the Government's attitude to dialogue and the Government's defeatist and appeaser nature sends ".....a shiver down the spine ....., " were her exact words. ".....a shiver down the spine..." of the hon Lady and I think she added for good measure everybody on the Opposition benches and the Leader of the Opposition had also in his own address said that he had never strayed from his position on Brussels so that no one could ever accuse him of having a different position. If the hon Lady wishes to introduce into a debate on the estimates of revenue and expenditure and the state of the nation debate remarks that the Government or its Chief Minister are defeatist and appeasers in relation to Spain and that our position on dialogue with Spain sends 'shivers down her spine' it leaves me no alternative but to pose a hypothetical question and then give her material upon which she and others listening to this debate can objectively make an answer. The hypothetical question is this, "Whose position on dialogue should send shivers down the spine of who?" The evidence she is about to hear.

On the 28<sup>th</sup> July 1992 the Leader of the Opposition then the Chief Minister, whose views presumably do not 'send a shiver down the spine' of the hon Lady and who presumably the hon Lady does not think is an 'appeaser or a defeatist' went to the United Nations to

advocate for the right to self-determination of the people of Gibraltar and had this to say, and I quote him, " .....in addressing that I would draw the attention of the Members of the Committee to the paper that they have in which the address of His Majesty King Juan Carlos, King of Spain, to the General Assembly on the 11<sup>th</sup> October 1991 is quoted and His Majesty told the United Nations that he hoped the negotiating process underway would be effective in achieving a solution compatible with the times in which we live." I was interviewed by the Spanish media for a reaction to the statement and I publicly welcomed it because I have no doubt of the times in which we live. We live in a time fortunately for the human race when the principles of democracy, the principles of freedom and the principles of choice and the concept of self-determination is more widely accepted than ever before in the history of this body and in the history of this Committee and therefore I interpreted the words of wisdom of his Majesty as a recognition that however we resolve the decolonisation of Gibraltar it necessarily has to be taking on board the right of the people of Gibraltar to determine their own political future. This brings me to the position of explaining to this Committee having explained how strongly we feel about self-determination why it is then that my Government since 1988 when it was first elected for the first time has not participated in the Brussels Process which was the subject of the resolution adopted last year and of the draft resolution co-sponsored by the administering power and the Kingdom of Spain. I feel that it is right that I should have this opportunity to explain our position to you because it is not a position born of hostility towards Spain or any desire to hinder that process." So, at least in July 1992 the then Chief Minister, now Leader of the Opposition, went to the United Nations to tell them that he had no desire to hinder the Brussels Process. "The Brussels declaration of 1984 was tested for the first time in 1988 in a general election. It was an agreement done after the 1984 general election without the people being given an opportunity to express a view. My party fought the 1988 election on a platform of self-determination and won it decisively and again in January this year. What are we saying then? We are saying that nobody in this Committee can tell me Mr Speaker with his hand on his heart that he honestly believes that the process of de-colonisation is properly being conducted in a

bilateral process were I am supposed to be representing the colonial power. It would certainly be very innovative step for the Committee of 24 to take if that is what they believe and that is what the process presumes. It is a process where there are two parties who are asked to meet to resolve their differences and the Chief Minister of Gibraltar is invited to form part of the delegation of the administering power. Presumably to try and resolve whatever differences the administering power may have with Spain, but what he cannot do is talk about the difference he may have with the administering power or with Spain and I think we have to accept that if there is any meaning to democracy, if I am going to be participating in a process which I would welcome the opportunity of doing I have to do it on the basis that the views that I wish to put forward may on occasions coincide with those of Spain, may on occasions coincide with those of the United Kingdom and may on occasions coincide with either of them." So the hon Member wanted to participate in the process but wanted his own voice, as I do. I carry on quoting him now, "Let me say that in saying this I am not asking Mr Chairman that this Committee should having heard me adopt a different resolution from the one that has been submitted to it as a consensus by the administering power and the Kingdom of Spain or to amend it in any way." The hon Member went to the United Nations and said of a resolution that refers to the Brussels Process, calls on Britain and Spain to carry on negotiating under the Brussels Process, he went to say to the United Nations, "I am not asking you to change it, I am not asking you to alter one word of it," and I carry on quoting him now, "...I say this in total honesty to you and I am sure that you will understand that I have no desire to upset either London or Madrid. Each of them outnumbers me a thousand to one and I would be very unwise to go out of my way to take on Goliaths of that size." A little bit later on he then carries on and I continue that quoting, ".....and it may then be possible at a future meeting to have before this Committee a consensus motion supported by both sides,...." by both sides mind you he is still happy going to be bilateral, ".....which begins to introduce the ingredient that is missing if a permanent solution is going to be found to the problem of the decolonisation of Gibraltar. I believe the effort should be made to convince the Kingdom of Spain that

their views, their claims, their approach, need not be weakened in any way by simply recognising that we have a right to have an independent voice but there is a problem when we seek to express it and that problem needs addressing." That dialogue, is the dialogue which we are looking for. The hon Member went to the United Nations to say I am looking for dialogue which with my own voice I can find a permanent solution to the decolonisation of Gibraltar in discussions with Spain, well Madam, Opposition spokesman for Health Hon Miss Montegriffo I do not know whether her spine is quivering anymore now than it was yesterday and if it is quivering whether her 'spine is shivering' at the views and policies of the Government or at the views and policy which her own Government and her own Chief Minister used to espouse when she was a Minister in that Government. The Chief Minister of Gibraltar that has most clearly stated that he wants to negotiate the decolonisation of Gibraltar with Spain which is presumably what the hon Member meant by 'shivers going down her spine', is sitting two seats away from her and is now the Leader of the Opposition. At least a first point of contact will have been achieved. I will start a bit further, "I know that the representative of the Kingdom of Spain is going to address you and I have to say that I welcome the fact that he is going to address you although he may not have very nice things to say about me. I hope he is nice to me, but I welcome it because it will be the first occasion since I got elected in 1988 when a representative of the Government of Gibraltar and a representative of the Government of the Kingdom of Spain are going to be in the same room and the representative of the Government of the Kingdom of Spain does not feel the need to leave immediately as if we had some contagious illness. So at least the first point of contact will have been achieved and if nothing else, I hope that we can look upon that as an auspicious augury for a better future a future of better understanding with our neighbours..." these are the neighbours that the hon Lady does not even want to look after the dialysis of our patients but anyway the then Chief Minister now Leader of the Opposition was looking forward to a better understanding with our neighbours in Spain with whom we hope to be able to resolve our differences. I do not know if the Health Authority has any treatment for 'shivering spines' but if it does I suppose the hon Lady will be rushing to the

Health Centre to get a prescription for it by now. I am afraid to say that this was not one aberration in one year because the hon Member went year after year to the United Nations to say things which sound like a Boy Scout's picnic the views that she now says of me send 'shivers down her spine' and this is the political hypocrisy of which I think this Opposition party stands fairly accused permanently. Then he went to the United Nations again the following year in July 1993 to say and I quote him, "...where does all this leave us? I would not wish to mislead your Excellencies into thinking the problem of Gibraltar's decolonisation is on the point of being resolved but there are clearly some signs that indicate that meaningful dialogue may be probable in the future than there has been in the past." In other words, he was expressing satisfaction for the fact that there were indications that meaningful dialogue with Spain to resolve the problem of Gibraltar's decolonisation, which he now says "how dare anybody suggest that the decolonisation of Gibraltar should be discussed with Spain," that is what he was going to the United Nations to say. I do not know if the hon Lady was then getting 'shivers down her spine'. He continued, "...I also have to stress that the people of Gibraltar have to be a primary player in any new initiative and cannot be relegated to a subsidiary or indeed a subservient role. The position of the hon Members when in Government were not 'destroy the Brussels Process' it was not 'alter the Consensus Resolution' which was the UN's mainstay of support for the Brussels Process, it was 'please give me my own voice so that I can take part in dialogue with Spain to resolve the decolonisation of Gibraltar' and of course when they failed as we may fail, they might say 'you are going to fail as well, we tried and we failed' and I would say, 'look Joe you might be right we will try and we will fail' but that is not what I am complaining about. What I am complaining about is that these were the views that they held and the hon Lady has made remarks in this House quite gratuitously which are wholly inconsistent with the remarks of the policies of her Government at the time. Then one might think well at least given everything that they say at the very least, we have already established that the hon Members were perfectly happy to negotiate the decolonisation of Gibraltar with Spain if only they could get their own voice, at least one would have thought 'at

least sovereignty' given all that they say and all the political machoism which they now demonstrate, at least surely sovereignty they would never have been willing to discuss, surely not, surely the great GSLP defenders of the political faith in Gibraltar would never have been willing to discuss SOVEREIGNTY with Spain. Wash your mouth out, well, this is what he said to the United Nations about sovereignty and the discussion of it again in July 1993. "First of all we cannot have dialogue on the basis that we have to consider the territorial claim of Spain which we reject but we have to consider it because otherwise how can one have dialogue, but they will not consider our claim for self-determination. Well, they can reject it but considering it is the basis for dialogue. You cannot have dialogue unless you are willing to consider however much of an anathema it may be the opposite point of view.....," and he was saying this at a time that he was saying 'I want to have dialogue, that is the dialogue that we want to have.' Therefore what the hon Member was saying is Spain has got to be as willing to hear my arguments on self-determination and to discuss my arguments on self-determination which I support him, and this is him speaking, "...as he was indicating a willingness to have to listen and answer the Spanish arguments on sovereignty because however anathema it might be according to him you have always got to be willing to consider the opposite ....." These are the things that he was going to say to the United Nations in support of the claim for self-determination allegedly. Then he went on, ".....then really we must have some forum accepting that the voice of Gibraltar has to be a voice of Gibraltar unrestrained by being part of the delegation of anybody else. A voice that is free from any constraints either from the claim of Spain on the one side, the Spanish understanding of the UN Resolutions of the British Government's interests in decolonisation as the administering power, Gibraltar can only participate in discussions on its future decolonisation in a forum where it is able to say what we Gibraltarians want." That is all he was asking. All he wanted, even Sir Joshua Hassan had a forum in which he was able to say what he wanted and apparently that is all that the Leader of the Opposition wanted at the time and I am quoting at length from his speeches so that he should not accuse me of misquoting him which was what he is keen on doing

when I quote things that he cannot escape. Again in October 1993 this time to the Fourth Committee, this is for the whole United Nations not just to the Committee of 24, ".....therefore what is missing in the annual repetition of a resolution which calls on both sides to meet and talk about Gibraltar is that notwithstanding the reference to the text in the text to the commitment of the United Kingdom to respect the wishes of the people of Gibraltar, it fails to recognise the paramouncy of the wishes in the exercise of the right to self-determination." A position with which I agree, and which I entirely support and have continued to espouse those parts of his arguments with which we can all agree. This was in July 1995, this is less than a year before losing office this was not at the start of his first term, this was months before he left office, quote, ".....I said that myself Mr Chairman in my first submission to the Committee of 24 in 1992. I said I am fighting for recognition of the principle to exercise the right of self-determination whether I choose to exercise it, when I choose to exercise it and how I choose to exercise it has to be taken into consideration whether I want to be alive the day after, and therefore we are a realistic people with a powerful neighbour who want to live in harmony and peace and cooperation with them and we would not. I would not lead my people or recommend to them a way of decolonising that would extinguish us just for the sake of having to prove the point that we are able to do it." Throughout the years that he was going to the United Nations the hon Member was saying, and then he is not just to his speeches in the United Nations, the hon Member can mutter as much as he likes, 'Gibraltar the right to self-determination' he will remember the little magazine have not seen that many people since the 18<sup>th</sup> March demonstration this year. All on the cover, all dressed in red and white. This is what he said in the preface, "...throughout this period the United Nations has been calling on the United Kingdom and the Kingdom of Spain to negotiate a solution to their dispute over Gibraltar but this will never be possible as long as Gibraltar is not negotiating as a party in its own right." What was it that the hon Member wanted to negotiate with Spain in his own right? We know now, he wanted to negotiate sovereignty, he wanted to negotiate the decolonisation but why has he forgotten? Why has the hon Lady forgotten all these things when she makes stupid remarks about what sends

'shivers down the spine' and in the face of all of these statements even the exercise of the right to self-determination was said by him to require a process of dialogue with Spain. Does he not remember telling the United Nations and I quote him, this is in a speech "...Gibraltar recognises that the exercise of its right to self-determination may be constrained and may require a process of dialogue with the United Kingdom and with the Kingdom of Spain," does he not remember saying all these things? Does she not remember him saying all these things? Here is her then Chief Minister, party leader, saying 'Do not change the Consensus Resolution that calls for the Brussels Process to continue, I want my own voice in it so that I can then negotiate the decolonisation of Gibraltar with Spain because I recognise that the exercise of my right to self-determination is constrained and requires a process of dialogue with Spain. He spent three and a half years saying these things to the United Nations and the hon Lady has got the audacity to stand up in this House now and say that she gets 'shivers down her spine' because we say less than that and because we advocate reasonable dialogue. The shivers should have gone down her spine when she was on this side of the House at the things that her then Leader was saying, assuming that she held the same views then that she holds today, that is when she should have been shivering down her spine when the Gibraltar Government were perfectly wanting, not just willing, wanting to negotiate the decolonisation of Gibraltar with Spain. The hon Members will laugh but unless they think that I have just invented all those words that is what the Chief Minister of the time was saying. There is no hiding place for them from those words.

Mr Speaker, the Hon Mr Perez started his own contribution by saying that I was trying to rewrite history. Judging by his giggles, judging by his nervous laughter, whilst I was making those points the person that is hoping that history will be rewritten is him. I have not quoted from speeches by Peter Cumming, I have not quoted from speeches by Sol Serruya, I have quoted from speeches from Joe Bossano. There they are in history for posterity the problem is that as always they practice double standards. They say, yes, 'Do as I say but not as I did'. Do as I



say but not as I did, do the things that I never did when I was in office and do not say the things that I used to say when I was in office because I will tell people that they should have 'shivers down their spines', but the reality is that it is there and it is not going to go away. I quoted two things when I made my own address to this debate. I quoted from the speech of the District Officer in his May Day Message and I quoted from the Leader of the Opposition's own May Day Message speech. The Hon Mr Perez still found it appropriate to open his contribution by saying that I had shamelessly misquoted statements by other people. How can one shamelessly misquote statements by other people when one reads verbatim what other people have said, from beginning to end? It is not as if I had started reading half-way through the section in order to put it out of context. How can it be shamelessly to misquote anybody when one limits oneself to reading out the words that they have quoted? It is another example that the hon Member does not like hearing the realities of life as it affects them, and then of course they complain that we constantly rake up history unnecessarily and it is not that we want to rake up history unnecessarily it is that they do not learn their lessons of their own history and make provocative remarks that leave reasonable people with no alternative but to remind them of their past. Not relying on some sort of perception of mine, when the District Officer of the Transport and General Workers Union uses his May Day address to say that there is party political interference in the industrial relations process and in the business of the Union and in the Union's negotiations with the Government, when I say that the hon Member accuses me of being paranoid and engaged in propaganda as if this was an absurd proposition, well, he says it is an absurd proposition, but does he not realise that it is legendary in the political folklore of Gibraltar how the GSLP, the party of which he is now a part, used the Trade Unions and used industrial relations to gain office in 1988 and if he thinks that it is paranoid, that it is propaganda, that it is an absurd proposition, that the GSLP should use industrial relations issues for its own selfish party political interests, has he forgotten Kaverner? Has he forgotten the Karverner Tapes? Has he forgotten that shameless episode in the history of his party in which they were recorded willing to countenance the closure of the

commercial shiprepair yard in Gibraltar in exchange for the simple goal of causing political damage to the Government of Gibraltar, has he forgotten that? I suppose then if we had not had the tape recording he would have said that we were being paranoid would he? Because the GSLP is not capable. The GSLP is capable of that and worse and has 20 years in politics in Gibraltar for people to know what the GSLP is capable of. It does not require a paranoid propagandist simply to point out not what he thinks the GSLP is capable of doing but what the GSLP has been demonstrated to have done in the past, it has nothing to do with paranoia it is recorded history.

Therefore, Mr Speaker, more duplicity, more hypocrisy but of course that is what they accuse us of. Apparently they say we are 'duplicators and hypocritical' because according to them the Government are still riding on the back of the wealth that the GSLP created. I am not going to have that debate with the Leader of the Opposition. If the Leader of the Opposition still thinks that the private sector was healthy in May 1996, that the Finance Centre thought that it could prosper under the sort of Government that was being delivered at that time, that foreign investors were happy to stay in Gibraltar and that the election of a new Government in Gibraltar did not first save the private sector from the oblivion from which his policies were condemning it and then provided the environment in which it could prosper to the extent that it has in the six years that we have been in office, if he is still labouring under that delusion it does not surprise me that the Leader of the Opposition cannot relaunch his political career. He cannot relaunch his political career rather like a person cannot get on with life until they have gone through the grieving process, accepted certain realities and moved on. He is still blinding himself to all the reasons that caused him to be removed from office in 1996 and one of the great monuments to that psychological characteristic of the hon Member is this constant repetition of the fact that the economy is still in the state that he left it, that this Government have achieved nothing in the economy, that there has been no growth, no increased employment, turning figures upside down and putting them



together all to prove what everyone knows to be a nonsense and that is his statement that the economy has made no progress and has not grown in the last six years. I would urge the hon Member to abandon that ridiculous position.

Mr Speaker, this year the Hon Mr Perez decided that he would try and put his finger into what he thinks is the open sore of industrial relations. "Why do you criticise the GSLP for its privatisations, they all had a good purpose, they were all in partnership, they were all agreed by the majority of workers, huge increases in salaries." Two points I would mention. First of all that we have not criticised his privatisations, no, not once has this Government criticised a privatisation, what we do is respond when they accuse us of privatisations when we have not done any and they are the only ones that have ever done privatisations. Then we say 'come on chaps do not try and tar us with whatever political brush you think privatisation amounts to when the only guys that have ever privatised anything in the political history of Gibraltar are you' and if they are all for a purpose then all of the Government's Authorities have a purpose. If they are all in partnership and they are in agreement of the majority of the workers involved, ours requires the unanimity of the workers involved. Workers that do not want to go do not go even if they are in a minority and always there is significant increase in earnings for the workers who agree to go to an Authority when there is a necessary and useful purpose, a partnership and an agreement negotiated with the workers. So what is different? Except that theirs was real privatisation placing workers in what the Leader of the Opposition called in his May Day Message 'the terrible job insecurity in the private sector' and our version which is equally for a good purpose, equally negotiated, equally for the financial benefit of the staff not done unless they all want to go, ours is not privatisation. Ours is just a different form of public sector ownership therefore retaining the job security that their version exposed the workers to. That is why we raise it not because we criticise them but because their remarks about what we are doing are completely distorted, completely misrepresenting and completely concealing the fact

that what they did is infinitely worse than anything that we might be thinking of doing or worse still have done.

Mr Speaker, the Government he said must show 'respect for the rights and aspiration of workers'. Of course the Government shows respect for the rights and aspirations of workers now there is negotiations, there did not use to be very much negotiation before. Respecting the rights and aspirations of workers is not that the Government give in to whatever claim comes their way and certainly a Government that never agreed to any claim, certainly is not in a position to say that. Respect for the rights and aspirations of workers in the public sector is allowing them reasonable promotion opportunities which they now have and which they never had with the Opposition Members. Respect for the rights and aspirations of public sector workers means that one recruits staff to maintain manning levels which they never used to do when they were in office. Every staff retirement and resignation was a heaven sent opportunity for them to shrink the public sector workforce permanently in the hope of making some departments unviable through lack of human resources to the point that they would then say 'well now we have got to privatise it because there is only four and a half workers left', but do they not understand that workers in the public sector know this? So, please, they ought to resist the temptation to lecture this Government about respect for the rights and aspirations of public sector workers because we have shown more respect for the rights and aspirations of public and private sector workers for that matter, but public sector workers than they despite their trade union backgrounds ever showed the remotest inclination to show. That extends from privatisations to recruitment, promotion opportunities, training opportunities, provision of resources, the list is endless. If he wants to know why the industrial relations function has been centralised not by the way as he appears to think in the office of the Chief Minister, but in No 6 Convent Place in the office of the Chief Secretary is because the incumbent acting Personnel Manager has expressed the wish not to be the Industrial Relations Officer. The Government are trying to find a way of allowing him to continue to be the Personnel Manager and to make alternative arrangements for the Industrial Relations

responsibility. Now one can see more respect, more of the cuddly Father Christmas figure and much less of the vindictive ogre that the Leader of the Opposition was trying to portray. This is the thought of sensitive respect for the rights and aspirations of workers that this Government deploys.

Mr Speaker, the hon Member wanted to know something about the public transport system and believes that we are being inconsistent because we have said that there was no way that it was envisaged that public finances would be put into the public transport. I would like to jolt his memory and I am sure that he would immediately accept that what we have said is the opposite. What we have said is that the Government have every intention to invest public funds in the public transport system but that we would not invest it in the existing operators. What the Government would not do is simply subsidise with capital grants and things of that sort the existing licensees. That is what the Government have said but we have always made it perfectly clear that we would and that we intend to introduce significant amounts of public finance and public capital into a modern urban public transport system and the reason why it has not happened already is another Father Christmas cuddly tendency of the Government which is the opposite of what the hon Members approach would have been and that is that we are bending over backwards to the point of delaying our own policy to try and treat the existing licensees as fairly as possible, we are stretching out the negotiations with them to give them every opportunity to participate reasonably with the Government in this scheme. What the Government are not willing to do is to either subsidise them at tax payers expense exclusively or alternatively to allow them to be an obstacle to that project. That project will get underway with or without the participation of the existing licensees. We want to make space for them to come on board. If the negotiations can be concluded rapidly they will come on board if not we will go in competition with them as the hon Member asked hypothetically whether that was one of the options available, indeed it is.

Mr Speaker, if I could finish off with the hon Member's contribution, the lottery. "The draw was postponed indefinitely" and then he engaged in something of an argument. The reason why a date could not be announced for the staging of the draw on the day that the machine broke down I would have thought was perfectly obvious. The draw could not take place until the machine had been fixed and they did not know that night when that would be so. So they said the draw is postponed and we will make the announcement of the date. That is not postponing it indefinitely in the sense that the hon Member tried to portray. It is postponing it for a date to be announced or did he think that there was the remotest danger that that might have been the last ever draw of the Gibraltar Government lottery? As he tried I think to insinuate.

The hon Member speaks of crisis of confidence I think Ministers share his enthusiasm for the Gibraltar Government lottery and I hope he does not think that the Government would wish to see it quietly either be privatised out of existence or removed out of existence. Most years it is a useful earner for the Government and we share his liking for it but I think it is also true to say when he speaks about the problems that plagues it in that he has a degree of responsibility for it. A lot of people that I speak to and I certainly do not consider myself to be particularly knowledgeable on the intricacies of the lottery but a lot of the people that talk to me about the lottery say that its problems started when it went fortnightly instead of weekly and that destroyed the weekly repetitive culture and the weekly habit, and people no longer knew whether it was this week or the next and they would not buy and as a result of going fortnightly the price of the tickets doubled and then one thing is to spend £10 every Monday and another thing is to pull £20 out of one's purse on a Monday. Rightly or wrongly this is the view that people have.

The hon Member made allusion to the Panorama story that the Chief Minister is tired of politics and I want to retire. I am afraid it is wishful thinking on his part. I am not sure that even if I did retire that it would necessarily result in his re-election into office but

nevertheless it is wishful thinking on his part. I regret to inform the hon Member that the Chief Minister has been misreported. The Chief Minister considers it a pleasure and a privilege, however difficult and stressful the responsibilities of the office are in general and at this point in time in particular and I look forward to continuing to serve the people of Gibraltar for as long as they think that I am the best alternative available to them to do so. I just want to dispel this myth and in this respect the article was right. I am not one of those politicians in Gibraltar that wants to make ownership of property in Spain some sort of political incorrectness, I much regret that my financial means do not stretch to buying a house in Spain, if they did hon Members can be sure that I would buy one with enormous pleasure and enjoy it whenever my public duties allowed me the opportunity to do so with even more pleasure than I had in buying it. Let them not think that there is any issue there.

The House recessed at 5.00 pm

The House resumed at 5.10 pm.

Debate continued.

#### **HON CHIEF MINISTER:**

Mr Speaker, we come to the comments of the Hon Dr Joseph Garcia. The Hon Dr Garcia is one of those Members that saw fit to comment that I had spoken for two hours or whatever it was and had said little about the budget and then went on himself to speak and say nothing about the budget at all. It seems a peculiar comment. I think the hon Member made a point which I think I would like to spend some time on. He asked why did the UK not

seek support from Gibraltar for the relaunch of the process? What signals were sent to London and by who before we got into this mess? There is plenty of time to see this. I do not know whether he is making any insinuations, certainly I am aware that resident Foreign Office spin doctors are trying to persuade people that the Leader of the Opposition himself alluded to it in his contribution as I recall that I would have gone to the talks and somebody recently reported to me that a certain Foreign Office spin person had tried to persuade them to accuse the Government publicly of having known all along from the beginning what the deal involved. I am sorry to disappoint the hon Member if he thinks there is any way forward down that road. It is wholly untrue. If he believes that the Gibraltar Government knew of, still less encouraged the relaunch of the Brussels Process in the vane that it has been pursued, then he can have as many post-mortems as he likes, certainly the answer will not include the Government. I have always found the word relaunch odd because I would not want the hon Member to be under any misapprehension. The Government have had their position on dialogue including dialogue under the Brussels Agreement and that has not changed and we have repeatedly explained that position and no other position. So as far as we were concerned the Brussels Agreement had, when one talks about a relaunch it suggests that since 1996 we have been seeking to engage in dialogue even under the Brussels Process on the Government's well known terms and if those well known terms were delivered we would still participate because participation with our terms would make the process safe for Gibraltar. If we had our terms then the present process which we most fear namely the principles of the position being agreed in a way that survives our rejection in Referendum could not happen which is of course the reason why the Foreign Office never agreed to our second of the two terms. The hon Member wants to know the position that the Gibraltar Government have maintained, maintains throughout and continues to maintain and will continue to maintain, it is the one set out in our manifesto of the year 2000 upon which we were comfortably elected. We will remain willing to engage Spain in a process of dialogue provided that the process is both dignified and safe. Dignified in that we are represented in our own right with our own voice and safe in that nothing can be

agreed on any issue without our consent or imposed on us against our wishes. That is the position of the Gibraltar Government, it has been the position of the Gibraltar Government, it is the terms upon which we would as we would like to take part in a process of dialogue with Spain. When the Government organised the demonstration it was behind the banner that said, "No in principle concessions against our wishes, yes to reasonable dialogue." It is important just to take stock of where we are. The reason why the Gibraltar Government are not taking part in discussions is because our terms were not met and if the British Government says anything which suggests that our terms have been met they are lying. Yesterday, in a Parliamentary debate the Minister of State at the Foreign Office said ".....it is not us that have kept Gibraltar out of the talks it is Peter Caruana the Chief Minister." Glossing over the fact that the Gibraltar Government's position which is longstanding and well known requires two conditions to be met:-

1. that we should have a separate voice, and
2. that there should be no agreements above the head of the Gibraltar Government,

people in Gibraltar are sick and tired of hearing the Government expound those two conditions. The first was more or less agreed under the two flags three voices formula earlier this year not as Mr Hain has an inclination to say, "from the outset," it has not been available from the "outset" the terms that we had been asking for, the terms that we had been indicating for six years we would accept as the incarnation, as the practical manifestation of the two flags three voices formula, with which I know the hon Members disagree, but at least let us understand what the facts are, have not been available to us from the outset. They were finely offered to us when I last had a meeting in London in the Foreign Office I think it was January or February I do not remember exactly the date, the last meeting I had in London with Mr James Bevan and the Foreign Secretary.

The second condition, no agreements above the head of the Gibraltar Government, which we have asked for precisely to be in a position to protect Gibraltar from the scenario in which we now find ourselves namely with the danger that an agreement will be done of the principles affecting our future and that that will stay even if we say 'no' in a referendum to proposals based on, that condition had not only been met but the Foreign Office has refused in terms to meet it and the reason therefore why we are not there is because they have refused to deliver our longstanding often stated and publicly stated, and at nauseam repeated requirements for attending. At no stage have the Government encouraged the British Government to launch the relaunch of the Brussel Process although had they met our conditions we would have gone. We have not gone because they have refused to meet our conditions and our conditions had been designed in 1999 precisely three years ahead of the event, precisely so that Gibraltarian participation in dialogue could not legitimise a process in which there could be an Anglo-Spanish agreement from which not even the people of Gibraltar could protect themselves in a referendum. Precisely what is now threatened in this Declaration of Principles and it is because they knew all along even before they relaunched last year that that is the choreography that they had agreed and did not tell me that they had spent the previous 12 months denying me the second condition. They were denying me the second condition which incidentally Robin Cook had offered me three years earlier. Robin cook would not offer me the separate voice but wrote to me saying, "I will not agree on anything with which you are not content" Now I am offered the separate voice but no agreement.....but why? As I said at a dinner, it would have ruined the cunning plan. The cunning plan has been from the beginning. We are stuck with the referendum for implementation but how can we do an agreement, a bilateral political agreement between the UK and Spain about Gibraltar affecting their political rights, the political effect of which is useful to London and Spain regardless of referendum and the answer is declaration of principles framework agreement. That is why they would not give me the second condition which Robin Cook had been willing to give me because long before they launched in July last year they knew that that is what they were intending to do if

they could negotiate the terms. The choreography and the methodology had been agreed. They may not have done a 'done deal' in the sense that all the details were worked out but they knew what the scheme was. They knew that the scheme was to end up with Brussels II Lisbon/Strasbourg/Lisbon/Brussels and then the next phase and that we would be stuck with it regardless of implementation because we could block implementation through the referendum, and anyone who suggests that the Government of Gibraltar have somehow indicated or in the words of the hon Member 'sent signals to London' I can tell him that the only signal that I have sent to London is the one that I sent publicly to the people of Gibraltar and that is 'of course we are willing to take part in a reasonable process of dialogue with Spain on an open Agenda.' Open Agenda means that Spain has got to be free to raise the question of sovereignty but there are two conditions, one is that we must be there with our separate voice so that it should not be incompatible with our right to self-determination, it may not advance our right to self-determination but at least it will not be so bilateral as to be incompatible with any advocacy of the right to self-determination and secondly that it should be safe. Namely that there should be no possibility of agreements above the Government's head. Why? Because by our presence we would have legitimised even that aspect of the political agreement which the people of Gibraltar would then not have been able to prevent in a referendum. Namely, the Declaration of Principles and they can squirm as much as they like to try and find political scapegoats. They do not have a political scapegoat in the Chief Minister of Gibraltar that I promise you. There is no point looking in the cupboard, there are no skeletons, and I am perfectly happy to say that. The Government's position on dialogue remains what it has always been and that is, if we can take part in a process of dialogue with Spain which is Open Agenda which is safe as we have defined it and in which we have our own voice as we have defined it, although we know that they disagree with the sufficiency of that definition we would take part even under the Brussels Agreement. Another difference with the hon Members of the Opposition. The reason why we have not is because they have refused to give us those terms. The responsibility for Gibraltar's absence from these talks and contrary to his assertions therefore

rests squarely on the shoulders of the Foreign Secretary and the Minister of State at the Foreign and Commonwealth Office. The hon Member may also be willing I think I have also said this publicly before but in terms of when we discovered that they had relaunched, obviously he will have heard in the Queen's speech just as we heard, I think in the Foreign Secretary's speech after the Queen's speech in June last year he said that they would relaunch the Brussels Process in the Foreign Secretary's speech on the Queen speech. Then they had the meeting in July which they said it publicly. Yes, it was referred to in Parliament and then they had the meeting in London or Barcelona or wherever and they met in the margins of some European Community meeting and I was telephoned by the Director Europe, "Peter I want you to know before they are just about to hold their press conference, I want you to know that they have agreed to relaunch the Brussels Agreement and that they are about to say that they warmly invite you to attend." I said "What do you mean warmly invited to attend? I have spent six years writing to you about terms and conditions, are they going to agree to meet those?" "Well they are going to warmly invite you to attend." There is no point in warmly inviting me to attend unless they are also meeting my longstanding conditions and the rest as they say is history.

Mr Speaker, the Government do not accept that the Brussels Agreement is the ultimate 'done deal'. The Brussels Agreement with the nature of the Gibraltar participation that are permissible under it and the structure of it exposes us to the ultimate 'done deal', which is why the Government have not gone despite our policy of willingness to take part but the Brussels Agreement modified as the Gibraltar Government wants it modified and modified as the Leader of the Opposition used to ask the United Nations to modify it in 1992 is a different creature and it is not only the mother of all 'done deals' but in fact puts the Gibraltar Government in a position to protect Gibraltar from all the adverse consequences that the Brussels Agreement could bring in its wake which of course is why Spain will not agree to our conditions being met. I say all these things to the hon Member because a little birdie, someone close to the party with which he is in alliance, has

been heard to say that the Opposition, namely they, harbour ambitions to try and make a political comeback by trying to make all this look the Gibraltar Government's fault. All I can say to the Opposition Members is that if that is their political master plan for the next two years good luck to them. There is more chance of hell freezing over than them succeeding in pulling off that political stunt.

I agree with the hon Member, I think I correctly understood him to say that we should know precisely what the deal is and what we are rejecting and why. I think he said words to that effect. I agree and there are two reasons, that is precisely why the Government do not share .....

**HON DR J J GARCIA:**

If the Chief Minister will give way? That is not what I said, what I said was that we already knew exactly what we were rejecting when rejecting joint sovereignty. The other aspects have already been announced what I said was actually the opposite.

**HON CHIEF MINISTER:**

I misunderstood the hon Member on that. The Hon Dr Garcia mentions the e-com project, I think he should and I am sure he would in a more generous moment acknowledge that the loss of that project is not entirely unconnected to the moment. It was a project for the provision of e-com infrastructure, the telephone media and technology bubble burst, the dot.com bubble burst and e-com simply lost the finance that it had for this project. There are companies going bankrupt because there is a surplus of the commodity that e-com was going to establish in Gibraltar and that is the reason why the e-com project failed. It is most unfortunate, it would have been a very interesting project for Gibraltar and if the

market recovers which I fear will not be for quite some time there is an enormous glut of these things on the market now following the dot.com bubble bursting, we may revisit it but there is no prospect of that sort of investment right now.

On licensing hours can I just, the hon Member keeps on criticising that licensing hours are discriminatory but can I remind him that Gibraltar's licensing hours have always been discriminatory based on location and noise. He knows that Gibraltar's licensing hours have always had, some people have to close at 12, some people can stay until 4 o'clock and there has always been a case of can you persuade the Licensing Authority in that case the Brewster Sessions in the Magistrates' Court, that one's location is such that one ought to be allowed to go on until four. Are there neighbours around? Are they going to complain? There has always been a discriminatory element in the licensing regime, a perfectly proper discriminatory element in the licensing regime. The Government have never said that the extension of the licensing hours in the leisure areas is temporary. There is nothing temporary about it at all, what the Government have said is that in addition to the new licensing regime for the leisure areas we were conducting a study to see whether and to what extent licensing hours might be extended elsewhere. I have to tell the hon Member that the Government have not yet made a decision on that and that the noise to neighbour complaint ratio if we could just invent that for the purposes of this debate, is not encouraging in terms of the Casemates experience and in Casemates there is only three or four neighbours. If one were to extrapolate the Casemates scenario and put it in bars in Irish Town, Cornwall's Lane and Cooperage Lane in the heart of the old town surrounded by houses the complaints problem would be almost intolerable and therefore whilst the Government have not made a decision on this I would say it is unlikely that the Government would go to an all hours licensing regime throughout the whole of town.

I do not know that Casemates has generated no new business. I see lots of people enjoying the 'al fresco' facilities at Casemates

that did not use to go out before. Me for example, and I see lots of people in that category who go down to Casemates and there has been the development of new business at Casemates but it is true also that not all the Casemates clientele is new, that some of the Casemates clientele is obviously dislocated from other parts of town. I see this when I drive down Irish Town. There is the bar there, the green one in Irish Town 'Corks' which always used to be overflowing out the door when I used to drive down and people used to cheer me as I drove down in the car and now since Casemates opened there is hardly anyone. So obviously there has been a dislocation of business but I think it is also true that there has been a considerable development of new business by Casemates. In what proportions I suppose only wholesalers of wines, spirits, beer and drinks will know the answer to that because they know exactly what the redistribution of wholesales and consumption is following the Casemates experience. I have no doubt that there has been a significant amount of relocation of existing business, that I am equally sure that there has also been a very significant amount of generation of new business.

Mr Speaker, I regret that the hon Member should, I said to somebody I bet this year Dr Garcia tries to minimise the effect of the 11<sup>th</sup> September and lo and behold that is exactly what he has tried to do. The hon Member can do that if he wants to, what I said in my own speech was that actually the 11<sup>th</sup> September had had an impact on Gibraltar but actually quite a small one compared to the impact that it had had on other places and that we in the Government think that Gibraltar has actually got away very lightly in terms of its economy with the 11<sup>th</sup> September factor. So, certainly we are not trying to talk up the 11<sup>th</sup> September factor but frankly he should not try to talk it out of existence altogether. It has had some impact, we feel very fortunate that the impact has been as slight as it has been and there are figures that are up despite the 11<sup>th</sup> September there are figures for 2000 which are up. Air travel, the hon Member says about air travel that most of the seats are people heading for Sotogrande or for Spain. That

has always been so, what we keep our eye on is in the proportion, obviously if one has 50,000 and 60 per cent are for Gibraltar and 40 per cent are for Spain and then one goes for 100,000 and 60 per cent are for Spain and 40 per cent are Gibraltar, then one knows that the growth that one is generating is all going across to Spain but if the percentage either remains the same or shifts in one's favour any growth in the total number is also delivering growth to one's domestic market and that is exactly what is happening. So, the figure that we keep our eye on is roughly what percentage is going where over a period of time.

Mr Speaker, visitor numbers. Visitor numbers are also up the hon Member may wish to complain as I think he has done but they are only up by 1.25 per cent, no, he said only up by 0.25 per cent. He has done a calculation that I had not done. That there should be any increase at all post 11<sup>th</sup> September I think is something that we should all be glad for. Let us not forget that we are talking about a rise in visitor numbers from all time record levels. When he talks about only 0.25 per cent increase we are talking about 0.25 per cent rise over last year's figures which was an all time high. We can sit here measuring the figures for one year or for another but he should be aware that in the years that we have been in office the figures have risen from 5.3 million to 7,048,000. That is an increase of 31 per cent. If in the last year it has only gone up by 0.25 per cent then I am very sorry and I hope that he accepts my profuse and humble apologies but it is still a record level and it is still 30 odd per cent higher than it was when we took office. He may think that the cruises were not affected by the 11<sup>th</sup> September but he should know that immediately after the 11<sup>th</sup> September, 25 calls were cancelled. He must know that Americans stopped cruising and that a lot of American companies pulled their ships out. To compare Gibraltar to Barcelona, it is a capital city, it is just that we have this debate year in, year out, does the hon Member think that Gibraltar with the resources that we have can match Barcelona's rate of growth in anything? Never mind about tourism in anything? I do not think why the hon Member should think so, growth is relative, it is harder for us to grow by 5 per cent than it is for them because they have got the

resources that we do not have. I think that Gibraltar does very well with the resources that we can bring to bear on tourism. If he wants to continue he suffers a little bit I think from the Leader of the Opposition's syndrome. I do not think he has started the grieving process yet. Does he not realise that every time he talks down the tourism performance people in Gibraltar look around see that they can barely walk down Main Street for tourists and say, "oh look here are all the tourists that Dr Garcia says are not coming." When they look out their window and see not one, not two, but three cruise ships in port on one day they say, "ah yes of course Dr Garcia is right you see Joe Holliday is the worst tourism minister that Gibraltar has ever had." These are things that people see for themselves there is no need for us to be standing here year in, year out quibbling over statistics and turning them inside out, upside down and inside out. It is self-evident for people to see in Gibraltar that there has been a boom in tourism in Gibraltar since 1996. Even in the times of the hon Members there were times that tourism was less good and times that tourism was better. Frankly it is much better now because I think that the climate now exists for tourism. A better climate that used to exist before. I am not talking about the temperature or the weather or the rainfall, he knows what I am talking about. So let him try to persuade the people of Gibraltar because everytime he tells the people of Gibraltar that tourism is not doing very well and people can see for themselves that tourism is doing very well and therefore what Dr Garcia is saying is clearly not correct he just wipes another layer of general credibility from himself. People say to themselves, "Well look if Dr Garcia is trying to persuade us that tourism is doing badly and we can see for ourselves that it is not what else of what Dr Garcia tells us is equally untrue?" It just does not help his political credibility. I am not worried about it but they should be. I do not know about the Leader of the Opposition, he is getting on now, but he is a young man I suppose he aspires to more than Opposition I hope but the way he is going.

This is an example of how he reduces debate almost to the infantile, he says, "....because you make a great fuss about taxis. You have got 50 taxis painted in Gibraltar colours out of a total of

14,000 London taxis." Fifty out of 14,000, a drop in the ocean, another ridiculous Government waste of time initiative. That is the only purpose that he could have seen fit to point out that we had 50 out of 14,000. I do not know if he knows that Gibraltar is the second largest sponsor of London taxis for advertising. Only South Africa with 60 has more London taxis than we at 52 and that they cost a considerable amount of money and before he rubbishes it by creating a fraction of 50 over 14,000 he should bear in mind that these things are prominent, 50 out of 14,000 means that if he goes to London for more than a day he will almost certainly see a Gibraltar taxi as I test and check everytime that I go. Fifty taxis mean that 1.5 million people a day see Gibraltar and its colours. That is what 50 taxis means. The point of having 50 taxis is not in the hope that one will flag one down and one will be lucky enough to be the one that takes one from Victoria Station to your hotel. That is not the purpose of it, the purpose is that they are constantly in circulation around the West-End of London which is the ones that we are limited to. Ours are all the ones that stay in the centre of London and that represents massively good value for money compared, for example, to an advertisement in a newspaper that appears one day. I am sorry that we have not spent as much as South Africa or as much as all the other companies but I think at second we are doing quite well and I do not think it deserves to be rubbished and converted into a fraction of that sort by the hon Member, but it is symptomatic of his unattractive tendency to rubbish everything. Why could he not just say, "Well, yes, it is a good idea, 50 taxis, newspapers, underground," it is actually not necessary to criticise everything that the Government does. No one believes out there that everything that the Government do is bad and wrong. Even our opponents are generous enough to acknowledge that sometimes some of the things that the Government do they do right. That is everybody except the Opposition Members. It is not a political style that is likely to enhance the hon Member's political appeal to the electorate of Gibraltar. It would be much more credible if occasionally he would recognise the Government's achievement so that when he criticises the Government his criticisms would have more credibility, but that requires a political hard lesson which the hon Member appears unwilling to take on board.



Mr Speaker, the figures that are down are fractionally down and therefore the Government think that we have got off very lightly. We are delighted that some of our statistics are up and those that are down are down by such little and we were actually bracing ourselves for much worse post 11<sup>th</sup> September when no one quite knew what the long term fall out, the House will remember aeroplanes where grounded, no one knew whether they were going to take off again or how long they would be grounded for and there were all sorts of tales of woe, of British Airways going bust and no one flying ever again. In the event as the weeks and months have passed I think we should consider ourselves collectively fortunate that we have got away so lightly. I do not think it would have done any harm for the hon Member just to have been a little bit more gracious in recognising those facts which is an act of good fortune. The Government do not take credit for getting off lightly from the 11<sup>th</sup> September. We have not got off lightly because of anything that we have done or that we have marketed a little bit in home from home in the United Kingdom but getting off lightly is an act of good fortune for us all post 11<sup>th</sup> September. I think he could have afforded to be a little more gracious. Then a relevant statistic especially when it dovetails with his view that a lot of the increase in air traffic he thinks goes to Spain, or a lot of the air traffic goes to Spain is that historically one of the more relevant figures for the state of the local non-day visitor tourist market has been hotel occupancy and hotel occupancy has risen from 43 per cent in 1996 to 64 per cent now and it has risen last year. Of course 64 per cent is not as good as 100 per cent, and if he says that the hotels still complain about having 300 rooms empty a year, of course, unless one has 100 per cent room occupancy one is going to have empty rooms but there is progress. Hotel occupancies are significantly up. If the hon Member wants to continue to paint a picture of doom and gloom in relation to tourism he is perfectly welcome to do so. The facts however he should know do not support his analysis nor do people's day-to-day experiences. When tourism are at near record levels and there is little that he can credibly criticise in the Government's performance on tourism, the last resort is to say as

he has done this morning is that we could have achieved more. Of course we could have achieved more, it is always possible to achieve more. That is what we hope to do next year. We cannot achieve everything in one year and whatever he thinks about our achievements and about whether they have been maximised or not maximised, frankly to describe tourism at record levels as 'pouring milk down the drain' which was the bit of his quote, punchline was "....that tourism in the grips of bureaucracy that shoots one cow keeps the other and pours the milk down the drain." I think that was the gist of it as far as I could gather to describe the Government's record on tourism as 'pouring milk down the drain.' I am sure that even he now that he is not on his feet will acknowledge is unduly harsh a judgement even by the standards of an Opposition when describing a Government.

Mr Speaker, that brings me to the contribution of the Leader of the Opposition who also criticised me for speaking for three hours and for saying very little about the budget and then he went on to read his address and said nothing about the budget at all, nothing. Surely he at least must know that this is not a debate about.....when was the last time that anyone went through... this is not what this debate is on the Second Reading, that is what we do at Committee Stage. I do not want to remind him but if he remembers the last time the GDP and National Accounts were discussed in this Chamber whilst he was Chief Minister, does he remember the charts that he brought with green lines and brown lines I remember sitting there where he is sitting in and he gave us all a long lecture about National Accounting. The difference between expenditure and output and GNP and GDP and all these things. When he used to give these addresses there was never any reference to the estimates at all. I do not know where this practice of just shut me up because they do not like the things that I have to say. I am sorry if I go for longer than they would like but I like to be comprehensive. I like to be comprehensive and full in my treatment of these serious subjects which I think is what they deserve.

Why should he vote for the recurrent expenditure he asked given that I had said nothing? The answer is that because he knows why. There they are they speak for themselves. It is for him to question the Government on items of expenditure that he wants to question the Government on and he has not. It is not for the Government to probe itself, they are my budget, I wrote the thing. I know what it says, everything that it says is what we wanted to say he is the one that should be probing us on the budget not complaining that we have not probed ourselves and they have not done it. I honestly do not understand. This is another example of what I said before, for the hon Member to speak and to describe the £5 million that was transferred from the Short-term Benefit Fund to the Social Assistance Fund, as raiding the Pensions Fund which if any Government, any company did it they would go to prison, it is the height of argumentative dishonesty. The hon Member must know that the Short-Term Benefits Fund is not the Pensions Fund. It does not pay for anybody's pension it is not the fund to which pensions are charged. It is the fund to which short-term benefits are charged, unemployment benefit, things of that sort and the Government are obliged to pay those from the Consolidated Fund. It has nothing to do with the fund, yes, short-term benefits is a matter of statutory entitlement, nothing to do with what the fund has or has not got and the money is left in the Short-Term Benefits Fund is still infinitely greater than what could possibly ever be needed for short-term benefits. No one has raided any Pensions Fund, we have removed the surplus from the Short-Term Benefits Fund to use it for other social services type purposes and we have not raided the Pensions Fund, it is not the Pensions Fund that the monies come from. The Leader of the Opposition is perfectly entitled to disagree with what we have done, to express his disagreement with what we have done, to say he would not have done or to say that he thinks we should not have done it. I am not complaining about any of that what I am complaining about is his falsely giving and premeditatedly giving the false impression that this is raiding the Pension Fund. It is not the Pension Fund, no one has raided the Pension Fund, and these monies did not come from a Pension Fund and he knows it. Anyway, it was quite interesting that no sooner had he complained that my speech was not about the Appropriation Bill he goes onto

this tirade about this alleged raping of the Pension Fund which has nothing to do with the Appropriation Bill at all. It has nothing to do with it, it is not there, in terms of revenue and expenditure. This happened last year it is not even the forecast out-turn of the Appropriation Bill. This is another example of him not having started the grieving process. He still hankers to tarnish me with a label of, I think his words were, "the hon Member expressed an in principle willingness to see Spanish pensions increase..." But does he not understand that he cannot any longer succeed even in mobilising elderly people against us as he used to? Does he honestly believe that he is going to get elderly people in Gibraltar worked up again as he succeeded in doing in 1995. There is more chance of hell freezing over than that, more chance of hell freezing over, not as much, more chance of a hell freezing over than him succeeding in pulling off that stunt again. People suck lollipops and they see it and then from then on they do not rely on anybody else's description of the lollipop they remember the taste that they tasted for themselves.

Mr Speaker, the hon Member in his obsession with demonstrating that the economy has not grown says because the indicators do not suggest economic growth, for example, he said import duty on general merchandise is still at 1995 levels. Import duty on what he and I both know what we mean by general merchandise, it means excluding particular products, stands at more than £1.25 million more than it was in 1996/1997. Even after the Import Duty Review that resulted in the Government abolishing import duty on a whole number of products and halving it to 6 per cent on another lot of products including cutting vehicles' import duty in half. This was no ordinary balancing of the tariffs, this was a massive give-away of tax, of import duty revenue but even after that there is still increase in the take. So presumably if when he thought it was different, he thought it was evidence of no growth, now that he knows that there has been increase despite the cut in the rate of duty, presumably now he will agree that it is evidence of growth. If static import duty yields according to him is evidence of lack of growth then it follows axiomatically that increase in import duty yields must be evidence of growth. He cannot have it both ways it

cannot be irrelevant to measure economic growth when he thought that there was no growth in import duty yield and the moment that he finds out that there is increase in the yield now all of a sudden it is an irrelevant economic indicator of growth. Then we have this extraordinary argument that not only has there not been a growth in the number of jobs in the economy. All these economic, political, intellectual somersaults that the hon Member performed it is impressive the twisting, turning, contortions, and the somersaults and the sort of argument based on argument, all to demonstrate in his view that the statistics show no economic growth. It is a load of rubbish.

Mr Speaker, let us see if I can explain it to the hon Member in simple terms. When one has a static population like we have in Gibraltar of just less than 30,000, indeed our birth rate is now in decline. The birth rate has fallen below the death rate, but never mind that even if it was static, even it were balanced, there is a finite number of Gibraltarians in the economically active years of life. The number of people aged between 16 or 18 and retirement age 65 is static and in an increasingly aging population, in fact the number of people not economically active actually falls. If one is in such a situation as Gibraltar is, most of Europe is, and one nevertheless has economic growth it is equally axiomatic that the jobs that that economic growth delivers can only be filled by imported labour because there is a finite supply of local labour. The number of people entering the labour market at school leaving age is roughly the same as the number of people leaving the market having reached retirement age. The hon Member must accept that unless there is a rapid growth in the indigenous population, unless 18 years ago there was an explosion in birth rate there would not be a supply of Gibraltar labour available today to meet the extra 1,000 jobs that the economy has generated in the last three years. Yes, I am coming to that in a moment and the unemployment statistic as she knows has been more or less anchored for years and successive Governments have come to the conclusion that really there is an element of structural combination of people who are not really looking for work, who do not have the right skills, we do not regard them as

employers and as unemployable, we try to have training schemes and all of that but it does not alter the fact that those 300 people on the unemployment list are not there waiting to grab and fill the jobs that are created. If he looks at the Chamber of Commerce Survey that I quoted from in my own address he will notice that the third biggest concern of employers in Gibraltar is difficulty in recruiting labour for the jobs that they have available. Of course economic growth is going to result in an increase in the percentage of jobs held by imported labour who else is going to fill them? But it is a matter of anthropological, statistical fact. Now, the hon Member's point would be justified in part if it transpired but there were 300 able, willing and ready Gibraltar job seekers and that everytime that the economic growth created new jobs all these 300 guys were beaten to the post by somebody coming in from outside but, that is not the position. The hon Member knows that that is not the position, he insists on arguing that there have been no new jobs in the economy until November 2001 and I am sorry to say that he is mistaken. The correct figures are the ones that I have given him not from one source but from two which shows 1,157 new jobs in the economy between October 1998 and October 2001. There are the figures from two sources from the Employment Surveys and from the insured labour force. Then he asked, "Where are these disappearing 500 Gibraltarians?" There are not 500 disappearing Gibraltarians. When the Employment Survey went from PAYE to questionnaires it became possible for the first time for the Statistician to identify who was full-time and who was part-time. From the PAYE records it was a matter of the Employer's declaration. The employer in effect decided whether he described an employee as full-time or part-time. When we had the questionnaire there was a standard definition, less than so many hours part-time, more than so many hours full-time. This resulted in people being reclassified from full-time to part-time which is what they had always properly been but the methodology of retrieving the information had not enabled that to be identified. I think we have also said in the past in Questions and Answers that the number of part-time jobs has increased by 521 jobs from 1,409 in April 1998 to 1,930 in October 1998 reflecting primarily although not exclusively the fact that 350 Community Care officers who were presently categorised as full-time were recategorised as part-

time. It does not involve any change in reality and there was another factor and that is that the hon Members cannot make the sort of scientific use that the Hon Mr Baldachino tried to make of the difference between the description of Gibraltarian and British because the categorisation as between Gibraltarian and British is done by the employer. Some employers are sensitive to the distinction between Gibraltarian and British. Some employers take their view that we are all British and there is almost a political statement and put British when describing a Gibraltarian not understanding that for these purposes there is a nuance which is used and the hon Members therefore should not assume that the fall in the number of Gibraltarian employees necessarily reflects that they are not Gibraltarian employees but that they are UK employees. So, the UK figure includes what he and I would regard as Gibraltarians as well. We got asked whether there is any way of that being, I do not know, when everything is computerised presumably people's names can be categorised by the computer into Gibraltarian or otherwise and of course there is an increase in the number of Spaniards and others and of course as a percentage of the workforce they become a higher figure but that is because the economy is growing. It is precisely because the economy is growing and precisely because that growth in the economy can in the main but be serviced by imported labour. Just as the hon Members kept Moroccan workers out of the marketplace for years and when we allowed them back into the marketplace, I am using telegraphic language he knows what I intend to mean by that, there was no impact. There was growth in the economy, there were jobs for them to move to, there were jobs for Gibraltarians otherwise if the analysis were as the hon Members are trying to pretend is the correct analysis there would be an increase, there would be a very significant increase in the numbers of Gibraltarians unemployed if their jobs were being taken by Spaniards or taken by the British. This would be reflected in a rise in Gibraltarian unemployment or Gibraltarian emmigration but for goodness sake does he really think that 500 Gibraltarians have left not because they could not find a job but because they lost the job that they had and having been sacked or made redundant they had to leave Gibraltar. We were able to save 200 such Gibraltarians when we rescued the Kaverer

situation. That is exactly the fate that might have awaited the Kaverer employees if the Government had not been able to retrieve the situation. The hon Members have got to surely recognise that for their analysis to be correct it would require things to have happened which have not happened and because they have not happened it demonstrates that their analysis is not the correct one. I would just remind him that the Input/Output Study does show a significant growth in the economy which also does not sustain his analysis. He wants to rubbish everything, yes, let me remind him to the extent to which he wants to rubbish everything. In order to get away from the fact that Professor Fletcher's Input/Output Study shows growth in the economy which of course contradicts his whole political platform, he said, "Ah, rubbish, Professor Fletcher I remember what Mr Wanhill," by the way Mr Wanhill has never had anything to do with National Income Accounts or GDP. Mr Wanhill's mistake was to hold himself out as an expert on EU which according to the Leader of the Opposition he did not think he was. Even if Mr Wanhill is not an expert on the European Community does that mean that there are no experts on anything? Because Mr Wanhill was not an expert on the European Community therefore Professor Fletcher is not an expert on National Accounts either. According to him Mr Wanhill was an impostor although I am sure that there could be others who have a different view but according to him, because according to him Mr Wanhill was an impostor as an expert on EU matters, therefore there are no experts on any issues including Professor Fletcher who lectures in universities on the National Income Accounts specialising in small economies and still does so at Southampton or Bournemouth University.

The hon Member can sail through life rubbishing everything, the Government, the experts, the university professors, in the hope that everyone will believe that everybody else is rubbish except him. I wish him luck, I do not think he is going to have much success but I wish him luck. No one believes it and the hon Member shows either much less expertise on statistics and the economy than he has led this House to believe that he has or alternatively he is just obfuscating the facts on purpose. The

House will remember when I gave him the statistics about output and £96,000 per employee and he says, "Who earns £96,000 a year?" I am quite happy to give the hon Member a lecture if he needs it on the differences between output and income. I am perfectly happy to explain to him if he needs this explaining the difference between output per employee and income per employee. The income is his, the output is the value of what he produces but surely he must know that because if he does not know that he does not know anything and I have always at least given him credit for three years that he says he spent in the London School of Economics obtaining a degree in economics they must have taught him that at least I was taught that in my 'A' Level Economics which is as far as I got. I am sure that he was taught that in the London School of Economics, and then to say £206 million tourism income that does not correlate to the tourism expenditure survey. Of course it does not correlate to the tourism expenditure survey. The Tourism Expenditure Survey is a survey of direct expenditure by tourists. It is a measure of how much tourists pay out of their pockets and spend before they leave Gibraltar a pretty unscientific measure of it to boot. He must know that tourism income for National Income Account purposes means the direct, the indirect and the induced income from tourism activity but surely he must know that. I have never regarded myself as an expert, I openly admit to him that until the Government got involved in National income and this Input/Output model my own knowledge of National income terminology and concepts was pretty rudimentary but even I knew these things from 'A' Level Economics I am sure there is much more to know that I do not know about these things but these are basic building blocks and basic distinctions of this matter. He has not seen it yet but on the basis that Mr Wanhill was not an expert on the EU he concludes that Professor Fletcher therefore is not an expert either on National Income Accounts and without having seen it he is not encouraged that there will be an improvement from the current rather than from this model.

Mr Speaker, it is clear from the issues that he has raised that he has not understood the quotes given in this House. He says an increase in Company Tax take and static employment is not contradictory. I suppose it is possible for businesses to make

more profit and employ less people by massive increases in productivity, massive technology, massive automation but that does not happen in the economy of Gibraltar. The conventional way for companies to reflect the fact that they are being more profitable is that they are doing better and when companies do better it is because they are working in a healthy growing economy and it means that they employ more people. The idea that the Government's yield from taxation the rates of which have not increased have fallen. We introduced a small company tax, admittedly it has not had a massive impact on the things. They certainly have not gone up and to the extent that they have moved they have gone down by whatever impact the small company rate has had so far which I do not wish to overstate. So, even that environment the tax take by the Government have increased from £10 million to nearly £14 to £15 million, however efficient the Treasury or the Income Tax Office are at collecting arrears of which they have not exactly made a monumental effort. They have made some effort to try and talk away that sort of increase in yield in company tax, first of all it does not mean that there has been more profit because of (a), (b), or (c) but if there has been an increase in profit it does not mean because they have employed more labour, One can be more profitable without employing more labour. It is just one of these fanciful, concocted, contrived arguments that the hon Member is famous for building in order to justify or to appear to justify an unjustifiable position that he wants to defend for political purposes. There are 1,000 new jobs in the economy. Every economic indicator, every conventional economic indicator which is not distorted in its interpretation by the hon Member points to economic growth and they cannot all be wrong:-

- Record number of tourist visitors
- Record hotel occupancy
- Record cruise passengers
- Increased Customs import duty yield to Government even though we have reduced it on many products and abolished it on others

- Record levels of employment in the finance centre
- Record levels of employment in tourism

All of these things which anywhere else in the world means a relatively prosperous growing economy according to the economic school not now of Milton or Freedman but Bossano all of this in the case of Gibraltar is capable of being explained away as being entirely consistent with the fact that there is no economic growth, nothing. Government increase in tax yield was explained away in one way, increase in jobs was explained away in other and what he cannot talk away he either ignores or misrepresents by saying that there has been no growth in import duty when there clearly has been. Good luck to the hon Member. Then he says, "Government have done nothing to improve the economy everything is organic growth of what was there." So, what is new? When he arrived in office there was a finance centre, a shiprepair yard, and there was a port. The only thing that he has done is persuaded for want of a better word, persuaded a Danish pension fund to build Europort that is all he has done. Everything else which he failed to do precisely what he failed to do, was to create the right economic climate to allow organic growth in the real economy and does he remember all those political debates between us about 'optical illusions'? Yes, of course he does and they remain as true today as when I used to tell him then. The optical illusion was one could not point at a building and say my economy is prospering, why? Because the building is not sustainable economic activity. Sustainable economic activity is what goes into the building, the lawyers, accountants, banks, all the people one wants to fill up the building which they never did. Europort remained empty and which is precisely where there economic policies failed. I do not say that their economic policies failed because they failed to build offices, clearly they built offices. I do not say that their economic policy failed because they built houses, clearly they built houses. Their economic policy failed because they failed to understand that that was just the beginning not the end. That was not the economy, the economy was growth

in the finance centre, in shiprepairing, in port developments and he failed to understand this even though I spent four years telling him across the floor that all of this was for nothing if at the same time there was no confidence in the economy, confidence for people to come and grow the finance centre. For people to come and grow a sustainable economic activity and obviously I still have not persuaded him that that is where he went wrong. Everybody in the private sector believes that that is where he went wrong and he knows why he went wrong in it. He made the wrong option choice, he should have abandoned things that he abandoned sooner and he should have abandoned even belated by things that he never abandoned and which were damaging these other aspects. If one could reduce this budget debate to simple proposition then the Chief Minister is a thoroughly unpleasant chap, the Government have done absolutely nothing to develop the economy in the time that they have been in office and any improvements that there have been is still down to when we were in office. That in a nutshell is the Opposition's political position in this debate. Ask the Finance Centre, whether they think that the change of Government was irrelevant, ask Main Street traders whether they think the change of Government in 1996 was irrelevant, then ask me, I know the answer. You ask them whether they think it was irrelevant.

Mr Speaker, I do not want to address any more the question of privatisation and Authorities, I do not know whether it is true that no one was privatised in his time against their will, it is not the perception. It is not the perception and it is not even what they have said. I think they have spoken about the majority being in favour. I make no comment on that what I say is that certainly no one is being moved against their will now even to a half-way house. It is not even privatisation but even to the Authority no one is being moved against their will, it is not a question of majorities and minorities, for example, in the Electricity Department which the hon Member described as being an area which the Government had been more successful. He spoke about some grades, he must know that the day workers are in favour, the shift workers are against. The Government are not saying, and there

was a vote in which the majority of employees of the department voted in favour of the Authority because the day workers happen to be in a minority and their union urging us to implement.....I said no this is not a question of implementing, this is not a question of majority there is a significant minority that does not want to come. The Government are not willing to drag them across. This is not the majorities or minorities one cannot alter people's status and people's rights on the basis that they were in a minority or a majority. One can try to incentivise them, persuade them, and then if despite the fact that there is a minority that do not want to go one still wishes to proceed one has to find some way of not adversely affecting, which I suppose is the formula they found in Lyonnaise des Eaux with the seconded Government employees, they were presumably the minority that did not want to go. It is no skin off my nose but at least so that they are aware none of the Government's various Authority negotiations with the union, none of them are on the basis that they will be imposed on anybody, minority or majority and frankly the only group of workers as I said before where the Government have exhausted all their options is the Postal Delivery workers in the Post Office. They are the only group of workers where the Government are now at the point of having to say well the solution needs to be radical and it seems that there is little alternative now. The Government's doors are still open for negotiation, we still vastly prefer to do it by negotiation and by consensus, the Government have shown a willingness to be more generous that I am sure the tax payer is happy that the Government should be generous in favour of incentivising the Post Office and they have still rejected it. What they want is to have the whip hand. They want a pay system that enables them to decide how much they earn because they control whether the delivery service works or not. It works when they want it to work and when they do not want it to work they make it not work so that then the Government have to pay them more to come and make the service work and that is what the Government are not willing to accept. We are not willing to put more money into a system that does not work because all one is doing is raising the threshold and the cost at which one has the problem. It is not a question of employing three more postmen, as the hon Member said if it was a question of employing three more postmen

would we not have already done so? We know we are going to have to employ more postmen anyway even under the new regime. The problem here is not the Government's unwillingness to employ more postmen but even if we employ three or five more postmen the system will remain open to the manipulation that it is presently open to whatever number of postmen one has. Frankly for the hon Member to suggest that it is as simple as sitting down to negotiate and having a few more postmen is disingenuous, does the Hon Mr Perez not know that we have been negotiating with the Transport and General Workers Union and the men themselves for nearly two years, and that we have arrived at an agreement which even the Union officials have described as generous and that they still do not want it? As I have said publicly they only want whatever improvement in the service is acceptable to them and that is not acceptable to the Government.

Mr Speaker, I do not think that I have ever said that secondary action is not acceptable, no, and certainly the motion that the AACR I think once took to a party conference, I think it was a motion on secondary action and I have never said that secondary action by which I mean one group of workers going on strike to support another, that is what secondary action means, what I have said is that that thing which the hon Member invented in Gibraltar when he was Branch Officer of the Transport and General Workers Union to disrupt Government without costing his employees income, the so called selective industrial action. In other words, employer you pay me the full amount of my salary and I will do that part of my duties that I please, that is called selective industrial action which he invented here. Secondary action I have never expressed a view on .....

**HON J J BOSSANO:**

They go together.



## HON CHIEF MINISTER:

.....no they do not go together they are completely different things. Secondary action is when somebody says, "I am going on strike" say a hospital worker says, "I am going to go on strike in support of the claim by the Water Distiller workers," secondary in the sense that oneself is not involved in the dispute but one goes on strike to support the claim of somebody who is involved in the dispute that is secondary industrial action. Selective industrial action is to pick and choose which part of your contractual obligations one performs whilst expecting to be paid one's full wage. That is what I have expressed a view on. I have to say that the Labour Government in the United Kingdom much as it criticised Mrs Thatcher's Secondary Action Legislation banning secondary action have not, and they are still a fair way down their second term, they still have done nothing about removing it.

Mr Speaker, I have explained in answer to another of the hon Member's comments the Government's position on dialogue I will not repeat it here, I regret that the hon Member should feel, the problem with the hon Members is that anything that the Government does which is successful and which obtains the approbation of the people of Gibraltar they cannot stomach. Frankly to say that the Government have placed the advertisements in the UK newspapers I think his exact words were, "that some people think that it is done for the competing purposes of the GSD's re-election." Or words to that effect. I have never met anybody who has thought that. Well of course the people the same 'yes' men that he was surrounded by when he was in office that only tells him the things that he wants to hear who tell him that everything that the Government do is bad and that everything that the Government do is in order to obtain re-election. The vast majority of people in Gibraltar actually think that the Government are not doing a bad job in protecting Gibraltar from the present, people will have different views and some people will think we have done better and other people will think

that we have done well but not brilliantly. Wherever one is the vast majority of people in Gibraltar appear to believe that the Government have conducted Gibraltar's defence in a reasonably competent fashion. It really is regrettable that the hon Member should think that this was done for electoral purposes. For local electoral purposes I could have just put them in the Chronicle and in the Panorama I did not have to put it in the New Scotsman which to my knowledge nobody in Gibraltar reads or the Bristol Western Mail which nobody reads and I do not see why they have to be so systematically ungenerous. I regret to inform the hon Member that times have changed from the days when he was in office. The Chief Minister no longer makes decisions about who is employed in the public service and the Chief Minister no longer makes decisions about the allocation of contracts except to the extent that Ministers do collectively and that is when there is an element of design involved. If the Government want to build a Theatre Royal or the Government wants to build the coach park or there is an aesthetic design selection to be made there is a matter of policy and that is made by Ministers not by officials but tenders which involves money for value considerations or highest, lowest, I regret to inform him that things are no longer as they used to be when he was in Government. These decisions are not made by Ministers at all. I do not know where he gets, I thank him for the favour that he thinks he was doing to me in bringing to mind these perceptions but no one could possibly have that perception because it is not true. Usually it takes at least smoke before anybody even begins to suspect that there is a fire. Certainly I have heard it said that I am a little bit arrogant on occasions and I recognise [Laughter] well yes indeed one of the virtues in life is in recognising one's own but I have to admit that I have never heard anybody say that I am vindictive. I remember people saying that the hon Members were vindictive because they were either with me or against me and if one displeased the Government one's job was in jeopardy, one's contract was in jeopardy and this and that. Frankly, I would be distraught to learn that anyone thought that this Government had been vindictive by which I mean that as punishment for a view or as punishment for an opinion or opposing the Government, the Government takes it out on one. That is what vindictive means and I am glad to say that one of the things



for which I think this Government are rightly recognised in the Community at large amongst many other things is that we are not vindictive. So, whilst I thank him for the favour that he thought that he was doing to me by being perceptive, yes, of course it is true, or does he not know that things happen now that did not use to happen in his day. That even his political supporters get Government work which never used to be the case. People's political preferences are irrelevant when they are dealing with the Government, they are irrelevant when they apply for jobs, yes, of course ask all his old friends whether they are still in business with this Government and I will tell him what the answer is.

Mr Speaker, I believe that the electorate knows my virtues and it knows my faults and puts them both in the balance and forms a view of me as it does of all the other Members of my Government and forms a view of us warts and all and I am quite comfortable with that process.

Finally Mr Speaker, the hon member asked my Colleague the Hon Mr Azopardi whether the implementation of the Government's Tax Reforms were conditional on EU approval and I think that I have answered this myself I cannot remember if it was in my own address or whether it was in the last Question Time in which I said to him that to the extent that there were elements of it which could result in a new challenge by the Commission which would therefore destabilise the certainty that there would be no point in introducing a scheme only to find that there is challenge immediately thereafter, we are back to square one. There is no obligation to run any of this past the Commission. That is the advice that we have had. There is no legal obligation but we have been advised that nevertheless we should do it informally, which we are doing, and we are not at the moment implementing any of it until we have gone through that exercise that said there are bits of it which could be implemented without any risk of that sort. Not every aspect of the reform is open to the jeopardy, it is not really a challenge, but the Government at the moment views it all as one package and is running with it all at the same time but at any time

in the future we could decide, "well if that bit needs to be examined closely by the Commission," we could leave that to one side and implement the other bit.

**HON J J BOSSANO:**

What would happen?

**HON CHIEF MINISTER:**

What would happen is that the Government would run a budgetary risk in the meantime because those bits would put in jeopardy an income stream and therefore the Government would just be left with running that cost risk in the meantime.

The House recessed at 6.45 pm.

The House resumed at 6.50 pm.

**MR SPEAKER:**

I now call on the Financial and Development Secretary to reply if he wishes to?

**FINANCIAL AND DEVELOPMENT SECRETARY:**

I have nothing to add.

Question put. Agreed to.

The Bill was read a second time.

**FINANCIAL AND DEVELOPMENT SECRETARY:**

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

Question put. Agreed to.

**COMMITTEE STAGE**

**HON CHIEF MINISTER:**

I have the honour to move that the House should resolve itself into Committee to consider the Appropriation (2002-2003) Bill 2002, clause by clause.

**THE APPROPRIATION (2002-2003) BILL 2002**

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

**Clause 2 – Consolidated Fund Expenditure**

**HEAD 1 – EDUCATION, TRAINING, CULTURE AND HEALTH**

**HEAD 1A - EDUCATION AND CULTURE**

**Subhead 1 – Personal Emoluments**

**HON S E LINARES:**

Mr Chairman, Head 1, subhead A, Salaries, there is an increase of £465,000 I would like to ask why is this increase here and so that we can go quicker is the Performance Management Scheme included in this amount?

**HON DR B A LINARES:**

Yes Mr Chairman.

**HON S E LINARES:**

Yes to what either one or the other?

**HON DR B A LINARES:**

The Performance Management Pay deal is included in this amount.

**HON S E LINARES:**

And what is the rest of the amount?

**HON DR B A LINARES:**

The rest of the amount is the salaries in general.

**HON J J BOSSANO:**

Is the Minister then saying that the whole of the difference is due to that, the whole of the increase in the vote?

**HON DR B A LINARES:**

It is not all. Not the whole of the difference is due to the pay increase.

**HON S E LINARES:**

In subhead (d) where it says Temporary Assistance which is the estimated £700,000 this year could I ask whether this is only for supply teachers?

**HON DR B A LINARES:**

Yes, this covers also some supply Classroom Aides to support particular children with classroom needs.

**Subhead 1** – was agreed to and stood part of the Bill.

**Subhead 2 – Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 – Office Expenses** was agreed to and stood part of the Bill.

**Subhead 4 – School Expenses** was agreed to and stood part of the Bill.

**Subhead 5 – Special Education Abroad**

**HON S E LINARES:**

Mr Chairman, can the Minister explain why it has decreased from past years, is it that we have less people now sent abroad or is it that the fees have gone down, any explanation?

**HON DR B A LINARES:**

Mr Chairman, I think one particular student has now returned home and finished her schooling.

**HON J J BOSSANO:**

Given that the title is Special Education Abroad, if there are people who need to be looked after in a particular institution long after their school leaving age will it still appear here or should it not be something other than education and be looked at in another vote?

**HON DR B A LINARES:**

It does appear in this summary.

**HON J J BOSSANO:**

Does it have anything to do with Education anymore? I can understand it whilst there is an obligation to provide compulsory education under the Education Ordinance but if we are talking about somebody in need, if the person gets to be 50 does he still appear as a charge from the Education Head?

**HON CHIEF MINISTER:**

Mr Chairman the position is exactly as the hon Member describes. I suppose it is arguable that once the person reaches school leaving age that this cost should be transferred to the Social budget. It does not work like that because this whole area is a little bit in limbo because the latter category of people are the category that we hope to accommodate in this unit for Challenging Behaviour that we are hoping to set up here as a means of repatriating some of that expense at least employing people here doing the looking after. We are not going to save the money but at least it will be money that we will be paying into the local economy rather than paying, for people that have left school, so it is not schooling anymore.

**Subhead 5** – was agreed to and stood part of the Bill.

**Subhead 6 – College of Further Education** was agreed to and stood part of the Bill.

## **Subhead 7 – Scholarships**

**HON J J BOSSANO:**

Mr Chairman, given that in his speech and the general principles of the Bill, the Minister for Education was going on about these huge increases in both the level of support for students and the number of students going to the UK, how does he explain that he is seeking the approval of the House for a sum of money which is below what is actually spent in the year, which is actually below what he asked last year and which is only marginally more than in the year 2000/2001? For mandatory scholarships I can understand the discretionary may be dependent on the demand from one year to the next. In terms of the discretionary what I am saying is even worse because there was £325,000 actually spent in the year 2000/2001 and £350,000 in the year that has just finished so the last two years.....the budget before the last one it was £325,000, last year they asked the provision the House was asked to approve was £300,000 but presumably because of demand they finished up paying £350,000. We are going down again to £300,000 but in any case on the mandatory side it seems to me that to provide £100,000 less than we provided in last year's estimates when we have just had a speech from the Minister saying how much more people are getting and what increases they are paying students, unless it is that the parental contributions are proving to be much higher.

**HON DR B A LINARES:**

Mr Chairman, I would like to correct the hon Member on one point. What I went on about in my speech was the increase in maintenance grants, a 10 per cent, the introduction of parental contributions, I then floated the generosity of the Government, that actually was already in line in the estimates of last year. When I made the speech I referred to what had already been implemented last year what I did not say and just as a matter of fact is that the

number of pupils had increased. I mentioned a figure of 589 that is slightly lower than in previous years when we have gone over the 600. I did not go on about the increase I said in general terms that this Government are very proud about the great number, I said nearly 40 per cent of our intake gain access to University but that was a very general comment specifically about the number of pupils this particular year is 589 which is slightly less and that estimate is actually demand lead.

**HON J J BOSSANO:**

If the Minister was drawing the attention of the House to the generosity of the Government in giving out money to students which we support, obviously because we were intending to be even more generous than he is, we have difficulty in reconciling the fact that in the year 2000 he spent £2,542,794 and that he comes to the House expecting after all that generosity two years later to get away with spending only £50,000 more. In any case a year ago, the grants this year will be more than they were 12 months ago because there is an automatic increase every year. A year ago when the Government came to the House the original provision they sought was £2.7 million, I find it odd that the department should be seeking less money for student grants in the UK.

**HON CHIEF MINISTER:**

I do not think that the hon Member is focused on the bit of the answer which says that this is demand led. There is a difference between the amount that one pays each student and the number of students. The number of students decide themselves the cost to the Government are the resultant of multiplying one with the other. If despite increase in generosity, as the hon Member describes it, the cost to the Government turns out to be less, it is

because come the 'A' Level results fewer of our children go to University in England. This is one of those items which regardless of what we put here the actual cost of it will decide itself. If everyone passes their exams that they are sitting now in the summer Government have no way of knowing how many people are going to go to University in September. It may be 200, 300, 400, we know the people that are in year 2 and year 3 next year, the people going through the system but what we do not know is the number of people that are going to go to their first year next year and that decides the cost of this.

**HON J J BOSSANO:**

Mr Chairman I accept that but my question is, given that they faced the same dilemma this time last year how come last time they made a projection saying we think it is going to be £2.7 million and this time they think it is £2.6 million, if they do not know why do they think it is less this year?

**HON CHIEF MINISTER:**

Last year we estimated £2.7 million it forecast out-turned at £2.685 million and this year we have shaved off £85,000 but it is budgeting.

**HON J J BOSSANO:**

Does it not indicate then that the expectations of people going at this point in time are less than they were at this point in time a year ago?

**HON CHIEF MINISTER:**

No they were guesses on both years.

**HON DR B A LINARES:**

It is also a factor here that the sixth form both in the girls and the boys this year who are the ones whose route would be entering this first year of University is smaller than in previous years and therefore although the Chief Minister has said that we cannot actually forecast with exactitude what it is going to cost we can have an intelligent guess.

**Subhead 7** – was agreed to and stood part of the Bill.

**Subhead 8 - Teacher's Centre Running Expenses** was agreed to and stood part of the Bill.

**Subhead 9 - Intensive Language Courses** was agreed to and stood part of the Bill.

**Subhead 10 - Culture**

**HON S E LINARES:**

Mr Chairman, on Culture I would like to ask the Minister on subhead 10 (f), can he explain why all these monies are given to Knightsfield Holdings Limited? Is it a management contract and what are the terms of reference to this management contract?

**HON DR B A LINARES:**

Mr Chairman, it is a management contract. Knightsfield Holdings is actually an agent for the Government of Gibraltar in the partnership of the Transport Institute with the Institute in La Linea which is twinned with the Institute in Gibraltar.

**HON S E LINARES:**

Mr Chairman did this go out to tender?

**HON DR B A LINARES:**

Mr Chairman we advertised for the post of Director and Mr Clive Finlayson was actually selected for the post of Director. May I say he is still receiving no direct remuneration for his job and neither is Knightsfield Holdings asking for a consideration. The money estimated here is precisely simply to run the courses and the conferences and other activities of the Instituto Transfronterizo.

**HON J J BOSSANO:**

It is not a payment to Knightsfield Holdings. It gives the impression in the estimates that it is.

**HON CHIEF MINISTER:**

It is a payment to them but not for their benefit.

**HON J J BOSSANO:**

Not for their benefit.

**HON CHIEF MINISTER:**

The hon Member will recall that the Instituto is a partnership between the Gibraltar Government and the Diputación Provincial and we are both committed to sharing the costs and this is our share.

**HON S E LINARES:**

Mr Chairman, in Item (c) can the Minister explain what expenses are the running costs of the Theatre Royal?

**HON DR B A LINARES:**

It is the rent and rates which is paid to the landlords in terms of the lease.

**HON S E LINARES:**

Can the Minister give an explanation why the increase is it that all of it has gone up?

**HON DR B A LINARES:**

Yes, the first 18 months were agreed. Part of the agreement in the lease was a rent holiday but it was agreed that after those 18 months the rent would go up to £5,000 a month.

**Subhead 10** - was agreed to and stood part of the Bill

**Subhead 11 - John Mackintosh Hall** was agreed to and stood part of the Bill.

#### **HEAD 1B - TRAINING**

**Subhead 1 - Personal Emoluments** was agreed to and stood part of the Bill.

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 - Bleak House Expenses**

**HON J J BOSSANO:**

Mr Chairman on the Bleak House Expenses in (e) Library Facilities is this the library to which the Minister was previously referring in the School of Nursing or is that another library?

**HON DR B A LINARES:**

That is another more general library for the use of many other people who make use of Bleak House.

**Subhead 3** - was agreed to and stood part of the Bill.

**HEAD 1C - HEALTH**

**Subhead 1 - Personal Emoluments** was agreed to and stood part of the Bill.

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 - Contribution to Gibraltar Health Authority**

**HON MISS M I MONTEGRIFFO:**

Mr Chairman, I am not sure whether it is an opportune moment to remind the Government over the request that I asked during my budget contribution that I would be grateful if the Minister for Health would provide me at some point in time with the monies that they have spent up to now on the Europort Building and a breakdown of that money.

**HON CHIEF MINISTER:**

It all comes from the Improvement and Development Fund so we can discuss it when we come to that.

**Subhead 3** - was agreed to and stood part of the Bill.

**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** was agreed to and stood part of the Bill.

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill

**Subhead 3 - Office Expenses** was agreed to and stood part of the Bill.

**Subhead 4 - Operational Expenses** was agreed to and stood part of the Bill.

**Subhead 5 - Office Rent and Service Charges** was agreed to and stood part of the Bill.

**Subhead 6 - Industrial Tribunal Expenses**



**HON J J BOSSANO:**

On Industrial Tribunal Expenses I think in the estimates last year I asked the Government to look into the question of the very long time it takes between the hearing being fixed to hear complaints of unfair dismissal and the time when the complaint reaches the Employment Service, and whether that period might be shortened if more money was provided for Industrial Tribunal Expenses and I was told by the Minister that he would look into it he has probably forgotten about it, I am just reminding him. If it has not been looked at in the last 12 months maybe it can be looked at in this year's financial year. I do not know that the question of the money provided has an impact, all I am saying is if it has given that we are talking about a very small sum of money £5,000.

**HON CHIEF MINISTER:**

I do not see what the connection could be because the administration, the Secretariat, on the official side is done by civil servants. There is a Secretary of the Industrial Tribunal. The fees are the Chairman's fees this is what this money is for for payment of the fees of the Chairman. The delay comes in the Chairman delivering his ruling that is where the delay is in the system. Once the hearing is over the Chairman adjourns and he gives his ruling whenever he wants to.

**HON J J BOSSANO:**

From my own experience in the few cases that I have dealt with in one particular instance, for example, to illustrate the point there was something like a year between the dismissal and the hearing. I am sure it will be appreciated that it becomes much more difficult to establish the facts of the incident surrounding the dismissal when such a long period separates the two things and therefore the only point that I am making is that given the commitment of

the House to provide money for this service I actually mentioned it a year ago I would be grateful if it was looked into to see if giving more financial support would shorten that time.

**HON CHIEF MINISTER:**

As I say I will look into it my guess would be no but that should not be the end of it. If the Industrial Tribunal System is slowing down to levels that are not desirable then there may be a need to look at the whole system to see whether it is just too much on the hands of the Chairman, are they taking too long to find a Chairman? Could the reason for that be that the fees are so low that they have difficulty in finding people to accept the appointment? I suppose that could be a possible connection and delay. I suspect that the real reason is that once the Chairman is appointed he has the conduct of the matter and that the Secretariat is just a Secretariat so, it may well be that, I do not know if the Minister is willing to agree to look into and perhaps the Leader of the Opposition can feed in his ideas to him, anything that can be done to restructure the system. The whole purpose of these tribunals are that people do not have to go to court and the whole advantage of not going to court is that it is cheaper and quicker, if it turns out that it is not quicker the system needs looking at and certainly I am sure that the Minister will agree to do that.

**HON H A CORBY:**

I will certainly do that and I will refer back to the hon Member.

**Subhead 6** - was agreed to and stood part of the Bill.

**Subhead 7 - Consumer Affairs** was agreed to and stood part of the Bill.

## **Subhead 8 - Contribution to the Gibraltar Development Corporation – Employment and Training**

**HON J J BOSSANO:**

Mr Chairman, the contribution to employment and training which appears in Appendix 'B' page 116 shows that in the estimates of last year the House was asked to vote £700,000 and that during the course of the year we had a Supplementary Appropriation Bill in which the House was asked to vote an additional £800,000. In the explanation given in that Supplementary Appropriation Bill in the schedule it said that it was to fund a deficit from the preceding year of £464,000 and a projected balance deficit of £336,000 arising mainly from shortfall in the ESF contribution and the training levy. The training levy shortfall as we can see between the estimate and the actual forecast out-turn is £100,000. The shortfall on the contribution from the ESF is of course £682,000 not £236,000.

**HON CHIEF MINISTER:**

£500.

**HON J J BOSSANO:**

Yes, £500. In the £1 million estimate at the time of the budget last year the explanation that I was given was that the preceding year 2000/2001 were there was only £66,818 received from the EEC it was because of delay in the money arriving within the financial year ending the 31<sup>st</sup> March 2001. It would appear that it did not arrive in the subsequent year because we did not get £1 million we got £418,000 and it appears we have now given up the hope that the delayed money would be arriving because it certainly does not

seem to be appearing this year so that is one thing that I would like clarified. I also note that in page 116 we have in the forecast out-turn a refund of European Social Fund money of £144,000 and that the previous year there was a refund of £19,000, does that mean what it appears to mean that we have actually sent money back to the European Union? Is that not a sufficiently important thing for us to be told in this House? What are we doing have we got so much money now that we have got this booming economy that we are now actually sending money to Brussels instead of asking Brussels to send money to us? Does the Financial and Development Secretary say yes to that particular interpretation of how much money we have got? I also note in fact that if we look at the year 1999/2000 when there was £2,253,000 of expenditure and we compare it with the amounts provided this year and the amounts in the forecast out-turn it does not seem to reflect the huge increases in the provision of funds for these purposes that we were told in the speeches in last year's budget when particular attention was drawn to the huge percentage increase that there was in the sums of money being provided for training and so forth. I am sure that we can fish that out from last year's Hansard and the percentages do not look quite the same when the final figures appear.

**FINANCIAL AND DEVELOPMENT SECRETARY:**

Mr Chairman, on the first point I think we would have to concede there that the £1 million that was estimated was inaccurate and that in fact it was based on the best information at the time. If one treks back over many years there has been problems in estimating accurately the amount of money which will be received in which years in relation to the GDC and I think the Leader of Opposition will recall that one year we had to clear our suspense account partly arising from this problem to the tune of about £3 million, so I think I would put it down to an inaccurate estimate. On the refunds these relate to particular projects where the spenders have been subsequently found to be ineligible following completion of the project and therefore the monies that had to be refunded. That

is ineligible in the sense that they have not quite met all the onerous criteria that are required by these projects and I think in one particular case this year it related to the liquidation of a particular company to be providing training. On the third question it is perhaps not for me to answer just to say we are getting better value for money for each pound.

**HON J J BOSSANO:**

I do not think that the explanation that it is just a question of estimating is consistent with the fact that we were told before in the year 2000 budget in arriving at the amount that we were contributing from the Consolidated Fund there was only a token £1,000 put and an amount estimated of £850,000 from the EU from the European Social Fund, I accept that one can get one's estimates wrong in £850,000 but not to the degree that the end result is £67,000 as opposed to £850,000. So, that cannot have been wrong estimating. The explanation then was not wrong estimating it was money arriving late and I think it was the Minister who kindly explained to the rest of us that we had to spend the money first on these projects and then submit the bill back to the EEC and therefore the expenditure could come in the financial year but the revenue might arrive post the 1<sup>st</sup> April. When I asked, "Is that why we are putting £1 million," the answer was, "yes that is why we are putting £1 million because we were expecting £850,000, we have actually spent the money on things and the estimated expenditure for the year in fact in the year 2000/2001 was actually higher than the original amount." In the original amount there was £2,080,000 and in the final figure there was £700,000 more £2,797,000 was the amounts actually spent. Apparently and in those two years the schemes in the breakdown were not shown separately as EU Projects and others that came in for the first time in the financial year just ending. The £2 million originally the House was told in the budget of the year 2000 that it is going to go to support vocational cadets and wage subsidies, of that £2 million £850,000 is coming from the EEC. It is a hell of a change to be told a year later the actual final out-turn is that we

have not spent £2 million that we have spent £2.75 million and that we have not got £850,000 we have got £67,000. I would put it to the Government that that degree of marginal error between what we voted at the beginning of the financial year what the out-turn at the end of the year is £790,000 more in expenditure and £800,000 less in income because even though we got £67,000 we repaid £19,000 according to the figures for that particular year so we finished at getting less than £50,000 out of the £850,000 we expected. I believe if the money was allocated for a year and it did not arrive how much have we lost out on and had to pay from the money voted by this House?

**HON CHIEF MINISTER:**

I do not know the answer to that question but certainly I will find out. The only part of it that I would challenge him on is that we are not actually talking about voting monies here. Appendix (B) is only there for his information the only bit that we are voting is the balancing figure of £900,000 that comes from Head 2 (1) on the revenue side. It does not disqualify any of the requests for information and explanation that he has made but it is not a case of spending more than we have voted because the expenditure takes place at the Gibraltar Development Corporation level.

**HON J J BOSSANO:**

I accept that but it is quite obvious if we take the three years as I have taken in succession that in the year 2000 when this House was asked to vote £1,000 which is on page 124 of the estimates of last year the House was asked for £1,000 and of course we were only voting £1,000 but we were voting £1,000 on the basis that the corporation was going to be spending on behalf of the Government £2 million in four different schemes that involve wage subsidies and vocational cadets and of that £2 million the money was going to come primarily from the training levy and from the

ESF and that from the general revenue of the Government this House was only having to approve a token £1,000. Given that we started off with £1,000 and we finished up with £1.5 million and £1,000 .....

**HON CHIEF MINISTER:**

Mr Chairman, do not misunderstand me, I am not challenging him on that. The element of voted monies is in the amount of the subvention for want of a better word from the Consolidated Fund to the GDC. Whatever has happened in the GDC at the expenditure level affects the balancing figure that has to be put across, I am not suggesting that there is any less need or that the hon Member is less entitled to an explanation, I just wanted to make a rather narrow point that the expenditure and revenue issues in the GDC did not raise questions of spending more or less on training schemes than we have voted for. We do not vote on training schemes we vote Contribution to the Gibraltar Development Corporation. He is going to get the explanations the same I just wanted to make sure that this was not a case of over expenditure on voted monies under the Consolidated Fund.

**Subhead 8** - was agreed to and stood part of the Bill.

**HEAD 3 – HOUSING**

**HEAD 3A – HOUSING ADMINISTRATION**

**Subhead 1 - Personal Emoluments**

**HON DR R G VALARINO:**

Mr Chairman, I have already spoken to the Minister on this, on Housing I think he has got to change 3-(ii) the Controlling Officer of the Head will now become the Principal Housing Officer. He was going to give me a breakdown of the various changes within the administration.

**HON J J NETTO:**

Yes Mr Chairman, I obviously take into account the fact that it is a significant year in terms of changes both in the complement and in the estimates. He is right in saying which I actually mentioned in my budget speech the fact that the Financial and Development Secretary will throughout the book basically amend the current Controlling Officer to reflect the new restructure taking place and obviously for the purpose of revenue and expenditure include the Principal Housing Officer. I am not quite sure whether the hon Member wants me to give him an account as to the complement itself, is that exactly what he is requesting?

**HON J C PEREZ:**

Quite apart from the structure one of the things that strikes me is that although there is a net increase of one person in the administration side there is provision for £36,000 less for this year and although there is a loss of three technical grades two of those replacing them are senior grades in the administration so I would not expect the money provided to be less, I would expect it to be more to cover for pay increases but certainly not £36,000 less.

**HON J J NETTO:**

In relation to that final point that the hon Member has made in relation to salaries the drop there as I understand is in fact that reflects the three current Housing Inspectors, TG1s, which have moved from being from the previous year Housing Administration to the new division which is Technical and Designs, obviously that has been taken care of and moved from Administration to Technical and Designs. What I can say as far as administration is concerned, we do have as Members can see there, a Principal Housing Officer which is vacant the process hopefully for interviews will be soon, we also have a Senior Executive Officer and one extra typist.

**HON J C PEREZ:**

I am not asking that I am asking .....

**HON J J NETTO:**

Please bear in mind in regards to the AA it is not an additional person in itself what has happened is that from the current complement that we have for GDC officers in the Housing Agency in previous years one of the particular members of staff actually made it to AA so what it shows is a reflection on this side and taken off from the actual amount in GDC officers.

**HON J C PEREZ:**

Mr Chairman, the bottom line is that one has to make provisions for the people that one publishes in the book and last year the Minister had 11 people, this year he has 12 people, of the 11 last year three were technical grades that he has lost but two of the

replacements are top posts in the Administration which would probably earn more than the technical grades that have been lost and notwithstanding that he has a net increase of one person in the administration he is providing for £36,000 less in salaries. How can that be?

**HON CHIEF MINISTER:**

It is not a full provision firstly, because the posts will not all be in place for the whole of the financial year whilst the restructure gets put in place and secondly the first year will be covered from the supplementary votes fund. The hon Member is quite right the establishment shows a more expensive rather than a less expensive pay roll yet there is less money provided and the answer to that is that, incidentally the same applies to the Technical and Design, that is not the full cost of the proposed establishment in the Technical and Design. Those 17 people are going to cost more than £200,000 and the answer is when we know the full figure what is missing beyond this provision will be provided from the Supplementary Estimates Head and then next year the full cost will appear once all the posts are filled.

**FINANCIAL AND DEVELOPMENT SECRETARY:**

Mr Chairman, before we pass on from personal emoluments, the point raised about the Controlling Officer by the Minister, it will read on page 29. The Controlling Officer will read as the Principal Housing Officer and there will be consequential changes made to the final estimates on page 7 where the receiver of revenue page 14 a list of Controlling Officers if I may take this forward to avoid making the point later on also on page 106 on the Improvements and Development Fund.

**Subhead 1** - was agreed to and stood part of the Bill.

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 - Office Expenses** was agreed to and stood part of the Bill.

**Subhead 4 - Operational Expenses** was agreed to and stood part of the Bill.

**Subhead 5 - Edinburgh and Bishop Canilla Houses**

**HON DR R G VALARINO:**

Mr Chairman, 5(b) the Management Fee for Fitzpatrick Contractors Limited £198,000 and the Works and Maintenance of Fitzpatrick Contractors Limited the Minister also knows because I spoke to him about this, will this be a recurrent item every financial year?

**HON J J NETTO:**

Whilst the contract is in place yes.

**HON DR R G VALARINO:**

Both?

**HON J J NETTO:**

Both.

**Subhead 5** - was agreed to and stood part of the Bill.

**Subhead 6 - Gibraltar Development Corporation – Staff Services** was agreed to and stood part of the Bill.

**Subhead 7 - Miscellaneous Housing Payments** was agreed to and stood part of the Bill.

**HEAD 3B - HOUSING - BUILDINGS AND WORKS**

**Subhead 1 - Personal Emoluments**

**HON J C PEREZ:**

Mr Chairman, if we look at the complement of the Operations Unit there is an explanation for the five extra posts three of Customer Service Depot Support Officer and two of Customer Service and Support Officer which says that previously they were shown under the Industrial Staff. If that is the case one would presume there has been a promotion from Industrial to non-industrial. It is now shown as non-industrial but there are seven net posts missing. That is eight less posts plus a new post of Project Manager which makes the net result seven posts, can the Minister say where those people have been deployed given that the extra five seem to have come from the Industrials and there are seven posts less in that section or eight posts less in that section than what there were last year given that the Project Manager is also a new post which could have been a promotion within.

**HON J J NETTO:**

Yes, I can offer some explanation to that particular question and there has been some transfers from the operational side that was reflected in last year's in the manner he has just described which are now reflected in fact on Housing Technical and Design. For instance, I can inform the hon Member that we have two current HPTO's who were shown last year in Buildings and Works in the Operational side and are now shown in the Technical and Design side. There is also another transfer of one PTO which was then shown on the Operational side of Buildings and Works which is now shown on the Technical and Design division of Housing so these are transfers which we have to take into account. We also have to take into account that the Wardens will also be coming as well as the TG1s, the Housing Inspectors into the Technical and Design side so those are people who are musical chairs moving around and that is why probably the hon Member is not getting a full picture as it is. Undoubtedly as the Chief Minister has just said in the next financial year this will be much clearer because he will find as these musical chairs are moving along from various parts whether it is from Buildings and Works into Housing that over a period of time there will be some people which will be reflected perhaps as supernumerary some which will be reflected on an acting capacity and during the course of this financial year this will be regularised in one way or another.

**HON J C PEREZ:**

Could I ask the Minister whether for example, the District Warden is now shown as what as a Technical Grade in the Technical and Design or as a PTO?

**HON J J NETTO:**

Is he actually referring to the Wardens or the District Wardens?

**HON J C PEREZ:**

What was shown as District Wardens Operations Unit last year the Minister says is now shown in Technical and Design.

**HON J J NETTO:**

No, the District Warden which is the equivalent of the pay of a PTO.

**HON J C PEREZ:**

So it does appear as District Warden and becomes PTO in the other side?

**HON J J NETTO:**

No, no, the District Warden which is a PTO is shown in the Operational side of Buildings and works.

**HON J C PEREZ:**

No the District Warden disappears from the Operations Unit and the Minister has just said that it is in the Technical and Design, I am asking whether since it is not shown as District Warden whether it is shown under PTO or under Technical Grade? How is it if the District Wardens are the same grade how can it be shown in both? It is either one grade or the other.

**HON J J NETTO:**

Mr Chairman, the current structure is three District Wardens and one Head Warden. The three District Wardens are TG1s, the Head Warden is a PTO and the District Wardens are shown within the Technical and Design side of TG1s.

**HON CHIEF MINISTER:**

Of the three District Warden posts that are shown as disappearing one is being abolished and two are now reflected as TG1s under the Technical and Design.

**HON J C PEREZ:**

If there are three it is either one has been promoted or has retired and it has not been filled. I do not think that with the social conscience that the Minister says he has he is going to abolish the post and send the man home. It is either he has been promoted up or he has retired and the post will not be filled.

**HON J J NETTO:**

The three District Wardens are transferred in the manner which I have just said. The post which is abolished is the post of Head Warden PTO.

**HON J C PEREZ:**

The Hon Mr Netto has said that the ones that appear in Operations Unit, those three there, appear under Technical Grade

1 in Technical and Design yet in the Housing Administration we have got three Technical Grades 1 and (a) the explanation is that they are shown in the Technical and Design. If both explanations were true that should show a figure of six people three from the Administration and three from the Operations Unit and it only shows four.

**HON J J NETTO:**

The hon Member is right, the full complement for Technical Grade 1 will initially be made up of six but then only four posts will represent the final complement for this position so either as I said before during the course of the financial year either two will be transferred elsewhere or made supernumerary or be placed on an acting basis or something else. In other words, the three current Housing Inspectors TG1s and the three District Wardens TG1s so initially will be six but the complement here eventually will come down to four.

**HON J C PEREZ:**

So, two posts are lost without anyone retiring, they are being moved to other areas?

**HON J J NETTO:**

No, no.



**HON J C PEREZ:**

Of the six TG1s that there were last year and which we are shown here the Minister is saying that two posts will be lost.

**HON J J NETTO:**

No, the only post that will be lost is not the District Warden it is the Head Warden which is a different grade.

**HON J C PEREZ:**

Then how can the Minister say before that two posts would not be lost and that is why we have four and not six as we had last year, TG1s? But they must be shown in the book somewhere. Well the explanation given in the book is that the three in Administration are shown under Technical and Design and the explanation given by the Minister is that the three District Wardens in Operations Unit is also shown here although that is not the information shown in the book so if that were true we should have six here and not four.

**HON J J NETTO:**

Yes.

**HON J C PEREZ:**

Well we do not have it we have got four.

**HON J J NETTO:**

That will be the final complement, initially as a result of the restructure we are having six which is the three current Housing Inspectors and the three current District Wardens all of which are TG1s.

**HON J C PEREZ:**

Where are they shown?

**HON J J NETTO:**

They are shown under the four.....

**HON J C PEREZ:**

The four are there where are the missing two?

**HON J J BOSSANO:**

In the new complement in the Building and Works Administration there is a Chief Executive and a Human Resources Manager which were not posts existing previously are those two posts for which provision is being made but which are currently vacant or have people already been selected for those two posts?

**HON J J NETTO:**

I cannot quite tell whether Personnel Department happens to be in the process what I am aware is that the interviews have taken place. I know that they were in the process of issuing letters but specifically at this moment in time I cannot tell the hon Member whether the letters have been received as to who has been or has not been successful. Obviously these are part of the new restructure of Buildings and Works, now talking about Administration which will carry a Chief Executive and a Human Resources Manager. One other bit of information that I can give to the Member is as he sees the figures there down below from the Chief Executive is the Senior Officer. That Senior Officer is my current director of Buildings and Works and perhaps I do not know whether this is the right moment but he is going to be transferred from Buildings and Works to the Ministry for Housing. He is satisfied with this and perhaps it will be better given that we are discussing this and amendments can be made at this stage to be reflected at the fact that he will be moving from Buildings and Works Administration to Housing Administration.

**HON J J BOSSANO:**

The one we have passed already?

**HON J J NETTO:**

That is right.

**HON J J BOSSANO:**

I think this is the first time we have a Human Resources Manager appearing in any of the Heads of Expenditure in the Estimates, I

think where we have had a Human Resources Manager before has been in the Gibraltar Development Corporation. I am not sure whether there is a one in the Health Authority. In the Gibraltar Development Corporation presumably the job of the Human Resources Manager is what in the Government are done by the Personnel Department? As far as I am aware the Human Resources Manager position has never appeared before in the Estimates in any Head of Department. I think where it appeared for the first time was as part of the complement of the Gibraltar Development Corporation where we provide an amount of money to the Development Corporation but the posts there are shown at the bottom but not in the Estimates themselves, not in the schedule. My understanding was that the reason for the Human Resources Manager in the Development Corporation was because personnel matters in the Development Corporation would be dealt in-house so what does the Human Resources Manager do then here?

**HON J J NETTO:**

I can certainly give the hon Member an overview of the role of the Human Resources Manager which is for personnel development which deals with Health and Safety, Welfare aspects, to ensure for instance that induction courses at all levels of the organisation is made whether it is to new entrants into Buildings and Works, whether they happen to be labourers, tradesmen, first-line managers, work supervisors, PTOs, he is the person who actually deals with all of those aspects as far as Human Resources Management is concerned. So, it is the person who is actually providing a kind of internal audit within the administration of Buildings and Works. So, we should not focus the role of the Human Resources Manager solely on that sort of narrow interpretation of being disciplinary matters, it is far more broader and wider than that.

**HON CHIEF MINISTER:**

The Personnel Manager in the Personnel Department keeps employment files and records. That function will continue centralised, this is a manpower resources administrator to deal with training issues, health and safety issues to make sure that the operational requirements of the department are always provided with manpower resources, that leave entitlement and things are managed in a way which are consistent with the operational needs of the department. Things which affect the operational aspects of the department which really fall forward to the Personnel Department who is really too far removed from the operational functions. In a sense the nearest analogy is the Health Authority Personnel Officer who does this sort of role in the Health Authority.

**HON J J BOSSANO:**

It just seems to me that some of the things that are being described as part of this job are things that were being done by other people previously at a PTO level?

**HON J J NETTO:**

No, these were not the functions that were carried out by PTOs. The PTOs will do what they have always done and so will the works supervisor. One has to understand that in complying with those aspects of the consultant report this is not managing organisation it is also managing change and managing like a culture and one needs someone dedicated exclusively to have systems in place systematically that addresses over a period of time work organisation, patterns of organisations from what they are to what they ought to be and that has to be done in a process of training not just training in the sense of what Works Supervisors ought to be doing by supervising people or managing a particular

depot but not only that but also personal development of the person as well within the organisation. It has also got to do with telling someone who has a good sound understanding of health and safety matters on the practical side from the operational side that would be able from time to time to pick up groups of individuals whether they are carpenters, masons, labourers, and give them induction courses as to procedures in the handling of proper health and safety organisational aspects so it is all of that which forms part of the role of the Human Resources Manager. So it is ensuring to equip and to train the managers to do the things that they are supposed to do so all of that part is part of the role of the Human Resources Manager. Whether it has been done before by other Government departments or not I do not know I am specifically responding here to one of the issues that was raised in the Consultant's Report.

**HON J J BOSSANO:**

Are Government looking for somebody who has done this kind of work before?

**HON J J NETTO:**

When the applications actually went out those were the exactly what they were looking for and I would hope that those Members of the Board conducting the interviews were very specific in asking all these questions to get the most suitable candidate. I think perhaps to epitomise what is the role of the Human Resources Manager is managing change because perhaps one can manage an organisation but managing change requires more skills and to do that one has to have a person who has quite an experience, in managing organisational change so that is at least from my point of view as a Minister whoever gets into that particular job what the task that I would envisage him to do so that one gets on in creating a new work ethos.

**HON J J BOSSANO:**

I take it then that, I know that the Minister said before that he did not know at what stage the selection was I take it then that then that the applications have come from outside the Government service.

**HON J J NETTO:**

It is probable that people have been informed by now, yes that particular vacancy was opened to both people in the service and people outside the service.

**HON J J BOSSANO:**

Was it people from the construction industry outside the service or does the Minister not know anything about their backgrounds?

**HON J J NETTO:**

Of all the vacancies that went out that is the one that attracted most candidates for interview purposes. I think many of them indeed came from the construction industry.

**Subhead 1** - was agreed to and stood part of the Bill.

**Subhead 2 - Industrial Wages**

**HON J J BOSSANO:**

On industrial last year I raised the question of the bonus being higher than originally budgeted for and took that to be an encouraging sign that people were making more money because they were producing more, I see that in fact that there is even greater cause for celebration because in fact although last year the out-turn was only 5 per cent higher than estimated on this occasion we are showing a 27 per cent increase over last year's out-turn and something like 25 per cent over the money voted by the House before so I take it it means that the department has done 25 per cent more work and therefore generated 25 per cent more bonus payments with the same number of workers. Would that not be an accurate interpretation of these figures?

**HON J J NETTO:**

I am sure that the hon Member would like me to say that. I have always said and I keep saying it time and time again that undoubtedly Buildings and Works has been doing more and more work and this is just simply for the fact that previously from the GSD who were in Government the earnings potential of people in Buildings and Work was not related to its output. One can recall the days where it was related to things like social overtime as opposed to being directly linked to a system in place which was linked to output. There is no doubt at all that progress has been made in terms of getting more work done and I have always said that but I have also said particularly when the hon Member raised this particular question I think it was this time round at Question Time that my answer to that was that under the current system it shows and the Financial Development Secretary was right in his comment when he said it was higher productivity more or less in the terms that the hon Member has put it now. I have also put a caveat to that in the sense of saying that the current system needs to be looked into and upgraded and it is very simple that it needs to be looked into and upgraded despite the fact that we have had increases in productivity and that is because there is one essential

factor away from the computation of productivity and that is that when the specification for any particular work is done it is in the absence of having a recognised standard schedule of rates for the building industry to be applied as a yardstick or a barometer to judge whether there is really increase in productivity or at least productivity which is in the level of other groups of workers outside Buildings and Works which are measured just exactly in the same way. So the answer to the hon Member's question as I said before is that yes there is undoubtedly more productivity but the current system in itself today needs to be upgraded again.

**Subhead 2** - was agreed to and stood part of the Bill.

**Subhead 3 - Office Expenses** was agreed to and stood part of the Bill.

**Subhead 4 - Operational Expenses** was agreed to and stood part of the Bill.

**Subhead 5 - Electricity and Water Depots Running Expenses** was agreed to and stood part of the Bill.

**Subhead 6 - Housing Maintenance – Materials**

**HON J J BOSSANO:**

Mr Chairman, on the Housing Maintenance – Materials where the provision last year was £960,000 and the out-turn was £1.2 million I assume that the increase use of material is related to the point that I have just made about the bonus payments and the increased amount of work done so more work has been done because more material has been used, if the Minister is going

back to providing £950,000 for materials which is less than in last year's budget it seems that he is expecting less work to be done in the next 12 months than in the last 12?

**HON CHIEF MINISTER:**

Mr Chairman, no this is a centrally inflicted reduction this is not what the department has bid. This is "do as much work as you like and we will provide more money when you need it." What we do not want to happen is that the amount, I do not know if the hon Members have noticed that there is a tendency to start with a figure in the estimates, then a forecast out-turn which is higher than the estimate, generally not just in relation to this item, then the department uses last year's forecast out-turn as the bid and what happens is that there is a natural ratcheting up almost on a leap-frogging basis from year to year. This is one of the demand led items of expenditure. In other words, the department does not get told there is this amount of money when it is used one is out of materials and then one has to stop working but we want to demonstrate for budgetary discipline purposes that the department is not just ratcheting up the financial bid in a way that might encourage laxity of controls, wastage and things of that sort but it does not mean that the figure reflects an anticipated reduction in output nor does it mean that when output has reached this figure of material expenditure there will not be more money for the balance, it has just not been budgeted in the interests of budgetary discipline.

**HON J J BOSSANO:**

I appreciate the point of budgetary discipline but it appears that in this particular occasion the ratcheting is going downwards they are not even holding it to the figure of the year 2000/2001 so in fact they are providing this year less than was put in last year's budget and less than was spent in the preceding year and at the same

time providing more money for bonus payments. If we actually take the two figures together one is actually providing more money for bonus payments and less money for materials which by definition given the explanation for the out-turn means that the scheme has been improved to the benefit of the people concerned who will have to work less to get more.

**HON J J NETTO:**

The other explanation I can offer quite apart the information given by the Chief Minister is that I have also asked the question myself and in a part they have told me that in the last financial year just passed which shows the increase in that particular amount of money has been due because some of the materials they have bought for specific kind of work have been more expensive than anticipated so in a way, one never knows whether the same kind of work will materialise some three months up from this financial year or six months but they are not anticipating that the kind of expensive materials that we have done in the last financial year to be incurred in this financial year. It remains to be seen but also it reflects the downward trend here as well.

**Subhead 6** – was agreed to and stood part of the Bill.

**Subhead 7 - Housing Wardens – Materials** was agreed to and stood part of the Bill.

**Subhead 8 – Housing Estates – Staircase Lighting** was agreed to and stood part of the Bill.

**Subhead 9 - Small Plant and Tools** was agreed to and stood part of the Bill.

## **HEAD 4 - PUBLIC SERVICES, ENVIRONMENT, SPORT AND YOUTH**

### **HEAD 4A - ENVIRONMENT**

**Subhead 1 - Personal Emoluments** was agreed to and stood part of the Bill.

### **Subhead 2 - Industrial Wages**

**HON J C PEREZ:**

Mr Chairman, if I can diverse a bit because it is about the cemeteries but I believe here we are voting the basic wages and the overtime of gravediggers. I raised the matter at the time of the general principles on the basis that there are amounting complaints about the state of the Cemetery. Looking at the estimates one can only see that apart from the provision for the gravediggers we are making a £12,000 provision somewhere under Subhead 5 for Cemetery Expenses and nothing else is shown for Cemeteries. My understanding was that there were people from Community Care that were deployed at intervals to the Cemetery but this is not shown anywhere as an expense to the Cemetery. Could the Minister explain whether this has now stopped and that is why there is a deterioration in the Cemetery because there is no upkeep given that there is certainly no specific provision for the upkeep of the Cemetery in the estimates?

**HON LT COL E M BRITTO:**

The hon Member with respect is wrong in most of what he has said not in everything. Firstly there is a continuing daily

maintenance gang permanently at the Cemetery consisting of Community Projects personnel. If I remember rightly it consists of seven men and there they are permanently, they have been there for the last two years since I took over the responsibility for the Cemetery. There is no provision financially because there is no cost under this Head. The labour costs of Community Projects are met under the Community Projects vote and the materials cost which is minimal is met either out of the Cemetery's vote or out of the Community Projects vote itself. I do not agree with the hon Member that there is a deterioration in the Cemetery, there was a considerable improvement about a year ago. I am not receiving complaints of any deterioration. I have certainly taken note of what the hon Member has said and I intend to look into it as soon I can get a chance to go back into the office but the problem is definitely one of painting the bridge one starts at one end and when one gets to the other one has to go to the beginning. So, we may either need to put in more people because I agree, I am not saying that the Cemetery is in a state of the art condition but certainly I am not receiving complaints of a deterioration but I will certainly look into it and by employing more manpower we can improve the situation I will certainly do that.

**Subhead 2** - was agreed to and stood part of the Bill.

**Subhead 3 - Office Expenses** was agreed to and stood part of the Bill.

**Subhead 4 - Operational Expenses** was agreed to and stood part of the Bill.

**Subhead 5 - Cemetery Expenses** was agreed to and stood part of the Bill.

**Subhead 6 - Environment**

**HON J C PEREZ:**

Are Ministers satisfied with the extent of the control of the seagulls, is the matter working or not? I raised the matter last year and someone from the Government benches said that the matter would be monitored, are they satisfied that the problem is under control, does it need more attention or a different approach?

**HON LT COL E M BRITTO:**

Mr Chairman, I am advised by those who spend part of their working day counting seagulls that there is a reduction in the number of seagulls.

**HON J C PEREZ:**

That is not part of the problem.

**HON LT COL E M BRITTO:**

Whether that is true or not I have not yet found the time to go out and check for myself. I can tell the hon Member that we are at this moment in time looking at the contract with GONHS who are the people who have the responsibility for doing this. I think that this is an area that there is room for improvement but I think that that room for improvement has been there for a long time. The problem is seasonal as the hon Member knows they are now going through a relative lull and it will get worse before the summer is over. We are looking at the contracts, it is a difficult task and I could see that there is room for improvement, I do not promise drastic changes.

**Subhead 6** - was agreed to and stood part of the Bill.

**Subhead 7 - Street Cleansing and Associated Services** was agreed to and stood part of the Bill.

**Subhead 8 - Refuse Collection** was agreed to and stood part of the Bill.

**Subhead 9 - Environmental Monitoring – Gibraltar Development Corporation - Staff Services** was agreed to and stood part of the Bill.

#### **HEAD 4B - TECHNICAL SERVICES**

##### **Subhead 1 - Personal Emoluments**

**HON J C PEREZ:**

Mr Chairman, under Technical Services we find that there is under Administration an increase of eight but the book does not say whether they come from another Head, where it was shown the year before and then there is an increase of a further four under Technical Services Engineering and Design. Some of it could possibly be offset by the highways and sewers where there is a reduction of three but no, in fact the reduction there comes from Personnel.....

**HON LT COL E M BRITTO:**

If the hon Member will allow me I will give him the explanation. If one looks at page 35/36 there is an increase in Administration of eight bodies, in Engineering and Design of four and in Electrical and Workshops of one a total of 13. If one looks further down at Highways and Sewers one will see in italics and in the notes below that there is a reduction in the Highways and Sewers Section. Coupled with that there are five new posts. In Administration there are three AO posts which were included previously under Head 1(a) Salaries and five new posts have been created so that is eight. There is in Infrastructure and Engineering and Design there is one post that was previously included under Head 1A and three new posts which are the four, and under Electrical Salaries there is a new HPTO post which is the one that I referred to which is the 13<sup>th</sup> person.

**HON J C PEREZ:**

The point being these new posts are being filled in internally from the industrial channel or from the non-industrial channel or are there any other transfers from other departments, the five in Administration are these new posts which are advertised internally first or.....?

**HON LT COL E M BRITTO:**

Yes, they are new posts which have been advertised internally and if not externally, a combination of both.

**Subhead 1** - was agreed to and stood part of the Bill.



**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 - Office Expenses** was agreed to and stood part of the Bill.

**Subhead 4 - Operational Expenses** was agreed to and stood part of the Bill.

**Subhead 5 - Computer Section** was agreed to and stood part of the Bill.

**Subhead 6 - Government Website** was agreed to and stood part of the Bill.

**Subhead 7 - Materials and Other Costs**

**HON J C PEREZ:**

Mr Chairman, I see a provision there for cleaning of street gullies of £100,000 which was not there previously, can the Minister explain why now all of a sudden we need to spend £100,000 in street gullies and what used to happen before that?

**HON LT COL E M BRITTO:**

Yes, Mr Chairman, as the hon Member rightly points out a new contracted service as from this year. The need has been identified, what we have been doing before is using the sewer section but in the reorganisation of the Highways and Sewers Department it has been felt that there is a need to contract this out and this is what has been done this year.

**HON J C PEREZ:**

Has the contract gone out to tender and been awarded or is there a provision for this to be done during the year?

**HON LT COL E M BRITTO:**

I do not think a contract has gone out yet, there is a provision for it but the contract has not yet gone out.

**Subhead 7 -** was agreed to and stood part of the Bill.

**Subhead 8 - Compensation in Lieu of Water Tariff Increase** was agreed to and stood part of the Bill.

**Subhead 9 - Salt Water System** was agreed to and stood part of the Bill.

**Subhead 10 - Refuse Services and Disposal**

**HON LT COL E M BRITTO:**

Before the hon Member continues just to correct something I said about street gullies I am told that the tender has gone out and I am told that it has been awarded although it has not actually started yet but there has been a tender process and it has now been awarded.

**HON J J BOSSANO:**

In the case of Europa Incinerator Limited I think we have been told in the past that the money that is paid to the company is to meet the wages of the people employed in the incinerator which were taken over with the plant, is it that there are going to be less people in the next financial year because there is a drop of £300,000.

**HON LT COL E M BRITTO:**

Mr Chairman, to the first part of the question the answer is yes, that is what has been happening. The drop of £500,000 reflects the lack of production of water that was there during the previous financial year. The hon Members will remember that we had to import boilers in order to use the desalination system of the incinerator during a period where there was a risk of a shortfall. This has now been eliminated Lyonnaise des Eaux have now put in the new plant that I referred to during my contribution in the debate earlier on and now the boilers have been returned and therefore that expense is no longer there.

**HON J J BOSSANO:**

So the £800,000 included that expense and now the £500,000 is just the payment of the people employed is that correct?

**HON LT COL E M BRITTO:**

Certainly the £800,000 included the expense of the boilers and yes the balance is the expense of the months.

**Subhead 10** - was agreed to and stood part of the Bill.

**Subhead 11 - Services Provided By Gibraltar Community Projects Limited** was agreed to and stood part of the Bill.

**Subhead 12 - Geographic Information System** was agreed to and stood part of the Bill.

#### **HEAD 4C - ELECTRICITY**

**Subhead 1 - Personal Emoluments** was agreed to and stood part of the Bill.

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 - Office Expenses** was agreed to and stood part of the Bill.

**Subhead 4 - Operational Expenses** was agreed to and stood part of the Bill.

#### **Subhead 5 - Generation**

**HON J C PEREZ:**

Mr Chairman I notice that more or less the provision for fuel is being kept at more or less the same level is it that the fuel prices

are expected to remain at that level or no forecast has been made for that?

**HON LT COL E M BRITTO:**

Mr Chairman, I made reference to this in my contribution earlier that prices have been steady for a while and I welcomed the fact that there were no indications of increases. So we are keeping our fingers crossed and hope that there will not be increases, in fact that if anything that there might be reductions.

**Subhead 5** - was agreed to and stood part of the Bill.

**Subhead 6 - Distribution and Infrastructure** was agreed to and stood part of the Bill.

**Subhead 7 - Electro-technical** was agreed to and stood part of the Bill.

**Subhead 8 - Materials for Improvement** was agreed to and stood part of the Bill.

**Subhead 9 - Purchase of Electricity**

**HON J C PEREZ:**

Mr Chairman, given the reply that the Minister has given me for generation for fuel can I ask the Minister whether the fact that it is expected that the purchase of electricity from OESCO will drop by

about £500,000 next year, is the result that we expect to buy less from OESCO?

**HON LT COL E M BRITTO:**

No, there is no policy change or policy indication in that these are the figures as calculated by the department. That is based on past records but there is no reflection of any intentions to change anything in the existing rates.

**HON J C PEREZ:**

I have not missed totally everything that the Minister said yesterday although he gave a very boring long speech. He did say that there had been an increase of Electricity Units, that the demand had risen, that the demand was expected to rise this year yet he is making provision for the same amount of fuel because the prices are steady in Waterport, meaning that Waterport will not be able to produce more units and he is making a lesser provision than he did this year for the purchase of units from OESCO so there is bound to be a shortfall given all the explanations that the Minister has given in this House.

**HON LT COL E M BRITTO:**

Mr Chairman, I do know that we did purchase from OESCO last year more than we intended or more than we had planned for  
.....

**HON J J BOSSANO:**

Not according to this.

**HON LT COL E M BRITTO:**

That is my memory of a briefing but yes the hon Member is right the figures show that. I cannot give the hon Member an accurate answer to what he is asking I would need to check this but my understanding is, that these are departmental figures produced without any input from me at ministerial level and therefore they reflect what the department expects to spend on electricity.

**HON CHIEF MINISTER:**

One explanation could be in fact manufacturing to generate more with the same amount of fuel costs. They are hoping for a reduction in fuel costs.

**HON J C PEREZ:**

OESCO must be looking at a reduction or we are not.

**HON CHIEF MINISTER:**

One possibility is that contrary to the statements that have been made that with the same fuel cost provision the Government are hoping to generate more which can only happen if the price of fuel falls for the reason that the hon Member has himself said.

**HON J C PEREZ:**

The Government have only got a capacity of 15.5 megawatts most of the time 5.5 is under repair so at any given time they have only got a capacity of 10 megawatts in a situation we were told that capacity is increasing. I do not know where the peak is but the peak could be at any time something like 17,18, or 19 megawatts in the middle of the winter.

**HON CHIEF MINISTER:**

I accept the hon Member's conundrum but these are the department's, this is not central slashing of the budget, they estimate on a departmental calculation which I have in front of me, this is the provision that they have sought. I accept the hon Member's analysis that unless contrary to the explanation that the Minister has given they are banking on a fall on fuel price so that Government can generate more with the same fuel provision it is the only explanation which does not run into the obstacle that the hon Member's analysis involves. If the price of fuel stays the same one cannot generate unless the demand is going to fall.

**Subhead 9** - was agreed to and stood part of the Bill.

**Subhead 10 - Contractual Capacity Charge – OESCO Power Station** was agreed to and stood part of the Bill.

**Subhead 11 - Commercial Projects**

**HON J C PEREZ:**

Is the fact that there is only a token provision for Commercial Projects there that there is no forecast for any new commercial project coming into stream during the year and therefore a provision is made for when any project applies for the electricity then that provision is made is that the explanation?

**HON LT COL E M BRITTO:**

Yes it is a token figure.

**Subhead 11** - was agreed to and stood part of the Bill.

**Subhead 12 - Contribution to Gibraltar Electricity Authority** was agreed to and stood part of the Bill.

#### **HEAD 4D - FIRE SERVICE**

**Subhead 1 - Personal Emoluments** was agreed to and stood part of the Bill.

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 - Office Expenses** was agreed to and stood part of the Bill.

**Subhead 4 - Operational Expenses** was agreed to and stood part of the Bill.

#### **HEAD 4E - POST OFFICE**

##### **Subhead 1 - Personal Emoluments**

**HON J C PEREZ:**

Mr Chairman, I notice that there is no reduction in the overall number of people employed and yet there is a decrease from the out-turn can the Minister give an explanation, there is an increase on the out-turn and a decrease on the estimate of last year and the numbers employed remain the same presumably at a higher level given that there has been two posts of Post Office Level 3 lost which must have gone through the system at a higher level.

**HON LT COL E M BRITTO:**

No, it has nothing to do with posts. Last year there was no overtime paid because of the new system that was brought into place and instead what had been normally paid as overtime was paid as a bonus. The hon Member will find that in Head, 1(b) the out-turn is less and Head 1 (a) is more if one combines one with the other he will find that both figures add up to the same.

**HON J C PEREZ:**

Surely what the Minister is saying is that last year it was badly recorded in the estimates because if it is a bonus it should have appeared under allowances and not under basic pay.

**HON LT COL E M BRITTO:**

Mr Chairman, I do not write the estimates book. It is shown under salaries for whatever reason, but that is the reason for the difference, a reduction under 1 (b) and an inclusion under 1 (a).

**Subhead 1** - was agreed on and stood part of the Bill.

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 - Office Expenses** was agreed to and stood part of the Bill.

**Subhead 4 - Operational Expenses** was agreed to and stood part of the Bill.

**Subhead 5 - Outgoing Mail and Bulk Mailing**

**HON J C PEREZ:**

Mr Chairman, is there a possibility of the Financial Secretary providing us with a breakdown of the cost to us of bulk mailing into other administrations and the cost of the outgoing normal mail to see how much it is costing us in other administrations receiving our bulk mail as compared to what we pay normally for the mail we send to other destinations, that is a breakdown of what constitutes outgoing mail in that figure and what constitutes bulk mailing and perhaps a similar breakdown in the terminal mail fees which is the income that we receive from incoming mail where I

presume the fees paid for bulk mailing are shown in the financial side. I appreciate that the Minister will not have the figures available here, I am asking him whether as he did some three or four years ago he could give me that breakdown to see what the income of bulk mailing is as compared to the cost when that bulk mailing is received by other administrations and vice versa the outgoing mail and the incoming mail.

**HON LT COL E M BRITTO:**

There are several issues here, firstly as I am sure the hon Member knows the figures for bulk mailing are difficult to predict anyway but more importantly as I am sure he also knows these figures are commercially very sensitive so although we have no difficulty in letting the hon Member have the breakdown that he has requested it will have to be on the understanding that they are strictly in commercial confidence.

**HON J C PEREZ:**

No problem there.

**Subhead 5** - was agreed to and stood part of the Bill.

**Subhead 6 - Purchase of Commemorative Coins** was agreed to and stood part of the Bill.

**Subhead 7 - Contribution to International Bureau** was agreed to and stood part of the Bill.

**Subhead 8 - Upgrading Security Equipment** was agreed to and stood part of the Bill.

**Subhead 9 - Management Contracted Service**

**HON J C PEREZ:**

Mr Chairman, could the Minister state, frankly I cannot remember, there was no estimate for that, there is a £62,000 out-turn here and then a £1,000 provision. Can the Minister explain what that is all about?

**HON LT COL E M BRITTO:**

Yes, the hon Member may remember that I mentioned the new Sorting Office being prepared at a location in Waterport and this is an amount of new equipment that has been purchased from the manufacturing arm of the Royal Mail and it has been installed, it includes a variety of equipment which I will not bore the hon Member with and there may be a need to buy some more hence the token provision. It is essentially Sorting Office equipment.

**HON J C PEREZ:**

Would that not have been better shown under Capital Expenditure? Unless of course it is a recurring thing every year?

**HON LT COL E M BRITTO:**

Mr Chairman, I shall ask the Treasurer to take note of the suggestion and to decide for next year.

**HON J J BOSSANO:**

We are asking about something that is shown in the Estimates as Management Contracted Services subhead 9. Normally when one has money anywhere on contracted services next to it one has the name of the contractor one does not expect to find equipment there.

**HON J C PEREZ:**

Might this not have something to do with the Commissioned Manager rather than with the equipment?

**HON LT COL E M BRITTO:**

Essentially the problem is that this is a situation that struggles both financial years and it is an on-going situation that is not yet resolved. The contractual service to which the Leader of the Opposition referred to is still being evolved. The amount contrary to what I said before am told includes an element of installation costs as well as capital costs and the impression that I get is that it has been put there on an on-going basis until the whole thing is regularised in the new financial year.

**Subhead 9** - was agreed to and stood part of the Bill.

## **HEAD 4F - SPORT, LEISURE AND YOUTH**

### **Subhead 1 - Personal Emoluments**

**HON MISS M I MONTEGRIFFO:**

Mr Chairman, if we look at the establishment for Sport and Leisure am I correct in assuming that the Senior Executive Officer post has been upgraded to Senior Officer and if I am correct can the Minister confirm whether this post has in fact been advertised throughout the service?

**HON LT COL E M BRITTO:**

The answer is yes and no.

**HON MISS M I MONTEGRIFFO:**

Yes to what and no to what?

**HON LT COL E M BRITTO:**

Yes to the first question whether it is an upgrading of the post and secondly whether it has been advertised that is no the incumbent has been promoted.

**HON MISS M I MONTEGRIFFO:**

Can the Minister say when this happened?

**HON LT COL E M BRITTO:**

I do not have a date offhand but within the last three to six months.

**HON MISS M I MONTEGRIFFO:**

Can he give an indication whether it was before the end of the financial year or after?

**HON LT COL E M BRITTO:**

I suspect just before the end of the financial year but I am subject to correction.

**Subhead 1 -** was agreed to and stood part of the Bill.

**HON CHIEF MINISTER:**

Mr Chairman, just going back if the hon Members are still interested that figure of £62,000 I do not have the figure until the end of March but certainly up to the 31<sup>st</sup> January it had basically four elements, research and consultancy fee, some new equipment and accommodation for the visiting consultants and also a provision for the salaries in the Management Company. Up to the 31<sup>st</sup> January 2002 that totalled £26,000 I can only assume that it has risen to £62,000 with the passage of time between the



end of January and March. We will get a full breakdown of that for the hon Member.

**HON J C PEREZ:**

Other than the element of the equipment the other elements will continue to be there, surely the provision of £1,000 is not realistic.

**HON CHIEF MINISTER:**

No, it is a provision, it is a token.

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 – Office and Stadium Expenses** was agreed to and stood part of the Bill.

**Subhead 4 - Operational Expenses** was agreed to and stood part of the Bill.

**Subhead 5 - Sports Development** was agreed to and stood part of the Bill.

**Subhead 6 - Grants to Sporting Societies** was agreed to and stood part of the Bill.

**Subhead 7 - International Sports Competitions** was agreed to and stood part of the Bill.

## **Subhead 8 - Contribution to Gibraltar Sports Authority**

**HON MISS M I MONTEGRIFFO:**

Mr Chairman, Appendix (d) page 120 – I have looked at the Appendix and I wonder whether the Minister can give an explanation as to for example on the salaries, is this that they are going to pay one person or more on top of the salaries that come under Sport and Leisure or is it that they are intending to pay somebody twice, or are we talking about more than one person?

**HON LT COL E M BRITTO:**

There have been reductions in all the subheads under (3) and they have been offset within the Appendix that the hon Member has referred to.

**HON MISS M I MONTEGRIFFO:**

If I can ask the Minister the same question again, under the Sports Department Salaries, the salaries relate to the eight people that are shown under page 38 and I would like the Minister to explain why there is in page 120, salaries £47,000?

**HON LT COL E M BRITTO:**

It reflects the increases in staff that are expected and temporary staff that are expected to be employed on maintenance and the whole appendix is a general provision with figures looking ahead and the whole thing will need to be changed as we move forward.

**HON MISS M I MONTEGRIFFO:**

If we are talking about the salaries in page 120 being set at £47,000 are we talking that those.....

**HON CHIEF MINISTER:**

New salaries for new people.

**HON MISS M I MONTEGRIFFO:**

New salaries for new people it has nothing to do with the salaries otherwise there would be a reduction.....

**HON CHIEF MINISTER:**

This is in addition to the civil servants in the Sports Department.

**HON MISS M I MONTEGRIFFO:**

Does that mean that they have already been employed under the Gibraltar Sports Authority or that the Government are intending to employ them?

**HON LT COL E M BRITTO:**

It is just provision, no employment has yet been offered or issued.

**Subhead 8** - was agreed to and stood part of the Bill.

**Subhead 9 - Office Expenses** was agreed to and stood part of the Bill.

**Subhead 10 - Operational Expenses** was agreed to and stood part of the Bill.

#### **HEAD 4G - BROADCASTING**

**Subhead 1 - Personal Emoluments** was agreed to and stood part of the Bill.

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 - Contribution to Gibraltar Broadcasting Corporation**

**HON J C PEREZ:**

Mr Chairman, two points, one is I would presume that the forecast out-turn will include an element for the increase in salary during the year so the figure will increase further than the £990,000 provision as happens every year and could the Minister take the opportunity of expanding on these night broadcasts to expatriates?

**HON LT COL E M BRITTO:**

It seems that what the hon Member called my boring speech must have put him to sleep because obviously he did not quite understand what I said. I will read again what I said and put a gap inbetween which will explain it more clearly. Last year I said the Corporation planned to offer a dual programme service during the late evening and the night. This was introduced last October with a four hour programme between eight in the evening and midnight. The service continues to be developed and this year will see the dual programme service extended (remember we are talking about radio) till the start of next days transmission. What that means in effect is that they introduce a music only programme for four hours, eight till midnight and have now decided during this year to develop that music only programme so that the original thought was that we would have music only from eight to late the following morning then I said additionally as from May 2002 the Corporation has been piloting an evening radio programme generally targeted at an expatriate audience. The programme offers an opportunity for the sale of commercial air. Having piloted and tried the four hour eight to midnight at the same time as they have decided to extend it to eight o'clock in the morning they have now changed the eight to midnight from music only to normal programming aimed mainly at the expatriate community and that is where the commercial opportunity lies, is that clearer?

**HON J C PEREZ:**

I presume there is no income in the music only channel but that the cost is not significant and that the idea is to attract people to listen to Radio Gibraltar. The attraction of having an all night programme is that people get accustomed to tuning to Radio Gibraltar.

**HON LT COL E M BRITTO:**

The hon Member is right in his assumptions and I will go further what I call the music only programme has no running costs because it is computer driven and literally the station is left working on its own. The computer is switched on, it works throughout the night and there are no human resources during that time at the station. GBC has identified that it can run the eight to midnight normal programming from its normal budget and they reckon that they can raise some revenue at the same time.

**Subhead 3** - was agreed to and stood part of the Bill.

**ADJOURNMENT**

The Hon the Chief Minister moved the adjournment of the House to Thursday 20<sup>th</sup> June 2002 at 10.00 am.

Question put.                      Agreed to.

**The adjournment of the House was taken at 9.00 pm on Wednesday 19<sup>th</sup> June 2002.**

**THURSDAY 20<sup>TH</sup> JUNE 2002**

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 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 T J Bristow - Financial and Development Secretary

## **OPPOSITION:**

The Hon J J Bossano - Leader of the Opposition  
The Hon Miss M I Montegriffo  
The Hon Dr R G Valarino  
The Hon J C Perez

## **ABSENT:**

The Hon R Rhoda QC - Attorney General  
The Hon Dr J J Garcia  
The Hon J L Baldachino  
The Hon S E Linares

## **IN ATTENDANCE:**

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

## **HON J J NETTO:**

Mr Chairman with your indulgence if I may and indeed with that of the Leader of the House can I quickly go back to Head 3. We were discussing the complement in the Technical and Design Division. We were talking about that there were six in numbers, the three TG1's Housing Inspectors and the three District Wardens. In page 29 on the bottom line there are four TG1s, if the hon Member looks just above that the PTO's is four, if I can give him a breakdown of the four then I will square up the lot. The four PTO's one person is already in place which is an existing Clerk of Works which has been transferred from Buildings and Works Operations into the Ministry. Another one is the vacancy that needs to go out which is one of Draughtsman and then the other two is another additional two Clerk of Works so what will happen is that from the six or more specifically within the three current Housing Inspectors in a rotational way two of the three will be acting towards those two particular positions. I hope that that explains and squares up the numbers.

## **HON J C PEREZ:**

So the funds are provided for in the two vacancies that are above PTO?

## **HON J J NETTO:**

That is correct.

## **HEAD 5 - SOCIAL AFFAIRS**

## **HEAD 5A - SOCIAL SECURITY**

### **Subhead 1 - Personal Emoluments**

**HON J C PEREZ:**

Mr Chairman, all I want to know is whether the increases in staff here, for example, four more AOs is a transfer from another department or they are new posts that have been created and have been filled in through recruitment?

**HON MRS Y DEL AGUA:**

Mr Chairman, two of the AOs are new posts another one is a post that has replaced a retired GDC post which was originally a civil service post and another one is an AO which started as a supernumerary and has now been included in the establishment.

**HON J C PEREZ:**

I presume the EOs would be promotion from AO which would leave two vacancies of AO somewhere else, there is two extra EOs?

**HON MRS Y DEL AGUA:**

These are new posts, new EO posts obviously on promotion from AO.

**Subhead 1** - was agreed to and stood part of the Bill.

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 - Office Expenses** was agreed to and stood part of the Bill.

**Subhead 4 - Transfer to Social Assistance Fund - Import Duty** was agreed to and stood part of the Bill.

**Subhead 5 - Support Benefits** was agreed to and stood part of the Bill.

**Subhead 6 - Gibraltar Development Corporation Staff Services**

**HON J J BOSSANO:**

Mr Chairman, given what we have just been told that one of the AO posts is replacing somebody I presume was paid from this vote or staff services from the GDC, is it the policy that the work that is currently being contracted out to GBC persons which will eventually through natural wastage or with other movements be brought back into the personal emoluments subhead?

**HON MRS Y DEL AGUA:**

Mr Chairman, I suppose that eventually that will be the case but the hon Member has to bear in mind that under the GDC staff services it also includes a number of temps which were hired for the new computerisation system and they are still in place apart from one other GDC employee who works in the Spanish Pensions department.

**HON J J BOSSANO:**

They have got a time limited contract so that when their computerisation is finished they finish working?

**HON MRS Y DEL AGUA:**

That is correct.

**Subhead 6** - was agreed to and stood part of the Bill.

**Subhead 7 - Investigation Services** was agreed to and stood part of the Bill.

**HEAD 5B - Social Services**

**Subhead 1 - Personal Emoluments**

**HON J C PEREZ:**

Can I ask the hon Lady whether the extra Senior Social Worker, the extra Team Leader and the Community Service Officer have been recruited internally or they have been recruited outside the service.

**HON MRS Y DEL AGUA:**

Internally.

**Subhead 1** - was agreed to and stood part of the Bill.

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 - Office Expenses** was agreed to and stood part of the Bill.

**Subhead 4 - Plant and Equipment** was agreed to and stood part of the Bill.

**Subhead 5 - Support to the Disabled** was agreed to and stood part of the Bill.

**Subhead 6 - Milbury Care Services Ltd - Contracted Services.**

**HON J J BOSSANO:**

Mr Chairman, given that the Milbury contract is due to finish in November is this the amount that has to be paid to them up to November or is this provision for the whole year on the assumption that somebody will be paid in their place?

**HON MRS Y DEL AGUA:**

The hon Member will note that there are £150,000 less than the previous year and this is because we do not need to make provision for the whole year obviously because Milbury are retiring in November so this is just a provision, a token sum, to maybe offset as well whatever extra costs are incurred when Milbury retires and Government take over.

**HON J J BOSSANO:**

The sum for the whole year in the year 2001 was £230,000 less I would not have thought that the proportion of the year until November which means that it is eight months instead of 12 that does not look to me like eight twelfths of the normal annual contract.

**HON CHIEF MINISTER:**

Is the hon Member saying why is it so high given that they are going in November?

**HON J J BOSSANO:**

Yes, if 12 months is £1.6 million the £1.5 million is hardly eight months.

**HON MRS Y DEL AGUA:**

Mr Chairman, the services have to be provided whether Milbury is here or not. The only savings that we would make if any would be

out of the consideration that is paid to Milbury and that is about the only savings and as I say those savings might have to be offset even then by extra costs incurred, for example, in implementing a pension fund that is not there currently.

**HON CHIEF MINISTER:**

I think the hon Member is right to this extent that it is a mislabelling in the sense that it does not apply, the labelling does not apply once the Milbury contract comes to an end. The money is going to be used for the same purpose but it will not be by way of a contracted service to Milbury and I think it actually might be worthwhile just to ensure that there is no problem of lack of voted funds that we could retitle that subhead. It would have to be a label that covers both the contractual period and then the subsequent non-contractual period to accommodate the point that the hon Member has very helpfully made. The Financial Secretary suggests that we could have a footnote which says 'that with effect from the termination of the contract with Milbury this subhead shall be used for the direct provision of the services to the Agency or perhaps put 'contracted services – Milbury Care Services/Social Services Agency something like that. The important thing is that the House should be clear that the House is voting the funds for the purpose and not for the contract so that when the contract comes to an end we are not without voted funds to carry on.

**HON J J BOSSANO:**

The decision has now finally been taken that it will be the Social Services Agency?

**HON MRS Y DEL AGUA:**

Yes.

**HON J J BOSSANO:**

Is the position on the transfer of the existing staff to the Agency now been settled?

**HON MRS Y DEL AGUA:**

As the hon Member might be aware there are quite a number of existing civil service posts which I believe will be just seconded keeping the pension rights and everything in place. We are trying to negotiate if one can call it that because it is just a simple transfer from Milbury to the Social Services Agency is the post of Milbury employees.

**HON J J BOSSANO:**

It is the posts of the Milbury employees that I am referring to. I am taking it for granted that the people that are already working for the Government will continue working for the Government but when Milbury goes presumably everybody in that employment will have employment protection under the transfer of undertaking provisions.

**HON MRS Y DEL AGUA:**

Yes there will be no posts lost whatsoever.

**HON J J BOSSANO:**

The actual details of the transfer have already been finalised with the staff or is it still under discussion?

**HON MRS Y DEL AGUA:**

It is still under discussion.

**Subhead 6** - was agreed to and stood part of the Bill.

**Subhead 7 - Dr Giraldi Home -- St Bernadette's** was agreed to and stood part of the Bill.

**Subhead 8 - Marriage Counselling** was agreed to and stood part of the Bill.

**Subhead 9 - Workers' Hostels - Gibraltar Community Projects Limited**

**HON J J BOSSANO:**

Mr Chairman when we were talking about the Cemetery we were told that because Community Projects provided the labour there was no labour costs charged to the Cemetery because Community Projects get a block sum of money, are the wages shown here the wages of the people in Community Projects as it seems to indicate? If so how come it is on this occasion and in the other it is not?



**HON MRS Y DEL AGUA:**

The wages shown here are the wages of the people assigned to work in the hostels exclusively. Recently Government decided to take on a group of workers from Community Projects to deal exclusively with the hostels so the subsidy comes out of this vote exclusively for the Workers' Hostel.

**HON CHIEF MINISTER:**

Yes the same could be done in the Cemetery and for some reason it has not been done. In this case because a group community workers has been permanently detailed to work exclusively for one department it ceases to be part of the general charge of the Community Care Labour subvention from the Government and the labour cost in this case has been taken by the department exactly the same circumstances apply in the case of the Cemetery where I am almost certain the labour works only in the Cemetery and nowhere else but for some reason this has been done in this case and not in the others but the hon Member is right it could easily be dealt with in the same way in the case of the Cemetery. I am not sure whether there is still a permanent employee detached to the Health Authority. There were one or two other pockets of Community Care employee permanently detailed.

**HON J J BOSSANO:**

Would the Government agree that it is preferable really to have uniformity?

**HON CHIEF MINISTER:**

Yes it is preferable and I think that as of next year we will show one way or the other but consistently throughout the Government.

**HON J C PEREZ:**

The Hon Mr Britto coming back momentarily to the Cemetery said that there were six people from Community Projects at the Cemetery. Perhaps the problem at the Cemetery is that it is not the same people all the time whereas in the hostel it is the same people. There are six persons sent by Community Projects to the Cemetery which might not necessarily be the same people and that might be the distinction.

**HON CHIEF MINISTER:**

Just a little caveat because I am not 100 per cent certain but I am 95 per cent certain that it is a permanent labour gang at the Cemetery as well and it is not just any six people drawn on a weekly basis, but certainly if it were not as I am saying then I would agree with the hon Member that it would benefit from it being a permanent gang but I think that is what the position is I think it is a permanent gang.

**Subhead 9** - was agreed to and stood part of the Bill.

**Subhead 10 - Drugs Misuse Programme** was agreed to and stood part of the Bill.

**Subhead 11 - Women in Need Grant** was agreed to and stood part of the Bill.

**Subhead 12 - Contribution to Elderly Care Agency**

**HON J C PEREZ:**

Mr Chairman could I take the opportunity to ask the hon Lady whether the complement in the Elderly Care Agency is now full and what is the length of the waiting list and of the people in the waiting list perhaps she might know how many are in hospital waiting to get into the Elderly Care Agency?

**HON MRS Y DEL AGUA:**

The hon Member is referring to occupancy as opposed to complement. The occupancy at Mount Alvernia is full, pending refurbishment works which will give us other extra beds. On the other point he is asking I have not got the information readily available with me but I can find out.

**HON J C PEREZ:**

Does the refurbishment, we are not talking about the top floor which is now Administration, we are talking about the floors that were available before for beds am I right?

**HON MRS Y DEL AGUA:**

The floors that were available plus the top floor.

**HON J C PEREZ:**

Yes, but the top floor is for Administration purposes or there are beds now at the top floor?

**HON MRS Y DEL AGUA:**

At the moment there are no beds on the top floor it is for administration purposes, eventually there will be.

**Subhead 12 -** was agreed to and stood part of the Bill.

**HON J J BOSSANO:**

Mr Chairman, Appendix E shows the domicilliary service that is due to be started this year with £160,000. What is the £160,000, I would have thought that if we are talking about the people that are going to be engaged in visiting it would come out of Personal Emoluments?

**HON MRS Y DEL AGUA:**

Not necessarily, the ECA are looking at a means of providing domicilliary care for those who need it as a pilot scheme at the moment, for those who need home help or whatever in the homes at the moment, elderly people. It does not necessarily mean that they will be employed as employees of the Agency.

**HON J J BOSSANO:**

I see, so, the £160,000 there means that the intention is to contract out the domicilliary service to somebody else?

**HON MRS Y DEL AGUA:**

I believe that is the case.

**HON J J BOSSANO:**

So the increase in staffing levels shown here is not for the domiciliary service?

**HON MRS Y DEL AGUA:**

No the increase in staff is extra staff that Government have employed to cater for the increasing demands of the Home and the increased occupancy.

**HON J J BOSSANO:**

Would the domiciliary service then be something that would be advertised on the basis of, if there are people doing this kind of thing I do not know, people putting a bid to get the work or is there somebody in the field already that is known to the Agency?

**HON MRS Y DEL AGUA:**

I believe there are a couple of agencies that are already around of which the ECA is aware and I think at this moment in time they are just shopping around.

## **HEAD 5C - PRISON**

**Subhead 1 - Personal Emoluments** was agreed to and stood part of the Bill.

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 - Office Expenses** was agreed to and stood part of the Bill.

**Subhead 4 - Operational Expenses** was agreed to and stood part of the Bill.

**Subhead 5 - Expenses on Prisoners** was agreed to and stood part of the Bill.

**Subhead 6 - Repairs and Upgrading of Equipment** was agreed to and stood part of the Bill.

## **HEAD 6 - TOURISM AND TRANSPORT**

### **HEAD 6A - TOURISM**

**Subhead 1 - Personal Emoluments** was agreed to and stood part of the Bill.

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 - Office Expenses** was agreed to and stood part of the Bill.

**Subhead 4 - Operational Expenses** was agreed to and stood part of the Bill.

### **Subhead 5 - General Embellishment**

#### **HON J C PEREZ:**

Mr Chairman, I was asked by the Hon Dr Garcia yesterday to raise the question of having a provision for general embellishment last year of £20,000, having the forecast out-turn at £7,000 and providing £7,000 now could the Minister perhaps give an explanation why this is decreasing? The year before we had £13,943.

#### **HON J J HOLLIDAY:**

This subhead is basically used to embellish minor projects and they are to do mainly with, for example, fencing round the roundabout at Waterport area. If that is damaged that vote is used for repairs. So if there are no repairs that vote is not actually spent although it is used for minor works which are incidental there are other heads that are used for beautification and embellishment.

**Subhead 5** - was agreed to and stood part of the Bill.

**Subhead 6 - Miss Gibraltar Show** was agreed to and stood part of the Bill.

**Subhead 7 - Official Functions** was agreed to and stood part of the Bill.

**Subhead 8 - Marketing, Promotions and Conferences** was agreed to and stood part of the Bill.

### **Subhead 9 - Apes Management**

#### **HON J J BOSSANO:**

Mr Chairman, given that we have got a subhead here for health care can I have confirmation that we are not currently continuing with that disagreeable period of genocide of our primate cousins up the rock?

**HON CHIEF MINISTER:**

Neither of the hon Members' suppositions exclude the other. Health care is for apes that are to be kept alive and not exactly for the culling of apes that are apes that are not to be kept alive. Actually there is no culling programme, in fact there has never been a culling programme since we have been in office.

**HON J J BOSSANO:**

Never?

**HON CHIEF MINISTER:**

I can tell the hon Member that there is not presently any culling programme.

**Subhead 9** - was agreed to and stood part of the Bill.

**Subhead 10 - School of Tourism** was agreed to and stood part of the Bill.

**Subhead 11 - Gibraltar Tourism Board**

**HON J C PEREZ:**

Mr Chairman, there was an estimate for temporary assistance there of £149,000 with the out-turn being £173,000 and we are now making the same provision as we did the year before, can the

Minister explain what that temporary assistance is and how is it that we had a £24,000 extra spend this year.

**HON J J HOLLIDAY:**

This temporary assistance subhead basically covers visitor information officers which are employed for a specific time especially during the summer. It also covers the lifeguards at the beaches and this latest programme that we have in place called 'History Alive' which is a mock- up parade that comes out weekly. Basically the budget has been adjusted depending on what the estimate will be. The requirements for this particular year, for example, 'History Alive' has started only two weeks ago.

**HON J J BOSSANO:**

Mr Chairman, the staff services that are being contracted by the Tourist Board from the Development Corporation where the sum was £522,000 then £550,000, then £599,000 and now £631,000, is it that there are more people now allocated to the Tourist Board from the Development Corporation than there was just over a year ago?

**HON J J HOLLIDAY:**

Mr Chairman, I do not think that this is the case. There may have been the need for some minor changes in actual numbers. There is an element obviously of wage adjustment as the result of £100,000 but obviously not accountable in its totality.

**HON CHIEF MINISTER:**

There are three categories of tourism employees under the GDC. Aide Management, Gibraltar Tourism Board and Tourist Sites.

**FINANCIAL AND DEVELOPMENT SECRETARY:**

Mr Chairman, the number of people under the Gibraltar Tourism Board are I think tracing the three years the hon Member is looking at with 28 in 2000/2001, 32 in 2001/2002 and with projected financial provision for 34 in 2002/2003.

**Subhead 11** - was agreed to and stood part of the Bill.

**Subhead 12 - Tourism Sites**

**HON J J BOSSANO:**

On tourism sites I note that the pattern is different from the one that the Financial and Development Secretary has just told us about which of course is consistent with the money there in that it goes up and then it comes down again. The £642,000 is still nearly £200,000 more than in 2001.

**HON CHIEF MINISTER:**

The position there is that it was 28 in 2000, 34 in 2001 so that is down, up and now it is 34 and in 1999/2000 it was actually 32 so it has been 32,28,34,and 34.

**HON J J BOSSANO:**

In Subhead (c) – Security I think when I asked the Minister in Question Time or the Supplementary Estimates about what was happening with the contracted security services for the Port at a later stage he told us that they were being used on tourist sites, is that being charged here or is it being charged from the Port?

**HON J J HOLLIDAY:**

I believe that is being charged to the Port.

**HON J J BOSSANO:**

Given that the House will be voting the money under a completely different Head should there not be something indicating that the money is being used here?

**HON CHIEF MINISTER:**

When we come to the Port which is Head 6D the hon Member will see that under Contracted Services there is a provision of £125,000 for Port Security, that is the amount that he is referring to. The amount listed under Security of Tourist Sites in Head 6A – 12 was the already existing security. If the money is not going to be spent on Port Security which is what it is being voted for I do not think it can be spent on tourist site security. So I suppose what the Treasury will do is that they will draw additional monies for the Tourism Site Security from the block vote of the Supplementary Funding vote and leave unspent the money. I suppose that is the proper treatment under Financial Regulations.

**Subhead 12** - was agreed to and stood part of the Bill.

**Subhead 13 - Port and Coach Terminals** was agreed to and stood part of the Bill.

## **HEAD 6 B - TRANSPORT - AIRPORT**

**Subhead 1 - Personal Emoluments** was agreed to and stood part of the Bill.

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 - Running of Airport** was agreed to and stood part of the Bill.

## **HEAD 6 C - TRANSPORT - TRAFFIC**

**Subhead 1 - Personal Emoluments** was agreed to and stood part of the Bill.

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 - Office Expenses** was agreed to and stood part of the Bill.

**Subhead 4 - Operational Expenses** was agreed to and stood part of the Bill.

## **Subhead 5 - Transport Inspection**

**HON J C PEREZ:**

Mr Chairman, is it that we now have two full-time Transport Inspectors rather than one and that is why the provision is double?

**HON J J HOLLIDAY:**

We still have one Transport Inspector like we have always had but we transferred a member of the management structure in GSS to the Transport Inspectorate in order to assist with a lot of administrative work that needed to be undertaken in this particular department, that person is also a Transport Inspector.

**HON J C PEREZ:**

So his wages are now covered here and not under GSS?

**HON J J HOLLIDAY:**

That is right the GSS has been adjusted accordingly.

**Subhead 5** - was agreed to and stood part of the Bill.

**Subhead 6 - Traffic Management – Operational Expenses** was agreed to and stood part of the Bill.

**Subhead 7 - Office Rent and Service Charges** was agreed to and stood part of the Bill.

## **HEAD 6 D - TRANSPORT – PORT**

### **Subhead 1 - Personal Emoluments**

**HON J C PEREZ:**

Mr Chairman, can I ask the Minister whether in the complement that we are voting how many vacancies exist given that when I asked at Question Time he could not confirm that there were five which is the figure that he gave me last year? How many vacancies are we voting in the total sum that we have here?

**HON J J HOLLIDAY:**

At the time of producing these details the vacancies still existed as for the Captain of the Port, Marine Officer which is the new post within the structure and one Boarding Officer and I believe that these three still remain vacant.

**HON J C PEREZ:**

Given the issue I raised yesterday in my contribution are the Government prepared to reconsider the question of doing away

with the Yacht Reporting Berth which he announced last year given the security considerations post the 11<sup>th</sup> September?

**HON CHIEF MINISTER:**

Mr Chairman, some of what the hon Member said about the Reporting Berth is actually not true, for example, the hon Member gave the impression I do not know if that is the impression that he is under I am sure it is if he gave it that there has been an end to the Customs Roving Unit which used to provide cover for yachts arriving at Queensway Quay. The position has not changed from when he was in office in respect to Queensway Quay, the system is the one that it has always been and that is that yachts arriving at Queensway Quay Marina have not been subject to the 'Yacht Reporting berth treatment', Customs, Immigration et cetera. It has been done on a different basis for obvious reasons that the Marina is not on route to the berth. There are three Marina's in Gibraltar two of which their customers have to go to the trouble of going to the Reporting Berth, one of them their customers do not have to go to the Reporting Berth, to think of that in terms of security is a nonsense a system is no more secure than its weakest link and to think that retaining the Reporting Berth which covers two thirds of the Marinas as a matter of security when one third of the Marinas namely one of the Marina's is completely uncovered by the process is not relevant in terms of security. The intention in the plans that the Government are still contemplating are not to lower the levels of security at all and certainly what the Government are contemplating is a procedure similar to the ones applicable in the rest of Europe including Spain it is not as if the idea that yachts have to go to a physical Reporting Berth outside of the Marina before they go into the Marina exists only in Gibraltar and nowhere else and therefore we can argue about whether it is a good thing or a bad thing to remove it but I do not think it raises any security considerations because the alternative is actually going to be more secure than the present system because the new system will apply to the three Marinas, not just like the present system that applies only to two leaving an alleged gaping security hole for



those people who see it as a security issue in respect of the Marina. So, what are we saying that if one wants to be a terrorist or something one comes to Gibraltar in a boat if one goes to Queensway Quay one is all right.

**HON J C PEREZ:**

I am not suggesting what the Chief Minister has suggested. I am not suggesting that we keep the Yacht Reporting Berth for the two Marinas and not include Queensway Quay, what I said yesterday was that because there is a loophole which is the Queensway Quay Marina let us close it and let us not instead use that as a precedent to have a free for all. The information I have is that because the piermaster is the one that has to report the incoming yachts to the Yacht Reporting Berth now, after 10 pm when there is no piermaster there is no control in Queensway Marina and that this known and that this is a loophole and that the enforcement agencies are concerned about this, not only the Port Department but other enforcement agencies are concerned about this. I would ask the Chief Minister to check back and to look at the situation before he commits himself.

**HON J J BOSSANO:**

Mr Chairman, on Personal Emoluments – Salaries, the provision last year in the estimates was £790,000 and the out-turn is £655,000 is it that a year ago the House voted money for all the posts in the complement even those that were unfilled and it is not doing so this year?

**HON J J HOLLIDAY:**

Yes.

**HON J J BOSSANO:**

If that is the case does that not suggest that they were willing to fill the posts last year but not this one, surely that is not an unreasonable deduction? If last year the House was asked to put the money in there to cover the people who were already in post and the vacancies and we are not doing it this year.....

**HON J J HOLLIDAY:**

Mr Chairman, that might be the case the situation is that as negotiations have progressed in respect of the formation of the Gibraltar Port Authority it has become clear that the structure that needs to be put in place may not necessarily mean that some of the vacant posts will need to be filled and therefore what the Government are trying to do is not to have to recruit people which we know are no longer going to be required in the same format within the new structure and this is something that at one point the staff side were conscious of and agreed with but then obviously subsequently as negotiations took a turning point to the worst we decided or rather they decided to insist that these posts had to be filled. This has not been the Government's position and obviously there is no point in having to recruit staff when we know that the new structure will require a new look at the actual posts that will need to be filled.

**HON J J BOSSANO:**

Of course it makes sense if one is not going to need somebody that one does not recruit him but surely the last statement made by the Minister in answer to Questions was that if there was no agreement then there would be a Port Authority in name with the staff in the Port Department still being in the Port Department and since that has transpired recently it seems peculiar that when that was not the position, the provision was being made to cover the vacancies and when the position has become if one likes less likely to materialise as he would like the provision has been removed.

**HON J J HOLLIDAY:**

The situation today is one where there is optimism on my part that the Gibraltar Port Authority will come on stream and therefore as we are approaching the final stages of negotiations I do not feel that there is really a need for us to contemplate the recruitment of the filling of these vacancies because we know both the staff side and ourselves that under the new structure these posts may not necessarily be required and therefore the need to recruit I think is irrelevant at this stage.

**HON J J BOSSANO:**

That is a more recent position than the one he gave at Question Time earlier in the House. He said the Marine Officer and there is a Boarding Officer and the Captain of the Port post are not filled is there no provision for that in the £710,000?

**HON J J HOLLIDAY:**

I think there is, there is an acting Captain of the Port so there are some officers acting in these particular posts at present.

**HON J J BOSSANO:**

I asked, is the money in the vote covering only the people in employment or is it covering the vacancies and the answer that I got was it did not cover the vacancies. He told us in an earlier supplementary that the vacancies were Marine Officer, Captain of the Port and Boarding Officer. I am now asking, is the pay of those three vacancies which are the vacancies that he has mentioned covered in the £710,000 or not because one answer seems to be in conflict with the other.

**HON J J HOLLIDAY:**

Mr Chairman, there are some provisions made for this in the Estimates however as we do not know when these vacancies will actually be filled a nominal amount has been included in the estimates but subject to possible adjustments once we know when the vacancies actually get filled.

**Subhead 1** - was agreed to and stood part of the Bill.

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 - Office Expenses**

**HON J J BOSSANO:**

Mr Chairman, on the Other Charges which is not on the expenditure side but on the revenue, I remember as being mentioned in the general principles of the Bill something that was recently gazetted which was £0.25 million for a new entrant into the bunkering. What has been the position until now was there no fee paid when people came in? If they have fixed this level of fee at £0.25 million is it that they have indication that that is the kind of money a new operator would be willing to pay to set up shop in Gibraltar?

**HON CHIEF MINISTER:**

It is a view taken on what is a reasonable amount of the commercial value of the ability to stand in the market place and what the market would sustain. It is an attempt to pitch the figure at something which maximises the revenue for the Government and is a reasonable sum for operators to pay it is not calculated in any scientific way. There are expenses to the Government involved in the existence of these operations, an increasing investment in anti-pollution facilities, training for staff, that would increase as time passes so it is not just a sort of windfall. The Government and the taxpayer do sustain costs as a result of the bunkering operations in Gibraltar and it is right that they should contribute to the Government coffers in this way.

**HON J J BOSSANO:**

The impression given is that it is a one off thing because it says on application for a new licence.....

**HON J J HOLLIDAY:**

Yes there is a Bunkering Operator Licence which is renewed annually which has a fee of £10,000 that is renewed annually, we thought that having a one off in the initial stages of £250,000 would cover that eventuality. I also have to make a point of fact that a premium is required of £250,000 as a one off also attracts real serious operators to consider Gibraltar. We have had many inquiries over a period of time and we feel that maybe some of these were not as serious as one would have wanted and were speculating in coming into the market. I think the fact that we attached that premium to this is a deterrent for those that are coming just to speculate and then not having real investment proposition in this respect.

**Subhead 3** - was agreed to and stood part of the Bill.

**Subhead 4 - Operational Expenses** was agreed to and stood part of the Bill.

**Subhead 5 - Contracted Services** was agreed to and stood part of the Bill.

**Subhead 6 - Port Advertising** was agreed to and stood part of the Bill.

**Subhead 7 - Gibraltar Development Corporation Staff Services** was agreed to and stood part of the Bill.

**Subhead 8 - Contribution to Gibraltar Port Authority** was agreed to and stood part of the Bill.

## **HEAD 6E - TRANSPORT – SHIP REGISTRY**

**Subhead 1 - Personal Emoluments** was agreed to and stood part of the Bill.

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 - Office Expenses** was agreed to and stood part of the Bill.

**Subhead 4 - Operational Expenses** was agreed to and stood part of the Bill.

**Subhead 5 - Gibraltar Yacht Registry Limited** was agreed to and stood part of the Bill.

## **HEAD 7 - TRADE, INDUSTRY AND TELECOMMUNICATIONS**

**Subhead 1 - Personal Emoluments** was agreed to and stood part of the Bill.

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 - Office Expenses** was agreed to and stood part of the Bill.

**Subhead 4 - Land and Property Management** was agreed to and stood part of the Bill.

**Subhead 5 - Office Rent and Service Charges** was agreed to and stood part of the Bill.

## **Subhead 6 - Marketing, Promotions and Conferences**

### **HON J J BOSSANO:**

On the Marketing, Promotions and Conferences in 6 (c) the Finance Centre where we are being asked to vote £220,000 and last year it was £240,000 but the expenditure in fact £180,000 was close to the 2000/2001 Out-turn final figure, we are already three months into the financial year and the marketing seems to be at least partly conditional on the success of the proposals to make Gibraltar's system EU compliant is this a realistic figure to be put in for marketing.

### **HON K AZOPARDI:**

Yes, because the hon Member has to recall the comments that I made when I made my contribution that when the tax structure is launched the Government intend to conduct a vigorous campaign and not only renew the marketing campaign on the old basis but also conduct a more vigorous one. The fact that this figure is lower than last year's estimates is to reflect precisely that the more vigorous attempt will start later on in the financial year. Had we started at the beginning of the financial year perhaps a higher figure would have been warranted. We think it is a realistic figure but if there is much more time lag I would tend to agree with the hon Member that we probably might not spend that money but we will have to see how it goes.

**Subhead 6** - was agreed to and stood part of the Bill.

**Subhead 7 - Contributions to Financial Services Commission**

**HON J C PEREZ:**

Can the Minister explain why there is a cut of £100,000 there?

**HON K AZOPARDI:**

As a result of the agreement on licence fees with operators it is expected that our contribution to the Financial Services Commission this year will be lower.

**Subhead 7** - was agreed to and stood part of the Bill.

**Subhead 8 - Gibraltar Development Corporation Staff Services**

**J J BOSSANO:**

Mr Chairman, on 8 (d) the Finance Centre the staff services provided by the GDC if we look at the three years, the final for 2001 the estimate of 2002 and this year there seems to be quite a dramatic increase, are we talking about many more bodies being used?

**HON K AZOPARDI:**

No, we are talking about one extra body plus the fact that the Finance Centre Director's contract comes to an end and he will remember that as it is on the same terms as his predecessor there is a gratuity to be paid at the end of the three years.

**HON J J BOSSANO:**

The gratuity at the end of the three years is included where in the £220,000? How much of the £220,000 then is for the Finance Centre Director and how much for the other body?

**HON K AZOPARDI:**

A substantial amount because that includes salaries as well, so I would say it is about 50 per cent I guess.

**HON J J BOSSANO:**

I think the figure was something like £80,000 tax free that he was getting, what is it £30,000 for the gratuity for three years?

**HON K AZOPARDI:**

Yes gratuity is about £50,000.

**HON J J BOSSANO:**

So what we are saying is that £130,000 of the £220,000 will be the payment of the Finance Centre Director in the coming financial year and then there is £90,000 payable what in respect of one other person provided by GDC?

**HON K AZOPARDI:**

The reason for the increase is that there is a gratuity to be paid plus an extra body that used to work in the Telecomms division and was transferred out and I think she is probably on a salary of £20,000 or £25,000. That is the reason for the increase but the actual amount of money reflects payments for the Finance Centre Director for the other person who is the new person transferred from Telecommunications and two other individuals.

**HON J J BOSSANO:**

It is four persons then?

**HON K AZOPARDI:**

Yes.

**Subhead 8** - was agreed to and stood part of the Bill.

**Subhead 9 - Operational Expenses** was agreed to and stood part of the Bill.

**Subhead 10 - Running of Museum – Knightsfield Holdings Ltd**

**HON J J BOSSANO:**

Mr Chairman, in the out-turn there is £133,000 Compensation and Legal Costs which there was no provision at the beginning of the year can I ask what this involves?

**HON K AZOPARDI:**

That substantially is in relation to the Gibnet case and also a planning case that was outstanding, a small balance.

**HON J J BOSSANO:**

So in the Gibnet case, has there been compensation?

**HON K AZOPARDI:**

No not compensation it is legal costs there is an issue there outstanding still as to compensation.

**Subhead 10** - was agreed to and stood part of the Bill.

## **HEAD 8 - ADMINISTRATION**

### **HEAD 8A - SECRETARIAT**

**Subhead 1 - Personal Emoluments** was agreed to and stood part of the Bill.

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 - Office Expenses** was agreed to and stood part of the Bill.

**Subhead 4 - Operational Expenses** was agreed to and stood part of the Bill.

**Subhead 5 - Gibraltar Co-ordinating Centre for Criminal Intelligence and Drugs** was agreed to and stood part of the Bill.

**Subhead 6 - Governor's Office Expenses** was agreed to and stood part of the Bill.

**HON J C PEREZ:**

Has the Chief Minister decided yet whether he is going to buy His Excellency the uniform now that the Foreign Office is not willing to foot the Bill?

**HON CHIEF MINISTER:**

I thought that the hon Member for a moment was going to propose a token reduction in the contribution to the Governor's Office expenses but obviously not.

**HON J C PEREZ:**

I would not do that to the representative of Her Majesty the Queen.

**HON CHIEF MINISTER:**

About uniforms the position remains as explained to him last time.

**Subhead 6** - was agreed to and stood part of the Bill.

### **Subhead 7 - Statistics Unit**

**HON J J BOSSANO:**

On the Statistics Unit the amount for surveys is less than last year, is this because last year's amount included the census or is there another explanation?

**HON CHIEF MINISTER:**

That is exactly the position.

**Subhead 7** - was agreed to and stood part of the Bill.

### **Subhead 8 - Legislation Support Unit**

**HON J J BOSSANO:**

In the Legislation Support Unit I note that the provision is the same as in the estimates for private sector fees for legal drafting but the out-turn in fact was considerably higher, what was it that was required in terms of legal drafting during the last financial year that cost £382,000?

**HON CHIEF MINISTER:**

Mr Chairman, as the hon Member appreciates by the way he has formulated the question, the £50,000 is really a token provision because one does not know what the actual demand for these services is going to be in terms of last year's forecast out-turn the bulk of it about £250,000 actually relates to the drafting work on the new tax legislation.

**HON J J BOSSANO:**

Is that being undertaken locally or by tax experts from outside?

**HON CHIEF MINISTER:**

No. It is being undertaken locally by a Committee, an Advisory and Drafting Committee drawn from various law firms, accountancy practices calling in all the disciplines required. It has

been a comprehensive piece. I think the drafting effort has been led by Chris White whose experience in these things from his previous incarnation but it has had input from many people and I think the hon Members regardless of what view they take of the content of the legislation which is an act of policy, I think that when the hon Members see the legislation they will join the Government in applauding the fact that Gibraltar is able to produce it domestically. It is a very complex wide-ranging very detailed legislation and the Government are delighted. In fact had it not been for the expertise we have found locally the Government would have been hard put to have dealt with the tax reform in the way we think we have been able to do so successfully. So it is a lot of money, on the other hand it is a major piece of legislation and it has been done locally. The other major item in the £382,000 is the tail end of the regulations in relation to telecommunications liberalisation, those are the two large items.

**HON J J BOSSANO:**

I seem to remember in a previous budget when the sum came down that the Government had indicated that they were intending to do more drafting in-house.

**HON CHIEF MINISTER:**

Much of the routine drafting is now done in-house. There is much less farming out now of drafting, for example, on EU directives. The domestic legislation is more or less all done in-house and EU directives are more or less all done in-house now. The telecommunications and the tax were specialist specific projects and they were dealt with still in the private sector. The Government's in-house legislative resources would not have been able to cope with projects of this sort and also the normal work even if they had had the expertise in the subject matter of telecommunications and tax required. When one is drafting



around tax it is not just drafting techniques that one needs, one needs to have a deep understanding of the issues that one is drafting about.

**Subhead 8** - was agreed to and stood part of the Bill.

**Subhead 9 - Government Procurement Unit** was agreed to and stood part of the Bill.

**Subhead 10 - Frontier Complaints Office** was agreed to and stood part of the Bill.

**Subhead 11 - Communication and Information Expenses**

**HON J J BOSSANO:**

Cant the Government explain why communication and information is about to become so expensive?

**HON CHIEF MINISTER:**

Yes, because it includes part of the provision for the advertising campaign.

**HON J J BOSSANO:**

I think the impression that was given in answer to the question that was put earlier in the House was that we had already spent quite a substantial amount in the year that has just gone by. I take it that

this is not the case since the out-turn is really only £40,000 more than what was voted. So, is it all coming into this financial year?

**HON CHIEF MINISTER:**

I do not think any of the expenditure in relation to the campaign had been incurred before the end of the financial year. The forecast out-turn figure does not include the newspaper advertising campaign but I am told that the forecast out-turn figure will actually rise before the accounts are produced because the figure to March 2002 has crept up since this booklet was produced.

**HON J C PEREZ:**

One would expect that the forecast out-turn and the provision for this year together would cover the £1.6 million figure that the Chief Minister mentioned in his contribution as being the cost of the advertising campaign?

**HON CHIEF MINISTER:**

The hon Member certainly cannot assume that, in fact he can assume the opposite because I have just told him the forecast out-turn does not include the advertising campaign. The forecast out-turn can only rise in respect of expenditure incurred prior to the 31<sup>st</sup> March. So the balance of the cost of the advertising campaign will be provided for from supplementary expenditure which the hon Member will see is higher this year than usual.

**Subhead 11** - was agreed to and stood part of the Bill.

**Subhead 12 - Compensation Scheme – Fast Launches/Vehicle Windows** was agreed to and stood part of the Bill.

**Subhead 13 - Private Sector Fees For Legal Advice**

**HON J J BOSSANO:**

Mr Chairman, can I ask about the £346,000 increase in the forecast out-turn which is more than the original vote on legal advice?

**HON CHIEF MINISTER:**

The largest item by far is the State Aid case which has accounted for over £250,000 of cost and that is the case that represents the excess over the estimate, what I do not have for him is a breakdown of the estimate of the other £250,000 which would have been a number of cases and issues. There is a possibility of getting some of this back because the hon Member may recall the order of the court. It is not quite as simple we got the costs on the exempt case, they got the costs on the qualifying case and the lawyers are now arguing about whether those costs equate and therefore are simply set off or whether as we are arguing the case was basically fought on the exempt and that took the bulk of the pleadings about the work so that the Commission should make a payment to us and not just set one off against the other.

**Subhead 13 -** was agreed to and stood part of the Bill.

**Subhead 14 - Political Lobbying, Invited Guests, and Official Travel** was agreed to and stood part of the Bill.

**Subhead 15 - Joshua Hassan House** was agreed to and stood part of the Bill.

**Subhead 16 - Overseas Offices**

**HON J J BOSSANO:**

Mr Chairman, I note that in the Madrid office the provision of £25,000 is below the out-turn and below the vote of last year, is it that it is intended that it should employ less people than a year ago?

**HON J J HOLLIDAY:**

I think it was about September/October last year the two employees in the Madrid Office contract came up for renewal. One person decided to terminate the contract and not renew it, the other decided to renew it unfortunately this second person has been ill and has not been able to be in Madrid so what we have had is somebody from our Gibraltar office who has been taking charge of the Madrid Office on a temporary basis. We were trying to recruit a person to replace the one that did not renew the contract however the applicants for the job were not successful. The advert has been re-advertised last week. We intend to have two people in Madrid as we have had all along however the provision that has been made for £25,000 is bearing in mind the expenses of the person that we have temporary at the moment running between Gibraltar and Madrid and the fact that the second person that will hopefully be recruited this time round will probably not start at least until about September/October so therefore it just covers that part of the financial year. The figure that has been inserted here is much lower than it is.

**Subhead 16** - was agreed to and stood part of the Bill.

**Subhead 17 - Grants**

**HON J J BOSSANO:**

Grants are going up from a provision of £300,000 in last year's budget to £5,150,000 is this the advertising campaign as well?

**HON CHIEF MINISTER:**

It is a large charitable grant that the Government are hoping to make and which I am very happy to discuss before we make it with the hon Member.

**HON J J BOSSANO:**

Can I just clear that this has nothing to do with the other £5 million that went into the Social Assistance Fund it is not that the money is going in twice?

**HON CHIEF MINISTER:**

I thought that the Hon Mr Perez was joking when he said that. It is a vote out of the Consolidated Fund of monies that are ordinary budgetary funds. They have nothing to do with funds that are being moved about from anywhere else and indeed it is the figure that explains why the projected budget surplus is estimated to be lower for this year than the out-turn for last year.

**HON J J BOSSANO:**

Because of this new element.

**Subhead 17** - was agreed to and stood part of the Bill.

**Subhead 18 - Gibraltar Development Corporation Staff Services** was agreed to and stood part of the Bill.

**Subhead 19 - Office Security Services**

**HON J C PEREZ:**

Could I take the opportunity here of asking the Chief Minister whether he has any plans as it is rumoured of dismantling that car park in the near future?

**HON CHIEF MINISTER:**

I do not see why the hon Member who asks so many parliamentary questions needs to rely on rumour but I think we have explained before in the House that it is an objective of the Government to remove that car park. I would not call it a priority but it is an objective and certainly before we do it we have to make sure that the present users of it which include as he knows Toyota Project Vehicles is reaccommodated elsewhere especially given also the fact that the Government are to repossess, has in fact already given notice to discontinue the parking permissions in the sand. The answer is yes there is a policy objective to dismantle that car park but I would not say that it was imminent in terms of weeks or months away and indeed it may not happen during this financial year. It is not programmed at all but it is an objective.

**Subhead 19** - was agreed to and stood part of the Bill.

**Subhead 20 - Control of Entry Points to Gibraltar**

**HON J J BOSSANO:**

I take it this is an increase in the contract is it that they are being required to do anything extra perhaps because of higher security or something like that or is it just a natural updating of the contract of the annual price increase, is that an additional provision for security here?

**HON CHIEF MINISTER:**

That is a post 11<sup>th</sup> September step-up in the security coverage at the airport which was basically done on the basis of overtime and things of that sort. There is also provision for a contract price increase of 4.5 per cent this year.

**Subhead 20** - was agreed to and stood part of the Bill.

**Subhead 21 - Civil Service Training** was agreed to and stood part of the Bill.

**Subhead 22 - Research, Development Studies and Professional Fees** was agreed to and stood part of the Bill.

**Subhead 23 - National Day** was agreed to and stood part of the Bill.

**Subhead 24 - Civil Contingency Planning** was agreed to and stood part of the Bill.

**HEAD 8 B - PERSONNEL**

**Subhead 1 - Personal Emoluments**

**HON J C PEREZ:**

Mr Chairman, I notice here that there have been two HEOs staff awaiting redeployment during the year 2001/2002 and that now for the 2002/2003 there is a projected third HEO awaiting redeployment, what is it that their usefulness is being diminished and that we are piling them up at Personnel, is there not a better use to be made of Higher Executive Officers than having them on waiting time at the Personnel Office?

**HON CHIEF MINISTER:**

That is were they have been pending redeployment. This is where as at the start of the financial year they have got to be shown somewhere in the book that is where they have to be shown they cannot be shown in any other department. There are three HEOs awaiting redeployment, yes. It does not necessarily mean that they are working in the Personnel Department they could be temporarily deployed, for example, an ex-PA of the hon Member is actually deployed in the Procurement Unit, another is one of the officers of the Audit Department who opted not to stay in the new audit department ring-fenced arrangements and there is a third officer who is the new one who was previously in a department and they are waiting either permanent redeployment in the case of one officer or in the case of the HEO that came out of the Principal Auditor's office either the Government making a decision to leave him permanently as an additional member of

staff of the Personnel Department or making the decision to redeploy and those decisions have not been made. So, in the case of one of them the person is deployed elsewhere, in the case of one of them the man is actively working in the Personnel Department and the third he is in the Statistics Department. Of the three only one is actually working in Personnel.

**HON J C PEREZ:**

But I take it that their salary is being voted under Personnel.

**HON CHIEF MINISTER:**

Yes.

**HON J C PEREZ:**

Given that there is only a net gain of one extra body I find it odd that there should be an estimate of £390,000 we have spent £350,000 and we have now made provision for £422,000 when there is only one extra body to be covered there.

**FINANCIAL AND DEVELOPMENT SECRETARY:**

Mr Chairman, the answer is relatively straightforward there are quite a few vacancies in the Personnel Department that were carried last year but have now been filled and therefore we would be paying their salaries this year.

**Subhead 1** - was agreed to and stood part of the Bill.

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 - Office Expenses** was agreed to and stood part of the Bill.

**Subhead 4 - Operational Expenses** was agreed to and stood part of the Bill.

**Subhead 5 - Office Rent and Service Charges** was agreed to and stood part of the Bill.

**Subhead 6 - Group Life Cover** was agreed to and stood part of the Bill.

**Subhead 7 - Residential Properties Rents and Service Charges** was agreed to and stood part of the Bill.

## **HEAD 8 C - CIVIL STATUS AND REGISTRATION OFFICE**

**Subhead 1 - Personal Emoluments** was agreed to and stood part of the Bill.

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 - Office Expenses** was agreed to and stood part of the Bill.

**Subhead 4 - Operational Expenses** was agreed to and stood part of the Bill.

#### **HEAD 8 D - GIBRALTAR REGULATORY AUTHORITY**

**Subhead 1 - Personal Emoluments** was agreed to and stood part of the Bill.

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 - Contribution to Gibraltar Regulatory Authority** was agreed to and stood part of the Bill.

#### **HEAD 9 - FINANCE**

##### **HEAD 9 A - FINANCIAL AND DEVELOPMENT SECRETARY**

**Subhead 1 - Personal Emoluments** was agreed to and stood part of the Bill.

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 - Office Expenses** was agreed to and stood part of the Bill.

**Subhead 4 - Operational Expenses** was agreed to and stood part of the Bill.

#### **HEAD 9 B - TREASURY**

**Subhead 1 - Personal Emoluments** was agreed to and stood part of the Bill.

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 - Office Expenses** was agreed to and stood part of the Bill.

**Subhead 4 - Operational Expenses** was agreed to and stood part of the Bill.

**Subhead 5 - Insurance Premiums and Claims** was agreed to and stood part of the Bill.

**Subhead 6 - Official Receiver Expenses** was agreed to and stood part of the Bill.

**Subhead 7 - Tribunals** was agreed to and stood part of the Bill.

**Subhead 8 - Contribution to Gibraltar Development Corporation** was agreed to and stood part of the Bill.

**Subhead 9 - Contracted Services** was agreed to and stood part of the Bill.

**Subhead 10 - Repayment of Previous Years Revenue** was agreed to and stood part of the Bill.

**Subhead 11 - Circulating Coinage Expenses** was agreed to and stood part of the Bill.

**Subhead 12 - Rent and Service Charges – Store At New Harbours** was agreed to and stood part of the Bill.

**Subhead 13 - Ex-Gratia Payments** was agreed to and stood part of the Bill.

## **HEAD 9 C - CUSTOMS**

**Subhead 1 - Personal Emoluments** was agreed to and stood part of the Bill.

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 - Office Expenses** was agreed to and stood part of the Bill.

**Subhead 4 - Operational Expenses**

**HON J C PEREZ:**

I find it odd that under most of the subheads here other than on training courses we find that the forecast out-turn is what was budgeted and that we are budgeting for less in every subhead under Operational Expenses, why is that?

**HON CHIEF MINISTER:**

The hon Member's comment I think applies to four of the eight heads only. There is of course the fact that when a department puts in a bid for an item and if that is an excess of provision there is a tendency to vire to other things and I have always been deeply not suspicious but I have always wondered how it can be that one can spend exactly the estimated amount of any issue. How can a department organise their affairs in a way that they spend exactly the £20,000 estimated on transport, exactly the £20,000 estimated on investigation, exactly the £17,000 on computer running expenses et cetera, et cetera, and I believe that one of the reasons is that there is virement going on between the subheads and therefore to test that and to impose budgetary discipline the figure for the actual issue is reduced so that they should have the money that they need for that subhead and not have surplus in these subheads to vire on other things which they have not bid for and on which they may be underspending. It is an experiment this year in trying to impose budgetary discipline in people bidding what they need and not bidding more and then spending it on something else on virement.

**Subhead 4 -** was agreed to and stood part of the Bill.

## **HEAD 9 D - INCOME TAX**

**Subhead 1 - Personal Emoluments** was agreed to and stood part of the Bill.

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 - Office Expenses** was agreed to and stood part of the Bill.

**Subhead 4 - Operational Expenses** was agreed to and stood part of the Bill.

**Subhead 5 - Professional Fees** was agreed to and stood part of the Bill.

## **HEAD 10 - LAW OFFICERS**

### **Subhead 1 - Personal Emoluments**

**HON J J BOSSANO:**

The salaries for Law Officers, the estimate for this year, is quite a lot up on last year's estimate and on the out-turn but we are talking about the same number of people, is there an explanation?

**HON CHIEF MINISTER:**

Partly it is the fact that one Legal Assistant becomes Crown Counsel. If the hon Member looks at the Establishment in the front page he will see that there is one Legal Assistant less and one Crown Counsel more. Then there is the annual pay review. It is that and also the re-grading of one of them, the pay review and it is also the fact that because they are all relatively young they are still working their way up the incremental scale.

**Subhead 1** - was agreed to and stood part of the Bill.

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 - Office Expenses** was agreed to and stood part of the Bill.

**Subhead 4 - Operational Expenses** was agreed to and stood part of the Bill.

## **HEAD 11 - POLICE**

**Subhead 1 - Personal Emoluments** was agreed to and stood part of the Bill.

**Subhead 2 - Industrial Wages** - was agreed to and stood part of the Bill.

**Subhead 3 - Office Expenses** was agreed to and stood part of the Bill.

**Subhead 4 - Operational Expenses** was agreed to and stood part of the Bill.

**Subhead 5 - Training Courses and Conferences** was agreed to and stood part of the Bill.

### **Subhead 6 - Traffic Signs and Equipment**



**HON J C PEREZ:**

Mr Chairman, it is minor expenditure but I notice that under Traffic Transport there is also an allocation of funds for traffic signs and I was wondering, is this controlled exclusively by the Police or is this subject to decisions from the Traffic Commission or what link is there between one and the other?

**HON CHIEF MINISTER:**

I think the one in the Transport Ministry relates to the traffic signage in terms of road signs the ones that are not altogether clear in some areas as far as I can tell, tourist road signs and things like that, the Police's own temporary signs that they put up to deal with traffic management as opposed to permanent. It is Traffic Signs and Equipment so this could cover all sorts of things dealing in traffic situations.

**Subhead 6** - was agreed to and stood part of the Bill.

**Subhead 7 - Contribution to Interpol** was agreed to and stood part of the Bill.

## **HEAD 12 - JUDICIARY**

### **HEAD 12 A - SUPREME COURT**

**Subhead 1 - Personal Emoluments** was agreed to and stood part of the Bill.

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 - Office Expenses** was agreed to and stood part of the Bill.

### **Subhead 4 - Operational Expenses**

**HON J J BOSSANO:**

On the Operational Expenses the amount for the production of Law Reports is down and in fact they actually spent half of what was voted last year. I would have thought that if they had underspent last year. Is this an on-going exercise?

**HON CHIEF MINISTER:**

Mr Chairman, this is not to be confused with the consolidation of the statute laws. This is the production of case laws I do not know how it is produced. The Financial Secretary thinks that the reduced cost may be as a result of new arrangements that the Supreme Court has made for the production of these rather than any reduction of the volume. This is something that the Court deals with.

**HON J J BOSSANO:**

I am aware that it is the production of case law this is why it is important that it should not mean that it is not being produced since presumably the people in the legal profession rely on these things to establish how the law is being interpreted as a

consequence of decisions being taken by the Court. Is it something that they actually physically produce here in the Court or is it something that is printed by somebody like the Gibraltar Chronicle?

**HON CHIEF MINISTER:**

The answer in my capacity as Government I cannot tell him because the Supreme Court operates as an autonomous body but from my personal knowledge I understand that it is done by somebody in Oxford. The operation has got to be divided into two. There is the actual lawyer usually who actually prepares the law report and then there is the printing and production side there are two separate exercises. I do not know who does the printing but the case law reporting I think is done by Law Reports International a company that specialises in this.

**Subhead 4** - was agreed to and stood part of the Bill.

**HEAD 12 B - MAGISTRATES AND CORONERS COURT**

**Subhead 1 - Personal Emoluments** was agreed to and stood part of the Bill.

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 - Office Expenses** was agreed to and stood part of the Bill.

**Subhead 4 - Operational Expenses** was agreed to and stood part of the Bill.

**HEAD 13 - HOUSE OF ASSEMBLY**

**Subhead 1 - Personal Emoluments** was agreed to and stood part of the Bill.

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill.

**Subhead 3 - Office Expenses**

**HON J J BOSSANO:**

Mr Chairman, in Office Expenses in 3 (c) Telephone Service for which we are voting £3,000 the same as last year and the out-turn is the same as the amount voted and the previous year it was less it was £2,243 I am raising the question of the sufficiency of the allocation given that my Colleague the Hon Dr Valarino was told he could not use the fax here to send a fax out because of the limited resources we are providing the House with and I believe that all Members of the House ought to be able to use this place because this is where we work. I accept that the Government's side might not be as reliant as we are on the equipment that is available here given that they have got the alternative of their own offices. I suppose we could have offered to pay the 5p or the 10p that the fax would have cost. I think it is important the Hon Mr Azopardi mentioned the importance of the building being reflective of the importance we attach to the Parliament and I think before we start considering massive expenses on improving the building to give to reflect the importance of the Parliament it might be an idea to give some thought to whether Members of the House particularly Members of the Opposition that depend more on it

than Members of the Government should in fact be in a position where by using the equipment here, we do not want equipment just for us with a label that says 'only to be used by so and so' but the equipment here we do not want to conflict with the requirements of the staff of the House to use that equipment but we do not think we should be denied the use faxes, telephones, copiers, pens, papers or anything else.

**MR SPEAKER:**

I think before you answer I have got to say something. In the past the media have come to the House to collect the written speeches from Members which might not be the speech given in the House. Lately both the media and some of the Members want the speeches to be faxed by the staff whilst the House is in session. I am not in favour of the staff acting as agents or couriers of either political parties or the press. The staff of the House are always willing to serve but within certain parameters, what there cannot be is a public fax machine or a public telephone unless one is made available.

**HON J J BOSSANO:**

Mr Chairman, with all due respect I am not here in my capacity as a member of the public, I am here in my capacity as an elected Member of the people of Gibraltar and if an elected Member of the people of Gibraltar I choose to make political statements because I am a politician and I am paid to be one then I would have thought that I do not want anybody to be my courier but I want to be able to pick up a phone and call a number or I want to be able to put a piece of paper myself in a fax machine. If the staff is already loaded with work I do not want to add to this load but I have to be clear that when I mentioned the matter to you you said well it is a question of the money that is available and I said well then since we are in the budget I will ask the Government whether they can squeeze a few pennies out of their £8 million surplus and provide

a little bit more money to the House so that the Members of the Opposition do not compete with the staff of the House for the scarce resources that we are providing.

**HON CHIEF MINISTER:**

Mr Chairman, I have no knowledge of these incidents that from time to time happen between Members of the Opposition and Mr Speaker and the Clerk but I agree with the hon Member. I realise he is only taking this as a convenient opportunity to make a point. Telephones is one of those things where a provision is made but telephones are not disconnected in January from Government departments just because they have reached the voted funds for telephones, for example, this is precisely one of the Heads that lends itself to the comment that I made before. I could say it is interesting that we voted £3,000 for telephones and exactly £3,000 was spent. I do not know whether that means that the last call was made just before close of business on the 31<sup>st</sup> March or whether it means that in fact we did not spend £3,000 on telephone a few pounds was left over and spent on something else. The only point I wish to make, obviously how the House is conducted is a matter for the Speaker, I detected from the Speaker's statement now that he was drawing a distinction between Members using the facilities of the House for legitimate Members' purposes on the one hand and on the other asking the Members of staff of the House to fax out on their behalf to the press copies of their political speeches to boot when they may not coincide as Hansard because they may not be as delivered. I understood the Speaker to be making that distinction but this is not a matter for me or for the Government. I do not believe that assuming that the telefax that the hon Member wanted to send related to his business as a Member of the House and assuming that I cannot think of any reason why the hon Members should not make on both sides of the House, we both use the telephone, I really do not see a difference between using the telephone to have a voice conversation which we all regularly do and using the telephone to send a fax which is just another form of data

transmission. So, to the extent that the Speaker makes a ruling about the use of his staff to do things on behalf of Members that is a matter for the Speaker and for the Clerk and it is not a matter for the Government to the extent that we are talking about whether the use of the staff can make of telephone resources is curtailed by the fact that we only have £3,000 I would not agree that that is a valid argument because there is no restriction placed. Obviously the Clerk as the controlling Officer is obliged by Financial Regulations to do all that he can to keep spending on a particular item within the voted funds and he presumably does not want to allow things that make it more rather than less likely that he will be able to keep within the voted funds on telephones but I do not suppose that the amount of usage that we are talking about is relevant and I am sure that once Mr Speaker has made his ruling about what he considers is a proper use by Members of House facilities that the financial provision will not be a problem but I would agree with the sentiments expressed by the Leader of the Opposition that the telefax machine in the House should be available for use by the Member not necessarily by the staff on behalf of the Member but certainly for use by the Member in a reasonable fashion for transmissions connected with his Membership. That would be my personal view but of course this is a matter that the hon Member can take up with the Speaker privately as Members of the House.

#### **HON J C PEREZ:**

Mr Chairman, I would like to raise another point probably under other charges would be the most preferable one and that is that the Government have announced the works of the refurbishment of the Piazza and as I understand it once the Piazza is refurbished there is going to be even more entertainment activity in the area. My Colleague the Hon Dr Valarino mentioned yesterday his wish certainly to see the House transferred to the Garrison Library. That is a matter for the Government to decide what I would ask the Government are to consider whether during the time that the work is taking place their might not be a case for transferring the House

temporarily given that already we get interruptions of different natures during the proceedings of the House when the works have commenced either when we are sitting the works will have to be delayed and that has to be taken into account in the programme or we are not going to listen to each other. *[Interruption]* I listen to everything the Chief Minister says he is the one that is deaf to logic but anyway the point being that the preferred option of the Opposition would certainly be to see the House transferred permanently out of this building given that this is the centre of town, it is an entertainment area and there is going to be more activities and not less once the area is refurbished but that certainly as a result of the works when the works commence I think it is going to affect the proceedings of the House and I think the Government ought to take it on board in respect of the timing that they have got for the schedule of the works and so on.

#### **HON CHIEF MINISTER:**

The hon Member raises various issues there, first of all in so far as the possible permanent reallocation of the House as to the Garrison Library is concerned, it is not true that it is entirely a matter for the Government although it would be once the building was available to the Government. It is not a matter for the Government today for the simple reason that the Garrison Library is not a Government building, it is not available to the Government and we have not so far been able to persuade not the MOD but the Officers of the Garrison who own the Garrison Library to transfer it to the Government on acceptable terms. *[Interruption]* Assuming that it were available for that purpose, the hon Member knows because I have reported to this House before that the Government have looked at the possibility of transferring the House to the Garrison Library as part of our preparation works for possible uses for the Garrison Library as part of our discussion with the MOD on that question. Indeed I remember telling the hon Member that I had personally visited the Garrison Library to see whether it was suitable for the purposes and the view that I personally formed although ultimately if it became a serious viable

proposition it would have to be looked at by experts, was that there was no room wide enough. The two big rooms downstairs and upstairs are probably long enough but not wide enough so one would have to get used to sitting one row behind each other and possibly much closer and I am not sure that I dare stand within physical striking distance from the hon Gentleman during the budget time I think this is about the safest distance. By all means we will look at it, it is an attractive idea, if the Garrison Library became available and we were looking for a high civic calibre function to put in a building with that amount of history in it, transferring the House of Assembly to it would be a front runner candidate. It would have to be at the expense of its library function.

**HON J C PEREZ:**

Not necessarily.

**HON CHIEF MINISTER:**

That is one of the aspects that would have to be looked at a lot of the library is in the room that would be the Chamber of the House. Then there is the question of whether it is technically feasible. Obviously it is a much larger building there would be more room for the House staff, there would be rooms in which Members of the House could receive people, it would be a magnificent building to convert into the House Of Assembly there is no doubt about that if it is practical and that practicality has got to be decided by people, architects ultimately, but the starting point is obtaining the transfer of the building and until we obtain the transfer of the building all this is entirely hypothetical. Certainly the Government would be in favour of reallocating the House to a larger more suitable building and the Garrison Library would be an ideal candidate for that. As to the point that the hon Member makes about the conduct of the building works I think clearly it is going to be inconvenient for the

House to sit at least whilst they are demolishing the existing structure in the Piazza because I suppose that that will involve pneumatic drills and balls being swung around on the end of chains and all that sort of thing and certainly I do not envisage that the House would be able to sit whilst that part of the works is taking place or that that part of the work will not be allowed to take place on the days that the House is sitting. I am not sure that there will be a lot of inconvenience once the demolition has taken place and they are just involved in laying the new floor surface. Certainly we shall have to wait and see but certainly I can assure the House that we will not find ourselves in a position where we have to shout even louder at each other than we normally do in order for us to hear one another as a result of these works.

**HON DR R G VALARINO:**

Mr Chairman, similarly on that one one finds an e-mail address of most House of Assemblies and Parliaments throughout the world yet we have no e-mail address for our Parliament at this stage in fact, even the second telephone has disappeared from here and on a last point I think we all like our cup of tea in the afternoons and surely it is not a great major effort of the Controlling Officer to ensure that there is a cup of tea waiting for us after a heavy afternoon.

**HON CHIEF MINISTER:**

Mr Chairman, whilst I am not technically the advocate for the Clerk of the House I am delighted to offer my services to him on this occasion. I doubt very much if the availability or not of cups of tea which we all very much welcome, I doubt very much that it is due to any financially led decision of the Clerk. I suspect it is much more likely to be a matter of the availability of the service on particular days from down below, on the difficulty in judging when we are going to break for tea and things of that sort. I doubt very

much but I might be wrong but I doubt very much if it is down to, I think we meet 25 days of the year at most, what is the price of 20 cups of tea? The hon Member's point assumes that it is a financially driven decision I doubt very much that it is still less do I think that it is driven by any desire on the part of the Clerk to deprive us of our refreshments not least because of course we do have cold refreshments in the fridge which are no less expensive than the caffeine type. I think this is just a matter of sometimes it is possible to provide it in terms of the people down below and other times it is not, but I think the hon Member makes a more serious point of the two that he has made and that is that traditionally and historically this Parliament has not provided very well for its Members, lack of space perhaps, I do not think it provides very well even for the staff. The idea that the Speaker has to share an office with the Clerk and that when the Speaker is in situ the Clerk does not have a room to sit in. In terms of physical logistical services this House has never provided properly in a particularly modern way for its Members or even for its staff and that would be one of the arguments and justifications for moving to another building but I think we have also historically not had the same approach as other Parliaments have in other parts of the world to the non-physical provision of service to the provision of other support services to Members, other than just space. Communications support, secretarial support, all the sort of things that Members of Parliament in other countries get. The only thing that happens in Gibraltar is that the Leader of the Opposition gets a £500 secretarial allowance which I do not think has been increased since it was established which I offered to increase and the hon Member declined. Historically it is true that as a Parliament we do not have the same attitude to providing support services for Members of Parliament that takes place everywhere and I think that is something that we can look at. We could look at that, there is a Select Committee the one permanent Select Committee of the House that exists and which to my knowledge has never met exists precisely so that we can make these decisions. I do not regard these decisions as Government and Opposition or even political these are Parliamentary type decisions. We have got a Standing Committee for these things it should meet we should not have to wait to have a new building to

make a start on issues of the other sort and indeed I have often expressed the view and no one ever gets round to sort of taking me up on it that that committee should also meet to reconsider Standing Orders to see whether this House has outgrown the Standing Orders that we have or whether there is a need to change them and I think that we should spend more time on our own housekeeping arrangements as a Parliament but I think that I am sure on reflection the hon Member will wish to recognise that there is no conscious decision on the part of the Clerk to deprive him of his cup of tea.

**Subhead 3** - was agreed to and stood part of the Bill.

**Subhead 4 - Recording Equipment** was agreed to and stood part of the Bill.

**Subhead 5 - Elected Members** was agreed to and stood part of the Bill

**Subhead 6 - Commonwealth Parliamentary Association Expenses** was agreed to and stood part of the Bill

**Subhead 7 - Secretarial Assistance to the Leader of the Opposition** was agreed to and stood part of the Bill

**Subhead 8 - Select Committees**

**HON J J BOSSANO:**

The Chief Minister has just mentioned that there is a Standing Select Committee of the House, the £4,500 that were spent last

year I assume is related to the one on the Constitution. Is it that the £2,500 is supposed to be a token in case the Committee meets because what is the cost involved in this?

**HON CHIEF MINISTER:**

I do not know it has escaped my eagle-hawk eye. I am not aware of any expenditure. I think it is the on-going editing expenses of the transcripts and things of that sort.

**Subhead 8** - was agreed to and stood part of the Bill

The House recessed at 5.00 pm

The House resumed at 5.10 pm

**HEAD 14 - AUDIT OFFICE**

**Subhead 1 - Personal Emoluments** was agreed to and stood part of the Bill

**Subhead 2 - Industrial Wages** was agreed to and stood part of the Bill

**Subhead 3 - Office Expenses** was agreed to and stood part of the Bill

**Subhead 4 - Operational Expenses** was agreed to and stood part of the Bill

**Subhead 5 - Professional Fees** was agreed to and stood part of the Bill

**HEAD 15 - SUPPLEMENTARY PROVISION**

**Subhead 1(a) - Pay Settlements** was agreed to and stood part of the Bill

**Subhead 1(b) - Supplementary Funding**

**FINANCIAL AND DEVELOPMENT SECRETARY:**

Mr Chairman, if I could take this opportunity to make a point that I wanted to make earlier about the estimates just for the benefit of the Members of the Opposition is that when we produce the final book we naturally drop out of it pages 71 to 73 which was the old way of presenting the Department of Trade, Industry and Telecommunications because it was only placed in there for the benefit of the Members for this discussion.

**Subheads 1(a) and 1(b)** were agreed to and stood part of the Bill.

**Clause 2** - was agreed to and stood part of the Bill

**Clause 3 - CONTRIBUTIONS FROM CONSOLIDATED FUND RESERVE**

## **HEAD 16**

**Subhead 1 - Contribution to the Improvement and Development Fund** was agreed to and stood part of the Bill.

### **Subhead 2 - Resettlement Scheme**

**HON J J BOSSANO:**

Is the Resettlement Scheme open ended indefinitely or....?

**HON CHIEF MINISTER:**

It is fair to describe it in that way at the moment but I am not sure that it is intended to carry on being so it is just that we have not got round to closing it so it is de facto at the moment open from year to year if somebody asks to go we do not say no you cannot.

**Subhead 2** - was 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 DR R G VALARINO:**

Mr Chairman, could I have a list of major remedial works and repairs to stock due within this financial year?

**HON CHIEF MINISTER:**

Mr Chairman, to the extent that there is a firm list already he has heard it in the Minister for Housing's address to which therefore his remark about listening clearly does not apply but I am sure the Minister will repeat it for him if he was not able to make a note of it.

**Subhead 1** - was agreed to and stood part of the Bill.

**Subhead 2 - New Housing for Senior Citizens** was agreed to and stood part of the Bill.

### **Subhead 3 - Consultants Fees**

**HON J J BOSSANO:**

In respect of what are these Consultants Fees, the £70,000?

**HON J J NETTO:**

In a way it is related in fact to Subhead 1. Obviously it is a very impressive kind of programme of major remedial works to be carried out and most of the money if not practically all of the money will be in relation to getting Consultants outside our spheres in order to do all the preparation of tender documents that



he signed to ensure at least hopefully at the pre-tender stage of services that we are in place hopefully to do it during this course of this financial year the ones that I have mentioned before and to be on time with regard to that. The answer is that it will be in the main to consult outside there in the private sector to prepare all the documentation and all the designs and all the tender documents..

**HON J J BOSSANO:**

That does not seem to be consistent with the position in last year's budget where the remedial work was going to be £3 million and only £20,000 was thought necessary for Consultants and in fact the £20,000 was not spent they only spent £9,000 and they still managed to do £2.2 million of work. If the argument that has been put seems to be totally contradicted by what has happened in the last 12 months.

**HON J J NETTO:**

The hon Member has to bear in mind the fact that in previous financial services in-house of Technical Services Department whilst the truth is that years to a large extent as well Housing has relied on the technical services department itself has a tremendous programme of work in itself which they are handling themselves and in this particular situation we are moving more to consultants to ensure that Housing priorities are in place because we will not have the extent of the help and assistance that traditionally we have had with Technical Services Department because they have their own workloads and demands and priorities.

**HON J J BOSSANO:**

I know it sounds all very impressive and a bit waffly but my point is based on the figures we have got in the estimates before us. If the Minister was able to contract out £2.25 million of work and only used £9,000 worth of Consultants until the end of March why does he need to have eight times as much money spent on Consultants now because he estimates he is going to spend £4 million, he seemed to manage last year quite well with £9,000?

**HON J J NETTO:**

Last year in terms of the pre-tender stages all those preparations were done in-house so there was no need to use these Consultant fees to the extent that we are doing this year. Most of the projects in major remedial works which I announced in my budget speech, and I will give the hon Gentleman later a list, all those pre-tender stages will be done not by Technical Services Department but it will be done by Consultants hence the reason why in this financial year it is going to go far higher than what has been previously because previously regardless of the amount under subhead 1 we had to a greater extent the assistance and the services of the officials in Technical Services Department.

**HON CHIEF MINISTER:**

The point that the hon Member should bear in mind is that there is no direct relationship between the amount spent on consultancy fees and the value of work done. The correct relationship is between the amount of the consultancy fees and new projects because all these consultancy fees all arise before the work is to be done. Once the work is to be done the consultants are out of the picture. The fact that there is £70,000 this year reflects the number of projects which are starting this year as opposed to last year which was mainly a year of some new projects but the bulk of

them were projects that have already been or had been designed the previous year which explains why in the previous year the actual was £33,265. There was a lag between the design expenditure and requirement and the actual expenditure on the work itself. So the amount of provision that Government seeks for Consultancy Fees is more a measure of the amount of new projects rather than of the volume of work because the volume of work can be of an on-going nature not involving the input of the Design Consultants.

**HON J J BOSSANO:**

These Design Consultants have already been engaged and are already working according to the information and how is it that they are selected? Is it that the Government have gone out with a tender saying we want Design Consultants for the following and people have applied or what?

**HON J J NETTO:**

Mr Chairman, I believe that what the Director of Buildings and Works did was that he placed an advert in the Gibraltar Chronicle and then obtained quotes from all the Consultants in Gibraltar and obviously we went for the cheapest. That is as far as I can remember but I can check it out. Initially an advert and then followed by having quotes for all the various projects.

**HON J J BOSSANO:**

For each project.

**HON J J NETTO:**

For all the projects, yes.

**Subhead 3** - was agreed to and stood part of the Bill.

**Subhead 4 - Garages** was agreed to and stood part of the Bill.

**HEAD 102 - EDUCATIONAL AND CULTURAL FACILITIES**

**Subhead 1 - Refurbishment of Educational Facilities** was agreed to and stood part of the Bill.

**Subhead 2 - New School Buildings – Westside** was agreed to and stood part of the Bill.

**Subhead 3 - Educational Equipment** was agreed to and stood part of the Bill.

**Subhead 4 - Improvements to Cultural Facilities** was agreed to and stood part of the Bill.

**Subhead 5 - Theatre Royal Refurbishment – EU Objective II Project**

**HON J J BOSSANO:**

There is nothing in the column 'Balance to Complete' that means that within this financial year the £2 million on the refurbishment will mean the end of the project?

**HON CHIEF MINISTER:**

No, Mr Chairman, there is a balance to complete there that is not, the actual in 2000/2001 the forecast out-turn for the last year and the estimate for this year do not add up to the full value of the project so there is an omission there in terms of the forecast out-turn. I think that the total cost is of the construction phase is £5.9 million.

**Subhead 5** - was agreed to and stood part of the Bill.

**Subhead 6 – Capital Works – Change of School Hours**

**HON J C PEREZ:**

My Colleague the Hon Mr Linares would not forgive me if I did not ask whether these £300,000 will ensure that children will not be sitting down on the floor to have their lunches. Could the Minister explain whether this is the tail end of the facilities that need to be provided ?

**HON DR B A LINARES:**

It is payments which are pending for the facilities which have already been provided and I can assure the hon Member to transmit to his colleague that there are no children now sitting on the floors. They have ample furniture and very nice furniture too.

**Subhead 6** - was agreed to and stood part of the Bill.

**HEAD 103 - TOURISM AND TRANSPORT**

**TOURISM**

**Subhead 1 - Improvements to Tourist Sites, Terminals and Beaches**

**HON J J BOSSANO:**

The amount for the EU projects is down on previous years, is it that this is part of the original EU structural fund which is now ending or is it that there is a problem in including tourist sites for the money that is available now under the new programme which was 2000/2004 I think?

**HON J J HOLLIDAY:**

The EU Projects referred to in this subhead relate to the phase II of the Coach and Ferry Terminal which still has a balance outstanding for completion.

**HON J J BOSSANO:**

My question is, given that the £150,000 is the end of the cost of the Coach and Ferry Terminal is it that there are no other tourist projects that can be put in for EU Funding?

**HON CHIEF MINISTER:**

That is the old scheme, there has been no allocation to the new scheme.

**HON J J BOSSANO:**

Is there any problem under the new scheme, has there been any change in the rules or eligibility or not?

**HON K AZOPARDI:**

There is a new single programming document but tourism urban heritage projects are still part of the objectives.

**Subhead 1** - was agreed to and stood part of the Bill.

**Subhead 2 - Relocation of Small Boats Berths to Coaling Island**

**HON MISS M I MONTEGRIFFO:**

Can the Government give an estimated date for when the this will be happening?

**HON CHIEF MINISTER:**

Mr Chairman, I know that the hon Lady in her desire to point the finger at the Government just asks us, "..... when is it going to happen," as if the delay was being caused by the Government. Yes, she said that in her contribution to the Second Reading. The fact of the matter is that we are experiencing increasingly intolerable delay from the MOD in the handover of this land which is due, I think when we last debated in this House I said that we had been waiting since February for the MOD to specify the reprovisioning works that they wanted in Cormorant Wharf to re-accommodate the tug's cable and all of that and the latest position is that I received from CBF about 10 days ago a new proposal from them which the Government are now having to look at again. The Government are providing the funds because we are keen and ready to proceed but we cannot proceed until the MOD handover the land. The Government are contributing nothing to the delay in that handover of the land and are pressing the MOD to remove the delays that it is causing and we have not yet succeeded in that. I sincerely and dearly hope that this will happen in this financial year but ultimately the MOD is in a position to continue to prevent it from becoming a reality as they have done hitherto.

**Subhead 2** - was agreed to and stood part of the Bill.

**Subhead 3 - Airlines Assistance Scheme** was agreed to and stood part of the Bill.

**Subhead 4 - Hotels Assistance Scheme** was agreed to and stood part of the Bill.

## **TRANSPORT - TRAFFIC**

### **Subhead 5 - Refurbishment of Motor Vehicle Test Centre**

**HON J C PEREZ:**

Mr Chairman, can I ask whether most if not all of the £290,000 is already money owed given that the Chief Minister stated that the centre would be opening in August I think he said and I would presume that that sum of money is the retention money of the project plus any other funds that need to be paid to the contractor is that right?

**HON J J HOLLIDAY:**

Mr Chairman, that is correct.

**Subhead 5** - was agreed to and stood part of the Bill.

**Subhead 6 - Traffic Enhancement** was agreed to and stood part of the Bill.

### **Subhead 7 - Public Transport**

**HON J C PEREZ:**

Mr Chairman, the Minister said that the negotiations with the existing operators have not yet been finalised but that the Government were already proceeding with coming out to tender for the purchase of new vehicles and I presume that £1 million is for the purchase of those vehicles. The Chief Minister said

yesterday that if there was no agreement the Government would go ahead and compete with the existing operators, does that mean that if there is no agreement the Government could under law infringe on the routes already allocated to the existing operators?

**HON CHIEF MINISTER:**

Whilst the law remains what it currently is the Government have to comply with it. The law may not necessarily stay as it is.

**HON J J BOSSANO:**

In terms of the £1 million that the House is being asked to vote, how many vehicles are we talking about and is there a particular make or size of vehicle, I think they mentioned two different sizes one for some areas and one for another area?

**HON CHIEF MINISTER:**

The Government have their ideas on this and indeed some research has already been done on this aspect. We do not want to put into the public domain just yet the nature of the project, I think we would like to launch that nearer the time that we are ready to launch it but I hope it will suffice for me to say to the hon Member that it involves a very significant number of buses, it involves replacing all the existing buses, more, because the nature of the service is going to be more shuttle than the present service and that it involves the latest technology in modern urban transit bus systems. Makes have been identified as we have been exploring the market to see what configurations are available et cetera, et cetera but it will go out to tender with specifications. In a small place like Gibraltar what one is trying is to maximise seats

without the bus being so big that it cannot negotiate our roads. There has been a fair amount of research done but the Government are not going to buy this by direct allocation there will be a tender nor will this be done through the Government, this expenditure is likely to capitalise a public transport company which is the one .....

**HON J J BOSSANO:**

That will go out to tender.....

**HON CHIEF MINISTER:**

That will go out to tender and which is the one in which we are going to invite and we are negotiating with the existing route operators to participate in as shareholders with the Government.

**HON J J BOSSANO:**

So essentially then what we are doing is providing a £1 million for the purpose of capitalising a joint venture company?

**HON CHIEF MINISTER:**

For the purposes of the Government's envisaged share of the capitalisation of a joint venture company, yes. There is no way that the Government can do this as a joint venture other than through a company and I am not sure it would be desirable even if it was 100 per cent Government owned.

**Subhead 7 -** was agreed to and stood part of the Bill.

## **HIGHWAYS**

### **Subhead 8 - Roads Construction and Resurfacing**

**HON J C PEREZ:**

Would the Minister, in time, I know he mentioned the projects yesterday could he perhaps send me the list of what is projected during the year and possibly the departmental costings that would adapt to the money that we are voting if that is possible?

**HON J J BOSSANO:**

If £1 million is the envisaged share of the company does that mean in fact that if the Government have to go in it alone it will have to be more than that?

**HON CHIEF MINISTER:**

Yes one could not set up what the Government want to set up for £1 million.

**Subhead 8 -** was agreed to and stood part of the Bill.

### **Subhead 9 - Construction of Parking Facilities**

**HON J C PEREZ:**

Mr Chairman, the Minister mentioned yesterday that the Government plan to start work on a car park where the Police Barracks are today, is this £1 million for the commencement of the project or is this partly related to the project and partly to other parking facilities?

**HON CHIEF MINISTER:**

This provision is not for that one although that one is on the cards as well. This provision is for the one further up Willis's Road just south of the Moorish Castle that is the one that will be done first. That is designed and ready to go that is what this provision is for. The other one is a much more major project because it involves.....

**HON J C PEREZ:**

It has been announced twice. It was announced last year by the Chief Minister, it is announced this year and we have made no provision for it that is why I ask.

**HON CHIEF MINISTER:**

I accept that one or two projects have been reannounced this year because they have not been done last year. This is part of the problem that we have of limited capacity. Limited capacity not just in the design stages but also limited capacity in terms of the execution capacity of the building industry in Gibraltar, so I accept we would have liked to have made a start much sooner with this project and that these are the announced projects.

**HON J C PEREZ:**

With due respect to the Chief Minister I say that it has been announced twice because there are some things that the Government announced at the time of the budget as if it were giving the impression that it is going to happen during the year and then no financial provision is made. I would not agree that that particular project should go ahead this year or perhaps even next year given the proximity to the hospital and I would think that it would be better that the hospital should be vacated before one starts to demolish the Police Barracks if that needs to be done in the area but what I am pointing out to the Chief Minister is that it is mentioned as part of contributions of a Minister as if it were something foreseen to happen during the year as part of his annual contribution and then no financial provision is made that is the only point that I am making.

**Subhead 9** - was agreed to and stood part of the Bill.

**HEAD 103 - TOURISM AND TRANSPORT**

**TRANSPORT – PORT**

**Subhead 10 - Port Infrastructure, Facilities and Equipment**

**HON J J BOSSANO:**

May I just ask before we leave the Head, the proposed joint venture with the people from the other side in respect of promoting air transport, the joint company, is that something that one would expect to see here in parallel with the joint venture company that we have just talked about in relation to buses and

is the fact that it does not seem to be here or anywhere else means that there is no money being provided for this purpose. There is no specific provision being made for that purpose so it would have to be provided if the project materialises but there is no specific provision for that. Obviously it could be taken out from this subhead but the subhead would not be able to cover both, the public transport, the bus project and any investment necessary in the airline.

**Subhead 10** - was agreed to and stood part of the Bill.

**Subhead 11 - Loan to Gibraltar Pilots**

**HON J C PEREZ:**

The hon Member said that there was going to be a purchase of two launches one of which was a subject of the loan is the other launch being bought by the Pilots or they are starting to purchase this first one with the loan and then they are looking at acquiring another one when this loan has been paid and could I ask the Minister whether it is an interest free loan?

**HON J J HOLLIDAY:**

The Gibraltar Pilots are actually purchasing two vessels, the first vessel there are funds available in the Gibraltar Pilotage Fund for this purpose so they are making use of these funds for the purchase of this vessel and the second vessel is being made available through a loan which has been offered to them for this purpose. The loan is not interest free but is being offered to them at a very competitive rate of repayment over a long period.

**Subhead 11** - was agreed to and stood part of the Bill.

**HEAD 104 - INFRASTRUCTURE AND CAPITAL WORKS**

**Subhead 1 - Government Furniture and Equipment** was agreed to and stood part of the Bill.

**Subhead 2 - Government Buildings and Works** was agreed to and stood part of the Bill.

**Subhead 3 - Government Vehicles and Plant** was agreed to and stood part of the Bill.

**Subhead 4 - Consolidation and Printing of Laws**

**HON J J BOSSANO:**

Mr Chairman, is there an explanation why no money was spent at all last year on the Consolidation and Printing of Laws from the £50,000 voted by the House.

**HON CHIEF MINISTER:**

Yes, it is because following the termination of the arrangements that had operated during the year 2000/2001 for this exercise newer alternative arrangements have not yet been put in place.

**HON J J BOSSANO:**

That seems to be saying that it did not happen because it did not happen, was it intended that newer arrangements should be put in



place when the House was asked to vote the money in last year's budget? The Government presumably knew at the time they were asking for £50,000 that the old arrangements were terminating and obviously were working on the expectations.....

**HON CHIEF MINISTER:**

I believe that there have been attempts. The consolidation of the Laws involves several phases, a lot of the basic legwork is actually done by civil servants in the Legislation Support Unit. Then it has to go to an outside legally qualified source to check it that is the part where new arrangements have not been done. Apparently those arrangements failed they did not take place and now a different set of possible alternative arrangements are being looked at.

**Subhead 4** - was agreed to and stood part of the Bill.

**Subhead 5 - Equipment** was agreed to and stood part of the Bill.

**Subhead 6 - Equipment** was agreed to and stood part of the Bill.

**Subhead 7 - Equipment** was agreed to and stood part of the Bill.

**Subhead 8 - Computerisation Programme** was agreed to and stood part of the Bill.

**Subhead 9 - Rock Safety, Coastal Protection and Retaining Walls**

**HON J C PEREZ:**

When I asked previously in the House whether the area just above Catalan Bay had been included in the report by the Consultants engaged by the Government to look at the rock face the Chief Minister confirmed that this was the case.

**HON CHIEF MINISTER:**

That it had already been done.

**HON J C PEREZ:**

That it had already been done by a Consultant, well I understood that he meant that it had been included in the tentative consultancy, so are there any recommendations there pending any work that needs to be done and is any of that money going towards that?

**HON CHIEF MINISTER:**

Yes there is an existing project as I think I told him at Question Time to build a 'rock bund' I seem to remember having difficulty in explaining to him what exactly a 'rock bund' was and there is provision in this £1.5 million specifically for that project.

**HON J C PEREZ:**

Then I presume what the Chief Minister is talking about is what was recommended 10 years ago by the Department which is what they told me needed to be done when I was in Government, the 'bund' which was never done. When is the subject of the report of

the rock face above Catalan Bay completed and when were these recommendations done in respect of which report are we talking about?

**HON LT COL E M BRITTO:**

Mr Chairman, the hon Member is wrong when he refers to his time in office we are talking about a 'rock bund' arose following a Consultation Report that was carried out subsequent to a rock fall in the area of St Peter's School and subsequent to that the recommendation of this 'rock bund' which is what we are talking about now.

**HON J C PEREZ:**

Was that study done in-house or were consultants engaged?

**HON LT COL E M BRITTO:**

Consultants were engaged.

**Subhead 9** - was agreed to and stood part of the Bill.

**Subhead 10 - Maintenance and Security of Existing Structures** was agreed to and stood part of the Bill.

**Subhead 11 - Beautification and Refurbishment Works** was agreed to and stood part of the Bill.

## **Subhead 12 - Demolition Works**

**HON J J BOSSANO:**

What are the EU projects at the demolition work?

**HON CHIEF MINISTER:**

There is a provision there for the demolition of King's Bastion by which let us not set hares running that means the buildings inside the bastion it does not mean the 1960's Electricity Generating Station. It means the modern building standing inside the bastion proper.

**HON J J BOSSANO:**

Was it not first the Government's intention to remove the new building that is on the external side of the walls and then did they not come back and say that the cost was too high and they were not doing it for that reason as I remember?

**HON CHIEF MINISTER:**

No the question to demolish or not to demolish the Generating Station if one could call it that has been actually quite a controversial one within the Government. Different Ministers have different views, the decision was eventually made to demolish it on the grounds that the structure with relatively little investment to it could be converted into something that we were planning to build anyway and that to demolish a structure that we were told was £1.75 million to re-erect somewhere else, incur the costs of

demolition and destroy a building with a replacement value of nearly £2 million on a site somewhere else to boot having to pay the opportunity cost of using another site had to be placed in the balance with the heritage value which it undoubtedly would have of removing the structure and exposing another section of wall but, a particular section of wall, that is to say it would be looked at from Queensway it would be the left-hand half of the King's Bastion proper and it was debated long and hard and there was a consultation process and a questionnaire and there were all sorts of views sought and that is where the position stands at present.

**HON J J BOSSANO:**

The position stands at present where that it is a decision that has been taken .....

**HON CHIEF MINISTER:**

The position at present remains that the building will remain in place and will house the first part of the leisure centre. It is not impossible that that decision may still be reviewed but that is where the decision currently rests.

**Subhead 12** - was agreed to and stood part of the Bill.

**Subhead 13 - Storm Water Drains and Sewers Replacement**

**HON J C PEREZ:**

Could I ask the Minister whether the £1 million includes the major works being done to the sewers which has been contracted out?

**HON LT COL E M BRITTO:**

Yes.

**Subhead 13** - was agreed to and stood part of the Bill.

**Subhead 14 - Incinerator** was agreed to and stood part of the Bill.

**Subhead 15 - Electrical Section Equipment**

**HON J C PEREZ:**

Is this equipment for new houses or something, I find it strange that we have equipment and materials for the different sections in the Government in the recurrent expenditure and that there is this item of electrical which is I think for the electrical section that works in relation to Government Buildings and Housing not the Electricity Department and we have a capital expenditure vote there every year, is it that it is a one-off capital expenditure and what is it?

**HON LT COL E M BRITTO:**

The heading of the subhead is a bit misleading, in fact it should be a different heading altogether. It is nothing to do with the Electrical Section as the hon Member is probably thinking, down at Wellington Front. This is electrical equipment and it is mainly shutter doors for the garages and plant and tools for the Sewer Section, how that is electrical I am not too sure.

**Subhead 15** - was agreed to and stood part of the Bill.

**Subhead 16 - Gibraltar Broadcasting Corporation Equipment**

- was agreed to and stood part of the Bill.

**Subhead 17 - Provision and Refurbishment of Vacant Premises for Clubs and Associations**

was agreed to and stood part of the Bill.

**Subhead 18 - Improvements to Sports and Leisure Facilities**

was agreed to and stood part of the Bill.

**Subhead 19 - New Sports and Leisure Facilities**

was agreed to and stood part of the Bill.

**HON MISS M I MONTEGRIFFO:**

Mr Chairman, can the Government confirm whether they have paid for the water-based hockey pitch from this subhead?

**HON CHIEF MINISTER:**

Although there is a misnomer there as well, it is not a Victoria Stadium extension it is a Bayside Sports Complex. Yes, all the expenditure relinquished on the Bayside Sports Complex comes from this Head.

**HON MISS M I MONTEGRIFFO:**

Could the Government then provide us with what the actual hockey pitch, the new one, costs?

**HON LT COL E M BRITTO:**

Not without some notice I do not have this information here with me. If the hon Member asks for it I can supply it.

**Subhead 19** - was agreed to and stood part of the Bill.

**Subhead 20 - Youth Clubs Refurbishments**

was agreed to and stood part of the Bill.

**Subhead 21 - Environment Projects**

was agreed to and stood part of the Bill.

**Subhead 22 - Gibraltar Health Authority Capital Works**

was agreed to and stood part of the Bill.

**Subhead 23 - New Hospital – Europort**

**HON MISS M I MONTEGRIFFO:**

This is an opportune time to remind the Government once more if they could provide us with the monies that they have spent up-to-date on the new hospital included in which we would also like a

breakdown of the studies and the reports that they have commissioned up to now.

**HON J J BOSSANO:**

The £3 million we are voting this year, the footnote says that £1.5 million plus interest is for the purchase of the building, is the balance for the commencement of the £23 million work?

**HON CHIEF MINISTER:**

It is a provision in case the alternative funding arrangements are not in place quickly enough.

**HON J J BOSSANO:**

What are these alternative funding arrangements is it then that the actual work that has been announced for £23 million is not going to be funded through the I&D?

**HON CHIEF MINISTER:**

The financing expenses it is a form of PFI where the capital outlay is not done by the Government.

**HON J J BOSSANO:**

So in fact the contractor would refurbish the building which is there already and then there would be an annual charge to the Government on when it is completed and handed over?

**HON CHIEF MINISTER:**

It is not necessarily the contractor but yes other than that the mechanics is more or less as he describes. Somebody else incurs the capital outlay and then it is annualised into a user, it is the classical PFI arrangement as they use in the UK and elsewhere.

**HON J J BOSSANO:**

Is there any other project that has been done by the Government using this method?

**HON CHIEF MINISTER:**

This is the first one. I do not want the hon Member to get the wrong impression through the use of words like financing costs, it is in effect rent but the details of the financing arrangements will be made public once they have been negotiated, they are currently being negotiated and agreed.

**HON J J BOSSANO:**

What we are saying really is that there is an intermediate institution that would provide the payments to the contractor and

then charge the rent to the Government which are the ones with whom the Government are negotiating, is that correct?

**Subhead 23** - was agreed to and stood part of the Bill.

**Subhead 24 - Equipment and Refurbishment Works** was agreed to and stood part of the Bill.

**Subhead 25 - Employment Service Projects**

#### **FINANCIAL AND DEVELOPMENT SECRETARY:**

Mr Chairman, just a small presentational point, the Superintendent of Prison is not going to be responsible for Employment Service Projects and the Controlling Officer will be the Principal Secretary in the Employment Service.

**Subhead 25** - was agreed to and stood part of the Bill.

**Subhead 26 - Elderly Care Agency – Equipment** was agreed to and stood part of the Bill.

**Subhead 27 - Hostals - Beds and Mattresses** was agreed to and stood part of the Bill.

**Subhead 28 - Social Security - Facilities and Equipment** was agreed to and stood part of the Bill.

**Subhead 29 - Enhancement of Fairground Facilities** was agreed to and stood part of the Bill.

**Subhead 30 - Swimming Pool for Elderly and Disabled – Reclamation Area**

**HON J J BOSSANO:**

Is this the total cost of the project even though there is no balance to complete?

**HON CHIEF MINISTER:**

I find it rather surprising I have to admit but our present information is that that is an estimate of the total cost of the project.

**Subhead 30** - was agreed to and stood part of the Bill.

**Subhead 31 - Capital Works** was agreed to and stood part of the Bill.

#### **HEAD 105 - ELECTRICITY**

**Subhead 1 - Controller Link** was agreed to and stood part of the Bill.

**Subhead 2 - Improvements to Networks and Infrastructure** was agreed to and stood part of the Bill.

**Subhead 3 - Switchgear Replacement** was agreed to and stood part of the Bill.

## **HEAD 106 - INDUSTRY AND DEVELOPMENT**

**Subhead 1 - EU Interreg Projects** was agreed to and stood part of the Bill.

**Subhead 2 - EU Konver Projects** was agreed to and stood part of the Bill.

### **Subhead 3 - EU Objective (ii) Projects**

**HON J J BOSSANO:**

On the EU Objective (ii) Projects with a balance to complete of £10.5 million, the footnote says 'the expenditure to March 2000 was £8.4 million approximately,' may I ask two things, this is all the old objective not the new one. In the figure in the footnote would that include money that has been expended and is shown in other Heads in the Improvement and Development Fund?

**HON K AZOPARDI:**

The first part of the question the answer is this is the old programme 1994/1999 and its total to its GOG and EU Funding and I would have to check the last point that he mentioned but my understanding is that this is all expenditure incurred from EU and GOG funds from this Head but there might be some other small amounts that are reflected in other Heads but they would be of a

minor nature. This would be most of the entire 1994/1999 programme.

**HON J J BOSSANO:**

I take it that given that it shows £10.5 million 'Balance to complete', is it not the case that all the things have to be committed even though the 1999 even though it might take longer to spend?

**HON K AZOPARDI:**

This amount reflects the new programme and the fact that we have not hardly used any of the new programme as yet and so EU funds plus GOG contribution would hover around that.

**HON J J BOSSANO:**

Could we in this particular Head have a separation of the old and the new programme in the subheads so that we may know how much is being spent in the new and how much is being left in the old?

**HON CHIEF MINISTER:**

Yes we can do that. We can show EU Objective II projects under (a) and (b) old and new programmes.

**Subhead 3 -** was agreed to and stood part of the Bill.

**Subhead 4 - Gibraltar Enterprise Scheme** was agreed to and stood part of the Bill.

**Subhead 5 - Heritage and Planning Projects** was agreed to and stood part of the Bill.

**Subhead 6 - Casemates Museum** was agreed to and stood part of the Bill.

**Subhead 7 - Gibraltar Development Plan** was agreed to and stood part of the Bill.

**Subhead 8 - Strategic Fuel Reserve** was agreed to and stood part of the Bill.

**Clause 4** - was agreed to and stood part of the Bill.

**Clause 5, the Schedule and the Long Title** were agreed to and stood part of the Bill.

### **THIRD READING**

#### **HON CHIEF MINISTER:**

I have the honour to report that the Appropriation (2002-2003) Bill 2002, had been considered in Committee and agreed to and moved 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 Friday 12<sup>th</sup> July 2002 at 10.00 am.

Question put.                      Agreed to.

**The adjournment of the House was taken at 1.10 pm on Thursday 20<sup>th</sup> June 2002.**

### **FRIDAY 12<sup>TH</sup> JULY 2002**

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 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

### **ABSENT:**

The Hon Dr B A Linares - Minister for Education, Training, Culture  
and Health

### **IN ATTENDANCE:**

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

## **MINISTERIAL STATEMENT**

### **HON CHIEF MINISTER:**

Mr Speaker, I wish to make a statement to the House about the proposed Company Tax Reforms. It had been the Government's intention following a timetable that had been worked out in the finance centre to make the statement nearer the end of July rather than now. Unfortunately yesterday there has been a breach of confidentiality from a source in the public private sector relating to the detail of the scheme and the Government feel that it would not be right to incur the risk that the detail should leak via that source into the public domain rather than the Government be the source of the statement itself and therefore we feel obliged to bring this forward by a period of what would have been about 10 or 14 days compared to the day that we had pencilled in for making this statement.

During the budget speech last month I said that the outline of the Government's proposed reform of company taxation in Gibraltar would be announced imminently. These reforms are forced upon us by external factors outside of our control. It has been well known for sometime that the Government intended to reform company taxation in Gibraltar. The need to reform company taxation is not a matter of choice. A series of international factors some affecting only the European Union and others affecting all finance centres globally make the reform absolutely inevitable. Without such reform Gibraltar cannot continue to operate as a finance centre. Approximately 2,000 people in Gibraltar work for the finance centre directly, the jobs of many hundreds more in all sectors of the economy rely indirectly on the finance centre. Furthermore, a significant proportion of Government revenue also derives from the finance centre. Government uses this revenue for such things as the payment of salaries in the public sector and generally to fund public services for the whole community. The finance centre accounts for about 25 per cent of the economy of Gibraltar in terms of gross domestic product. The continued

survival and prosperity of the finance centre is therefore crucial to the economic survival and prosperity of Gibraltar. Some of these international factors which make necessary the tax reforms are legally compulsory, for example, EU State Aid Rules. Others are political initiatives deployed through political persuasion and pressure, for example, the EU Code of Conduct of Business Taxation. In both cases the fundamental requirement is the elimination from the tax system of discrimination between residents and non-residents. In other words, the new company tax system must treat all companies the same whether they are offshore or onshore. Whether they are owned by residents or by non-residents and whatever sector of the economy they are trading in. At the same time there is a need for Gibraltar's finance sector to be internationally competitive and to offer products and services that will be attractive to international clients. Our Corporate Tax Regime is a crucial element of this. From the outset the Government have identified four essential objectives all of which had to be met by the reforms. These four objectives are the following:-

1. The new Company Tax Regime should not transfer any tax burden to individual tax payers. That is to say, personal tax rates should not bear any share of the cost, indeed the Government have during the last six years already introduced substantial reductions in the personal tax burden and will continue to do so. By the same token the Government have rejected the possibility of there being any transfer of the burden to the indirect tax system through import duties still less VAT.

2. The current Government revenue from company taxation and exempt status fees totalling together about £70 million in the last financial year per annum has to be maintained and therefore has to continue to be paid by the corporate sector in some form or another.

3. The reform must deliver certainty of compliance with EU legal factors, that is, State Aid Rules and other international initiatives that the reforms are intended to meet and satisfy. This basically requires that the same tax regime should apply to offshore and onshore companies.

The reform must ensure the continued survival and prosperity of the finance centre.

The reforms follow a very lengthy and intense process of consultation with all sectors of the finance industry and with the Government's European Union lawyers, local lawyers, accountants and other Government advisors. Many proposals have been suggested and considered, such are the complexities of the four objectives particularly State Aid Rules and the complexity of their interaction one with the other, that is to say the interaction of the objectives one with the other, that the Government are certain that only these reforms are capable of meeting all four essential objectives in full measure. The main elements of the new company taxation system that will apply to all companies in Gibraltar whether local or international, whether doing business locally or abroad are as follows:-

- (a) Company profits tax will be zero. Tax exempt status and tax qualifying status will be abolished.
- (b) A new company payroll tax similar to what exists in Bermuda and elsewhere will be introduced in respect of employees in Gibraltar. This will be charged at a sum per annum per employee. This payroll tax is a tax on the company and is payable by the company only.
- (c) A new business property occupation tax will be introduced in respect of property occupied in Gibraltar by companies for business purposes.

- (d) The payroll tax and the business property occupation tax together will be capped at a sum equal to 15 per cent of profit. Since all local companies presently pay tax at the rate of 20 per cent or 35 per cent of their profit it follows that all local companies will necessarily be better off than they are at present. In other words these new taxes will only be paid if there is a profit and then up to a maximum aggregate sum of 15 per cent of that profit. No company will pay in respect of both taxes combined more than 15 per cent of profit. If there is no profit then there is no liability to pay these taxes.
- (e) In addition to these measures all companies will pay an annual companies registration fee of £300 per annum if the company has income or £150 per annum if the company has no income. In both cases inclusive of current annual return fees.
- (f) In addition and subject to clearance under EU State Aid Rules two sectors of the economy only will pay a new tax on profit. The sectors are financial service providers and utility companies. The intended rate of profits tax for financial service providers is 8 per cent and will be subject aggregated to the other taxes to a minimum cap of 15 per cent of profit.

Intended time scale – The Government had hoped originally to implement these reforms with effect from the 1<sup>st</sup> July 2002, however due to delays relating to the necessary consultations with the EU Commission this has not been possible. It is not desirable to commence these reforms part-way through a tax year nor retrospectively. Accordingly the Government intend to introduce the reforms on the 1<sup>st</sup> July 2003, that is the start of the next tax year but we are making this statement now to eliminate uncertainty in the finance centre as far as its international clients are concerned.

All local companies will be significantly better off under the new tax system. This will reduce the cost of doing business in Gibraltar and will thus hopefully provide a boost to employment. These measures will bring many offshore financial service providers into the tax net for the first time. Those banks and other mainly financial service providers currently themselves operating under tax exemption or qualifying status certificates will obviously be worse off. The latter have been consulted through their sector associations and representatives. In addition the most adversely affected companies have been consulted individually and at the highest level. The Government wish to acknowledge the understanding shown by all these companies from the outset and to thank them for the continued commitment that they have shown to Gibraltar despite the adverse effect on them of these tax changes which they recognise have been forced upon Gibraltar and other reputable finance centres.

#### **HON J J BOSSANO:**

Mr Speaker, I think I can ask for clarification on some of the things that have been said. As I understood it he said that there were two sectors which would be utility and financial services that would be paying the 8 per cent but he actually linked the 8 per cent to the financial services, is it that the utility has the same rate of 8 per cent or does it have a different one?

#### **HON CHIEF MINISTER:**

As he has noticed it is carefully worded to avoid any insinuation of what the rate might be for utility companies, it is one of the issues which we are advised by our lawyers we should not put in the public domain at this time for reasons nothing to do with the local taxation aspect but in connection with the consultation process with the Commission. It is one of the issues under

discussion with the Commission at the moment. In other words as to whether the rate can be different for the two sectors.

**HON J J BOSSANO:**

The answer that I have just been given suggests that there is no problem with the 8 per cent for financial service provider but it needs to be established whether the utilities have also got to be 8 per cent or can be something different and my question is, is the 8 per cent for financial service provider also something that needs to be cleared?

**HON CHIEF MINISTER:**

Yes, I realise that on a first hearing of a statement orally it is often easy to miss words put in but that is clear from what I have said when I said that 'in addition and subject to EU clearance under State Aid Rules.' This aspect of the package which does not affect clients of the finance centre, clients of the finance centre do not care whether the banks, the lawyers, the accountants and the trusted company managers in Gibraltar are paying tax on their profit or not, that is the one aspect of the package which is not finance centre client sensitive but which does raise issues which we are advised should be resolved in our favour but which does raise issues that require state aid clearance and that applies both to a split rate between two categories of activity and also to the existence at all of unique sector profits taxation.

**HON J J BOSSANO:**

Thank you that was the point that I was trying to establish. When the new system was being listed the Chief Minister described it as a payroll tax and then went on to say it was a sum per worker

which suggests that it is not in fact related to earnings but to numbers, is that correct?

**HON CHIEF MINISTER:**

Correct. The word payroll in its most accurate linguistic application more accurately means the cost of one's labour as opposed to the amount of one's labour but in the world of taxation it is I am advised also applied to the second category, namely, payroll meaning list of employees regardless. The answer to his question is yes we have chosen a model which is based on the number of employees times a fixed amount rather than a percentage of the salaries of the employees. For example, in Bermuda subject to certain notional incomes and subject to certain limits their system is more fundamentally based on the first category, the percentage of salaries, we think that given that this has got to be applied to the local economy as well that this is fairer to the local businesses.

**HON J J BOSSANO:**

Mr Speaker, obviously we are grateful that the Government have decided to make the statement today because I think that it would have been wrong for the House to have finished the work today and then to have read about it in the .....

**HON CHIEF MINISTER:**

Mr Speaker, would the hon Member give way? First of all the House would not have read about it in any event which was not the Government's intention that the Opposition Members should have learnt of this in the press. In due course there would have been an advanced copy albeit in-confidence of the statement for

the hon Members. Can I also say to the hon Member which I had meant to say and forgot that the implementation of this requires a considerable amount of primary legislation and that therefore the House will have plenty of opportunity to debate the ins and outs, the nitty gritty. I have only given an outline obviously there is an intense amount of detailed legislation to safely implement this and that has already been drafted and when it comes out obviously the House will have ample opportunity to debate this in detail both on the principles and from the point of view of the technicalities of the legislation.

#### **HON J J BOSSANO:**

Mr Speaker, in terms of an initial reaction to this I think it is a question of studying the proposals in detail when they are brought to the House. Given the fact that we are talking about a 12 month timescale before it becomes the new system, clearly the House will have an opportunity but between now and then perhaps closer to the date and when all the hurdles have been cleared I think it would be useful if we could be given the Government's estimate of the yield of these different elements and if they do not think it is something that they would wish to put in the public domain although presumably eventually in the estimates of revenue and expenditure of the next financial year the present sources of revenue that are company tax and other company tax and so on will disappear from the estimates and in place I assume we will be getting headaches like the payroll tax and the property tax showing the estimates yield which are intended to produce the £17 million that are expected to be obtained in the current financial year but it would be useful to have an indication of what the Government think is likely to be the yield of the different components when we come to discuss the legislation and the implementation of the system. Other than that I think we will wait and see what happens after the matter is cleared with the EU because presumably that is really the first obstacle that has to be overcome. The package itself I would imagine might need to be amended if the EU says yes or no to

something but I suppose that the Government think that this is likely to be found acceptable otherwise they would not be putting it in the public domain at this stage if it was likely to be shot down.

#### **HON CHIEF MINISTER:**

The Government are confident that the bits of it which are finance centre client sensitive will be not be shot down. If anything is shot down it is the last element of the package and that could be replaced, there are potential plans 'B' and 'C' in case this one is shot down but just in response to what the hon Member was saying just then, can I say to him that obviously the Government are working trying to see if we can massage the Government's current computer programmes to do the exercise. The Government's target has been to replace the £17 million, it has not been to get less or to get more but if it does yield more we intend to keep that and use it to further reduce personal taxation. We will not tweak this package downwards if we find that it yields more than the £17 million, however, it also has to be said and I do not want to encourage a debate on this now I just want to flag the point so that the hon Member does not say to me in six months time that 'this is not consistent with what you said to be back in July 2002.' The yield from some of these elements is easier to estimate than others, for example, it is relatively easy to estimate the yield from annual company registration fee. Why? Because one knows how many companies there are, one can make a pretty sensible calculation of how many of them have income and how many do not, one makes a prudent provision for loss of so many thousand companies that might flee the jurisdiction as a result of all the things that are happening around us and one multiplies the resultant figure by the £300 or £150 rate. The business property occupation tax is equally relatively easy to calculate. The payroll tax is less easy to calculate because it is more highly impacted on by the cap. There are variables. Even if one could say, which the Government can as the hon Member knows from the Employment Service Records a list of every company in Gibraltar with a list of its number of

employees which the hon Member knows that information is available to the Government from the ETB, one could calculate a gross amount but because it is subject to the cap at 15 per cent of profit there is a variable there which renders the gross figure unindicative. It is the interrelationship of number of employees plus profitability which means that there is an element of suck and see in the first year. There are two points which the hon Member's last intervention gives me the opportunity to make, first of all that he will have noticed that in the Isle of Man scheme they abolish profits tax and do not replace it with anything, they do introduce a 10 per cent tax on financial services but they do not replace it in the rest of the economy. The reason for that is that the Isle of Man gets the vast majority, 80 per cent of the Isle of Man's Government revenue from taxation is from indirect taxation, from VAT, their profits from income tax is a very small proportion and their reserves are so large and their budget surplus is so large that they can just afford to say well goodbye to the small element of income that they get. Gibraltar and Jersey interestingly enough are in the opposite position. We get the majority of our revenue from direct taxation and a relatively smaller percentage of it from indirect taxation, indeed the House may be interested in knowing that the Treasury has recommended our scheme to Jersey and a delegation from Jersey is now coming to Gibraltar to be briefed by us about whatever we are willing to help them with.

The second thing that the hon Member may already have realised is that the reason for the cap is so that it should not be a regressive form of taxation. If the payroll tax and the property occupation tax were like social insurance contributions, rates, rents, or some other business expenditure, companies would have to pay it whether or not they had profit. It would just be another form of above the line business cost which companies would have to pay even if they were loss making. The cap renders it non-regressive because as I said during my formal statement if one is not profitable 15 per cent of zero profit is zero so one's cap is zero which means one has no liability. If one has £1,000 profit one's combined liability from all of these taxes is

limited to £150 even if the initial calculation of the taxes throws up a higher figure than £150.

## 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 documents on the Table.

Question put.                      Agreed to.

The Hon the Chief Minister laid on the Table:

- (1) A special report by the Ombudsman:-  
Case No 323 – Complaint by Mr G Bamby and Ms D Hulme against the Department of Transport.
- (2) Copy of a letter to the Rt Hon Peter Hain MP.

Ordered to lie.

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

- (1) Statement of Consolidated Fund Reallocations approved by the Financial and Development Secretary ( NO 9 of 2001/2002).
- (2) Pay Settlement – Statement No 10 of 2001/2002.

(3) Supplementary Funding – Statement No 11 of 2001/2002.

Ordered to lie.

## **BILLS**

### **FIRST AND SECOND READINGS**

#### **SUSPENSION OF STANDING ORDERS**

##### **HON MRS Y DEL AGUA:**

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

Question put.            Agreed to.

#### **THE SOCIAL SERVICES AGENCY ORDINANCE 2002**

##### **HON MRS Y DEL AGUA:**

I have the honour to move that a Bill for an Ordinance to make provision for social services in the community and, in that regard, to establish the Social Services Agency; and for matters connected thereto, be read a first time.

Question put.            Agreed to.

## **SECOND READING**

### **HON MRS Y DEL AGUA:**

I have the honour to move that the Bill be now read a second time. Mr Speaker, in November 1997 the Gibraltar Government contracted Milbury Care Services Limited for a period of four years to manage and develop social services in Gibraltar. This was later extended for a further period of one year. I am pleased to say that with the full support of Government all their initiatives and recommendations have been implemented successfully and are now fully operational. Important developments have taken place over the last four and a half years which have greatly enhanced the provision of social services in Gibraltar. These include the restructuring of the services previously provided by the Social Workers as a unit under the Personnel Department, the vast improvement in the quality of care provided at Dr Giraldi following its unitisation, the introduction of the community Service Order, the creation of a fostering service and last but not least the successful move from Bishop Healy Children's Home to five smaller independent flats in the community. As already announced in my recent budget speech Milbury's contract will terminate this coming November, therefore Mr Speaker, the purpose of this Bill is to establish a Social Services Agency fully funded and supported by Government which will take over the functions and employees of Milbury. It goes without saying that all the employees currently contracted by Milbury who are based mainly at Dr Giraldi and the Children's Residential Service will be offered alternative employment by the newly established agency as from the 10<sup>th</sup> November 2002. These employees will also have access to the Gibraltar Provident No 2 Pension Fund Scheme once they join the Agency. Civil servants such as social workers, administrative grades and Government employees employed at St Bernadette's will be seconded to the Agency on exactly the same conditions of service which they now enjoy. No change is envisaged to the management structure of the Agency which will operate as at present.

Mr Speaker, the Bill also makes provision for the appointment of a Chief Executive who will be replacing the present Milbury Head of Operations once the contract expires. An appointment to the Chief Executive post will be made once the Social Services Agency Ordinance comes into operation. I commend the Bill to the House.

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

#### **HON J L BALDACHINO:**

Mr Speaker, the Minister has just said this Bill has been brought by the Government to replace the management structure that was being provided by Milbury. The Minister has just explained that Milbury contract was for four years and then it was extended by one, which was not the explanation that was given to the then late hon Colleague Robert Mor by the then Minister who was responsible for Social Affairs or the Disabled as it was called then. The Minister has highlighted the provisions extended in social services by Milbury indicating how well they have performed during these four years. This is not the indication that Opposition Members have. There have been many complaints, by users, residents of Dr Giraldi Home and the families, many complaints. I am sure she must also have had those complaints. As a matter of fact she had an experience with Milbury when she took a decision on the respite issue when the flats at Edinburgh House were given and literally took a contrary decision to what was the instruction that she had been given.

Mr Speaker, we agree that the Milbury contract should have not been extended before November this year for different reasons to what the Minister has just said. Therefore, I do not know really if what prompted the Government to take the decision of not extending Milbury contract has been the one she has just said. I

personally think and I agree with the Government that it should have been rescinded a long time ago. They were not providing the service that they should have been providing especially in Dr Giraldi's Home, they did not keep to the contract that they signed initially, as a matter of fact the hon Lady explained in one of my questions that there were given either services to Milbury and the contribution was going up all the time for the extra services that were being provided. If that was the case, if Milbury was functioning so well, if Milbury was carrying out the contract as expected, why is it they now have not extended the contract that originally was given to Milbury because even though I asked on two occasions if the Government were satisfied with the service that Milbury had been providing, and as a matter of fact the Government ignored my question and did not give a clear answer, if they were so satisfied with Milbury services then obviously they should have said so at that time.

Mr Speaker, we will be abstaining on the Bill and the reason is exactly the same as those given by me when the Government brought the Elderly Care Agency Bill and those given by my hon Colleague Miss Montegriffo on the Sport Authority Bill. We do not think that the duplication of posts to those in the civil service is required. The management now carried out by Milbury could easily have been covered by social workers and within the social services department incorporating within the structure the local employees at present working under Milbury. When I say duplication of posts and using one as an example, the post of Finance Officer, we do not as we said in the Elderly Care Agency and the Gibraltar Sports Authority Ordinance see the need for money to be spent for that post. That money could be better used for providing services to the users. On the posts that the Agency would need to be filled, and I am asking the Minister, will the advertising for those posts be carried out in Gibraltar or do they intend to advertise outside Gibraltar?

Mr Speaker, we agree that the best possible service should be given but we do not agree with the method by which they intend to



do it through this Bill. It is also clear that Milbury were not giving the services that was required by them especially when they were being paid over £1.5 million of taxpayers money and I hope that the Agency once set up will provide the service that is required for the benefit of those that will be requiring to use it.

Mr Speaker, I would like just to bring to the notice of the Minister, I do not know if by law it is covered or not but in Section 5(3) it says "in all meetings of the Agency the Chairman or in his absence such other Member as the Agency may select shall preside." I do not know if 'his' also covers 'her' and if it does not, could it not be seen that the Chairman could be a 'her'. Could we not have "in his or her absence such other Member as the Agency may select and shall preside." Also the word Chairman could be replaced with the word 'Chairperson'

#### **HON CHIEF MINISTER:**

Mr Speaker, let me put the hon Member immediately out of his misery in respect of the last point that he has raised. Under the Interpretation and General Clauses Ordinance the feminine includes the masculine, the plural includes the singular, includes the plural et cetera, et cetera. I have to say that I do not recognise the realities as they have happened in any of what the hon Member has just said. It is not true that what the hon Lady has just said now about the contract having been originally for four years that that is inconsistent with what was said four years ago. It is not true. The Government have always made it clear, indeed the staff have always clearly understood that Milbury was being brought to Gibraltar for a period of time to inject a sense of structure, reform, external input, training, changing of systems to train our local staff and then hand over to a completely locally managed structure. Everybody in Gibraltar apparently with the exception of the hon Member has been perfectly clear as to that. The hon Member may not wish to recognise it, in fact I am certain he will not wish to recognise it given his own responsibility when

then in Government for the state of affairs but the hon Member may have forgotten the demoralised, disjointed, understaffed, and under resourced condition in which the range of Social Service Agency Provisions of Gibraltar stood in 1996. A series of disjointed, disconnected activities delivering social services on a hit and miss basis with enormous gaps, for example, in the care of children, enormous gaps where there was no provision at all even of an inept kind. This is recognised by almost every professional that works in the industry and that Milbury was contracted by the Government to come to Gibraltar and during a number of years which originally might have been only four admittedly then we extended it to five because we were not ready with the replacement that during that period of years they would put order, advise the Government on resources, on structures, on management structures, staff training, bring out the best of the local staff so that they could then be put in positions of higher responsibility than they had occupied originally and the hon Member is entirely wrong to suggest that that has not been completely achieved. It has been completely achieved. The resourcing, the premises, the staffing levels, the remuneration packages, the liason, it is now a comprehensive Social Services Agency that works together under a unified management structure and therefore makes sure that nobody falls between any stool. For the first time in many, many, years, not to say ever, Gibraltar has a Social Services Agency which begins to approximate what one would expect to find in a modern western European society and that is due entirely to the efforts and expertise that Milbury has injected firstly, secondly to the dedication, co-operation and enthusiasm for the project of the local employees of the various social services functions and thirdly to the fact that the Government have invested very large sums of money in making the project possible. Far from being a failure as the hon Member tries to paint it, I suppose he takes the view that Oppositions have to do that to all Government projects without exception. On this occasion he is particularly exposed to the accusation that that is what he is doing.

Mr Speaker, the hon Member is very harsh if his definition of failure is that there should be complaints. Having been in Government for eight years the hon Member knows that it is not possible to run a Social Security system however good it might be, in fact it is not possible to run any aspect of public administration in any walk of life for five years without generating complaints, he knows that and if his definition of failure is that there are complaints much as the hon Lady sitting next to him defines crisis in the Health Service as the fact that there are 46 complaints in a year in which there has been 34,000 patients seen. We are very happy to be measured by those criteria and by those standards because by those criteria and by those standards everything will always look successful to objective people. They judge us by much less harsh standards than we judge ourselves but certainly by those standards of the measurement of a handful of complaints that is a very gentle form of assessment.

What we have now is a local staff that has been remotivated and that is really ready to deliver to Gibraltar a Social Services system for many years to come on the basis of properly trained staff and this is far from being the failure that the hon Member chooses to describe it is actually one of the biggest achievements in the area of domestic social policy of the Government and he is wrong to say as he always does and as he always is on this and some other issues that the Government have paid Milbury £1.4 million. The Government have not paid £1.4 million that figure includes all the costs of delivery of service that previously used to be paid for by the Government through other means so please, let us not use language that suggests that Milbury have profited in their own pockets by £1.4 million a year. He knows that that is not true and it does not improve the quality of political debate in this House for carefully ambiguous language to be used.

Nor was Milbury exclusively a management contract. This is not just a question of Milbury providing management. If Milbury had only been providing three managers of course those three managers might have been replaced within the public service.

The fact of the matter is that Milbury also, I suppose that the hon Member is interested in the answers to some of the things well he must be very capable if he can listen through one ear whilst speaking to his neighbour at the same time, he is an extraordinarily intelligent person. Milbury also employs a very large number of people who are not civil servants, it is not just a management contract all the people that he employed, for example, through the Dr Giraldi Trust have now got to be accommodated. He was willing to do it through some semi-private trust arrangement the Government are offering them vastly improved conditions and security of employment through a statutory agency. We want to bring everything under one cohesive umbrella, the Social Services Agency and this is a way of bringing these employees into the public sector within a structure that is viable. All employees have been consulted and they are content, indeed they welcome the moves, the Disability Society does also. There is no duplication of posts. I do not know whether they are going to oppose all of these Bills simply on the parroting of the statement once made, duplication of posts, there are very few duplication of posts here these are posts that mainly already exist outside the public structure and that the Agency is just a means of bringing them within the public structures he must know that he has been told that before in the House. The other thing that I cannot understand from the hon Members is this, if they are opposed to it as he claims they are why does he not vote against it? How can one be against something and abstain on it. One either has clear views and the courage of his convictions or one does not but I have never heard anybody says "I abstain because I disagree with it." Normally if one disagrees with something one votes against it, if one agrees with something one votes in favour and one abstains if for some reason or other one is not in a position either to agree or disagree but to say as rotundly as he has done that he thinks that this is a terrible thing but that he abstains on it I think it is a dereliction of his legislative duty in this House.

**HON J J BOSSANO:**

Mr Speaker, obviously the Opposition has got the right to vote in favour or to vote against or to abstain and it is not for the Government to tell us how we must vote. We are in favour of getting rid of Milbury so to the extent that this gets rid of Milbury we are in favour. Yes, because that is what this says in the explanatory memorandum. The explanatory memorandum says, "...the purpose of the Bill is to make provision for the establishment of a Social Services Agency. The purpose of the Agency will be to take over the functions and employees of Milbury Care Services Limited," and therefore we want to get rid of Milbury because we have been wanting to get rid of Milbury since they arrived.

**HON CHIEF MINISTER:**

There are ways of getting rid of Milbury.

**HON J J BOSSANO:**

This is the method that the Government have chosen we agree with the objective and not the method and consequently we are abstaining because we want to get rid of Milbury. *[Interruption]* Well as far as we are concerned if the Government want to bring everybody into the public sector they have got a way of bringing them into the public sector and what we do not agree with is the idea that there should be a public sector which increasingly is composed of a multiplicity of agencies which we think is in fact duplicating management jobs that is to say Personnel Managers, Finance Managers, directors and therefore we are finishing up with a Sports Agency, a Buildings and Works Agency, a Social Services Agency, it is a matter of policy the Government are entitled to have that policy, we are entitled to say we do not agree with it and therefore to the extent that we agree that it is better that

it should be this rather than Milbury does not mean that this is the best way. We think the best way is in fact now that Milbury is being got rid of to go ahead and do it with the Government Department that was doing it or would have been doing it before. In any case what the Government refuse to recognise is that when, I do not even think he is intelligent when he is talking to his neighbours, what the Government refuse to acknowledge is that the initiative on the Dr Giraldi Home and the initiative on the Dr Giraldi Trust which was something that was accepted by the Government when it was proposed by the people closely involved with the potential beneficiaries was an improvement on what was there before and it would be normal and natural that anything any Government does should be to improve on what they inherit. I am not saying that this is not going to be an improvement of what there is now because what is there now is Milbury and we think anything is an improvement on Milbury.

The body of the actual Ordinance setting out the objective of the Ordinance is drafted in a way which of course is much wider than the explanatory memorandum because the creation of the Social Services Agency has as its primary objective providing a comprehensive social services for the community generally. Milbury is not providing a comprehensive social service for the community generally. The explanatory memorandum says, "...the purpose of the agency will be to take over the functions and employees of Milbury Care Services Limited," the purpose of Agency is to do that and more although apparently at the moment it is only going to be doing that.

**HON CHIEF MINISTER:**

No.

**HON J J BOSSANO:**

I am saying that not just the long title, the establishment of the Social Services Agency to provide a comprehensive Social Service with the community generally is much more than what Milbury is doing so presumably the Agency will be doing things that are being done by Milbury and things that are not being done by Milbury which presumably are being done by other people within the civil service. It must be things that are not being done at all and if it is things that are not being done at all then it is not going to be a comprehensive Social Service because there are still things that are Social Services being done by the Government in Government departments. Is it that when the Government say that Milbury has been responsible for running a specific and designed task and if this is going to be responsible for the whole range of Social Services in the community those that are done in different elements of the Government or by Milbury and those that may come into being in future which are not there then the debate is a much wider debate about a much wider policy but we will have to monitor exactly what is being done and who was doing it before as the Agency comes into effect. I commented when the Chief Minister was speaking that I am not surprised that people should be content to leave Milbury and come under the Social Services Agency, I would not have thought they needed a lot of persuading from our previous contact with them they could not see the day when Milbury left so the employees would be delighted to see the back of Milbury I would have thought and therefore the Government must have had a very easy ride persuading them that they would be better off under the Social Services Agency, in any case they probably feel a greater sense of security in a statutory body than they do with a contractor there is no question about that. There are a number of specific points that I would like to make in relation to some of the elements in the provisions in the Bill which the Government may be able to clear up either when the Minister exercises the right of reply or at the Committee Stage. There is a provision under section 14 for the establishment of a General Fund and it says , " ...the Agency may borrow temporarily by way of overdraft or otherwise," in which 'otherwise' presumably means they can actually issue debt for the purpose of the Agency.

My question is, would this be covered by the ceiling on the Government public debt or not?

**HON CHIEF MINISTER:**

The hon Member may have noticed that subject to the change of terminology to reflect the difference in subject matter this Bill follows very closely the text and the draft and the structure of the Health Authority Ordinance and this provision is there because it is in the Health Authority Ordinance. The answer to his question is that the answer is the same as it has been in relation to the Health Authority since 1987. I do not know what the correct answer is, I suspect that technically it is not but the Financial Secretary will have to make that decision.

**HON J J BOSSANO:**

Well certainly then I can confirm to the Chief Minister that our understanding in 1988 was that in the provision in the Health Authority Ordinance which had been passed by the House in 1987 did not constrain the Authority to the borrowing limit of the Government in a loans empowering ordinance so presumably the answer is the same provision applies here. The other thing is in terms of the submission of accounts the accounts have got to be provided for auditing as soon as practicable and then within three months after being audited they are provided to the Chief Minister who in turn brings them to the House as soon as practicable, Given that there is a practicable before and a practicable afterwards in theory that could be a very long time. Would it not be better to put the same as in the audited accounts of the Consolidated Fund where they got nine months after the end of the financial year to pass the accounts to the Principal Auditor?

**HON CHIEF MINISTER:**

Mr Speaker, actually this an attempt to actually tighten up on the existing periods that exist in those other bits of legislation. This has the opposite effect to the one that the hon Member is suggesting bearing in mind that Section 15(1) says that “the Agency shall keep proper books of account of its operations during each financial year and shall cause a statement of its accounts for each financial year to be prepared within six months” which is in fact a shorter period than is allowed in some of the other Ordinances of established Agencies. Admittedly in brackets it says, “...or such longer period as the Minister shall exceptionally allow after the end of each financial year.” The intention of this section was actually to say, “...look there is a limit you have to have your accounts ready within six months of the end of the financial year,” which is actually quite a tightening of the existing screw. Once the accounts have been done by the Agency, they must then be audited and certified by the Principal Auditor as soon as practicable. That reference to as soon as practicable applies to the job that the Principal Auditor has to do. The Principal Auditor is not under Government control and we have tried to do things recently to make it clear that he is not under Government control. He has his own Ordinance, Government scrutiny functions under the Constitution and under his Ordinance and therefore the Government does not consider it appropriate indeed as they do not with even with the accounts of Gibraltar to say to the Principal Auditor “You must conduct your Principal Audit within a...” “The Chief Minister shall lay one copy of the Annual Report and Audited Accounts on the Table of the House as soon as practicable” the reason why that is there is simply to make it clear, the Chief Minister cannot lay unless there is a House in sitting that is all that is intended to mean for example, one has seen that today I have laid a special report of the Ombudsman, I have 60 days to do so in fact I have laid it at the first possible opportunity it was actually sent to us between the last sitting and this sitting. If the hon Members would prefer to see there that the Government shall lay the accounts of the Agency in the House during the next meeting of the House I am perfectly content to do that, that is what we would expect to. We do as a matter of

course lay documents at the first opportunity, if the hon Members would feel more comfortable even though they do not approve of the overall principals, if they think it will bring an improvement to the legislation that there shall be some more specific language there about the expeditiousness with which it has got to be brought by the political Government to the Parliament I will be perfectly content to write in some amendment in that respect.

**HON J J BOSSANO:**

Mr Speaker, given the fact that he has made this statement in the House then I think we can take it that we would expect that to happen there is no need to change the law. The other element is the commencement of this in terms of this financial year we are having the Agency finishing in November therefore presumably we are going to have to see either supplementary funding or some other Heads of expenditure being created, but how is the mechanics of the transfer going to take place during the course of the financial year?

**HON CHIEF MINISTER:**

I recall, certainly we did it with the Sports Authority and I think we also did it with this one, that under the hon Lady's vote in the estimates there is a nominal item that says Contribution to Social Services Agency the idea being that at that point in time when the Social Services Agency comes into effect monies that are presently being paid out under the subhead 'Payments to Milbury' or however they are described will then be diverted through virement rules to the subhead which if my memory serves me correctly has been created. It has been done in relation to the Elderly Care Agency because it is up and running, it has been done in respect of the Sports Agency but it appears to have been overlooked in this case but that is the technique that we use and I suppose the Financial and Development Secretary will then use

his power under the Public Finance (Control and Audit) Ordinance and Financial Regulations to create a new Head of Expenditure. I am sorry it has been done it is just that the hon Lady has an earlier draft not the one that was included in the booklet. Head 5(b)(vi) reads:

“.....Contracted Services - Milbury Care Services Limited and Social Services Agency.”

**HON J J BOSSANO:**

Yes I think we raised this very point in the Committee Stage and the “and” has been added in the approved estimate but was not in the draft.

**HON CHIEF MINISTER:**

Yes.

**HON J J BOSSANO:**

It was a point that we made and it was acknowledged by Government. I was seeking conformation that it had materialised. One final point, given that we are talking about the Social Services Agency providing a comprehensive service and the comparison that has been done with the Sports Authority, what we have seen in the Sports Authority is that the person that is currently a civil servant in charge of the Stadium whose post has been regraded within the civil service is apparently the person who would be running the Sports Authority and there is no indication here whether the Chief Executive is somebody that is going to come from within the public service already on similar lines or whether in

fact we are getting somebody from outside. Obviously to the extent that we have got as I believe we have people who are quite capable of doing what Milbury was doing within the existing system then the provision that the House has made ought to prove to be more than sufficient once we take out the profit element that was the take of Milbury for providing expatriate managers and therefore we will monitor that element as well because we believe that it is an opportunity to put that money into the service rather than seeing it leaving Gibraltar in the hands of a contractor.

**HON CHIEF MINISTER:**

The intention is that that is what is going to happen and indeed now even though he does not accept the now there are people who five years down the line are in a position to take over these management roles. Civil servants will remain civil servants in this context but can I just ask him to remember when he is underestimating the extent of the achievement in management capability that has now been generated in the last five years as a result of these arrangements and when he says that there were people before who could have done it can he cast his mind back to the situation pre 1996 which was that the Personnel Manager, Mr Albert Finlayson, the Personnel Manager was responsible for the management of the Social Workers. There was no dedicated management structure, a man who was the Personnel Manager and who was completely engaged in that had as a side obligation the management and the providing of instructions of workers in the social field. We all understand how these things happened historically but I would please urge the hon Members when they are making an objective analysis of what has been achieved and what has not been achieved at least to bear in mind what the achievements are and not pretend that there are none.

**HON J J BOSSANO:**

Mr Speaker, I think it is ultra-sensitivity of the Chief Minister that makes him think that we do not think that there are any achievements whatsoever it is just that as far as we are concerned we have been unhappy about Milbury since they arrived and we believe the money that has been spent since Milbury arrived could have been better spent for the benefit of the beneficiaries of the people concerned which were mainly people with disabilities, this is how Dr Giraldi Home started. If we are now talking of using the base created there subsequent to Milbury's departure to do a wider exercise involving more things then we will be monitoring that as it is our duty to do both in terms of what it is costing and the benefits that it provides. At this stage all that we are seeing is a reflection of a Government policy to create a multiplicity of agencies to deal with everything and anything under the sun and at the end of the day time will tell whether this is the most cost effective way of doing things or not but obviously to the extent that what we are seeing is finally Milbury departing and our local people looking after those in need were in many respects sometimes what outsiders failed to understand is the culture of Gibraltar and they come to deal with people here with a lot of preconceived ideas of what they experience in the United Kingdom with a lot of textbook knowledge which sometimes it is important to have some textbook knowledge but the personal touch that our people have with the recipients and the receivers of services whether it is in the Health Service or in the Social Services is something that no outsider can reflect and this is why in principle we think that our own people can do a better job.

**HON MRS Y DEL AGUA:**

Mr Speaker, I just want to clarify one point before I move on to something else. The Opposition seems to be under the impression that the funds that were provided to Milbury, they seem to be giving the impression that Milbury pocketed half or three quarters of those funds. They have to be aware that the

amount we have been funding Milbury with over the years has been afforded to be able to run Social Services in an effective and structured manner. A manner which did not exist before. The consideration which is ring-fenced that has always been paid year after year to Milbury is in the tune of £397,000 out of which Milbury had to pay their own five contract officers. Out of £1.6 million the impression that they are giving is that Milbury has pocketed half of it is clearly giving a wrong impression which is not the case. It was a fee paid to them to manage the structure which before had no management at all. The Opposition has been harping on for four years incessantly to remove Milbury as they say it to get rid of them, in the ante-room the hon Member was always side-tracking me to try and convince me to remove Milbury, Government have had no reason to remove Milbury until now and we have not removed Milbury. What has happened is what was envisaged to happen all along, they were contracted for a four year period which unfortunately or fortunately had to be extended for another year. Their contract has come to an end and they are leaving. What has happened is what they wanted to happen Milbury are leaving and yet the Opposition is not happy but what concerns Government are the fact that all employees of the Social Services Agency both from St Bernadette's, Dr Giraldi, the Children's Residential Service, the Disability Society which represents the parents or relatives of the disabled people are completely satisfied not with the fact that Milbury are leaving but with the fact that the conditions of employment were considerably improved under Milbury and that they will remain as they are much more improved than what they had under the hon Members' Government.

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 J J Netto  
The Hon R R Rhoda  
The Hon T J Bristow

Question put.

Agreed to.

## **SECOND READING**

### **HON J J HOLLIDAY:**

I have the honour to move that the Bill be now read a second time. Mr Speaker, the Government have been monitoring the growing number of visits by rock apes into built up areas in general, in the upper town in particular. I have received several letters of complaints from members of the public informing me that damage is being caused to private properties by some of these animals. The Government wish to address the root cause of many of these incidents which appear to be the result of apes looking for food most of which is unsuitable for them. The Government are aware that unauthorised feeding of apes is happening within the upper town and some Rock Tour providers encouraging visitors to feed them. The Government find such practices very unhelpful as this encourages the apes to look for the general public as a source of food. It is just one step for an ape to be fed by the Upper Town by the public and for that animal to go into town areas in search of persons who will feed it. Indeed it has come to my notice that there are certain persons who are feeding the apes in built up areas. This is particularly undesirable as it encourages them to return to the town area to look for more food and in the process causing a nuisance and even damage. I am informed by GONHS the Government Contractor who is in charge with responsibility for feeding the apes that much of the food that misguided members of the public give to the apes is bad for them. Such feeding interferes with the efforts of GONHS to provide the apes with a balanced healthy diet and leads to overweight and unhealthy animals.

The Government have therefore examined the law because the starting point of my strategy is to reinforce the legislation which makes it an offence to feed the apes in certain circumstances.

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

Absent from the Chamber: The Hon Dr B A Linares.  
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 CRIMINAL OFFENCES (AMENDMENT) ORDINANCE 2002.**

### **HON J J HOLLIDAY:**

I have the honour to move that a Bill for an Ordinance to amend the Criminal Offences Ordinance to prevent the feeding of the Rock Apes by unauthorised persons, be read a first time.



The present legislation on this subject is contained in Regulation 5 of the Nature Conservation Area Regulations 1993 and made under the a Natural Nature Protection Ordinance 1991 and in section 271 of the Criminal Offence Ordinance. The Nature Protection Ordinance and Regulation forbids the feeding of apes within the Upper Rock. The legislation does not cover the feeding of apes outside the Upper Town and in particular in built up areas. The legislation which is supposed to cover this is section 271 of the Criminal Offence Ordinance, this provides that it is an offence for anybody to encourage the apes to come down from the Upper Town or to feed them anywhere other than Apes Den in the Upper Rock. The penalty for summary conviction on committing an offence is a fine on level two of the standard scale.

Mr Speaker, I have three observations to make in relation to this section of the Criminal Offence Ordinance. Firstly, the law as it stands makes it an offence for Ape Keepers to feed those apes which inhabit other parts of the Rock other than Apes Den. This is absurd. Secondly, there is a contradiction between the Nature Protection Ordinance which forbids unauthorised feeding of apes at Apes Den and the Criminal Offence Ordinance which allows the public to feed apes there. Thirdly, in my view the penalty subscribed is rather low and would not act as a deterrent. I now turn to the Bill which is before us in this House. This makes it clear and in simple language that only persons who feed the apes are those persons authorised by the Minister for Tourism, in other words, the ape keepers and nobody else. It makes it clear that it is an offence to encourage apes to come down from the Upper Town and to feed the apes both in the Upper Rock and elsewhere including the town.

The Bill proposes a penalty on summary conviction of a fine at level three of the standard scale, that is up to £500. I hope that by bringing this legislation to the House the public will be reminded of the adverse consequences of feeding the apes in town and that this Bill will serve to improve the situation by removing the incentive which the apes have had until now of

coming into town attracted by unsuitable food. 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, in general terms Opposition Members will be supporting the Bill. We think that the apes should not be encouraged to leave their normal area and become a nuisance to members of the public. We certainly think it is better to take measures of this kind rather than the culling of apes which happened not that long ago.

We would like to ask the Minister if he could clarify what steps he intends to take to make tourists aware of this. I understand that there are already signs which say, "Do not feed the Apes" but tourists will not pay attention. Is there a distinction between members of the public who might be aware of the law this House is passing and between tourists who probably do not know or who have never heard of this. Certainly people would not feed the apes as that is one of the reasons why they leave the Upper Rock and roam into the Upper Town area, but there is another reason which has been brought to the attention of the Opposition and which I saw not that long ago and that is the open rubbish skips. I saw one in the Calpe area which has no covering and this is simply where people leave their domestic refuse and given that this is a Government responsibility I was wondering if the Minister intends to tackle that as well in the same way as they are tackling members of the public feeding the apes.

**HON J J HOLLIDAY:**

Mr Speaker, I would like to clarify that there are signs in the Upper Rock which clearly state that the feeding of apes is prohibited. These signs currently exist however what will happen is that once this Bill becomes law there will be additional information provided in terms of the fact that the level of conviction will be applicable should people indulge in the feeding of apes also tourist literature that is available to visitors to Gibraltar clearly states that it is forbidden to feed the apes. I believe that the biggest culprit of this sort of activity is actually the tour providers in Gibraltar who encourage visitors to feed the apes and feed them themselves as part of the product they offer and we have been working closely with the tour providers and although it is not going to be easy to convince all members not to indulge in this sort of activity overnight, I believe that this legislation will help in going some way as a deterrent for them to do so. I think we have to be conscious that if we are going to be taking a long term view in order to protect these animals and I feel that all Gibraltarians very much feel that they are part of our culture, I think we need to take drastic steps now to ensure the long term future of these animals otherwise we are going to be starting a process which eventually will lead to their destruction and this is something that we do not want. They are a major tourist attraction and I think that the Government recognise the importance of these animals as part of our tourist product and what we have to offer in Gibraltar as an attraction. Hopefully members of the public and tour providers especially will take a responsible view of this in the long term well being of these animals because ultimately tour providers must realise that if in the future nothing is done they will have nothing to show their customers in the Upper Rock in terms of apes activities in the future

Question put.            Agreed to.

The Bill was read a second time.

**HON J J HOLLIDAY:**

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

Question put.            Agreed to.

**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 Social Services Agency Bill, 2002;
- (2) The Criminal Offences (Amendment) Bill, 2002;
- (3) The Investor Compensation Scheme Bill, 2002.

**THE SOCIAL SERVICES AGENCY BILL, 2002**

**Clauses 1 to 14** - stood part of the Bill.

## **Clause 15**

### **HON CHIEF MINISTER:**

Mr Chairman, I beg to move an amendment in section 15(5), delete the words "as soon as practicable" and insert "during the meeting of the House next following the date."

**Clause 15** - as amended, stood part of Bill.

**Clauses 16 to 23 and 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 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

Absent from the Chamber: The Hon Dr B A Linares.

## **THE CRIMINAL OFFENCES (AMENDMENT) BILL, 2002**

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

## **THE INVESTOR COMPENSATION SCHEME BILL, 2002**

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

## **Clause 2**

### **HON DR J J GARCIA:**

Mr Chairman, just by way of clarification in relation to Clause 2 (d) which provides the definition of the term 'Investor', the Government have chosen in the Bill presented before us to say that at the end it does not include persons listed in Annexe 1 to the directive which is something the directive makes optional. Is there a particular reason why the Minister has chosen to go down this route?

### **HON K AZOPARDI:**

As the hon Member himself recognises this is an optional list and in the view of the Government and the industry because that has come out of the consultation process it is clear that while it is desirable for there to be an Investor Compensation Scheme in

Gibraltar it is also desirable to maximise investment in Gibraltar to apply a regime which is within the minimum possible provided and set down but the gentlest possible also and the least honourous on the industry and so the view that the Government have taken in connection with that is that we should apply the EU minima as set out in the directive but we should not burden the industry in Gibraltar unduly if we do not have to.

**HON CHIEF MINISTER:**

I do not know if the hon Member has Annexe 1 to the directive in front of him but he will see that they are people who the directive does not require to be covered by the Investor Compensation Scheme and if he looks down the list he will see that they are things, entities, people, who an Investor Compensation Scheme is not intended to apply to, for example, the first item is Professional Investors, Investor Compensation Schemes are intended to protect the ordinary man in the street not a professional investor. Somewhere else on the list there is Government Agency or something or other, an Investor Compensation Scheme is not intended and the reason why it is excluded from the definition of investor is so that it excludes people who are not intended to be included from benefit but the Government could optionally as my Colleague has said have included them.

**Clause 2** - was agreed to and stood part of the Bill.

**Clause 3** - was agreed to and stood part of the Bill.

**Clause 4**

**HON DR J J GARCIA:**

Mr Chairman, again by way of clarification in Clause 4 (iii) there is a provision whereby certain organisations nominate members can choose to nominate an alternate or not, Clause 4 (iv) mentions that the notices of the names of members of the Board and their alternates and any resignations shall be published in the Gazette, the point that we made in relation to (iii) is whether it might be wiser or perhaps why the Government have chosen not to make it mandatory that they should nominate an alternate in case there is a conflict of interests which is what it protects and in relation to subsection (iv) in the same clause it says that the names should be published in the Gazette but it does not say when, within six months of appointment or within a month of appointment. I was wondering whether the hon Member could clarify those two points.

**HON K AZOPARDI:**

Mr Chairman, indeed this is quite a novel provision to provide something that even talks about alternates. I think this will single out in my mind the first Bill that I presented to the House which provides for the Board and even makes statutory provisions for alternates usually one does not even do that so the Government did not feel that we should even go to the extra step of making it mandatory that they should provide alternates but there are provisions there that if there are conflicts of interest we will appoint different members and as to the publication itself again it is not standard practice to say precisely when one will publish, the Government will do so at the earliest opportunity once the nominees have been received.

**Clause 4** – was agreed to and stood part of the Bill.

**Clauses 5 to 23** - were agreed to and stood part of the Bill.

**Clause 24**

**HON DR J J GARCIA:**

Mr Chairman, can the Minister say whether there is an EU list of Competent Authorities and if so whether Gibraltar's Competent Authorities are included in that list?

**HON K AZOPARDI:**

No.

**HON CHIEF MINISTER:**

Mr Chairman, I do not think that this directive creates the concept of a Competent Authority in the sense that others do. It creates a Domestic Regulatory Authority, Financial Services Commission, and then there is this requirement for the participants in the scheme to be notified and that will be done by the Financial Services Commission through I suppose the post boxing arrangements, I do not know, but I do not believe although we are checking as we speak. Yes, it appears that the concept of contrary to what I have said the concept of Competent Authorities is imported into this directive by reference, it says, that the Competent Authorities under this directive shall be the Competent Authority under another directive which it mentions by name. What we will have to check which I think is the object of the hon Member's question is whether that directive and therefore by reference this one creates the concept of a list, we will check that.

**Clause 24** – 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 Social Services Agency Bill 2002, with amendments; the Criminal Offences (Amendment) Bill, 2002; and the Investor Compensation Scheme Bill, 2002, have been considered in Committee and I now move that they be read a third time and passed.

Question put.

The Social Services Agency Bill, 2002.

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
	Hon Mrs Y Del Agua
	The Hon J J Holliday
	The Hon J J Netto
	The Hon R R Rhoda
	The Hon T J Bristow

Abstained:	The Hon J L Baldachino
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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

Absent from the Chamber: The Hon Dr B A Linares.

The Bill was read a third time and passed.

The Criminal Offences (Amendment) Bill, 2002; and the Investor Compensation Scheme Bill, 2002, 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 11.50 am on Friday 12<sup>th</sup> July 2002.**

# GIBRALTAR

## HOUSE OF ASSEMBLY



# HANSARD

**14<sup>th</sup> October 2002**

(adj to 16<sup>th</sup>, 17<sup>th</sup>, 18<sup>th</sup> October,  
18<sup>th</sup> November, 5<sup>th</sup>, 19<sup>th</sup> Dec 2002  
& 21<sup>st</sup> January 2003)

## **REPORT OF THE PROCEEDINGS OF THE HOUSE OF ASSEMBLY**

The Ninth Meeting of the First Session of the Ninth House of Assembly held in the House of Assembly Chamber on Monday 14<sup>th</sup> October 2002, 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 J J Netto - Minister for Housing  
The Hon Mrs Y Del Agua - Minister for Social Affairs  
The Hon R 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 30<sup>th</sup> April 2002, 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 following documents:



- (1) The Accounts of the Elderly Care Agency for the year ended 31<sup>st</sup> March 2001;
- (2) The Gibraltar Joinery and Building Services Limited – Annual Report and Accounts for the year ended 31<sup>st</sup> December 2001;
- (3) The Gibraltar Regulatory Authority Annual Report 2001/2002.

Ordered to lie.

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

- (1) Revolving Loan Agreement with Barclays Bank plc;
- (2) Report and Audited Accounts of the Gibraltar Broadcasting Corporation for the year ended 31<sup>st</sup> March 2001;
- (3) Statement of Consolidated Fund Reallocations approved by the Financial and Development Secretary - (No 1 of 2002/2003);
- (4) Pay Settlement and Supplementary Funding Reallocations – (Statement No 2 of 2002/2003);

- (5) The Accounts of the Government of Gibraltar for the year ended 31<sup>st</sup> March 2001 together with the Report of the Principal Auditor thereon.

Ordered to lie.

## **SUSPENSION OF STANDING ORDERS**

The Hon the Chief Minister moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to proceed with a Government motion.

Question put.

Agreed to.

## **MOTIONS**

### **HON CHIEF MINISTER:**

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

“This House

1. Recalls the motion unanimously passed in this House on the 25<sup>th</sup> March 2002 declaring its total opposition to any sovereignty concessions being offered to Spain against

our wishes; rejecting and condemning, as a betrayal of our rights and wishes as a people, any Anglo Spanish declaration, agreement or framework of principles which makes in-principle sovereignty concessions to Spain against our wishes; and calling on the British Government not to enter into any such declaration or agreement;

2. Recalls also that on the 18<sup>th</sup> March 2002 practically the entire population of Gibraltar participated in a public demonstration calling upon the British Government not to make in-principle concessions to Spain against our wishes.
3. Regrets and condemns the fact that despite the motion and demonstration referred to above, the Foreign and Commonwealth Secretary Jack Straw, on the 12<sup>th</sup> July 2002 informed the House of Commons that after twelve months of negotiation the UK and Spain were in broad agreement on many of the principles that should underpin a lasting settlement of Spain's sovereignty claim over Gibraltar and that these included the principle that Britain and Spain should share sovereignty over Gibraltar.
4. Believes that by purporting to enter into political agreements or declarations affecting sovereignty of Gibraltar against our wishes and without our consent, as occurred in Mr Straw's statement, the British Government violates our right to self-determination.
5. Wholeheartedly welcomes the Gibraltar Government's announcement that a referendum will be held in Gibraltar to give the people of Gibraltar the opportunity of deciding, by a formal and deliberate act and in a free and democratic manner, whether they approve or disapprove

of the principle of joint or shared sovereignty of Gibraltar between the UK and Spain.

6. Ratifies, approves and joins in the calling of such a referendum and the question to be posed therein, namely:-

### QUESTION

"On the 12<sup>th</sup> July 2002 the Foreign Secretary Jack Straw, in a formal statement in the House of Commons, said that after twelve months of negotiation the British Government and Spain are in broad agreement on many of the principles that should underpin a lasting settlement of Spain's sovereignty claim, which included the principle that Britain and Spain should share sovereignty over Gibraltar.

Do you approve of the principle that Britain and Spain should share sovereignty over Gibraltar?

Yes

☐

No

☐

7. Ratifies and approves the 7<sup>th</sup> November 2002 as the date for voting in the Referendum.
8. Ratifies, approves and adopts the designation of Mr Dennis Reyes, Clerk of this House, as Referendum Administrator.

9. Ratifies and approves the appointment of a committee to administer the Referendum independently of political parties, consisting of past and present senior civil servants comprising:-
  - (1) Mr Ernest Montado, Chief Secretary as Referendum Co-ordinator;
  - (2) Mr Dennis Reyes, Clerk of the House, as Referendum Administrator,
  - (3) Mr George Flower, Head of Civil Status and Registration;
  - (4) Mr John Desoiza, Head of Information Technology Department;
  - (5) Mr Frank Carreras, Deputy Commissioner of Income Tax;
  - (6) Mr Richard Armstrong, Assistant Chief Secretary;
  - (7) Mr Brian Catania, HEO Personnel Department;
  - (8) Mr Dennis Figueras, retired civil servant and previously Clerk of this House;
  - (9) Mr Clive Coom, retired civil servant and previously Clerk of this House.
10. Ratifies, approves and adopts the Administrative Rules attached to this Motion as the Administrative Rules to regulate the conduct of the Referendum.
11. Ratifies and approves that the following categories of persons be eligible to vote in the Referendum:-

- (1) Resident Gibraltarians registered in the Register of Gibraltarians under the Gibraltarian Status Ordinance;
  - (2) Resident British Overseas Territories Citizens by virtue of a connection with Gibraltar;
  - (3) Other British Nationals who have been ordinarily resident in Gibraltar for not less than ten years immediately preceding Referendum day.
12. Ratifies and approves the appointment of the following persons and organisations as international observers for the Referendum, upon invitation by the Government:-
  - (1) Mr Gerald Kaufman MP (Labour) (as Chairman)
  - (2) Representing the British Isles and Mediterranean Region of the Commonwealth Parliamentary Association:-
    - Mr Tom Cox MP (Labour), (Chairman, UK Branch)
    - Sir Philip Bailhache, Bailiff of Jersey, (Jersey Branch)
    - The Hon Noel Quayle Cringle, President of Tynwald (Isle of Man Branch)
    - Sir de Vic G Carey, Bailiff of Guernsey (Guernsey Branch)
    - Dr John Marek, Deputy Presiding Officer, National Welsh Assembly (Wales Branch)

- A representative (to be designated) of the Welsh Branch of the CPA .

(3) Representing the House of Commons All Party Gibraltar Group:-

- Lindsay Hoyle MP (Labour) Chairman
- Eleanor Laing MP (Conservative)
- Jimmy Hood MP (Labour)
- David Crausby MP (Labour)
- Andrew Rosindel MP (Conservative)
- Nigel Jones MP (Liberal Democrat)
- Colin Breed MP ( Liberal Democrat)

(4) The following members of the House of Commons Foreign Affairs Committee, in their personal capacities:-

- Fabian Hamilton MP (Labour)
- Andrew MacKinlay MP (Labour)
- David Chidgey MP (Liberal Democrat)
- Sir John Stanley MP (Conservative) (tbc)

(5) The Electoral Reform Society

(6) Representing the Chartered Institute of Journalists:-

- Mr Andy Smith, President
- Mr Stuart Notholt, Vice President

(7) Representing Trade Unions:-

- Mr Bill Morris, General Secretary, Transport & General Workers Union
- Mr Paul Noon, General Secretary, Prospect
- Lord Brett, ex General Secretary, Prospect
- A representative (to be designated) of the General Secretary of NASUWT.

13. Declares the vital importance of this question to the future of Gibraltar and urges all entitled voters to cast a vote in the Referendum."

Mr Speaker, as I do not expect that this Resolution will be particularly controversial I will move certain amendments now and then subject to your guidance and perhaps with the agreement of the Opposition Members, we can speak to both the amendment and the main Resolution together. I think they will see that the amendments are not controversial.

I would also point out to Opposition Members that the annexure to the annex to the Resolution the Administrative Instrument is in slightly different form to the last version that they have seen to take account of the voting paper issue but I do not propose to move those as amendments given that they are not amendments to the Resolutions themselves. There is a letter prepared by the Clerk as Referendum Administrator setting out what the four amendments are but they all relate to the layout of the voting paper in terms that we have discussed and except I notice that there is one that was not related to that which is a small amendment to if they could turn to Form 'J', they will see that paragraph 3 has been replaced under the heading 'Instructions to Voter' in the Declaration of Identity. I will therefore move the following amendments to the motion before I deal with the motion itself and that is that paragraph 12 of the motion which is the one

that lists the observers should be amended by the addition of three categories, paragraphs 8, 9, and 10 to read as follows:-

- (8) Mr Mario Galea MP, Malta House of Representatives and member of the Executive Committee of the Commonwealth Parliamentary Association.
- (9) Mr Mark Seddon, Member of the UK Labour Party National Executive Committee and Chairman of the Tribune Group.
- (10) Such other persons or organisations as may accept the Government's invitation prior to Referendum day.

And the second amendment is not an amendment to the Resolution as such but to the Administrative Instrument which I did not mention before. The hon Members will notice it is not an amendment but I just bring it to their attention because it differs to the last version of that document they saw that in paragraph (9) 2 the reference to 5 has been substituted for a 7 that has not been done, that requires to be done so that is a change that needs to be made even to the latest text that they have seen so that will read, *".....a period not less than seven days prior to the Referendum."*

Mr Speaker, the House will be aware of the position that the Government have adopted since the autumn of last year in their campaign to lobby, persuade, try and prevent the British Government from entering into declarations, frameworks, agreements of principle affecting our sovereignty and our political rights as a people against our wishes and the Government have also made clear on several occasions that this is not a question

of sovereignty changes actually being implemented in practice against our wishes because we know that for any implementation of any sovereignty change the British Government are committed to relying on our referendum approval of it. So, the issue has never been the physical implementation of sovereignty changes against our wishes. The issue has always been the damage and prejudice that is caused to our future advocacy and defence of our political rights as a people that the British Government should feel that it is free and should act as if it were free to negotiate and transact what are our political rights as a people against our wishes and that they should make in-principle concessions against our wishes because it is axiomatic that to the extent that the British Government purport to enter into political agreements that suggest that they are free to act in a way which was incompatible with our right to self-determination that what they are in fact doing is sending a signal that we do not have the right to self-determination.

On the 12<sup>th</sup> July, Mr Straw stood up in the House of Commons and said that Britain and Spain were broadly agreed about the future that should underpin Gibraltar's future including the principle of joint sovereignty. I would urge Members of the House to ask themselves this question, *"Do you think Mr Straw would have felt just as free to stand up in the House of Commons and say I have been to Washington, I have been in negotiation with the Government of the United States and the Government of the United States and Britain are broadly agreed that the future of the territory and people of Bermuda includes the principle that Britain and the United States should share sovereignty of Bermuda?"* The answer is that there is no prospect whatsoever of any British Government making such a statement or entering into such a declaration because it would obviously be incompatible with the right to self-determination of the people of Bermuda and I say that there is no difference in terms of the political rights of the people of Gibraltar and the people of Bermuda in the context of self-determination. Even if as the hon Members know Gibraltar contests, but even if and even for those people who argue that the Treaty of Utrecht curtails our right to self-determination, not

even for those people should Mr Straw's statement be acceptable because even if the Treaty of Utrecht means that our right to self-determination is curtailed as the British Government says it is curtailed, namely and only by the fact that we cannot opt for independence, then why does a Treaty that at best, which is arguable, says that we cannot have independence, why does that enable the British Government to negotiate the sovereignty of Gibraltar above the heads and without the wishes of the people of Gibraltar who have not asked for independence. Whatever may be the meaning and effect of the Treaty of Utrecht properly interpreted which we are willing to have litigated but Britain and Spain are not, whatever might be the meaning of that document it does not sustain, require, or justify the transaction of our sovereignty and of the principles applicable to our future against our wishes. So when Mr Straw stood up in the House of Commons on the 12<sup>th</sup> July and gratuitously and I say '*gratuitously*' because he did not even have an agreement to show for it. Not that it would have been any more acceptable to us if he did or if he had had but without even having an agreement, without even having a quid pro quo, without even having Spain's signature on a scrap of paper, Mr Straw announces to the world that it is the policy of the British Government that in principle the future of Gibraltar should be resolved by Britain and Spain sharing sovereignty.

The Government of Gibraltar believe that the people of Gibraltar are massively opposed to the principle of Spain participating in the sovereignty of Gibraltar but I would say for the benefit of anybody who may hear the words exchanged in this House in the run up to this Referendum, that leaving to one side and regardless of the question of Spain, regardless of the question of Spain and in addition to the question of Spain, joint sovereignty is not the way forward for Gibraltar. Even those people in Gibraltar who favour a settlement, even those people in Gibraltar who favour dialogue, even for those people in Gibraltar who favour good neighbourly links and co-operation and friendship with Spain, joint sovereignty is not the way forward. Joint sovereignty in the Government's judgement condemns our future generations

to a near colonial status. It condemns Gibraltar to being and being treated for all time as a chattel as a possession of others. For all intents and purposes the substitution of our current colonial status, one can change the name, but the status is colonial except that we will have two and not one so called administering power and the suggestion that all this could be neutralised, as I say even leaving to one side the Spanish issue but the suggestion that this can be neutralised by the idea that Gibraltar can have more self Government is an absurdity in the context of the European Union which results in most of our internal affairs being in effect as far as Britain and certainly as far as Spain would argue it an external affair which would become part of their responsibility and not ours. So, for the people of Gibraltar to be offered as one of the alleged inducements greater self Government is a complete distortion of the reality because the reality is that even if given that, most of Gibraltar's affairs as the affairs of the United Kingdom and others are EU related and that the EU increasingly treads into more and more areas of public life, legislative, executive spheres, and that that is going to continue to be so, the areas in which Gibraltar will actually be able to exercise greater degrees of self-Government will shrink and shrink and shrink and even if it were the case that Britain is today willing to gloss over the Constitutional distinction between internal and external and allow us in large measure to continue to exercise domestic competence in matters of the European Community one can be sure that Spain will not take the same view. Therefore, Mr Speaker, this Referendum is not about settlements with Spain. This Referendum is not about dialogue. This is not a Referendum as some people believe it is about whether this is the last chance saloon for Gibraltar, this Referendum is about whether we believe that Britain and Spain sharing the sovereignty of Gibraltar is (a) what the people of Gibraltar want and (b) whether it is what the people of Gibraltar want because it is in Gibraltar's best interest. The Government plainly believe that it is not so.

As the motion recites the statement by Mr Straw in the House of Commons on the 12<sup>th</sup> July was in direct defiance of the will of the people of Gibraltar expressed openly and clearly with heartfelt

passion and with plea. It is also, although this is not for the first time, a defiance and ignoring of the unanimously expressed will of this House. That at least is not for the first time but certainly I think it is for the first time that the entire population of Gibraltar should ask something not to happen in a demonstration and that within months that very thing should be perpetrated and visited upon us by a Foreign Secretary of the British Government. I think the House is entitled to both regret and condemn the statement by Mr Straw on the 12<sup>th</sup> July as recital (3) of the motion does and on the basis of what I have just said I believe that the House is also entitled to declare as in recital (4) that Mr Straw's statement amounts to a violation of our right to self-determination because it is genuinely thought that we have the right to self-determination. Even if the right to self-determination curtailed us to independence he would not be free to have a unilateral statement, bilateral between them unilateral in the sense that it excludes us, of the principles allegedly applicable to the political future of Gibraltar and it is worth remembering that the formal position of the British Government last stated in the House of Commons on the 6<sup>th</sup> November in answer to a question by a Labour backbencher Mr David Crausby, and stated every year most recently in May of this year by the British Government to the Covenant Committee for civil political rights and the economic and social rights of the United Nations in Geneva which I addressed earlier this year also in that document the British Government give the same answer on the question of what are our rights to self-determination as they gave then to Mr David Crausby on the 6<sup>th</sup> November in the House of Commons and they say, "*...of course the people of Gibraltar have the right to self-determination but because of article 10 of the Treaty of Utrecht they cannot opt for independence without Spanish consent.*" Let us leave to one side the caveat except that they cannot opt for independence without Spanish consent. We question it but we are not asking for independence so the caveat is not invoked. If one removes that caveat there is an unqualified statement of the right to self-determination of the people of Gibraltar and that right to self-determination even as subscribed to or allegedly subscribed to by the British Government is violated by Mr Straw's declaration because Mr Straw can only be doing one of two things

on the 12<sup>th</sup> July either he is violating our right to self-determination or he is purporting to settle a territorial sovereignty dispute ahead and in priority to our right to self-determination and at the expense of our right to self-determination and both are objectionable in equal measure.

Mr Speaker, the language in recital (5) "*.....wholeheartedly welcomes the Gibraltar Government's announcement that a Referendum will be held in Gibraltar to give the people of Gibraltar the opportunity of deciding, by a formal and deliberate act and in a free and democratic manner, whether they approve or disapprove of the principle of joint or shared sovereignty of Gibraltar between the United Kingdom and Spain,*" is not in concept new language. We have chosen it because this House passed a Referendum almost in exactly the same terms in 1967 on the occasion of the Referendum at that time and reading to the hon Members from the minutes of the House it says, "*....the Chief Minister moved the following motion – That this House whole heartedly welcomes the British Government's announcement that a Referendum will be held in Gibraltar to give the people of Gibraltar the opportunity of deciding by a formal and deliberate act and in a free and democratic manner which of the two alternatives to be offered by the Referendum will best serve their interests for the future.*" And given that this House wholeheartedly welcomed the British Government's announcement of a Referendum in 1967 we thought it would be a nice touch if this House were to warmly welcome the same decision by Gibraltar's own Government in the circumstances which we all know currently prevail. Therefore in paragraph (6) the House ratifies, approves the decision of the Government to call a referendum and joins in the calling of such a referendum and also in the question to be put which has already been read and I will not read again the first paragraph is the relevant recital from Mr Straw's declaration of the 12<sup>th</sup> July and the second paragraph is the formulation of the question in its simplest form. Government understand and appreciate that the Opposition Members may have put a different question and indeed on different issues but the Government having made the decision

that the Referendum should be limited to the issue of joint sovereignty which is what has triggered the Referendum I hope the hon Members will agree that that is the simplest and shortest formulation of that particular question. The House ratifies and approves the date, the appointment of the Referendum Administrator, the appointment of the Committee of civil servants to run the Referendum and the rules under which it will be done. This document called Administrative Instrument to the Referendum Rules is based on both the 1967 Referendum Regulations promulgated by the British Government and also where the circumstances are different and require it our own electoral rules, in Gibraltar. The Referendum Rules 2002 will be an administrative instrument, they will enjoy if passed in this House attached to this motion, political parliamentary cover but they will not have the force of law and therefore because they do not have the force of law they do not contain any of the usual rules creating offences. Hon Members will be aware that under the General Election Rules there are a lot of offences misbehaviour, fraud, dishonesty in answering questions those sort of things that create offences with fines, because this document does not enjoy the force of law it does not contain any such issues nor does it contain issues which would give a right of access to the courts of law. In other words this is a politically convened Referendum with the support of the Legislature of Gibraltar, the political support of this parliament if we pass this motion and we are agreeing informally a set of administrative rules and guidelines by which the civil servants running the Referendum will be guided so that people will know that there is a formal structure and regime and that that follows very closely the normal election procedures in Gibraltar.

Paragraph (11) recites the three groups of people that will vote. Hon Members will recall that in the 1967 Referendum convened by the British Government only resident registered Gibraltarians were allowed to vote and there has been some issue this time round as to whether that should be extended to non-resident registered Gibraltarians. There has been some controversy I would simply wish to repeat for the purposes of Hansard in this

House what I have already said publicly in another place and that is that this is an issue upon which the Government have consulted as widely as it was possible to consult, that there is a massive consensus of view, that the vote should not be extended to non-resident Gibraltarians, that none of the people that expressed those views and obviously the hon Members will speak for themselves later but I believe that when they offered the Government advice it was as true of them as it is of us. That no Gibraltar political party has anything to gain by suggesting that the non-resident Gibraltarian should be excluded and I am entirely satisfied that everyone that has offered the Government advice on this issue including the Government itself because that was our view as well has been motivated on that question exclusively by the wider and longer term interests of Gibraltar and that certainly all the affected people who felt strongly of all the ones that have approached me some of them met me in London when I have been here and there and some have stopped me here in the street, when I have explained to them the reasons which motivate this decision almost all of them have agreed and accepted that it is on balance in the best interests of Gibraltar that it should be so.

The other issue that has arisen in respect of the right to vote is this business of extending the franchise to resident British subjects. There is an issue there but ultimately the Government's decision reflects the view that the concept of citizenship has changed and has evolved in the last 30 or 35 years and that given that what is at stake is our British sovereignty that it is right that non-Gibraltarian British nationals who have demonstrated a commitment to Gibraltar as their home should have a say in this Referendum, of course the number of years due attached by way of residence to demonstrate that fact is a matter of opinion and choice. Hon Members may wish to be aware that there were organisations that we consulted in the Council of Representative Bodies that were suggesting that it should be just three years others were saying five, others were saying 15, we believe that 10 is a reasonable period of time. Someone that has been resident in Gibraltar for 10 years is unlikely to be here because of a



posting. Most jobs do not post people abroad for as long as 10 years and therefore it is likely that they are here because they regard Gibraltar as their home and that decision has been made and I hope that it will be accepted by all as a necessary social evolutionary phase of the concept of who constitutes the community and people of Gibraltar.

I hope the hon Members will share my view that there is quite an impressive list of observers. We would have liked to have a few more non-British or British connected observers but the reality is as I am sure the hon Members will understand that there is this concern amongst third countries not to become involved in what they consider to be a dispute in which there is nothing for them and the tendency just to sort of keep one's head below the parapet wall and not alienate and not upset the British and the Spanish governments is a strong feature. Let me say that we have the best sort of evidence to suggest that the British Government have tried to discourage even some of the people that are on this list from accepting their appointments and therefore I think it is a credit to the very considerable number of high ranking people, the speakers of all the parliaments of the Channel Islands, Jersey, Guernsey, the Isle of Man, representatives from all the parliaments in the British Isles only Cyprus is missing, Labour, Conservative and Liberal Democrat MPs, the Electoral Reform Society which is proving very useful to us, the Chartered Institute of Journalists, British Trade Unionists and the other people that I have mentioned. I would like to extend my gratitude to the Leader of the Opposition for having recruited Mr Mark Seddon the Member of the UK Labour Party National Executive Committee to serve on the panel of observers. One thing will be clear and that is, that when this Referendum has been held under the auspices of this impressive and august list of people it will not be open for anybody with credibility to seek to impugn the result on the basis of the conduct of the Referendum if and when this panel of observers has as we would expect it to confirm that the Referendum has been properly and fairly conducted.

Finally, Mr Speaker this motion declares the vital importance of this question to the future of Gibraltar and urges all entitled voters to cast a vote in the Referendum. This Referendum is ultimately about whether what should prevail is the rights and aspirations of the people of Gibraltar and our future generations or the pragmatic management of Anglo-Spanish relations within the European Community on the other. We believe that there should be good Anglo-Spanish relations, we think that it is good that European Community business should be properly and conveniently conducted but what we do not think is right is that either of those things should be procured at the expense of the principles applicable to our political rights as a people. This Referendum is therefore about whether people believe that in the name of parking this problem if indeed they are not going to do their declaration, there are two options, either the British and the Spanish governments do their declaration of principles which has still not been done bilaterally in which case they would have done it in the face of the Referendum result whatever it turns out to be, or alternatively they will not sign this declaration of principles and if we do not have this Referendum the matter will be kicked into the long grass on the basis of Mr Straw's statement of the 12<sup>th</sup> July. In other words, not removed, not the damage undone, but put in suspended animation on the basis of a statement by the British Foreign Secretary that Britain thinks that the right thing to do is to share sovereignty so that the next time that the moment is judged apposite to revisit this issue that will be the starting point and in the meantime in effect the British and the Spanish governments which refuse to submit to judicial analysis of our claim and our rights to self-determination will have resolved those questions against us in the political court because frankly it will be very difficult for Gibraltar with any prospect of success to continue to politically advocate for its right to self-determination when Britain signs up to a political declaration that says, *"...I the administering power believe that the correct principle applicable to the Resolution of the future of Gibraltar is that the colonial power (Britain) and the third party territorial claimant (Spain) should share the sovereignty of Gibraltar."* If we do not have this Referendum and they do not do their declaration of principles that

would be the last word on the matter, Mr Straw's July declaration, will be the last word on the matter for as long as they decide and I believe and this is why the Government principally have convened this Referendum that the people of Gibraltar need to answer Mr Straw's statement of the 12<sup>th</sup> July. So, that if they do not do a declaration the will of the people of Gibraltar democratically expressed will be the last event to have occurred rather than Mr Straw's statement on the 12<sup>th</sup> July so that if there is any kicking into the long grass or freezing of the position it would be frozen on the basis of our Referendum result and not on the basis of the statement of the 12<sup>th</sup> July. I commend the motion to the House.

Question proposed.

#### **HON J J BOSSANO:**

Mr Speaker, as is known we shall be voting in favour of this motion and we shall not be seeking to move any amendments since we have already transmitted to the Government the areas of the original draft and these have been incorporated in some of the changes that have been announced today. My contribution in support of the motion therefore is not going to consist in questioning the way the Government see the situation but in simply exposing the way the Opposition Members see it which does not coincide 100 per cent with the Government's analysis but irrespective of the fact that the analysis might be different the conclusions are the same. We do not agree with that analysis precisely because we have not been in agreement on what the Brussels process was about for a very long time. When the Chief Minister first stood in 1991 he saw nothing wrong at all in the Brussels process although I think with the passage of time he has been seeing more things wrong with it than he did at the beginning. Even the 12<sup>th</sup> July statement by Jack Straw does not appear to have convinced him totally that what Jack Straw was telling the House of Commons on 12<sup>th</sup> July was that the only

possible negotiations under the terms of the Brussels Agreement were the negotiations Spain has been saying were intended since day one. The fact that Jack Straw has said on the 12<sup>th</sup> July the United Kingdom is willing to enter into an agreement to share sovereignty with Spain is the first time that the British Government have said that they are willing to do it but the sharing of sovereignty with Spain was proposed by Spain the day the frontier opened in February 1985 and the British Government did not say 'No' instantly it took a lot of pressure from Gibraltar and a lot of years before they actually rejected it and they rejected it even then not with a flat 'No' as we would have wanted them to, they rejected it even then by saying that it was not an acceptable basis for the negotiations because it predetermined the final outcome. So, if we take the rejection of the Moran proposals which said we are against joint-sovereignty because it predetermines the final outcome because it is with an expiry date of the joint sovereignty what they were objecting to was the expiry date not the joint sovereignty and what Jack Straw has told the House of Commons we will not accept joint sovereignty with an expiry date. We will accept joint sovereignty if it is, at one stage it was said or indicated that it was forever and subsequently it became durable whatever that may mean, of course Matutes has already been hinting at a 100 year shared sovereignty deal I do not know whether 100 is durable or not durable in the terminology or the definition of the word durable by the Foreign Office but if 100 years is taken to be durable then in fact what Jack Straw was signalling was that the Matutes proposals which had not been rejected in July when the Brussels Process was relaunched were effectively capable of being accepted as part of a wider package which included other things. So, we are dead against the Jack Straw statement because we have been against everything that the British Government have been doing since they signed the damned Brussels Agreement in 1984 which has been a disaster for Gibraltar.

The Chief Minister said that it was the first time that the British Government had ignored a demonstration by the people asking them not to do something and they had gone ahead and done it

and that it was not the first time that they had ignored the wishes of this House. He is in fact wrong it is not the first time and I have no doubt it will be the last. I am not sure whether the 1987 Airport Agreement was a first time there might have been another one before that but I can tell the House that those of us who were here in 1987 saw a situation in which in some respects was even worse than what they have just done now because in 1987 this House jointly called the demonstration, jointly led the demonstration with no involvement from anybody else in the sense that the banner was the slogan carried by the Members of the House saying "*No Airport Deal*", it was being done coincidental with the visit to Gibraltar of Mr David Ratford who had been sent to find out our wishes and we told him what our wishes were and our wishes happened to coincide with the view expressed by Sir Geoffrey Howe in Luxembourg on the 7<sup>th</sup> July and we were expressing our wishes in August so here we have a situation when the British Government were saying, "*...it is scandalous that the Spanish should want the deal which is in effect a negation of the rights of the Gibraltarians as citizens of the European Union and there is no way we are going to be blackmailed by Spain,*" we come out with our usual flag waving enthusiasm supporting the line that Geoffrey Howe had already publicly defended. We do it in response to an initiative of the United Kingdom saying "*we want to know what you think.*" We are sending somebody out on a fact finding mission to sound out local opinion and then they probably do the very opposite of everything we have told them to do and everything they themselves have intended to do, so I think not only was the response of the British Government to the March demonstration not the first time but in fact they have done it even on worst terms because on this one they did not want us to have the march and they did not want us to tell them but on the other one they actually invited us to tell them and then because we did not tell them what they wanted to hear they promptly ignored it. That is the way colonial powers behave so we have to accept that this is what colonialism is about. Colonialism is that the Colonial power will consult the colonial people when it suits the colonial power and provided that the result of consulting the colonial people is that what happens is what the colonial power does but they are able to

blame the colonial people for it if it goes wrong. If that dynamic is not present then the consultation is not worth having. What Jack Straw said in the House of Commons was indeed a gratuitous give away of the British Government's negotiating position but I think that it is worth remembering it with what he prefaced it with and he said and he is right in what he said that for the case successive British Governments have tried to persuade the Spanish Government to go about it in a different way and the position of successive British Governments not just since Brussels but indeed going further back since the start of the thinking together of Sir Douglas Alex Home and I think it was Lopez Bravo or Lopez Godoy on the Spanish side when they started thinking together and working together and they almost went to bed together as I recall the slogans we used at the time that was a scenario in 1971 before the Strasbourg talks, in which the British Government's position was to say to the Spanish Government, "*In principle*" they were not saying it in public but it was self-evident and in fact the papers that are coming public now are already showing what was happening and are already showing that the British Government as far back as 1971 was dangling the shared control of the airport even in 1971 three years or four years after our last referendum they were already dangling the carrot of sharing the airport and Sir John Russell who was the British Ambassador in Spain was given the green light as the confidential papers that have now become public show by the Foreign Office to make this offer but to add that it was his own initiative and take the blame for it if it became public, and it became public because it got leaked and it was published by the Times and it was finally because the Spaniards insisted that the deal would involve and there were supposedly positive things for the Gibraltarians in the package. There was the restoration of the frontier opening in 1971 and the direct communications of flights, that was available in 1971 so things were being offered by the Spanish in exchange for a deal which was an initiative of the British side to share the airport in 1971 and it fell because they insisted that there had to be the Spanish flag flying at the airport and the Foreign Office said that the British Foreign Secretary would not get it past the House of Commons. So, what is new is that it is in the open and that it is being admitted and although that

is a dangerous thing for Gibraltar because those concessions that are now being spelled out in the House of Commons are the starting point of any other formal negotiations that may follow at least if the illness is out in the open it is easier to prescribe the medicine and if the illness is hidden as it has been many years in the past we have been divided in Gibraltar between those of us who have been advocating that the British Government was up to no good acting behind our backs and against our best interests and others who said we must have trust in the British Government because they are our only and best friends. Well the conduct of the British Government has not been the conduct of a best friend. It has been the conduct of a colonial power and not just to us. The Chief Minister said, "*Would the British Government do it with the United States over Bermuda,*" the answer is no there is no prospect whatsoever of the United Kingdom doing this to Bermuda with the United States. He is correct but is not correct in thinking that there is something special about Bermuda that prevents it the only thing that prevents it is that the US does not want Bermuda. If the United States had a claim on Bermuda the Bermudans would be in as much trouble as we are. I have absolutely no doubt about that because the proof of the pudding is that the Falkland Islanders had been in the same situation or even worse because of the Argentinian claim and one has to assume that the United States has more clout than Argentina in bending the United Kingdom's arm and in 1968 as has now been revealed a year after our Referendum and when the United Nations was being told by the United Kingdom that the sovereignty of Gibraltar and the sovereignty of the Falkland Islands were not negotiable and that the question of sovereignty was not a matter of decolonisation and not within the competence of the Committee of 24 when that was happening there was a secret memorandum of understanding which is now a public document in which the British Government recognised the Argentinian sovereignty over the Falkland Islands. If they are prepared to do it to the Falklands they would do it to Bermuda, the Cayman Islands and anybody else in which there was a conflict of interests between the interests of the colony and the interests of the colonial power. That is what colonialism is about and we are a colonial people and because we are a colonial people we are

entitled to self-determination and this motion is a denial of our self-determination and we must accept that it is a denial because we have to stand up to the colonial power. It is no good saying we want to have our self-determination recognised and then we run with the tail between our legs everytime there is an issue of having to stand up for those rights because we are afraid of upsetting the UK Government and that has been one of the problems that our people have faced over the years. We have to be united but we have to be united in having the guts to stand up for those rights.

As far as we are concerned this is a very important Referendum, perhaps more important than the 1967 one because at the end of the day the 1967 one which was rejected by the United Nations was called by an order in council by the colonial power and this one is being called by the colony's parliament. The motion and the previous motion that we sent to the United Kingdom and this one keeps on referring to the United Kingdom not entering into any agreement on sovereignty with the Spanish Government against our wishes. For me it is clear that that means that before they can negotiate any deal to settle Spain's sovereignty claim they have to obtain our approval and therefore as far as we are concerned the Referendum which says, "*....do you approve the sharing of sovereignty with Spain, Yes or No?*" If the answer is 'No' as we expect it to be then it closes the door for evermore until a subsequent Referendum reopens it to any sovereignty negotiations with Spain because if there is a Spanish claim on sovereignty a Spanish claim on sovereignty can only result in either Spain obtaining some share of the sovereignty short of 100 per cent whether it is 99 per cent or one per cent or Spain's sovereignty claim being rejected, period. If one is rejecting the sovereignty claim out of hand as we believe it has to be because Spain does not accept our right to self-determination and therefore one is the antithesis of the other and Spain tells us every year at the United Nations that the negotiating process is based on the principle of territorial integrity. Indeed in her first speech to the General Assembly last month Ana de Palacio has reminded the General Assembly that any interference with the

Brussels negotiating process would be in conflict with the principle of territorial integrity upon which those negotiations were based and the other negotiating party has not said this is not true, the negotiations are not based on that. The Chief Minister's interpretation of that phrase was that she was referring to the Referendum we are calling today and that the Referendum we are calling today in fact is seen by Ana de Palacio as an attempt by us to interfere with the Brussels negotiating process not with the Jack Straw statement, "...with the negotiating process," those were her words which she claims is a negotiating process based on the concept of territorial integrity with the approval and endorsement of the United Nations. There is no doubt that the disastrous Brussels Process does have the endorsement of the United Nations I wish it was possible to argue otherwise but it is absolutely crystal clear from the 1985 consensus Resolution of the Committee of 24 that welcomed it and from the one that has just passed which urges both sides to carry on with it after the 12<sup>th</sup> July statement in the knowledge that the 12<sup>th</sup> July statement has clearly without a doubt defined the process in the terms which are consistent with the Spanish argument all the time, Spain has been telling the people of Gibraltar from day one from the day the motion was brought to this House of Assembly, Spain was telling the people of Gibraltar ".....however much we may dislike the idea we have to accept that Spain has been more honest with the Gibraltarians than the Foreign Office has been," and Spain has said from day one, "I am opening the gates for one reason and one reason only and that is in exchange for the British Government sitting down with me to discuss my claim to the sovereignty of Gibraltar," That is the reason and without (b) there is no (a). This was not a gesture of goodwill, this is not an attempt to woo the Gibraltarian this was not something that the United Kingdom insisted Spain had to do in order to enter the European Union, no, this was something that could have been done at any time since the day the frontier closed, at anytime, because it was saying yes, to what had been a no and it was the no that closed the gates and it was the yes that opened it. When the United Nations told Spain and the UK sit down and resolve your differences and settle Gibraltar's future and we rejected the Castiella proposals in our last Referendum the British

Government took the view that there could only be informal talks but there could be no commitment to discuss sovereignty and Franco closed the gates and then 16 years later the United Kingdom agreed to discuss sovereignty and a democratic Spain opened the gates. Franco was prepared to do that if we had been prepared to say the same thing to him as we said in the Brussels Agreement. So, where does that leave Gibraltar now? Well, it leaves Gibraltar now with a statement of policy by the British Government that says, "...the British Government believe that the only way forward," not even the best way forward, "...the only way forward in which they can enjoy a secure and prosperous future is for us to settle the Spanish sovereignty claim because there is no other way in which we can deliver to the people of Gibraltar a friendly Spain." I believe Jack Straw is saying the truth in that he cannot deliver a friendly Spain any other way and he cannot deliver it because the only other way would have been to stand up to Spain from day one and having capitulated to Spain for 30 years it is too late for the British Government now to do what it should have done a very long time ago. If they had stood up to Spain on day one then we would not be in the mess we are today and if this House had stood up for Gibraltar's interest from the beginning which regrettably it has not done in the past because the House Of Assembly was given the opportunity of rejecting the Brussels Agreement in 1984. The one thing we can say is that unlike what we are saying about the present British Government we cannot say about the Conservative Government in 1984 that they imposed the negotiating process on Gibraltar, they did not. The Lisbon Agreement was imposed on Gibraltar because the Lisbon Agreement was announced when it was reached between UK and Spain and I remember that Sir Joshua Hassan and Peter Isola appeared like two ghosts on television in a state of shell-shock because they were hearing it for the first time on the news and they rushed off to London and they came back to reassure the people of Gibraltar that they had been in turn reassured by the Foreign Secretary that we had nothing to fear. That was in 1980, fortunately for us nothing happened then but when they came back in 1984 they improved on what they had done in 1980 because the 1984 agreement said it was the putting into effect of

the Lisbon terms but of course expanding them to make it absolutely clear that the issues of sovereignty in the plural were going to be discussed something which we had never accepted in this House before then and when this was brought to the House the position of the Government of Gibraltar was that it entered a reservation on the question of sovereignty and that in any case the Brussels Agreement excluded the Gibraltar presence as part of the United Kingdom delegation from the part of the negotiations that dealt with sovereignty. The negotiating process were going to be split in two and sovereignty was a matter which was for the United Kingdom and Spain alone and we voted against, walked out of this House, collected signatures and asked for a Referendum then, at the beginning in 1984. Today fortunately the House is united in calling a Referendum but we have never had any doubt that what was being agreed then was a route that could only end in one place the place where we are today which is a place in which Spain told us from day one they never said anything different they said this is what this is about and the British Government are now telling us that trying to persuade Spain to win the hearts and minds of the Gibraltarians is an exercise that has been tried for 30 years has failed, the Spaniards do not believe that they can win our hearts and minds and therefore they are not willing to make the attempt. I think that they are right. I think that if the Spaniards showered benefits on the Gibraltarians we would pocket the benefits and then salute them in the traditional way that one uses when one does not want to go along with somebody. So, the Spaniards know us well enough I think to suspect that that is the result that it would produce so they are not going to try and in any case why should they? Why should they try and win us over when at the end of the day as far as they are concerned they do not need our okay? They do not particularly want to recognise that they need our okay because even that for them is the thin edge of the wedge which would enable us to build a case saying Spain is recognising our right to self-determination so as far as Spain is concerned although it would be as Señor Moran used to say, "*...not a good business for Spain to have the British hand Gibraltar over against the wishes of its people on a plate, no Spanish Foreign Secretary should say no if it happened, although it would not be a good*

*business for Spain.*" And Fernando Moran was the first Spanish Foreign Secretary of Spain that recognised the desirability of winning Gibraltar consent but that was it however desirable the Spanish position is that unless somebody can guarantee that the concern is going to be forthcoming they are not lifting a finger. Where are we going to be left then after the Referendum? And clearly the House in this motion is asking everybody to vote in the Referendum my own preference would have been to say to everybody to vote 'No' in the Referendum but I accept that all these electoral observers would want the House not to make a recommendation although I think that given that the House itself has rejected the position indeed it seems to be not just as political parties but as a House of Assembly we are perfectly entitled to say to the people "*we recommend to you that you vote as we intend to vote which is as we have already voted in the Resolution that we passed in this House in March*" and therefore the people of Gibraltar are being asked effectively to choose between two options even though there is only one question on the voting paper. We proposed originally that there should be two options but we accepted the Government's view and we are supporting that it should be one option but I think implicitly they are voting for two options because the one option is to say 'yes' to Jack Straw and the other option is to say 'yes' to the House of Assembly and if one says no to Jack Straw then one is taking the same position as the House took before Jack Straw made the statement and the motion was intended to pre-empt and prevent that statement being made and it is clear that the British Government decided to disregard the view of the elected representatives of the people and therefore they are likely to disregard the views of the people that reflect the same sentiment and indeed the Foreign Secretary has already said that he does not see the need for the Referendum because he already knows the result so it is quite obvious that the result is not going to change his mind because he knows it the same as we all do or we all expect it to be which is that there will be an overwhelming rejection of the British position on the sharing of our sovereignty with Spain. The position therefore is that there may or there may not be a joint declaration and if there is no joint declaration it will either be because of the red lines or because they have decided to shift it

into the future but certainly neither the British nor the Spanish government are going to admit publicly that they are not going to make a joint declaration because of the result of the Referendum. Obviously the result of the Referendum creates a problem for the British Government and we are of the view that the sooner we create that problem the better and the earlier down the route we stop them or try to stop them the better but we accept that it is a matter of judgement and in the judgement of the Government they had to wait until the Straw statement was made before they went down the Referendum route and we are supporting the Referendum on the basis of the timing that has been decided by the Government but, Mr Speaker, the British Government's position after the Referendum is bound to be that if they are able to reach an agreement with the Spanish Government, if they resolve the red lines issue then that agreement will stay there on the shelf unless we decide that we want to get involved in making it more sellable and making it more palatable to Gibraltarians in order to put it to them in a Referendum. That is the formulation that was made by Jack Straw when he explained what the joint declaration would be. The joint declaration he said would be a statement of intent by the two Governments, a policy statement saying, "*...we (the British and Spanish government) believe the way ahead for the Gibraltarians is this.*" The British Government will argue that in order to do that they do not need our consent in order to state what their policy is on Gibraltar they do not need our consent and that that is the policy that is consistent, as I have said on innumerable occasions to the Conservatives, consistent with what Sir Geoffrey Howe and Margaret Thatcher agreed in 1984. Whether we agree or whether we do not agree that is the position with the British Government I do not think that there is any question about it. As far as they are concerned what is happening today is consistent with what was agreed in 1984 it certainly consisted with discussing sovereignty which is in the text of the Brussels Agreement and it certainly consisted with the Moran proposals of 1985 which Moran made clear was coincidental with the opening of the frontier because it was the negotiations of those proposals that was making it possible for Spain to lift the restrictions or partially lift them.

We believe and have said when we called for a Referendum last November that the people of Gibraltar should be left under no illusions as to what this step means. In our judgement this step means that we are effectively doing what is right as a colonial people in defending our exclusive right to decide Gibraltar's future in which nobody else has any right except us and doing it in the knowledge that this is in conflict and in contradiction with what the United Kingdom and Spain have agreed is the way ahead. That what the United Kingdom and Spain have agreed as a way ahead enjoys the support of the United Nations and has done since 1985 and continues to do every year, it has just been reaffirmed and will be reaffirmed by the General Assembly in December and that what Spain and the UK want to do enjoys the support of the rest of the European Union. In the knowledge of all those things we must stand up and say 'No'. In the knowledge that with it may well come an even unfriendlier Spain but at the very least a Spain as unfriendly as it is today and an even more pathetic UK if that is possible in terms of the defence of our interests. In the knowledge of that we must still say no so I do not believe that we have got to urge our people to say 'No' to the Jack Straw position by painting a rosy path ahead but by saying to the Gibraltarians, "*you must stand up and be counted,*" and anybody frankly that votes in support of the deal with Spain in the judgement of the Opposition is not worthy of calling himself a Gibraltarian because in fact the route that is taking Gibraltar down is a disaster for Gibraltar and anybody that does that is either blind to the consequences or does not care. Therefore when we come to the United Kingdom citizens of 10 years of being able to vote in the Referendum our only concern has been that this Referendum is about self-determination, are we saying then that in the decolonisation of Gibraltar and in the exercise of our right to self-determination which is what we are claiming to have in this Referendum, we are claiming that our right to self-determination extends not just to the implementation of any decision to decolonise Gibraltar but even to the adoption of any policy by the British Government which in our judgement conflicts, contradicts, or undermines that right to self-determination. I believe that that is in fact what the United Nations Charter says. The United



Nations Charter says colonial powers should not behave in the way the British Government are behaving, they should not go round battering the rights and the future of colonial peoples in order to settle their bilateral relationships and improve them with third parties but if the United Kingdom citizens that have been residing in Gibraltar for 10 years and consider Gibraltar to be their home should be included in the decision as to Gibraltar's future because it is not just a question of Gibraltar being or not being British, it is the question of us having the decision to decide Gibraltar's future or not, the right to self-determination, then I believe the Gibraltar Status Ordinance must make it possible for those who can vote in a Referendum to acquire the status of being Gibraltarians and that way we square the circle. Then we can say the Gibraltarians are deciding Gibraltar's future even though the Gibraltarians may be those who vote in the Referendum to decide whether sovereignty should be shared or not shared. I am sure that UK citizens that feel that Gibraltar is their home would welcome the opportunity to be able to say they are British Citizens and Gibraltarians particularly now that under the nationality act it is open to anybody in Gibraltar to acquire and in all the other colonies to acquire automatically United Kingdom citizenship and therefore there is no real distinction in terms of nationality but in terms of what we believe we will need to do eventually and what we believe we will achieve eventually irrespective of how high the odds appear to be against us which is a self-determination referendum to decolonise Gibraltar we believe that will happen we believe we will achieve it and we believe we must work on that Referendum as soon as we get this one out of the way so that we get to the stage where the people of Gibraltar then say this is the way I want to be decolonised. When that happens then we think all those who voted in this Referendum would expect to be included in that other one and therefore their position as Gibraltarians should be put right between now and then.

Mr Speaker, as I said in my opening address some of the elements in the analysis of the Government do not coincide with our own analysis of this situation but we are very happy to put it on the record in Hansard so that it shows to where we believe

the analysis should lead us to and where the Government have explained their analysis situation to put that on one side and say, *"After today what we have to do is work together to ensure a massive rejection of the British Government's position on the 7<sup>th</sup> November."*

Mr Speaker, just one final point that I want to make which is that the Regulations, the Administrative Rules that are being adopted by the House today provide that the claims and amendments to the draft final list should be in no later than seven days before the Referendum. There was in our view a conflict between the five days and the seven days and this is being corrected today by having seven days put in terms of the time limit but it is seven days within a period of time to be decided and announced by the Referendum Administrator. The Referendum Administrator in his wisdom has decided to close the time limit for inclusions or objections at 7.00 pm on Saturday 19<sup>th</sup> October 2002 and since it is open to him by the will of the House contained in these rules to wait until seven days before the Referendum, yes it is, it says here in Claims and Amendments, *"....Any notice under subrule 1 delivered to the Registration Officer within a period of time to be decided and announced by the Administrator at the times he publishes the final voters list being a period of not less than five which is now seven days prior to Referendum day shall be disregarded,"* Therefore it cannot be later than seven days unless the Referendum Administrator has chosen an earlier date. So, if the House is giving the Referendum Administrator the opportunity of saying I will not entertain any changes to the list after the 1<sup>st</sup> November then why has he chosen the 19<sup>th</sup> October?

We have attached a great deal of importance to people being removed from the list not just being added and the reason why we have done that is because it is possible that there could be many hundreds of people on that list who should not be on the list according to the criteria for inclusion that have been published and who would not vote but if those people do not vote then it would be impossible for others to argue that there has been a



much higher abstention rate than the last time and that the much higher abstention rate reflects the 'yes' votes who did not want to be seen or did not want to go or were intimidated or whatever. Irrespective of the panel of notable observers that we have who will be able to say without a doubt that the Referendum will have been conducted in accordance with the highest standards required in any democratic Referendum anywhere in the world, of that we have no doubt. The British Government are not questioning whether we do the thing properly, the British Government are questioning whether we do it at all so that will cut no ice with them but certainly it would prevent Ana De Palacio repeating the position that Señor Castiella took in 1967 of saying that we are all being marched into the polling booths with the Royal Navy pointing the guns at us from the Bay they will not be able to claim that on this occasion.

There appears on the basis of the analysis that we have carried out so far to be several thousand people who were included in the Register of the last elections in the year 2000 who are absent from the Referendum Register and several thousand people who appear in the Referendum Register who are absent from the 2000 register therefore the discrepancy between the two that is the people who have disappeared and the people who have appeared is very substantial and there is only a week to sort this out and we do not think it should be a week we think it should be longer. Let me say that this is not a reflection on the very hard work that has been put in by a lot of people in a very short time to try and produce this, we know that. We know that the civil servants engaged in this exercise have been working round the clock against a very tight deadline, frankly it could have been started earlier, there was no reason why the preparation for the register could not have started before a decision was taken as to whether to go ahead with the Referendum or not because it could have been ready but it did not happen so it is no good crying over spilt milk. The point is that this is where we are today and that therefore given that the Regulations that the House is voting allows a later date than the 19<sup>th</sup> October 2002 we think that it should be a later date than the 19<sup>th</sup> October maybe an additional

week and we feel that welcome as it is that we have now included a provision for objections and a form for objections we ought to include in the advertisements where people are being told that they can go there to say they have to be included or to amend the details of their inclusion that they can also go there to say so and so should be excluded. There was no provision for it when the first drafts list came out. There is a provision in the final draft list but the advertisement reminding people that they should go and look at the final draft list tells them to go and check if details of their entries are correct it does not invite the public to bring to the notice of the public servants there the inclusion of people who should not be there even though we are now making such a provision under regulation 9 and we are now including a form to do so and therefore we believe that the Referendum Administrator should bring this to the notice of the public it is no good having it in the rules if we have not told them in the adverts.

Mr Speaker, this is all I have to say on this and also say that it is very welcome and that we are in fact delighted to welcome the announcement by the Government that the Referendum is being held on the 7<sup>th</sup> November and we have no problem in saying so and if the House of Assembly or the Legislative Council in 1967 welcomed the announcement by the British Government we should welcome even more the announcement by the Government of Gibraltar and the opportunity that this House has to jointly call the Referendum and we shall certainly be voting in favour.

#### **HON CHIEF MINISTER:**

Mr Speaker, if I could take some of the points that the hon Member has made in reverse order so dealing first with the last one that he has made. The hon Member knows from a conversation that he has had with the Chief Secretary whom I asked should speak to him to put his mind at rest that it is not true that several thousand people who should not be there are

there and several thousand people who should be there are not. It is not true. He keeps on asserting it, the administrative staff involved in this exercise at highest level keep on assuring him that it is not true and he continues to assert it notwithstanding therefore the hon Member has got to understand that I am not going to destroy the consensus between us on the basis of his assertions but on the other hand he has chosen to make the assertions and therefore I must be as free to make the counter assertion as he was to make the assertion in the first place. It is not true the hon Member will see when the results are published of the number of amendments that have been made to the Register at least in so far as excluded people are concerned that it is not sustainable.

Mr Speaker, it is not true that there is only a week to sort this out. Of course it is not true he must have been reading the Chronicle and the other local newspapers and watching television he must be sick and tired, the organising committee published a list from a number of sources bearing in mind that the Register of Gibraltarians was very out of date and various other administrative problems that existed they published a list which was no more than a first draft and people have had more than two weeks the first time round to make representations about themselves being missing. I accept what the hon Member says that they were not encouraged to object about other people's inclusion. In terms of the several thousands which he claims are missing *[Interruption]* but there cannot be several thousands missing from the second draft because people have had two or three weeks from the first draft to make representations about their exclusion so if there are several thousand people missing from the second draft, which there are not, but if there were it is only people who have chosen to ignore daily advertisements during the last three weeks inviting them to examine the drafts. The Government have gone to the trouble to put this on the website it incidentally has been very successful most people have checked on the website by the number of hits that we have had, so if there is still somebody missing from the second draft it is someone who has chosen to ignore the last three weeks of

opportunity so it is not one week to sort this out. It is one week, it is a further week, after publication of the second draft which takes already into account the second draft all the modifications made to the first draft following the representations that people made during the first three weeks of window opportunity. So for the hon Member to say that we have to sort all this out in one week is an administratively absurd remark. What he may mean is this, and he would be more justified in making this point than the one he has made, that as the Government have not encouraged people to come forward to object to other people's inclusion and that the Regulations which provide an objection form have only been given publicity in effect today as a result of this motion, that we only have one week to exclude people who should not be there in the first place but there are not thousands even of those because the Referendum Administration Committee has gone to quite a lot of trouble although it understands it has not succeeded in weeding them all out, there will be people there just as there are in general elections. The Referendum Administration Committee has already had a good crack at eliminating from the list people who should not be there. So what we have got one week left to do and this is the best case that he could possibly state which is actually more than one week is to weed out the remaining people who are on the list who should not be there and who are not thousands either. No, I guarantee him it is not thousands either and even if that were the size of the task one week left that is the amount of time that there was in the 1967 Referendum. One week to object for all purposes not three weeks for draft one and another week plus for draft two. In the 1967 Referendum there was one week for the lot, no website, no internet, no television announcements, just one week. Even if there is only one week it is still a perfectly proper period of time in which to do it. The hon Member has been free to given that these Administrative Instruments do not have the force of law the lists have been published I think I am right in saying that the Referendum Administrator has had one or two cases of people pointing out other people's names but no one, the hon Members were free, are free still are free from the day that the first draft was published and say to the Referendum Administrator what is so and so doing on the list he does not live in Gibraltar? That exercise is as free

*[Interruption]* It has nothing to do with you? Well if it has nothing to do with you...*[Interruption]* the hon Members appear to show a concern that no one else is expressing and that concern, obviously we would all be concerned that non-entitled people stay on the final list but the concern that the hon Member has which no one else appears to share is that there are thousands of these people. The hon Members have had three weeks to have provided examples of this to the Referendum Administrator who is creating the list and does not need the Regulations to decide whether somebody complies or does not comply with the eligibility criteria. No such representations have been made although the hon Member has expressed the concern that there are thousands but he has not said, *"and here is our view of some of the people who we think are listed,"* but he still has a week to do that if that is what he particularly wants to do and I would share with him the concern that only eligible people should be on the list. After all it was the Government who chose the eligibility criteria why would we choose the eligibility criteria and then be content for people who are not within those eligibility criteria to remain. That is just the worst of both worlds. We have upset some of the people the ones who are not willing to play jiggery-pokery with the eligibility criteria and so we are not at the beginning of a one week process we are three or four weeks down the line of a very intense professionally carried out to which the Government have spared no resources in terms of public advertising to ensure that people get not just the maximum opportunity but that in fact the possibilities have been flogged of people having a chance to make sure that they are on the list with the right name and address and frankly for the hon Member to rubbish those efforts by suggesting that there is only one week left to do the job and it is a pity that the Referendum has been called so late is frankly disingenuous in the circumstances both of the time scale and of the effort that has gone into it. Certainly as far as the Government are concerned we entirely reject those calls because to the extent that he thinks that there are thousands of people on this list that are not he has made no attempt himself to bring them to the Administrator's attention.

The hon Member expressed a concern which we share about non eligible people being on the list which would show a higher percentage of abstentions. I agree that people who are not eligible should not be on the list because they are not entitled to be on the list but I am not sure that his mathematical concerns are justified. He fails to draw a distinction between abstention and turn-out. In a Referendum as in a general election but certainly in a Referendum, and that is in the Electoral Reforms Society's Guidelines on Referendum, the percentage vote for or against one proposition is as a percentage of the votes cast not as the percentage of the people who would have been entitled to vote and therefore the relevant denominator is not the turn-out, it is not the number of people on the register who could have gone along to a voting station if they had chosen to but rather the relevant denominator is the people who did go to the voting station and cast a vote and an abstention is not a member of the public on the Register of Voters who chooses not to vote but someone who goes to vote and casts a vote in blank. If we take a vote in this House and the hon Member is not present in the House to cast a vote he is not abstaining. Abstention requires a vote which is for neither proposition in question, that is an abstention, and therefore in accordance with the Electoral Reform Society Guidelines the result of the Referendum will be such and such per cent for 'No' out of the total votes cast not out of the list of the Register of Voters and that is as it is done everywhere both in referenda and in general elections.

The hon Member I am afraid is still mistaken. He did have when we spoke on the telephone a point as to 9 (2) of the rules and that has been corrected by making 7 also in 10 (4). There was an inconsistency between 9 (2) and 7 (4) which we have recognised and corrected but the anomaly which he continues to assert exists in 9 (2) does not exist. As I have understood him he has said that 9 (2) continues to be in conflict because *[Interruption]* fine, if he accepts that 9 (2) amended as it is now amended does not mean that the Referendum Administrator was not at liberty to publish the second draft on Friday and say closing date Saturday fine. What he was saying was that he could have left it open for

longer so why does he not? That is a different point but there is no inconsistency in the rules and of course it is a matter entirely for the Referendum Administrator as to whether he gives an extension of that period [*HON J J BOSSANO:Not for the Government*] if I say it is exclusively a matter for the Referendum Administrator it hardly seems necessary for the hon Member to say “*and not for the Government*” because exclusively to the Referendum Administrator I would have thought meant that. The Referendum Administrator has other concerns on his mind not least the need to print all these things and to make the necessary administrative arrangements. So, the hon Member said that the Register of Gibraltarians Status Ordinance might now be amended to reflect the 10 year position. That is certainly a possibility but I am glad that he is now articulating that point in the correct fashion and not in the fashion that he was previously articulating suggesting to people that the Government somehow has a discretion which is what he and a spokesman for his party appearing on television programmes have been giving the impression that somehow under the Gibraltarian Status Ordinance there is some sort of discretion to the Governor, I think it is now the Chief Minister it used to be the Governor, a discretion to allow registration under the Gibraltarian Status Ordinance for people who have been residents for less than 25 years. The Opposition Members should read the Ordinance more carefully than that but certainly there is not such a discretion but that is a different point. There is no discretion to make a British subject who has been in Gibraltar for less than 25 years anybody who is entitled is entitled and the discretion is only bestowed in respect of people who have been here for at least 25 years that is the position. A very different thing is that with legislative time available we might in the future amend the Gibraltarian Status Ordinance to reduce that figure from 25 to 10 which is a much more sensible point that the hon Member makes this morning but to suggest that the Government could have made everybody in Gibraltar a registered Gibraltarian between the date that the Referendum was called and voting day is completely wrong and surely is certainly wrong on the mouths of the party who feel that it should be only Gibraltarians that vote. Why should they be against enfranchising British non-Gibraltarians to vote in a

Referendum but be willing to make them registered Gibraltarians it is the same result by different means the fact is that they vote.

Mr Speaker, a point that the hon Member made about what this Referendum means and what it does not mean and I particularly want to say things that will operate on the minds of people who may wish to misinterpret this Referendum and find themselves voting ‘Yes’ under a misillusion about what this Referendum is about. One of the points at issue generally in the political process that has taken place during the last 12 years is that even those people in Gibraltar and we know that they exist who want to negotiate a settlement with Spain are not being given the possibility of doing so, even they should be against this process because Gibraltar is not being invited to participate in this dialogue initiative that is taking place and has been taking place since last summer as a negotiating party to say ‘Yes’ when it agrees and ‘No’ when it does not in a way that will prevent that to which it says ‘No’ from happening and Señor Piqué said this clearly as Spanish diplomacy so frequently does more than others he said, “*..look Señor Caruana has got to understand that he is not being invited to decide the design of the house he is only being invited to come along later to express an opinion, an opinion not even to decide the colour of the wallpaper, to express an opinion on the colour of the wallpaper.*” So, in respect of the design of the house which is the phase one declaration of principles not even an opinion that is Anglo-Spanish and even in respect of the detail, the local input, even then it is to express an opinion, well who goes along to a negotiation on those terms. One goes along to a negotiation when one can say ‘yes’ to this and ‘no’ to that or ‘yes’ to everything and ‘no’ to everything and the position that one takes determines the course of what happens. So even for the people who favour a negotiated settlement this is not the process in which even their views can prosper.

Another reason why in my view people should vote ‘No’. People should vote ‘No’ who do not approve of joint sovereignty between

the United Kingdom and Spain for reasons to do with Spain. People who do not approve of joint sovereignty between Britain and anybody because they consider as I do that the concept of joint sovereignty is a political and legalistic and dangerous nonsense for Gibraltar and its future. People who whatever their position is on dialogue, on negotiated settlements, on doing deals even they and I know some of them and I know that this is their view even they want dignity and safety in the negotiating process because even for people who want a negotiated settlement there must be a difference between Gibraltar being at the negotiating table in dignified and safe conditions and things which are foisted bilaterally on Gibraltar by people agreeing the principles applicable to their future over their heads. So even they should vote against this for that reason if for no other. Then there are many people who want a settlement with Spain but who do not think that joint sovereignty is it. There are lots of reasons why people may wish to vote no in this Referendum without it being misinterpreted as a Referendum on 'Do you want dialogue with Spain or do you not?' This Referendum is not about dialogue with Spain. This Referendum is not even about whether one wants a settlement with Spain, it is about whether one approves or disapproves of the principle of joint sovereignty between our colonial power and our neighbour and it is also, even for those people who may in principle agree with joint sovereignty, it is also about the way it has been brought about and the dignity and safety for Gibraltar in that process. That is what is at stake in this Referendum, that is what people should have no illusions taking the steps of voting in this Referendum means and to vote 'Yes' in this Referendum at best places Gibraltar in the following position and that is that our political rights will have in effect been defined by the United Kingdom as being no wider than the right to say 'No' to physical implementation of their agreement struck over our heads and that leaves no space in principle for any existence of a right to self-determination on the people of Gibraltar. So it is either that or that the United Kingdom and Spain fail to reach an agreement and the statements that have been made remain made to almost the same political prejudice as if the declaration had been made because these red line issues are entirely irrelevant in fact there is a couple of them at least one of them in

which I think Spain has a point. If the United Kingdom really feels that the sovereignty of Gibraltar is as transactable as it appears to think it is I really do not see where the logic lies for taking a different view of the naval base over the rest of Gibraltar but all the red line issues are irrelevant to us and they do not address the reasons for our fundamental objections to the principal and people in Gibraltar must not be allowed to be drawn into the sense that somehow in these red line issues lies the protection of the things that are important to Gibraltarians they are irrelevant on that question and even if they resolve the three red line issues the assault on our political rights as a people remains intact.

Mr Speaker, the hon Member expressed a view about the timing of the Referendum, he knows that we have different views and judgements about that if the Government had done all and everything that we were asked to do by him and others at the time that we were being asked to do it Gibraltar's powder would have been fired very early on this process, we would not have been able to build the momentum, we would not have been able to build the incremental political pressure that we think Gibraltar has successfully built over the last seven or eight months and it has only been possible to do it because we have paced and gradually escalated the principles involved here. Certainly I recognise that the hon Members were asking in November for a different Referendum they would still prefer to have a different Referendum but in our view just for the question of the timing of the Referendum I think that it would have been a tactical mistake, these are matters of judgement obviously I defend my own judgement the hon Member must defend his, I think it would have been a tactical error of judgement for the Government to have called a Referendum before the Straw declaration because before the Straw declaration there was nothing agreed and nothing declared and Gibraltar would have been open to the proposition to which we are still being exposed even after the July statement of Straw that the Referendum is premature. So the Referendum could not tactically have taken place in the best interests of Gibraltar until there was some firm expression of policy position or agreement which the people of Gibraltar could say "I object to

that and you have already agreed to it.” Mr Straw on the 12<sup>th</sup> July said that Britain was agreeable to sharing sovereignty with Spain. That was something that the people of Gibraltar can disqualify after the event by placing in a referendum. This Referendum is not about trying to disqualify it before the event because as Mr Straw himself admits, he already knew the wishes of the people of Gibraltar before he made the 12<sup>th</sup> July declaration. So knowing or not knowing the views of the people of Gibraltar before the 12<sup>th</sup> July declaration was not germane to whether he made it or not. The purpose of the declaration is that it should stand on the record as the people of Gibraltar’s response and that that should be the last word otherwise we would have left with a Referendum ignored and a political declaration after the Referendum result and that in our view was not the best tactical option for Gibraltar and the reason why Mr Straw, just to mention another of the points raised by the Leader of the Opposition, as to why he does not care about the results of the Referendum goes to the very root of what some hon Members would have heard me usually after dinner speeches describe as ‘The Cunning Plan’, the whole pre-agreed choreography of this, proved, despite Mr Straw’s attempt to deny it on the Today Programme when we appeared together a few months ago proved by the Spanish press reaction and the Spanish Government’s reaction to that Today Programme statement and the point is this distinction that the British Government make between respecting our wishes on implementation questions on the one hand and on political agreements of principles question. The whole essence of Baldrick’s cunning plan was the agreement between them in July of last year that we would use the phrase *‘the people of Gibraltar would have the last word, they must not worry on implementation, nothing will be implemented,’* without explaining that the word *‘implemented’* was the key word in that sentence. In other words, nothing will be put into practice without the people of Gibraltar’s agreement but we will agree it politically as the applicable principles whether they like it or not and when Mr Straw says that he knows what the views of the people of Gibraltar are and that it will not stop him, what he means is it will not stop him signing the declaration of principles because that is what he had agreed with Spain to do. Indeed that was the novelty of this whole procedure

as the Spanish press said repeatedly after Mr Straw and I featured on the same edition of the Today Programme on BBC Radio 4 when he said in answer to a question, “.....*Well Mr Straw are you saying that if the people of Gibraltar reject this in a Referendum everything will be off the table?*” and for the first time at that point Mr Straw finds himself with an audience of 2 or 3 million of his own electorate with a choice of either admitting or denying that the Referendum result, the British Government’s eventual Referendum result, would be binding on the British Government. If he said, “...*no, no, no there are still things that stay on the table after the Referendum,*” namely agreement of principles he knows he would have had a hammering at home and if he had said “...*no, no everything is off the table,*” he was going to upset the Spaniards which he did, the reaction was, “...*this is a u-turn this is not what we agreed.*” The whole novelty of this process is precisely the fact that we have agreed that the political agreement between the United Kingdom and Spain will remain extant on the table valid as between the United Kingdom and Spain even if it cannot be physically implemented because of the Gibraltar Referendum the result of which Madrid said we had taken for granted already. So the whole essence of this choreographed pre-determined methodology which I call the ‘The Cunning Plan’ was to deliver a declaration of principles which would not be implemented unless we approved it in a Referendum which would be several years later and that even if when we rejected it in that Referendum several years later it would still remain as the agreed Anglo-Spanish position in other words it would survive the Referendum. That was the plan and that is what Mr Straw says when he calls this an eccentric waste of money because we already know the result. We already know the result to the extent to which the result is relevant and the result is only relevant for physical implementation, in so far as the British Government are concerned it is not relevant to the question of whether they sign away the principles applicable to our future in a political document of agreed political principles.

As to where we go from here I have already indicated to the hon Member in our private consultation on this general question that

the Gibraltar Government expect to progress the Constitutional Reform proposals which represent the policy of the Government taken to fruition in a consensus resolution of this House and which we have hitherto not proceeded with because we knew it would be hi-jacked in this process. What degree of success we shall enjoy with that Constitutional Reform process very much remains to be seen and I think it is one of the litmus tests that lie ahead of us.

The hon Member from something that he said is obviously labouring under the misapprehension that he could not make a recommendation he has heard me make whilst I have been on my feet this morning not once but twice a voting recommendation and I think as he probably has done also made a voting recommendation. The Government's point is that it should not be included in this motion in the text of the motion because this is the omnibus motion calling and regulating the administration of the Referendum and it would be most unusual if it were to contain a voting recommendation but there is nothing to stop this House when we reconvene later on in the week to have a separate motion making voting recommendations. The point is that it should not be in this motion so as not to combine administrative neutral requirements in relation to the Referendum with party political recommendations. One of the points that always strikes me when I hear discussed the British Government's point that the only way forward are these negotiations and the only way for Gibraltar to have a prosperous, secure and stable future is that Gibraltar should agree joint sovereignty with Spain is that it begs the question well does that mean that we cannot have a stable, secure, and prosperous future if there is no deal and for the British Government to say, "because without the deal you cannot have a prosperous and stable future I am going to take into account only Gibraltar interests when I come to the deal," but the British Government's position becomes a good deal weaker morally when it says, "...*without a deal you do not have a prosperous future and there will not be a deal if I do not get my way on the naval base.*" What is the British Government saying? That if it cannot satisfy their own interests in relation to exclusive

control of the naval base it is willing to condemn Gibraltar forever into an insecure, unprosperous and unstable future. It is a nonsense, the British Government know perfectly well that Gibraltar has presently and can keep a stable, secure and prosperous future without the need for doing a sovereignty deal with Spain and if there is ever to be a change in Gibraltar's status it will be and only because the people of Gibraltar want it and not because it is necessary in order to guarantee a stable and prosperous future because if that is not the position then the British Government's red line issues, at least the one to do with the naval base boils down to this to an unprosperous and stable and insecure future on the question of the naval base namely if I do not get exclusive sovereignty and control over the base which would be a very selfish attitude if Britain really believed that without the deal we could not have a prosperous secure and stable future and of course she can take that line only because she knows that it is not the only way of guaranteeing a stable prosperous future for Gibraltar. At the end of the day the issue for Gibraltar is not about having a friendly Spain although we would dearly like to have a friendly Spain. Hon Members know that it is the policy of the Government to foster and generate the friendliest possible relations with Spain and best neighbourly relations and co-operation that we can engineer. Very often it is out of our control and out of our hands. The issue is not the way forward in terms of a friendly Spain. The issue is a way forward that respects the rights of the people of Gibraltar both political and also European Union and that is not a question of friendship that is a question of people being obliged to honour their legal obligations and when we have disputes about legal obligations that impact on the political discussion for example, is the Treaty of Utrecht valid, does it curtail the right to self-determination yes or no, are we a people, or the United Nations type arguments that we deploy even then it is a question of people being willing to have their legal rights adjudicated because if Spain were willing and if Britain were willing to get the advisory opinion of the International Court of Justice then we would all be having the political argument in the context of one clarified statement of rules whereas at the moment what is happening is that we are having to fight our political corner not on the basis of established



international law but on the basis of what Spain alleges international law to be. So this is not about sovereignty in exchange for friends, we do not want to put friendship and sovereignty in the same pot although I acknowledge that in large measure that is what Spain does, what we put in the pot is respect for our rights as a people and respect for our legal rights as a jurisdiction and as a territory and as a country and that is not to be bartered, this is the whole flaw in the British Government's argument recommending this deal but somehow in order to obtain respect for one's legal rights under treaties one has got to barter ones sovereignty, nobody else does that. What he means is not that we must barter our sovereignty for respect for our rights but rather that Britain and the European Community institutions the Parliament and the Commission, will not stand up for the enforcement of European Union law against Spain on the basis of the terms of the treaty but rather they want to bribe Spain into complying with her EU obligations by tossing her half our sovereignty as the price for doing what she is already obligated to do for nothing, so this is not about friendship this is about rights and obligations. The hon Member raised the question of the Falkland Islands to distinguish the point that I had made about Bermuda. I am not sure that it is entirely legitimate for him to do so as we have often both recognised and used in the past in our various speeches. In the Falklands the British Government recognises the right to self-determination.....[HON J J BOSSANO: *Not in 1968.....*] .....now recognises the right to self-determination and I was asking whether they would do it now not whether they would have done it in 1968. What on earth does the British Prime Minister feel entitles him in international law and in international, political and human rights to say that the sovereignty of Gibraltar needs to be negotiated but that the sovereignty of the Falkland Islands is non-negotiable? Wherein lies the distinction in international law? The Treaty of Utrecht, the Treaty of Utrecht does not require Britain to negotiate sovereignty of Gibraltar even on the worst interpretation against us. It does not require Britain to negotiate sovereignty and apart from the Treaty of Utrecht we have exactly the same riding stages as the Falkland Islands, so in what basis does the Prime Minister say the sovereignty of the Falklands is not negotiable but the sovereignty

of Gibraltar has to be negotiated? There is no basis and finally, the last point which is the first that the hon Member made and I suppose having been with him in the House for 12 years or so now it does not surprise me that he takes any opportunity whatsoever to launch his tirade on the Brussels Agreement, there are two things that I would like to say to him on that. First of all it is not true that the current British Government are putting the Brussels Agreement to the purpose to which it was designed or intended, no, the Conservatives themselves are saying in London and in Gibraltar Mr Ancram said so when he was here and I think that the hon Member half recognised it in one of the points that he made as an aside but no Government before this one, Conservative or Labour for that matter, had expressed a willingness to enter into political agreements affecting the sovereignty of Gibraltar against the wishes of the people of Gibraltar. The Brussels Agreement does not require the British Government to enter into political agreements affecting our sovereignty against our wishes in fact it requires them to do the opposite because the Brussels Agreement says that Britain and Spain will negotiate tourism, environment, co-operation will discuss sovereignty but Britain repeats the Preamble that it will not enter into any arrangement and until now until this British Labour Government all British Governments before had preceded on the basis that both within and without the Brussels Agreement not entering into arrangements meant not signing bits of political agreement, not entering into declarations of principles, that is another of the novelties that Britain has now chosen to interpret the words of the Preamble about not entering into arrangements as if it read not implementing arrangements whereas in their ordinary language the words "*Britain shall not enter into an arrangement*" which are the words of the Preamble entering into an arrangement includes signing political documents and I have often said that I believe that by signing a declaration of principles in which Britain concedes the principle of joint sovereignty to Spain she is in breach of the language and spirit of the Preamble to the Constitution in which she says that she will never enter into an arrangement. Now she chooses to interpret the word enter as being restricted to physical implementation on the ground. Most people with a command of the English language would interpret



the word “*enter into*” as not signing up to or as including not signing up to. So it is completely novel even under the infamous Brussels Agreement it is completely novel for any British Government to interpret the Brussels Agreement as being logically leading to the conclusion of the joint sovereignty political agreement to which they have now come. No Conservative Government before now and no Labour Government have interpreted it in that way.

Mr Speaker, I thought that the hon Member’s initial opening of his address I am not sure if that is what he was saying it may not be in which case I withdraw but I thought that he was saying that part of the differences between us notwithstanding which they are supporting the motion relates to the Brussels Agreement. With the greatest of respect there is no relevant division between us on the question of the Brussels Agreement there has not been and this is the debate that I am constantly having with him on television usually at election times and now in the context of this Referendum in between election times, the policy of the Government is that we do not support participation in Brussels Agreements talks and therefore we have not gone whilst they are predetermined as to their outcome on sovereignty unless we have a separate voice to neutralise the bilateralism because we, he and I, understand that Spain’s obsession with bilateralism is just a way of articulating the denial of the right to self-determination and thirdly unless it was safe to do so namely unless we were safe from agreements being reached over our heads. If and there are those who think that the Gibraltar Government will never succeed in obtaining those conditions but if the Gibraltar Government succeed in obtaining those conditions it addresses all of the reasons for which he presently opposes participation in the Brussels process [*Interruption*] fine, absolutely, well it would be [*Interruption*]. If the hon Member wants to stand up I will happily sit down and give way, it would be a restructured Brussels process which eliminates the dangers to Gibraltar and that is the policy of the Government those are the talks that the Government of Gibraltar would take and the hon Members may wish to continue to pretend that the fact that we do not collapse into their

articulation of the anti-Brussels policy somehow means that we would go along with any of what is going on or that anything that is going on would have been preventable but the reality of it is that since 1996 our policy on participation and therefore support for the Brussels Process has been conditional on it being modified in ways which would eliminate all the objections to it. So, there is no division on the question of when it would be safe and when it would not be safe to take part in dialogue and the Government have no intention of modifying the position that it has defended since 1996 because it is rational, it is clear, and it eliminates all the possible objections to Gibraltar’s participation. I do not think that the hon Member is when he asserts confidently that he agrees with Mr Straw that the Brussels process was always designed to deliver joint sovereignty I am not surprised that the hon Member rushes to agree with Mr Straw because it puts winds in his sails but Mr Straw is completely wrong and it is disingenuous of Mr Straw to say that. I do not know if the hon Member is interested in knowing that I had correspondence from Ministers of the Foreign Office declaring that the Brussels Agreement is in no way predetermined to result in any degree of Spanish sovereignty. In no way predetermined only Mr Straw and Mr Hain for the first time in July this year have made a statement that suggests that it has always been predetermined but the evidence is the contrary it has never been predetermined to result in Spanish sovereignty and I have that in writing. One thing is to discuss somebody’s claim and another thing is to commit oneself to resolve it on the basis of meeting them halfway on it and the hon Member must know that and therefore I regret that the Leader of the Opposition should have taken this opportunity to revisit Brussels Agreement related issues but since he chose to do so I believe that I have been justified in clarifying that the choice is not between accepting or rejecting the Brussels Agreement in its present form, in its present form we have all rejected it, all of us have rejected participation in the Brussels Agreement in its present form. The choices are not between accepting or rejecting the Brussels Agreement in its present form, there is a third choice which is the Government’s policy and that is to modify and restructure the Brussels Agreement so that it addresses, saves and eliminates all the sources of danger for

Gibraltar. People may have views about whether we are likely to achieve that just as people have views about the effectiveness of rejecting the existing structure which we have all done. The fact that the Gibraltar Government did not attend Brussels talks from 1988 to the year 2002 has not prevented the British and Spanish Governments from doing in and with it what they have pleased so just as there are people who question the political efficacy of rejecting the existing structure out of hand just as there are people who question the political efficacy and wisdom of accepting and there are some people who accept the existing political Brussels structure out of hand so people will question the likelihood that the Government will be able to succeed on the third way. So the hon Member is not going to succeed in reducing this debate, he has not since 1990 and he is not going to start now, to succeed in reducing this to a simplistic yes or no in terms of that wider dialogue debate. The question is not Brussels 'yes' or Brussels 'no' but is Brussels safe, does it respect our political rights as a people 'yes' or 'no'? We have not been able to achieve that and therefore we have not gone for the same reasons as he rejects it but where it ever possible should we ever succeed in moderating the terms so that Brussels in the words of what the hon Member his Colleague Mr Perez has just shouted from a sedentary position, "*..then it is not the Brussels Process,*" then that would be a completely different situation and that would eliminate the objections to participation and that and not the version of it set out by the hon Member in his speech, that that I have just set out is the relevant Brussels debate as far as the Government are concerned.

Question put. The amended motion was carried unanimously by all the Elected Members.

**Absent from the Chamber:-**

The Hon R R Rhoda  
The Hon T J Bristow

## **ADJOURNMENT**

### **HON CHIEF MINISTER:**

I am grateful to the House for their unanimous support of the motion that I have moved. Mr Speaker, I beg to move that the House do now adjourn to Wednesday 16<sup>th</sup> October 2002 at 9.30 am.

Question put. Agreed to.

The adjournment of the House was taken at 12.40 pm on Monday 14<sup>th</sup> October 2002.

## **WEDNESDAY 16<sup>TH</sup> OCTOBER 2002**

The House resumed at 9.35 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 J J Netto - Minister for Housing  
The Hon Mrs Y Del Agua - Minister for Social Affairs  
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

**ABSENT:**

The Hon H A Corby - Minister for Employment and Consumer  
Affairs

The Hon R R Rhoda QC - Attorney General  
The Hon S E Linares

**IN ATTENDANCE:**

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

**ANSWERS TO QUESTIONS**

The House recessed at 12.35 pm

The House resumed at 12.45 pm

Answers to Questions continued.

The House recessed at 1.05 pm

The House resumed at 3.00 pm.

**SUSPENSION OF STANDING ORDERS**

The Hon the Chief Minister moved under Standing Order 7(3) to  
suspend Standing Order 7(1) in order to proceed with a Ministerial  
Statement.

Question put.

Agreed to.

## **MINISTERIAL STATEMENT**

### **HON CHIEF MINISTER:**

Mr Speaker, I would like to make a statement to the House in relation to the Government's proposals for the Reform of Taxation and developments in the European Commission on that subject today. The European Commission has this morning at its meeting decided to open a State Aid Investigation into the proposed reform of Corporate Taxation in Gibraltar and has this afternoon issued a press statement described announcing its decision and describing it. According to the European Commission's press release which is the only information that the Government have on the matter at this time the European Commission has today launched a formal State Aid Investigation into the planned reform of Gibraltar's Company Taxation Laws. The reform would abolish taxation of company profits and replace it with a payroll tax, that is a fixed tax per employee and a business property occupation tax. In addition to sectors, financial services and utilities would be subject to a top up tax on their profits at a rate of 8 per cent and 35 per cent respectively. At this stage the Commission has not been able to rule out the possibility that the new system would grant State Aid to certain enterprises and has doubts that any such aid will be compatible with the EU rules. This is the first time that an entire corporate tax system has been notified to the Commission for approval under the State Aid Rules. Commenting on the case Competition Commissioner Mario Monti has said, "...the proposed reform raises questions which require a thorough investigation, however, I welcome the willingness of the United Kingdom Authorities to introduce a tax system in Gibraltar that complies fully with the State Aid Rules." I suppose the United Kingdom authorities in EU jargon means the Government of Gibraltar and this Parliament but it does not say that in the

statement. The UK proposals aim to reform the taxation of company profits in Gibraltar, they will replace the existing legislation on so-called exempt and qualifying companies that forms the basis of Gibraltar's offshore sector and on which the Commission started formal proceedings in July 2001. According to the new scheme notified to the Commission by the UK authorities, companies will instead be subject to a pay roll tax of £3,000 per employee per annum and a business property occupation tax. The total liability for tax, that is payroll plus business property occupation tax will be capped at 15 per cent of profit or £500,000 whichever is the lower. If a company makes no profit it will have no tax liability. In addition to the payroll and property taxes, Financial Services Companies will be charged a top-up rate at a rate of 8 per cent of profits from financial services activities. The total taxation of Financial Services companies, payroll, plus business property occupation tax, plus top-up tax will also be capped at 15 per cent of profit or £500,000. Utility companies that is, telecoms, water, sewage, electricity, petroleum, will be taxed a flat rate of 35 per cent of profit. The reasons for opening the investigation include doubts about the impact of the 15 per cent and £500,000 caps and this is the reason why I have come before the House to make a statement, and about the advantage conferred on Gibraltar companies when compared with those operating in the United Kingdom.

The limitation of liability for payroll/property tax by means of the two caps would appear to depart from the logic of a payroll tax system and may give an advantage to certain Gibraltar companies. The whole of the Gibraltar economy except utility companies seems to be granted an advantage compared with companies in the United Kingdom in general. The main rate of corporation tax in the United Kingdom is 30 per cent of profit whilst under the reform the maximum rate of taxation in Gibraltar is 15 per cent.

Mr Speaker, I would not have come to this House to make a statement had the investigation been limited to the merits of the

Gibraltar reform itself, that much was envisaged but the Commission has added a second and wholly unenvisaged strand to its investigation which is what is known as Regional Selectivity. Given that a Member State may not within that Member State give advantages to some companies that it denies to other companies within that Member State, the Commission is suggesting that for the purposes of that rule Gibraltar is part of the United Kingdom so that it treats or it is threatening to treat or it is investigating the treatment of whether a separate tax system in Gibraltar amounts to the same breach of State Aid Regulations as for example, if Kent or Sussex or Yorkshire had a separate tax rate to the rest of the United Kingdom. Accordingly the investigation announced by the Commission falls into two categories, one which I have said was fully envisaged, namely the consideration of the merits of the Gibraltar Tax Proposals themselves, the other category which was not envisaged is the questioning of whether Gibraltar is entitled to have a different tax system to the rest of the United Kingdom at all. This argument known as regional selectivity will pit the Commission into confrontation with many Member States who themselves devolve taxation powers to regional sub-national levels, the United Kingdom, Germany amongst others. Furthermore specifically in the case of Gibraltar the argument would appear to be misconceived because Gibraltar on the terms of the treaty establishing the Union and the Community properly interpreted is not part of the United Kingdom as the United Kingdom is constantly reminding us on many dossiers and therefore I can predict that the United Kingdom will be as keen to see this argument off as anybody else. The suggestion that any part of the territory which is covered by the Community treaty has to have the same taxation system throws right up into the air the Constitutional arrangements in at least half of the Member States of the European Community.

The Government of Gibraltar will robustly defend the tax proposals during the investigation phase on the basis of both, the considerable body of pre-eminent European legal advice that the Government have received in relation to the validity of the

proposals and also the United Kingdom's judgement to the same effect in respect of the vast bulk of those same proposals.

#### **MR SPEAKER:**

Although there is no debate I am inviting the Leader of the Opposition to speak.

#### **HON J J BOSSANO:**

Mr Speaker, first I welcome the fact that the statement has been made in the House and that we have not had to wait to read the press release in the media although frankly I think the statement should have been made even if the new element of comparison with the UK was not there. I think it is worth pointing out that for example, the £3,000 per employee was something the House was not told when the statement was made on the 12<sup>th</sup> July by the Government or the capping on £500,000 and therefore that seems to indicate that anything that the Government submit through the United Kingdom to the Commission, the Commission then feels free to make public and I would therefore put it to the Government that they ought to be willing to share it with us instead of us having to find out from the Commission, something that they have told the Commission.

Independent of this completely new element which seems most peculiar but was already in fact predicted in the article in "El Mundo", it seems perhaps "El Mundo" was telling the truth and not making it up when they indicated that there were sources close to the Commission indicating the way things were going because it has materialised. It said there was going to be a comparison with the UK tax structure. Our position is that we cannot reconcile what we were being told by the Government independent of that element that the rest of it was envisaged because in fact in July

we were told that consultations had already taken place and of course there is a question in the Order Paper which will be answered later on where we are seeking information to see what has been the degree of consultation between the Government and the Commission since last May. If an investigation was envisaged and presumably the length of these investigations cannot be guaranteed then one can only suppose that this puts us back to the position that we have had under the previous State Aid Investigation where the industry is unable to clearly market a product because it does not know whether the product will survive the investigation. I would have thought that in itself given what we were told about removing uncertainty is something that is detrimental to Gibraltar's Financial Services Industry independent of what the result of the investigation would be and we certainly hope that the investigation is one that does not require the Government to start again from zero. Nevertheless we are grateful that the Government have brought this to the attention of the House so quickly after finding it out themselves and we think it is wrong that the Government should have had to rely on a press release to find out and that they should not have been informed directly by the United Kingdom the moment the United Kingdom found out from the Commission.

#### **HON CHIEF MINISTER:**

Mr Speaker, if I can just answer the last point first, the United Kingdom could not have advised the Government of Gibraltar any quicker because the Commission does not inform Member States of the decisions that the Commission takes. It simply announces them and the United Kingdom does not have any more information at this moment in time than we have on this issue. The Commission met this morning made the decision and has issued a press release which we have seen this afternoon so there is no possibility of anybody having and I know that the hon Member is keen to constantly complain usually my judgement without justification that he has to discover things in the press for example, in relation to his latest statement on the "El Mundo"

article, completely unjustifiable statement. I would have thought it self-evident from the way in which that story broke that it was a leak to the press which everybody discovered at the same time which is where leaks to the press are normally discovered, in the press. The idea explicit in the hon Member's recent public statement that he regrets that he had to discover this information from "El Mundo" and not from the Government assuming for which he had absolutely no right or even logical explanation that the Government had advance notice of the "El Mundo" leak is something which has become systematic on the part of the hon Members to add either at the top or at the bottom of public statements " ...it is a pity that we had to find out in the press." Well they found out in the press at the same time and the same place as the Government and everybody else in Gibraltar, that is implicit in the nature of press leaks.

Mr Speaker, I am not going to deal at this time and in this place because I am dealing with it at another time and in another place, the hon Member's statement that he cannot reconcile the Government's past statements with the statement now that the element of State Aid Investigation that has materialised in respect of the merits of the proposal were envisaged. As I say I am not dealing with it at this time and in this place because I am dealing with it at another time and in another place but let me just tell him at this stage that that statement which he has made outside of this House and has just repeated in this House is wholly incompatible and irreconcilable with not only the statements that I and the Government have made publicly outside of this House but indeed statements made by me in this House in April at the time that I made the formal statement in relation to the tax reform proposals and he may persuade himself of things and then repeat them and forget to ask himself whether indeed they are true or not, this one is not true and he can repeat it as often as he likes. It is not sustainable on the basis of publicly available statements, it is not even sustainable on the basis of statements that I have made to him in this House. *[HON J J BOSSANO: On the 12<sup>th</sup> July.....]* The 12<sup>th</sup> of July is the date of Mr Straw's statement in the House of Commons, I think that my statement in relation with

tax was I cannot remember whether it was April.....[HON J J BOSSANO: *Same day.....*] Well the same day exactly in that statement whatever day it was, as to whether the welcoming the fact that the statement is made in this House of course I welcome the fact that he welcomes it but of course it is made in this House because the House happens to be in session it is not made in this House for any other reason, it is not the practice in Gibraltar that Government policy is announced only in this House, if that were the case we could only announce policy during 15 days of the year or 20 days of the year but because the House is in session and I am available to come to this House to make a statement it is a great pleasure for me to do so and I greatly welcome the fact that the Leader of the Opposition welcomes it. The Leader of the Opposition has of course not addressed the issue that brings me to this House to make the statement which is the biggest issue upon which I have made a statement and which frankly makes the issue of whether the Government's tax reform proposals complies with State Aid or not frankly pale into relative insignificance and that is the strand of the argument which is what brings me to this House, I would not have come to this House just to tell them that the European Commission has issued a press release saying that they have announced an investigation but the fact that they are invoking the regional selectivity argument has massive Constitutional and Economic consequences for Gibraltar if it were to prosper which I think is an extremely remote possibility.

Just before I sit down in case the Leader of the Opposition wants to stand up and say anything else, the entire process of Government consultation with the industry and the public statements that the Government have made on this issue have been on the basis that this had to be submitted to the Commission for clearance, a fact which he himself recognised in the questions that he asked me after the statement which if he is right I made on the 12<sup>th</sup> July and therefore no one in the industry is surprised by this. The Government are not surprised by it, the Government's legal advisers are not surprised by this, the industry is not surprised by this, the Government have made plenty of public statements in the past that should not enable

anybody to be surprised. The only person who is surprised by this is the hon Member who appears to think that this was not envisaged at all and I do not know why he has chosen to jump at that issue but I hope that he will be satisfied in due course that that is simply not the case as statements issued by the Finance Centre Council yesterday have confirmed and therefore the only issue which is frankly a surprise is this business of regional selectivity as it is called and it is an issue which I know from past experience the United Kingdom is vehemently opposed to enabling the Commission to argue not just in respect of Gibraltar but for example, in respect of the devolved administrations in the United Kingdom who have certain tax raising powers and discretion, even in the United Kingdom and there are many other countries of that sort. Does it add to the uncertainty? Of course it adds to the uncertainty but if he examines Hansard of our exchanges on the 12<sup>th</sup> July he will know that that issue is addressed as well in our exchanges post the formal statement of the 12<sup>th</sup> July as to what the Government can do or is advised it can do come July next year which is the commencement date that we had targeted if we still do not have clearance of the scheme because it is highly unlikely that the whole scheme will be challenged. There may be elements of the scheme and that is open to modification as I explained to him, he may have forgotten, in the House on the 12<sup>th</sup> July 2002.

## **ANSWERS TO QUESTIONS (CONTINUED)**

### **ADJOURNMENT**

The Hon the Chief Minister moved the adjournment of the House to Thursday 17<sup>th</sup> October 2002, at 9.30 am.

Question put.            Agreed to.

The adjournment of the House was taken at 7.25 pm on Wednesday 16<sup>th</sup> October 2002.

### **THURSDAY 17<sup>TH</sup> OCTOBER 2002**

The House resumed at 9.35 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 Lt-Col E M Britto OBE , ED - Minister for Public Services, the Environment, Sport and Youth  
The Hon J J Netto - Minister for Housing

#### **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 J J Holliday - Minister for Tourism and Transport  
The Hon H A Corby - Minister for Employment and Consumer Affairs  
The Hon Mrs Y Del Agua - Minister for Social Affairs  
The Hon R R Rhoda QC - Attorney General  
The Hon T J Bristow - Financial and Development Secretary

#### **IN ATTENDANCE:**

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

#### **DOCUMENTS LAID**

The Hon the Minister for Trade, Industry and Telecommunications moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to lay on the Table:



- (1) The Gibraltar Regulatory Authority audited accounts for the years ended 31<sup>st</sup> March 2001 and 31<sup>st</sup> March 2002; and
- (2) The Annual Report of the Board of Charity Commissioners for the year 2001.

Ordered to lie.

Answers to Questions continued.

The House recessed at 11.25 am.

The House resumed at 11.35 am.

Answers to Questions continued.

The House recessed at 1.20 pm.

The House resumed at 5.00 pm.

Answers to Questions continued.

## **ADJOURNMENT**

The Hon the Chief Minister moved the adjournment of the House to Friday 18<sup>th</sup> October 2002, at 9.30 am.

Question put.                      Agreed to.

The adjournment of the House was taken at 7.30 pm on Thursday 17<sup>th</sup> October 2002.

## **FRIDAY 18<sup>TH</sup> OCTOBER 2002**

The House resumed at 9.30 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 J J Netto - Minister for Housing  
The Hon Mrs Y Del Agua - Minister for Social Affairs

#### **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

#### **ABSENT:**

The Hon H A Corby - Minister for Employment and Consumer  
Affairs  
The Hon R R Rhoda QC - Attorney General  
The Hon E G Montado OBE - Financial and Development  
Secretary (ag)  
The Hon S E Linares

#### **IN ATTENDANCE:**

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

Answers to Questions continued

The House recessed at 11.35 am

The House resumed at 11.45 am

Answers to Questions continued.

#### **PRIVATE MEMBERS' MOTION**

#### **HON J J BOSSANO:**

Mr Speaker, I wish to move the suspension of Standing Orders so that the motion of which I have given notice can be taken given the fact that it deals with a recommendation on the Referendum and obviously if it was left to its normal place in the Agenda of the House according to Standing Orders it might come after the event.

Question put.                      Agreed to.

#### **HON J J BOSSANO:**

Mr Speaker, I beg to move the motion on which I have given notice on the 14<sup>th</sup> October 2002 namely that :

"This House

- (1) Rejects the broad agreement in principle arrived at between Her Majesty's Government and the Government of the Kingdom of Spain announced in the House of Commons on 12<sup>th</sup> July 2002;
- (2) Considers that the agreement in principle provides for Gibraltar and its people to pass partly under the sovereignty of another state and constitutes entering into an arrangement contrary to the Preamble to the 1969 Constitution;
- (3) Considers the aforesaid broad agreement in principle is contrary to the wishes of the vast majority of the people of Gibraltar;
- (4) Calls upon the people of Gibraltar to make every effort to cast their vote in the Referendum to be held on the 7<sup>th</sup> November 2002 and to reject the principle of sharing sovereignty with Spain by voting "No".

Mr Speaker, there are a couple of alterations which were indicated to me by the Government as improvements to the text and given that I am in the process of moving I presume that if I alter it we do not need to go to the process of moving amendments and voting on the amendments. Am I right?

**MR SPEAKER:**

If it is agreed.

**HON J J BOSSANO:**

That would be, the Chief Minister will correct me if I am wrong. The suggestion was that we should introduce "*.... for the territory and the people of Gibraltar,*" to make sure that we were not excluding the territory which is mentioned in the Referendum.

**HON CHIEF MINISTER:**

I thought, "*Gibraltar and its people to pass under the sovereignty....*"

**HON J J BOSSANO:**

*"Gibraltar and its people to pass partly under the sovereignty of another state..."* and that would be in substitution for the words, *"..provides for the people of Gibraltar...."* and then in the subsequent paragraph were we are saying "*we consider that the majority of the people are against this,*" "*....as evidenced by the demonstration of the 18<sup>th</sup> March 2002 and the resolutions previously carried by this House.*"

Mr Speaker, in moving this motion I had the idea when we were discussing the previous motion and the Chief Minister indicated that he did not feel that in the context of that motion there should be a recommendation as to what this House feels ought to be the way people should vote but he said that there was nothing to stop that being done in a separate motion and I interpreted that to be an invitation to bring a separate motion that is why I have done it. We have already effectively jointly recommended to people that there should be every effort made to attend this very important occasion, it is a major landmark in the history of our country and our people and it is important that we should demonstrate our unity so that there is no doubt as to what we want and what we do

not want and therefore I do not think I need to go over ground with which we are all familiar and on which we are all united. I commend the motion to the House.

**MR SPEAKER:**

Yes, you have amended the motion, put it in writing in due course.

Question proposed.

**HON CHIEF MINISTER:**

Mr Speaker, I think that I share the Leader of the Opposition's view that the arguments were really orally rehearsed when we were speaking to the what I call the 'omnibus' Referendum Motion, I think we both expressed our views and our recommendations and I do not wish to go over them again suffice to say that it is the recommendation of the Government that people should vote 'No', 'No' to the principle of joint sovereignty that it is important that people turn out to vote, that no one should feel that because the result is assured they are not going to take the trouble to vote because their vote is not going to make a difference to the result. The result here is not just about which option gets the majority but about the extent of the majority in favour of 'yes' or in favour of 'no' and therefore every vote counts because every vote adds to the extent of the majority saying 'no' and reduces the number of people that can be said to have been not bothered to vote at all because if the electorate turns out to be about 20,000 and only 18,000 people go out to vote people could mischievously say, "well there are 2,000 people who do not care. Well if they do not care enough to go and say 'no' they are halfway to saying 'yes', therefore we will add those to the 'yes' votes for the purposes of a political calculation that London or

Madrid may wish to make." Therefore I endorse the Leader of the Opposition's view that it is vital to Gibraltar that everybody takes part in this Referendum, that people mobilise on the 7<sup>th</sup> November, that they do not take the view that their vote is not needed, everybody's vote is needed and that the recommendation of all the Elected Members in this House is that Gibraltar should vote 'No'. 'No' because we do not want Spanish sovereignty, 'No' because even if we did want Spanish joint sovereignty we are convinced that it would not deliver the benefits that this alleged offer is capable of delivering, even if we were willing to consider joint sovereignty so that what we were looking at is the rest of the package and that is not the case, but even if that were the case I think that people in Gibraltar will come to the conclusion that Spain is not in a frame of mind to offer us more rather than less self-government, that Spain is not in a frame of mind to offer us economic prosperity, look how she has reacted to our difficulty with the European Commission on State Aid and therefore even if there are people in Gibraltar for whom it is a matter of the package, the package is not a reason for voting 'yes' but for the vast majority of people in Gibraltar I would hope that it is not a matter of the detail of the package because joint sovereignty as a principle is unacceptable to Gibraltar, it is unacceptable to Gibraltar because we do not want any degree of Spanish sovereignty over Gibraltar and it is unacceptable to Gibraltar because it condemns all our future generations to a permanent near colonial status. I am therefore delighted that the whole House is making the same recommendation to the people of Gibraltar on this occasion and that all the political parties in Gibraltar will actively campaign to mobilise the vote and to mobilise the 'No' vote in particular.

**HON J J BOSSANO:**

I do not think there is any need to reply. The position is perfectly clear and we certainly will be demonstrating the level of mobilisation when the time comes.

Question put. The amended motion was carried unanimously by the Elected Members present.

## **BILLS**

### **FIRST AND SECOND READINGS**

#### **Absent from the Chamber:-**

The Hon Lt Col E M Britto  
The Hon H A Corby  
The Hon R R Rhoda  
The Hon E G Montado  
The Hon J C Perez  
The Hon S E Linares

#### **HON CHIEF MINISTER:**

I was just going to propose that at some stage when the House is complete as to the Elected Members we may want to have a technical opportunity to vote on this again so that the 15 elected Members of the House will have voted, the Hon Mr Steven Linares is away from Gibraltar, the Hon Mr Ernest Britto is missing from the Government benches, it is carried unanimously but for political value and effect I would like this vote repeated at some stage with all 15 Elected Members of the House because that gives it more force.

#### **THE BANKRUPTCY AMENDMENT ORDINANCE 2002**

#### **HON CHIEF MINISTER:**

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

Question put.                      Agreed to.

#### **ADJOURNMENT**

The Hon the Chief Minister moved the adjournment of the House to Monday 18<sup>th</sup> November 2002 at 10.00 am.

Question put.                      Agreed to.

The adjournment of the House was taken at 1.50 pm on Friday 18<sup>th</sup> October 2002.

**MONDAY 18<sup>TH</sup> NOVEMBER 2002**

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

Question put.                      Agreed to.

The Hon the Chief Minister laid on the Table:

- (1) A copy of a special report prepared by the Ombudsman – Case No 152 – Disposal of Refuse to Spain; and
- (2) A copy of a special report – Case No 288 – Complaint by Mr Gbassy Turay against the Civil Status and Registration Office.

Ordered to lie.

## **MOTIONS**

### **HON CHIEF MINISTER:**

I have the honour to move the motion standing in my name and which reads as follows:-

This House,

- (1) Confirms the appointment by the Chief Minister pursuant to Section 3(2) of the Public Service Ombudsman's Ordinance 1998 of Mr Mario Hook as the Ombudsman for Public Services for all the purposes of that Ordinance with effect from Wednesday 1<sup>st</sup> January 2003.
- (2) Resolves pursuant to Section 4 of the Public Service Ombudsman's Ordinance 1998 that a salary of £40,000 per annum be paid to the Ombudsman with increases in accordance to the annual civil service pay award and that the additional sum of £125,000 be paid to the Ombudsman in respect of the expenses of his office including the personal emoluments of staff and other operating expenses.
- (3) Congratulates and commends the retiring and first Ombudsman Henry Pinna for the effective manner in which he has conducted the duties of Ombudsman and has established the post since its creation in 1998.

Mr Speaker, Mr Pinna accepted appointment as Ombudsman for a three year period and I have to say that he reluctantly accepted it for that length of time. He would have wanted it shorter but in keeping with his long-standing and well deserved reputation for commitment to public issues he not only agreed to accept it for three years, that would have been with effect from April 1999, but indeed that he agreed to extend it to the end of this year, that is the 31<sup>st</sup> December 2002. He now wishes to retire and therefore we are reluctantly in the position of having to choose a replacement for him.

Mr Pinna being the first Ombudsman that has served in Gibraltar was instrumental in various important respects, he set the office up, he recruited the staff, he devised the working practices, the working methods, he devised the guidelines for the general public, in every respect he took the project of the Ombudsman's Office from the legislative phase once this House had passed the legislation to everything that needs to be done in order that it should provide the service to the public that it was intended to and has been providing it and that is all entirely down to Mr Henry Pinna's hard work, commitment and vision about his view of how an office of an Ombudsman should work. He has then also been the first Ombudsman and I think that when the Government in satisfaction of our manifesto commitment in that respect established the Office of Ombudsman in order to give the ordinary citizens a more balanced level playing field, when they deal with an obviously well resourced and more powerful administration, I think we could only have dreamt and hoped that that service, that office would so quickly have become an established institution delivering the service to the general public in a way which in many small countries that have had an Ombudsman's Office for much longer and it is still not working. In other words accepting as we all have to do that there is a learning curve to be gone through when an Ombudsman system is first established the Ombudsman needs to become familiar with the edges of his area of responsibility and authority, the Government and the public administration has to go through the same process and eventually the equilibrium is found and everybody knows where the

parameters of their responsibilities are, that takes much longer than it has taken in Gibraltar and I think that we have had almost from the moment that he opened his doors to the public an Ombudsman service which has operated as if it had been established for much longer. I think for that we have to be grateful to Mr Henry Pinna and also of course to the hardworking staff that he selected and in that respect I am satisfied that what the Government said on the 31<sup>st</sup> March 1999 in a press release when we appointed Mr Pinna I think has turned out to be a hope well based and demonstrated by subsequent events to have been well based. The Government said, " The Government believe that Mr Henry Pinna is admirably qualified for this important new post, he is currently Chairman of Action for Housing and a member of the District Committee of the Transport and General Workers Union. All his adult life Mr Pinna has been a tireless campaigner for the rights and interests of his fellow citizens in this community. His reputation for integrity and independence of mind precedes him, the Government are confident that Mr Pinna brings to the office the qualities necessary to establish it effectively and irrevocably from the very outset of its existence. As I say, I believe that that confidence was entirely justified and well placed and an office which established differently might not have had the impact that this has had and might not even have survived, I think has turned out to be a service which is now ingrained for all times in our institutions as a community. The House will have seen and I am sure will have been impressed by the reports that we have had from Mr Pinna whilst he has been Ombudsman, we have had an 18 month odd report for 1999/2000 that was his first report published in December 2000, he published an Annual Report in December 2001 and he will be drawing up the report for 2002. So, I can tell the House that although the Government do not always agree with the recommendations of the Ombudsman already his existence and his reports are having a considerable impact on the public administration and indeed on the citizenry not just because the Government accept the vast majority of his reports but also because the fact that the Ombudsman Office exists and the public servants know that it exists and that citizens can have recourse to it does sharpen the pencil and does mean that public servants are more focused on the need to be as

sensitive as policy and the law requires them to be to the lot of the ordinary individual citizen and therefore those were the two reasons why the Ombudsman Office was set up and the reports and the work that it does I am entirely satisfied and so are my Colleagues that the Ombudsman Office has served precisely the purpose for which this Government established it.

Mr Speaker, turning to the appointment of the new Ombudsman, hon Members will be aware that under section 3 of the Ombudsman's Ordinance it says that there shall be appointed an Ombudsman for public services for the purposes of conducting et cetera, et cetera subsection (2) - The Chief Minister may from time to time by notice in the Gazette appoint a person to be the Ombudsman, appointments under subsection (2) shall come into effect upon the House of Assembly confirming the appointment by way of resolution passed within 30 days of the appointment. A person appointed under subsection (2) shall subject to the provisions of this Ordinance hold office during good behaviour for such term as shall be specified in the notice appointing him, and that is the resolution that we are debating today in the House, Section 4 deals with the remuneration and expenses of the Ombudsman and says "there shall be paid to the holder of the office of Ombudsman a salary, expenses and allowance at such rates as may from time to time be determined by resolution of the House of Assembly. The salary, expenses and allowance of the Office of the Ombudsman shall be a charge on the Consolidated Fund without the need for Appropriation" and therefore the motion in its formal aspect does those two things that this House requires to do by resolution. Firstly, ratify the appointment of Mr Mario Hook whose appointment by me has been gazetted recently and certainly within the last 30 days as required in the Gazette and also by resolution; the second thing that we are doing is fixing not just the salary of the Ombudsman which is fixed at £40,000 per annum with increases of the same amount as the civil service general award but also in a sense approving the budget for the Ombudsman's Office from which he has to pay all his operating expenses including staff salaries and other payroll costs.



Mr Speaker, Mr Mario Hook, the person that the House is being asked to confirm in his appointment has been with just a very small interruption in time on the staff of the Ombudsman's Office almost from the beginning. He was an investigative officer recruited by Mr Pinna the outgoing Ombudsman. Since he has started working in the Ombudsman Office he has qualified as a lawyer, indeed as a practising lawyer, not just a lawyer with a degree but as a lawyer called to the Bar as of England and Wales by distance learning. I am therefore satisfied and so are the other Government Members that he has all the attributes required for a successful Ombudsman and that we are confident that he will make a worthy successor to fill the large shoes that Mr Henry Pinna will leave behind him under his desk in Governor's Lane when he steps down on the 31<sup>st</sup> December 2002. I commend the motion to the House.

Question proposed.

**HON J J BOSSANO:**

Mr Speaker, I think it is regrettable that Mr Henry Pinna could not be persuaded to carry on. When the original motion to create the post was brought to the House the Chief Minister has reminded us of the track record of Henry Pinna in taking up with the Public Authorities in Gibraltar problems that ordinary citizens had on a voluntary basis because he believed in helping people and I think that was an important element in the contribution he had to make to this although there is a technical side to it of course. There was no doubt in our minds that the kind of person in a small place like Gibraltar that would be most useful in doing the job of Ombudsman would be somebody that already was familiar with helping people and already people were comfortable with in terms of having confidence in his independence and in taking up issues. I would have thought without in any way wanting to judge how well the shoes will be filled by his successor that it would have been worthwhile if Henry could not have been persuaded to carry on to see if there were other people from previous record of

commitment to social causes one could find a suitable candidate. I know that the benefit of Mr Mario Hook is that he has already worked there and will have learned from Mr Henry Pinna and I know that he has recommended him but nevertheless I think it would have been useful if we had a number of possible candidates available or under consideration and it might well have been that in that kind of process Mr Mario Hook might still have been the best potential candidate but from the letter that I got from the Chief Minister on the 18<sup>th</sup> October 2002 there was no indication that anybody else had been considered and all that the letter says is what we have heard today that the Government had decided to appoint him, that they were convinced that he was eminently suitable for the post and that he had become a lawyer by distance learning and of course we recognise that having worked alongside Mr Pinna and having worked in that office is an advantage in that he has seen the office from the beginning, he has seen how it is worked, he knows how Mr Pinna has dealt with problems and one would expect him to carry on in that tradition but nevertheless in looking for an Ombudsman in Gibraltar the original concept of looking for somebody that previously had worked in the community as Mr Pinna had in the Unions and in pursuing social cases in relation to Housing was something that was very useful particularly since we find that quite often it is in those areas that the people who go to the Ombudsman with grievances from the cases we see quite often that there are the kind of issues that have been previously sometimes dealt with by the Union because the Union used to deal with everything and when they could not deal with it in the Union they went to Action for Housing. Given that the Government have decided that Mr Mario Hook is the best or possibly the only available candidate we will be supporting the motion and we wish him the best of luck in his post and we hope that he will be able to do as good a job as Mr Pinna has done.

Question put.

The motion was carried unanimously.

## **BILLS**

### **FIRST AND SECOND READINGS**

#### **THE SUPREME COURT ORDINANCE (AMENDMENT) ORDINANCE 2002**

##### **HON CHIEF MINISTER:**

I have the honour to move that a Bill for an Ordinance to amend the Supreme Court Ordinance so as to transpose into the law of Gibraltar Directive 98/5/EC of the European Parliament and of the Council to facilitate the practice of the profession of lawyer on a permanent basis in certain States other than the State in which the professional qualification was obtained, 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 inserts new parts 6 - 11 into the Supreme Court Ordinance, it implements Council Directive 98/5 the full title of that directive is 'To facilitate practise of the profession of lawyer on a permanent basis in certain States other than the State in which the professional qualification was obtained.' The Bill compliments two pieces of existing legislation

which have a bearing on lawyers practising in Gibraltar. The first piece of the existing legislation is that regulated by Part 4A of the Supreme Court Ordinance. Part 4A implements the Lawyer's Directive 77/249 which allows lawyers based in one Member State to provide legal services in another. The second piece of existing legislation is the recognition of Professional Qualifications Ordinance which transposed the mutual recognition of Qualifications Directive 89/48. That Ordinance in its application to the legal profession facilitates joining the legal profession in Gibraltar. It requires the Competent Authority to take account of the applicant's existing qualifications and if appropriate to grant exemption from all or part of the specified aptitude test. In Gibraltar the Competent Authority is the Chief Justice. Under the conditions specified in this Bill a European lawyer may carry out professional activities otherwise reserved to Gibraltar solicitors or barristers and may apply to become a Gibraltar solicitor or barrister. Such lawyers would be allowed to practice in Gibraltar the law of their home state, the law of Gibraltar and Community and International Law. It is a condition that such a lawyer would have to be registered with the Competent Authority that is in our case the Chief Justice and be subject to the ethical and disciplinary regime of the Gibraltar Bar. In its approach the Bill has some transitional provisions and an interpretation clause lists in the definition in subsection (2) of section 41 it lists the titles of lawyers in the other Member States and hon Members will find in the Bill there, it is set out quite unusually for our sort of legislation, in sort of tabular form in the body of the Bill and then the Bill deals with both the mechanics of the registration and also for the obligations and rights of what are called European Lawyers once they are registered. So Section 43 and 44 deal with the practice of professional activities, the titles and descriptions to be used by a registered European Union lawyer. Section 45 provides that such lawyers may practice in partnership in Gibraltar either with a Gibraltar lawyer or indeed with another European lawyer so I suppose two European lawyers qualified in another Member State could set up a practice in Gibraltar under their names and there are provisions also to ensure that when somebody applies to become a European lawyer in Gibraltar if he is in partnership with somebody else in his home country even if his partner is not

going to practice in Gibraltar the Gibraltar Competent Authority must be given full details of any partnerships that this person has to ensure that there are no ethical or disciplinary issues through the person of the partner of the applicant. Section 48 gives these people, called European lawyers, the right to represent people in courts provided that they are supported by or are supporting rather a Member of the Gibraltar Bar but they do have the right of audience albeit in the company of a Gibraltar barrister in our courts. Section 49 deals with the issue of which lawyers can practice in property transactions, that is conveyancing, and in probate that is the administration of estates, wills and things of that sort and the regime created by the directive and therefore carried forward into this Bill is that where in the home country, the country in which the lawyer has qualified, certain activities are reserved for professions other than lawyers they cannot get the right to do it in Gibraltar if in Gibraltar it is done by lawyers. For example, if in Spain property transactions are done not by lawyers but by notaries public then Spanish lawyers cannot have the right in Gibraltar to do real estate conveyance and transactions, so hon Members can see at section 49 that in (a) and (b) one deals with property conveyancing the other one deals with estate administration that a European lawyer is not entitled to prepare for remuneration any instrument creating or transferring an interest in land unless he has a home professional title obtained in Denmark, the Republic of Ireland, Finland or Sweden because those are the only four countries in Europe in which lawyers do conveyancing work. Therefore the others cannot have for their nationals in Gibraltar a right which they do not enjoy in their own countries and the same applies for administration of estate where the list is just a little bit longer because it also includes Germany and Austria where lawyers also do administration of estates and that is the limitation for those purposes here in Gibraltar. Section 50 entitles them to legal aid when they are legal aid insistence when they are representing clients who qualify for that and Part 8 deals with the registration process from which the hon Members will see that it is a relatively simple system of the provision of certificates by the Home Regulator, the Home competent authority with whom there can be communication between the Home competent authority and the Host competent authority so we would be the

Host competent authority when foreigners want to practice in Gibraltar and we would be the Home competent authority when a Gibraltar lawyer wants to exercise these rights in one of the other Member States where of course they exist for the benefit of Gibraltar lawyers. So, it is basically an exchange of certificates between the competent authorities. The competent authorities in Gibraltar, if it is an inward registration, that is the Chief Justice registers the applicant lawyer and at that point he becomes what is called a European lawyer with right to practice in Gibraltar under the style of European lawyer or the style of his home country advocate or whatever it is with the right to do all the things set out in the Ordinance and the main ones of which and the limitations to those rights I have briefly outlined for hon Members. There is a right of appeal to a refusal by the competent authority in Gibraltar to register and that appeal is to the Court of Appeal. There is then an offence of pretending to be a registered European lawyer and there are provisions about publication of the fact that a lawyer has been registered. Part 9 deals with regulation and discipline from which the hon Members will see that once registered as a European lawyer under this regime such lawyers become fully subject to the same disciplinary code and procedure and regime as affects solicitors and barristers enrolled or called in Gibraltar. Part 10 sets out the mechanics of the application for registration and sets out some exceptions, transitional exceptions for lawyers from other countries that may have been practising in Gibraltar for three years and hon Members will see that in section 64 some transitional exemptions in reduction of the registration criteria otherwise set up in the Bill.

Mr Speaker, I will be moving an amendment to the definition of competent authority. I will be moving an amendment of which I have not given written notice because I have just spotted that this morning that the competent authority in relation to Gibraltar means the Chief Justice and to delete all the words that follow it which is the standard formula that is used where the competent authority might change and indeed in this whole area and I seem to recall I made this point when we brought the other two pieces of legislation of which this is an ancillary part that there is in the

Bar a debate about whether the Chief Justice should be the Administrative competent authority. Everybody accepts that he should be the Disciplinary competent authority but there is a debate about whether in terms of registering people who are enforcing EU Rights whether that should continue to be the Chief Justice who has traditionally been the competent authority for all elements of the legal profession in Gibraltar. As far as the Government is concerned we are perfectly happy that it should remain as it has historically been the Chief Justice or if the Bar and the Judiciary come to a different view together that the role should be split and only were there to be such a decision would there be any prospect of their needing to appoint anybody other than the Chief Justice. I think that that is sufficiently remote not to require it to be provided for in this legislation and therefore I will be moving that amendment. I commend the Bill to the House.

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

**HON J J BOSSANO:**

Mr Speaker, one of the first questions we are going to try and seek clarification with general principles of the Bill was the one that has just been clarified which is the fact that the definition of competent authority created the possibility of any person being appointed competent authority who had no knowledge of what the Judiciary means or what is required. In terms of the drafting of the Bill what we have done as we usually do with these things is to look closely at the requirements of the directive and although we see that, for example, in section 65 where we have the provisions on the aptitude test and the person being exempt from the aptitude test it actually follows closely the wording of article 10 in the directive itself. To us it seems peculiar that the provision in the law would say that the aptitude test can be avoided, that is to say he can apply to the competent authority for exemption from the requirement if he falls within subsection (2) or (3). In (2) it

says he has to have a period of at least three years of having pursued the activities in Gibraltar before he can claim exemption from the aptitude test and then in subsection (3) it provides the alternative that he may have pursued for three years the professional activities under his home professional title and for less than three years effectively and regularly pursued in Gibraltar professional activities in the law of Gibraltar. So, in fact the alternative seems to be that he has either pursued in Gibraltar activities in practice in the law of Gibraltar or he has not done that and then he has done less than three years in Gibraltar of practising the law. I would have thought that if one has a provision that says that he has been practising the law of Gibraltar for less than three years he need not have practised the law of Gibraltar at all because there is no lower limit than three years. I can understand a provision that says he must do something for three years but a provision that says that one must do something for less than three years does not seem to me to be logical since by not doing it at all by definition is doing it for less than three years and I wondered whether in the drafting of that we were creating something there that seems to negate the requirement of paragraph 2 of sub section (2). In section 68 it says, "*Where the competent authority fails to take a decision and notifies the Register of European Lawyers within four months it shall be deemed to have taken the decision to reject this application and to have notified him on the last day of that period.*" I do not know whether this is something that the directive itself provides for but I would have thought if the competent authority is required to give an answer then we should not be providing in the law that if it simply ignores the application and does not answer and four months have gone by it would be deemed to have rejected the application. I do not know whether this is something that we are doing it because we want to do it as a matter of policy in Gibraltar or whether in fact the directive itself does it in order to put a time limit to the time within which an answer has to be given.

There was also the question of the publication of the Register. The directive makes provision that the Register of the European Lawyers shall be published where the competent authority

publishes the Register of local lawyers and we in our legislation we are saying where the competent authority publishes the Register it shall publish the names of the European lawyers registered with it which is in section 59 (1). I would have thought that this which is almost straight out of the directive is because of course '*where*' in the directive means "*in those Member States where this happens*," whereas in Gibraltar either the competent authority publishes the Register or does not publish the Register so I would have thought the "*where*" there was the wrong way to make that provision given that I do not know frankly whether the competent authority currently publishes the names of solicitors and registers but if the barristers and solicitors operating in Gibraltar are on a register which is published by the Chief Justice then what the directive says the European lawyers that are registered as a result of this new law should also be included in the publications of those names. Therefore I would think that ought to be drafted in a way which reflects whatever the practise is whether it is to publish or not to publish it but the "*where*" in the directive in the context in which the directive provides it seems to me on reading it to be intended to say, "*those Member States where this happens should treat European lawyers the same and those Member States where it does not happen obviously do not have to do it.*"

As regards the general principles of the Bill then obviously we are supporting this and the only point as a matter of general principle that I would make is the question of notification of the competent authority to other Member States and to the European Commission, I take it that the United Kingdom will be notifying everybody that there is a separate competent authority for Gibraltar given that the directive itself mentions competent authorities in the United Kingdom and Ireland and there is no reference in the actual directive, in the Member State UK, there being any other competent authority.

## HON CHIEF MINISTER:

Mr Speaker, dealing just with some of the points that the hon Member has raised let me just tell him that as a matter of principle the instruction under which the draftsmen operate is that they should, unless they have a specific policy steered to the contrary, in other words that the Government want to take the opportunity to do something for domestic purposes in addition to the directive, the standing instructions to the Government draftsmen is that they must transpose the directive on a minimalist basis. In other words creating the fewest possible burdens and maximising or at least putting to the Government for political decision the question of the exemptions, deviations and derogations which are allowed for under the directive so that a political decision can be made about whether Gibraltar should maximise the use of exemptions or not. Obviously the decision is to do so especially when it is an area such as this not just in Gibraltar but I think in all Member States.

Mr Speaker, I am assured that the drafting of section 64 (2) and (3) is accurate, the hon Member would have noticed that the difference is that in subsection (3) in little (c) there is a reference to the last word in the law of Gibraltar the choices are either, three years registration and Gibraltar law activity has been full time that is little (2); or little (3) three years work in Gibraltar as a lawyer and Gibraltar law has only been part of the work and all subject to the over-riding safeguard that it is up to the competent authority to decide whether any of these concessions should be offered at all because the competent authority may accept applications from people in the circumstances set out in the transitional circumstances set out in (2) and (3) and I suppose precisely one of the things that the Chief Justice will be concerned to ensure is sufficient familiarity with Gibraltar law. I am assured that (2) and (3) are separate options, separate permutations and that (3) does not, which I think was the hon Member's concern, that (3) does not dilute the requirements of subsection (2), little (a) is common to both, " ...*he is a European lawyer and has been registered with the competent authority for at least three years.*" That is exactly the same in both (2) and (3) and that simply means registration

because he can be registered but not actually be here practising. Little (b) is also common to both, "*.....he has for a period of at least three years effectively and regularly pursued in Gibraltar, professional activities under his home professional title.....*," in little (b) in (2) it goes on to say, "*...in the law of Gibraltar,* " and in (3) it stops and the law of Gibraltar is introduced in (c). "*...he has for a period of less than three years effectively and regularly pursued in Gibraltar professional activities under his home professional title in the law of Gibraltar.*" So, (3) is registration for three years effectively and regularly pursued in Gibraltar professional activity under his own title, in other words registered and present but not for all the whole of three years in the laws of Gibraltar, during those three years it has not all been the law of Gibraltar or it has not been the law of Gibraltar for the whole three years.....[HON J J BOSSANO: Or at all.....] ...or at all but then the hon Member has got to understand that the competent authority is then not obliged to do this. We have got to assume that the Chief Justice is going to protect the interests and the judiciary and the consumer that is why this is permissive and not mandatory.

Mr Speaker, I agree with the last point the hon Member made which is about the publication that it should be, I am not aware of any requirement of the directive that requires a separate regime for European lawyers and that it ought to be the same. I do not think speaking from memory and as an inactive Member of the Bar I do not think there is a publication at the moment, no, the roll and the list of people called to the Bar I think are available for inspection at the Registry of the Supreme Court but the list and roll are not themselves published in the sense of including them in any publication but they are published in the sense that they are available for inspection in the Registry of the Supreme Court.

Mr Speaker, the last point the Leader of the Opposition made on competent authorities, this is a classical case where the communications between the competent authorities would be through the post boxing. Post boxing arrangements were

supposed to permit and do permit that in an appropriate case there should be specific mention of the separate Gibraltar competent authority, the Leader of the Opposition will remember those historical cases which are the few cases where there has been a separate Gibraltar mention, some scheduled to some companies directive some time ago, it is has never been the practice for Gibraltar to be separately mentioned in the body of the directive as opposed to in a schedule attached to a directive where, for example, there is a list of the different arrangements in the different countries and certainly the competent authority agreements that were entered into in April 2000 were intended to permit in the future that the specific provision could and should be made for Gibraltar in any schedule or annex where, for example, it lists the different arrangements in the different parts of the European Community.

Question put.                      Agreed to.

The Bill was read a second time.

#### **HON CHIEF MINISTER:**

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

Question proposed.      Agreed to.

## THE TRANSFER OF SENTENCED PERSONS ORDINANCE 2002

### HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to give legal effect to the Council of Europe Convention on the Transfer of Sentenced Persons done at Strasbourg on the 21<sup>st</sup> day of March, 1983, as supplemented by the Agreement on the Application among the Member States of the European Communities of the Council of Europe Convention on the Transfer of Sentenced Persons done at Brussels on the 25<sup>th</sup> day of May, 1987, 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 implements into the law of Gibraltar the convention that exists between Member States of the European Community and of the Council of Europe on the transfer of sentenced persons. The measure is brought to the House as part of the range of measures that form part of the Schengen Acquis that Gibraltar is to participate in or has been committed to participate in. As the name and the long title of the Bill suggests the Bill creates a regime whereby persons who have been tried and convicted and sentenced to prison in Gibraltar can apply to be transferred to their home countries in Europe to serve out the sentence and vice versa, that is to say Gibraltar belongs who

are tried, convicted and sentenced in other Member States can apply to those Member States to be transferred to Gibraltar to complete their sentence here. The regime created for that purpose under the convention is basically one of application by the prisoner and the hon Members will see that the consent of the prisoner is essential for a transfer in either direction. This is something that is initiated by an application by the prisoner and that in terms of the transfer out of prisoners from Gibraltar the application is made, if the safeguards set out in sub section (3) of section 5 on page 149, if all those safeguards are met, for example, that the sentenced person concerned for the purpose of the convention is regarded by the administering State as a national of that state, in other words the administering State is the transferee state, that the order under which the sentence concerned was imposed on the sentenced person is final, one cannot transfer anybody out if they are still subject to a right of appeal because that appeal could succeed and they may end up not being sentenced. That at the time of the receipt of the application the sentenced person had at least six months of the sentence concerned served. One cannot ask to be transferred out within the last six months of one's sentence and there was another one that the sentenced person or in the case where the Government or the administrative State condition of the sentenced person the legal representative of the sentenced person or any other considers it necessary because the age or physical or mental person considered by the Government consents in writing to the transfer. There is also an obligation to explain this right to all sentenced people so that when people in Gibraltar non-belongers are sentenced in Gibraltar, nationals of other states, there is an obligation to bring to their notice the existence of this legislation and of this regime so that they know that they have the right to apply for a transfer out and then if the application is approved locally then it is transmitted to the competent authority in the administering State, the transferee state the state to which the prisoner wishes to be transferred, a warrant is then issued if the transferee competent authority agrees but 'agrees' means *'has to agree unless he is allowed to disagree to receive the prisoner because everyone has got exactly the same regime in place.'* A warrant is then issued and

arrangements are made to transfer the prisoner obviously in secure conditions into the custody of the competent authorities in the transferee countries and then when there is a request to transfer people into Gibraltar there is then a slight difference to the regime in that the Supreme Court has to issue an Order extending the custodial sentence to Gibraltar. In other words, there is no jurisprudential objection to sending a prisoner that one has sentenced with his consent out to serve the sentence elsewhere but in order to receive into one's territory a prisoner that has been sentenced elsewhere one needs the cover of one's courts. There has got to be some lawful basis, 'lawful' within the meaning of the laws of one's country to continue to keep somebody in detention and because this is a person that has not been tried, convicted and sentenced in Gibraltar the same applies when a Gibraltar prisoner arrives in Denmark, the Danish Courts have got to provide legal cover for that continued detention in Denmark. So, when any country including Gibraltar, receives a prisoner from outside, the Courts of Gibraltar have got to approve of the procedure and issue an order which provides legal cover for the detention of that person from that moment on in Gibraltar given that that person has not been subject to any legal process in Gibraltar that would otherwise justify that incarceration. There are provisions which allow the Court at that point in Gibraltar to modify the sentence to be a sentence which is compatible with the sort of sentence that that person would have received if he had been convicted of that sort of offence in Gibraltar. So, if a person, for example, driving without insurance policy a hanging offence somewhere and the person convicted arrives in Gibraltar with a sort of 35 years sentence of imprisonment, when that person transfers to Gibraltar the Court then has the opportunity, there is an obligation to stick as closely as possible to the sentence of the transferring court but there is this opportunity in section 8 to modify the sentence by lowering it never by raising it, only always by lowering it to the maximum penalty prescribed by the law of Gibraltar for a similar offence. So, inwards transfer of prisoners there is a judicial stage. There is not a judicial stage for the outward transfer of prisoners. The judicial stage is always in the receiving state not in the transferring state. There are provisions that prevent when a prisoner transfers to Gibraltar, he

cannot appeal against his conviction, so once he is in Gibraltar he cannot say, "*..well now I appeal to the Court of Appeal against sentence or conviction,* " so there are no rights of appeal attached. This is literally to finish off serving the sentence that one has had. The judicial process in other countries is not reopened.

Then there are what one might call housekeeping provisions in section 12 to give the police power to arrest any transferred prisoner that may escape in Gibraltar and then there is a general rule making power so that the Chief Justice shall have power to make such rules as he thinks fit for the conduct of all Court proceedings in relation to this Ordinance.

Mr Speaker, this is actually quite a welcomed piece of legislation, hon Members will be aware that there have been cases in the recent past where there has just not been the judicial and statutory framework to have pursued it. This creates such a structure at least for countries that have subscribed to the Council of Europe Convention of 1987 so it may still not make it possible with all countries but there is a large list of countries with which it is possible and I think that the House should welcome the opportunity for these transfer of prisoners to be able to take place within a statutory context. I commend the Bill to the House.

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

#### **HON J C PEREZ:**

Mr Speaker, we welcome the Ordinance. I think the United Kingdom extended the convention to us but the applications that were received were unable to be processed. As a result one of the things was I think what the Chief Minister mentioned in respect of the Courts of Gibraltar being able to give legal effect to



the detention of the transferring prisoner whereas there are some things that could be done because we were obliged to do it by convention. There were some things omitted in law that could not in effect make this possible and I remember myself that one of the things was that there was no provision for the Court to be able to receive the prisoner and the fact of authorising the Government or the Authority or the Court itself to detain the prisoner in Gibraltar.

We welcome the Ordinance, there is just one area that perhaps the Chief Minister might be able to clarify and that is Section 3 (ii) where in respect of countries that are not a Schengen State we are giving ourselves the option of applying the terms of this Ordinance obviously to prisoners transferring out only because we could not extend the terms of the Ordinance to prisoners transferring from another country in another country but I find it rather odd that we should have any other arrangement with any other country other than the ones that we have at the moment, perhaps in the future we might have but I do not see how it is that we might be able to apply that to anything other than to the countries covered by the conventions of which we are applying the law now.

#### **HON J J BOSSANO:**

Mr Speaker, there are two points, in the introduction it has been said that we are doing this as a result of Gibraltar being brought in under some of the provisions of Schengen after the United Kingdom decided to join these provisions but in fact if the convention was extended to us in 1987 then presumably we have had irrespective of Schengen and before Schengen even existed we have had the requirement under that convention to accept or give the facility to prisoners and to my knowledge there have been some instances since 1987 where Gibraltarians have been permitted to complete part of their unexpired sentence in Gibraltar and I would like to know what machinery was used for doing that before and I would like to have confirmation that in fact this is not limited to Schengen countries, it applies both to Schengen

countries and to convention countries outside the Schengen area and indeed the European Union.

#### **HON CHIEF MINISTER:**

Mr Speaker, I will deal with the last point first because it covers some of the points that the Hon Mr Perez touched upon. There are two issues here, there are Convention States and then there are Schengen States and they are different. There are states that have subscribed to the Council of Europe, remember that this is a Council of Europe Convention and therefore there are states that have subscribed to the Council of Europe Convention who are not Schengen States because they are just not on the Schengen Agreement so this extends to Schengen States and to Council of Europe subscribing states that have subscribed to this convention and specifically in answer to the point, I think the position is exactly as the Hon Mr Perez has described. Where it says in Section 3 sub rule (ii) "*where there are international arrangements extended to Gibraltar and applying to a state or territory that is not subject to article 68 of the Schengen Convention....*" I think that that intends to mean other international arrangements, I do not think it means ad hoc arrangements, I think it means the arrangements under some other international base, these will be the mechanics as well, the Government may designate that this order shall give effect to those arrangements as if the state or territory were a Schengen state. I do not think that this is capable of applying to a sort of an informal arrangement between Gibraltar and some other bilateral country with which we happen to find that there is a prisoner as happened in the case that the hon member alluded to. I do not think that this section provides cover to any sort of ad hoc arrangement between Gibraltar and some country in Africa but there would have to be an international arrangement and then they would be covered, provided the country is designated under 3(2) which I could be covered but not the ad hoc situation that we faced with a prisoner in Morocco I think it was in that case. Did the Leader of the Opposition make another point?

**HON J J BOSSANO:**

The two things that I was asking was since we have had this applicable to us since 1987 irrespective of Schengen.....[*HON CHIEF MINISTER:I remember now.....*]......how have we been doing it since 1987 and how have prisoners been brought home on previous occasions since 1987 of which there have been some instances?

**HON CHIEF MINISTER:**

I know of one instance and I do not without notice of the question know what the legal basis for that transfer was, I am advised that the convention creates the framework of which one can benefit if one goes on to create the legislation. The UK's agreement for its subscription to parts of the Schengen Acquis created the obligation. This is one of the things that the UK committed to do and therefore there is now an obligation for us to have this arrangement in place.

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 CARRIERS' LIABILITY ORDINANCE 2002**

**HON CHIEF MINISTER:**

I have the honour to move that a Bill for an Ordinance to supplement the law of Gibraltar relating to the clandestine entry of persons into Gibraltar and matters connected 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 first thing that I would say about this Bill is that it is particularly ineptly titled. The Carriers' Liability Ordinance will suggest to almost any lawyer that sees it liability of carriers' of freight to the owners of the freight, that is what the phrase '*Carriers' liability*' normally means in the legal profession but this Bill has nothing to do with the liability of '*Carriers of freight*' to the owners or consignees of that freight, this Bill is concerned with creating a regime whereby people who assist or contribute to the clandestine entrance into Gibraltar of unauthorised people and also separately because '*clandestine entry*' means that one gets into Gibraltar hidden but the Bill also applies to a slightly different situation which is not '*clandestine*' as such which is the situation when somebody arrives on a ship or on an aeroplane without the right paperwork. If British Airways carries to Gibraltar a passenger without the right visa to get into Gibraltar that is not an attempt at '*clandestine*' entrance, it is just arriving, seeking to gain

entrance through a proper channel, an immigration point, without the right paperwork and those are basically the two categories of people with whom this Bill deals.

It is another of the measures which are put forward as part of our duties under the Schengen Acquis under article 27 of which the contracting parties undertake to impose the appropriate penalties on any person who for the purpose of gain assist or tries to assist an alien to enter or reside within the territory of one of the contracting parties contrary to the laws of that contracting party on the entry and residence of aliens. The Bill basically creates a system of a fine of, there is the usual definition of terms in section (2) and I note just as I read it that the number (2) has been omitted from page 163, the way it says in this Ordinance all that is section (2) although it does not say so because the next one is section (3) so I shall move that amendment at the Committee Stage. Section (3) creates the liability in principal and hon Members will see section 3(1) says, "*...the person (or persons) responsible for (a) a clandestine entrant; or (b) a passenger arriving in Gibraltar without proper documents, shall, subject to sub-sections (4) and (5) incur a penalty at level (4).*" Level 4 is £2,000 on the scale. Then there is a definition of who is a 'clandestine entrant,' - *he arrives in Gibraltar concealed in a vehicle, ship or aircraft, he passes, or attempts to pass, through immigration control concealed in a vehicle, or he arrives in Gibraltar on a ship or aircraft, having embarked (1) concealed in a vehicle; (ii) at a time when the ship or aircraft was outside Gibraltar.*" "Concealed, clandestine" means concealed trying to gain access through the use of concealment. There is a rather interesting provision for the mitigation of the fine and the mitigation of the fine is on the basis of the schedule in the Ordinance and if the hon Members look in the schedule at page 180 one can see that the starting point is 100 per cent of the fine and then there is all those issues which would allow the competent authority to mitigate and it actually says the percentage mitigation so a reduction of up to 15 per cent or even 25 per cent for voluntary disclosure where there was no fear of early discovery by the authorities. Co-operation, a reduction of up

to 20 per cent, gravity, a reduction of up to 30 per cent, that is a novel concept in our legislation where there is a fine imposed and a statutory system of mitigation where the statute actually sets out the principles to be applied in the mitigation and the percentage mitigation that each of the mitigating principles should carry.

There are defences at section 4 subsection (3) there are those statutory defences in the case of clandestine entrants, people who have assisted clandestine entrants in the circumstances set out there have what is called a "*statutory defence*". He or one of his employees who was responsible for assisting the "*clandestine entrant*" was acting under duress, I do not know what that means, if it means that one's wife was kidnapped at home or he did not know and had no reasonable grounds for suspecting that a "*clandestine entrant*" was or might be concealed in the transporter or that an effective system for preventing the carriage of "*clandestine entrants*" was in operation in relation to that transporter and that on the occasion in question the person or persons responsible for operating that system did so properly. The defences are "*duress, no reasonable grounds of suspecting the clandestine entrant was concealed and had a system in place to prevent this from happening and that system was properly operated on this occasion.*" The Bill goes on to deal with the second category of persons not the concealed person but the person who simply arrives without the proper documentation, again there is a definition of that meaning that one arrives at an airport or port or in a vehicle or bus without the right paperwork. Again there are statutory defences, then the Bill at clause 6 deals with the procedure for imposing a penalty and that is a senior officer which is a public officer to be designated as the sort of administrator of this regime, I suppose that the Government will designate the Principal Immigration Officer. There is a right of appeal against any fine, whoever is the senior officer which is the language used decides to issue a penalty notice and also whether to implement the mitigation of the fine regime. After that has happened the person who gets the fine, whether it is mitigated or not, can then appeal both as to the fine in the first place and as to the extent to which the mitigation regime has

been applied in his favour. That appeal is to the Supreme Court and the Supreme Court has wide powers to replace the finding of the senior officer with its own. Part 4 deals with the powers to detain and in certain circumstances sell the vehicle in which the person arrived and the power of sale is limited to cases where the fine has not been paid provided it is not subject to an appeal. The person fined can also be charged not just with the amount of the fine but also what the Bill calls connected expenses which are hearing expenses, application expenses and things of that sort and all of that can ultimately be secured by the sale of the vehicle or transporter if it is not paid by the person made responsible which incidentally is not just the owner of the vehicle in question but also people who may be operating the vehicle in question. There is a power to make subsidiary legislation for the purposes set out in section 12 and Part 6 starting at section 14 makes provision for the returnability of unauthorised persons, the ability subject to the asylum regime, the ability to return concealed illegal migrants or undocumented migrants. There are certain amendments made to the Immigration Control Ordinance to render it consistent with this provision including adding a new section in 63 (a) (1) in the Immigration Control Ordinance in the terms set out at clause 15 of the 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, we were not aware that this had anything to do with article 27 of the Schengen Agreement and there is no indication that this was an obligation under any Regulation or directive to do with the EEC so we were working on the assumption that this was driven by Government policy.....

**HON CHIEF MINISTER:**

Will the hon Member give way? I myself queried that and I have asked that when legislation is intended to implement an international obligation it should always say so so that the hon Members can bear that in mind when they are critically looking at the Bill.

**HON J J BOSSANO:**

The questions that we had in our minds as to what was the purpose and the reasons for doing it of course I will not be pursuing and therefore the points that I want to make are points in relation to some of the sections in the drafting of those sections in relation to the expressed purpose of this.

In terms of the definition of who is a "*clandestine entrant*" in page 166 which is the latter end of section 3 subsection (2) the person arriving in Gibraltar has to either claim or indicate he intends to seek asylum presumably when he is caught or attempts to evade or succeeds in evading immigration control. My reading of that is that if a person in fact arrives on a ship for example and then presents himself to the authorities but does not say he intends to seek asylum then he is not covered by either of those two provisions and none of this applies. That is to say, if a guy steps off a ship being a stowaway and does not seek to evade immigration control he presents himself to the immigration authority and says, "*I am here because I want to live and work in Gibraltar,*" he is neither seeking asylum nor attempting to evade immigration control and therefore he is not a "*clandestine entrant*" and presumably he will have to be dealt with under the Immigration Ordinance and none of the penalties apply to the carrier. I do not know whether that is intended to be like that but

that is how I read it given that we qualify what is "*clandestine*" by laying down two criteria either of which have to be met.

Going back to the latter part of the Ordinance where we are actually amending the Immigration Control Ordinance in the amendment that we are making to section 61 we are removing "*Captain of the Port*" and substituting "*Senior Officer*" but we are doing that not just for the purpose of this Ordinance but for the purpose of the provisions in section 61 in relation to Immigration Control. Section 61 provisions permit the Captain of the Port to detain a vessel where a person has landed in Gibraltar contrary to the provision of the Immigration Control Ordinance which need not be the same provisions as there are in the Ordinance before the House. I cannot understand why it is necessary to remove that power from the Captain of the Port in respect of other offences under Immigration Ordinance and if the Captain of the Port is not going to be the person who has got the authority to detain the vessel then I find it odd that it should be a senior officer who is going to be named under the Carriers' Liability Ordinance although in fact the definition of senior officer that is being provided in that section does not necessarily mean that we are talking about the same person, that is to say, we are providing a new subsection (2) to section 61 of the Immigration Control Ordinance which says, "*a senior officer for the purposes of subsection (1) shall have the same meaning as in the Carriers' Liability Ordinance,*" but it does not mean it has to be the same person. What that section does is it creates the same power for any public officer to be appointed under section 61 (2) of the Immigration Control Ordinance to do the work that until now has been the responsibility of the Captain of the Port because what we are transposing is the definition of what "*senior officer*" means but not necessarily the body.

Mr Speaker, we are also amending section 63 of the Immigration Control Ordinance by adding a new section 63(A) in which we are creating a new offence in anybody in Gibraltar who aides, abets, counsels or procures for a person who is not an EU

national to enter or reside within the territory of any country listed from time to time in Schedule 3 contrary to that country's law. That has nothing to do with the purpose of this Bill which is to create a liability for carriers who bring clandestine people into Gibraltar and that seems to me to be a separate policy with separate principles. It would seem to me that on the general principles of this Bill creating an offence in the Immigration Control Ordinance if somebody here advises somebody on how to get into some other country somewhere else in the world has absolutely nothing to do with the purpose for which this Bill is being brought to the House and I do not understand why it is being put there unless I am told that we are also required to do that by article 27 of Schengen but if Gibraltar is required to take action in its own legislation to create an offence in the laws of Gibraltar if anybody here has been involved in assisting anybody anywhere else into entering into another country I would have thought that would only apply to the countries in the European Union, this in fact allows for any country that the Government chooses to be added at any time to the laws of Gibraltar and create the offence here. Those are the points of principle that arise.

#### **HON CHIEF MINISTER:**

Mr Speaker, dealing first with that last point I accept that he may not have been focused on them because I was not then reading them for that purpose but the words that I read from article 27 of the Schengen Convention answer his last point. The contracting parties undertake to impose appropriate penalties on any person who for purposes of gain tries to assist an alien to enter or reside within the territory of one of the contracting parties contrary to the laws of that contracting party. It is a sort of matrix system where not only must one's laws create this regime for doing it in one's place but for also from one's place to plan to do it into somebody else. It is to ensure that people cannot sit in one country planning illegal immigrant smuggling operations into other countries as I

suppose happens between Morocco and Spain where all the organisation, planning and all the conspiracy takes place. So, the answer is yes, the terms of article 27 (1) specifically requires us to legislate, remember that the article creates general objectives, this is not like a directive where the legislation closely follows the language. The article does not require us to do this, in particular it requires us to have effective measures dealing with the objectives that I have just described, I suppose that it could have been achieved in many other ways what we have done here is that we have been guided by the UK's own legislation in this respect which is already formulated, tested in the courts and things of that sort but this is not like a directive where the text of the legislation where in a sense has generated itself by virtue of the convention. It is not. The other point that the hon Member has made as to the reasons for amending the Immigration Control Ordinance, the reason for doing it is to ensure that there are no two conflicting legislative provisions covering the same ground. I take the hon Member's point in relation to section 61 because the new legislation does not create a right to arrest a ship. There is a right of detention of any vessel and the power of sale and I suppose a lawyer would say that the right of detention coupled with the right of sale is a lien. That is what a lien is and that this section 61 also deals with powers of arrest, liens on ships and I suppose the draftsman may have wanted to eliminate that but if that was the intention he has failed to do so because by changing the words, "*Captain of the Port*" to "*Senior officer*" by changing the identity of the person that exercises the powers in section 61 of the Immigration Control Ordinance one is not eliminating any alleged conflict or any alleged duplicity. It is arguably worse that one has two different regimes administered by the same person with conflicting provisions. So I will look at this issue before the Bill comes to Committee Stage just to make sure what the Government would wish to do differently in that respect and in relation to the other point I have more or less dealt with half of the other point that he made about the addition of the new section in section 63 of the Bill. The question of the creation of the criminal offence for the offence to be committed somewhere else and then I think that the other point that the Member raised was in relation to the definition of "*clandestine person*." The hon

Member should not forget that the regime applicable to "*clandestine person*" is only applicable to half of this regime there is still the person who arrives without the proper documentation but yes his reading of "*clandestine persons*" is correct. One is a "*clandestine person*" if one arrives in Gibraltar concealed in a vehicle, ship or aircraft, one passes or attempts to pass through Immigration Control concealed in a ship or aircraft or one does not attempt to pass through Immigration Control and having arrived concealed in a vehicle or on a ship obviously having boarded and concealed oneself before the ship arrives in Gibraltar one claims or indicates the intention of seeking asylum in Gibraltar or evade or attempts to evade immigration Control. In those circumstances the person is not a "*clandestine entrant*" for the purpose of section 3 (1)(a) and therefore for the purposes of the Bill. The legislation just does not apply to it.

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 GOVERNMENT FEES AND DUES (REFUNDS) ORDINANCE 2002

### HON CHIEF MINISTER:

I have the honour to move that a Bill for an Ordinance to make provision for the Government to refund sums paid to the Government under certain laws where the House of Assembly, by Resolution, determines it to be in the economic interests of Gibraltar to do so, 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 need for this Bill arises in interesting circumstances. The hon Members will recall that in December of last year we passed a Bill to amend the Supreme Court Ordinance to make new provisions for the payment of fees upon the sale of any ship or cargo by order of the court, to change the Supreme Court fees in order to create a concessionary package for people that arrested many ships. The hon Members may also recall that section 1 of that Bill read, *"This Ordinance may be cited as the Supreme Court Ordinance (Amendment) Ordinance 2001 and shall come into operation upon Her Majesty's pleasure thereon being publicly signified in Gibraltar in accordance with the provisions of section 4 of the Admiralty Court Act 1840."* That is not anything to do with our local Constitutional set up it is not a

reference to the Royal Assent or the Governor's Assent nor is it a reference to the provisions in our Constitution entitled the Secretary of State to disallow legislation, the so called powers of disallowance. The setting of fees in Admiralty jurisdiction in the UK Overseas Territories is regulated by the Admiralty Court Act of 1840 a piece of United Kingdom legislation that applies to everybody and that says under the heading *'Reservation of Colonial Law For Her Majesty's Assent'* this remember is a provision of United Kingdom law, it says, *".....every colonial law which is made in pursuance of this Act or affects the jurisdiction of all practice or procedure in any court of such possession in respect of the jurisdiction conferred by this Act....."* that is to say Admiralty jurisdiction, *"....or alters any such colonial law as above in this section mentioned which has been previously passed shall unless previously approved by Her Majesty through a Secretary of State either be reserved for the signification of Her Majesty's Pleasure thereon or contain a suspending clause..."* which is what we put in our clause 1, *".... providing that such law shall not come into operation until Her Majesty's Pleasure thereon has been publicly signified in the British possession in which it has been passed."*

This Bill has received the Royal Assent, the Governor's Assent, it had been approved before it was published as a Bill yet legal advisors in London, I think it is in the Lord Chamberlain's department, have advised that Ministers in the UK should not signify Her Majesty's Pleasure under the 1840 Act of the UK because they fear that it would create a precedent in other Overseas Territories who will then wish to start altering. Frankly I find the arguments completely unpersuasive, the local legislation draws on a power contained in the 1840 Act, follows the provisions contained in the 1840 Act, was submitted before it was published and does nothing which in my view not only this House is not entitled to do but actually has done in the way that the English Act of 1840 thinks that it should be done. It can be done by colonial legislatures with the signification of Her Majesty's Pleasure and no one has said to the Gibraltar Government, *"..we do not think that you should modify the ship arrest fees,"* no one

has said, "...*why are you creating a concessionary rate for ships group arrests,*" so that the objection has not been to the substance of the legislation but rather that because the 1840 Act creates a regime for changing shipping rules, procedures and fees throughout all the Overseas Territories that we should not do it by novel method namely an Act of the House Of Assembly. Normally court fees would be changed by the Chief Justice exercising his powers to make fees but the Chief Justice does that in pursuit of the administration of his courts. The Chief Justice is not obliged to exercise his rule making powers because the Government in the wider economic interests of Gibraltar want to attract ships, want to use that area of business for general economic activity and I cannot say to the Chief Justice, "*Chief Justice will you please change the court...*" he may say, "...yes, it is a very good idea I will I do it," or he may say, "...no." The Government do not exercise any measure of control over the exercise by the judiciary of its rule making powers through subsidiary legislation. That is why we have brought the Ordinance to the House. This Bill and it has been indicated to me that the Bill that we passed in December, which is the law of Gibraltar in the sense that it received the Royal Assent, will actually not receive in the foreseeable future the signification of Her Majesty's Pleasure under section 4 of the 1840 Act and therefore the provision of section 1 in the Bill when we passed it in December saying it is suspended until it has received the signification of Her Majesty's Pleasure is not imminently forthcoming. In the meantime the Government directly and through the person of the Registrar and the Admiralty Marshal has this commitment to the bank that arrested the ships who bought one under the existing fee structure but bought the others from various corners of the globe after it had been indicated to him that this tariff would be available. I think that Gibraltar is honour bound to deliver on that arrangement to that particular arresting party and this Bill is a means of this House approving such arrangements on a case by case basis without actually modifying the Court Rules. The Court Rules remain the same, whatever the Court fees are, whatever the Chief Justice determines, the Admiralty Marshal's fees are whatever they are under the rules all that money eventually becomes ordinary

Government revenue. It goes into the Consolidated Fund like any other and that is the point at which this Bill is designed to deal with the monies. It says and I would not normally take the hon Members through the definition section but the definition sections are key to the operative provisions of this particular Bill so I hope the hon Members will find it helpful that I go through it .

**'Resolution'** – means a resolution passed by the House of Assembly upon motion presented by the Government upon at least 14 days notice.

**'Fees and dues'** – means all or part of any sum of money paid with effect from 1<sup>st</sup> January 2002 by any person by way of fees or dues under the provisions of any law which fees or dues have been transferred into the Consolidated Fund. Actually I am going to do a small amendment to go on to say, "*or are liable to be so paid or transferred.*"

**'Law'** – means any Ordinance, Rule, Regulation or other Law of Gibraltar or Law applicable to Gibraltar, and then we get to the first operative section. The Accountant General shall pay to the payer thereof (without interest) any fees or dues the refund of which has been approved by a Resolution. Remember a Resolution is a Resolution of this House passed on motion of which I have given at least 14 days notice. So, before anything can be refunded it has got to be approved on a case by case basis by a Resolution of this House. That Resolution must declare that it is in the economic interests of Gibraltar to make the refund and must specify the reasons why that is said to be so. If the refund enures to the benefit of an identifiable person or persons they shall be identified in the Resolution by name or names, if on the other hand the refund enures to the benefit of persons engaged in a particular activity then the resolution shall clearly and comprehensively identify and describe that particular activity and the Resolution shall specify the amount of fees or dues to be refunded and once approved by this House in a Resolution that refund constitutes a charge upon the



Consolidated Fund in the year upon which the refund is made not in the year in which it has been paid, in the year in which the House approves it.

Mr Speaker, we have gone as far as we practically and reasonably can to create a regime which does not leave this power to the Government and which would only enable it to be exercised with the maximum amount of prior debate, with the maximum amount of transparency and following a debate and a Resolution of this House which I have purposefully made requiring more than the usual five days notice for Government motions to give the House the maximum opportunity to form a view on what the Government are asking for and the reasons why the Government are asking for and to give the opportunity as much time as possible to examine it critically before it comes to the floor of the House. That is the meaning, extent and indeed the reason why this Bill is before the House and I hope that in the circumstances the hon Member will be able to support 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, given that explanation we will of course support it, there was nothing when it went public to indicate why this was necessary at all in the first place. I take it that this means in fact that the people concerned have had to pay the money already and that therefore that money is already in the Consolidated Fund because if it is not then we do not have to take it out. That is what the Bill is for?

**HON CHIEF MINISTER:**

Mr Speaker, both in this case and in any future application of this legislation the person will have to pay the money because we are not changing the rules as to what the fees are at the front end. We are saying, "*...once you have paid them and after the money has reached the Consolidated Fund, this procedure is then available for a refund.*" In the particular case of Renaissance the Admiralty Marshal is holding on to the money, they have to pay 2 per cent under the rules, 1 per cent court poundage, 1 per cent brokers commission and that money is sitting in the Admiralty Marshal's account. I do not think it has yet been passed to the Consolidated Fund which is one of the reasons why I am going to move an amendment. I do not know if the hon Member heard me when I said this under the definition 'Fees and Dues' where it says which fees or dues have been paid or transferred into the Consolidated Fund I was going to add after that, "*.....or are liable to be so paid or transferred.*"

**HON J J BOSSANO:**

Technically the fact that it is sitting in the Admiralty Marshal's means nothing because it is still in the Treasury but in the estimates that were presented to the House at Budget Time we had figures showing the amount collected in the last financial year and the amounts collected or expected to be collected in the current financial year. Does that reflect only the amount once it reaches the consolidated Fund or is that amount already reflecting what is in the Admiralty Marshal's hands?

**HON CHIEF MINISTER:**

No, the Admiralty Marshal's Account is not the Consolidated Fund. The Admiralty Marshal's Account does not contain Government monies it is a trust account because it also contains proceeds of sale and other things. The Government's share of what is in the Admiralty Marshal's Account will get transferred into the Consolidated Fund at some stage, I do not know when it normally tends to happen, and at that point it becomes Government Revenue into the Consolidated Fund. The answer to the hon Member's question is that when the Financial and Development Secretary proposed changes to the estimates once they were before the House the figure that we then put in was the net figure, the figure that we would hope to keep after we have done this. The hon Member will accept that I am just passing on what has been told to me. The figure for the estimate in the current financial year is a figure which reflects the fact that we were expecting to give this part back it is not the whole amount but the amount that the Government would hope to keep after this had been implemented.

**HON J J BOSSANO:**

So in looking at the effect of this the resolution would not change that figure because what would eventually appear would be a higher figure coming in and then part of that going out and leaving the same net figure that is there already.

**HON CHIEF MINISTER:**

Subject to what I have just said being true which of course I will check before I bring any such motion to the House in this case, that would be exactly how it would operate and it is a charge on the Consolidated Fund so that the amount, once the House authorises it in a Resolution to be refunded there is then not an

appropriation issue difficulty. There is a legal base for it physically being paid out namely a charge on the Consolidated Fund because the House would not have voted these monies to be paid out in the estimates of that year.

**HON J J BOSSANO:**

Mr Speaker, on the general principles of the Bill the only thing that seems to us perhaps could have a negative effect on the possibility of attracting this business is that having to go through this procedure may create the impression that the refund is not guaranteed. Given that we are talking about something that is in the economic interests of Gibraltar I appreciate the argument that has been used that this gives the House the opportunity of debating whether it should happen or not happen when the resolution comes. In theory therefore the whole purpose of having 14 days, and time to think about it is that in theory in the debate the whole argument that has been put is that if somebody expects to be paying less than the standard 2 per cent on the basis of the volume of business and that we would not get the business if we did not produce a more attractive fee structure which was what the original Bill did and which we supported because we thought it was a good idea, but if we now have a situation where because of this UK view which does not seem to make any sense we are not going to be able to see the provisions of the Ordinance that have been approved by the House commenced, we now have a situation where people are being told, *".....look you do not have to pay what the law says because there will be a Resolution of the House which will give you a rebate,"* by definition the person can be told that the House will vote 'yes' even before the Resolution is brought and before the matter is debated and therefore I would have thought that .....

**HON CHIEF MINISTER:**

Will the hon Member give way? I am grateful to the hon Member, I think he has overlooked because I did not highlight that this would not be on a case by case basis. The motion will not say, “....and that this should be the regime for the Renaissance ships,” I am going to bring a motion to the House that says that there should be refunds in every case of arrest and the motion is going to replicate the structure of fees that we approved in the legislation back in December. So that would be a standing motion of the House and a standing instruction to the Accountant General so that in every case that falls within the new structure of incentives that we agreed in the Bill there will be a refund. It is not envisaged that this will be on an arrest by arrest basis, we will be approving in a motion a refund regime for all cases.

**HON J J BOSSANO:**

Mr Speaker, actually I think he did say on a case by case basis but clearly we thought that the explanation that he had given was that for this specific instance of the Renaissance ships there was going to be one because in fact the law requires that it should say who is the beneficiary and one has got to put the names, now how can one put in a regime the names of the people when we do not know who the people who are going to benefit are. It says, “....if the refund assures the benefits of persons in a particular activity then the resolution shall clearly and comprehensively describe that particular activity,” but the beneficiary surely is not the shipowner selling the ship, the beneficiary is the buyer and we have been told that there was a bank that bought it. If we are going to have a comprehensive motion saying, “banks buying ships,” well then it would mean that if someone other than a bank buys the ship another shipowner for example, it will not apply, this is why we thought that the Chief Minister was referring to the specific Renaissance sales, the specific amounts and the specific purchaser because the drafting of the Bill says, “specified the amount of fees or dues,” and we took that to mean the actual

cash not 1 per cent of the fee or 50 per cent of the fee. Obviously we have been focusing it on the reading of the text on the assumption that it would be presented in this House with periodic resolutions whenever there was a need to make a refund and our view would be that that might not be the best way to go about it because it might actually act as a deterrent to the people we are trying to attract to Gibraltar but of course if that is not going to be the case then obviously it is not an issue of principle.

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 FUGITIVE OFFENDERS ORDINANCE 2002**

**HON CHIEF MINISTER:**

I have the honour to move that a Bill for an Ordinance to make provision for the return of offenders to certain Commonwealth countries, the Republic of Ireland, the United Kingdom and its Overseas Territories, 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 actually does not introduce a new regime for the return of fugitive offenders. *'Fugitive Offenders'* is the title given to extradition when it is to a Commonwealth country so it is referred to *'extradition'* to non Commonwealth countries but when it is to a Commonwealth country it is not referred to as *'extradition'* it is referred to as *'return of fugitive offenders'* but it is exactly the same thing that one is doing. This does not introduce any new law, what has happened is that the United Kingdom has inadvertently left Gibraltar with no statutory mechanism for this area of life. The previous regime in exactly the same terms as is set out in this Bill used to be in place under an Order in Council, the Fugitive Offenders Gibraltar Order 1967. Inadvertently the UK revoked the 1967 Order in Council and replaced it with the Extradition Overseas Territories Order 2002 without first ensuring that alternative arrangements were in place and as a stopgap measure whilst more permanent arrangements are put in place as part of the Schengen Acquis. The UK excluded Gibraltar from the new Order in Council because we were going to have to do something differently to the other Overseas Territories because of our Schengen Acquis obligations, they revoked the 1967 Order in Council, replaced it with something else for the other Overseas Territories leaving Gibraltar repealed under the 1967 Order before any new arrangements were in place. In order to fill that gap and make sure that any fugitive offender that Gibraltar may need to send back to the Republic of Ireland, the United Kingdom, a Commonwealth country or any Overseas Territories between now and the date when the new Schengen Acquis related extradition provisions are in place, we have agreed to bring a Gibraltar

Ordinance, a Gibraltar Bill, in exactly the same terms as the 1967 Order in Council used to provide for Gibraltar and therefore there is no change in the law. It is returning the law to what it was before the 1967 Order in Council was repealed earlier this year leaving us with no provisions at all. 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 general principles only that it might have been by mistake that this has happened but we welcome being able to do it in this House rather than having it done by Order in Council.

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 BANKRUPTCY (AMENDMENT) ORDINANCE 2002

### SECOND READING:

#### HON K AZOPARDI:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this is a very short Bill and all it does basically is to clarify any issue that may stem from the implementation of the Council Regulation on co-operation in matters of bankruptcy and insolvency. There is already a section in the Bankruptcy Ordinance that talks about Gibraltar Courts being used in assistance to British proceedings in bankruptcy and insolvency, there is a Council Regulation of the year 2000 that extends that principle throughout the EU and these amendments seek to ensure that our law reflects the position as set out in the Council Regulation. 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, Opposition Members will be supporting the Bill but there was one technical issue where we had a query which the Minister might be able to clarify, the Council Regulation 1346/2000 on insolvency proceedings places our relationship with UK courts on the same basis as that of other EC States and it makes the system subject, for example, a UK court to the same conditions as a Spanish court or a court in any other part of the European Community where there is a parallel structure for British possessions for Overseas Territories. The clarification we wanted was in respect to that whether there will now be two parallel

structures one for UK and EU together and the other one for British Overseas Territories?

#### HON K AZOPARDI:

Yes, the amendment would do precisely that. It will substitute the words '*United Kingdom*' for '*European Community*' but then leaves intact a phrase in the Bankruptcy Ordinance that refers to British possessions having jurisdiction in bankruptcy and insolvency and therefore it will allow us to do that and he will have noticed no doubt that there is a specific article in the Council Regulation that refers to the United Kingdom's procedures in relation to Commonwealth courts and bilateral assistance that has been agreed to be left intact and that I think will be left intact also in our domestic law.

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 proposed.                      Agreed to.

## **THE CIVIL AIR TERMINAL ORDINANCE (AMENDMENT) ORDINANCE 2002**

### **HON J J HOLLIDAY:**

I have the honour to move that a Bill for an Ordinance to amend the Civil Air Terminal Ordinance, be read a first time.

Question put.           Agreed to.

### **SECOND READING**

### **HON J J HOLLIDAY:**

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill amends the Civil Air Terminal Ordinance by creating a new offence. This offence is committed by a person who has with him a specific article in Gibraltar Airport or on an aircraft at Gibraltar Airport. The specific articles are firearms or replica firearms, explosives or replica explosives or any other article designed to cause injury. It is made clear that the offence will be committed if an item is in a person's baggage or if that person has caused the item to be in the airport or aircraft even if the circumstances are such that the item would not normally be regarded as being with him. There is an offence, the defence of law authority and of reasonable excuse but it is for the person charged to prove this. The penalty for the new offence is on summary conviction to a fine not exceeding level 5 on the standard scale or imprisonment not exceeding three months or both. On conviction, on indictment the penalty is a fine or

imprisonment not exceeding five years or both. The penalty for existing offences under the Civil Air Terminal Ordinance is raised from £25 to level 3 on the standard scale. 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, Opposition Members will be supporting the Bill. The issue of safety is obviously one which this Bill raises and which we obviously back and have no problem with but there is one question which we have in relation to whether this Bill arises as a result of an international obligation or whether it arises simply as a result of local domestic needs because in clause 4 (A) subsection (a) it refers to an aircraft being in flight over Gibraltar which is something that would obviously take an aircraft a matter of seconds so that seems to suggest whether the fact the Bill is a wider obligation which we are complying with and if so we would like to know which one?

### **HON CHIEF MINISTER:**

The question was asked, "...whether there was an obligation?" No it is not it is a request from the Terminal Authority and the Police that there is in fact very poor legislation in Gibraltar relating to the use of imitation weapons in terminals and this legislation responds to that view. It is not an obligation.

**HON J J BOSSANO:**

In Section 1 subsection (3) which has the new section inserted after 4(A) (1) which makes the offence, it makes it an offence if anybody has a weapon in flight over Gibraltar, what does that have to do with the civil?

**HON J J HOLLIDAY:**

Mr Speaker, I am advised that it actually makes very little sense in respect of Gibraltar but what we were trying to do was to keep our legislation in line with other legislations on the same issue internationally.

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 2002**

**HON LT COL E M BRITTO:**

I have the honour to move that a Bill for an Ordinance to amend the Public Health Ordinance, 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 provisions of directives 91/156/EEC on waste and directive 91/689/EEC on hazardous waste were incorporated into the laws of Gibraltar by the creation of Part VA and Schedules 12 and 13 of the Public Health Ordinance. The Bill before the House today provides for amendments which are mostly of a technical nature and which are aimed at ensuring that all the provisions of these two directives are fully implemented. The amendments achieve the following:-

- (a) they apply the provisions of Part 5A of the Public Health Ordinance on waste to mineral waste and the commissioned explosives in clause 2 (2). These types of waste had previously been exempted;
- (b) by placing an obligation on Government to carry out periodic inspections of certain specified waste activities in sub clauses (3) and (5). Whereas such inspections may

have been carried out in the past there was no specific requirement to do so;

- (c) the existing requirement for registration of those who collect waste on a professional basis is now extended to those who transport waste on a professional basis in sub clause (4);
- (d) clarifying that a person who recovers or disposes of waste himself does not commit the offence of using an unregistered waste collector in sub clause (6);
- (e) by expanding the definition of '*hazardous waste*' in sub clause (7);
- (f) by prohibiting the mixing of different categories of hazardous waste in sub clause (8);
- (g) by requiring the keeping of records of hazardous waste and making of these records available on request to the previous holder of the waste in sub clauses (9) and (10);

and finally by revising the list of waste disposals and recovery operations in sub clause (12) by substituting new schedules (12) and (13) for the existing schedules. 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, as the Minister has said this Ordinance is to amend the Public Health Ordinance so that certain EEC directives are complied with. The principal changes in sections 192B to 192L are noted together with minor changes in schedules 12 and 13. The Opposition Members will be supporting the Bill.

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 today.

Question put.                      Agreed to.

**THE LANDFILL ORDINANCE 2002**

**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 provisions of Council Directive



1999/31/EC of the 26<sup>th</sup> April 1999 on the landfill of waste, 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 second time. Mr Speaker, this Ordinance implements the requirements of EC Directive 1999/31/EC on the landfill of waste and is better known as The Landfill Directive. The directive aims to tackle emissions of methane gas emitted from landfill sites by limiting the amount of biodegradable waste going to landfill. It also aims to encourage the prevention, recycling and recovery of waste by limiting its final disposal through landfill. Another aim of this directive is to safeguard the health of people and the environment by harmonising controls on the landfill of waste throughout the European Union and ensuring the proper licensing, monitoring and common standards of design operation and aftercare of landfill sites. Although there are no landfill sites in Gibraltar and there is presently no Government intention to create any it has been considered that the directive should be transposed into our legislation to ensure that should there ever be any landfill site in the future these are properly regulated. The Ordinance prohibits the operation of a landfill except under a permit granted by the Regulator, in this case the Environmental Agency, it also specifies the information which needs to be provided when applying for such a permit and the contents and conditions to be imposed on such permits. Section (4) classifies landfills in one of three ways, namely those for hazardous waste, those for non-hazardous waste and those for inert waste. Section (5) prohibits the acceptance of the following waste at landfills, liquid waste, waste

which is explosive, corrosive, oxidising or flammable, infectious clinical waste, whole tyres as from next year and shredded tyres as from the year 2006 except large tyres and bicycle tyres and any other waste which does not fulfil the acceptance criteria set out in schedule (1). The remaining sections deal with waste acceptance criteria, closure and aftercare procedure, national strategy and charges. 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, Opposition Members will be supporting this Bill. It basically deals with EEC Directives on the pollution control regime on the landfill of waste in Gibraltar. Schedule (1) and (2) are specifically important as it sets out the criteria for the acceptance of waste and the general requirements for all classes of landfills. This is an important Bill and we will be monitoring Government as to its implementation.

On the subject of municipal waste do Government intend to carry out the present practice of using Spain given the possibility that the current practice may well come to a halt with continuing harassment from our neighbours?

### **HON J C PEREZ:**

Mr Speaker, might the Minister perhaps find out before the Committee Stage whether the question of the disposal of construction rubble does constitute a landfill site given that he has just said in bending the principles of the Bill that there are no landfill sites in Gibraltar at the moment, could he perhaps check

where we are disposing of construction rubble and how this is done and whether that falls into any of the definitions that the Ordinance is at the moment passing and certainly what is the future for such landfill sites? I would really appreciate it if the Minister could check before the Committee Stage.

**HON LT COL E M BRITTO:**

Mr Speaker, in reply to the hon Member's question about future Government policy the Government policy is to re-establish incineration as a primary means of disposal of waste in Gibraltar and therefore it is not the intention to carry on using landfill in Spain forever and ever.

In reply to the second question by the Hon Mr Perez, I can give him the answer now because I had already checked this and I had asked myself the same question. The disposal of building rubble on the Eastern side of the Rock is not considered a landfill operation and does not come under the definitions of this Ordinance and is not covered by this Ordinance at all.

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 today.

Question put.                      Agreed to.

**THE SOLVENT EMISSIONS ORDINANCE 2002**

**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 the provisions of Council Directive 1999/13/EC on the limitation of the emissions of volatile organic compounds due to the use of organic solvents in certain activities and installations, 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, this Ordinance transposes into our laws the provisions of Council Directive 1999/13/EC on the limitations of the emissions of volatile organic compounds due to the use of organic solvents in certain activities and installations. Organic solvents are chemicals commonly used in paints, inks, and adhesives, their function is to facilitate the application of a film of paint, ink or adhesive onto a surface after which they evaporate to leave a decorated, printed or adhered finish. Solvents are also used extensively to clean surfaces prior to coating and for dry cleaning of clothing and furnishings. They also have other specialist applications such as the extraction of vegetable oil from seeds which are not applicable to Gibraltar. Due to their volatility

organic compounds are emitted into the air when used in many industrial processes. A number of these organic compounds are directly harmful to human health or to the environment, for instance, having the potential to cause cancer, cell mutation or effects on reproduction. Moreover many solvents undergo chemical reactions in the atmosphere which cause a number of indirect effects such as the formation of ozone. Elevated concentrations of ozone in air can impair human health and can damage some building materials, forests, vegetation and crops. A distinction must be drawn however between ozone at this low level which is addressed by the present directive and this proposed legislation and also against ozone at a high level which forms a protective layer around the earth to shield it from the ultra-violet radiation. The purpose of this Ordinance therefore is to prevent or reduce the direct and indirect effect of emissions of volatile organic compounds into the environment, mainly into air, and the potential risks to human health as a result of the use of organic solvents in certain activities. These activities are those defined in schedule (1) of the Ordinance when carried out above the threshold levels listed in schedule (2). Any new installations falling within this definition will require prior authorisation from the Environmental Agency. Existing installations will require an authorisation by the 31<sup>st</sup> October 2007 thereby allowing them time in which to comply. Applications for authorisation must show compliance with the requirements of the Ordinance and specifically with schedule (3) which relates to the control of emissions, substitution of certain substances by less harmful ones, and emission limit values. Installations covered by the Ordinance must provide monitoring data to the Environmental Agency once a year or on request showing compliance with the Ordinance. The Agency has powers to inspect an installation, take samples and gather information to ensure compliance. It also has a duty to make information available to the European Commission and the public. I commend the Bill to the House.

**HON DR R G VALARINO:**

Mr Speaker, this is an Ordinance to transpose into the law of Gibraltar the provisions of Council Directive on the limitations of the emissions of volatile organic compounds due to the use of organic solvents in certain activities and installations. These are set out in schedule (1). Many are not relevant to Gibraltar but some may be such as those concerned with cars, vans, other vehicles, dry cleaning and printing. This is another area of community action to concentrate inter alia on the implementation of appropriate standards to ensure a high level of public health and environmental protection. We welcome this Bill and we will be voting in favour.

**HON LT COL E M BRITTO:**

Mr Speaker, just briefly to thank the hon Member for his indication of support and in answer to his implied question although there are many activities which are included in schedule (1) which take place in Gibraltar, I am advised that it is only dry cleaning that will be directly affected by this legislation because it is the only activity that comes within the thresholds in schedule (2). The key sentence in the Bill is the second sentence in schedule (1) which says that the activity has to be operated above the threshold level and only dry cleaning is affected.

Question put.                      Agreed to.

The Bill was read a second time.

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

**HON LT COL E M BRITTO:**

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

Question put.                      Agreed to.

## **THE FOSTERING ORDINANCE 2002**

**HON MRS Y DEL AGUA:**

I have the honour to move that a Bill for an Ordinance to provide for the fostering of children, be read a first time.

Question put.                      Agreed to.

## **SECOND READING**

**HON MRS Y DEL AGUA:**

I have the honour to move that the bill be now read a second time. Mr Speaker, the purpose of this Bill is to provide a legal framework for fostering children and young persons in Gibraltar. Although a pilot fostering scheme has been up and running for the past 18 months it has been done on an entirely informal basis with no statutory back-up. This piece of legislation will provide that back-up and without creating a straight jacket for the system will formalise it to some extent. Firstly a child must be identified as being in need of care. Normally the parent or other carer will

have an opportunity to be heard in court although section 4(4) permits an emergency application to be made if the child is in immediate need of care or if the Chief Executive of the Social Services Agency considers that the child might be harmed if notice of the application is given.

Once the child is declared to be in need of care the Chief Executive must keep a register of such children and may place them with persons he has identified as suitable foster carers. He may also provide for maintenance to be paid in respect of the child. If the court makes an order for a specific period of time the Chief Executive may apply for an extension, likewise the parents can ask the court for the return of the child if the circumstances have changed. Any private fostering arrangements must be notified to the Chief Executive who will keep them under review. Finally, the Minister may make regulations under the Ordinance as may be necessary to ensure it works properly.

Mr Speaker, I have already given notice in writing that I will be making several amendments to the Bill at Committee Stage. I commend the Bill to the House.

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

**HON J L BALDACHINO:**

Mr Speaker, we shall be supporting the Bill, as a matter of fact we believe that it is better for children to be placed in fostering care rather than in institutions like a home, it creates a more family affair even though fostering in other countries has had certain problems with the people that have taken over children under their care. I think in Gibraltar that will not happen because

we know each other and therefore it is easy to identify who can foster children and those who cannot.

There are certain things that the Minister maybe in her reply could clarify, on the question of private fostering, does fostering have the same meaning in 6(1) as what it has in the Ordinance in (2). Is it exactly the same meaning there because if it is not for example, in (1) it says, "*fostering means looking after a child in need of care by a person*" after she has amended (a) "*by a person who is not a parent, adoptive parent, relative, or who otherwise has potential responsibility in respect of a child.*" I wonder if 6(1) fostering there means exactly the same because it says, "*..if under an arrangement made by the parents or other person or persons having parental responsibility for the child, that child is being looked after by another person or persons where for reward or otherwise, that person or persons shall notify the Director, in this case the Chief Executive who shall keep the arrangement under review.*" Maybe the Minister can clarify if it means the same thing because otherwise relatives will have to notify the Chief Executive in 6(1) if it is not the case that the meaning is exactly the same.

Mr Speaker, I would like to notify the Minister to make a slight amendment in clause (3) (a), the first word "*may*" if it could be substituted for "*shall*" unless there is a reason why "*may*" is there, in other words "*shall safeguard and promote the interests of the child in need of care.*" As I have said we will be supporting the Bill, we think it is better for children to be fostered rather than be institutionalised.

#### **HON CHIEF MINISTER:**

Mr Speaker, by chance the hon Member has touched on two of the points that I have shown an interest in relation to this Bill. When I first read 6 (1) I was moved to ask, "..... does that mean

that when I send my children for the weekend to my sister's ....." I am told that it does not because the phrase "*looking after a child,*" as it is defined in section (2) means caring for that child as if he were part of the family on a continuous basis but does not include occasional visits to family or friends but if I make an arrangement with my sister by which she continuously looks after my child other than on that occasional basis then that is an arrangement that has to be registered. In other words, the Social Services Agency wants to know which children are being looked after continuously other than by their natural parents or persons with lawful custody. My understanding of the specific question that he posed is that the definition of that is wider than the definition of fostering for the purposes of fostering, although it uses the word "*fostering*" in the title that is not part of the operative section, the operative part of the section does not use the word "*fostering*" at all so my understanding of it is that if under an arrangement made by the parents or persons who have parental responsibility for the child that child is being looked after, "*looked after*" is a defined term, but that could easily catch arrangements which are not "*fostering*" within the strict definition of the word "*fostering*" and that is the point that the hon Member was trying to raise and I think that it is absolutely right but that is a different definition. As to his proposed amendment this is also an issue that has given rise to some internal discussion. This is not a comprehensive Children's Act, I think that it is probably high time that Gibraltar generally revisited its Children Legislation generally and that we thought in terms of a Children's Act. This Bill is not intended to do that, this Bill is intended to create a legal framework for the fostering policy that we unveiled last year. It is not intended as a comprehensive review of Child Protection Legislation in Gibraltar because before we did that, before we could have a comprehensive Children's Act we would have to make sure that we had the staff, resources, expertise, manpower available to do that and that is the reason why we use "*may*" and not "*shall*" in fact "*shall*" did feature in an early draft of this Bill but we removed it because we did not think that we could just take on that. If we use the word "*shall*" there is an obligation, it is mandatory and frankly the administration needs to look more closely at its resources before we can assume a statutory

obligation to do all of this. So this Bill is limited in its scope to simply providing legal cover for the sort of fostering scheme that has been, the fostering scheme is a useful first step in a more modern approach to child protection in Gibraltar but certainly we do not believe that it is the end of the road. I think that we do need to have a comprehensive Children's Act and that as part of that comprehensive Children's Act the public administration needs to look at its resources, its manpower and its expertise and only when we have reached that position can the public administration safely and in the context of that initiative can the public administration safely accept a statutory obligation to do things because otherwise we would be accepting the statutory obligation before we have equipped ourselves with the wherewithal to actually satisfy it.

**HON J J BOSSANO:**

Mr Speaker, we note the argument that has been used but our concern was that we appear to be passing a law that leaves it at the discretion of the person concerned whether he chooses to safeguard the interests of the child in need of care.

**HON CHIEF MINISTER:**

Much better than it has been for the last 40 years.

**HON J J BOSSANO:**

That might be so because before we had no provision and the law was silent but now we have a law that says, ".....children in need of care should have their interests safeguarded," then surely it must be an obligation to safeguard it. I cannot imagine the Chief Executive saying, "Well in this case I am going to safeguard

it for this child but in the other one I am not going to do it because I choose not to do it..." We are creating a discretion between one child and another which I would say goes against the very principle of what the House is trying to do with the Bill which is to create a statutory responsibility to do something about children in need of care. We have not questioned the fact that there is discretion in all the other areas whether they identify or they do not identify, whether they prescribe or they do not prescribe, whether they place the child or they do not place the child but whether they safeguard or they do not safeguard the interests of the child is the only one we thought that really creates an unusual, almost a contradiction in what the purpose of the Bill is.

**HON S E LINARES:**

Mr Speaker, what my Colleague said on private fostering, could the Minister consider whether in the terminology, in the way that it is written down, children sent to boarding schools have to be registered with the Chief Executive, because it is not clear?

**HON MRS Y DEL AGUA:**

Mr Speaker, in reply to the hon Member's last point these arrangements only apply to children in Gibraltar not children who are sent abroad for whatever reason. In relation to the point that the Leader of the Opposition has made about "*may*" and "*shall safeguard the interests of the child..*" as it relates to this piece of legislation relating to fostering, as the Chief Minister has already explained, we have the discretion, when the Children's Act is finally implemented it will be a different matter because it is more extensive and covers the whole range of children in care.

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 later today.

Question put.            Agreed to.

The House recessed at 1.05 pm.

The House resumed at 3.00 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 Supreme Court Ordinance (Amendment) Bill 2002;
- (2) The Transfer of Sentenced Persons Bill 2002;
- (3) The Carriers' Liability Bill 2002;

- (4) The Government's Fees and Dues (Refunds) Bill 2002;
- (5) The Fugitive Offenders Bill 2002;
- (6) The Civil Air Terminal Ordinance (Amendment) Bill 2002;
- (7) The Public Health (Amendment) 2002;
- (8) The Landfill Bill 2002;
- (9) The Solvent Emissions Bill 2002;
- (10) The Fostering Bill 2002.

**THE SUPREME COURT ORDINANCE (AMENDMENT) BILL 2002**

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

**Clause 2**

**HON CHIEF MINISTER:**

In the definition of "*Competent Authority*" place a fullstop after the words "*Chief Justice*" insert a semi-colon and delete all the words appearing thereafter.

**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 TRANSFER OF SENTENCED PERSONS BILL 2002

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

### **Clause 2**

**HON CHIEF MINISTER:**

Mr Chairman, I notice that on page 153 in section 8 (2) there is a reference there to "*the Minister*" which is not part of the framework of this Bill, there is no other reference to the Minister and the Minister is not defined. I think that should be a reference to "*the Government*" which is what the rest of the Bill refers to, so I propose to delete the word "*Minister*" and substitute it with the word "*Government*."

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

**Clauses 3 to 5** - were agreed to and stood part of the Bill.

### **Clause 6**

**HON J J BOSSANO:**

In subsection (5) we should delete the word "*he*" and insert "*it*".

**Clause 6** - as amended, was agreed to and stood part of the Bill.

**Clause 7** - was agreed to and stood part of the Bill.

### **Clause 8**

**HON CHIEF MINISTER:**

In subsection (2) delete the word "*Minister*" in the fourth line and insert "*Government*".

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

**Clauses 9 to 12** - were agreed to and stood part of the Bill.

### **Clause 13**

**HON CHIEF MINISTER:**

Mr Chairman, I move the amendment where there is the omission that I mentioned this morning at page 158, section 13, "...*the Chief Justice shall have the power to make such rules as he thinks fit.*" The word "*he*" has been omitted in front of the word "*thinks*" and I propose that we introduce the word "*he*" otherwise it does not make sense.

**Clause 13** - as amended, was agreed to and stood part of the Bill.

**Clause 14** - was agreed to and stood part of the Bill.

**The Long Title** - was agreed to and stood part of the Bill.



## THE CARRIERS' LIABILITY BILL 2002

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

### **Clause 2**

**HON CHIEF MINISTER:**

Immediately in front of the word in where it says "*in this Ordinance*" there should be a 2, full stop, so underneath the heading "*Interpretation*" just in front of the words "...*in this Ordinance..*" there should be the figure 2, full stop.

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

### **Clause 3**

**HON J J BOSSANO:**

Mr Chairman, in clause 3, I raised under the general principles and the Government confirmed that the interpretation was that the liability did not apply to any other form of illegal immigration.

**HON CHIEF MINISTER:**

I had this looked into and the drafting is as it should be. There are three scenarios. Scenario 'C' caters for the case where he arrives concealed but reveals himself before attempting entry.

**HON J J BOSSANO:**

And in that case there is no offence and none of the penalties apply?

**HON CHIEF MINISTER:**

There may be other offences maybe in other places.....

**HON J J BOSSANO:**

.....but then in the provision that we are making in 63 (A) we are not limiting the offence in that case to what we are providing in this Ordinance because there it simply says, "...*a person who gains, aids, abets, counsels or procures any person not being a national of a Member State to enter or reside within the territory of any other country...*" so in fact.....

**HON CHIEF MINISTER:**

That is in a different Ordinance.

**HON J J BOSSANO:**

It seems peculiar to me that we should be in this legislation creating an offence if somebody counsels a non-EEC national to enter and reside in another territory even though it may not come under the clandestine immigrant definition and yet it is a crime for anybody here to advise anyone to enter into another Member State but not presumably to enter this Member State because in this law we are saying that one only commits an offence if one is involved in providing the vehicle in which a person enters

Gibraltar and does not disclose his presence or if he discloses his presence he asks for political asylum. The other part seems to be any form of illegal immigration like what happens as a regular thing across the straits where people are not asking for asylum.

**HON CHIEF MINISTER:**

Mr Chairman, that is the intention, this has got to be read disjunctively as I have been told over the lunch-break, that it caters for a number of scenarios. A person arrives "*clandestinely*" in the circumstances separately described in 'A', 'B', and 'C'.

'C' – is when one arrives in Gibraltar on a ship or aircraft having embarked the ship or aircraft, obviously elsewhere, concealed in a vehicle and at a time when the ship or aircraft was outside of Gibraltar. One can do that and then claim or indicate that he intends to seek asylum in Gibraltar or evades or attempts to evade immigration control, those are people who are "*clandestine*" entrants. I am having some difficulty grasping why the Leader of the Opposition thinks that there is a gap here.

**HON J J BOSSANO:**

Mr Chairman, we have got a provision in the law here and the law is dealing with the liability of the carrier for "*carried clandestine entrants*" and yet we are making a provision in 63 as an amendment to the Immigration Control Ordinance which creates an offence even where the person being advised to enter another Member State is not a "*clandestine entrant*."

**HON CHIEF MINISTER:**

No. This is what I do not see.

**HON J J BOSSANO:**

Yes because it is an offence to counsel any person to enter or reside within the territory of any country listed from time to time in schedule 3 contrary to that country's law on entry and residence, nothing to do with being a "*clandestine entrant*".

**HON CHIEF MINISTER:**

Yes. This is a separate section that deals with the infrastructure of those who organise illegal immigration. The hon Member has noticed that this is not the offence creating section in the Carriers' Liability Ordinance, this is a separate offence separately inserted in the Immigration Control Ordinance.

**HON J J BOSSANO:**

Yes that is the whole point that if we are amending the Immigration Control Ordinance with this what we are in fact saying is that in the case of entering into any other Member State people in Gibraltar who have got any connection with that entry are committing an offence under the Immigration Ordinance and there is a penalty but those are not offences under the Carriers' Liability Ordinance even though we are sticking it in the Carriers' Liability Ordinance.

**HON CHIEF MINISTER:**

They may or may not be altered.

**HON J J BOSSANO:**

They are not necessarily so.

**HON CHIEF MINISTER:**

They may or may not alter the offences under the Carriers' Liability Ordinance but this is wider, this is the point that he is making.

**HON J J BOSSANO:**

That is the point that I am making so we have a wider definition in respect of the obligation of people in Gibraltar for advising somebody to do something in another Member State that we have about people doing it here because another Member State presumably with a similar provision would only have to do that in respect of our own laws because we are doing it in relation to other people's laws.

**HON CHIEF MINISTER:**

There are two different things. One thing is the offence one commits in Gibraltar in relation to the breach of Gibraltar's own entry laws and that is not just in the Carriers' Liability Ordinance but also there are things in the Immigration Control Ordinance about people who try to get into Gibraltar in breach of the

Ordinance. This section is not about that this is a general section which delivers that part of the Schengen thing that I read to him this morning from article 27 which provides a matrix in every country so that one can be tried for example, for conspiracy in Gibraltar, for planning in Gibraltar the breach of immigration laws in another country and therefore it is a different offence, wider, not necessarily limited to what the Carriers' Liability Ordinance will say and do about offences under that particular Ordinance. I suppose there may be countries whose laws are wider than the Carriers' Liability Ordinance and therefore this section will allow the prosecution in Gibraltar of people who aid and abet, procure, et cetera breach of those laws even if those laws are tougher than ours.

**HON J J BOSSANO:**

So, under the Schengen matrix of article 27 as long as it is not done for profit it is not an offence to aid, abet, counsel or procure any person to break the laws of another Member State?

**HON CHIEF MINISTER:**

Apparently not.

**Clause 3** - was agreed to and stood part of the Bill.

**Clauses 4 to 14** - were agreed to and stood part of the Bill.

## Clause 15

### HON CHIEF MINISTER:

Mr Chairman, having considered the views expressed by the Leader of the Opposition I am driven to agree with him and therefore I move that subsections (b), (c) and (d) be deleted from this Bill so that the Immigration Control Ordinance is not amended in the ways set out in (b), (c) and (d); also delete the comma after the word 'who' in the first line of section 63A (1).

**Clause 15** - as amended, was agreed to and stood part of the Bill.

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

## THE GOVERNMENT FEES AND DUES (REFUNDS) BILL 2002

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

### Clause 2

### HON CHIEF MINISTER:

Mr Chairman, I have given written notice of this point, it should not be ".....last 14 days...." It should be "...least 14 days...." In the definition of resolution.

### MR SPEAKER:

*"At least."*

### HON CHIEF MINISTER:

And in the definition of 'fees and dues' I would like to add after the word 'fund' '...or are liable to be so paid or transferred....'

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

### Clause 3

### HON CHIEF MINISTER:

Mr Chairman, I have not given notice of this resolution but I think it is probably correct given that it is going to be a charge on the Consolidated Fund that the monies should actually have gone into the Consolidated Fund before they are repaid out and that can be achieved just by adding after where it says, "... any fees or dues...", the words "...paid into the Consolidated Fund..." in subsection (1). That would read, "...the Accountant General shall pay to the payer thereof without interest any fees or dues after they have been paid into the Consolidated and the refund of which has been approved by the resolution....." it is just to get the chronology right that the Consolidated Fund should not be charged with any refund before it has received the revenue. The money has actually got to come in from, for example, the Admiralty Marshal's Account into the Consolidated Fund before it could be physically paid out.

**HON J J BOSSANO:**

That is only necessary because of the amendment that has just been moved to change the definitions of '*fees and dues*.' As the original Bill was drafted, given that '*fees and dues*' was any sum of money paid into the Consolidated Fund by definition '*fees and dues*' in (3) was money that had been paid or transferred. Since we have now said, "*..or due to be paid...*" we are.....

**HON CHIEF MINISTER:**

Yes. That is true but what I am trying to say is that I am trying to draw a distinction between the definition of the '*fees and dues*' for the purpose of defining what '*fees and dues*' are captured by this whole regime then it is either '*paid or liable to be transferred*' and drawing a distinction between that on the one hand which I suppose identifies the entitled area and the actual physical payment out. I hear what the Leader of the Opposition is saying and I think that he is right but I still think that there is a version not withstanding that into having a difference between the definition of the fees and dues for the purposes of just being covered by this regime and then separately dealing with the question of the actual payout which cannot happen before the money is in the Consolidated Fund. For example, I could bring a motion before the money has actually gone into the Consolidated Fund but then the motion could not be consummated until the money has come into the Consolidated Fund. That is what I am trying to achieve by this apparent contradiction.

**HON J J BOSSANO:**

Surely in the resolution in the motion in the House the text of the motion could say, "*when the money is received in the Consolidated Fund..*" the other thing is in terms of the amendment that has just been moved to the fees and dues where it says, "*or*

*liable to be paid*" is it possible that there can be a difference between the amount that the party pays to the Admiralty Marshal and the amount that is transferred subsequently?

**HON CHIEF MINISTER:**

No. That is not what the word "*liable*" is intended to signify there. The answer is no to that.

**HON J J BOSSANO:**

All of it goes into the Consolidated Fund?

**HON CHIEF MINISTER:**

Absolutely. Everything that is Government revenue has got to go to the consolidated Fund, "*liable*" is intended to mean '*due to be paid*.' Although these are raised as court poundage in the case of ship arrests this is raised by the courts as court poundage but it is "*liable*" to be paid by the courts into the Consolidated Fund. The courts cannot say, "we will keep this as a sort of court fund of some sort." This is Government revenue transferable into the Consolidated Fund by the Collector which happens to be the Admiralty Marshal not even the Supreme Court.

**HON J J BOSSANO:**

But when we were talking about the general principles we were told that in fact when I asked whether the money had gone into the Consolidated Fund, we were told that it was in trust.

**HON CHIEF MINISTER:**

Yes I remember using the word 'trust'.

**HON J J BOSSANO:**

But if it is in 'trust' it is not in the Consolidated Fund.

**HON CHIEF MINISTER:**

No exactly so.

**HON J J BOSSANO:**

But is the amount in trust bound to be transferred in whole or can they use that money for something else and transfer the balance?

**HON CHIEF MINISTER:**

No. Let me explain to the hon Member how the Admiralty Marshal's account works. This is not even a Supreme Court Account this is an Admiralty Marshal's account. The Admiralty Marshal when the ship is arrested opens a bank account in her name subtitled 'that ship.' There are expenses that she has to meet, ship keepers, food for the crew that sort of thing that the hon Member remembers dealing with and that is usually financed by the arresting party who is required to make an advance to the Admiralty Marshal, that goes into the Admiralty Marshal's account. So there is money in from the arresting party and then there is money out for ship chandlers and all the people that these services are bought in from. Then the ship is sold by the

Admiralty Marshal when the Court eventually orders it. The buyer first pays his deposit into the Admiralty Marshal's account, then after 30 days they have to pay the other 90 per cent of the sale price of the ship. All that goes into the Admiralty Marshal's account and then the Court orders the distribution of the monies in the Admiralty Marshal's account. The Government charges 1 per cent, the shipbroker that sold the ship for the Admiralty Marshal also charges 1 per cent and those are first calls on the money. Then there are a series of priorities, crew claims come first, she pays those out and eventually she gives the balance whatever is left provided it is not more than their claim to the arresting party. In the unlikely event that there is anything left over it goes to the owner of the ship. The Admiralty Marshal's account is a clearing account where all the financial transactions relating to that ship pass. The Government are just one of many recipients of money that the law entitles the Government to receive this one per cent court poundage.

**HON S E LINARES:**

Mr Chairman, in 3(1) there is the word "*therefore*" rather than "*thereof*" I think it is a typographical error.

**HON CHIEF MINISTER:**

Yes, the hon Member is absolutely right it should read, "*thereof*," not "*therefore*" I am grateful to the hon Member.

**HON CHIEF MINISTER:**

There is one small typographical error in (3) (3) where it just says, "...*person or persons the shall be identified...*" delete the word "*the*" and substitute in its place the word "*these*" so that it

will read, "... if the refund enures to the benefit of an identifiable person or persons these shall be identified."

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

**Clause 4** – was agreed to and stood part of the Bill.

**The Long Title** - was agreed to and stood part of the Bill.

#### **THE FUGITIVE OFFENDERS BILL 2002**

**Clauses 1 to 16** - were agreed to and stood part of the Bill.

#### **Clause 17**

#### **HON CHIEF MINISTER:**

Mr Chairman, for some reason it moves from 16 to 20, 21, 22, so I move that we amend 20, 21, 22 to read "17, 18, and 19" respectively.

**Clause 17** - as amended, was agreed to and stood part of the Bill.

**Clauses 18 and 19** - were agreed to and stood part of the Bill.

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

#### **THE CIVIL AIR TERMINAL ORDINANCE (AMENDMENT) BILL 2002**

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

#### **Clause 2**

#### **HON DR J J GARCIA:**

One point in clause 2 (4) we are amending section 5 of the existing Ordinance by substituting the words "*to a fine of £25*" with words "*a fine not exceeding level 3 on the standard scale,*" if we take away the word "*to*" then the amended Ordinance will not make sense. If we take away the word "*to*" as section 4 of the Bill does then the Ordinance we are amending will not make sense because it reads, "*..by substituting for the words to a fine of £25 the words a fine not exceeding level 3 on the standard scale,*" we need to leave "*to*" in so that it says "*...to a fine not exceeding level 3 on the standard scale,*".

#### **HON CHIEF MINISTER:**

How does the original section read?

**HON DR J J GARCIA:**

This one reads, “ ... *a person who contravenes any of the provisions...*” and then it carries on, “.....*and the authority of this Ordinance or those Regulations is guilty of an offence and is liable in summary conviction to a fine of £25.*” If we take away the word “*to*” then it will say,” .....*summary conviction a fine not exceeding level 3.*”

**HON CHIEF MINISTER:**

So do not delete the word “*to*” from the amending section.

**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 2002**

**Clause 1**

**HON LT COL E M BRITTO:**

Mr Chairman, just a small amendment which I had given written notice in clause 1 after the word Minister insert the words “..*for the Environment...*”

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

**Clause 2** - was agreed to and stood part of the Bill.

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

**THE LANDFILL BILL 2002**

**Clause 1**

**HON LT COL E M BRITTO:**

I wish to move the following amendment:  
After the word “*Minister*” add the words “*for the Environment.*”

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

**Clauses 2 to 17, the Schedules and the Long Title** - were agreed to and stood part of the Bill.



## THE SOLVENT EMISSIONS BILL 2002

### Clause 1

#### HON LT COL E M BRITTO:

Mr Chairman, once again the same point after the word "*Minister*" insert the words "*for the Environment*." Obviously the year is wrong it should be 2002.

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

**Clauses 2 to 15, the Schedules and the Long Title** – were agreed to and stood part of the Bill.

## THE FOSTERING BILL 2002

### Clause 1

#### HON MRS Y DEL AGUA:

Mr Chairman, I would like to move that after the word "*Minister*" add the words "*for Social Affairs*."

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

#### HON S E LINARES:

In the definition of the Minister it says, "*Social Services*," is it the Minister for Social Affairs or Social Services?

#### HON CHIEF MINISTER:

This is a perennial question, the title of the Minister is 'The Minister for Social Affairs' whose responsibilities include Social Services. For example, the Minister for Tourism and Transport is his title but he has responsibility for the Port so sometimes it says Minister with responsibility for the Port but at least on the face of the one Bill we should be consistent and refer to by the same title in both places. One is the name of the title of the Minister and the other is the particular portfolio which is relevant to the bid in question.

### Clause 2

#### HON MRS Y DEL AGUA:

Mr Chairman, I have already given written notice that I would be moving some amendments. Delete the word "*Director*" and insert the words "*Chief Executive*" wherever this appears in the Bill. I do not know whether I have to specify exactly where when each clause comes up or just this general comment will suffice.

In addition there is a typographical error in paragraph 2 line 1, the word "*Direct*" which assumedly was "*Director*" should also be changed for the words "*Chief Executive*" and under the definition of "*fostering*" the word "*a*" should be inserted after the word "*by*" and before the word "*person*" to read "*fostering means looking after a child in need of care by a person who is not a parent et cetera...*"

**HON J J BOSSANO:**

Mr Chairman, in the definition of “*Director*” that has just been changed is the position then that somebody can be appointed as Chief Executive and yet in theory the law allows someone else to be given the responsibility for administering the Ordinance and then that other person would be the Chief Executive and there would be two Chief Executives.

**HON CHIEF MINISTER:**

Which section?

**HON J J BOSSANO:**

If we have somebody who is the Chief Executive of the Social Services Agency under that Ordinance which is a statutory body and someone is appointed to that post and we are now removing the word “*Director*” here and saying, “....*the person responsible for carrying out the provisions of this Ordinance is the Chief Executive,*” appointed under the Agency Ordinance but also the definition is that the Chief Executive can be either the person who is the Chief Executive normally or such other person as the Minister may appoint to administer the provisions of the Ordinance. That means that if the Minister were to decide that there was somebody else who ought to be running the fostering bit there would be two Chief Executives then.

**HON CHIEF MINISTER:**

If that were to happen that would be so but that would not make the person who was appointed as Chief Executive the Chief Executive of the Agency.

**HON J J BOSSANO:**

What would he be Chief Executive of?

**HON CHIEF MINISTER:**

He would be the Administrator of this legislation. I agree it is a misnomer.

**HON J J BOSSANO:**

It would then be a misnomer that is why we assumed that “*Director*” was in case the Chief Executive was going to be the Director or somebody else was going to be the Director of this I would have thought given that the Government want to have the freedom to choose if they find that it is better for some reason to choose somebody else in that case, presumably the provision is there to provide for the possibility.

**HON CHIEF MINISTER:**

It raises a good nomenclature point. I suppose one way to deal with it would be to leave the definition of Director and say “*Director means the person carrying out the duties of Chief Executive of the Agency or such other person as the Minister may appoint.....*” leaving “*such other person*” if they are appointed to be called the “*Director of fostering.*”

Can we cancel all the amendments that have been announced up to this point which involves deleting the word “*Director*”. “*Director*” stays as a defined term. “*Director*” means the person carrying out the duties of Chief Executive of the Social Services Agency

and then it stays as it was. I am grateful to the Leader of the Opposition for his observation.

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

### **Clause 3**

**HON MRS Y DEL AGUA:**

I gave prior notice that at paragraph (b) the word "*persons*" which is superfluous should be deleted.

**HON J J BOSSANO:**

In the general principles when we drew attention to this we were told by the Minister that this only applied to somebody being placed under an arrangement within Gibraltar. In fact the text does not say so but it seems peculiar to us that, for example, if someone is being looked after by a relative of the parents because both parents are working and it is decided that the grandparents should be looking after the child more or less on a permanent basis which happens here sometimes, after all we are close enough to be seeing each other all the time, they have to register with the Director who shall keep it under review. It says here, "*...if under an arrangement made by the parents the child is being looked after by another person whether for reward or otherwise, that person or persons shall notify the Director who shall keep the arrangement under review..*"

**HON CHIEF MINISTER:**

The definition of "*looking after a child*".

**HON J J BOSSANO:**

Yes, and "*looking after a child*" means looking after a child as if it were part of the family on a continual basis but does not include occasional visits. I am not saying if they take the child to the grandparents for lunch, I am saying if the child is being looked after by the grandparents in Gibraltar almost on a permanent basis then presumably they would be caught but if the grandparents were in La Linea then it would not matter.

**HON CHIEF MINISTER:**

It is not that it would not matter, it would not matter for the purpose of this Bill. We cannot legislate for what happens in La Linea.

**HON J J BOSSANO:**

No but the person who is making the arrangement is in Gibraltar and the person who has got to notify the Director is the parent not the grandparent. Even though it does not say an arrangement in Gibraltar we were told at the general principles that if they send the child to boarding school in England where he is being looked after albeit not as part of the family at least that is what I hear from people who have been to boarding school that it is hardly a family affair I would not know myself but they are still being looked after all the time but it does not matter. If the boarding school is in Gibraltar then it would matter, they would have to be notified. If someone is being looked after by a relative for example, if one has a parent that is ill for a long time and the child is being looked

after not as an occasional visitor by relatives or friends but on a permanent basis to give the parent with the problem a helping hand. It happens regularly in Gibraltar I would not have thought that those situations that are quite common need to be caught by the act which is dealing with fostering but if the Government think that it is important in order to safeguard the interests of a child that the Director should keep such an arrangement under review then I do not see why the Director should be informed. I am ill and for the next six months my child is going to be looked after by my sister in Gibraltar but it does not matter if the sister is in La Linea for example.

#### **HON CHIEF MINISTER:**

Mr Chairman, we are talking about private fostering arrangements. Fostering involves other people standing in not just whilst one goes out to work but for everything. I am not sure that the situation is quite as the hon Member describes it in terms of the usability of this language to catch that situation which he has described which obviously it is not intended to catch. This definition of looking after a child as I indicated this morning is one of the areas in which I have probed and frankly I have never been persuaded by the science behind this definition and perhaps we can deal with my own concerns and indeed with the ones that the hon Member has just articulated and perhaps we could add where it says, "...but does not include occasional visits to family or friends...." we could put "*or arrangements with a member of the family...*" I am free to ask my sister to take over my parental responsibility for one of my children without having to register that arrangement with the department. I propose that amendment to add the words "*...or arrangements with a member of the family...*" at the end of the definition of looking after a child.

#### **HON J J BOSSANO:**

That would meet some of the concerns we have. Let me just remind the House that in fact when we looked at it in the general principles the point that the Chief Minister made was in fact that the heading "*Private Fostering*" did not seem to fit.....

#### **HON CHIEF MINISTER:**

It does not help.

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

**Clauses 4 to 7 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:-

- (1) The Supreme Court Ordinance (Amendment) Bill 2002;
- (2) The Transfer of Sentenced Persons Bill 2002;
- (3) The Carriers' Liability Bill 2002;
- (4) The Government Fees and Dues (Refunds) Bill 2002;
- (5) The Fugitive Offenders Bill 2002;
- (6) The Civil Air Terminal Ordinance (Amendment) Bill 2002;

- (7) The Public Health (Amendment) Bill 2002;
- (8) The Landfill Bill 2002;
- (9) The Solvent Emissions Bill 2002; and
- (10) The Fostering Bill 2002;

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

Question put.

The Supreme Court Ordinance (Amendment) Bill 2002;

The Transfer of Sentenced Persons Bill 2002;

The Carriers' Liability Bill 2002;

The Government Fees and Dues (Refunds) Bill 2002;

The Fugitive Offenders Bill 2002;

The Civil Air Terminal Ordinance (Amendment) Bill 2002;

The Public Health (Amendment) Bill 2002;

The Landfill Bill 2002;

The Solvent Emissions Bill 2002; and

The Fostering Bill 2002;

were agreed to and read a third time and passed.

## **ADJOURNMENT**

### **HON CHIEF MINISTER:**

I have the honour to move that the House do now adjourn to Thursday 5<sup>th</sup> December 2002 at 10.00 am.

### **HON J J BOSSANO:**

Mr Speaker, can I ask whether the Government will be prepared to suspend Standing Orders to take the motion of which I gave notice now rather than subsequent to the adjourned meeting given that obviously the closer we do it to the referendum the better and the sooner we make the call upon Her Majesty's Government to heed the voice of the people the better.

### **HON CHIEF MINISTER:**

Mr Speaker, that is why I have reconvened the House on the 5<sup>th</sup> December and not later. Unfortunately we are just not ready to participate in this debate and actually although I agree that there should not be too much distance in time I think that sometimes things are more persuasive when they are not an immediate media reaction and we revisit it. I think it actually is an advantage in passing a motion a few weeks down the road than the day after as it all gets lost in the same sort of impetus. Were it not for that motion the House might have met later than Thursday 5<sup>th</sup> December 2002.

Question put.                      Agreed to.

**The adjournment of the House was taken at 4.20 pm on Monday 18<sup>th</sup> November 2002.**

**THURSDAY 5<sup>TH</sup> DECEMBER 2002**

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 A Trinidad - Attorney General (ag)

**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 T J Bristow - Financial and Development Secretary

**IN ATTENDANCE:**

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

**MOTIONS**

**HON CHIEF MINISTER:**

I beg to move under Standing Order 7(3) to suspend Standing  
Order 7(1) in order to proceed with a Government motion.

Question put.

Agreed to.

## HON CHIEF MINISTER:

Mr Speaker, hon Members will recall that at the last sitting of the House we passed a Bill in relation to the Admiralty Shipping business which required a resolution of the House to activate it so to speak in the case of specific instances and this is the motion that does precisely that. That Bill received the Royal Assent sometime last week. I beg to move the motion standing in my name and which reads as follows:-

“This House Declares and Resolves:-

1. That it is in the economic interests of Gibraltar to encourage and incentivise the use of Gibraltar for the arrest of ships in support of maritime and admiralty litigation. Such use of Gibraltar generates significant economic activity in the following respects:-
  - (i) Contribution to Government revenue through Poundage on sale proceeds, berthing fees and tonnage dues;
  - (ii) The employment of ship keepers by the Admiralty Marshal;
  - (iii) The purchase of goods and services from ship chandlers and other sectors of the Gibraltar retail, wholesale and service economy;
  - (iv) The generation of fee income for law firms in Gibraltar;
  - (v) The generation of business for hotels, airlines and the local travel and transport sector;

- (vi) The generation of business for port operators, including tugs, stevedores and fuel suppliers.

All of these contribute to job creation and sustainability in the economy.

2. That it is therefore in the economic interests of Gibraltar that arresting parties, especially those that use Gibraltar in respect of more than one vessel, be incentivised to use Gibraltar by the refund of part of the fees and dues (as defined in the Government (Fees and Dues) Ordinance) in the following manner.
3. That out of the revenue received by the Government into the Consolidated Fund in respect of “poundage” (commission) upon a sale of the ship by the Admiralty Marshal, a refund shall be made to the Admiralty Marshal (to be aggregated with the fund comprising the ship’s proceeds of sale and paid out to whatever party may be entitled to payment out of such fund under order of court), in a sum representing the difference between (1) the said poundage paid or transferred to the Government upon the ship’s sale and (2) the sum calculated in accordance with paragraph 4 below (“the deduction sum”).
4. The deduction sum shall be calculated as follows:-
  - (1) where the arrest is not a fleet (as defined below) arrest and the sale price of the vessel exceeded £15,000,000 the deduction sum shall be 0.25% of the sale price of the vessel in excess of £15,000,000.

- (2) Where a ship has been sold as part of a fleet the deduction sum in respect of each such ship shall be calculated in accordance with the following scale:
- (i) Where the total fleet sale price did not exceed £30,000,000 the deduction sum shall be 0.2% of the sale price of each ship or the sum calculated under 4(1) above (whichever be the greater);
  - (ii) Where the total fleet sale price exceeded £30,000,000 the deduction sum shall be a sum equivalent to (1) 0.2% of the first £30,000,000 of the sale price of each ship plus 0.4% of the remainder therefore in excess of £30,000,000 or (2) the sum calculated under 4(1) above (whichever be the greater).
5. In this Resolution the following words and phrases shall have the meanings attributed to them herein:-

**“fleet”** - means two or more vessels that have been sold by the Admiralty Marshal in Gibraltar by order of the Court upon the application of the same party within a period of thirty days of each other.

**“total fleet sale price”** - means the sum resulting from the addition of the sale prices of all the ships in a fleet.

6. This Resolution shall apply to fees and dues received by the Government into the Consolidated Fund by virtue of poundage on sale by the Admiralty Marshal of any ship, the sale of which has been effected on or after the 1<sup>st</sup> day of November 2001.”

Mr Speaker, I shall be moving an amendment to delete the words, *“representing the difference between (1) the said poundage paid or transferred to the Government upon the ship's sale and (2) the sum”* those are the words that would be deleted so that that sentence would end, *“...may be entitled to payment out of such fund under order of court), in a sum calculated in accordance with paragraph 4 below (the “refund sum”) rather than the “deduction sum.”* The reason for that amendment is that the subsequent formulation of the amount of the discount of the refund is that expressed by way of the amount of the refund so that one cannot talk about the difference between the 1 per cent and the refund. If the deduction sum is the poundage payable, one per cent, if the court poundage is one per cent and the bit that follows is 0.25 of one per cent and one deducts 0.25 per cent from one per cent the deduction would be 0.75 per cent of one per cent whereas the intention is to give the deduction of 0.25 per cent. The formulation of that sentence envisaged that paragraph 4 would be articulated by reference not to the amount of the discount but to the amount by which the fee rather than set out the discount, paragraph 4 would have set out the amount of the fee to be paid, so 1 per cent minus fee to be paid would equal the amount to be refunded.

Moving on after that amendment the refund sum shall be calculated as follows and this is the arithmetic of paragraph 4 with the original Ordinance that we passed in the House several months ago. The Government have not altered the formula of the discount it is exactly the same formula as was passed in the original Bill that we approved in the House. Where the arrest is not a fleet as defined below arrest and the sale price of the vessel exceeded £15 million the refund sum shall be 0.25 of 1 per cent of the sale price of the vessel in excess of £15 million. Hon Members may know that the amount actually payable is 1 per cent so if we deduct 0.25 of 1 per cent by way of refund what the person will actually have paid is 0.75 per cent.

(2) Where a ship has been sold as part of a fleet the refund sum in respect of each ship shall be calculated in accordance with the



following scale (1) were the total fleet sale price did not exceed £30 million the refund sum shall be 0.2 of 1 per cent of the sale price of each ship or the sum calculated under 4(1) above whichever is the greater or where the total fleet sale price exceeded £30 million the refund shall be a sum equivalent to 0.2 per cent of the first £30 million of the sale price of each ship plus 0.4 per cent of the remainder thereof in excess of £30 million. The net amount payable would be 0.8 per cent of the first £30 million and 0.6 per cent on any excess over £30 million, that hon Members will see, was the formula provided in the original Bill that we passed.

Paragraph (5) of the motion simply carries forward the same definition sections as was in the original Bill. In this Resolution the following words and phrases shall have the meanings attributed to them herein "*fleet*" – means two or more vessels that have been sold by the Admiralty Marshal in Gibraltar by order of the court upon the application of the same party within a period of 30 days of each other and "*total fleet sale price*" means the sum resulting from the addition of the sale price of all the ships in a fleet. Paragraph (6) This Resolution shall apply to fees and dues received by the Government into the Consolidated Fund by virtue of poundage sale by the Admiralty Marshal of any ship the sale of which is being effected on or after the 1<sup>st</sup> day of November 2001 and the hon Members know from the debate that we had on both Bills that the reason for that retrospection is to catch the Renaissance ships.

The last Bill that we passed at our last sitting if I could just remind hon Members what this motion has got to do – it has got to declare that it is in the economic interests of Gibraltar to make the refund and it has to specify the reasons why it is said to be so and I would hope to be able to persuade hon Members that the reasoning set out in paragraph 1 of my motion and indeed relying on their own knowledge of these matters sufficiently makes that case.

*"If the refund enures to the benefit of an identifiable person or persons these shall be identified in the resolution by name or names"* this is not a resolution that purports to deal with identified persons, it falls rather under section 3 (4) which says, *"if the refund enures to the benefit of persons engaged in a particular activity, then the resolution shall clearly and comprehensively identify and describe that particular activity,"* and this is a resolution brought to the House in relation to a benefit to enure persons engaged, any person and every person engaged in a particular activity which is identified as being the arrest of ships in support of Maritime and Admiralty litigation in the circumstances described in the motion. Then it says the motion shall specify the amount of fees or dues to be refunded and the hon Member will see that this motion does indeed provide a formula by which the exact amount of the refund can in every such case be calculated.

Mr Speaker, I am reluctant to go into too much detail this being in the economic interests of Gibraltar, I think it is clear, I am aware that the hon Members particularly the Leader of the Opposition have some experience in another capacity of this and I hope that they will be able to accept that the use of Gibraltar for the arrest of ships does indeed generate a large amount of economic activity which creates in a significant amount of income to the economy, government revenues and indeed to the personal economies of the individuals and businesses who provide goods and services to the ships. We have seen in the case of the Renaissance ships just how much it can contribute to Government revenues and that of course excludes the contribution that it makes to the rest of the economy.

I would hope that the House will be readily able to support this motion which together with the Bill that we passed at the last sitting together they do no more than deliver to Gibraltar the same economic benefit and regime as would have been achieved by the original Bill that we passed. I commend the motion to the House.

Question proposed.

**HON J J BOSSANO:**

Mr Speaker, there is no need to move the amendment because in fact it was in the process of a Bill being introduced. I have to say I do not know why the Chief Minister feels he would have had any difficulty in persuading us and needed to parade all these arguments because we were in agreement with the original. We understand the peculiar situation that the original did not get the commencement date for reasons that seem incomprehensible when they were explained to us and therefore we are quite happy to support the motion to do what the House has already decided should be done. I think that the only thing that perhaps is unexpected in this as compared to the original was that here we are talking about the refund being made to the Admiralty Marshal and I think the concept in the original Bill was that the refund would be made to the people who had to make the payment of the fee, at least that is how we understood it at the time and here the beneficiary of the refund is identified as the Admiralty Marshal to be aggregated with the fund comprising the process of the sale and paid out to whatever party may be entitled to the payment. I think both in the original Bill and in the Bill we passed recently to create the possibility of this resolution we thought the Bill required that the ultimate beneficiary of the reduced fee would be the one that needed to be identified and not the Admiralty Marshal who is in fact practically the Government paying itself with one hand to another hand as we were told originally when I asked whether the funds held by the Admiralty Marshal were outside the control of the Government and I was told, "No," they were in the Treasury even though they could not be accessed until everybody that had a right to payment had been paid. Apart from that the rest of it seems to be exactly in line with what we have already debated and agreed and therefore we have no difficulty whatsoever in voting in favour.

**HON CHIEF MINISTER:**

Mr Speaker, not so much a reply but just a clarification of the two points that the Leader of the Opposition has raised. Actually the explanation that I gave him last time was that although the Admiralty Marshal's account was not Government monies, it was an account maintained by her outside in her own name in a bank and that the only monies that entered the Government General Account were the Government's poundage as and when she paid it over. Just so that the hon Members can appreciate the mechanics of this, the original Bill they will recall was by way of reduction of the court fees so if the court fees say that upon the sale of a ship the Government are entitled to one per cent out of the proceeds the original Bill said in the terms of these formulas that the court fees shall be reduced. The court poundage which is what the Government receive shall be reduced to this formula so that when the Admiralty Marshal sells the ship no one actually pays this, this is not paid by either of the parties to the litigation, what happens is that when the ship is sold and the Admiralty Marshal has the sale price of the ship in her Admiralty Marshal's account she deducts from those proceeds, she deducts from that amount of money 1 per cent which is Government poundage and another one per cent just by way of interest and in passing which is her brokers fees. So that all that has happened is that the fund available in court to respond to whoever wins the litigation has been reduced by 2 per cent so if the ship is sold for £1 million one per cent comes to the Government, one per cent goes to the Marshal there is a fund representing 98 per cent usually less because then she also deducts other things, ship keepers costs, fuel, berthing and all the expenses that she has incurred also get deducted from that fund and the balance of the fund is what there is left for the parties to the litigation to argue over. Here because we are not any longer doing it by way of reduction of the court fees we now have a situation in which the Admiralty Marshal is actually going to reduce the sum by one per cent and send it to the Government so there is now a fund representing 99 per cent before other things have been deducted from it for the parties to argue over it and what we are trying to say, what we are trying to agree is that that sum should not be depleted by a whole one per

cent. We want the depletion of it to be less than one per cent and the amount that we want it to be depleted by is the formula that we have agreed in this motion today so that then raises the question “to whom is that paid?” It cannot be paid to the arresting party, (a) because he has not paid the original fee and (b) because he may not win the action so the refund has got to go back to the Admiralty Marshal to be aggregated again with the proceeds of sale funds at that point we have achieved our objective, we have reduced the amount by which the fund in court the subject matter of the litigation, is depleted and then it gets paid out so that the benefit of our discount, the benefit of our refund actually goes to whoever wins the money in the court case. We cannot assume that it is going to be the arresting bank, it is quite unusual but there may be a case in which a ship owner succeeds in challenging the validity of the mortgage or there may be a case in which the crew wages claim which as he knows takes priority to the mortgage claim may exceed the value of the ship and therefore the mortgage bank who may have arrested the ship may not get any money even though they win the action. So the only mechanically correct way and also the only way consistent with the fact that the court may not yet have adjudicated on the distribution of these funds is for the element of refund to go back to where it came from and that is why the payee in the motion is described as the Admiralty Marshal.

Question put. The amended motion was carried unanimously.

### **PRIVATE MEMBERS’ MOTION**

#### **HON J J BOSSANO:**

Mr Speaker, I beg to move the suspension of Standing Orders to enable me to proceed with the motion out of time on the Agenda of which I have already given notice.

Question put. Agreed to.

#### **HON J J BOSSANO:**

Mr Speaker, I beg to move the motion of which I have given notice namely that :-

“This House

- (1) Warmly welcomes the magnificent result of the referendum in which almost 99% of the people voting rejected the principle of sharing sovereignty with Spain, as the House unanimously recommended on 18<sup>th</sup> October 2002.
- (2) Hereby expresses its profound gratitude to the people of Gibraltar for the high turnout and the clear expression of unity.
- (3) Considers that the people have clearly spoken to Her Majesty’s Government in the democratic expression of their wishes on the question of sovereignty, thus supporting the views previously expressed by resolution of this House, the Parliament of Gibraltar.
- (4) Calls upon Her Majesty’s Government to take heed of the voice of the people, discontinue any further sovereignty negotiations with Spain and rescind the broad agreement in principle on the sharing of sovereignty announced by the Foreign Secretary on 12<sup>th</sup> July 2002.”

Mr Speaker, the purpose of bringing the motion to the House is of course self-evident from the text that I have read. In bringing this motion I know that all I am doing is putting on paper what all of us

feel and the purpose of it is not just as the first and second paragraph show to demonstrate the appreciation of the House of Assembly as I think it gives us an opportunity to do for the fact that independent of party political views the people rallied around a united call from their elected representatives in this House and magnificently demonstrated that the Gibraltarians when they come together are a force to be reckoned with by the clear result which left no room for doubt as to what we feel. The importance of having that recorded in the House would be no more than an expression of sentiment of what I think is a turning point in the history of Gibraltar as the Referendum of 1967 was but also to reinforce the view that I think everyone of the 17,000 Gibraltarians that voted 'No' holds and that is that the United Kingdom should not and cannot ignore what the people of Gibraltar have said in the Referendum and that therefore the United Kingdom has an obligation as a democracy and indeed an obligation as the administering power under the Charter of the United Nations to act in accordance with the freely and democratically expressed wishes of the people of Gibraltar as indeed the Preamble to the Constitution requires them to do.

The Preamble to the Constitution says that they have to act in accordance with our wishes when it comes to an issue of sovereignty and in fact the announcement of broad principle on the 12<sup>th</sup> July came very, very close to being the description of an arrangement under which the people of Gibraltar would come partly under the sovereignty of another state. The fact that the United Kingdom considers that that does not breach their Referendum unless they attempt to implement it against our wishes is a matter for debate. We believe they are not entitled to even commit themselves to do it against our wishes and therefore we believe that Her Majesty's Government have acted incorrectly from day one, that they should have first sought our views on what they had planned before they proceeded with it, if they were so convinced that it was such a glorious future for us well we are the people who have to be convinced of that. They have made no attempts to convince us they have acted in a typical Victorian colonial fashion of saying, "...we know better what is good for

you than you do yourselves and therefore we are going to go ahead and when you come to your senses then we will ask you if you are ready to implement it." That is the basic position that they have left. I have no doubt that the United Kingdom may make lots of statements saying nothing has been changed by the Referendum but politically something very important has been changed by the Referendum and we believe we must hold the United Kingdom to respect the wishes of the people of Gibraltar as indeed they should have respected the wishes of this House and we might not have needed a Referendum if the British Government had been willing to accept that we represent what the people want because we are elected by the people and we are closer to them. I commend the motion to the House.

Question proposed.

#### **HON CHIEF MINISTER:**

Mr Speaker, could I first of all say that the Government share the purpose and objective of the Leader of the Opposition in moving this motion. I think that it is important that we should rap up post referendum with a motion in this House not just for the reasons that he has outlined in his last point but also because there have been a series of motions that this House has been passing throughout the last 12 months and it is appropriate that this House should also comment as indeed the House of Commons has already commented on the aftermath of the Referendum. I am going to propose an alternative formula of words because I think that the hon Member's motion should be wider and I do not think he will have any great difficulty with the alternative language that I will propose to him in a moment but before doing so I would just like to say one or two things in support of the comments that he has made. I think that it is absolutely right that the United Kingdom and I think this was the essence of the last or second last point that he made, that the United Kingdom Government

should not devalue the status of this Assembly as a representative body by trying to go over its head directly to the people of Gibraltar. It is of course perfectly legitimate for others other than the Government to lobby the people of Gibraltar I do not think we can have any objection to that. The Government, Opposition, Parliament of Gibraltar can take a view of one thing and then others including the British Government can participate in a public debate and lobby the people of Gibraltar to a different view. It is the basic building blocks of the democratic process with which I suspect neither he nor I would wish to interfere but there is a difference between that on the one hand and failing to recognise that when it comes to formally representing Gibraltar it is the Government and its parliament that have been elected to do that so that when parliament reaches a conclusion or when the Government reach a policy especially but not only when it is backed by parliament unanimously then the UK should take that as the Gibraltar view and not proceed regardless. So this is not a question of lobbying Gibraltar public opinion to which we can have no objection it is rather a case of the UK proceeding notwithstanding that it already knew to a democratically sufficient extent the view of the people of Gibraltar because all of their elected representatives had said so and that is the essence in which I believe that it is important that this (a) parliament should not be devalued and (b) that Gibraltar should be careful not to allow others to try to devalue and I think that one of the reasons why the result was so overwhelmingly 'magnificent', I think is the word that the hon Member would have wanted to use, was because amongst other things people in Gibraltar were saying that.

The hon Member says that the United Kingdom should first have sought our views on what they had planned. I can tell hon Members that at the very first indication that things were proceeding on the basis of joint sovereignty, I think it was sometime in October or November that the Gibraltar Government made it perfectly clear in writing to the British Government that neither the Government nor the people of Gibraltar would countenance anyway forward based on joint sovereignty.

Therefore nothing that happened after that from the British Government could have been in the remotest doubt at least of the Gibraltar Government's statement of their own position and of the Gibraltar Government's assessment of what the people of Gibraltar would have which should not be either likely, we could get the judgement wrong but we are unlikely to get it so completely wrong that it would entitle them to proceed notwithstanding. So, I do not know to what extent the hon Members' views in Opposition might have been sought. I am aware that there is consultation processes and they do meet ministers when they visit and things like that but certainly speaking for us we have made that view clear and it became clear earlier on to the Government which is why we, I call it 'press the button' with the campaign, that the British Government were determined to proceed anyway. The hon Members may recall a little piece that appeared in 'The Entertainer' that is published up the coast in which at the very outset in June/July last year when this whole process was started there was a little sort of five line piece tucked away in 'The Entertainer' attributed to a conversation with a presumably quite indiscreet member of the British diplomatic service who had apparently told this reporter that an attempt would be made to bring the Gibraltar Government on side but that it did not matter because whether they came on side or not in terms of participating in the process the plan that was the essence of the agreement that they came to in summer to launch this negotiation that they would carry on regardless. They would carry on regardless of whether they succeeded or not in persuading the Government of Gibraltar to participate in the process.

Mr Speaker, I would like to distribute to the hon Members an alternative form of wording which I hope that they will find as little more than expand on some of the issues that they have raised and also add a couple of new ones because I profoundly believe that on the 7<sup>th</sup> November the people of Gibraltar were doing more than saying 'No' to joint sovereignty. I think that they were saying 'No' to joint sovereignty clearly but they were also making a statement about their political rights and aspirations as a people

regardless and in addition to what they were saying on joint sovereignty. So, Mr Speaker, if I could just take the hon Members by way of amendment to the alternative and I think fuller language to this motion.

Paragraph 1 follows almost the same. I will explain the slight differences in a moment the wording of the hon Member's motion. *"Warmly welcomes the result of the Referendum held on the 7<sup>th</sup> November 2002 in which by a majority of..."* I think that the House should be precise given that hopefully this motion will form part of Gibraltar's parliamentary history I think that the House should be precise as to the percentages, 98.97 per cent, *"the people of Gibraltar rejected as this House had unanimously recommended by motion on the 18<sup>th</sup> October the principle that Britain and Spain should share sovereignty of Gibraltar."* I think that the hon Member will first of all recognise fully the sentiment of his first paragraph all that is missing is the word '*magnificent*'. I think we should allow the facts to speak for themselves, clearly it is a magnificent result, it is a result which we all hoped and prayed for and some of us in the odd moment feared might not be produced in its enormity but I think that this House should warmly welcome as he would like to do the result rather than to describe it as '*magnificent*' although I think it is more than '*magnificent*' but I think we should just not describe it we should allow the facts to speak for themselves.

The second paragraph where the hon Member wants to express profound gratitude I really do not believe it is for this House to express gratitude in that sense. This House is part of the people of Gibraltar we are the representatives of the people of Gibraltar and an integral part of them and I do not think that it is capable I fear of sounding almost patronising as if the people of Gibraltar had said what they had said as an aide to provide us with a prop for the business of this House. I know that that is not the sentiment of the hon Member, of course it is not the sentiment that the hon Member intended and indeed he may not think it is open to that interpretation but I would prefer that the House

expresses its admiration and satisfaction at, as he says, the high turnout and then I would like to say, *"the clear and dignified statement by the people of Gibraltar of their commitment and resolve to uphold the political rights as a people including the right to self determination, that is a right to freely and democratically decide our own future."* I do believe that part of what happened on the 7<sup>th</sup> November 2002 was the people of Gibraltar saying, *"..we do not agree with the objective of joint sovereignty but in any event we think the way you went about it violates our aspirations and rights as a people to self-determination."* I would then like to add a statement in which the House says that we consider that the sovereignty of Gibraltar is not negotiable contrary to the wishes and without the consent of the people of Gibraltar. In other words, it is not for the UK and Spain to negotiate, we believe, the sovereignty of Gibraltar as if we were just incidental to the political process. The sovereignty of Gibraltar being the sovereignty of our homeland and therefore in every democratic sense the sovereignty being in a sense inalienable from the people should not be negotiated at all unless the day ever comes that the people of Gibraltar themselves want to have their sovereignty negotiated and with their consent. That day has not arrived yet but it may arrive it is not for us to say. So, the principle is that the sovereignty is ours. It is British sovereignty but it is British sovereignty that cannot be and should not be transacted without our consent and contrary to our wishes and non of this business of drawing a distinction between declarations of principle and implementation in practice. This idea that it is okay for Britain to enter into declarations of principle affecting our sovereignty so long as they do not implement them in practice without our consent in a veto is an inadequate recognition of our rights in relation to sovereignty and then it is an inadequate recognition of our right to self-determination. It is even narrower than the Preamble to the Constitution. I think it is common ground across the floor of the House that the Preamble to the Constitution, safety net as it is, is an inadequately narrow definition of our rights as a people to self-determination. Our rights as a people are wider than the right to say 'No' to Spanish sovereignty and what the British Government had intended to do was to even narrow the Preamble because as the hon Members recall I have said in

this House in the past that my view is that the Declaration of Principles that they intend actually amounts to a breach of the Preamble because the Preamble does not say the United Kingdom will never implement in practice any deal on sovereignty contrary to the wishes of the people. The Preamble to the Constitution says that the united Kingdom will not enter into arrangements and I have always believed and said inside and out of this House that the Declaration of Principles that they had mooted constitutes an arrangement. In the English language the word '*arrangement*' means that one enters an arrangement when one signs a piece of paper not when one consummates in practice the contents of that piece of paper and therefore I believe that the United Kingdom's methodology, forget what we think about the substance of what they were doing, the methodology amounted in fact to a narrowing still further of our political rights not just now to the Preamble which was already too narrow compared to the right to self-determination but indeed narrowing even the Preamble by drawing this distinction between practical implementation and declaration of principles and that distinction does not fit in the word '*arrangement*'. The word '*arrangement*' which is the word used in the Preamble does not allow for that distinction to be drawn whilst at the same time honouring the spirit and the letter of the Preamble itself and I believe it is therefore important that there should be a statement in this area in this motion.

Fourthly, that the House considers the hon Member's motion that the people of Gibraltar have clearly spoken to Her Majesty's Government in the democratic expression of their wishes. It is true that I have altered '*views*' to '*wishes*' I think we should be asking the British Government to take account of our wishes and not simply to take account of our views which is the only substantial difference between this paragraph and the one which would be paragraph (3) in the hon Member's motion and, "*..we have spoken clearly in the democratic expression of our wishes on the question of shared sovereignty.*" That is what the issue was on the voting paper so if we are going to use the word '*clearly*' as I said before I believe we have expressed a view on

other issues as well but the only one upon it can be said we have spoken clearly is on the question of joint sovereignty which is the issue on the voting paper. Therefore these are what I would call the operative paragraphs which I would wish the House to approve "*...calls upon Her Majesty's Government to take heed of the wishes of the people of Gibraltar, discontinue negotiations leading to a bilateral Anglo-Spanish Declaration of Principles including the principle of joint sovereignty or any other sovereignty concession against the wishes of the people of Gibraltar and without their consent.*" What we are doing in that paragraph is saying, "*..take heed of our wishes expressed in the Referendum the Anglo-Spanish declaration that you say you are negotiating is based on the objective of joint sovereignty, discontinue those negotiations because it is not right that you should continue to negotiate an objective which you know that 99 per cent of the people of Gibraltar are opposed to nor should you enter into any other form of declaration which includes any other basis perhaps not joint sovereignty or any other sovereignty concession against the wishes of the people of Gibraltar and without their consent.*"

Six, "*..Calls upon Her Majesty's Government to take steps to ensure that the Spanish Government cannot, now or in the future, interpret and present Mr Straw's statement in the House of Commons of the 12<sup>th</sup> July 2002, as an agreement by Her Majesty's Government to share sovereignty or as a concession or any agreement to make a concession to Spain in relation to the sovereignty of Gibraltar.*" The equivalent part of the hon Member's motion calls on the British Government to rescind the broad agreement in principle whereas Government have a slightly different suggested formulation. The reason for our proposed language is this, it is two-fold. First of all although I think that we can agree in this House that Mr Straw's declaration of the 12<sup>th</sup> July amounted to a massive political concession .....a British Foreign Secretary stands up in the House of Commons and says, "*..I am willing...*" the least that he said, the least that that statement meant was "*....the British Government are willing to share the sovereignty of Gibraltar with Spain.*" Well, that has a political concessionary value but I do not think that we should be

the ones to crystalise it into an actual agreement. The British Government said recently that there is no agreement. Ramon de Miguel is reported in today's Chronicle as saying, "*In this process nothing is agreed until everything is agreed.*" So, they are not regarding the statement of the 12<sup>th</sup> July as an agreement and we should avoid political statements that suggest that we are elevating it to the status of an agreement. It is true that he used the words "...*broad agreement*...." but in the context that he was using the words they really meant "*..we the British Government are willing to agree that and that has already been tentatively achieved in the context of a global agreement which has not yet been settled.*" So, there is enough for us in Gibraltar to have found completely unacceptable. There is a political concession on the question of sovereignty, there is no doubt about that in Mr Straw's statement of the 12<sup>th</sup> July but there is not an agreement and I realise that the words "*broad agreement*" do not necessarily mean the same as an agreement but I would much prefer that we avoid language in the political context of this motion that would give any credence to the suggestion that there is an agreement and therefore we would like to approach it from the other end of the tunnel. What does Gibraltar's interests most require? Well I suppose our first preference would be that it were not the position of the British Government that she was politically willing to share the sovereignty of Gibraltar but given that they will say that that is a matter of their opinion indeed I remember the hon Member saying in this House many months ago that the problem with the Declaration of Principles, when he was trying to argue that my own assessment of the 'done deal' was wrong, he used to say, "*once the concession has been made it cannot be retrieved,*" and that remains presumably today.....[HON J J BOSSANO: *Whatever we say*].....whatever we say. So there is no point asking him to rescind what he said in that context, to rescind what he said on the 12<sup>th</sup> July because he has said it and by the hon Member's own analysis the main damage which is the British Government saying, "*I am willing to share the sovereignty of Gibraltar,*" that is gone. What is not gone and which I think is the reason for my change of language and which was what I think we ought to be concentrating on is to ensure that the British Government do whatever it takes to make sure that the Spaniards

cannot ever claim in the future that this was an agreement and that is why we are suggesting the words "*..Calls upon Her Majesty's Government to take steps to ensure that the Spanish Government cannot now or in the future....*" No Spanish Government should be able to stand up in five years time and say, "*...In the year 2002 the British Government and Spain agreed to share sovereignty of Gibraltar...*" nor that they "*...should take steps to ensure that the Spanish Government cannot now or in the future interpret and present Mr Straw's statement in the House of Commons on the 12<sup>th</sup> July 2002 as an agreement by Her Majesty's Government to share sovereignty or as a concession or any agreement to make a concession to Spain in relation to the sovereignty of Gibraltar.*"

Finally and as our seventh proposed paragraph we would like to repeat the statement made in the motion unanimously passed in this House on the 25<sup>th</sup> March 2002 earlier this year in which the House expressed its support for Gibraltar's participation in reasonable dialogue and support for good neighbourly European relations with Spain based on reasonable dialogue and mutual respect. I believe that it is important to show that Gibraltar has not been derailed from its own position by what it has done to defend itself against what they had intended to do between themselves. In other words, that they should not even gain from this having pushed Gibraltar into a corner in which they will be able to present us to the world as unreasonable, that they should not even get that benefit from the events of the last 12 months. Certainly as far as the Government are concerned our position remains as it has always been and I draw the language from the motion of the 25<sup>th</sup> March in this House which I think we agreed was neutral as to the respective positions dialogue across the floor of this House. Reasonable dialogue and support for good neighbourly European relations with Spain based on that reasonable dialogue and mutual respect.

Mr Speaker, I hope that the hon Members can agree that we have saved or tried to save the purpose, spirit and the intention of their



motion and that what we have done is to expand it principally to include the clear and dignified statement by the people of Gibraltar of their commitment and resolve to uphold their political rights as a people including self-determination, that is one addition, the other big addition is this business about the sovereignty of Gibraltar is not negotiable contrary to the wishes and without the consent of the people of Gibraltar. There is a recasting of the language in what we call Her Majesty's Government to do in terms of the rescinding on the one hand or taking steps to ensure that this cannot be presented as an agreement on the other and finally there is the addition of this statement about Gibraltar's continued willingness to take part in reasonable dialogue and support for good neighbourly European relations based on reasonable dialogue and mutual respect. I think that this motion does everything that the motion of the hon Members' intended which we support and also sets out Gibraltar's position more fully so that it is a more important wider ranging political statement than the more narrow objective of the hon Member's original text. I commend the amendment to the House.

Question proposed.

**HON J J BOSSANO:**

Mr Speaker, the amendment does go further than the original motion but it goes further because it comes back again with this business of reasonable dialogue and Gibraltar's participation in talks and it is true that the Opposition Members have on previous occasions gone along with such amendments all of which have come from the Government including when all the elected Members past and present signed the joint declaration it was the Government that insisted of putting in there the reasonable dialogue and Gibraltar's participation and for the sake of unity we kept on doing it. We think that putting it there is not rescuing

Gibraltar from Spain being able to say how unreasonable we are. We think that to say at this point in time when we have been told as if we were people that needed to be told things in words of one syllable because we are incapable of understanding two syllables. We have been told by the British Government that the only dialogue possible with Spain not just Spain is saying that, Spain has been saying that since they signed the Brussels Agreement in 1984 and since Señor Moran proposed joint sovereignty in February 1985 and they made it clear then, they made it clear in 1980 in the Lisbon Agreement, they made it clear on every conceivable occasion that as far as they are concerned the purpose of negotiations with Spain is one that we buy their co-operation and the price that we pay for buying their co-operation are sovereignty concessions. That is as far as Spain is concerned with reasonable dialogue. If that is not what the Government understand by reasonable dialogue and on a number of occasions not on every occasion they have made it clear that they do not consider it reasonable that we should have to buy what we are entitled to anyway by making sovereignty concessions. Then if we are going to keep on using the word 'reasonable dialogue' then we need to qualify reasonable dialogue by adding and I propose that the motion be amended by the addition of the words.....

**MR SPEAKER:**

Sorry, the motion or the amendment ?

**HON J J BOSSANO:**

The motion to which I am speaking now which is the amendment to mine. The amendment to my motion.....by adding the words after the word "*dialogue*" in paragraph (7) "*..in which the issues of sovereignty are not discussed*" because even though we might not have spelt it out in the motion of the 25<sup>th</sup> March I

imagine that it was not the intention of the Government on the 25<sup>th</sup> March to say, *"....we support Gibraltar's participation in reasonable dialogue that includes discussing the issues of sovereignty."* If we are discussing the issues of sovereignty then I believe we need to have another Referendum because I think that the people of Gibraltar in this Referendum have stated quite clearly what their wishes are and their wishes are that they do not consider the sovereignty of Gibraltar to be negotiable and therefore in paragraph (3) when we say, *"... that this House considers that the sovereignty of Gibraltar is not negotiable contrary to the wishes and without the consent of the people,"* I think we need to say as well that the Referendum in fact has been an expression of our wishes that it is not negotiable and in fact that we are not giving our consent. If we make a statement that the sovereignty of Gibraltar is not negotiable contrary to the wishes and without the consent of the people we seem to be saying that we do not know whether that is their wish or if they would give their consent. Well, we do know. That is what we went to ask them. As far as I am concerned we cannot use joint sovereignty and sharing sovereignty interchangeably. The principle of not sharing sovereignty with Spain means that sovereignty is not on the negotiating table that it is not a matter that can form part of a discussion with our neighbour in order to improve friendly, neighbourly relations. Nobody that I know of in the world thinks that it is a necessary condition of any discussion of friendly relations that one discusses the possibility of being taken over by the people one wishes to be friendly with. We cannot support the amendment as it stands unless we make it absolutely clear, it might not be the intention of the Government to make it unclear but just like the Government interpret some of the things in my original motion as raising doubt, for example, elevating something to an agreement that is not in an agreement, well the original text makes it crystal clear that what we are asking should be rescinded is the statement made in the Commons because it is the statement of principle, the broad agreement in principle on sharing sovereignty announced by the Foreign Secretary on the 12<sup>th</sup> July. We do not agree with the Government's reading of that which says, *"....because we are saying that they are,"* we are giving Spain comfort, a weapon, to

argue that what the Foreign Secretary said is in fact something that has now been agreed. No. We are quoting what the Foreign Secretary said and we think the Foreign Secretary should tell Spain, *" .....the broad agreement we had with you on the 12<sup>th</sup> July is something we can no longer subscribe to because the House of Assembly of Gibraltar and the people of Gibraltar have now expressed their wishes on that broad agreement in principle they are against it and in order to respect the wishes as we are committed to do we have to tell you the broad agreement in principle is now null and void."* That will not stop any future discussions from starting off from that broad agreement. In principle because that is inevitable, and anybody that has ever been involved in any negotiations at any level knows that once one puts an offer on the table one may say, *".....well since there is no agreement I withdraw the offer but one cannot withdraw it from the memory cells of the negotiators,"* and Spain knows now that the British Government are prepared to share the sovereignty of Gibraltar with them, it has probably known that this was something the British Government were willing to do for a very long time, the British Government are now saying that that is what was intended by the Brussels declaration of 1984 so there is no longer one version of what discussing the issues of sovereignty means which is the Spanish version and a different version which is the British version which was the case publicly previous to the 12<sup>th</sup> July and I believe privately there has always been one version but now it is a statement of policy of the present Labour Government which has not changed since the 7<sup>th</sup> November, the British Government still have the same policy what has changed is that they are not in a position to pursue that policy. If we argue as we do that the British Government are not free to negotiate Gibraltar's sovereignty with Spain because that sovereignty is ours as a colonial territory, the sovereignty of Gibraltar is held by the British Government and the British Crown as the administering power and the degree to which they exercise that sovereignty is a moving element. It is not a static element, it is a moving element because they are required by the Charter of the United Nations and by the Decolonisation Resolutions to pursue and assist us in pursuing increasing doses of self-government which erode the exercise of that sovereignty.

Therefore if we say they are not free to negotiate it because it is not negotiable contrary to the wishes and without the consent then I believe that the Referendum has said that we do not consent and that it is against our wishes. That would only be capable of one interpretation in our judgement but I would like to see that drafted in a way that makes it clear that that is the only possible interpretation, which is, that if at a future date the British Government wanted to find out whether the people of Gibraltar were willing to give their consent to sovereignty negotiations and no longer wished that it should not be negotiable we would have to have another Referendum to see if the people of Gibraltar at a future date do not vote 98.97 per cent that sovereignty is not negotiable because I believe that they have voted that sovereignty is not negotiable and we are putting something there which is a repetition of what we have put before the Referendum as if the Referendum had not decided the issue. So in respect of that paragraph I wish to move the addition of the words, *".....and that the Referendum result clearly demonstrates ....."*

**MR SPEAKER:**

You already had an amendment to paragraph (7).

**HON J J BOSSANO:**

Yes.

**MR SPEAKER:**

What now?

**HON J J BOSSANO:**

Now I am moving an amendment to the clause to which I am speaking which is, *"...considers that the sovereignty of Gibraltar is not negotiable contrary to the wishes, and without the consent, of the people of Gibraltar, ....."* this is at the end of 3, I have already suggested that at 7 the insertion after the word *"dialogue"* in which the issues of sovereignty are not discussed. The 7<sup>th</sup> paragraph the amendment already proposed is in the second line that we support Gibraltar's participation in reasonable dialogue, *"in which the issues of sovereignty are not discussed."* That is not let me say as I have already intended necessarily the view of other parties it is quite clear that the British Government, the Spanish Government, the European Union and the United Nations all think it is perfectly reasonable that the issues of sovereignty should be discussed, we do not.

**MR SPEAKER:**

You have got another amendment to paragraph 3.

**HON J J BOSSANO:**

Now what I am proposing is that in order to remove any possible ambiguity or misunderstanding as to what the position is regarding sovereignty negotiations we agree entirely that we consider that the sovereignty of Gibraltar is not negotiable contrary to the wishes and without the consent of the people but we believe that the Referendum result has in fact settled the question and therefore we are proposing to add the words, *".....and that the result of the referendum is a clear statement that the people of Gibraltar do not wish that there should be sovereignty negotiations and do not give their consent to any such negotiations...."*

**MR SPEAKER:**

As that is a long amendment could I have it in writing?

**HON J J BOSSANO:**

Obviously it is important for us as I have no doubt it is important for the Government that the House should be able to continue to maintain a unanimous position on this but I am afraid we are not willing to go along with the additions. We have no problem with the re-formulation which effectively retains what was in the original motion but doing it in different ways. We do not think, for example, that expressing profound gratitude is treating the people of Gibraltar with any kind of disrespect and obviously the Chief Minister did not think so either when he spoke in Mackintosh Hall on the night of the Referendum and expressed his gratitude to the people for having voted and for having come out to vote and since he spoke alone presumably he was not speaking for the Government because given that he did not give the opportunity to the Opposition to have joined in expressing gratitude, he must have been speaking for the whole House. So, all that we are doing today is what he did on that night but if he wants us to replace gratitude by "*admiration and satisfaction*" since we feel all three things we do not mind expressing in an addition to the gratitude with which we arrived in the House the "*...admiration and satisfaction*" with which we will be leaving today. But of course, the bits that I am questioning are bits that are not implicit in the first one. We believe it is possible for the Government to support what we had without abandoning their insistence on the importance of telling the world how much we want to have dialogue with Spain. We do not believe that Spain's portrayal of us as wanting or not wanting dialogue is going to make one iota of difference to the nature of the relationship we are going to be enjoying as a result of the voting in the referendum and I think that therefore if it is not qualified then I am afraid the only way that we can compromise on this is that we take separate votes on the separate sections and then let those sections on which we are not

prepared to vote be passed by the Government with the Government voting alone. I commend the amendments.

**MR SPEAKER:**

If you read it out now and then pass the amendments.

**HON J J BOSSANO:**

'And that the result of the Referendum is a clear statement that the people of Gibraltar do not wish that there should be sovereignty negotiations and do not give their consent.' Let me say of course that in the things that we are calling upon the British Government to do we say again that the British Government should take heed of the wishes of the people of Gibraltar and discontinue the principle of joint sovereignty or any other sovereignty concession against the wishes of the people of Gibraltar and without their consent. Are we saying that the negotiations leading to an Anglo-Spanish Declaration of Principles is what we are against, alone? No. We are against that and we are against anything else that involves sovereignty and the Government of Gibraltar tell us that this is what they told the British Government last November, a year ago when it was clear that this was the route, well it is even clearer post the 12<sup>th</sup> July. Indeed we have been told by Jack Straw on the 12<sup>th</sup> July that there is no alternative to this that for the case the British Government have attempted to persuade the Spaniards to remove the restrictions without a quid pro quo in the expectation that a climate might be created which might make the Gibraltarians at some unspecified, remote, very remote, future date change their minds about wanting to or being willing to accept some form of Spanish sovereignty over Gibraltar. The Spaniards will not buy that they have not bought it for 30 years and the British Government now accept that after 30 years they are flogging a dead horse. So the British Government have told

us two things, that this is the only way that we can buy peace with Spain, and that if by reasonable dialogue we mean getting Spain to behave like a civilised country there is no mileage in pursuing that because that is what they have been trying to get Spain to do for 30 years and we cannot keep on repeating things that we have said in the past without taking into account of the new developments that take place. I commend the amendments to the motion.

**MR SPEAKER:**

At this stage we have got two amendments to the amendment so now as this is a new amendment I call on the Chief Minister to speak on it and then we will take a vote on the two small amendments.

**HON CHIEF MINISTER:**

Mr Speaker, speaking therefore only to the hon Members amendments to my amendment. Government Members could support one of them in modified form and modify it only so that it should be accurate not because actually there is any difference. I probably agree with him but I think that we have got to be accurate and not go further than we can in the interpretation of a Referendum result. I will explain myself further in a moment and the second proposed amendment we cannot go along with for the reasons that I will also explain. The hon Member has proposed that the motion should include a signal, I do not wish to understate what he is proposing I just do not want to get bogged down in preambular language, he has proposed that the motion should include language which means that the Referendum shows that the people of Gibraltar do not want sovereignty negotiated. Well, I agree with him that the people of Gibraltar and indeed the Government of Gibraltar and presumably the Opposition of Gibraltar does not want sovereignty negotiated but I

do not think it follows necessarily from the result of the Referendum. In the Referendum the people voted 'No' to joint sovereignty....[HON J J BOSSANO: *To sharing sovereignty...*].....I am not trying to draw a distinction between joint and shared sovereignty. I personally believe that that distinction only becomes relevant when one is already in the realms of one of them and both are unacceptable. It is said just by way of passing I believe by those that engage in the analysis of semantics that joint sovereignty means that they each have 50 per cent and that shared sovereignty is alleged to mean that they jointly hold 100 per cent....[HON J J BOSSANO: *....or any other...*].....no, joint sovereignty could be in disequal proportions, shared sovereignty is co-ownership of the whole as opposed to separate percentages of the whole. I frankly believe that politically speaking that is a distinction without a difference. What difference does it make whether it is 60-40 or shared sovereignty? I think that the debate about the nuance difference between shared and joint come at a point in the debate when frankly Gibraltar has lost. The difference between winning and loosing for Gibraltar is not the difference between shared and joint sovereignty I think the hon Members would agree to that so it is not actually a debate, I never discuss the difference between joint and shared sovereignty. The Government would have no difficulty in making a statement that we believe is correct. The statement that we believe is correct is that the people of Gibraltar do not want sovereignty negotiated so let us just say that. Let us just not say that the Referendum suggests or is a clear statement thereby giving people the opportunity to say, London and Madrid, how can you say that the answer is the answer to the question. One cannot then get the answer and broaden its applications to other questions why run that risk? I am very happy to say instead of the words that he wants to add to my paragraph 3 just say what we mean which is,".....*and that the people of Gibraltar do not want any degree of Spanish sovereignty over Gibraltar negotiated.*" That is a statement of fact which we believe is implicit in paragraph 3 as it stood. I understand that adding words he believes says, well one cannot negotiate sovereignty without the consent of the people of Gibraltar and the people of Gibraltar do not consent to what he is adding. Of course the people of

Gibraltar do not consent to a negotiation of sovereignty. We have to allow for the fact that there is a difference between negotiation and discussions and the hon Member is not going to persuade the Government to retreat into an indefensible position based on his own, I have to say irrational, contorted, argumentative logic. Yes, the argumentation is not rational I do not believe that the argumentation that he follows to make his point is logically rational. For a start, Mr Speaker, he cannot stand up in this House and say that he does not support discussion on sovereignty. He has said it this morning but he is I believe stopped by his own previous political positions from making that statement and defending it with chronological coherence over a period of time. It was the Opposition Members that went to a general election, I do not remember if it was in 1996 or 2000, with the manifesto commitment of willingness to participate in open agenda dialogue, does he remember that? They went to the people of Gibraltar saying, "Vote for me I believe in open agenda dialogue." That is their position. Presumably when they say open agenda dialogue, dialogue means discussion by the way not negotiations, there is a difference between dialogue and discussion on the one hand and negotiating something on the other and this is a distinction that the hon Member now, he used to draw the distinction in his own favour when he was in Government but now that he is in Opposition will not allow the present Government to draw the same distinction. We are not going to fall into that trap. Presumably when the hon Member told the electorate of Gibraltar, "Vote for me because I believe in open agenda dialogue," he did not think that open agenda dialogue meant that it was open for him so that he could raise whatever he wanted but it was not open for Spain so that Spain could not raise whatever it wanted. Most intelligent people understand by open agenda dialogue that it is open that any party can raise for discussion any issue that they want and that commitment of theirs to open agenda dialogue recognises the fact that there is all the difference in the world between dialoguing about something, discussing something on the one hand and negotiating it on the other. He cannot unless he has done a U-turn, usually he accuses me of doing U-turns but frankly I think the only political party in Gibraltar that has done a U-turn is the GSLP [Laughter],

yes, because from a position of offering themselves to the electorate, they can giggle if they want but the reality of it is that from a position of going to an election saying to the people of Gibraltar and not just in the manifesto, in hustings, debates and in press releases open agenda dialogue – of course we are in favour of open agenda dialogue how can any reasonable person not be in favour of reasonable dialogue? I can hear Dr Garcia saying it now, of course who could be against reasonable open agenda dialogue? From that position to saying as the hon Member has said this morning, we do not agree with any discussion of the sovereignty issue is a U-turn, if he has changed his mind let him say so, but at least he should not change his mind and pretend that he has not. So, on the question of open agenda dialogue they countenance discussion on sovereignty or subscription to open agenda dialogue meant nothing, or was not an honest statement of the natural meaning of those words which they cannot have been at the time and then another reason why the hon Member cannot seriously maintain the position that he maintains today is that, has he forgotten and even if he has forgotten does he hope and expect everybody else also to forget the speeches that he used to make at the United Nations in 1992, 1993, 1994, and 1995? 1995 was not in the dark ages of his first term of office. In October 1995 which was the last speech that he made in the United Nations as Chief Minister it was only a few months before he lost office. To the very end of his tenure as Chief Minister of Gibraltar he was going to the United Nations saying, *"...of course I am willing to take part in dialogue with Spain, of course I am willing to discuss the decolonisation of Gibraltar with Spain I just want it done....."* [INTERRUPTION] .....because I do not wish to accuse the hon Members of knowingly misleading the House and those that may be listening to these proceedings I accept that hubbub as a formal challenge to the Government to prove the statements that I have just made and I accept that challenge. The Government will now publish verbatim texts of the Leader of the Opposition speeches in the United Nations which will more than demonstrate not just the accuracy of what I am saying to the House, I cannot do it right now because I do not have my United Nations papers with me, but I will publish them which will demonstrate not just the

accuracy of what I am saying about what the hon Member used to say but also why the position that he maintains today is completely and diametrically opposed to the one that he used to maintain when he was in office. I accept the hon Members' challenge and the Government will now proceed to publish that documentation. [INTERRUPTION] Then I will publish them again, presumably he does not worry, if his hubbub was anything other than a nervous reaction [INTERRUPTION] Well the words will mean what they mean, they say what they mean, and everyone will be able to read them in glorious technicolor. So the Government can accept a formula of words of the sort that I have read out which we believe are accurate and we believe that the people of Gibraltar do not want sovereignty negotiated and indeed I think that is the position across the floor in this House, neither the Opposition, nor the Government, nor the people of Gibraltar want to negotiate sovereignty in the sense of sitting down and brokering a deal based on conceding to Spain any share of the sovereignty of Gibraltar. That is the position of most political parties in Gibraltar it is certainly the position of the Government and therefore we have no difficulty in saying so but we cannot accept, for all the reasons that I have just been describing, his proposed amendment to paragraph 7. My paragraph 7 reads:

*"Repeats the statement made in its motion on the 25<sup>th</sup> March 2002 of support for Gibraltar's participation in reasonable dialogue."*

He wants to put:-

*"...In which the issue of sovereignty is not discussed."* The Government, no it would be worse, I hope that the hon Members were not suggesting issues thereby recognising that there is more than one issue of sovereignty. The Government will not use language which acknowledges that there is more than one issue of sovereignty for reasons that he very well knows and I believe supports.

Mr Speaker, the Government will not as I say agree to a formula of words which breaches the Government's pro-dialogue policy. The hon Member says that it would be nice to keep a unanimous position in the House and that has a price tag. Let me tell the hon Member that although unanimous positions in the House are welcome when they are possible the Government are not willing to purchase that degree of unanimity on the basis of being pushed into policies which the Government believe are not in Gibraltar's interests and it is not just the Government that believe it is not in Gibraltar's interests for Gibraltar to be seen to be adopting a dialogue rejectionist line. The hon Members will have seen the three early day motions recently posted in the House of Commons and one of those motions supported by a list that reads like the 'Who's who of Gibraltar's friends in the House of Commons' calls for the British and Spanish governments to end talks on joint sovereignty and to enter constructive dialogue with the Government of Gibraltar. The Gibraltar Government firmly believe and will not budge from the position that it is not in Gibraltar's interest to be seen to be in a position where we refuse to take part even in what we are calling reasonable dialogue. We believe that it is handing a present political presentational gift to both London and Madrid on a plate and why should we do that when the position is that the reasonable position is ours and the unreasonable position is theirs. Let me try to illustrate it to the hon Member this way. He says, *"....we must stop saying that we are willing to take part in reasonable dialogue because it is now crystal clear that the only dialogue possible with Spain is for sovereignty."* There is a difference which he refuses to recognise and this is one of the argumentative lack of logic and rationale that I described. There is all the difference in the world does he not understand it? Between it being the case that Spain is not interested in dialogue unless it is for sovereignty on the one hand and Gibraltar saying, *"....we are not even willing to take part in reasonable dialogue."* I can only explain the position. If the Opposition do not wish to understand it let them not understand it. What I am telling them is that they are not going to persuade the Government of their view. It may well be true that the only dialogue in which Spain is interested is about sovereignty, it remains to be seen. The evidence supports the hon Member's

contention. The recent evidence supports the hon Member's contention that the only dialogue in which Spain is currently interested is in dialogue in which there is parallel progress on sovereignty. The fact that that is the case is not a reason for Gibraltar to say we are not willing to take part even in reasonable, as we define it, dialogue. The consequences of Spain's position is that reasonable dialogue is then not possible and therefore will not happen but there is all the difference in the world between Gibraltar saying, *".... I am not going to dialogue because Spain's position is unreasonable, Spain's position amounts to bullying blackmail and Spain is not willing to take part in reasonable dialogue because she requires me to make concessions before I get to the table,"* there is all the difference in the world in international political terms between saying that on the one hand and saying on the other *"I am not willing to take part in reasonable dialogue"* even as I define reasonable dialogue because I am now accepting Spain's definition of reasonable dialogue and I do not surrender to Spain the right to decide what reasonable dialogue means. He is willing to abrogate to Spain the power to define what reasonable dialogue is, I am not and because I am not I am not willing to say, *"....Spain I accept your definition of reasonable dialogue and therefore I am not willing to take part in reasonable dialogue."* I say, "reasonable dialogue is this, if you are not willing to take part in dialogue on this definition of reasonable dialogue do not talk to me" but I am not standing in a position which anyone can say is rejectionist of dialogue. I am no more willing to reject dialogue than he was when he was Chief Minister and he can try for as long as he likes to force the Government into that trap. It is clear to the Government that almost everything that he does is designed to force the Government into where he would like to see the Government for extraneous reasons which is in a position of rejectionist of dialogue and the Government will not do it for two reasons, principally because we do not believe that it is in Gibraltar's interests to be rejectionist even of reasonable as we define it dialogue and secondly because we think we have a mandate, two mandates, for reasonable dialogue. The idea that a party that has been rejected twice by the electorate should seek to impose on a Government that has been accepted twice by the electorate its

policy on dialogue at the expense of the one that we have twice been elected with, is obscene, it is bizarre in parliamentary and democratic terms. Therefore the Government will not accept their amendment to paragraph (7), we will accept the modified amendment to paragraph (3), and if in those circumstances the hon Members do not wish to vote for my proposed amended motion then the Government will pass it using their own majority in this House.

#### HON J J BOSSANO:

Mr Speaker, it is not obscene and it is not bizarre for this parliament to hear the views of the Opposition. What is obscene and bizarre is the mental quirk in the mind of the Chief Minister that reduces debate in this House to the level where the only way that he thinks he can persuade people that he is right and we are wrong is by doing what presumably he did when he was a prosecuting lawyer which was to try and intimidate witnesses by calling them names. Once again today we have been subjected, yes, I have not on this occasion hurled any obscenities at him, I think the only one occasion when I described him using a particular adjective he thought that was obscene but today I have been very moderate in my language I do not think there has been anything obscene in anything that I have said but of course what we have is the complete disregard not just for logic we may disagree who is more logical him or me, the complete disregard for intellectual honesty and integrity on the part of the Chief Minister. I have not brought a motion to this House seeking to impose our policy on dialogue having lost two elections or him having won two elections. The original motion does not require the Government to give up anything, or sacrifice anything, or accept anything. They have chosen to introduce the question of dialogue themselves in an amendment which was completely unnecessary. Had they not done it we would not have had once again to have a row in this House when we are supposed to be doing what the people want us to do which is to reflect the unity of the Referendum. The Referendum was not asking the people of



Gibraltar what do you think about reasonable dialogue? So why do we have to have "*reasonable dialogue*" introduced in a motion in which we are saying how happy we are, how proud we are, of our people for turning out in such large numbers to reject the principal of sharing sovereignty. Why could it not be left there? And then the House would have come out with a united single voice, the voice of the House like the voice of the people saying no to the sharing the principal of sovereignty. But no he has to come back and say, "*..ah yes but we want to go along with reasonable dialogue.*" Well, bring a separate motion on 'reasonable dialogue' but do not prostitute and dilute the Referendum result.

Then we had this nonsense of saying "*I am going to publish your UN speeches,*" as if my UN speeches were kept in a secret file which he has and the rest of Gibraltar does not know. They were all shown on television the same as his are and they were all published at the time the same as his are and if he wants to talk about changes he started life in this House defending in 1991 the Brussels Process on the terms that it was going on before 1988 as being reasonable and safe. "*If it was reasonable and safe for Sir Joshua Hassan it should be reasonable and safe for Joe Bossano,*" that is what he used to say. He stood in this House before he went to the Chamber of Commerce and he said he would not go to talks with Spain if sovereignty was on the table. Is that in conflict with open agenda or is it not in conflict with open agenda. *[Interruption]* Yes, and that was quoted and he did not deny it when it was quoted in the Chronicle's report of the proceedings of the House the following day. He did not come out saying, "*I did not say that.*" He said, "*..there is now no difference between the Government and the Opposition on Brussels because I will not go if sovereignty is on the table.*" And now he says we are trying to bounce him into giving up the policy on which he has won two elections which is 'attendance under Brussels' so that he has to vote on a motion which requires him to reject discussions of the issues of sovereignty which is what Brussels requires him to do. He is trying to convert the amendment into saying, " ....no, no, no we do not recognise that

*there are issues of sovereignty,*" one cannot support attendance at Brussels and not recognise that there are issues of sovereignty because that is the statement which creates the process which one supports, we do not support the issues of sovereignty but Brussels does, the United Kingdom does, the Spanish Government does, the United Nations does, the European Union does, all of which are unreasonable because that is not reasonable dialogue. If the Chief Minister thinks that by saying we are being unreasonable all those people are going to understand that to him '*reasonable*' means one thing and to the whole of the world '*reasonable*' means something else all I can say is that that defies any kind of logic. He would have to go to the United Nations and say, "*...when I say reasonable dialogue I mean dialogue which does not include negotiating with Spain on sovereignty notwithstanding the fact that I am required to discuss the issues of sovereignty in the Brussels Process which I am very happy to go to.*" If he does not think that participating there involves negotiating sovereignty why does he want a veto? If all he is going to discuss is friendly European neighbourly relations without sovereignty as a quid pro quo what is the veto for which has stopped him going there what is it that he wants to veto flights to Malaga, that he wants to veto the ferry from Algeciras, that he wants to veto more telephone lines? He wants the veto because he knows as well as I do and as well as 99.87 per cent of Gibraltar does now, because we have been using the argument that Brussels was a sell out to Spain from the day it was signed, we voted against it in this House because we said then what Jack Straw has said on the 12<sup>th</sup> July. The debate we are having and have had should no longer be necessary because throughout the years that the AACR supported Brussels they supported it on the premise that the UK interpretation and the Spanish interpretation were not the same and that in fact those who rejected Brussels were rejecting it because they were accepting the Spanish interpretation of the text, there are no longer two interpretations of the text there is only one. But none of this is necessary in this motion. None of this is necessary because we have not brought a motion to the House to bounce the Government into rejecting Brussels let them continue to defend it and we will continue to attack it and let there be two positions in this House. They have

made it necessary because they are trying to bounce us into going along if the context of a motion that refers to the rejection of the principal of sharing sovereignty one then goes on to say, "...but we want to go along with reasonable dialogue." What the hell does it mean? What does it mean to anybody else? I will tell the House what it means, it means that the element in Gibraltar that still hopes for a deal with Spain but not this particular deal not the Straw deal but some other deal, maybe that door is the door that the Chief Minister is trying to keep open because the people that want to see that door open vote for him and will not carry on voting for him if he closes the door. That is what this is all about.

I regret Mr Speaker, that this should be happening, we should not be having this debate, I should not be getting angry with the Chief Minister, he should not have said certain things and it was totally unnecessary all he had to do was to amend the original motion as I brought it to the House without bringing in the controversial question of what '*reasonable dialogue*' means and what it means to go or not to go into talks with Spain and if he says that open agenda means one is willing to discuss and that there is a difference between discussing and negotiating this is just a play on words. An open agenda is an agenda in which anybody can propose anything and anybody can reject anything but the Chief Minister is saying that he cannot reject sovereignty discussions. The Chief Minister is saying, if the agenda is open it means that Spain says, "*I want to discuss sovereignty*" and the Chief Minister cannot say, "*and I do not,*" that is his interpretation of open agenda. The fact that Spain says I want to discuss sovereignty and I can say "*look and I want to discuss my claim to the Campo de Gibraltar because it is called the Campo de Gibraltar*" One can say anything one wants but one is not required to do anything. Under Brussels one is required as part of the bilateral agreement between the United Kingdom and Spain to discuss the issues of sovereignty, one cannot avoid it, one cannot say there are not two issues, that ground has already been conceded and the Chief Minister has been supporting the concession since the first day he became involved in politics in 1991 and then he camouflages it one day one way and another

day the other way depending on which way the wind is blowing that is his style. That is the way he operates, fine, let him operate like that but let him not have the cheek to accuse other people of doing U-turns when he has done so many U-turns that he has got us, not just us of the Opposition dizzy with his turns, he has even got Jack Straw, Aznar, Blair, Hain and I presume now De Palacios and no doubt when this is monitored and transmitted they will be asking themselves again what is his latest position now is he being as strong and as negative on any deal still or has he started softening already. He can send whatever signals he wants but he will not get our support for sending those conflicting signals out and I honestly, honestly regret that a motion that I brought to the House some time ago in the expectation that we would be able to reinforce the result of the Referendum with unanimity in this House should have been undermined by the Government coming up with this absurd argument that we are trying to impose our policy on dialogue on the Government when we lost two elections and they won two elections, a policy on dialogue which he claims I have invented today because he says I have just done a U-turn on dialogue and that until now I had a different policy. Then how could I have come when I gave notice to the Chief Minister with the intention of imposing a policy on dialogue which he claims I have invented it today. I did not have it when I gave notice but of course the motion does not mention dialogue at all, the original motion, there is nothing there to push him in any direction. All that this does is it tells the British Government not to carry on with sovereignty negotiations that is all my motion was seeking to do. Why do we have to say "do not carry on with sovereignty negotiations but we want you to carry on with reasonable dialogue" and then we come against the problem of what does '*reasonable*' mean? '*Reasonable*' in the judgement of whom? In the judgement of Jack Straw, Jack Straw is being '*reasonable*'. Jack Straw has told the Government that he thinks he is being '*reasonable*'. Peter Hain has told the Government that, they have written opinion columns in the Gibraltar Chronicle telling people how '*reasonable*' it is to look for a deal with Spain which gives us a prosperous future which gives us stability and that that can only be as part and parcel of a package which includes sovereignty and that that is '*reasonable*'. I do not think

that is 'reasonable' but I do not know unless we explain what we mean when we say 'reasonable' whether that is going to be the opinion of whoever may be there today, tomorrow, in a year's time or at any time in future. So we are not prepared to go with this unqualified constant references to reasonable dialogue which are unnecessary because I see nothing here, nothing in my original motion not one word, not one full-stop, not one comma that requires the Government of Gibraltar to abandon anything that they want to have in respect of participating in talks with Spain. There is nothing there, it does not call on the Government of Gibraltar to do anything except to say to the United Kingdom, "*..the people of Gibraltar do not want any further sovereignty negotiations with Spain.*" Is that not the case? Is it the case that we are not talking about whether shared sovereignty is the sharing of the 100 per cent and joint sovereignty is the 50-50 we are saying the principle of sharing sovereignty that is what we are being asked and I have voted against the principle of sharing sovereignty and the principle of sharing sovereignty means for me not just sharing 100 per cent it means that if tomorrow the deal was we give Spain 1 per cent sovereignty and we retain 99 per cent that would still be in breach of the principle of sharing sovereignty. The principle is that we are not prepared to see in any shape or form the Spanish flag over Gibraltar or the Spanish State having any say in our affairs. At the same time everybody in Gibraltar that believes in that has also believed that it is good for us and good for the Campo Area that we should have good neighbourly European relations. We do not need to be saying in the context of a motion about sovereignty anything about dialogue because it is capable of being misunderstood by people who wish to misunderstand, wish to misrepresent it and is only capable of being there to give comfort to the 'Palomo' element in Gibraltar which were persuaded in this Referendum when the Chief Minister was urging a 'No' using different arguments from mine. He was saying there are people in Gibraltar who want a deal with Spain but this is not the right deal and this is not the right way to go about it and we must stop the joint declaration because the joint declaration at one stage he said was impossible, at another almost impossible for any Government to participate in the negotiating process. This is Brussels II which is worse than

Brussels I. All those things that he has said are indications of a willingness to sit down with Spain to discuss the future of Gibraltar. If he wants to publish speeches let him publish his own ones, the ones where he says in answer to questions from the Committee of 24, " ....yes I think realistically we are not going to be able to decolonise Gibraltar without sitting down with Spain and getting their agreement." [HON CHIEF MINISTER: That is what you told them not I] No that is what he told them in answer to a question when he went along with Willie Serfaty and they asked him the question and Willie said that he should answer it and that is what he said. [HON CHIEF MINISTER: No] Yes! Mr Speaker, let us all publish everything we have all said but to publish all his contradictions, all his shields all his U-turns would need from our perspective that we should ask for a supply of various boxes of paper from the House because it would require several volumes to keep up with the U-turns of the Chief Minister.

As far as we are concerned we will not support an amended paragraph (7), we regret deeply that a motion intended to show that we are united on the Referendum result should have been distorted and derailed by the Chief Minister who seems to be paranoid that I am trying to bounce him into a situation against Brussels. As far as I am concerned if he believes that the people of Gibraltar will support him participating in dialogue in which sovereignty is discussed good luck to him he will find out what it is like if he ever goes there with his voices, his vetoes, his dignity, his flags and all the rest of the paraphernalia with which he tries to obscure the issue and throw up smokescreens so that his true intentions are not revealed.

Question put on the amendment to the amendment of paragraph (7). On a division being called the following Members voted in favour:

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 following hon Members voted against:

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 A Trinidad

The amendment to the amendment of paragraph (7) was defeated.

**HON J J BOSSANO:**

Mr Speaker, on the amendment that I proposed to paragraph (3) I am happy with the reformulation of words suggested by the Government.

**MR SPEAKER:**

All right.

**HON J J BOSSANO:**

We can take the amendment as reading as was suggested on the question of the people's views against sovereignty negotiations.

**HON CHIEF MINISTER:**

Mr Speaker, let us be clear. It appears by what the hon Members have said that they had no intention of voting for the amended motion. If they have no intention.....

**HON J J BOSSANO:**

No. What I said was that if the Government did not accept the qualification of reasonable dialogue we have proposed then we would want the amended motion to be taken clause by clause so that we can vote against paragraph (7) and in favour of the rest.

**HON CHIEF MINISTER:**

The Government are not willing to do that.

**HON J J BOSSANO:**

The Government are not willing to do that? Then because the Government are not willing to do it I want to make it absolutely clear that the responsibility for not being able to achieve unity on six out of seven points rests entirely with the Government who prefers not to have a united view of the House on the Referendum.

**MR SPEAKER:**

At this stage we are now on the amendment to the motion which is the Government's amendment.

**HON CHIEF MINISTER:**

Mr Speaker, the hon Member asks for procedures which are not open to him and then attributes motives to the Government for not.....there is one motion, one either.....

**HON J J BOSSANO:**

May I, on a point of order?

**MR SPEAKER:**

Yes.

**HON J J BOSSANO:**

On a point of order I would ask that the House provide the Chief Minister with the innumerable examples of motions in this House where what I have suggested has been done.

**HON CHIEF MINISTER:**

I cannot know whether in the past he has succeeded in persuading others that something can be done when it could not

be done. It does not make it right, the fact of the matter is, that I am bringing an amended motion to the House that when we come to vote at the end of this debate there will be one composite motion before the House and that either one votes for or against the motion but one cannot say, "*I vote in favour of paragraph 1, I vote in favour of line 2 of paragraph 3 but not in favour of line 4.*" One cannot pick and choose which bits of a motion one votes for and which bits of a motion one is against. One votes for or against the motion and what the hon Member is asking to do is – put it this way, he says it has happened many times in the past. It has never happened since I have been in this House. It may have happened 100 times before I entered this House in a by-election in 1991 it has certainly not happened since, ever. He says like so many of the things that he says it has happened lots of times before. I do not know whether it has happened lots of times before what I can say is it has not happened even once since 1991, I doubt whether it has happened before and if it has happened before that does not make it right. Where does it say in Standing Orders that one can do this?

**MR SPEAKER:**

I will decide.

**HON CHIEF MINISTER:**

Mr Speaker, the motion is one motion and once we come to vote we are voting on one motion. This is a proposition which has seven numbered paragraphs. We could remove the numberings altogether and then one would have to do it by reference to, "I vote for the whole motion except for line 26." The fact that there are paragraph numbers does not alter the nature of the document that is being voted on. Either one supports the Government's amended motion or one does not.

The hon Member obviously enjoys what he calls 'a good row' it is in the tradition of Anglo-Saxon parliaments that there should be good rows but if he wants a good old fashioned row we are not frightened of a good old fashioned row but at least he should provoke good old fashioned rows on the basis of fact and truth and not build a faked row on the basis of statements that have not been made in this House. No, Mr Speaker, the problem with the hon Member is that he is the master of distortion of what other people say. Yes the hon Gentleman all his political career has been the master of distortion. I have not called him names which is the opening remark upon which he based the whole tirade about rows and the terrible man on the Government side. No I have not called him names I went to the considerable trouble so that he would not have his sensitivities assaulted to say that these were comments on his arguments not on him. I said that his arguments were irrational, incoherent and illogical and then I went on to explain why and I have not said which is the other pillar on which he builds his little fake row, I have not said that it is obscene and bizarre for the view of the Opposition to be heard in this House, ".....the problem with the Chief Minister is that he will not tolerate anybody else's views. How can he say that it is obscene and bizarre for the Opposition's views to be heard?" Who has said that it is obscene and bizarre for the Opposition's views to be heard? What I have said is that it is obscene and bizarre for the Opposition to try and have their views reflected in a motion in the name of unanimity. The hon Member launches his tirade on two false invented premises, one that I called him names which I have not, two that I have said that it is obscene and bizarre for the views of the Opposition to be heard in this House and then went on in his usual diatribe of personal insults including the fact that according to him it is alleged that when I was a practising barrister and specifically when I was acting for the prosecution that I used to call witnesses names. That I used to intimidate witnesses and call them names but what is the matter with the hon Gentleman has he taken complete leave of his senses or is he simply so rattled by the arguments that he faces that he just loses control, loses complete touch with rationality and reality. When I have said that expecting the Government who are elected with the mandate of two terms on

reasonable dialogue in the interests of unanimity to abandon that policy to accept if a contrary view when pressed by the Opposition that has twice been rejected with their policy, the answer by a visibly out of control Leader of the Opposition is that when I was a prosecution lawyer he thinks I used to intimidate witnesses and call them names. I believe that he has just lost control, I regret to have to tell him this I believe that he just loses control of himself when he finds himself on his feet in a debate.

Mr Speaker, the only Chief Minister of Gibraltar, for the record, and since he raises the question of hearing the Opposition's voice in this House or not hearing the Opposition's voice in this House, let us recall that the only Chief Minister in the political and democratic history of Gibraltar that has tried to silence the Opposition because he did not agree with their views is him or does he not recall that he used to formerly refuse to answer Mr Cummings' questions in the House with the statement, "*I am not answering your questions because I do not think that you should be in this House at all.*" How dare he with that track record in this parliament have the audacity to stand up and suggest that we say or do anything which suggests that we are intolerant to the views of the Opposition. It is just another example of the hon Member's distortion of fact, poor recollection of what has happened in the past, and U-turns. Another example of the hon Member's U-turns. He is the only Chief Minister with the appalling record of trying to censor not just the views of the Opposition in this House but of even refusing to recognise their right to be in the House because he disagreed with their policies. That is obscenely and bizarrely not wanting to hear the views of the Opposition what he did not anything that Government have ever done in this House.

Mr Speaker, the hon Member says that they have not tried to impose their policy on dialogue and then goes on for 15 minutes about how it was not in their original motion. This is a debate between grown-ups, the fact is that once the Government had decided that they want to, the Government still have a majority in this House. The Government decide that they want the motion to

reflect not the Government's position on reasonable dialogue, the position on reasonable dialogue adopted by this House unanimously as recently as March this year. The motion in the House in March this year says exactly what we tried to insert in paragraph (7) and it is not just the Government's view. The representative bodies council all support reasonable dialogue. The banner behind which 25,000 people of Gibraltar were happy to march on the 18<sup>th</sup> March this year said, "Yes to reasonable dialogue." The problem with the hon Member is that he wants to convert his minority views into the consensus and he has failed twice to do it and he will continue to fail. Everybody in Gibraltar supports the principle of reasonable dialogue only he now does not. Now, because when he and Dr Garcia told the people of Gibraltar, "*Of course open agenda dialogue...*," how is that consistent with voting against the sentence that simply calls for reasonable dialogue. They have now gone firmly on record that the GSLP/Liberal alliance parties are against even reasonable dialogue. Fine, I think it is very helpful that that should finally be clear.

Mr Speaker, the hon Member appears to have difficulty accepting that words in the English language have a meaning and that when people use them for that meaning he cannot attribute to them motives which attach to a different meaning to that word. Why does he think that it dilutes the Referendum result for the Government to say, "*....a, b, c, d, e, f, and g*" which is much stronger than what he wanted to say about the Referendum result, much stronger, and then he says, "*....oh and by the way this has not changed Gibraltar's position from where it was on dialogue before the Referendum.*" The only reason why he might find that bad, diluting or annoying to him is if he was trying to achieve what he claims he was not trying to achieve. In other words, pretend that the Referendum result means that Gibraltar has changed its position on reasonable dialogue and if that is the position and if it is not there is no logic to his objection to it but if that is the position he cannot now innocently stand up and say, "*....oh we were not trying to hijack the Government's policy.*" So which is it? He is either trying to undermine the Government's

policy on reasonable dialogue or there is no connection between the Referendum and reasonable dialogue in which case what is the harm? I think it is good and I have tried to explain why I think that it is good but given that he does not agree that it is good at least what is the harm in saying, "*...oh and Gibraltar's position on dialogue is not altered by anything to do with the Referendum,*" which is the Government's position so his position is either different or the same as the Government's. I think that it is different and he is trying to reflect that difference not in anything that he had in his original motion I accept but in the amendment that he proposes to paragraph (7) once we have proposed it and what I have said is not a comment on his original motion as he pretends, what I have said is a comment on his amendment to my amended paragraph (7). It is clear that his amendments are calculated to eliminate the possibility of advocacy for dialogue by trying to equate first of all negotiations with discussion and then by trying to assume the position that dialogue is not reasonable if Spain is even free to raise the question of sovereignty because actually when he went on to describe what he thought reasonable dialogue meant and does not mean I agree with him. I agree entirely with him. The difference between reasonable and unreasonable dialogue is one in which one is able to protect oneself not have to make concessions of one's case before one gets to the table and when one gets there just discuss everything without a commitment. Not just without a commitment as to end game but without being able to have an end game forced upon one after one has arrived at the table which is what we want the veto for and the own voice for. So, we have to say apparently we have the same definition of reasonable dialogue and I would say to the hon Member it is not true that I have ever said that we would not go to dialogue if sovereignty was discussible. I have always said that in an open agenda dialogue of course Spain had to be free to raise the question of sovereignty so long as we were free and could safely and effectively express our own view and then either move on or not: That would then be Spain's choice. What I have always said is that of course I would not go to dialogue in which sovereignty was on the table for negotiation. The hon Member wants to simply eliminate political reality from the equation and I am sorry it may be convenient for him to blur

all these edges and eliminate all these nuances and alter the natural meaning of words because it all pushes Gibraltar in a direction that he wants them to go in but he is wrong. People are entitled to rely on the natural difference in meaning between words and there is an obvious difference between an open agenda discussion in a context in which one is not committed to any objective and which one can prevent agreements on through a veto, there is a difference between that and saying, “*..all right I will go along to negotiate sovereignty in accordance with the end game that you have predetermined.*” Does he not understand that there is a valid difference to draw between those two positions? Nor is it true that I have said that there is no difference with the Opposition on Brussels because I will not go if sovereignty is on the table. No, what I have said was that there was no real practical difference between the Government and the Opposition on Brussels because the Government would not go to Brussels unless our conditions for participation were satisfied. The hon Member’s memory seems to be very good when he wants to say that he says something and very poor when he wants to recall of things that I have said. That is exactly what I said that there was little difference between the Government and the Opposition on Brussels because the Government’s position was not as he likes to constantly repeat because he thinks it makes good political material that we support Brussels or we defend Brussels, we neither support nor defend Brussels. What we have said is that if what is objectionable about Brussels, what is unsafe about Brussels is corrected which they would be if our conditions were met, then we would be willing to take part in talks and we have said whilst those conditions are not met there is no difference between the Government’s position and the Opposition’s position because neither of us support going to which he replied in a subsequent press release, “...there is still a difference because we would not go even if his conditions were met.” Does he now remember the exchange? That is exactly how it happened. I say this not because it has any relevance to the issues that we are actually debating on the motion but simply to correct yet another distortion of fact as represented by the hon Member in his address. It is all too often in the hon Member’s political style to suggest that somebody has said something that

they have not said. To represent somebody’s position as different to what it is and then build a case on that false foundation. It is all too often his political style and certainly whilst we have the opportunity of rebutting that style in this House we are not minded to let him get away with it, sometimes he gets away with it publicly in press releases because frankly the Government do not have the time or the inclination to report to respond and to join issue with him on each and every press release and each and every television interview that he gives but certainly in this House we have no intention of letting him get away with that defective debating style.

Mr Speaker, the hon Member shouts in complaint, “*Why bring the question, the controversial question of reasonable dialogue?*” The question of reasonable dialogue is only controversial in his mind. It was not controversial on the 20<sup>th</sup> March when he voted for a motion in which the House said precisely this. It was not controversial for all the politicians that signed the Declaration of Unity, all past and present Members of the House signed the Declaration. It was not controversial to all the representative bodies that also signed the Declaration of Unity so it is not controversial in this House, it is not controversial outside of this House, it is Government policy, 25,000 Gibraltarians have marched behind a banner saying precisely this and he accuses us of introducing controversial issues. It is not a controversial issue and it does not become a controversial issue simply because he describes it as such. No amount of bluster will succeed in concealing the truth, in conceding the reality, that the hon Member used to defend precisely the same dialogue open agenda willingness to sit down with Spain on a reasonable and safe term admittedly with the exception of one speech in which let us say it was a slip of the tongue, I am willing to accept, knowing what his anti-Brussels trajectory has been from the outset that if in one speech he says something which is capable of sounding as being willing even to take part in Brussels it was a slip of the tongue particularly as it was in the one speech that he ad-libbed and did not have a prepared text. So leaving to one side the question of whether he would or would not under Brussels, he has



gone to the United Nations time and time again to say what I have not gone to the United Nations to say and that is that the decolonisation of Gibraltar needs to be negotiated with Spain, this is not deniable. All I have to do is go back to my office now pull out the text of his speeches, hire a page of advertisements in the Gibraltar Chronicle and publish it. I am not going to do that but I am certainly going to publish it but all the noise suggesting that this is not true, there they are and of course they are there in the public domain. I have not said that the hon Member says things now that he used to say in UN speeches that were not published in Gibraltar, another distortion attributing to my mouthed words that I had not uttered. What I said was that he hoped that people would forget that is what he said in 1993 not that people did not in 1993 hear him say it. That might be why he lost the next election not that people in 1993, 1994 and in 1995 did not then hear him say it but that he was hoping that they would by now have forgotten thereby freeing him to say things today which are incompatible with the things that he used to say then. That is what I said, nothing about the speeches are published as if I had suggested that his UN speeches were not published another tweaking of what I have said in order to allow him to defend himself on a ground that he has not been attacked on, another example of distorting my words in order to build an argument on a completely false foundation.

The hon Member asks rhetorically I suspect because I do not suppose he is interested in the real answer why do I want a veto? Well, I do not want a veto for any of the reasons that he said I have said that the Government's conditions for participating in dialogue apply to any and every process of dialogue. I want a veto so that the elected Government of Gibraltar can prevent the United Kingdom and Spain from reaching agreements which are not to Gibraltar's liking or which violate the political rights of the people of Gibraltar and that is necessary whether the dialogue is inside or outside the Brussels Agreement or are we saying, which certainly the Government are not saying, that if they tore up the Brussels Agreement and set up something else we would then be willing to go along without our separate voice and with a UK

and Spain free to agree bilaterally whatever they liked. Certainly from the Government's point of view the answer to that is obviously no so that is why we want the veto not because we concede that the predetermined objective of the Brussels Agreement is joint sovereignty, or sovereignty or Spanish sovereignty and we need the veto to frustrate what we accept is a predetermined objective. In fact we have it in writing from the British Government that the Brussels Agreement is not and this is not predetermined to result in Spanish and these are not things that say, *"..ah then we can support it,"* or *"then we can defend it"* no, these are not reasons which enable us to defend or support the Brussels Agreement which we do neither, these are reasons which allow us to formulate when and whether it would be safe for Gibraltar to take part in Brussels Agreements talks. *"What does he want reasonable dialogue for?"* Well, I want reasonable dialogue for reasons which are a lot less bad for Gibraltar than what he wanted reasonable dialogue for in 1992, 1993, 1994 and when he used to send all those emissaries to Madrid to see if he could change the Spanish Government's view on their refusal to speak to him and when he used to say in the United Nations all these things that he used to say. I want reasonable dialogue and there is no point the hon Member making statements to attribute to us other motives. I want reasonable dialogue for all the things that he thinks he says reasonable dialogue for, for neighbourly relations and everything else not in order to sit down to negotiate the sovereignty of Gibraltar which is what he has equated *"a willingness to reasonable dialogue"* to mean a willingness to sit down and negotiate sovereignty with Spain only because Spain's definition of reasonable dialogue requires that and we say certainly not, that is not our definition of reasonable dialogue. That is not what we want reasonable dialogue for and that is not the reasonable dialogue that we would take part in and if that is the only dialogue available then it will not happen but it will not have happened not because Gibraltar says it is against reasonable dialogue but because Gibraltar will say Spain is the one who does not want reasonable dialogue and that is where the Government judges Gibraltar's interests are best located.

Mr Speaker, another of the mythologies that the hon Member seems obsessively concerned with perpetuating is this idea that the Government or I in particular do constant U-turns. Read every public statement, start with the first dialogue press release that the Government issued after the 1996 elections, I could legitimately say they cannot take me back further than the last time the people of Gibraltar elected me but I am happy to subject to a stricter test than that, go back to all our statements, for example, I will give them the dates the first major dialogue statement I think was dated October or November 1996, and he will see that from then until today and tomorrow and the day after because it is not going to change what we have been saying about dialogue, about the terms upon which we would take part, upon the terms upon which we would not take part have not changed one punctuation mark. I cannot do better than point him in the direction of historical records that I cannot now alter and if I thought that the historical records did not reflect it would hardly be pointing them out to him. Unlike him I do not just say, "*Mr Speaker, this has happened hundreds of times in the past,*" something that no one can check, no, when I defend myself I point to written evidence of what has happened and what I have said and invite whoever to go and look at it and they will see that there have been no U-turns not a number of U-turns or a position that changes so often that not even the Spanish and the British know what it is, no U-turns. No changes of position because we had a reasonable position from the beginning and one does not change reasonable positions in the face of unreasonable positions by others and because our position has been reasonable and defensible from the outset we have not had a need to change it and the position on dialogue that we have explained privately to the British Government in all our ministerial meetings with them, in all our letters, in all our meetings with the Governor have always reflected that position and only that position. So, he can continue to if he wishes to but the people of Gibraltar have already told him twice that they do not agree with him but never mind he can continue to repeat the view that the Government are constantly changing their position on dialogue. Not only is the Government not constantly or at all changing their position on dialogue, the people who actually have changed their

position on dialogue is them but let it be recorded that after today's debate it is the indisputable position of the hon Members in Opposition in both political parties represented that they are opposed even to reasonable dialogue and that they no longer subscribe to open agenda dialogue because reasonable open agenda dialogue which is what the Gibraltar Government are interested in is precisely what he described as reasonable open agenda dialogue, dialogue in which everybody can go and say what they want without commitment and he asked for Gibraltar and I asked for all the area that the Calpe Hunt used to strut around in those days. So they claim, we claim, and we answer each other and nothing is agreed in the commitment. That is open agenda dialogue with no pre-conditions of the safe variety but he is against even that after today and so I commend the Government's amendments to the House which are not as the hon Member in his blustering response sought to make out to dilute or undermine the Referendum result. Let us get this clear once and for all because he tries to muddy the waters even on this issue. The Referendum of the 7<sup>th</sup> November 2002, so why on earth should we want to dilute its effect, was decided upon and called by the Government on the question that the Government wanted to put to the people it was not even the Referendum of the sort with the question or at the timing that the hon Members wanted so for them to constantly suggest that they had suggested it first which was not even true but even if it were what they might have suggested which they did not even suggest first but the only thing that they ever suggested is something very different in a very different time to the one that has actually happened. The hon Member has heard me say before that if the Referendum had taken place at the time that the hon Members were trying to press the Government to do it it would have been a tactical error. I accept that tactical decisions are a matter of judgement they obviously think that it would have been better at that time we think it would have been a tactical error. We would have had all our demonstrations, all our Referendums by October or November last year, there would never have been an advertising campaign because they think that that was a waste of money and they think that that would have left Gibraltar in a best place as opposed to what has happened which is an incremental stepping up of

political pressure through it over a sustained period of time increasing the range of public opinion that had become familiar with the Gibraltar issue and with the arguments maximising the public support for Gibraltar. The hon Members think that that was not the right thing to do. We believe that it was the right thing to do and with the exception of Opposition Members who may take the view that they have some sort of sacred obligation never to congratulate or never to think that the Government have done anything right the only people who appear to think that the Government's campaign so far, we do not even know whether it has succeeded yet, but the only people who believe that the Government's campaign so far has not been effective appears to be the Opposition Members. So, the hon Members have no grounds upon which to believe that the Government would do anything to dilute the result of our own Referendum, what is the hon Member thinking of? What we are wanting to do, which is why the hon Member may be upset, is that we are saying about the Referendum all the things that it means in fact, some of them a lot stronger, there is everything that he wanted to say plus, and therefore our comment on the Referendum is actually stronger than his but what we want to say, which he obviously does not want to say, is that the Referendum does not alter Gibraltar's position on reasonable dialogue. That is why he is upset and that is why the Government have chosen to introduce the paragraph because the Government's position is that the Referendum has not altered their position on reasonable dialogue and the hon Member was hoping to bring about a position where his skewed interpretation of the Referendum had the side effect of also scuppering the reasonable dialogue agenda in Gibraltar. So that is why we support paragraph (7) and he does not but that is simply to recognise the political realities of the differences between us and I do not say to the hon Member that by voting against this motion he is undermining unity. The hon Member knows, I have said it sitting next to him in a television debate that I am not the sort of politician that thinks that democracy is advanced by putting pressure on oppositions to agree with governments or putting pressure on governments to support oppositions. People have the views that they have and they should act, vote and behave consistently with those views, not to

trade those views for somebody else's insincerely in the name of so called unity. I do not see why the hon Member if we disagree, we disagree and there is no need to attribute to either of us this sort of guerrilla tactic desire to blow it all out of the water. Without the dialogue paragraph the Government's concern is that people might think that the Government's or Gibraltar's position on dialogue has changed. That is why we have included it not because there was anything in it, not because there was anything in his own motion that required it, but because the Government want to put it in to make it clear to others that the Referendum is an assertion of our political rights, it was a defensive act against the Anglo-Spanish negotiating process of the last 12 months and does not alter the policy position of the Government of Gibraltar. I said to him at the beginning that we wanted to make this into a wider political document for wider use than his own motion was intended to be and we think that that is perfectly legitimate and far from to quote his words, "*prostitute and diluting the Referendum result,*" far from doing any of that this gives the same or a greater degree of ex post facto political interpretation to the Referendum something that the Government decided to convene for that purpose and then goes on to say, "*far from prostituting or diluting the effect of the Referendum and do not think that by forcing us to call this Referendum you have forced us into a more unreasonable position on dialogue that will make it easier for you in the future to criticise us internationally.*" That is not prostituting the result of the Referendum that is pocketing the political value of the Referendum without allowing others to make mischief at Gibraltar's expense because of it. So I do not know what the opposite of prostitution is but if there is an opposite to prostitution then I think it is the opposite rather than prostitution. I commend my amendments to the motion to the House.

The House recessed at 12.45 pm

The House resumed at 12.55 pm.

**HON J J BOSSANO:**

Mr Speaker, I regret to say that nothing that has been said by the Chief Minister in support of this.....

**HON CHIEF MINISTER:**

Mr Speaker, on a point of order.

**MR SPEAKER:**

Yes certainly.

**HON CHIEF MINISTER:**

Mr Speaker, the Government's understanding of the procedure of the House is that there is a mover of the motion, other speakers take part in the debate and then the mover closes and when there is an amendment or even an amendment to an amendment under Standing Orders the same procedures apply to that section of the debate, for example, when the Leader of the Opposition moved an amendment to my amendment, he moved, I answered, he replied and then we took the vote. We have voted on the Leader of the Opposition's amendments to my amendments and that is the correct procedure. What we have now done is that the hon Member introduced his original motion, in my debate in the participation of that I have moved an amendment, the hon Member has spoken to the amendment, I have replied and therefore closed on my amendment and now what we need to do is what we did in his case which is to vote on my amendment to his motion and if that happens that is the motion that there is before the House and there is no further motion for anybody to close on.

**MR SPEAKER:**

The thing is that your amendment is part of his motion, for example, "*warmly welcomes*" is a repetition so it has not been amended but before.....

**HON CHIEF MINISTER:**

That is not the point that I am making the point that I am making is that we have to vote on my amendments whether they are small, large, whether they repeat the words warm or does not repeat the word warm somewhere in it we have to vote on my amendments before proceeding further in the debate on the motion as it was originally presented.

**MR SPEAKER:**

I agree entirely.....

**HON CHIEF MINISTER:**

Well let us do it.....

**MR SPEAKER:**

The only thing is that we will take the vote but still the mover will have the last word after the vote.

**HON CHIEF MINISTER:**

Well the hon Member.....

**MR SPEAKER:**

That is my ruling.

**HON CHIEF MINISTER:**

Mr Speaker, it may be your ruling and it will have to remain until such time as it can be dealt with by substantive motion but the reality of it is that it is a ruling which is in complete contradiction to the practice of this House which has been that once a motion is amended by the deletion of all the words after "This House –" and this was a device not invented by me, the practice and rulings in this House has been that when one deletes all the words appearing after "*This House*" and what follows is a new text, then that is the motion upon which we vote. Mr Speaker can say "*ah but I spot the word warmly in both and therefore that is no longer.....*" Fine I will have to bow to the Speaker.

**MR SPEAKER:**

We will vote on the particular amendments and then the mover of the motion will have the last word.

**HON CHIEF MINISTER:**

But there is no motion.

**MR SPEAKER:**

All right so we now vote on the amendment to the motion.

**HON CHIEF MINISTER:**

No, Mr Speaker, we are voting on my amended motion which is the deletion of all the words appearing after "*This House*" and the replacement with all the language of which I have placed on the table.

**MR SPEAKER:**

Yes. I am ruling that we take the amendments one by one. All right I now put the question in the terms of the amended motion paragraph (1) those in favour?

**HON CHIEF MINISTER:**

No, Mr Speaker, with the greatest of respects .....

**MR SPEAKER:**

Would you like to take the chair?

**HON CHIEF MINISTER:**

Mr Speaker, I am perfectly entitled to make points of order without Mr Speaker making remarks of that sort. What Mr Speaker cannot

do, at least not relying on anything in Standing Orders, is to treat a motion as if it was the Committee Stage of a Bill. What he can do if he wants to is to say, which is what he started off saying, I want to take each amendment separately but each amendment is every other word not each paragraph number. This is why.....

**MR SPEAKER:**

Each amendment which does not conform to the original motion.

**HON CHIEF MINISTER:**

But that is everything. That is every word and every punctuation mark and every paragraph and all the different numbers of the motion. [*HON J C PEREZ: Except warmly welcomes*] Except "*Warmly welcomes*" so we have to vote on every word after the words "*Warmly welcomes*" one word at a time because this is not the Committee Stage of a Bill. Frankly, Mr Speaker of course has in the instant the word and we have to bow to it in that instant but I am sure that Mr Speaker will be as minded as we all are to conduct our responsibilities within this House in accordance with the established rules of the House and not in accordance with just any old practice.

Is Mr Speaker ruling that the voting procedure on a motion is akin to the Committee Stage of a Bill where we approve one paragraph of the motion at a time. Is that the ruling where I am entitled to call for a formal ruling from you about what it is that you are deciding? I now call upon you to make that ruling because Mr Speaker is sweeping out of the window 50 years of parliamentary rules and tradition in this House and is making new rules. Fine he can do that but then the House must agree by substantive motion

to change it, so we need to know what exactly is the nature of the ruling that he is making.

**MR SPEAKER:**

The ruling that I am making is that the mover of a motion will always have the last word whether from one side or the other. This is not a motion, you have a number of amendments to an original motion.

**HON CHIEF MINISTER:**

There is one amendment.

**MR SPEAKER:**

A number of amendments.

**HON CHIEF MINISTER:**

What is paragraph by paragraph got to do with it?

**MR SPEAKER:**

I was requested by the Leader of the Opposition that he wanted it paragraph by paragraph and I think it is perfectly right.

**HON CHIEF MINISTER:**

But why paragraph by paragraph and not phrase by phrase?

**MR SPEAKER:**

I am not going to carry on a discussion. I am putting it to the vote.

The motion as amended by the Hon the Chief Minister was then voted on paragraph by paragraph. The House was unanimous in the first six paragraphs and the Opposition Members voted against in paragraph (7).

**HON CHIEF MINISTER:**

So now Mr Speaker I want to call a deed poll on the question whether the people are in favour or against the motion which is a division which is the only parliamentary legitimate exercise that could have taken place at this point in time.

**HON J J BOSSANO:**

Mr Speaker, what is absurd is that the Government should prefer to have a situation where the House does not record in its voting that we agree on six out of seven points in the motion as has been amended and would prefer that instead the House should record that there is no agreement on any of the seven points which is the position he has been trying to manufacture because like everything he does in this House it is done with an eye to the outside world and to the manipulation of information for party political purposes so that he can say that there has been a U-turn

by Opposition Members and now they do not welcome the Referendum, they do not express admiration for people this is what he is trying to make that is why he is going to say now I want a division on the whole thing. Fine, we will have a division on the whole thing and we will vote on the division of the whole thing and the reason why we will vote against it if that is what he wants is not because it is good for Gibraltar, I agree with him.....[*Hon Chief Minister: You called for a division.*] I agree with him that it is perfectly reasonable that there should be differences of opinion between political parties and that we can accept and respect different judgements and different interpretations and the party in Government have been elected so that at the end of the day if it is not possible to achieve a consensus then the Government of the day pursues the policy because it has the majority but not being able to achieve a consensus does not mean that we all do what he wants. It does not mean that, he has admitted that the original motion did not seek to rule out reasonable dialogue indeed the amendment to paragraph (7) does not say we will not participate in reasonable dialogue what it spells out perhaps for the first time and in our view necessarily is that we say in the first six paragraphs that for us reasonable dialogue does not include what the Brussels process requires which is the discussion of the issues in the plural of sovereignty. That is required by the attendance at Brussels talks. We are not trying to push him in that direction, we wish if it would have been possible for him not to feel that he had to bring back this question of reasonable dialogue. He feels he needs to do it, well even in his speech in moving the amendment in asking for the support of the House to his amendment it shows the weakness of the nature of his arguments. What has he accused us of when he has just moved the amendments? He has accused us first of all of having a policy of wanting to decolonise Gibraltar by negotiation with Spain. He says, this is not something that was a secret, this is something that was well known because it was in all my UN speeches and I was constantly wanting to do it except perhaps that not under Brussels but that in an open agenda what I wanted to do was to decolonise with Spain. He claims it is not something that he has done although it is possible to bring out the references where it is absolutely clear where he has said "*if we have to do a deal on*

*sovereignty with Spain provided the people accept it so be it,"* so it is acceptable to him. I have never said if the people accept it so be it, I have said my job is to campaign against it, to oppose it and if there is a majority I may not be able to stop it but my job will be to prevent the majority being in that direction. That is the difference between us but not only does he accuse me of wanting to sell out Gibraltar to the Spaniards for eight years and he says I did it in 1992, 1993, 1994 and in 1995 he also accuses me of the opposite. He says that because I am against dialogue I have been rejected twice. Which of the two things that he says have I been rejected for? For wanting to do a deal with Spain or for not wanting to talk to them at all because he has accused me today of both things and he then goes on to say, I am trying to impose my policy against dialogue and foisting on the Government, which is not the case, and then says that having had it rejected twice and having his policy of reasonable dialogue having been supported twice since 1996 is bizarre that we should try and overturn what the electorate have selected. We are not trying to do that what we are trying to do is retain what we think is the purpose of the Referendum and the Chief Minister cannot say as he attempts to say in this House that reasonable dialogue has only one meaning. No, reasonable dialogue does not have only one meaning because the word reasonable is a subjective thing and therefore he may think he is being reasonable and I think that he is being unreasonable and consequently we can say has it been a reasonable debate, well, it depends on which side of the fence one is on. He may think the debate is a reasonable one I think it is an unreasonable debate because it should have been a debate where we identify ourselves with the Referendum. The Referendum which he says is the Government's Referendum and we are trying to hijack it. Perhaps not to hijack it what we are trying to do is take the credit for it. The Referendum which he says is the Government's Referendum and I mentioned in my opening speech that I assumed that when he had thanked the people of Gibraltar in Mackintosh Hall since he was the only one invited to speak on the Referendum result he was doing it for all 15 Members not for the Government alone. The people of Gibraltar have seen the Referendum as the Referendum called by resolution of this House carried unanimously. What is he saying

that if a motion is carried unanimously in this House then it is the Government's policy if it is introduced by the Government and the Opposition's policy if it is introduced by the Opposition. That is a complete nonsense to suggest that the Parliament works on the basis not on the nature of the result of the vote but on the question of who introduced it. Is this then the acceptance of the policy reflected in the original motion? Well it is 6/7<sup>th</sup> because as far as we are concerned we have no doubt that the first six points are not in conflict with the purpose, the sentiment and the content. They may be using different words, they may be expanding some of the concepts but we are happy to see the 6/7<sup>th</sup> of the motion because that is the same motion that we brought. Even if the position is that the Chief Minister wants the amended motion put to a division and we will then vote against that division and that will enable him tomorrow to go round the world saying how much we do U-turns and how we are contradicting everything. A situation he wants to provoke to further his own party political interest not because he is looking after Gibraltar's interests at all and if he wants to go to dialogue on the basis that dialogue with an open agenda means not just so that Spain can say I want to discuss the issues of sovereignty as is required to do by Brussels but that he says yes to discussing the issues of sovereignty. That is why he will not have those words there and he has to do it. He knows he has to do it. He knows that he has made an important contribution to this Referendum not in the timing but in accepting both that the question had to be about the concept and the principle which is wider than simply saying joint sovereignty because 51/49 is not joint but is still sharing sovereignty [Interruption] and the language that Straw used of sharing sovereignty with Spain. Straw then said we could not take a decision because we did not know what the precise nature of the implications of sharing would mean. This is why the Government of the United Kingdom invite him constantly to dialogue in order to shape the result of the sovereignty deal. That is what they have said repeatedly in the House of Commons. He is being invited to a dialogue which is for that purpose and he is saying he is prepared to participate in a dialogue which is not for that purpose. No such other dialogue exists or has existed since the Brussels Agreement was signed. One needs to scrap Brussels first to be



able to have an alternative which does not carry that requirement and if he has not gone for that reason then it has nothing to do with the voice, the dignity, the flag or the veto. If he talks about contradictions and U-turns he has the audacity to tell us we will not find a full stop or a comma difference. Let him look at the tape if he has kept it of his interview on Spanish television where the interviewer said to him *"Mr Caruana is it not a bit hard to be using the word veto?"* and he answered *"me veto I have never used the word veto in my life."* He had a press conference in September where he had said, *"we are no longer satisfied with a voice now we want a veto as well."* Everybody saw it.....

#### **HON CHIEF MINISTER:**

On a point of order. I want to make it perfectly clear that everything that the hon Member has said in the last minute is factually untrue but like everything else that he says he says the interview of a tape without pointing to which interview, which tape so that I cannot check it. What he has said about the mimicking of that or the reciting of that version of events in an interview is untrue and if parliamentary rules did not prevent me I would use a much harsher word than that.

#### **MR SPEAKER:**

It is not a point of order it is a point of personal explanation.

#### **HON J J BOSSANO:**

I make myself responsible for the truth and the accuracy [*HON CHIEF MINISTER: Demonstrate it*] and I will demonstrate it and the Chief Minister will then have to retract what he has just said because he will have been proved wrong and if he wants us to

use stronger words than are permissible in the Chamber let me say that I am quite happy that he uses whatever words he wants outside the Chamber. [*HON CHIEF MINISTER: You use them inside the Chamber*] I do not think I do. When I introduced this motion to the House today I did it frankly in the expectation that it would not finish the way that it has finished and it is not the same to say in parliamentary democracy people get angry with each other and they have debates but let us get angry and have debates when we cannot avoid them and this is important, it is important for Gibraltar. The people of Gibraltar of all different political persuasions want to see the House, that called the Referendum wrapping-up the issue on the terms that are consistent with being able to respect each others position. The Chief Minister moves from implying constantly things that are not true to the rest of us and then does not want to be answered on the same terms. I would not be saying these things to him if it was not that he thought it necessary in order to defend his position which is his style of doing things. When he wants to defend somebody he rubbishes everybody else because that is the only way that he can shift public attention from what he wants and that is the weakness in his position in the defence of Gibraltar and it is those weaknesses that he does not want to have pointed out. I would not be pointing them out if he had not moved the ground from the Referendum to the dialogue. The people of Gibraltar he thinks want to subscribe to reasonable dialogue. We all went behind the banner but how can he be so dishonest as to say that we all went behind the banner and we all subscribed past, present and current Members of this House to the word reasonable dialogue when he knows that in all the toing and froing before that text was agreed it was simply agreed in order to keep him happy. There were plenty of other people that did not want it. [*HON CHIEF MINISTER: You signed the declaration and you did not mean what you were signing?*] No. I did not sign a declaration that I did not mean, what I did in the interest of Gibraltar was go along with the things that the Chief Minister wanted but let us be clear that he is the one that wanted it there our view was we did not need to have the word *"dialogue"* being introduced in the bridge at Glacis Estate, we did not need to have it put in the motion that we all supported in this House. He

insisted that it had to be there and because they are the majority and they are the Government and it is important to them on the basis of reaching a consensus we went along with it. This time we thought it was totally unnecessary to bring back the bad old penny of dialogue again on the table especially when he knows that he is being completely intellectually dishonest in saying “reasonable dialogue” is something that if we do not support Spain will go round lobbying and making us to be the unreasonable guys. [HON CHIEF MINISTER:And our friends in the UK not Spain] Our own friends in the UK will support reasonable dialogue because it is the policy of the Government of Gibraltar and if he went to Brussels tomorrow, as Sir Joshua did, they would support going to Brussels and when I was there they supported the boycott. Our friends support the policy of the Government, it has to be like that. It would be wrong for our friends in parliament other than at an individual level like Lindsay Hoyle the Chairman of the group, the Chief Minister knows, he was standing next to him in the reception in the Labour Party when he said, “it is time to scrap the Brussels Agreement” and we both applauded. I want it he does not, but we applauded Lindsay Hoyle when he said it. Our friends agree that the Brussels Agreement is now exposed for what it is. Many of the things that the Government say on different occasions would suggest that in fact they do not want the Brussels Agreement but then they take one step forward, two steps back and that is what we feel is contrary to Gibraltar’s best interests. We can have these debates without accusing each other of things but the Chief Minister has got to understand that it is his choice as to what should be the temperature, as to what should be the accusations, as to what should be the language. We will give him as good as he gives out if that is the way he wants it. It is not good for Gibraltar, it is not good for this parliament but if he thinks that he can browbeat people and then complain that he is being browbeaten when he gets some of his own medicine back then he has got another thing coming. Mr Speaker, I regret that the unanimity has covered six out of seven points. I wish it had been possible to do it on all seven.

The Question was then put on the motion amended by the Hon the Chief Minister and which read as follows:

“ This House:

- (1) Warmly welcomes the result of the referendum held on the 7<sup>th</sup> November 2002 in which, by a majority of 98.97%, the people of Gibraltar rejected (as this House had unanimously recommended by motion on 18<sup>th</sup> October 2002) the principle that Britain and Spain should share sovereignty of Gibraltar;
- (2) Expresses its admiration and satisfaction at the high turnout, and the clear and dignified statement by the people of Gibraltar of their commitment and resolve to uphold our political rights as a people, including the right to self determination, that is, the right to freely and democratically decide our own future;
- (3) Considers that the sovereignty of Gibraltar is not negotiable contrary to the wishes, and without the consent, of the people of Gibraltar, and that the people of Gibraltar do not want any degree of Spanish sovereignty over Gibraltar negotiated;
- (4) Considers that the people of Gibraltar have clearly spoken to Her Majesty’s Government in the democratic expression of their wishes on the question of shared sovereignty;

AND THEREFORE:-

- (5) CALLS upon HMG to take heed of the wishes of the people of Gibraltar, discontinue negotiations leading to a bilateral Anglo-Spanish Declaration of Principles including

the principle of joint sovereignty or any other sovereignty concession against the wishes of the people of Gibraltar and without their consent;

- (6) CALLS upon Her Majesty's Government to take steps to ensure that the Spanish Government cannot, now or in the future, interpret and present Mr Straw's statement in the House of Commons on 12<sup>th</sup> July 2002, as an agreement by Her Majesty's Government to share sovereignty or as a concession or any agreement to make a concession to Spain in relation to the sovereignty of Gibraltar; AND
- (7) REPEATS the statement (made in its motion dated 25<sup>th</sup> March 2002) of support for Gibraltar's participation in reasonable dialogue and support for good neighbourly European relations with Spain based on reasonable dialogue and mutual respect."

On a division being called the following hon Members voted in favour:

The Hon K Azopardi  
The Hon Lt Col E M Britto  
The Hon P R Caruana  
The Hon H Corby  
The Hon Mrs Y Del Agua  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon J J Netto  
The Hon A Trinidad

The following hon Members 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 motion, as amended, was accordingly carried.

## ADJOURNMENT

The Hon the Chief Minister moved the adjournment of the House to Thursday 19<sup>th</sup> December 2002, at 10.00 am.

Question put.                      Agreed to.

The adjournment of the House was taken at 1.40 pm on Thursday 5<sup>th</sup> December 2002.

## **THURSDAY 19<sup>TH</sup> DECEMBER 2002**

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 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 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 Lt-Col E M Britto OBE , ED - Minister for Public  
Services, the Environment, Sport and Youth

### **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 lay  
on the Table the Pay Settlement – Statement No 3 of 2002/2003.

Ordered to lie.

## **BILLS**

### **FIRST AND SECOND READINGS**

#### **SUSPENSION OF STANDING ORDERS**

##### **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 BANKING (AMENDMENT) ORDINANCE 2002**

##### **HON K AZOPARDI:**

I have the honour to move that a Bill for an Ordinance to implement in the law of Gibraltar the provisions of Directive 2000/46/EC of the European Parliament and of the Council of 18 September 2000 on the taking up, pursuit of and prudential supervision of electronic money institutions and Directive 2000/12/EC of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions, be read a first time.

Question put.            Agreed to.

## **SECOND READING**

### **HON K AZOPARDI:**

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill intends to implement two directives in Gibraltar, one is on electronic money as has been stated and the other one really consolidates the Banking Ordinance and outlines provisions of consolidation that are really for that effect. Most of the amending Ordinance is concerned with the implementation of their electronic money directives, The hon Members most probably will have seen that. I am told though that it has very little impact on Gibraltar because the closest we have to e-money in Gibraltar is mobile phones prepaid cards but of course these do not satisfy the other criteria of the money that the hon Members will have seen in the definition that it being redeemable for cash at any given time and can be used to buy other goods and therefore I am advised that we have no e-money devices at present in Gibraltar. E-money does not have to be stored in a card it can be stored inside a PC and used for buying goods and services on the net which I assume therefore is the rationale behind some of this because of the moves towards e-commerce that we have seen in different years in the recent past. The directive provides for existing banks to issue e-money and new institutions dealing with e-money only. The amendments proposed in part two aim to ensure that the institutions are captured within the Ordinance so that the Commissioner applies the same entry standards to electronic money institutions as the banks themselves and so hon Members will have seen at sections 11A to E that there is a prohibition of the conduct of this activity without the authorisation of the Commissioner of Banking.

I bring a couple of things to the attention of the House at this stage, as hon Members will have seen from the definitions parts electronic money can only be stored to a total value of 120 euros on any one device, it is not considered to be a deposit and not something to do deposit guarantee arrangements and the scheme

on protection and all of that. The amendments proposed in section 23, amend the Ordinance to capture electronic money institutions within the criteria that the Commissioner needs to apply when considering applications for a licence and so sections 35 and 35A implement the new capital requirements for those institutions. The amendments to sections 59, 60, and 60A extend the Commissioner's powers to these institutions. The amendments to section 64 enable the Commissioner to withdraw the licence if the conditions are not met. The rest of the Bill on consolidation includes other things that I would bring to the attention of the House as well which we are introducing to ensure better administration of the Banking Ordinance as well as a correction of a number of sections that have been kicked up as showing some typographical errors and so on. Hon Members will know that the present Ordinance uses the Banking Regulations to prescribe forms to be used for the application of licence changes in management et cetera so it means that everytime the FSC considers it necessary to update one of the forms they have got to make amendments to the Regulation and it takes up resources and time. So what we want to do by part of these provisions is to ensure that the forms will be set and amended by the FSC as appropriate from time to time. It is already the case under the Financial Services Ordinance 1989 to 1998 and so I think it is much better that most of them are updated on line and they are accessible on line and it is much easier for the administration of the Ordinance. The Banking Ordinance presently makes incorrect or missing references to some of the relevant Ordinances, Financial Services Ordinance for example, so the proposed amendments seek to rectify that. There are also, hon Members will have seen, in the section that provides for powers to assist supervisory institutions that there is a proposal to remove EEA from this section which enables the Financial Services Commissioner to co-operate with non-EEA supervisory authorities on regulatory matters in the same way as it does with EEA supervisors. In fact, this will not really in practice change anything in the sense that it is already established FSC practice to assist non-EEA Regulators and the FSC has assisted United States and Swiss Investigators in the recent past.

There is also an intention in the Ordinance in the consolidation provisions and in the clean-up provisions to ensure that some of the administrative burdens placed on the FSC and on banks to display licences and so on are removed and there will be no physical issue of a licence other than a letter of authorisation subsequent to this. It still means that banks obviously need to be licensed, authorised and so on but it does remove some of the more archaic requirements.

Lastly, Mr Speaker, the Bill makes a number of changes to reflect that many of the banking directives have been consolidated into one single EU Directive. References to those directives in the new articles within the consolidation directive are contained within schedule 1 of the Bill and similarly schedule 2 contains a rewording of schedule 3 of the Ordinance to reflect the revised text of the consolidation directive. 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, Opposition Members will be supporting the Bill. We understand what the Minister has explained which is obviously a transposition of two European Union requirements, the Electronic Money Directive and the Banking Consolidation Directive in addition to which there is a measured tidying up or housekeeping measures contained in the Bill. There are a couple of points which we would like to raise. One of them relates to the question of the Competent Authority which we assume would remain unchanged in the consolidated text and in relation to the Consolidated Banking Directive and the second point refers to article 2 of the Banking Consolidation Directive. This is the one that actually lists the institutions to which the directive does not apply in article 2 of clause 3. Going down through the clause it says the directive

would not apply, for example, to the central banks of Member States. It then goes on to list various EU countries, Belgium, Denmark, Germany, Greece, in Spain it would not apply to the Instituto de Credito Oficial and then it carries on and in relation to the United Kingdom we note that it will not apply to the National Savings Bank amongst a number of other institutions which are listed in the directive. The Crown Agents for Overseas Development, the Agricultural Mortgage Corporation, the Commonwealth Development Finance Company et cetera. Our question is, when Gibraltar was excluded from the previous directive the Gibraltar Savings Bank was left out of this exclusion or rather it was included because it was not excluded from the previous directive, this was claimed to be an oversight and what we are wondering was that if in this particular instance the Government had sought to have it excluded from the consolidated text of the new directive taking advantage at the whole issue that was coming up again given that the exempt entities were being listed once more in the new directive. We have a query in relation to that and we would welcome if the Minister could explain whether they had sought the exclusion of the Gibraltar Savings Bank from the terms of the directive or not? Other than that the Opposition will be supporting the Bill.

#### **HON K AZOPARDI:**

Mr Speaker, let me deal with the last point first. If the Government had been aware of this issue it might have been a point to take up but we did not have that degree of advance notice of this directive. This directive basically emerged as it does in the consolidation process, there is a lot of legislation that sometimes we get framework proposals that we are asked to comment on but not in this case and this just emerged as a fait accompli that we had to transpose we were not given that opportunity to be able to inject any degree of influence in the wording of any particular article in this directive. As to the competent authority directive there is no intention to change the competent authority arrangement in

relation to any parts of this Bill or any amendment I bring to the House.

Question put.                      Agreed to.

The Bill was read a second time.

#### **HON K AZOPARDI:**

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

Question put.                      Agreed to.

#### **THE TRANSPORT (AMENDMENT) ORDINANCE 2002**

#### **HON J J HOLLIDAY:**

I have the honour to move that a Bill for an Ordinance to amend the Transport Ordinance 1998, 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 read a second time. Mr Speaker, since the Transport Ordinance 1998 was enacted certain minor omissions have been brought to attention or minor matters which required fine tuning. This Bill searched to address these issues. At clause 2(a) the definition of self-drive car is amended to read self-drive vehicle. This reflects the fact that a number of self-drive vehicles which are available for hire are in fact goods vehicles and not private motor vehicles. The provision of the Ordinance in relation to hire vehicles will for the future apply equally to private motor vehicles and goods vehicles. Clause 2(b) introduces the time scale for the renewal of licence issued under the Ordinance. It provides that a licence that is not renewed within a period of three months from its expiry, will be cancelled unless prior to the date of cancellation the licensee has made an application to the Transport Commission seeking an extension of time. This amendment will mean that it will be clear to the Commission what licences have been issued for any particular category of vehicle and also that those vehicles are actually being used by the licensee. This will be particularly helpful in the future should the Commission receive applications for new licences.

Clause 2(c) simply clarifies that the regime contained in section 11 to 14 applies equally to taxis, courtesy vehicles and private hire vehicles.

Clause 2(d) removes an anomaly in relation to named drivers for taxis. Section 17 generally provides that the named driver for a taxi, in other words a person who is going to drive a taxi for a reasonable period of time and not just a driver who is going to cover for a driver for a short defined period such as a holiday should not have any regular employment other than driving a taxi. However, section 17 (4)(b) exceptionally attempts to draw a

distinction between two named drivers for a licensee providing that only one needs to have no regular employment other than that of being a taxi driver. This clause will remove this anomaly.

Clause 2(e) and also clause 2(g) and 2(j) provides that where an existing licensee applies to renew his licence the Transport Commission can do so automatically if it is satisfied that there has been no material change in respect of the applicants since the licence was granted. As previously drafted an application for the renewal of a licence would deem to be an application for a new licence and this was onerous on both the licensee and the Commission.

Clause 2(f) and also 2(h)(i) provides that an application for a licence by a company shall be signed by one or more of its directors in place of all the directors of the company. This makes the provision of this section less burdensome administratively.

Clause 2(h) and 2(m) follow on the change made to the definition of self-drive vehicles at section 2. The term vehicle is now used in place of car because hire vehicles can now include goods vehicles.

Clause 2(k) and 2(l) amend section 50 to draw a distinction between the maximum age for a private motor vehicle and a goods vehicle which are licensed as hire vehicles. Hire cars may be older than two years but goods vehicles available for hire can be up to five years old.

Clause 2(n) clarifies that the leave of the Court is required in respect of an appeal against a decision other than a final decision of the Transport Commission.



Clause 2(o) and 2(p) provides that it is necessary for the Court to make a winding-up order against the company, previously all that was required was that the petition should be presented to the court under section 158 of the Companies Ordinance. However there was one case in the year 2000 where an objector to an application for a licence issued a petition against a company in an attempt to spoil the application. This amendment will ensure this cannot happen again in the future. 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 have not an objection but certainly a query to the amendment to section 17 (4) (b) (ii). At the moment as things stand the Commission may allow the registered owner of the taxi to drive it or a named driver by the registered owner who has no other employment and the Commission has the power to allow the registered owner and a named driver on those same conditions. The clause that we are amending is the one that follows that were in the Ordinance what we had was a situation where for short periods of time, sickness or holidays one could have two named drivers and one of them should be without any employment but the second one could be a part-timer and we are withdrawing the part where the second one could be a part-timer, as I understand it, and insisting that neither of them should be in full employment. That is why we are deleting at least one and substituting the word "*neither*" and deleting "*no*" and now the clause reads "*by two named drivers provided that the Commission is satisfied that neither of the drivers so named has regular employment.*" The practicality of it is that for short term employment there is normally no unemployed persons with a licence to drive a taxi because no one would think of passing the test for driving a taxi for short term employment and therefore there is really very little demand of long term unemployed people for short term employment to cover for sickness or to cover for absences for leave and so on. Therefore

in practice there is not going to be anybody with a valid licence to be able to do the job that the Ordinance allows. Secondly I query the Government's policy in this respect which I think that they have not cleared with the people in the industry because it does not seem that the Minister knows how things operate and then where there is a problem which is in the coaches no similar move is being made. The drivers of the coaches, only recently people with years of employment with a company, have been sacked because the company favours casual labour and is now getting people and paying them by the hour and sacking people who have served for years and now we are saying the taxis, self-drive cars and everything else one has to be totally unemployed to be able to be a second driver or a third driver but we are not using that same criteria on all of the industry because the coaches are part of the same industry. Is this not discriminatory? Are we insisting that one part of the industry should be behaving in one manner and the other part which is more volatile where unemployment is being created, where there is evidence of casual labour, we are not doing the same thing? I think that if we are standardising the law we should be standardising it for everybody and we should also be looking at the practicality of being able to effect that piece of legislation. I rest my case.

**HON J J BOSSANO:**

Mr Speaker, on this particular point which is the one that concerns us we are not necessarily arguing that this should be done for everybody because I think what has happened recently with the coach drivers is very regrettable since people as my Colleague has said have been dismissed and those who are being employed are being employed as and when required making the industry totally reliant on casual workers and if there are passengers they employ people not even by the hour, a lump sum per trip. In that context of a level playing field between the two suppliers of services to visitors it seems to me that if one can only meet demand by not being able to recruit somebody on a short term basis but having to rely entirely on people available in the ETB

who are unemployed and the other one is free to casualise the entire workforce then it raises questions of whether the treatment is even handed. It may well be that the argument of the people in the industry is that they cannot afford to have people full-time and getting paid if there are no passengers demanding tours because that is employing people on idle time and having to pay them but if the argument is valid for coach operators it must be valid also for people who provide rock tours in taxis. I do not know whether any of those arguments have been considered by the Government. It may well be that since this is a very recent development the Bill might have been prepared before the latest developments have taken place but if that is indeed the case maybe they need to have a second look at it.

#### **HON CHIEF MINISTER:**

Mr Speaker, I do not intend to respond to the points that the hon Members have made because my hon Colleague the Minister for Transport will be doing that but I would just like to take this convenient opportunity to make a point to the hon Members in respect of a different populated matter. Recently the hon Members had cause to say publicly I think it was in response to some raising of the issue by the Chamber of Commerce or by the Federation of Small Businesses that it was already their policy, I think it is in their manifesto in the last elections and indeed I think in ours, that we would introduce some system of pro rata social insurance contributions in order to facilitate or reduce the cost both to the employer and to the employee for people who work. Can I just say to the hon Members one of the reasons why we have not yet implemented that scheme is precisely a concern in this area which we have not yet found a way of saving from. In other words there is a very thin dividing line in practice between a regime of pro rata social insurance contributions for permanently engaged part-time labour, in other words, like the Government says I employ a cleaner for 20 hours a week, that is permanently engaged albeit for part-time there is a very thin dividing line which in the private sector always disappears completely as a

perceptible difference between that which is fine and we should all be looking to encourage. There are many people in the economy that either only want or can only have that sort of employment because of family commitments but between that on the one hand and what the hon Members are rightly complaining about on the other and that is, the introduction of casual labour, what I think the Spaniards call “contratos en precario” or worse. One of the reasons why we have not already pressed forward and we are under quite a lot of pressure to do so from employer organisations with our pro rata on which quite a lot of work has been done is precisely that we do not want to incentivise employers to opt for casual labour because that would give them an additional incentive to employ people by the hour if then they can pay social insurance contribution by the hour. We have not yet found a way of getting around it but I just thought that hearing the hon Members rightly decry the practice, one of the reasons why we all oppose contractorisation, for example, in the MOD is that it destroys the quality of employment in terms of security of employment and that sort of thing and I think that whereas in the public sector it is easier to protect workers terms and conditions of employment it is important and the Government do agree with the sentiments expressed by the Opposition Members that we should resist in Gibraltar going down the road in the private sector of casualising what were previously quality jobs and Government will certainly be keeping a close eye on that and we would certainly be reluctant through any change in the social security regime to actually make the position worse or incentivise employers.

#### **HON J J HOLLIDAY:**

Mr Speaker, I would like to address some of the issues that have been raised by Opposition Members. This change in section 17 4(b) (ii) is basically a change in order to address a contradiction that exists in the law as it exists today and this matter arose as a result of the fact that we have had an application for second drivers that are actually in full employment today and it has been the practice and it has been the interpretation of the law going

back to at least 1974 or even further back that all part-time or other named drivers have always been unemployed and this has been the practice all along and it has been the position of the Gibraltar Taxi Association all along that these named drivers should not have full employment. As far as the point made in respect of the fact that different regimes may exist for different sectors of the transport industry I must say that this has always been the regime that has existed for taxi licence holders and has not applied and has not been the law for say bus operators or coach operators basically because these set ups are more owner driven in fact there is a company that owns buses and offers employment to people to run on the numbers whilst taxis have been subject to licence holders having named drivers as second drivers and most of them actually operating their own licence themselves. So therefore the regime is in itself different because of the different nature of the sectors in the industry.

**HON J C PEREZ:**

Will the Minister give way?

**HON J J HOLLIDAY:**

Yes.

**HON J C PEREZ:**

Mr Speaker, the Minister says that there is an anomaly in the Bill but I do not see what the anomaly is. The Minister says that since 1974 the spirit of the Ordinance has been that there should be no part-timers in full employment. We all know that everybody in shift work is a part-time taxi driver, Gibraltar is too small. Since 1974 and even now the area where there is difficulty in recruiting

people in full time employment is the area where the hon Member is putting in the amendment which is for short-term, for periods where the driver of the vehicle goes on holiday, for a period where the driver of the vehicle is sick and in order for the taxi to continue to operate so that the income of that person is not affected because he is away or is sick they put a named driver for a short period of time. If it were the case that no part-time person in another employment were able to do that there would be no one in the market to do it because not everybody has a valid taxi driver's licence to be able to do so. The Minister says it is an anomaly. It is not an anomaly, this is the law as it should have been implemented because the practicality and the operation of the law is such that it needs this clause to be able to be fulfilled, that is the point that I am making. The other point that the Minister has made about the industry not applying to the coaches, perhaps he should review the matter as my hon Colleague says with the recent events of people being pushed out of jobs and the company going in favour of casual labour. Perhaps it is a case where although the owner of the taxi here is more personalised the non-personalised business ought also to come under strict conditions of this nature so that we do not get the situation where owners of coach companies are going in favour of casual labour and dismissing their long-term employees.

**HON J J HOLLIDAY:**

I would like to continue, in fact if I would have been allowed to continue some of the issues that have been raised now may have been dealt with. Let me say that there has been consultation with the Gibraltar Taxi Association in respect of this particular clause, their position is that they do not as we presently considered the point made and there might have been a change of heart in recent days as a result of the fact that they may want the idea of having a change of policy in actually having people in employment being able to work as named drivers within the industry in order for them to provide a better city service outside normal hours in the light of the fact that there is currently an application for taxi city licences which is before the Commission to consider in the early parts of

next year and therefore as a result of this application the Gibraltar Taxi Association may be reconsidering their policy which has long been standing. Let me say this issue has been the matter of long discussions because I have had a number of taxi drivers who individually have come and said, *"I want to have my son working as a named driver but he is in full employment,"* and he has not been allowed to be able to exercise that right because they felt that the industry was not in a position to absorb that additional availability of taxi licences being available to operate on a daily basis. The result that there is now the threat to them as they see it of an application for 10 new city licences makes them more vulnerable and they have decided to change their policy and this has been the subject of discussion as recently as this Tuesday, two days ago and subsequent correspondence between the Taxi Association and myself only yesterday. I am not going to comment on the value of the legal changes here because I am not a lawyer and I guide myself by what I am advised legally, all I am saying is that the changes that are being proposed here are in no way going to change the practice that has existed for a long time and it is not intended to do so. It is intended to clarify the position for all concerned. Having said that and in the light of the fact that the coach companies have had to seek certain redundancies in recent times the Commission actually has been reviewing whether there is a case now to consider the idea of issuing coach licences with the corresponding obligations of actually having full-time drivers. We may be able to implement the idea of having a minimum requirement in order to issue coach licences with the condition that a driver must be appointed per licence, on the other hand we need to bear in mind that there are companies with a substantial number of licences where an obligation to have a full-time driver all year round on a particular licence could be a burden which they may not be able to sustain and therefore the Commission is currently deliberating as to the way forward. I think that there is a need to address this particular issue but one has to be sensitive because of the current conditions in the market.

Question put.            Agreed to.

The Bill was read a second time.

## **SECOND READING**

### **HON J J HOLLIDAY:**

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

Question put.            Agreed to.

## **THE MERCHANT SHIPPING (AMENDMENT) ORDINANCE 2002**

### **HON J J HOLLIDAY:**

I have the honour to move that a Bill for an Ordinance to amend the Merchant Shipping 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 read a second time. Mr Speaker, the Bill before the House seeks to amend the Merchant Shipping Ordinance because a number of provisions of the Ordinance have become redundant. In addition the Government have decided to re-enact the provision on port state control in the form of regulations which take into account all the relevant EU directives. This is a field which is changing rapidly and the Government wish to have the flexibility to amend the port state control regime by issuing amending regulations in the Gazette as and when necessary. Finally the Ordinance makes provisions for the power to make regulations.

Clause 2 of the Bill adds definitions for Maritime Administrator and Minister to the Ordinance.

Clause 3 and 9 repeals those sections of the Ordinance and scale 3 which refers to STCW matters. These are now redundant consequent on the implementation of the comprehensive Gibraltar Merchant Shipping Money Training Certification and Related Seafarers Matters Regulations 2002 which were published in the Gazette on 25<sup>th</sup> January 2002. To avoid possible conflict and repetition it is intended to repeal these provisions.

Clause 4 of the Bill repeals part V(a) of the Ordinance and Clause 9 repeals schedule 1A which deals with port state control. This path and the said schedule will be replaced by proposed regulations which make provision for port state control and will include over and above the provisions of the previous legislation the transposition of further EU directives on port state control.

Clause 5 relates to pilotage. The Government have decided that pilotage fees should be simplified and that they should be collected by the pilots and not by the Pilotage Authority which is the Captain of the Port. Until now there has been a pilotage fund, a separate landing and embarking fee and a separate pilot administration charge. All fees have now been rationalised so there is a need to eliminate reference to the pilotage fund and the pilotage administration charge. There will nevertheless continue to be a need to regulate the amount which a pilot may receive in respect of pilotage fees and to provide for the manner in which pilotage fees are to be accounted for and this is what the proposed amendments will provide.

Clause 6 follows on from clause 5 and provides that the Captain of the Port as the Pilotage Authority may appoint an entity to carry out all the functions and duties necessary to ensure that the pilotage service operates efficiently if it does not wish itself to perform this role. The present section 183 makes provision only for the Authority to itself carry out this role.

Clause 7 repeals section 184 of the Ordinance which provides for the pilotage fund given that this fund will now be wound-up consequent on the abolition of the pilotage administration charge.

Clause 6 introduces the path for the Minister for Transport to make regulations and specifies the purpose for which regulations can be made. In summary the Bill will facilitate the transposition of EU directives on port state control, it will update our maritime legislation and it will eliminate provisions which are now redundant. 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, there are a number of questions which we have in relation to this Bill and we would be grateful if the Minister could answer. The first relates to the question of commencement, there is a clause which I have not seen before and is not very common in Bills, that is saying that it comes into operation on a date designated by the Minister by notice in the Gazette and then it says being a date at least 30 working days after the date of assent. We were wondering why that particular form of words has been used in this Bill. Other than that it seems to be pretty straight forward. What the Government are doing is repealing sections of the Merchant Shipping Ordinance and then incorporating that into two regulations and that is our understanding. To that we have no objection the Minister has explained that this is a field which is changing rapidly, if Government feel that it is quicker and more practical to do this by regulation. Opposition Members have no objection but really there is one area where we would like some clarification and that is whether the two regulations that the Minister has in mind will actually do anything different from what the Bill that we are repealing or the sections that are being repealed already do? Because if it is different and it is being done by regulation it will not be discussed in this House. Those are the areas of clarification and the points that we would like to raise and other than that, pending the Minister's reply, Opposition Members will be supporting the Bill.

**HON CHIEF MINISTER:**

Mr Speaker, if I could just express a view on the first point that the hon Member has made the one about the 30 days. It is actually not strictly necessary in the legislation here. What has happened is that the draftsman has taken a decision that we made in relation to the Regulations when they are made and copied the same formula here. The point is this. That if there is going to be a change in the law which will bring me to the second of his questions we do not think that it is proper just to make ship owners

immediately in breach of them without giving them a lead in period. The view has been taken that when new regulations are introduced into shipping matters there should be a 30 day introduction period so that shipping agents and ship owners can become familiar with them. It could have been achieved in this Bill by the usual device of not to commence until prescribed by the Minister in the Gazette. All that has happened is that the formula that will appear in the Regulations, for example, when there are new regulations adding new requirements those will come into effect 30 days after they have been promulgated. This could have been achieved, we could have had the usual clause here. There is also the need to ensure that the existing body of law is not disturbed until the new regulations are in place. We do not want there to be a vacuum between the two regimes. At the moment the body of port state control legislation which fully complies with EU directives is contained in legislation. This Bill says in future they can be done by Regulations and the previous body which is in legislation will be repealed and also re-enacted by way of regulations so that it is all in one body and therefore it is important to co-ordinate the repeal of one thing and the introduction of the new regulations to ensure that there is no gap in the legal cover for the port state regime.

The second point that he made is this, there is no change to the existing body of directives but there is a new directive which I think is due now in December which does not alter the regime but creates an obligation on the part of ports to focus particularly on more vulnerable ships. This has nothing to do with the 'Prestige', this regulation emerged long before the 'Prestige' incident, it was a routine unscheduled development of the European Communities port state control regime. The Regulations that will emerge once this Bill is passed will therefore both carry forward the existing port state control primary legislation and will also transpose this new port state control regulation which is really a modification of the existing regime. There are post 'Prestige' things in the pipe-line, for example, the community has just adopted a regulation relating to the phasing out, he may have read about it in the press, relating to the phasing out within the community of single hulled vessels

but that does not arise, that is not port state control, it does not arise under this legislation, that would be a completely separate issue.

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 KEEPING OF WILD ANIMALS ORDINANCE 2002**

#### **HON CHIEF MINISTER:**

I have the honour to move that a Bill for an Ordinance to transpose into the law of Gibraltar the provisions of Council Directive 1999/22/EC relating to the keeping of wild animals in zoos, 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 implements in Gibraltar the Council Directive that has been cited relating to the keeping of wild animals in zoos. The purposes of the Bill are to protect wild fauna and to conserve biodiversity and this will strengthen the role of zoos, it is alleged, in the conservation of biodiversity. The Bill provides that zoos must be operated in accordance with a licence and the conditions to the licence will require the zoo amongst many other important things to implement specified conservation measures. The licences are granted by the Minister for the Environment. There are no zoos within the conventional meaning of the word in Gibraltar no one should derive a conclusion that that makes the legislation irrelevant to Gibraltar, apparently it does not. However the definition of the directive it implements and therefore the definitions in the Bill is widely drawn. The botanic garden may conceivably fall within the definition as it houses or it is said to house some animal species whether or not they are for public exhibition which would be a requirement under the directive is more than debatable but in any case under the directive and therefore the Bill establishments may be exempted if they do not exhibit a significant number of animals or species to the public and the exemption does not jeopardise the purposes of the Bill. I have already stated the purposes of the Bill to protect wild fauna and to conserve biodiversity. The power to issue exemptions is vested in the Minister for the Environment who is the Competent authority in Gibraltar appointed by this legislation for the purposes of the directive. I understand that the Minister for the Environment has already taken the view that it would be appropriate either that the Bill does not apply to the botanic gardens or that if it does it is appropriate to exempt it from its provisions. The Bill specifies the information that must accompany an application for a licence and requires that the zoo is inspected before a licence is granted. Similar provisions apply to the extension of the period of a licence and significant amendments to the licence subject to compliance

with those, the licence would be transferable. If conditions attaching to a licence are breached the Minister for the Environment may impose further requirements and failing compliance with those he may order the zoo to be closed. The Bill also makes it clear that if a zoo does not have a licence it too may be closed. The Bill also makes provision for the disposal of animals if the zoo is closed.

Mr Speaker, the hon Members will see from a perusal of the Bill that it is not a lengthy or complicated piece of legislation, it establishes a licensing regime, information needs to be provided in the application for the licence, the licence may be granted if certain conditions are met, there are provisions dealing with extension amendment and transfer of licence significant consequences for breach of licence as I have just said, closure of the zoo and disposal of animals, the Competent Authority may charge for the services that he is obliged to deliver under this Ordinance. There is a section creating offences for failing to comply with the conditions of a licence or for giving false information in an application for a licence. There is a defence available to any charge by a zoo licence holder and that is that he took all reasonable steps and exercised all due diligence to avoid the commission of the offence and then in the schedule there is a list of conservation measures at least one of which has to be present before a zoo can be licensed. I do not expect this Bill which as I say implements a directive will have any appreciable impact in Gibraltar, the only area of life which I think is even within the area of zoos, I do not want to call it a zoo because I would argue that it is not for the purposes of legislation but the animals kept by St Martin's School which I would believe would not be caught because they are not exhibited to the public. So I think that this is just a directive with no consequence or impact upon Gibraltar. 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 have taken what the Chief Minister has said on board. I realise that this is another piece of EEC legislation which we need to pass. There are only two things I would like to say on it. I am glad that the Chief Minister has assured that this will not affect the conservation area in the Alameda Gardens but is he completely sure of this? The one at St Martin's School is obviously far smaller so I do not think that there is any problem with that. The last question is I wonder whether any application for a zoo has been received by Government considering that there are 187 different species of wild animals in Gibraltar?

**HON CHIEF MINISTER:**

Mr Speaker, I am surprised that there are only 187 species of wild animals in Gibraltar I would have thought that there were much more.

**HON DR R G VALARINO:**

At the last count.

**HON CHIEF MINISTER:**

Mr Speaker, as I am sure on reflection the hon Member will agree until we have passed this Bill there is no regime that would have enabled anybody to apply for a licence for a zoo. I suppose that from time to time people listening to our debates wonder whether this is a zoo that should be licensed but I am happy to say that that is only on the most rare of occasions and if we are or we are not a zoo that requires a licence. Anyway there are no zoos. It is important for the hon Member to focus on the definition of zoo



which is a permanent establishment where animals of wild species are kept for exhibition to the public. I suppose it may be arguable by that definition the Apes Den might be a zoo but certainly the Government would have no difficulty in living with this regime. The Apes Den more than complies with the criteria for a zoo. In answer to this question, there have been so far no applications, I am not aware it is sometime since as I have been to the botanic gardens but certainly when I last went they did not keep wild animals for exhibition to the public. I do not know whether they have recently started to do so, I do not think so, it would not apply to them it might apply to St Martin's School if they are open to the public and it might apply to the Apes Den.

Question put.            Agreed to.

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.

### **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 Bankruptcy (Amendment) Bill 2002;
- (2)    The Banking (Amendment) Bill 2002;
- (3)    The Transport (Amendment) Bill 2002;
- (4)    The Merchant Shipping (Amendment) Bill 2002;
- (5)    The Keeping of Wild Animals Bill 2002.

#### **THE BANKRUPTCY (AMENDMENT) BILL 2002**

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

#### **Clause 2**

#### **HON K AZOPARDI:**

Mr Chairman, last time when we discussed this Bill we discussed the concern that there was that in some ways because the Insolvency Proceedings Council Regulation No 1346/2000 that we were presenting and transposing as part of this Ordinance was more restrictive in the parameters of assistance that could be

given to insolvency proceedings happening in the European Union that in some way if we amended it by just deleting the words "*United Kingdom*" to "*European Community*" that it would also then have an impact on the assistance that we could give the United Kingdom courts and so make it more restrictive on our courts to lend that assistance that hitherto has been able to be given. Government have considered that issue and I explained to the House last time that it was not the intention to make it more restrictive but rather to maintain the status quo in relation to the assistance that we could give the United Kingdom courts but also to lend assistance to European Community courts in the way that the Insolvency Council Regulation foresees. I intend to move an amendment to this part of the Bill so that it is clear that that is what we are trying to achieve and so that there is no room for doubt I have copies for the hon Members of the proposed amendment but essentially hon Members will see certain amendments in the Bill in front of them which I would ask them to disregard in essence and rather what we intend to do is :-

Delete sub-paragraph "(a)" and substitute by "(a) adding "and EC" after "British" in the head-note to section 98;"

Delete sub-paragraph "(b)" and substitute by "(b) in section 98, adding "(1) after the figure "98" and inserting the following subsection –

"(2) The Supreme Court and the officers thereof shall also act in aid of courts in the European Community (other than the United Kingdom) in respect of insolvency proceedings following under Council Regulation 1346/2000 on insolvency proceedings and as provided for in that Council Regulation."

Our view is that that would perfectly take care of the points that we discussed last time and that would accord with the original intention that the Government had in presenting this Bill to the

House so I would be grateful for the hon Members' support to that amendment.

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

**The Long Title** - was agreed to and stood part of the Bill.

## **THE BANKING (AMENDMENT) BILL 2002**

**Clauses 1 to 20 , Schedules 1 to 3 and the Long Title** - were agreed to and stood part of the Bill.

## **THE TRANSPORT (AMENDMENT) BILL 2002**

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

**Clause 2**

### **HON J C PEREZ:**

Mr Chairman, if we can take clause 2 by sections we would be abstaining on 2(d) and supporting the rest of the Bill given the explanation of the Minister where he says that only last Tuesday the Taxi Association is said to be in agreement with the amendment we still have our reservations but if in practical effect it can be implemented we are prepared to abstain on that clause and support the rest of the Bill.

**HON CHIEF MINISTER:**

Can I just say this to the hon Member, there is no great policy issue here. The Government are not trying to achieve something in particular, it is not that we do not want certain people to drive taxis or that we do want other people to drive taxis. This is the sort of point where the Government are always going to be willing to revisit if it does not work on the ground as it is intended. There is no specific policy objective that the Government are trying to force on the industry in this point so he can abstain in the knowledge that if his fears materialise we can revisit this legislation.

**HON J J BOSSANO:**

Mr Chairman, given that the Minister said that the whole purpose of this was to remove an anomaly it seems to me that much of the argument that has taken place does not seem to reflect anything in the law as it stands or in the law as it is proposed as a result of the amendment. If there is an anomaly it would appear to me to be in the interpretation that as the law stands now during the period that the Minister may have prescribed, I do not know whether the Minister knows whether he has prescribed any period or not because the overall governing principle is that this is not something that happens all the year round because of illness, absenteeism or anything else. The law says quite clearly that the section is only triggered if the Minister has prescribed a period during which this may happen and my recollection going back a very long time was that the rationale of this was that if there was a period of time when the Minister responsible considered that there was a level of activity and demand for services which could not be adequately met by one car one driver because that meant the driver having to do enormously long working hours it was permissible for that prescribed period for one car to have two drivers at the same time. As the law now stands it is alleged that there is an anomaly between (b) subsection (1) and (b) subsection (2) it can only be because it is assumed, although the law does not

say so, that if during such a period there is a registered owner and a named driver the named driver has to be full-time because he is caught by subsection (a) and it is presumed that the registered owner has to be full-time although the law does not say. Therefore the argument is, that if during such a period there are two drivers for a car simultaneously and one is an owner and the other is not they are both full time however, if the owner does not drive at all and he has two drivers then one may be part-time and only one has to be full-time. If that is the nature of the rationale which is the only deduction I can make from the explanation then obviously the anomaly can be removed by permitting the named driver in those particular circumstances under part 1 of section (b) to be not in full-term employment and then one is treating both the same because this can only happen anyway if the Minister permits it. If a Minister says, "*I will not prescribe a period when there can be two drivers,*" which is at his own discretion, none of this takes place and therefore he must know whether he has actually prescribed it. It seems to me as if we are talking about an entirely hypothetical situation but we are not willing to go along with voting in favour of a change in the law when in fact it is not clear that the House knows what it is doing in changing this law.

If it is purely in order to tidy up what is perceived as an anomaly then I would move an amendment deleting the proposed amendment in the law as it stands before the House and instead making the named driver in the first part compatible with the second named driver in the second part by allowing him not to be in full-time employment.

**HON CHIEF MINISTER:**

Mr Chairman, can I say to the hon Member that in an area such as this where there are sensitivities and interests, the Government are not going to want to agree to anything on their feet so to speak. My own personal view is that I do not know why there should be a restriction that named drivers have to be unemployed or not in full-

time employment, at the end of the day, if it is temporary cover the temporary cover should be provided by whoever is there whether or not they are in full-time employment. That is the point that I would like to review but review in slower order and in consultation with the Taxi Association and rather than now depart from the Bill in a way that we cannot fathom the potential consequences of what we are going to do is that we are going to leave it as it is, the hon Members can abstain, and we will consult the Taxi Association and if they are happy that we remove this non full-time employment criteria it seems to me that it may be a modernising act to just delete that from the legislation altogether and we can bring a short Bill to the House in the next meeting to do that if that is agreeable to them.

#### **HON J J HOLLIDAY:**

On what the Chief Minister has just said I think the position up till Tuesday when I actually met the Taxi Association and that point was raised with me is that they were totally against any non part-time drivers participating unless it was on short temporary periods like holidays, sickness et cetera in which case there has never been a problem for the Minister to authorise that to happen on a temporary basis but on a long term basis where the licence holder in most cases does not even work but has two named drivers they have insisted that these should be people that are unemployed and not people that are on full-time employment and this issue basically arose as a result of the fact that a decision that was taken by myself and the Commission in respect of an application went to the Ombudsman and the Ombudsman recommended as part of his deliberation that there was an anomaly in the law and it was taken to those that know more about legal phraseology than I do and I was advised that there was an anomaly. We are not trying to change existing policy what we are trying to do is address an issue on a point of law which has been raised whether that is valid or not I am not the one to judge but all I can say is that this is not meant to generate any change in policy or in practice as has existed going back to 1974 or beyond. As a result of recent

developments in terms of applications for new city taxi licences the Taxi Association have come round to the view that it may be in their interests in order to provide a more adequate city service to allow this to happen now and so they actually flagged in a letter to me the following day which I asked them to do in writing the fact that they wanted this to be considered. The Commission will be considering this at their next meeting, this may require a change in the law but not through the fact that this actually generates a change of policy but by the fact that there may be a recognition in the industry that it is in everybody's interest to liberalise the possibility of having part-time drivers being able to seek employment as a second named driver and that is how the situation stands today.

#### **MR SPEAKER:**

If you are quite happy it being on the record that you are abstaining on that there is no need to put it to the vote.

**Clause 2** - stands part of the Bill.

**The Long Title** - was agreed to and stood part of the Bill.

#### **THE MERCHANT SHIPPING (AMENDMENT) BILL 2002**

**Clauses 1 to 9 and the Long Title** - were agreed to and stood part of the Bill.

## THE KEEPING OF WILD ANIMALS BILL 2002

Clauses 1 to 15, the Schedule 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 Bankruptcy (Amendment) Bill 2002 with amendments; the Banking (Amendment) Bill 2002, the Transport (Amendment) Bill 2002; the Merchant Shipping (Amendment) Bill 2002, and the Keeping of Wild Animals Bill 2002; have been considered in Committee and agreed to and I now move that they be read a third time and passed.

Question put.

The Bankruptcy (Amendment) Bill 2002; the Banking (Amendment) Bill 2002; the Merchant Shipping (Amendment) Bill 2002, and the Keeping of Wild Animals Bill 2002, were agreed to and read a third time and passed.

## ADJOURNMENT

#### HON CHIEF MINISTER:

I have the honour to move that the House do now adjourn to Tuesday 21<sup>st</sup> January 2003 at 10.00 am.

Question put.                      Agreed to.

The adjournment of the House was taken at 11.30 am on Thursday 19<sup>th</sup> December 2002.

**TUESDAY 21<sup>ST</sup> JANUARY 2003**

The House resumed at 10.25 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 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 Chief Minister moved under Standing Order 7(3) to suspend Standing Order 7(1) in order to lay on the Table:

- (1) A report by the Referendum Administrator on the Referendum held in Gibraltar on the 7<sup>th</sup> November 2002;
- (2) Gibraltar Referendum – Report by the Committee of Observers;
- (3) The Ombudsman's Report – 3<sup>rd</sup> Annual Report for the period January to December 2002.

Ordered to lie.

The Hon the Financial and Development Secretary laid on the Table a Statement of Improvement and Development Fund Reallocations approved by the Financial and Development Secretary (No 1 of 2002/2003).

Ordered to lie.

## **MOTIONS**

### **HON CHIEF MINISTER:**

I have the honour to move the motion standing in my name which reads:-

“This House Declares and Resolves:-

1. That it is in the economic interests of Gibraltar to encourage and incentivise the use of Gibraltar for the arrest of ships in support of maritime and admiralty litigation. Such use of Gibraltar generates significant economic activity in the following respects:-
  - (1) Contribution to Government revenue through Poundage on sale proceeds, berthing fees and tonnage dues;
  - (2) The employment of ship keepers by the Admiralty Marshal;
  - (3) The purchase of goods and services from ship chandlers and other sectors of the Gibraltar retail, wholesale and service economy;
  - (4) The generation of fee income for law firms in Gibraltar;
  - (5) The generation of business for hotels, airlines and the local travel and transport sector;
  - (6) The generation of business for port operators, including tugs, stevedores and fuel suppliers.

All of these contribute to job creation and sustainability in the economy.

2. That it is therefore in the economic interests of Gibraltar that arresting parties, especially those that use Gibraltar in respect of more than one vessel, be incentivised to use Gibraltar by the refund of part of the fees and dues (as defined in the Government (Fees and Dues) Ordinance) in the following manner.
3. That out of the revenue received by the Government into the Consolidated Fund in respect of “poundage” (commission) upon a sale of the ship by the Admiralty Marshal, a refund shall be made to the Admiralty Marshal (to be aggregated with the fund comprising the ship’s proceeds of sale and paid out to whatever party may be entitled to payment out of such fund under order of court), in a sum calculated in accordance with paragraph 4 below (“the refund sum”).
4. The refund sum shall be calculated as follows:-
  - (1) Where the arrest is not a fleet (as defined below) arrest and the sale price of the vessel exceeded £15,000,000 the refund sum shall be 0.25% of the sale price of the vessel in excess of £15,000,000.
  - (2) Where a ship has been sold as part of a fleet the refund sum in respect of each such ship shall be calculated in accordance with the following scale:

- (i) Where the total fleet sale price did not exceed £30,000,000 the refund sum shall be 0.2% of the sale price of each ship of the first £30,000,000 of the total fleet sale price or the sum calculated under 4(1) above (whichever be the greater);
- (ii) Where the total fleet sale price exceeded £30,000,000 but did not exceed £100,000,000 the refund sum shall be a sum equivalent to (1) 0.2% of the first £30,000,000 of the sale price of each ship plus 0.4% of the remainder therefore in excess of £30,000,000 or (2) the sum calculated under 4(1) above (whichever be the greater).
- (iii) Where the total sale price exceeds £100,000,000 the refund sum shall be a sum equivalent to 0.4% of the total fleet sale price.

5. In this Resolution the following words and phrases shall have the meanings attributed to them herein:-

**“fleet”** - means two or more vessels that have been sold by the Admiralty Marshal in Gibraltar by order of the Court upon the application of the same party within a period of thirty days of each other.

**“total fleet sale price”** - means the sum resulting from the addition of the sale prices of all the ships in a fleet.

6. This Resolution shall apply to fees and dues received by the Government into the Consolidated Fund by virtue of

poundage on sale by the Admiralty Marshal of any ship, the sale of which has been effected on or after the 1<sup>st</sup> day of November 2001.

7. This Resolution supercedes and replaces the Resolution passed by the House on the 5<sup>th</sup> December 2002,” and spoke on the motion.

Mr Speaker, by way of explanation hon Members will recognise this motion, subject to the amendments, as being the one that we passed at the last sitting of the House. For the guidance of the House I have shown in this notice of motion the new language underlined and the deleted language deleted, so the hon Members can all see at a glance what the amendments are. The principle amendment is in 4(2)(iii) and the reason for that is that by an error in the motion last time it was not the same as the Bill that we had originally passed. The Bill that we had originally passed was that if the total fleet sale price exceeded £100 million it would all be at 0.6 per cent whereas the motion that we actually passed rendered the first £30 million of the total fleet sale price subject to a scale. In other words, as we passed the Bill originally if the total fleet sale price had been £200 million in excess of £100 million even if it had been £200 million, the whole of the £200 million would have been at 0.6 of 1 per cent. The motion that we passed rendered the first £30 million of that £200 million at the higher rate of the scale and not the whole lot at 0.6 per cent and that was not what the Government intended to do nor was it what this House approved when we originally passed the Bill when we were doing this by legislation. That is the principal motion. When a ship has been sold as part of the fleet there should be a three tier regime whereby, where the total fleet sale price did not exceed £30 million the refund is 0.2 per cent of that first £30 million so that the fee is actually 0.8 per cent and then where the total fleet sale price exceeds £30 million but did not exceed £100 million the discount is 0.2 per cent on the first £30 million and 0.6 per cent on the next £70 million and where the total fleet sale price exceeds £100 million and this is the novelty now, the whole of the £100 million



plus, the whole of it and not just any excess over £30 million the whole of it is subject to a discount of 0.4 per cent and therefore liable to pay at 0.6 per cent. That is what we debated at the time of the Bill. That is what we intended to do and did do at the time of the Bill and the motion that I brought to the House was in error in that respect and the other amendments are consequential to that in that the middle step is left in. The regime from £30 million to £100 million is left at two tier. That is consistent with what we passed in the motion. That is the regime that we passed in the motion except that we passed it for anything in excess and not for the whole amount. So, I hope that the hon members will feel able to continue to support this motion which now more accurately reflects the Bill that we passed in the House originally. I commend the motion to the House.

Question proposed.

**HON J J BOSSANO:**

For the third time we say yes.

Question put.                      The House voted.

The motion was carried unanimously.

## **BILLS**

### **FIRST AND SECOND READINGS**

#### **THE INSURANCE COMPANIES (AMENDMENT) ORDINANCE, 2003**

**HON J J HOLLIDAY:**

I have the honour to move that a Bill for an Ordinance to amend the Insurance Companies Ordinance 1987 for the purposes of transposing in part Directive 2000/26/EC on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles and amending Council Directives 73/239/EEC and 88/357/EEC (Fourth Motor Insurance Directive), 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 read a second time. Mr Speaker, this Bill before the House seeks to amend the Insurance Companies Ordinance 1987 by inserting certain sections which will transpose in part directive 2000/26/EC on the approximation of the law of EU Member States relating to insurance against civil liability in respect of the use of motor vehicles and amending

Council directive 73/239/EC and 88/357/EEC. This directive of 2000 is commonly known as the Fourth Motor Insurance Directive. Clause 2 of the Bill introduces a new definition namely of the term Fourth Motor Insurance Directive, injured party, information centre, motor vehicle liability insurance business, and motor vehicle liability insurer. Indeed at the third reading of the Bill I will beg to move that two of these definitions, that is, information centre and motor vehicle liability insurance business be amended in order to ensure that there is no ambiguity. Clause 3 contains proposed substantive changes to the Ordinance, three sections have been added sections 29, 30, and 31. Section 29 provides for the appointment of a Claims Representative in each EEA state by anyone who is carrying out or intends to carry a motor vehicle liability insurance business. Indeed I will be introducing proposed changes to this section of the Bill as published to clarify some details. Obviously a Claims Representative does not need to be appointed in the state where the insurer has received his official authorisation as the insurer will receive every relevant claim direct. An amendment to section 22(9) will highlight that the contact details of an insurer shall be provided to the claims information centre in Gibraltar and in any other EEA state. The Claims Representative appointed by the insurer will be the responsibility of handling and settling claims arising from an accident in the case referred to in article 1 (2) of the Fourth Motor Insurance Directive. The qualification for a Motor Vehicle Liability Insurer are set out in section 29(3).

Mr Speaker, at Committee Stage I will be seeking to insert certain additions to section 29 which will provide that the Commissioner may direct that an insurer whether in Gibraltar or elsewhere shall not enter into new contracts of motor vehicle insurance unless he has appointed Claims Representatives. The second addition will prescribe penalties for an insurer who fails to comply with the obligations imposed by section 29. Section 30 contains a typographical error where the word "*insurer*" appears in two places where it should have read "*injured*". I will seek to correct this error at Committee Stage. This section sets out the procedure for handling and settling claims. I will be seeking to put

in place certain amendments at Committee Stage which will introduce strict conditions for written evidence in support of claims and which will set out in greater detail the provision of interest and the calculation of interest. Further amendments will seek to provide that a claim should be delivered in whatever way is lawful in the insurance of Claims Representative respective states of residence or establishment as the case may be. Finally, section 31 guarantees the right of legal action by any injured party. 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, the Bill itself is pretty straightforward when compared to the directive and what it purports to do is that it actually follows very closely what the directive itself says but there are a number of areas in which Opposition Members would welcome some information and clarification from the Minister. First of all the Bill says that this is a part transposition of the directive which implies that obviously there are some parts which are being included and other parts which are being left out. We would like to have some information on that specifically in the areas that have been left out and we have been able to identify which refer to the compensation body which is required to be set up where an injured party may apply if an insurance undertaking fails to appoint a representative or is delaying in settling a claim and there also has to be some kind of EU co-ordination between these compensation bodies. There is also reference in the directive to a guarantee fund. Those are some of the areas which we do not see in this Bill and which may be partly transposed and we would like to know why the Government have pursued that line and why the directive is being transposed in parts and not as a whole.

The other question we have is related to the setting up of an information centre. One thing which the directive says is that there has to be information centres set up in each Member State where somebody who has suffered an accident in any other Member State which he is not resident can then go and ask for information relating to the vehicle, registration, insurance of the person who was responsible for the injury. We would like to know where that information centre is in Gibraltar or when and where it is going to be set up?

One issue which arises in relation to personal data and that is the storage and giving of personal information between these different information centres which would obviously include the one in Gibraltar and that includes giving information like the owner's name et cetera. The name of the owner of the car that perpetrated the accident or the injury. The directive in its preamble refers to the personal data within the meaning of directive 95/46/EC of the EEC on the protection of individuals with regard to the processing of personal data and on the free movement of such data, and it says, "*...the processing of such data which is required for the purposes of this directive must therefore comply with the national measures taken pursuant to 95/46 EC. The name and address of the driver should be communicated only if national legislation provides for such communication.*" Mr Speaker, we would like some clarification on that point as well in relation to the personal data aspects and the free movement of such data. The other issue which we have been able to identify refers to the position of the United Kingdom because the directive speaks of Member States and so does the Bill speak of EEA States so it is not very clear whether the United Kingdom will be regarded as another EEA state for Gibraltar's purposes or whether we are actually both parts of the same and if we are does it mean that insurance entities in the other Member States have to appoint a Claims Representative in Gibraltar as well as in the United Kingdom because that is obviously something which is in the directive and in the Bill so we would like some clarification on that aspect as well. The final point would be that the existence of this separate Gibraltar information centre

would have to be notified to the European Union as part of the other centres that have been set up in the rest of the EEA. Those are the queries that we have and we would be grateful for clarification on them.

#### **HON J J HOLLIDAY:**

There are a number of issues that have obviously been raised by the hon Member and which I would like to deal with at Committee Stage. There are a number of issues which I would like confirmation from the legislation unit before I actually give a clear and straight answer on the various issues which have been raised so therefore I would like to cover these at Committee Stage if possible

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 House recessed at 10.45 am

The House resumed at 11.10 am.

### **COMMITTEE STAGE**

#### **HON CHIEF MINISTER:**

I have the honour to move that the House should resolve itself into Committee to consider the Insurance Companies (Amendment) Bill, 2003 clause by clause.

#### **THE INSURANCE COMPANIES (AMENDMENT) BILL, 2003**

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

#### **HON CHIEF MINISTER:**

Mr Chairman, I better rise now because I do not know exactly whether there will be a clause that will raise the issues raised by the hon Member. The reference to the part transposition of the directive is because the transposition is going to be done in a package of legislation consisting of three elements, one is this primary legislation and there are already ready and drafted two regulations under the Insurance Companies Ordinance that will complete the transposition. Apparently the reason why some of it is done by regulation and some of it by primary legislation is that the law in relation to the transposition of the other bits that will be

done by regulation requires amendments to existing regulations affecting the Insurance Companies Ordinance.

Mr Chairman, that is the explanation that I have had, I do not see however how that explanation fits with the absence from this Bill of the aspects relating to the Information Centre because certainly no compensation funds et cetera already exists and therefore I can see that there might be existing body of law that needs to be amended in regulations but not the information centre. It is the Government's intention that there should be an information centre in Gibraltar so certainly there will be transposition of the Information Centre bits of this directive in the regulation but I do not see that the explanation that I have just given him for the split between primary and subsidiary legislation accounts for the absence from the Bill of the bits relating to the Information Centre. The reason for dealing with the information centre in the regulations must be some other reason which no one in the Legislation Office has been able to give me but it cannot be because it requires the amendment of other body of law because there is no body of law relating to information. As to where the information centre will be, that has not yet been decided but the obvious candidates are the motor vehicle licensing section either by itself or in combination with the Royal Gibraltar Police. The reason why the hon Members have read if they have read the directive in that degree of detail the role that the information centres will play is basically to inform victims of accidents of who is the authorised representative or first of all who is the insurer of the vehicle in question then who is the authorised representative of that vehicle in question because they will have spotted from the directive and from the legislation that the essence of this legislation is that if an EU or EEA citizen suffers an accident in another EEA country other than his own then he can take legal proceedings in his home country. The idea being, for example, if he or I suffered a car accident in France or in Switzerland, to take the example of an EEA case we could then take the necessary action against the relevant insurer in Gibraltar without having to sue in the Swiss courts, that is the essence of the scheme and

the information centres support that by providing the necessary information to allow one to exercise those rights.

**HON DR J J GARCIA:**

Can the Chief Minister give way so that I can.....

**HON CHIEF MINISTER:**

Yes of course.

**HON DR J J GARCIA:**

The other query was in relation to the need to appoint a Claims Representative in each EEA state, do they have to appoint one in the UK as well as in Gibraltar separately or only for the UK, how would that work?

**HON CHIEF MINISTER:**

First of all the need to appoint an authorised representative only arises if one is carrying out motor insurance business so it is not the agent, the chap in Main Street or elsewhere in Gibraltar where he or I take out our insurance policies, one of the local insurance brokers, they do not have to have authorised representatives. The authorised representatives is by the underlying insurer, there is in fact nobody in Gibraltar carrying out insurance business. All the motor insurance sold in Gibraltar are sold by agents in Gibraltar of UK or other European company insurers, so it is they who need to have authorised representatives in all the European Community countries but there is an issue arising from the

question that the hon Member poses it does not arise in relation to the question that he asks for that reason but it does arise in relation to who is entitled to benefit from this directive and if particularly he looks at section 29 (3)(c) on page three he will see from the last paragraph in (3), about two thirds of the way down, that a motor vehicle liability insurer must ensure that each Claims Representative that is appointed in all the various countries can do all of those things listed there, as he moves his finger down the page, in relation to claims arising from an accident occurring in an EEA state other than the EEA state of residence of the injured party and the question that that raises is, if a UK resident has an accident in Gibraltar has he had an accident in an EEA state other than the EEA state of his residence and the answer to that appears to be no he has not had and therefore for the purposes of this directive the UK and Gibraltar are not regarded as separate EEA or Member States. So that if he or I have an accident in France we can have recourse to this directive but if he or I have an accident in London or somebody who lives in London has an accident in Gibraltar it appears that they are not entitled to avail themselves of the provisions of this directive.

**HON J J BOSSANO:**

Mr Chairman, when the Chief Minister says that it appears that they are not entitled they are not entitled because we have chosen not to do in this one what we have done in others which is to treat UK and ourselves as separate Member States. The whole of the insurance legislation in the United Kingdom Financial Services Legislation says Gibraltar will be deemed to be a separate Member State and if that was not there the primary EU directives would not require us to provide for United Kingdom citizens or UK to provide for Gibraltar citizens anything. I do not see that this is drafted any differently from any other directive that only mentions Member States.

## HON CHIEF MINISTER:

Mr Chairman, there has not been a policy of choice made here I am just interpreting the words that the draftsman has chosen to use. There is a difference between this piece of legislation and all the others that he has referred to, this particular legislation defines one's entitlement by reference to one's rights outside the country in which one lives. That is unusual for a piece of European legislation to say *"you are entitled to this right in the whole community and EEA unless you suffer the accident in your own country of residence"* and I have never seen that happen before. I know that there are arguments, for example, the July issue about whether Gibraltar is or is not a different Member State which clearly it is not and the right that that gives us. I do not think that this falls into that category because this is the directive itself saying this regime exists for people who have accidents outside the country in which they live. If one has an accident in the country in which one lives this directive does not intend because it is assumed that one understands the court system in one's own country. That is the logic of it, so this directive I think pretty uniquely and I say uniquely, the only one that I am presently aware of requires us to answer the question, "What country do you live in, what country do I live in, for the purposes of this directive do you live in a country which for EEA and EU purposes is a different country to the UK?" The hon Member may have a different interpretation to the one that I have put on to it, he is entitled to it, if on the other hand what he is saying is that we should amend that the legislation should not exclude UK nationals and that that can be fixed by language and that whether we should not legislate in excess of the directive requirements in order to enfranchise so to speak residents of the United Kingdom so that if a resident of the United Kingdom had an accident in Gibraltar .....[HON J J BOSSANO: Or vice versa....] No we cannot guarantee that, that would be for what the UK legislation says and that would be the danger that if we did it we may not get reciprocity. We can by our legislation extend the benefit of this to UK residents that are in Gibraltar. What we cannot by our legislation is extend the benefit of this to Gibraltar residents who travel to the UK and have their accident there because that is how

the UK has transposed it in their legislation. The Government have no policy objection to legislate to include UK. As I said before there has not been a policy choice here this is just the words that have been drawn directly from the directive and we are having a discussion about what the words mean regardless of what anybody intended should be the provision. The intention was to transpose the directive. We are free as a legislature to say, *"..well notwithstanding the fact that the directive does not require it we are extending this regime to UK residents who suffer accidents in Gibraltar."* What I cannot do, I can find out how the UK have done it and see if there is reciprocity or invite them to take their view if their should be reciprocity but I cannot give the House any assurance that that has, is, or will be the case so that if we did extend this to UK residents we risk lack of reciprocity. We can revisit this by way of amendment at a later date without delaying this, there is an urgency to this because this is one area in which the Commission is threatening infraction proceedings so I would not wish to delay the legislation of this particular Bill but certainly we can consider with the hon Members whether at some future date we should not bring an amendment perhaps after we have had a chance to see whether the UK is offering reciprocity for us in the UK and if the answer to that is 'yes' then we can bring an amendment to our legislation to extend it to UK residents as well. Remember this is not nationality this does not raise issues of nationality it raises issues of residence so that the legislation when it says who is entitled to benefit and who does not it speaks of the country where one resides not of nationality. So if a Frenchman and an Englishman lives in Spain he does benefit. If a Frenchman lives in the United Kingdom he does not.

## HON J J BOSSANO:

Mr Chairman, I think that on the basis of that we will continue to support the Bill. Although it might not have been intended as a policy decision the fact is that I do not think this really does anything that has not been done many times before in directives in terms of talking about what one needs to do in other Member

States because in fact if we go right back to the very beginning in 1973 and the reciprocity of medical services which generates the right to medical services in Member States other than the one that one resides well obviously the EU assumes naturally that if one is ill in one's own country one will get hospital treatment. It provides that if one is ill in a country other than the one of residence one gets treatment there and the UK signed a reciprocal medical services agreement in which we would be treated as a separate country the word 'country' is actually used in the agreement and signed by the Foreign Secretary. Apart from being new it was there in 1973 it was the first piece of EU legislation we transposed. I think that the other thing that arises is that if in fact the provision for protection arising from the appointment of agents and the existence of information centres in respect of other Member States has already been satisfied in the Member State UK because there is a Claims Representative in the UK then presumably a Frenchman having an accident in Gibraltar would get in touch with the Claims Representative of the United Kingdom and if he had the accident in the Orkneys he would get in touch with the same representative which would be equidistant from London. *[HON CHIEF MINISTER: Because he is a Claims Representative of the insurer not of the territory].* He is a Claims Representative of the insurer of another Member State, that is to say the French car that is responsible for the liability would enable the victim of the accident to put a claim in the place where the accident takes place, so that accident taking place in the Member State UK has one Claims Representative. The directive requires the UK to have a Claims Representative for the whole of the United Kingdom.

#### **HON CHIEF MINISTER:**

Mr Chairman, I think the hon Member is confusing the Claims Representative with the Information Centre. The information centre is a state thing. It does not have to be a state thing actually in UK it is actually run by the insurance industry. The Claims Representative is a representative of each insurer and each

insurer has to have their own Claims Representative and it is not so that one can pursue a claim in the country where the accident has happened it is so that one can pursue a claim in one's country. The people who would benefit from the appointment of Claims Representative in the UK would be those UK residents who suffer a traffic accident or a pedestrian accident with a car when they are in the continent, come back to the UK and then can pursue their action in the UK by dealing with the foreign insurers Claims Representative in the UK.

#### **HON J J BOSSANO:**

I know. The point that I am making is if there is already a foreign insurers Claim Representative in the Member State UK and the legislation is drafted on the premise that we are not a separate place of residence that we are the UK then why is it that the Claims Representative of the foreign insurer in the UK that already covers the whole of the United Kingdom does not cover Gibraltar? Why do we need a separate one?

#### **HON CHIEF MINISTER:**

Mr Chairman, quite right because the obligation to have the Claims Representative is on the party that has the insurance. The insurance companies that cover Gibraltar motorists are UK licensed insurers and the obligation is to have a Claims Representative, obviously one is not going to need a Claims Representative in the country in which one is licensed, so that is the UK. One then has Claims Representatives in all the other EEA countries. The question arises which I understand is the one that we are discussing given that one does not need to have a Claims Representative in the country in which one is licensed which is in the UK but that one does need to have Claims Representatives in all the other EU and EEA countries, into which part of that equation does the territory of Gibraltar fall? Do we fall

as part of the territory in which they do not have to have a Claims Representative because it is part of the Member State that issued the licence which is a difficult concept given that we have our separate licensing regime or do we fall into the list of other countries, other than the State in which they have been licensed in which they are obliged to have a Claims Representative? That raises the issue which we are debating of whether Gibraltar is another country for EEA and EU purposes and I hear what the hon Member has said and the precedence that he has cited. My understanding is that whilst the Government will have their information office that principal insurers are not presently expecting to have to have Claims Representatives in Gibraltar.....[HON J J BOSSANO: From UK.].....or from any other European country, for example, there is an Italian insurance company that underwrites motorists in Gibraltar, they are not planning to have a Claims Representative in Gibraltar for when Frenchmen have traffic accidents in Gibraltar involving a car insured by an Italian company.

#### **HON J J BOSSANO:**

Mr Chairman, the directive in fact says that every Member State has to take action to ensure that there is a Claims Representative other than the one that they have received their official authorisation. Now, we are legislating but it appears we are not legislating for them to appoint a Claims Representative in Gibraltar because they have already legislated in the UK so that the other Member States insurers already have a Claims Representative. We are not giving effect to the requirement in article 4 of the directive because article 4 of the directive is unimplementable in Gibraltar because it has already been implemented once in the Member State UK and in this particular directive we are told there is no distinction drawn between Gibraltar and the rest of the United Kingdom so, if there is already a Claims Representative appointed .....

#### **HON CHIEF MINISTER:**

.....what it says is in this part that I am referring to, 29 (3) the last paragraph and this is the only reference, this is the only implication that I can see from the issues that the hon Members have risen is that if one's accident is in the country in which one lives then one is not entitled to benefit from this directive and that begs the question, *"is London and Gibraltar part of the same EEA state for that purpose?"* But the legislation does not otherwise make the clear distinction. Another thing is that it might not be clear and it may raise the issue but it does not make the clear distinction that the hon Member has suggested.

#### **HON J J BOSSANO:**

But have we not just been told in the previous contribution of the Chief Minister that the law that we are debating in the House will not require Claims Representatives to be appointed in Gibraltar either from the UK or indeed from any other Member State, I distinctly heard the Chief Minister say that. If we are not legislating to do that then we are certainly not giving effect in this to article 4 that says *".....each Member State shall take all the measures necessary to ensure that all insurance undertaking covering the risks classified in class 10 of point (a) of the annex to directives 73/239 EEC appoint a Claims Representative in each Member State other than the one that they have received official authorisation."* We are not doing that. We are not giving effect to that requirement.

#### **HON CHIEF MINISTER:**

We are in theory but not in practice because in practice there is no one carrying out this business in Gibraltar. If an Italian company came and established a vehicle insurance business in Gibraltar with a Gibraltar licence then they would have to appoint



a Claims Representative for Gibraltar. I did not say that we were not doing it, I said that the principle insurers the actual underwriters they are not expecting to have to do it and the reason why they are not expecting to have to do it is that they are not carrying out motor insurance business in Gibraltar and because they are not carrying out motor insurance business in Gibraltar the directive and therefore the legislation does not require them to have a Claims Representative appointed in Gibraltar but if there were, which there is not as we speak today, but if there were tomorrow somebody carrying out motor insurance business in Gibraltar, in other words, a Gibraltar licensed institution directly insuring motor risks that company, under this legislation that we are passing today, would have to appoint a Claims Representative. So the answer is that we are transposing the directive and we are doing it the same as everybody else but in terms of the appointment of Claims Representatives in Gibraltar it will have no immediate physical impact because in respect of that part of the legislation, the obligation on the part of insurers to appoint a Claims Representative in Gibraltar there are none as we speak today.

## **Clause 2**

### **HON J J HOLLIDAY:**

I have given notice that in clause 2 the definition of “*information centre*” the words “*to meet Gibraltar’s obligations under*” have to be deleted and replaced with “*whether in Gibraltar or in other EEA States under Article 5 of*” should be inserted in subsection (1).

In the definition of “*motor vehicle liability insurance business*” insert the words “*and pure reinsurance of that class*” after the words “*Carriers’ Liability*”.

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

## **Clause 3**

In section 29 (1):

- (i) delete the words “*seeking to carry on, or carrying on*” and insert “*carrying on a motor vehicle liability insurance business and every person who seeks to carry on a*”;
- (ii) delete the word “*appoint*” in the third line and insert the word “*have*”;
- (iii) insert the words “*other than that in which they have received their official authorisation*”, after the words “*EEA State*”; and
- (iv) delete the words “*Article 1*” and insert “*Article 1 (2)*”.

In section 29 (2):

- (i) delete “*must*” and insert “*shall*” in the first line;
- (ii) after the words “*information centre*” add “*in Gibraltar and in other EEA States*”.

In section 29 (7):

Delete the word “*meaning*” and insert “*meanings referred to in:*”  
In section 29 (8):

Subsection (8) is deleted and replaced with:-

*“(8) Where a motor vehicle liability insurer does not have a Claims Representative in pursuance of subsection (1) the Commissioner may direct that the motor vehicle liability insurer shall not enter into new contracts of motor vehicle liability insurance business and if it subsequently appoints a Claims Representative the Commissioner may withdraw that direction.”*

In section 29 add new subsections (9) and (10) as follows:

- (9) Any person seeking to carry on motor vehicle liability insurance business in Gibraltar shall not be entitled to carry on such business unless he complies with subsection (1).
- (10) Any motor vehicle liability insurer who fails to comply with subsection (2) or any direction given under subsection (8) shall be guilty of an offence and liable on summary conviction to a fine up to level 4 on the standard scale.

In section 30 (1):

- (a) delete the words *“its insured”* in the second line and insert *“an injured party”*;
- (b) delete the word *“on”* in the fourth line and insert *“or”*.

In section 30 (2):

Delete the word *“insured”* in the fifth line and insert *“injured”*.

In section 30 (4):

Subsection (4) is deleted and replaced with:-

- (4) A claim for compensation shall only be quantified under subsection (1) (a), (2) or (3) if the injured party provides written evidence which substantiates or supports the amounts claimed.

After subsection (4) insert –

- (5) If the receiving motor vehicle liability insurer, or its Claims Representative, does not comply with subsection (1) (a), (2) or (3), the motor vehicle liability insurer shall pay simple interest on any compensation eventually paid, unless interest is awarded by any court or tribunal which determines the injured party's claim.
- (6) If subsection (5) applies, the amount of interest that the motor vehicle liability insurer shall pay shall be calculated as follows:-

- (a) the interest calculated period –

- (i) begins three months after -

- (A) receipt of the claim for compensation, if the motor vehicle liability insurer or its Claims

Representative is in breach of subsection (I) (a), or

- (B) any subsequent admission of liability, if the motor vehicle liability insurer or its Claims Representative complies with subsection (1) (a) but is in breach of subsection (2); or
- (C) the subsequent receipt of a fully quantified claim for compensation, if the motor vehicle liability insurer or its Claims Representative complies with subsection (1) (a) and (2) but is in breach of subsection (3); and
- (ii) ends on the date when the motor vehicle liability insurer pays compensation to the injured party, or the injured party's authorised representative;
- (b) the interest rate to be applied throughout the period in paragraph (a) above is the Bank of England's base rate (from time to time), plus four per cent.

The original subsection (5) is renumbered as subsection (7). It is further amended by deleting the full stop after the word "*residence*" and inserting the words "*or establishment as the case may be*".

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

**The Long Title** - was agreed to and stood part of the Bill.

### THIRD READING

#### HON ATTORNEY GENERAL:

I have the honour to report that the Insurance Companies (Amendment) Bill, 2003, 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.

#### 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 11.45 am on Tuesday 21<sup>st</sup> January 2003.**