

# 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)**

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

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.

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 mooting 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 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 IWBP 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.**