

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

The Third Meeting of the First Session of the Tenth House of Assembly held in the House of Assembly Chamber on Friday 30<sup>th</sup> April 2004 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 J J Holliday - Minister for Trade, Industry and  
Communications  
The Hon Dr B A Linares - Minister for Education, Employment  
and Training  
The Hon Lt-Col E M Britto OBE, ED - Minister for Health  
The Hon J J Netto - Minister for Housing  
The Hon Mrs Y Del Agua - Minister for Social and Civic Affairs  
The Hon C Beltran - Minister for Heritage, Culture, Youth and  
Sport  
The Hon F Vinet - Minister for the Environment, Roads and  
Utilities  
The Hon T J Bristow - Financial and Development Secretary

**OPPOSITION:**

The Hon J J Bossano - Leader of the Opposition  
The Hon F R Picardo  
The Hon C A Bruzon  
The Hon S E Linares

The Hon L A Randall

**ABSENT:**

The Hon R R Rhoda QC - Attorney General  
The Hon Dr J J Garcia  
The Hon Miss M I Montegriffo

**IN ATTENDANCE:**

P E Martinez - Clerk of the House of Assembly (Ag)

**PRAYER**

Mr Speaker recited the prayer.

**CONFIRMATION OF MINUTES**

The Minutes of the Meeting held on the 12<sup>th</sup> January 2004, having been circulated to all hon Members, were taken as read, approved and signed by Mr Speaker.

**DOCUMENTS LAID**

The Hon the Financial and Development Secretary laid on the Table the Draft Estimates of Revenue and Expenditure 2004/2005.

Ordered to lie.

## **ANSWERS TO QUESTIONS**

The House recessed at 1.30 pm.

The House resumed at 3.00 pm.

Answers to Questions continued.

The House recessed at 8.20 pm.

The House resumed at 8.35 pm.

Answers to Questions continued.

## **ADJOURNMENT**

The Hon the Chief Minister moved the adjournment of the House to Wednesday 5<sup>th</sup> May at 9.30 am.

Question put.                      Agreed to.

The adjournment of the House was taken at 10.55 pm on Friday 30<sup>th</sup> April 2004.

## **WEDNESDAY 5<sup>TH</sup> MAY 2004**

The House resumed at 9.32 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 J J Holliday - Minister for Trade, Industry and Communications  
The Hon Dr B A Linares - Minister for Education, Employment and Training  
The Hon Lt-Col E M Britto OBE, ED - Minister for Health  
The Hon J J Netto - Minister for Housing  
The Hon Mrs Y Del Agua - Minister for Social and Civic Affairs  
The Hon C Beltran - Minister for Heritage, Culture, Youth and Sport  
The Hon F Vinet - Minister for the Environment, Roads and Utilities

## **OPPOSITION:**

The Hon J J Bossano - Leader of the Opposition  
The Hon Dr J J Garcia  
The Hon C A Bruzon  
The Hon S E Linares  
The Hon Miss M I Montegriffo  
The Hon L A Randall

## **ABSENT:**

The Hon R R Rhoda QC - Attorney General  
The Hon T J Bristow - Financial and Development Secretary  
The Hon F R Picardo

**IN ATTENDANCE:**

P E Martinez - Clerk of the House of Assembly (Ag)

Answers to Questions continued.

The House recessed at 11.35 am.

The House resumed at 11.40 am.

Answers to Questions continued.

**ADJOURNMENT**

The Hon the Chief Minister moved the adjournment of the House to Thursday 6<sup>th</sup> May 2004 at 9.30 am.

Question put.           Agreed to.

The adjournment of the House was taken at 1.36 pm on Wednesday 5<sup>th</sup> May 2004.

**THURSDAY 6<sup>TH</sup> MAY 2004**

The House resumed at 9.35 am.

**PRESENT:**

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

**GOVERNMENT:**

The Hon P R Caruana QC - Chief Minister  
The Hon J J Holliday - Minister for Trade, Industry and  
Communications  
The Hon Dr B A Linares - Minister for Education, Employment  
and Training  
The Hon Lt-Col E M Britto OBE, ED - Minister for Health  
The Hon J J Netto - Minister for Housing  
The Hon Mrs Y Del Agua - Minister for Social and Civic Affairs  
The Hon C Beltran - Minister for Heritage, Culture, Youth and  
Sport  
The Hon F Vinet - Minister for the Environment, Roads and  
Utilities

**OPPOSITION:**

The Hon J J Bossano - Leader of the Opposition  
The Hon Dr J J Garcia  
The Hon F R Picardo  
The Hon C A Bruzon  
The Hon S E Linares  
The Hon Miss M I Montegriffo  
The Hon L A Randall

**ABSENT:**

The Hon R R Rhoda QC - Attorney General  
The Hon T J Bristow - Financial and Development Secretary

**IN ATTENDANCE:**

P E Martinez - Clerk of the House of Assembly (Ag)

Answers to Questions continued.

The House recessed at 11.30 am.

The House resumed at 11.35 am.

Answers to Questions continued.

The House recessed at 1.07 pm.

The House resumed at 3.00 pm.

Answers to Questions continued.

The House recessed at 5.15 pm.

The House resumed at 5.20 pm.

Answers to Questions continued.

**ADJOURNMENT**

The Hon the Chief Minister moved the adjournment of the House to Friday 7<sup>th</sup> May 2004 at 9.30 am.

Question put.                      Agreed to.

The adjournment of the House was taken at 6.00 pm on Thursday 6<sup>th</sup> May 2004.

**FRIDAY 7<sup>TH</sup> MAY 2004**

The House resumed at 9.30 am.

**PRESENT:**

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

**GOVERNMENT:**

The Hon Dr B A Linares - Minister for Education, Employment  
and Training  
The Hon Lt-Col E M Britto OBE, ED - Minister for Health  
The Hon C Beltran - Minister for Heritage, Culture, Youth and  
Sport

**OPPOSITION:**

The Hon Dr J J Garcia  
The Hon F R Picardo  
The Hon C A Bruzon

**ABSENT:**

The Hon P R Caruana QC - Chief Minister  
The Hon J J Holliday - Minister for Trade, Industry and  
Communications  
The Hon J J Netto - Minister for Housing  
The Hon Mrs Y Del Agua - Minister for Social and Civic Affairs  
The Hon F Vinet - Minister for the Environment, Roads and  
Utilities  
The Hon R R Rhoda QC - Attorney General  
The Hon T J Bristow - Financial and Development Secretary  
  
The Hon J J Bossano - Leader of the Opposition  
The Hon S E Linares  
The Hon Miss M I Montegriffo  
The Hon L A Randall

**ADJOURNMENT**

The Hon the Minister for Health moved the adjournment of the House to Friday 7<sup>th</sup> May at 3.15 pm.

Question put.                      Agreed to.

The adjournment of the House was taken at 9.33 am on Friday 7<sup>th</sup> May 2004.

**FRIDAY 7<sup>TH</sup> MAY 2004**

The House resumed at 3.15 pm.

**PRESENT:**

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

**GOVERNMENT:**

The Hon P R Caruana QC - Chief Minister  
The Hon J J Holliday - Minister for Trade, Industry and  
Communications  
The Hon Dr B A Linares - Minister for Education, Employment  
and Training  
The Hon Lt-Col E M Britto OBE, ED - Minister for Health  
The Hon J J Netto - Minister for Housing  
The Hon Mrs Y Del Agua - Minister for Social and Civic Affairs  
The Hon C Beltran - Minister for Heritage, Culture, Youth and  
Sport  
The Hon F Vinet - Minister for the Environment, Roads and  
Utilities

**OPPOSITION:**

The Hon J J Bossano - Leader of the Opposition  
The Hon Dr J J Garcia  
The Hon F R Picardo  
The Hon C A Bruzon  
The Hon S E Linares  
The Hon L A Randall

**ABSENT:**

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

**IN ATTENDANCE:**

P E Martinez - Clerk of the House of Assembly (Ag)

Answers to Questions continued.

The House recessed at 5.30 pm.

The House resumed at 5.40 pm.

Answers to Questions continued.

**BILLS****FIRST AND SECOND READINGS****THE INCOME TAX (AMENDMENT) ORDINANCE 2004.****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.

**ADJOURNMENT**

The Hon the Chief Minister moved the adjournment of the House to Tuesday 1<sup>st</sup> June 2004 at 10.30 am.

Question put.            Agreed to.

The adjournment of the House was taken at 7.15 pm on Friday 7<sup>th</sup> May 2004.

**TUESDAY 1<sup>ST</sup> JUNE 2004**

The House resumed at 10.32 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 J J Holliday - Minister for Trade, Industry and Communications  
The Hon Dr B A Linares - Minister for Education, Employment and Training  
The Hon Lt-Col E M Britto OBE, ED - Minister for Health  
The Hon J J Netto - Minister for Housing  
The Hon Mrs Y Del Agua - Minister for Social and Civic Affairs  
The Hon C Beltran - Minister for Heritage, Culture, Youth and Sport

The Hon F Vinet - Minister for the Environment, Roads and  
Utilities  
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 F R Picardo  
The Hon C A Bruzon  
The Hon S E Linares  
The Hon Miss M I Montegriffo  
The Hon L A Randall

**ABSENT:**

The Hon R R Rhoda QC - Attorney General

**IN ATTENDANCE:**

P E Martinez - Clerk of the House of Assembly (Ag)

**DOCUMENTS LAID**

The Hon the Minister for Education, Employment and Training  
laid on the Table the Gibraltar Employment Survey Report for  
the period ending October 2003.

Ordered to lie.

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

- (1) Consolidated Fund reallocations Statement No 3 of  
2003/2004;
- (2) Pay Settlement – Statement No 4 of 2003/2004;
- (3) Supplementary Funding – Statement No 5 of  
2003/2004;
- (4) Improvement and Development Fund Reallocation  
Statement No 1 of 2003/2004.

Ordered to lie.

**BILLS**

**FIRST AND SECOND READINGS**

**THE INCOME TAX (AMENDMENT) ORDINANCE 2004**

**SECOND READING**

**HON CHIEF MINISTER:**

I have the honour to move that the Bill be now read a second  
time. Hon Members will have, I am sure, understood that this  
legislation relates principally to the taxation rules relating to the  
new Gibraltar Annuity Scheme. Also the new rules relating to  
the arrangements that the Government have made for the non-

availability of annuities in Gibraltar. This is the taxation aspect of it, not the establishment of the scheme or anything of the sort. Hon Members will be aware that under the Income Tax Ordinance, as it currently stands, up to 25 per cent of the capital value of the accumulated pension fund of an individual on retirement is receivable tax free. So the general rule is that one can receive 25 per cent of the capital, tax free, and with the remaining 75 per cent one has to buy an annuity and then the annual annuity payments are taxable as income. That is the present regime. A number of pension schemes were approved by the Commissioner of Income Tax in the past, that permitted 100 per cent commutation of the pension entitlement. However, any new member joining such pension scheme after 30<sup>th</sup> June 1987, has been required to pay 20 per cent tax under the existing tax rules, on any capital received in excess of 25 per cent. In other words, prior to 1987 certain private occupational pension schemes had been approved that allowed 100 per cent commutation. They, members of those schemes, were allowed to draw the whole capital tax free. In 1987 the law changed and said, well, fine, anyone who is already a member of such a pre-1987 scheme, can continue to get 100 per cent commutation and continue to get the whole capital tax free. But anyone who joins such a scheme, obviously none of those schemes have been approved since 1987, but any new entrants into those schemes could get 100 per cent commutation, but became taxable at 20 per cent in respect of the capital in excess of 25 per cent that they chose to take out. That is the law as it stands today. Of course there might still be some people in pre-1987 schemes, who had already become pensioners by 1987, who may have drawn out the whole of their capital tax free. But obviously that is now an exhausted class of people, no one is doing that any more. The Government have been conscious of the growing problem being faced by retiring individuals, as a result of the fact that good value annuities are becoming increasingly difficult, if not impossible to find, especially in the case of the relatively low pension fund values. The Government have decided to address this problem on two fronts. Firstly, by extending the option of 100 per cent commutation to members of approved pension schemes, where the excess over the 25

per cent payment is insufficient to provide a pension of at least £1,000 per annum. In fact, this is not a novelty. The change here is in the increase of the amount to £1,000. It has for some time now been the law, the first figure I think was, this from memory because I do not have a note of this, but I think the first rule was that if the balance over 25 per cent did not buy a pension of £104, then one could take it all tax free, all the capital. That was then increased, I think, to £250 or £260. One of the things that this Bill now does is increase that figure to £1,000. So in other words, everybody can take 25 per cent of their capital tax free. In addition, if the balance of 25 per cent does not buy an annuity of at least £1,000 a year, then one can take that capital away tax free as well, even if it is more than 25 per cent. The intention, particularly at times of low interests, that unless one is getting a certain minimum income per annum, it is better to let people to have access to their capital than to have capital tied up earning sums of money, that in any event do not provide a meaningful degree of pension. That figure has been fixed at £1,000 per annum. Just to give the hon Members an example, at base rates of 4 per cent per annum the accumulated capital in a pension scheme in excess of the 25 per cent payable tax free, would need to be at least £25,000 in order to provide a pension of £1,000 per annum. So that just gives the hon Members an indication of the amount of capital that is being freed to be commuted, tax free, over and above the 25 per cent that has always been commutable. Any such capital that is taken over 25 per cent will continue, as it currently is, to be taxed at 20 per cent on withdrawal.

Secondly, the Government are addressing the problem by setting up the Gibraltar Pension Annuity Scheme. This is not strictly part of the debate on this Bill, but as there is a reference to it in this Bill I allude to it. The scheme will enable the investment and draw down of accumulated pension fund monies, in respect of approved pension schemes, that require the purchase of an annuity. Under the scheme, annuitants will be eligible to a monthly payment equivalent to the investment income on the capital invested, and in addition, will have the option to draw down in the first instance, up to 2.5 per cent per



annum of the original capital invested. Unlike most conventional annuities, the capital investment is not retained by the annuity provider on the death of the annuitant. The remaining undrawn capital is payable by the trustees, in full, to the annuitant's dependants. An annuitant will also retain the option to receive payment of the undrawn capital, subject to the 20 per cent tax, where the balance remaining at some stage in the future becomes insufficient to produce at least £1,000 per annum. The Bill amends the provisions of the Income Tax Ordinance to enable the charge to tax on the capital sums received by an individual, in the circumstances that I have described.

Hon Members will see that there is a degree of restructuring of some existing language in the Ordinance, without actually changing its effect. What used to be (g) and (h), have both been condensed into (g), and there is a new (h) to accommodate the last point that I have mentioned, about the withdrawal of capital from the Gibraltar Pension Annuity Trust Scheme, once it ceases to provide an income of £1,000 per annum. This is the tax aspect of the policy that the Government announced in the House some time ago. It does not represent new policy. I commend the Bill to the House.

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

**HON J J BOSSANO:**

I think the problem we have got with this Bill is that we are not clear that it actually does what the Chief Minister says it is intended to do. Therefore, if we are talking on the general principles, I suppose we ought to be talking about what is intended. If we look at the actual Bill itself and the changes, as the Chief Minister has said, what is currently in (h), is now being moved and (h) is being substituted by something completely different but in fact, what is being moved is the same in the existing law as in the new one. The Chief Minister has said that in fact, people who are able under the provision that does not

exist at present, he said that there was already a provision but the amount was less than £1,000, but I have not been able to identify where in the Ordinance or in the Rules there is. But taking that that is correct, the way that this is drafted, and I am not sure whether the effect of the existing law is the same or not, seems to me not to make that 75 per cent tax free. Because this is, in fact, in the context of the section that says that that income is not part of the assessable income, but will be taxed in accordance with the rules made under the Ordinance. That is how the paragraph stands before the (a), (b), (c). So my reading of it is that if one falls into category (b), the 75 per cent is not part of ones assessable income but is not tax free. Now obviously, that is not what we are being told the law is doing, and therefore, we are not against what we have been told it is doing but we do not see it doing it. If it does not do it then, clearly, it is not the Government's intention to do what this seems to be saying. Because if we read the Bill before the House, it says that the section is amended by substituting paragraph (g), and it says on the front page, the last two lines, "subject to the provisions of (a), (b) and (c), shall not form part of the assessable income of the individual but shall be taxed separately in accordance with the rules under the Ordinance." Now if it is going to be taxed separately, then presumably we are talking about the 20 per cent and not talking about zero tax. So we support that in cases of the remaining capital being £25,000 and only providing £1,000 a year, which is certainly not much of a pension to live on, the Government should provide what was happening before 1987 for those people, which is that they should be able to draw the £25,000 without being taxed. But my reading of it is, that it is going to be taxed from what I see in the Ordinance, and therefore conflicts with what he has said.

The other thing is that in the explanations that have been given before in the House, we were given the impression that until this provision was put in the law, it was not possible for the persons receiving the income from the scheme the Government are setting up, to be treated in the same way that they would be treated if they received the income from any other annuity provider. Now, I cannot understand why it is that the law

requires, in the case of the annuity scheme that the Government are putting in, a specific reference to that annuity scheme, when in fact the law says that any provident scheme or other fund approved by the Commissioner. What was there to stop the Commissioner approving the Gibraltar Pension Annuity Trust Scheme already with the law as it stands, since the law as it stands leaves it entirely up to him to approve any fund that gives annuities. I take it that the Pension Annuity Trust Scheme will be what we have been told is going to be done by the Gibraltar Savings Bank. We do not know whether that will require an amendment to the Savings Bank Ordinance to be able to do that, or whether in fact the Savings Bank Ordinance can simply do it as it is providing other forms of investment vehicles currently. So really we would need to reserve our position on how the Pension Annuity Trust Scheme works, when we actually see it black upon white.

The other thing that I think we need clarification on, is that the provisions on a person getting extra the balance of the scheme because of ill health, we are not clear whether that means that they have to meet the condition of ill health and the condition of the small amount, limited to £1,000, or whether in fact the ill health condition is without limit on the value of the balance of the 75 per cent. That condition on ill health is already in the law and therefore, we would like clarification that in fact whether what exists at the moment is remaining as it is in the amended version, or whether what exists at the moment is being altered in any way. But as regards the principle of the intended purpose, of the objective, we support that objective.

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

Mr Speaker, I have some sympathy for the hon Member's difficulty with the language, because I have to say I have challenged the draftsman and the Income Tax Office as well on this. They have assured me and have persuaded me, not so much on the effect that he, he has drawn one source of confusion of the language and in fact I had thought that the

language was confusing in other respects, not in exactly the same respect as he, but I am assured and I have been persuaded that the language is correct, and I will try and explain it to the hon Member.

I do not know whether it was a mis-speaking, or whether it may lie at the root of his misunderstanding. The hon Member spoke about the 75 per cent not being tax free. Well, of course, it is only the 25 per cent that is supposed to be tax free, the 75 per cent is taxable. That is what he said, I made a note of it, he may have meant 25 per cent and this may not have been at the root of his not understanding.

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

Mr Speaker, my understanding of the law is that what the law says is, the 75 per cent but for the treatment under different rules, would be part of somebody's assessable income. The 75 per cent. Because it says here, that it is not part of the assessable income but is subject to, that is to say the 25 per cent is not assessable income and is tax free income, that is in fact provided in the law at the moment. It says that capital sums of 25 per cent provided by an annuity are not income for income tax purposes. The 75 per cent one has to use to buy an annuity but if one were to get the 75 per cent it would be assessable income, unless it was treated differently and then subject to the 20 per cent.

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

Mr Speaker, let us see if we can clarify this. Section 6 in respect of which we are amending (g) and (h), is the charging section. Let us get that clear. This is not a list of exemptions as there is in the rules. This is the section that lists the sorts of things that are subject to income tax. When one gets a pension payment, or an annuity, an annual payment under an annuity scheme, that is income and it is subject to tax under a different section of the

Income Tax Ordinance, somewhere in 6, I suspect it is 6(2) or (3) or something but I am guessing at that. In other words, when you are talking about income, that is caught by another section of the Income Tax Ordinance, or another sub-section I suspect of this section of the Income Tax Ordinance. Why is (g) therefore present at all? Because it is talking about capital, not income. It is most unusual in Gibraltar to be talking about the taxation of capital as if it were income. We do not have capital taxes in Gibraltar. Subsection (g) is not the section that deals with the taxation of our Occupational Pension Scheme when we start getting our annual payments. It is the section that says, *"if in certain circumstances you can get capital, which is not normally taxable in Gibraltar because we do not have any sort of capital taxes, if in certain circumstances, in addition to getting income, which is taxable under some other section, you are also getting some money qua capital, then it is treated as income subject to these rules"*. In other words, the first thing we need to remember when we are debating this is that (g) is talking only about the capital payments out. It is not the section that deals with the payment of the monies that would be paid by the annuity that one buys with the other 75 per cent. So we are necessarily talking about, and indeed there are some people who opt not to take their 25 per cent, there are some people who choose to buy an annuity with the whole 100 per cent and choose not to take their 25 per cent tax free capital payment. So this section, this sub-section (g), deals only with the tax treatment of those people who choose, who opt, to draw up to 25 per cent. That is the part of the language that was unchanged from before. In other words, to the extent that this replicates the previous language, then that is what it does. It then says, that it will not be treated as part of the assessable income but will be treated separately. That also is the same as at the moment. In other words, if you take more than 25 per cent to the extent that it is presently permissible, or if one is happy to be a member of one of those lucky pension schemes pre-1987 where one is allowed to take 100 per cent, that amount of capital is not added on to ones income and taxed at the marginal rate, it is treated as if it were a separate situation and is taxed at 20 per cent. So everybody pays tax on that at 20 per

cent. If it were just added to ones assessable income, people would be paying tax on it at 45 per cent if that were now their present top marginal rate. Then (a), (b) and (c) are proviso/exemptions from that regime. (a) protects the position of post June 1987 entrants into pre June 1987 schemes; (b) provides for the position that I have explained already to the hon Members, and that is that in addition to the 25 per cent one can take capital over and above 25 per cent, tax free if it does not buy one an annuity of £1,000; (c) is simply to repeat the provision of the present law, which relates to pre-1987 members of pre-1987 schemes, who are still in the happy position of not only being able to take 100 per cent of their capital, but indeed to be able to take 100 per cent of their capital tax free. That is their privileged position. So nothing in this (g) as drafted, has the effect of rendering taxable or non taxable the income from the annuity, because that is taxed in another section. This section charges to tax capital in the various circumstances where a member of an occupational pension scheme is entitled to make an option to withhold capital, and chooses to exercise that option.

I am conscious of the fact that when I sit down the hon Member will not have a chance to come back to me. So I am happy, before I move on to his next points, to give way to him if he wants to just clarify anything of what I have said.

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

Mr Speaker, I am afraid it is not the next point. The Chief Minister has just said that (g), he started off saying that (g) deals with the treatment up to 25 per cent. He has just said that. Well I have just heard him say it and I have written it down, up to 25 per cent. In fact, (g) says, capital sums in excess of 25 per cent. Therefore my question is, if somebody instead of buying an annuity with the 75 per cent, takes the 75 per cent as a lump sum. If one takes in excess of 25 per cent then that capital sum is not part of ones assessable income and is taxed separately in accordance with the rules under the Ordinance. That is what (g)

says now. What we are saying in this law is exactly the same thing and it says, *"if you take more than 25 per cent from a provident fund, it is no good saying no you cannot, well if you cannot then why do we say if you do it if it is not possible to do it?"* So, in the circumstances that it is possible to do it, that is to say, for example, paid prior to the retirement to an individual on grounds that he is suffering from serious ill health and has low life expectancy, which is the new (g)(ii). So here we have got an individual who can demonstrate to the satisfaction of the Commissioner of Income Tax that he is seriously ill, he is due to get his retirement and therefore instead of buying an annuity, which means he will not be able to enjoy that income for very long, on the basis of the state of his health, he wants to take out 100 per cent. My reading of this is that in those circumstances the excess over the 25 per cent is taxable but not at the marginal rate, but at 20 per cent. Now if that is indeed the case, one of the questions I asked, since that is made subject to (a), (b) and (c), does it mean that it has to be on the basis of ill health and on the basis of not otherwise providing at least £1,000 per annum? Because that seems to me what subject to be means. So in fact, if it is possible to get it because it is £1,000, but one can get it if one is seriously ill, provided it is £1,000, then it does not matter whether one is seriously ill or not. If we say that one can get it if it is a small amount of money.....

**HON CHIEF MINISTER:**

No Mr Speaker, I have given way to the hon Gentleman to speak to me again on the question of the capital in excess. I have not got to his points yet on the others. I will give him the same opportunity then as I have given him now.

**HON J J BOSSANO:**

On the excess one of the questions which I asked was, it seems to me that the existing law and the new law, because it says, for

example, in the new law, in the amendment that we are moving in this House today, capital sums in excess of 25 per cent shall not form part of the assessable income of the individual but shall be taxed in accordance with rules made under the Ordinance, subject to (b). So we now go to (b) and we say, well, who is going to be able to take out more than 25 per cent as a lump sum? The answer is, somebody where the balance after 25 per cent cannot buy a pension, an annuity, of more than £1,000 a year. Which if we assume, for the sake of argument, the example the Chief Minister gave, that there is a return of 4 per cent available, then it means that if one has got £25,000 left in the kitty to buy an annuity, one can take that £25,000 as an alternative to buying the annuity, and therefore get 100 per cent of the accumulated fund. But (b) applies to what is the preceding paragraph which is, shall be taxed separately in accordance with the rules made under this Ordinance. That is why I am asking where does it say that it is tax free?

**HON CHIEF MINISTER:**

I gave way to the hon Member just to make sure that having heard me, to give him another opportunity to persuade me that he may be right and I may be wrong. I have to say to the hon Member that I remain of the view that he has just failed properly to focus on the chronology and the mechanics of how we come to the position of talking about taxation and annuities. Therefore I will have to start in an attempt to persuade him, at least to make sure that the House is aware of the correct position, I have to just take him back then one more step.

Capital payments are not taxable at all in Gibraltar. That is an incontrovertible remark, which I just put as backdrop to this remark. The tax treatment given to occupational pension schemes, not to be confused with annuity schemes, remember that the occupational pension scheme and the product of the annuity provider are wholly different things. One gets ones money out of the pension scheme and one goes to the annuity provider, sometimes they can be the same company, and one

buys an annuity. Not to be confused one thing with the other. The rules are that pensions schemes only attract tax deductibility of the annual pension contributions if they have been approved by the Commissioner of Income Tax. In other words, the individual has got to submit to the Commissioner of Income Tax the trust scheme with the benefits regime, and he says, I approve this and I do not approve this. I suspect it is not whimsical, I think he has a list of the criteria. Approval of the scheme is only granted provided that one is not entitled to more than 25 per cent of capital, provided that the scheme does not entitle the pensioner to commute more than 25 per cent. So, except those schemes that had been approved before 1987, post 1987 no scheme has been approved which entitles a pensioner to more than 25 per cent commutation. Therefore there are no schemes that entitle a pensioner to more than 25 per cent commutation. If there were, as indeed there were before 1987, the reason why the law refers to the date 1<sup>st</sup> July 1987 as the cut-off date, is that that is the date that these schemes stopped being approved. There were a few approved before. There were a few schemes approved before June 1987, before 30<sup>th</sup> June 1987, in which under the terms of the Pensions Scheme itself, the trustees of the Pensions Scheme were entitled to pay 100 per cent of capital on retirement to the Pension Fund holder. There have not been any since then. So the law makes specific provisions, when it was changed in 1987 it said, *"if you are a member of one of these schemes, before June 1987, you keep all your benefits if you can get 100 per cent capital permutation under the scheme, and to boot you can keep your tax benefit under the Income Tax Ordinance."* Along comes the House in 1987 and says, but from now, from 30<sup>th</sup> June 1987, new entrants into pre June schemes, they can keep their 100 per cent commutation but they start paying some tax on the capital over 25 per cent. Since then there have been no such schemes. There may have been new entrants into pre-1987 schemes, but no new schemes. So there are no new schemes that allow 100 per cent or any figure over 25 per cent of capital, to be paid out.

That is completely different from the question of taxation. I mean this is a matter of the content of the scheme and the conditions imposed by the Commissioner of Income Tax, before he would approve and authorise a scheme in order for the annual pension scheme contributions to be tax deductible against the income of the contributor. Nothing to do with the tax treatment of the benefit itself. Rather the tax treatment of the contribution. So the Commissioner of Income Tax said, I will allow pension scheme contributions to be set off against the income tax of the contributor, provided it is paid under a scheme that does not allow more than 25 per cent of capital to be commuted. But that was not the only exception. There was another exception which is little (2), because the Commissioner of Income Tax recognised that there may be circumstances in which somebody was being paid not just on retirement, but indeed under the terms of the scheme, benefits might be payable before retirement. The purpose of (2) is only to distinguish it from (1). In other words, it is a matter of timing. The rule is, the scheme is approved for the purpose of tax deductibility of pension contributions, provided that on retirement one does not get paid more than 25 per cent of the capital. Then he said unless it is paid earlier than retirement, because of suffering from serious ill health and has a low life expectancy. Yes (2), paid prior to retirement. So (2) simply extends the descriptions under (1), and advances it to pre-retirement in the case of certain individuals. But can I just ask the hon Member to focus on this for a moment. Let us read (g). Capital sums in excess of 25 per cent of the capital value of the pension from a provident society or other fund approved by the Commissioner, that is, and (1) and (2) really describe, recite, what are the Commissioner's rules for approving the pension scheme in the first place. But for (g), and this is the answer I suppose the bottom line answers to the hon Member's question, but for (g), none of it would be taxable. I mean if there was not a (g), and the Commissioner had not through all this that I have just explained to him rendered it impossible, I do not know whether impossible, I suppose somebody could be interested in contributing to a pension scheme without tax deductibility of the contributions, in order to acquire 100 per cent commutation

rights. I suppose that is theoretically possible, I do not think it has happened. So in practice, the Commissioner has seen to it over the years, since 1987, that no scheme exists which allows 100 per cent commutation. But if there were schemes, for example, the pre-1987 schemes for new entrants, the pre-1987 scheme for pre-1987 entrants, that did allow 100 per cent commutation, the whole 100 per cent would have been tax free. But for, and that was corrected in respect of post-1987 entrants into pre-1987 schemes, and entrants into post-1987 schemes by (g), when it was first written into the Income Tax Ordinance, which for the first time said capital in excess of 25 per cent, never mind the circumstances, is subject to tax in certain circumstances. Before that there would have been no liability to tax. So, the 75 per cent remains untaxable except in the circumstances described in (g). Because (g) is the charging section for capital sums in excess of 25 per cent. Now we can go on to decide how that bites. But this is the source of taxation, and then of course in the allowances list, I do not remember from memory whether there is a specific exemption of capital less than 25 per cent or it is just assumed that it is not taxable. I do not know what the answer to that is.

So capital sums in excess of 25 per cent of the value of the pension fund, are taxable in the circumstances when they can be received, subject to (a), (b) and (c). Then (a), (b) and (c) in effect says, that in two circumstances, I think it is (a) and (b), it is not taxable at all. It is not a question of being taxed separately. No, not (a) and (b), I think it is (b) and (c). (a) is a case of it being taxed separately. (c) is a case of it not being taxed at all because it relates to the pre-1987 entrants to pre-1987 schemes. So, the section says, capital sums in excess of 25 per cent are taxable separately, not as part of assessable income, unless (a), (b) and (c), I do not think the hon Member needs me to take him through the (a), (b) and (c). (b) which is the one that he focused on, was the circumstances that I explained about £1,000. So it says capital sums in excess of 25 per cent of the capital value are taxable separately, subject to (b) this paragraph applies to an individual who is a member of or participates in a provident society or other fund, which was

approved by the Commissioner and whose capital sum in excess of £25,000 et cetera et cetera does not buy a pension of at least £1,000. [Interruption] Yes taxable separately.

**HON J J BOSSANO:**

Not zero tax?

**HON CHIEF MINISTER:**

No. Not zero tax. Taxable separately.

**HON J J BOSSANO:**

The whole point is that we have been told that under (b) people will be able to get the £25,000 tax free. That is what he just told us when he introduced the Bill. My reading of it is that they will not be able to get the 75 per cent tax free if it is £25,000. That it will be taxed separately, which he has just repeated. That is the point that I have been making throughout. Because he says that it is unless one comes under (b). This does not say unless one comes under (b). This says subject to the provisions of (b). If I read a law that says, *"if you are allowed to take more than a quarter of the amount in the scheme, you can take a quarter and that is capital and the law says up to 25 per cent is not taxable."* That is in the existing Income Tax Ordinance, in the rules on allowances, deductions and exemptions, rule 12(1) says, capital sums not exceeding 25 per cent of the capital value of the pension received by an individual on retirement from a provident society or other fund approved by the Commissioner. So that is there now, that is not being changed. If one has £100,000 in the fund, one can take £25,000 and that is not taxed. The other £75,000 one is required to buy an annuity which will produce an income stream.

Now let us suppose that interest rates were so low that even with £75,000, it is not likely to happen, but even with £75,000 one could not get more than £1,000. Then, according to section (b), one would then be able to argue with the Commissioner, well look, since I cannot get more than £1,000 I should be able to take the whole of the money, the 25 per cent and the 75 per cent. We are being told that when that happens, one will be able to get not just the 25 per cent tax free but the 75 per cent tax free as well. No. So it will be subject to the 20 per cent.

**HON CHIEF MINISTER:**

Absolutely. Only the 25 per cent is tax free, in accordance with the existing and the new legislation. Anything above 25 per cent is always subject to this 20 per cent tax as it has always been. Except the only people who have not been subject in the past to the 20 per cent tax on the excess over 25 per cent, have been pre-1987 entrants into pre-1987 schemes, that allowed 100 per cent commutation. Everybody else has always paid 20 per cent tax on any capital over 25 per cent that they have drawn from their pension scheme. That will continue to be the case.

The hon Member also raised the issue of why could the Commissioner not approve this as a scheme, why did we need this legislation? Can I just remit him to what I have said before. Subsection (g) does not relate to the annuity scheme, does not relate to the Gibraltar Pension Annuity Trust Scheme. It relates to the occupational pension scheme. Let us not confuse, let us be clear, I am not saying the hon Member is confused but let me just say it for the sake of clarity and the record. The Gibraltar Provident No. 2 Scheme is an occupational pension scheme. The Gibraltar Pension Annuity Trust Scheme is not a pension scheme. It is an annuity provider. Those are wholly quite different. One could be a member of the Barclays Bank occupational pension scheme, the Shell occupational pension scheme, the Government occupational pension scheme, and then when one comes to retirement, one can take 25 per cent of whatever cash those occupational pensions schemes give and

with the balance of 75 per cent, so one is walking around with a wad of cash representing 75 per cent of ones pension scheme benefit, who will sell me an annuity. The law says I must buy an annuity with this, or rather the trust scheme says I must buy an annuity with this. There are not any. So the Government are becoming, well there are not any any more, the companies that used to sell from the UK annuities in Gibraltar, have pulled out of the market. The Government are therefore becoming an annuity scheme provider. Therefore the Gibraltar Pension Annuity Trust Scheme is not subject to the rules of the Commissioner of Income Tax approval of schemes, those are rules that relate to the approval of pensions schemes not to the approval of annuity providers. So all that we are doing is to say, as there is nobody to sell an annuity to somebody who has exited from their pension scheme, once they have exited from their pension scheme we the Government will sell them an annuity. So it would not have been possible for the Commissioner to do all this under his powers to approve the content of pension schemes, the trust deeds and the benefits rules of pension schemes, because this is not a pension scheme. This only kicks in after one leaves the pension scheme.

The Hon Member refers to the Gibraltar Savings Bank. It may be that this will not be provided by the Gibraltar Savings Bank, and that it may be done by a Special Fund under the Government called, I suspect if we go down that route it will be called the Gibraltar Pension Annuity Trust Scheme Special Fund, established under the Special Fund Public Finance. The reason why we had second thoughts about doing it through the Savings Bank is that it would have increased massively our reserve requirements because the Savings Bank is subject to this 8 per cent reserve requirements. These would have been regarded as deposits into the Savings Bank, whereas ring-fenced in a Special Fund they are not subject to the same, a Special Fund in the name of the Government rather than in the Savings Bank. So that is one of the reasons why this might not emerge under the Savings Bank. We could end up with many, many, tens, hundreds of millions of pounds of this over the years, and if we have to match that with an 8 per cent reserve,

there would be a large and wholly unnecessary use of public funds to provide a reserve when the monies actually under deposit are not under any risk because the annuity income under the scheme is whatever income the funds provide. So the capital and the income do not have to respond to a particular performance.

I think I have dealt with it. There is no change, he asked me to confirm it and I confirm it. There is no change on this question of serious ill health and has a low life expectancy, which simply brings forward the timing of when payments can be made out of an occupational pension scheme, without forfeiting the scheme's approval for deductibility of the pension contributions.

**HON J J BOSSANO:**

On the last point on the Gibraltar Pension Annuity Trust Scheme. That provides for capital sums received by an individual other than the capital sums received by way of draw down, forming part of an annuity payment. Here we are talking, as the Chief Minister has said, with the amount of capital in excess of the 25 per cent which is used to purchase an annuity from the Government scheme. Right. Now of course we do not know how that is going to work. This is why I said in my original contribution, we might need to reserve our position until we see exactly how the scheme is. But this implies that the scheme will work on the basis that it can pay to individuals capital sums over and above the draw downs that form part of the annuity payments. Well it says here capital sums received by an individual from the annuity scheme, other than the sums received by way of optional draw down which form part of the annuity payments. Now this seems to suggest that if the draw down of the capital that has been put into the scheme is part of the annuity payment, it is part of the assessable income, but that the individual will also have the opportunity to draw down other amounts which will be taxed differently from being part of the assessable income. Is that the case?

**HON CHIEF MINISTER:**

Mr Speaker, I did allude to this point, maybe in passing and the hon Member may not have heard it. This (h) is the equivalent of (b). In other words, (b) is the circumstances in which one can draw monies from ones pension fund above the 25 per cent. (h) charges to tax the same thing when one draws it later. Later, much later. Let us say that one comes out of the scheme, one cannot avail oneself under (b) because one can buy with the 75 per cent an annuity from the Government that pays more than £1,000, but once the annuity is running one draws the interest and also the optional draw down, which I think is going to be allowed at 2.5 per cent, actuarially has been worked out, and I think the scheme is going to allow people to draw down capital. In addition to the income from the fund they will be able to draw down 2.5 per cent of the capital per annum. Well it is easy to see how the drawing down of capital at 2.5 per cent per annum over a number of years, may well at some future point, reduce the capital below a level where it gives £1,000. Does he see what I mean? So this is so that once one is part of the annuity scheme, once the capital left, if one is drawing it down at 2.5 per cent, if at any point perhaps it is not a question of ones capital withdrawals, perhaps it is just plummeting interest rates. Once one is a member of the annuity and whatever funds one has, either the full fund or the diminished fund, one has been drawing down 2.5 per cent of it per annum, once it, ones remaining funds, provides one with less than £1,000 per annum income, one will then have the option to withdraw the capital. one will then have the option to withdraw the capital. This says that the annual draw downs are not taxed separately at 20 per cent. The annual draw downs are taxed as part of ones pension at the usual rates. But if one decides to take away the whole of the balance of the capital, in one lump sum, then it is taxed at the 20 per cent separately. I have to say, that there is a point here upon which no one has asked the Government for a policy decision. Depending on what the effect of this is, we may have to come back to the House. But one of the things that I have asked is, because the hon Member will recall that one of the novelties of this annuity, and we think that it is going to be



something that is going to be very popular and eventually other countries will start copying us. One of the great novelties of this annuity scheme is that the capital is not lost. The hon Member will know that in most annuity schemes one goes along to the annuity provider, pay him £100,000 and he pays an annuity. If I last 20 years he is paying it to me for 20 years, if I live a year, my family and my estate has lost the capital. This leaves, as part of the estate of the deceased, whatever capital remains on his death. I have said to the officials, that I read (h) in (2) as taxing the capital when it is withdrawn from the scheme by the estate. The balance of the capital. I see nothing there that does not apply to it. It is capital sums received by an individual from, the individual now being the heirs, from the Gibraltar Pension Annuity Trust Scheme shall be taxed separately in accordance with the rules. So unless they can persuade me between now and Committee Stage, that that language is clear, we may at Committee Stage, which we are not taking today, we may come back with an amendment to make clear whether or not it does apply to the residual withdrawal of capital on the death of the annuitant, upon which the Government actually have not made a policy decision because no one has focused our minds on it. So if we decide that it should be taxed, it will stay as it is. If we decide that it should not be taxed, there will be a need to move an amendment to make it clear that it is not intended to catch that.

Question put.

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

Mr Speaker, we are abstaining on this, because the explanation that we got from the Chief Minister is that it will continue to be taxed at 20 per cent, and we thought from his introduction that in fact that amount was going to be tax free.

Question put.

The House voted.

For the Ayes:

The Hon C Beltran  
The Hon Lt Col E M Britto  
The Hon P R Caruana  
The Hon Mrs Y Del Agua  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon J J Netto  
The Hon F Vinet  
The Hon T J Bristow

Abstained:

The Hon J J Bossano  
The Hon C Bruzon  
The Hon Dr J J Garcia  
The Hon S E Linares  
The Hon Miss M I Montegriffo  
The Hon F R Picardo  
The Hon L A Randall

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 on another day.

#### **THE ADMINISTRATION OF JUSTICE ORDINANCE 2004**

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

I have the honour to move that a Bill for an Ordinance to make further provision for the administration of justice, be read a first time.

Question put.

Agreed to.

## SECOND READING

### HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this is a short Bill but actually it brings about quite an important change in our system of administration of justice. The Bill basically does two things. In 38A(1) it provides a basis in primary legislation for something that the Chief Justice has already done under section 15 of the Supreme Court Ordinance. That is to introduce the Woolf Reforms. Section 15 says that the rules of civil procedure in Gibraltar shall be the same as in the UK, and the Chief Justice under another section has power to make rules of procedure in the courts of Gibraltar. The Chief Justice, in fact, has done all of that to introduce what is called the Woolf Reforms, which is a system of truncated procedure, which has already been operating in our courts for some time. Some doubt has been expressed, let me hasten to add doubt dispelled by those who do not share the view with equal vigour to those that expressed the doubt. In other words, doubt has been expressed as to whether all aspects of the changes that might be possible in UK civil procedures can be introduced into Gibraltar, through section 15 of the Ordinance and the Chief Justice's rule making powers. Some people have expressed to the Government the view that there is a doubt. Other people have expressed the view to the Government that there is no doubt whatsoever. But the Government, with the agreement indeed at the request of the Chief Justice, have agreed to bring this section 38A(1) to make it absolutely clear of what many people have no doubt about anyway and that is that there is already sufficient basis in primary legislation and in subsidiary legislation. So that is really a belt and braces approach to put out to the realms of the possible, the arguments that some people have fielded.

The other thing that the Bill does is make provision for something that could not have been done without primary legislation. That is allow the completion, the deployment of the Woolf Reforms to

be fully completed in Gibraltar. One aspect of the Woolf Reforms was a so-called fast track system basically for small claims. But of course in Gibraltar we have a statutory system for such claims called the Court of First Instance, which is established in primary legislation and therefore cannot be repealed by any rule making power that the Chief Justice may have under the Ordinance. So when the Woolf Reforms were introduced, they were introduced minus the fast track system. This other amendment, this section 38B(1), and the subsequent clauses of the Bill, (3), (4), (5) and (6), has the effect of repealing the Court of First Instance Ordinance, transferring to the Supreme Court any cases presently before the Court of First Instance and allowing the Chief Justice then to make rules, under his rule making power, to create a fast track within the Supreme Court's procedures as opposed to a wholly separate court, separately established by statute, which is what we have got today, the Court of First Instance established under the Court of First Instance Ordinance. So, the Bill also makes provision for something called a "master", which is not a term we are familiar with in Gibraltar. But it is something which is established in the UK. A master is either a more junior judicial officer or indeed a practising lawyer who sits part-time as a master, to hear these small cases in the so-called fast track, but no longer as a separate court, the Court of First Instance, now a fast track procedure in the Supreme Court. So in effect we lose the Court of First Instance as a separate court.

Clause 3 repeals the Court of First Instance Ordinance. Clause 4 eliminates references to the Court of First Instance in the Court of Appeal Ordinance and in the Magistrates' Court Ordinance. I will be moving an amendment in clause 38B(1)(iv), it says the Governor after consulting the Chief Justice, may appoint any person appearing to him to have the requisite knowledge and experience to act as a master. I am advised that under the Constitution the appointment of persons to judicial offices, indeed for example today the appointment of the Registrar, and indeed the appointment of the Judge of the Court of First Instance, which is the person that these masters are in effect replacing, is constitutionally the preserve of the Governor. He does in fact

consult the Chief Justice and others, I am glad to say, but it is not a statutory requirement of him. So I will be amending the subsection (4) just to delete the words “after consulting the Chief Justice”, to make it consistent; (a) with the Governor’s constitutional position; (b) with the Bills that this is replacing; which is the Court of First Instance under which the Judge of the Court of First Instance is appointed by the Governor. I commend the Bill to the House.

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

**HON F R PICARDO:**

Mr Speaker, I think there is no doubt whatsoever that anything which makes access to justice easier and fairer is going to be welcome in both sides of the House. But as the Chief Minister has already said, the access to justice reforms, the Woolf Reforms, are already very much a part of the daily life of those operating in our courts in Gibraltar, and they have been for the past two or three years. But it is welcome to see formal recognition of the reforms in our primary legislation. I do not know that it is fair, however, to call the reforms a truncated procedure. I think that they go much further than that, and it is for that reason because they do go much further than that that these reforms in particular, in relation to the Court of First Instance and the Magistrates’ Court are to be particularly welcomed. Because they will make access to justice in that court cheaper and fairer therefore, both for creditors and for debtors who need to defend themselves and now find themselves, in respect of any debts over £1,000, limited to claims in the Supreme Court, which obviously involves much greater expense than was intended at the time that the Court of First Instance Ordinance was put in place. And indeed at the time, I am sure, that section 26 of the Magistrates’ Court Ordinance, which is also being repealed today, was brought about, which gives the Magistrates’ Court jurisdiction to deal only with claims of less than £5.00. Few claims today relate to

amounts, contractual amounts, of less than £5.00. So this Bill will be welcome by both sides of the House. The incorporation into our system of procedure in court of the civil reforms, I think has been almost universally welcome by the legal profession, and I hope therefore, also by the users of the legal profession. But one tangible aspect that was missing of those reforms was the fast track procedure. Really the Woolf Reforms were limping if the fast track procedure was not there. It is important that the fast track procedure is there, and therefore this Bill is welcomed, I am sure, by both sides of the House.

**HON CHIEF MINISTER:**

Whether the fast track procedure in the Supreme Court turns out to be cheaper, will depend on where the maximum level of claim is set by the Chief Justice in relation to the fast track route. The Court of First Instance is not more expensive than the fast track procedure of the Supreme Court so it is capable of having the effect that the hon Member describes and I hope it will have the effect that he describes.

**HON F R PICARDO:**

What I meant was, if I did not make myself clear I apologise, that the Supreme Court procedure is much more expensive than the Court of First Instance procedure and people having to go through the Court of First Instance procedure, because the parameters of the Court of First Instance which are debts of less than £1,000 are far too low now.

Question put.

Agreed to.

**HON CHIEF MINISTER:**

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

Question put.                      Agreed to.

**THE IMPORTS AND EXPORTS (AMENDMENT) ORDINANCE 2004.**

**SECOND READING**

**HON CHIEF MINISTER:**

I have the honour to move that a Bill to amend the Imports and Exports Ordinance 1986 be read a first time.

Question put.                      All agreed.

**THE IMPORTS AND EXPORTS (AMENDMENT) ORDINANCE 2004.**

**HON CHIEF MINISTER:**

Mr Speaker, I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill is moved at the request of the Collector of Customs and indeed his own request is based on a view put to him by his staff, who felt that there are certain duties that Customs Officers carry out, outside the run of the mill routine manning of entry points, where they are exposed or potentially exposed to physical situations requiring them to defend themselves, and when they in fact have no means of no

equipment to aid their defence. Hon Members will know that the police are routinely equipped with truncheons and that is part of their standard kit and they wear it all the time. Customs Officers do not. The Government do not support customs officers wearing truncheons all the time, but does support them wearing truncheons when they are engaged in non entry point manning. So for example, the fast team goes out on launches in the middle of the night, they could find themselves having to restrain a particular situation. They patrolled the frontier fence at the time when people were chucking cartons of cigarettes over the frontier fence or running through holes in the frontier fence. They would patrol that and in fact there were occasions in which they found themselves involved in fracas with people that they had surprised and caught doing that. So the Government thought that it was reasonable that there ought to be a procedure whereby customs officers could be equipped with truncheons, when it was appropriate to do so. Hence the formula in this Bill that it has to be specifically authorised by the Collector of Customs, with the written consent of the Chief Secretary. The latter obviously to give the Government some sort of policy opportunity to make sure that the threshold for the wearing of truncheons by customs officers is not lowered below the point that Government policy wishes to sustain. But there is no disagreement between us as to the circumstances in which it should be exercised at the moment. In other words, the Government are happy for them to be issued and worn routinely, when they are out in patrol on their boats and when they go on patrol away from their post, when they are walking up and down the length of the frontier from the whole east to west length of it. That is well within the parameters of what the Government, in fact, that is why we are bringing the Bill to the House, precisely to permit it in those circumstances. 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, certainly any amendment to our legislation which is designed to afford greater protection to our law enforcement agents, will be welcome by both sides of the House and that obviously includes the Opposition. The Bill before us, the Opposition notes that the power to allow officers to carry truncheons is in fact a very wide power, and relates to engagement in any duty or to any power. Any duty, as drafted, includes at any entry points it includes the frontier, the airport, the port or any other part of Gibraltar or of Gibraltar's waters. Although we understand that following the explanation from the Chief Minister, it is something which is not intended for run of the mill duties but perhaps what is called more exceptional circumstances, patrolling the frontier fence or going out in fast launches. The power is exercisable by the Collector but only with the written consent of the Chief Secretary.

Mr Speaker, although the Chief Minister has touched on the subject, we do not feel the Government have adequately or sufficiently explained perhaps, why the Collector of Customs, who is in fact a Senior Member of the Civil Service, should not be empowered to specifically authorise the use of truncheons by his officers himself, and we would welcome an explanation as to why the Collector cannot implement the policy decision of the Government and why it needs to have the second filter as it were, of the Chief Secretary. Because it could be argued that the Collector is in fact the head of that department and therefore should be relied upon to implement the policy without having to go to the Chief Secretary to obtain his written consent. In a sense, perhaps, it could be seen to be superfluous that there should be this double filter, this double layer of decision making should exist.

As I have just said, there is a case for the Collector to be the only authority to determine whether or not his officers are armed. This is surely an operational decision where the Collector would be the best judge of whether truncheons are required or not although we understand the general framework within which the

Government expects for this policy to be implemented. There are also several areas where the Opposition would welcome clarification and perhaps an expansion of the explanation that the Government have given. This that I have just said is one of them. The Chief Minister mentioned that this has come about as a direct request of the Collector of Customs, and that that came about at the request of his staff. What we do not know is when that request was made and how long ago was it that this was requested by the Collector of Customs, and could the Chief Minister please clarify that to the House. It would also be relevant I think, in this context, and if the Chief Minister has that information readily available, for the House to learn what the practice is in the United Kingdom in this respect, and whether customs officers there are also authorised under certain circumstances to carry truncheons, and who is it that actually takes that decision and authorises that decision in the United Kingdom. We think it would be relevant to the debate and it is certainly something that would be useful to the Opposition.

Mr Speaker, the Chief Minister has explained what has brought about the need for this in Gibraltar in relation to customs officers being threatened, or even being assaulted, as they go about their duty in those exceptional circumstances. As I have said at the outset, the Opposition welcomes legislation to provide greater protection to our law enforcement agencies. The areas of clarification which concern us relate more to how the Government have decided to go about it and to the mechanism that they have used, and that is where we are really requesting a more detailed explanation. That is all we have to say at this stage and I certainly welcome clarification from the Government on the comments and concerns and the various questions that we have raised.

**HON CHIEF MINISTER:**

Well, if I could just take the hon Member's points in reverse order. First of all I cannot tell him what the practice is in the United Kingdom or in any other country for that matter. We

make these domestic policy decisions by reference to what we think is in the best interests of Gibraltar and not necessarily, although on some occasions we are steered by practice elsewhere, we do not regard the practice elsewhere as being definitive one way or the other in deciding the desirability of a particular course of action. I cannot tell the hon Member when the request was made nor do I think it is particularly relevant to the debate, which is whether does he agree or does he not agree with what the Bill says now. That said, If the hon Member is trying to find out whether this was a very long time ago and whether the Government have been sitting on their hands, actually I do not think it was a very long time ago. I think it was quite recent but I could not tell the hon Member when it was. I have to say that I am a little bit perplexed by the hon Member's fundamental point. First, on the one hand he says that it is too wide a power. First of all he says he welcomes measures to support the protection of our law enforcement agencies, but he should have said provided it is not too wide. Because he then went on to say that he thought that this was too wide because it could be done if specifically authorised by the Collector of Customs. In other words, there is not a listing of the circumstances in which it should be allowed. He went through these examples of this or that. Then, the very next point, the first point being that it is too wide, the very next point is to challenge why there should be a need for a second tier of control. Well, the answer to his question why is there a need for a second tier of control, is precisely his concern that it is otherwise too wide. The second tier of control is precisely so that those that are working within Customs, which includes the Collector of Customs, should not be the sole arbiters of when it is acceptable in this community for customs officers to be armed with truncheons. If it were not for the second tier, then in effect management in customs, which is what Collector of Customs is, would be making that decision by himself. Now, in respect of operational discretions, the Government would not normally issue instructions to the Collector of Customs in respect of operational matters. So that is not really enough of a route. The hon Member said well what is the need for this, he is a senior Civil Servant. I suppose he meant one could just order him not to issue truncheons. Well, if

that is his suggestion, then he cannot really object to the principle of supervening power impacting on the Collector's decision, because he is inviting me to do it even without statutory route. This is a statutory route requiring, as he correctly says a second tier, in order that the Collector should not succumb to too much internal pressure for it to be used in circumstances where policy makers, who are primarily the Government and the legislature, do not think that it should be. Perhaps I could just make it clear to the hon Member, it will not require on each and every occasion, the Collector of Customs may seek the Chief Secretary's consent to the description of circumstances. In other words, he will not have to ring on Thursday afternoon, *"Hello, can I give out truncheons to my guys this evening because they are going out on this or that."* So it is not that full. The consent will be to the circumstances in which truncheons can be carried and there will only be a need for a specific written consent if a new situation arises not covered by an existing generic consent.

**HON DR J J GARCIA:**

Could the Chief Minister please give way. In relation to the comment on the description of specific circumstances, could not that have been done by this House and included in this Bill?

**HON CHIEF MINISTER:**

No. We did consider doing it that way but we thought it would have been too cumbersome. In other words, to have to come back to this House every time a new circumstance arose that we had not thought of, we at drafting stage and the hon Members might have added a few. If we were talking about arming our customs officers with firearms, I could understand the hon Member's concern. Let us not lose sight of the fact at this debate that we are talking about the carrying of truncheons, which in certain circumstances may be carryable anyway. I am not entirely convinced that one needs statutory provision to carry a truncheon. I am not sure a truncheon is an offensive weapon

per se, but they wanted the comfort of statutory cover and the Government have agreed. We have not got to lose sight of the fact that this is not, the threshold of policy here is not very high it is much lower than if we were talking about firearms, for example. At the end of the day we are just talking about a telescopic truncheon in the holster and that I think that the suggestion that there might need to be that degree of concern that would require listing specifically the circumstances, I think is probably excessive given the fact that we are only talking about truncheons.

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 PUBLIC HEALTH (AMENDMENT) ORDINANCE 2004**

#### **HON F VINET:**

I have the honour that a Bill for an Ordinance to amend the Public Health Ordinance to further transpose Council Directive 91/689/EEC on hazardous waste and to give effect to Decision 2000/532/EC of 3 May 2000 replacing Decision 94/3/EC establishing a list of wastes pursuant to Article 1A of Council Directive 75/442/EEC on waste and Council Decision 94/904/EC establishing a list of hazardous waste pursuant to Article (4) of

Council Directive 91/689/EEC on hazardous waste, be read a first time.

Question put.                      Agreed to.

#### **SECOND READING**

#### **HON F VINET:**

I have the honour to move that the Bill be now read a second time. Mr Speaker, the Bill before the House seeks to amend the Public Health Ordinance so as to provide legislation for the classification of certain waste as hazardous. By way of background I would like to tell the House that infractions proceedings were commenced by the European Commission against the United Kingdom for its failure to treat as hazardous amalgam waste from dental care. During the course of the infraction proceedings the United Kingdom accepted the Commission's point and that as a result legislative changes become necessary, both in the UK and here in Gibraltar. The Bill sets out to achieve the required changes by amending the definition of hazardous waste and updating Schedule 11A. Schedule 11A now sets out all waste which is deemed hazardous, in addition to dental amalgam. Additionally, this Bill permits the amendment of the list by way of notice in the Gazette. This will allow for any updating to be done more efficiently.

Mr Speaker, I am informed that even without this legislation, dental practices in Gibraltar already have dental amalgam filters and therefore the changes brought about by this legislation will not have any adverse impact on their operations. Finally, the Bill gives effect to a further directive led requirement, which is that Member States retain the power to classify certain wastes as hazardous. Therefore, local circumstances should dictate

whether such power needs to be exercised. I commend the Bill to the House.

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

**HON F R PICARDO:**

Mr Speaker, the amendments which are proposed to section 192K, I think actually serve to make 192K (a)(i) clearer than it was. The Minister has told us that in fact these amendments were brought about as a result of legal action against the United Kingdom taken by the Commission. Can I just ask him when he speaks again on this Bill to tell us whether he knows, if in fact he knows, whether actually the Gibraltar method of transposition was also mentioned in that challenge, or whether the challenge was only directed to the identical type of transposition that the United Kingdom was defending. I think, in principle, there is one important point to note about the change in the way that we will deal with clinical waste under this new legislation. Clinical waste has until now, under sub-paragraph (2) of 192K(A), being dealt with generally as hazardous waste. Now, under the provisions of chapter heading 18 of Schedule 11A, there are lots of As in this Ordinance, clinical waste will be broken down into different types of clinical waste. Some of it will continue to be considered hazardous waste and some of it will not be considered hazardous waste at all. I think that that will be an issue that needs to be kept under review. I can imagine that these schedules come from much more learned scientific individuals than any of us, but certainly there are aspects of the heading 18 which relate to what was generally before known as clinical waste which would certainly seem to me not something that one wants to see lying around in a rubbish bin, and that one wants to ensure is dealt with in a more appropriate manner. So that I think is something to look out for, although I understand that we are simply here proceeding to bring into our legislation what the directive requires. It may be that we eventually decide that we want to go a bit further and we want to go back to the blanket

feeling of clinical waste as hazardous waste which I am sure would be something that would not be challenged by the Commission because we would then be going further than transposition requires. I will be moving and I give notice now if it is useful two small changes in the Committee Stage which I think are just of assistance. First that one of the subsections which is not dealt with, which is subsection (7), at the very end talks about written applications to the Chief Environmental Health Office. I think that should be, that is not in the Bill, it is in the section which is being amended. But we might take the opportunity now to simply add that the reference in subsection (7) should be to the Chief Environmental Health Officer not the Chief Environmental Health Office which I do not think exists. There is a reference in the existing subsection (3) to subsections (1) and (2), and I think that consequentially as a result of deleting (2) will need to take out the reference to subsection (2) there. Generally I cannot imagine any reason why we would oppose the new schedule brought into play given that it is a requirement of the EU in certain scientific characteristics. I would say this, the new subsection (9), which gives the Minister power to change this principal Ordinance by order in the Gazette it is not the first time that we see such delegated legislation allowing the amendment of principal legislation. It is very common where administrative circumstances would make it just cumbersome to come back to this House to change a schedule, but it is what is known as a Henry VIII clause that allows the Minister to change legislation. When those types of clauses were first inserted into legislation they were referred to as Henry VIII clauses because of that monarch's particularly autocratic style of government. I say no more.

**HON F VINET:**

Mr Speaker, if I could take just one of the final points made by the hon Member. I had in fact also noted the discrepancy that will now exist in section 192K(a)(iii) and there is indeed a need to delete referencing to subsection (2). In answer to a query made in the beginning of his intervention, the infraction proceedings did



relate to the UK and to Gibraltar, because the practices conducted in Gibraltar equated to those in the UK.

Question put.           Agreed to.

The Bill was read a second time.

**HON F VINET:**

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

Question put.           Agreed to.

The House recessed at 12.15 pm

The House resumed at 12.20 pm

**COMMITTEE STAGE**

**HON CHIEF MINISTER:**

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

1. The Administration of Justice Bill, 2004;
2. The Imports and Exports (Amendment) Bill, 2004;
3. The Public Health (Amendment) Bill, 2004.

**THE ADMINISTRATION OF JUSTICE BILL, 2004**

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

Clause 2

**HON CHIEF MINISTER:**

As I have given written notice in sub-clause (4) of what will be 38B, to delete the words “after consulting the Chief Justice”. The hon Members will recall that during the second reading I gave the explanation that this is to make the appointment of the master constitutionally consistent with the appointment of other judges, and indeed with the appointment of the Court of First Instance judge which the master replaces.

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

Clauses 3 to 7 and the Long Title – were agreed to and stood part of the Bill.

**THE IMPORTS AND EXPORTS (AMENDMENT) BILL 2004**

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

**THE PUBLIC HEALTH (AMENDMENT) BILL 2004**

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

New Clause 3

**HON CHIEF MINISTER:**

I think the easiest way to do the amendments, rather than amending the existing clauses, is simply to add a new clause (3) of the Bill with the following amendments:

1. In 3(1) in subsection (3) of section 192KA delete all references to subsection (2) where they appear in the first line.
2. In subsection (7) of section 192KA delete the last word of the clause, which is presently "Office" and insert "Officer".

New clause 3 – was agreed to and stood part of the Bill.

The Long Title – was agreed to and stood part of the Bill.

**THIRD READING****HON CHIEF MINISTER:**

I have the honour to report that the Administration of Justice Bill 2004; the Imports and Exports (Amendment) Bill 2004; and the Public Health (Amendment) Bill 2004 have been considered in Committee and agreed to, with amendments, and I now move that they be read a third time and passed.

Question put.

The Administration of Justice Bill 2004; the Imports and Exports (Amendment) Bill 2004; and the Public Health (Amendment) Bill 2004 were read a third time and passed.

**ADJOURNMENT:**

The Hon the Chief Minister moved the adjournment of the House to Tuesday 29<sup>th</sup> June, 2004 at 10.00 am.

Question put.                      Agreed to.

**HON CHIEF MINISTER:**

Mr Speaker, with your indulgence I wish to change that the reason being that the date that I have moved the adjournment to, the 29<sup>th</sup> June 2004, is not possible. But I am not in a position to say what date exactly immediately around that is possible. So with the House's consent, particularly the Opposition's consent, what I would like to move is that the House should adjourn to a date to be designated by me to the Speaker this afternoon, and to be notified by him to the hon Members as soon as I have designated a date.

**MR SPEAKER:**

So we now adjourn to a date to be fixed by the Leader of the House and to be communicated to you by me.

The adjournment of the House was taken at 1.00 pm on Tuesday 1<sup>st</sup> June 2004.

**THURSDAY 30<sup>TH</sup> JUNE 2004**

The House resumed at 2.35 pm.

**PRESENT:**

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

**GOVERNMENT:**

The Hon P R Caruana QC - Chief Minister  
The Hon J J Holliday - Minister for Trade, Industry and  
Communications  
The Hon Dr B A Linares - Minister for Education, Employment  
and Training  
The Hon Lt-Col E M Britto OBE, ED - Minister for Health  
The Hon J J Netto - Minister for Housing  
The Hon Mrs Y Del Agua - Minister for Social and Civic Affairs  
The Hon C Beltran - Minister for Heritage, Culture, Youth and  
Sport  
The Hon F Vinet - Minister for the Environment, Roads and  
Utilities  
The Hon T J Bristow - Financial and Development Secretary

**OPPOSITION:**

The Hon J J Bossano - Leader of the Opposition  
The Hon F R Picardo  
The Hon C A Bruzon  
The Hon S E Linares  
The Hon L A Randall

**ABSENT:**

The Hon R R Rhoda QC - Attorney General

**IN ATTENDANCE:**

P E Martinez - Clerk of the House of Assembly (Ag)

**DOCUMENTS LAID:**

The Hon the Financial and Development Secretary laid on the  
Table the Statement of Supplementary Estimates No 1 of  
2003/2004.

Ordered to lie.

**BILLS**

**FIRST AND SECOND READINGS**

**THE APPROPRIATION 2004/2005 ORDINANCE 2004**

**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  
31<sup>st</sup> day of March 2005 and to appropriate sums of money to the  
Supplementary Appropriation for the financial year 2003/2004,  
be read a first time.

Question put.

Agreed to.

## **SECOND READING**

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

I have the honour to move that the Appropriation Bill be now read a second time. I will Mr Speaker, be confining my contribution for this Second Reading to an outline of the contents of the Appropriation Bill. As is customary the Chief Minister will be presenting the Government's budget for the financial year 2004/2005.

The Appropriation Bill this year is in four parts. The first three deal with the appropriation for the current financial year and the fourth part concerns supplementary appropriations for the last financial year. With respect to 2004/2005, first the House is being asked to appropriate an amount not exceeding £142,798,000 from the Consolidated Fund for departmental spending. A further £27,295,000 is consolidated from charges not requiring a vote by this House, brings the Government's total estimated recurrent expenditure to about £170,000,000. Details of this expenditure together with the revenue is set out in the Government's Estimates of Revenue and Expenditure which were laid in the House on 30<sup>th</sup> April this year. Second, the House is being asked to vote £5 million contribution from the reserves to the Improvement and Development Fund together with a provision of £20,000 should there be any residual spending on the Moroccan resettlement scheme. The third part of the Bill, seeks the appropriation of £80,428,000 for the Improvement and Development Fund spending on capital and economic projects. In addition to the contribution from the Consolidated Fund the rest of the revenue derives mainly from the projected sale of Government land and buildings, EU grants and utilising some of the balance held in the Improvement and Development Fund. The fourth and final part of the Bill seeks supplementary appropriation for the last financial year 2003/2004. Supplementary Appropriation Bills have normally been taken in separate Bills but because of the timing this time round, it coincided with the annual Appropriation Bill and they will be taken together as one piece of legislation. This final part of the

Bill seeks supplementary appropriation in respect of the last financial year of up to £2,500,000 for the Consolidated Fund and £1,500,000 for the Improvement and Development Fund. The purposes for which these monies are sought are set out in the statement of Supplementary Estimates which were laid earlier on in this meeting.

There is just one further point I would make, the supplementary appropriations of the Consolidated Fund of £2,500,000 is being voted to the Supplementary Funding Head as the monies need to be dispersed across the bulk of departmental heads. Of the supplementary provision of £4,000,000 in Approved Estimates for last year, nearly £3.8 million has already been allocated in statements made in this House during the course of this year. Hon Members can see the projected spend department by department, subhead by subhead, in the Forecast Outturn columns of the latest Government Estimates and they can see the overall financial position of the Government thereto and can see that it remains in surplus taking the two years together. I now give way, Mr Speaker, to the Chief Minister and in so doing commend the Appropriation Bill 2004 to the House.

### **HON CHIEF MINISTER:**

Mr Speaker it is an honour for me to rise once again in this House, for the first time in this our third successive term in office, to present the Government's Budget of Revenue and Expenditure for this year, and generally to comment on the state of the economy and of Government finances. I am happy to be able to report yet again that the economy is in good robust shape and continues to grow at healthy rates despite the various external challenges that it faces. In 2001 and 2002 gross domestic product grew from £433.6 million to £470.2 million, representing an annual economic growth rate of 8.4 per cent in money terms and 7.8 per cent in real terms, that is after deducting inflation. This growth in the economy is reflected in many other economic indicators which I will mention later, including the rise in the number of new real jobs in our economy

which increased by at least 600 in the year 2003. It is also reflected in record levels of activity in the various sectors of the economy. In respect of the last year ended 31<sup>st</sup> March 2004 the Government are forecasting that it operated a small budget deficit of about £1.3 million. This deficit is struck after a £5 million non-recurring grant payment to Community Care. For this current year the Government's budget estimates a surplus of about £2 million, although some planned revenue raising measures that are not reflected in the budget estimates of revenue will, I believe, restore the budget surplus to higher levels than that. The elimination of the budget surplus has occurred as a matter of policy as the Government have consciously set about returning money to tax payers through substantial tax cuts and also by developing and expanding as necessary public services. Government reserves remain at nearly £43 million above the average annual level over the last six years. We estimate that at the end of this year to March 2005, Government reserves will remain at approximately the same level. Public debt has risen as estimated at the year start to £88 million. Gibraltar's public debt levels properly measured as a percentage of gross domestic product or servicing cost as a percentage of total Government revenue remain among the lowest in Europe, and well within recommended prudence levels. Gross public debt at £88 million is at a level only £5 million higher than net public debt, that is gross debt minus debt sinking fund was in 1995, nearly ten years ago. What is more, these are gross debt figures, net debt, that is to say debt after deducting Government reserves, stand at just £45 million. In 1996 this figure stood at £24 million, in other words, net debt has grown just £21 million in eight years despite the strong growth in the size of the economy in that time and the high level of public capital investment that has occurred. Government will continue to operate prudent public finance policies whilst continuing to fund their capital investment programme to ensure Gibraltar's continuing development.

Mr Speaker, this year there has been some ill-informed public comment about the state of public finances and about "the high level of public expenditure". This has led some people to believe that there is a problem in Government finances. This is not the

case, indeed the budget before the House estimate an increase in both Government revenue and Government expenditure. There has been ill-informed comment about "cuts in expenditure". There are no cuts in the approved level of any of the principal items of public expenditure. However, I would not wish to leave the impression with that statement that cuts in public expenditure are necessarily a bad thing. Nor necessarily are they, if they should occur, a sign of shortage of money or financial problems. Public expenditure should be what is required to run Government, to promote the political and economic interests of Gibraltar and to deliver an appropriate level and range of public services to modern European standards. That must be balanced with keeping taxation to the lowest possible levels and indeed striving to reduce taxation as this Government has done every year that they have been in office. And so the curtailment of excessive growth in, that is to say not even actually cutting public expenditure, is a virtue and not a vice not least because it enables the Government to lower taxation. So this ill-informed commentary to which I refer tends to confuse shortage of money on the one hand with budgetary discipline on the other. They should not be confused. It is important that Government Departments keep their annual spending to those amounts approved by the Government and by this House in the Budget. It is absurd to say that when departments exceed the level of expenditure authorised by this House, and they get hauled back by me, this constitutes a cut in public expenditure or in public services. It does not. It constitutes the imposition of budgetary discipline which this House should welcome, indeed should demand. Nor can spending departments be allowed to decide how much to spend. It would be similarly absurd to think that spending departments should be allowed to set their own spending limits at whatever level they submit departmental bids, and that when their bids are reduced, as happens every year with every department in every country in Europe, this can be described as a cut in services or a shortage of money. There is no country in Europe that can afford uncontrolled expenditure by spending departments and Gibraltar is no exception. That does not constitute a shortage of money. Budgetary discipline meaning that departments must

keep to approved levels of expenditure is essential and prudent and it should not be confused or misrepresented as shortage of money. Managing a department even one that provides demand-led services, means delivering the best possible public service on a value for money basis within the budget that is authorised for them by the Government and by this House. I am therefore determined that there shall be a substantial tightening up of budgetary discipline, although it is true to say that many departments already do it very well and for others it is much harder to do it because of the nature of the public service that they provide but even in these it is possible for Controlling Officers to better manage public budgets. By for example, and just by example, controlling the abuse of sick leave and other absenteeism which adds a huge amount of cost in those departments where absent staff need to be covered for by others on overtime. Recently there has been a call on the Government to cut public expenditure which was said to be too high. To say that public expenditure is too high simply because it grows year on year in cash terms is too simplistic an approach. Obviously in a growing economy public expenditure will rise otherwise there is no improvement in or expansion of public services which is one of the fruits of economic growth to ensure that those fruits benefit the whole community. A conventional and correct way to measure public expenditure is as a percentage of gross domestic product. That is to say, is public expenditure growing relative to the size of the economy. By this usual and internationally accepted way of measuring public expenditure, it has not risen greatly and it is not too high. In 1997/1998 public expenditure was a sum equivalent to 29 per cent of gross domestic product. In 1990/2000 it was 30 per cent and in 2001/2002 it was 31 per cent of gross domestic product. Assuming, which I think one reasonably can, a 5 per cent rate of economic growth in each of the years 2002/2003 and 2003/2004, the level of public expenditure is still running at only 32 per cent of gross domestic product. These figures are low compared to other modern European countries. In the United Kingdom for example, which is thought to have low levels of public expenditure compared to other European countries, public expenditure is running at 42 per cent of gross domestic product compared to our 32 per cent.

There is therefore a myth in some quarters in Gibraltar that the public sector is big, too big. That is not true. It is not. But however this should not be erroneously concluded from the view that certain areas of the public sector may not represent value for money or deliver the level of efficiency and productivity that one would like. That is a wholly different thing to the issue of the size of the public service or whether it is too big or the level of public expenditure and whether it is too high.

Mr Speaker, if one chooses to measure the growth of the public sector by reference to for example jobs, it has grown even less as a proportion of the whole economy. Defining public sector in the widest possible terms, that is to include all jobs funded by Gibraltar public monies, therefore including not just Government employees but employees of Government companies, agencies and authorities, the public payroll has increased by a net 267 or 10 per cent between 1996 and 2003. In contrast overall employment in the economy has risen in the same period by 2125 or 24 per cent. It can be seen from these figures that the rate of job growth in the public sector has been much lower than in the private sector. In any event as I have said, public expenditure and publicly funded employment levels have to reflect the affordable social and economic needs of Gibraltar. Our public services, especially health, education and social services, have to keep up with the rest of Europe. Every year when I have described Government's economic policy in this House I have made it clear that part of the Government's budget surpluses would be invested in improving and expanding our public services, and this is what we have done and we make no apology for it. We are proud to have done so because Gibraltar is a better place and a better society for it. Mr Speaker, last year the Leader of the Opposition devoted much of his budget address to observing and stating the obvious. Namely, that public expenditure was rising faster than public revenue and that this would erode and eventually eliminate the budget surplus. Well, that has actually been happening every year for the last few years and it has been happening as a matter of Government policy and not by chance or unintentionally or overlooked. Nor does it mean that the Government have a financial problem or

will be short of money. Indeed last year albeit as a result of a one-off payment, the surplus actually became a small deficit. Government surpluses derive from economic growth and one of the fruits of economic success which increases Government revenue. Budget surpluses reflect the excess of Government revenue over Government expenditure. Put another way, they are the extent by which the Government have taken too much money from the citizens' pockets through taxation. Every year since 1996 when I have explained the philosophy of this Government's economic policy, I have said that we would use Government's budget surpluses and other financial resources for three things. One, to give a share of the surpluses and thus of economic success back to the tax payers through tax cuts. This we have done on a spectacular and unprecedented in Gibraltar scale. The average wage earner, married with at least one child, is now paying at least at least 36 per cent less in tax as a result of our tax cuts. Indeed the vast majority of elderly people are now paying no tax at all. Of course, had we not introduced those tax cuts our budget surpluses would have remained, and indeed grown, but would not have been fair to Gibraltar's tax payers. The second thing on which I have said every year we would spend our budget surpluses is to invest some of it in Gibraltar's infrastructure and physical fabric. This we have also done, spending in excess of £150 million on our roads, squares, public housing, industrial parks, sports and leisure facilities, homes for the elderly, the installation of lifts in Government housing, the repairs to Harbour Views, Gib 5 and Brympton, and in many, many other projects for Gibraltar's social, economic and physical development. The third, the third thing on which I have annually said we would spend a share of our budget surpluses is to invest some of it in improving and expanding public services, especially health, education and social services, and this we have done and will continue to do across all public services. Indeed many vacuums that we inherited in basic social caring services have been filled and there is much yet left to achieve. We promised to share the fruits of Gibraltar's economic success throughout the community as a whole and we have done so. Our tax cuts have been substantial and especially designed to benefit the lowest paid the most. We have invested huge sums in refurbishing long

neglected public housing estates. We have hugely increased public services to the most vulnerable members of our society. We have given hundreds of Government-linked workers an occupational pension. We have hugely improved the rights and conditions of all workers in Gibraltar. We have greatly increased the levels of disability and social benefits and social assistance payments to the most vulnerable members of our society. We have introduced a minimum income for all elderly persons. We have introduced respite and domiciliary care. Better child welfare and protection. A decent public bus service, sports development and summer programmes, an Ombudsman and a Citizens Advice Bureau to empower the citizen against the Government, to name just a few of the improvements to Gibraltar in which we have invested part of the budget surpluses.

Mr Speaker, I was amused to hear the Leader of the Opposition say recently that he did not think that the benefit of economic success was "trickling down to all sectors", by which I assumed he meant working or needy people. The redistribution by this Government of the fruits of the economic success that we have brought about in Gibraltar have not so much trickled as cascaded down in the many ways that I have described. Compare that to the situation that we inherited, annual tax rises, annual 10 per cent increases in Social Insurance contribution which penalised the lowest income earners most. The very little investment that there was in crumbling public services. Even publicly paid workers lacked decent terms and conditions of employment and even a basic occupational pension. Dilapidated public housing, which of course affects workers more than anyone else, and these to name just some of the things that we have had to reverse in our first two terms of office. I do not label myself a socialist but I have not the remotest doubt that any real socialist would recognise that no Government in Gibraltar's recent history has done more for working people than this Government, and no Government has put social conscience more into practice than this Government. In eight years of GSD Government we have embarked on the social, physical and economic re-engineering of Gibraltar on a huge scale for the benefit of all. The face and the soul of Gibraltar have been transformed for the good, as has its

economic and political prospects, and we have done it whilst at the very same time creating economic success, ensuring that the whole community derives its benefits and creating growth and extra jobs and raising living standards. The elimination of the Government's budget surplus means that the excess revenue that was available for redistribution has now all been redistributed. Accordingly, there must now be a pause to enable Government to once again rebalance revenue and expenditure in favour of surplus, to consolidate public finances and thus allow us to continue thereafter with our tax cutting policy and agenda. This will happen naturally through the effect on Government revenue of the continuing economic growth that we continue to experience. However, it will require budgetary discipline. There are also several anomalies in public finances which now needs to be addressed. Various heads of revenue charges have remained frozen over many years despite hugely increased costs which have been absorbed by the Government. One example is public housing rents which have not increased since 1984, that is 20 years ago. During that time the recurrent costs of running the Buildings and Works Department to maintain that housing stock have risen from £1.8 million per annum to £9 million per annum excluding the substantial capital investment that we have made to it in the last few years. This Government have invested millions of pounds in upgrading and refurbishing and improving public housing and estates and this will continue until it is all done. Another relevant factor is the considerable increase in earnings by Government tenants during the 20 years that housing rents have remained frozen. Since public housing rents were last increased in 1984, the average wage in Gibraltar has increased 176 per cent, from £6,309 per annum to £17,460 per annum in 2003. This has meant that the cost of housing has fallen massively as a proportion of the tenant's income. In 1984 when the average wage in Gibraltar was £6,309 per annum, rent represented 10 per cent of wage income. It now represents only 3.5 per cent of the average pay packet. This proportion is even lower when rent is calculated not as a proportion of the average gross wage, but as a proportion of net take home pay because of the very substantial tax cuts that we have made during the last eight years. Just since 1995 take home pay, net take home pay

following pay increases and the post-1996 tax reductions, has increased by more than 25 per cent that is after inflation. Accordingly during the course of this year we shall review the level of public housing rents just as we are obliged to do in the private sector through reform of the Landlord and Tenant Ordinance. Similarly we shall be reviewing electricity tariffs which also have not increased since 1991, and water tariffs which also have not increased for many, many, many years despite very large increases in costs associated with these utilities over that period of time. Finally, Mr Speaker, by way of rebalancing the revenue and expenditure, we shall be pursuing an aggressive campaign to collect arrears due to the Government in respect of PAYE, Social Insurance contributions, housing rents, rates and electricity charges. The Principal Auditor is rightly concerned about the high level of arrears and annually chastises the Government for it. Arrears also means unfairness because some people pay their dues and others do not. In future, the system will operate more aggressively so that everyone pays their dues. Our economic policy has brought about a careful balance between the collective needs of Gibraltar on the one hand and the individual interests of the individual citizen on the other. Collective development and progress on the one hand but also benefits for the individual through tax cuts, frozen costs of most public services, better living environment, better job prospects and terms and conditions of employment. Improved and expanded health, education and social services to support the tax payer and his or her family. We are determined to stick to these principles and extend their physical deployment in this our third term of office.

Mr Speaker, turning now to the Budget itself. As I have said we are forecasting a recurrent expenditure deficit for the last year of £1.3 million. I would however mention a number of things to this House. Firstly, without the grant of £5 million to Community Care to top up its capital there would have been a surplus of £3.7 million. Secondly, the figure for last year's expenditure does not include £6 million of excess expenditure deficits carried forward by several statutory bodies including the Gibraltar Health Authority, the Social Services Agency, the Gibraltar Development



Corporation and the Gibraltar Health Authority. The deficits in respect of their operations last year are included in this year's Budget by means of increased contributions to those bodies from the Consolidated Fund. Thirdly, the budgetary position is adversely affected on a one-off basis last year by the transition from the Electricity Department to the Electricity Authority. The House may have noticed that for last year the expenditure side bore £8.134 million of Electricity Department expenditure but only £4.177 million of electricity related revenue is included in the revenue side. If all revenue and expenditure were stripped out this would have had a net positive effect on the forecast outturn for this year's recurrent budget on the Consolidated Fund. Fourthly, I would point out to the House that Consolidated Fund's charges expenditure rose by nearly £1.75 million last year. This was due mainly to two items, civil service pensions and gratuities which rose £1.5 million and now account for 9 per cent of total recurrent public expenditure. The other item is legal aid and assistance. In 1995/1996 this head of expenditure stood at £16,600. In 1996/1997 it rose tenfold to £184,000. In 2003/2004 that is the financial year just ended, it is forecast to have risen to £1 million, from £16,600 in 1995 and 1996. Indeed, just last year alone it rose by £500,000. In other words, it doubled last year. This exponential growth in this item of expenditure is not acceptable. I am advised that it is due in very large measure to the spiralling cost of divorce cases despite the fact that most are uncontested divorces, involving only wrangles about money and access to children. There are better and cheaper ways to resolve such disputes, not just in the interests of public finances but probably also in the interests of families themselves. There is growing evidence that these publicly funded matrimonial disputes are being unnecessarily strung out by some divorce lawyers resulting in an unnecessarily high cost to public funds. The Government intend to take action to reduce this and has already initiated consultations with the judiciary in this respect and to explore ways in which this might be done.

For the current financial year the Budget before the House estimates a surplus of £2 million. Revenue is estimated to increase this year over last year's forecast outturn by £12.5

million or by 7.8 per cent. Mainly £5.8 million in higher income tax yields and £4 million from higher import duties yield. Recurrent expenditure is set to rise by a net £5 million or 3 per cent. The main net increases in expenditure are Health £4 million, Supplementary Provisions £3 million, and Education £1.1 million to reflect mainly scholarships following the abolition of parental contributions to University grants.

Mr Speaker, moving to the Improvement and Development Fund, last year we estimated that we would make capital investments of £24.6 million, but in fact managed only to spend £16.6 million or 67.5 per cent of the amount we had estimated at the start of last year. This follows a pattern established over the last few years. In 2002/2003 we had managed to spend 72 per cent of a £27.8 million estimate. In 2001/2002 it was 86 per cent of a £25.5 million estimate and in 2000/2001 we managed to spend 71.3 per cent of a £26.8 million estimate. This year therefore, we are only estimating what we think we can spend, which is £18.4 million an increase of nearly £2 million on last year's spend of £16.6 million. Housing refurbishment projects again takes a large share at £3.2 million of which the Varyl Begg refurbishment project accounts for about £1.3 million. £750,000 will be spent on completing the Mount Alvernia refurbishment and extension project, and £2.5 million will be spent on completing the new Bayside Sports Complex. £1.7 million will be spent on creating further industrial parks at Lathbury Barracks and on a proposed new reclamation at Western Beach. £1.6 million is being spent on beautifying and refurbishing John Mackintosh Square, Catalan Bay, the Frontier area and the Northern Defences and the World War II Tunnels. The Government intend to proceed with the scheme to enhance parking facilities in the south district. The remainder of the spend is on such matters as environmental projects, capital investments in various public services and departments, computerisation of Government functions, investment in other sports facilities, road works and maintenance, works to our sewers, to our rock faces, to our retaining walls, Government buildings, including schools.

Mr Speaker, I would like to take this opportunity to say something about the Theatre Royal, about which much false information and comment is made. I leave to one side such comment including the gross exaggeration of how much it has already cost the Government and the confusion of some commentators as between Government budgetary expenditure and capital investment. The Government remain committed to endowing Gibraltar with a proper theatre as a base for our future cultural development and for the economic value of its use as a conference centre. I appreciate that this is a vision thing and that not everyone shares or agrees with that vision. However, while remaining committed to the theatre, Government have bowed to the views expressed to us by well-meaning objective observers that whatever may be the virtues of the project there are other more pressing needs that should be provided first. We have therefore postponed the prioritisation and timing of this project in Government's capital projects programme. It is true however, that the Government's design team substantially under-estimated the cost of this project but I am glad, not by the factor that has happened in the public's project for the building of a new parliament in Scotland, which was budgeted at £40 million has so far already cost £400 million and is still not finished. Mr Speaker, the cost of a theatre for Gibraltar has to be put into perspective. This wonderful theatre which will be an important part of Gibraltar for the next 150 years, would cost not much more than the Government spent of its own money in fixing the Harbour Views fiasco, about half what it has cost this Government to buy Gibraltar out of the GSLP's disastrous in-town refuse incinerator contracts, and less than half one year's revenue from import duty on tobacco. So I ask this House, what price a major cultural and architectural asset, you pay your money and you answer the question for yourself. Mr Speaker, turning to pensions and to Community Care. I now intend to put the record straight in respect of Government's stewardship of the Pension Fund and the Short Term Benefit Fund in the light of wholly misleading statements recently made by the Leader of the Opposition that Government are diverting monies from pensions funds and therefore putting at risk Government's ability to pay old age pensions are wholly spurious and false, and intended to

alarm elderly pensioners. The same is true of absurd statements and insinuations to the effect that Government have used any of the Community Care money. Pensioners should understand that their pensions and Community Care payments are and will always be safe. In fact the only pension funds to general Government expenditure is the Leader of the Opposition, the Chief Minister ever to have diverted monies away from old age Hon Mr Bossano when he was in Government and I shall now place the true facts on record in this House. When the GSLP arrived in office in 1988 the total Social Insurance contribution was then £17.26 a week. Of this £15.56 was for Social Insurance which then included both pensions and Short-Term Benefits together, 30p a week was for employment injuries and £1.40 was for the Gibraltar Health Authority budget through the Group Practice Medical Scheme. In August 1988 the GSLP Government increased the contribution by £2 a week but this went into the training levy. None of the increase went towards the Pensions Fund. In January 1989 they again increased the weekly contribution by £2 and again none of it went towards pensions but rather it all went to the Gibraltar Health Authority budget. But that was not all. In that year the then GSLP Government also split the Social Insurance Fund into a Pensions Fund and a Short-Term Benefits Fund. In that year the weekly contribution rose to £21.26 a week yet the amount for pensions fell to £12.87 a week with 69p going to the Short-Term Benefits Fund. The amount going to the combined Pensions Fund and Short-Term Benefits Fund was reduced by £2 a week. By 1993 the GSLP had raised the weekly contribution to £32.14 a week but the amount applied to the Old Age Pension Fund had fallen to £10 a week. The amount paid into the Short Term Benefit Fund had risen to £2.88 a week. I have heard the Leader of the Opposition say that he diverted funds from the pensions to the Short-Term Benefits Fund to protect them from the clutches of the United Kingdom. Well this is pretty incredible, but let us give the hon Member the benefit of the doubt. It still does not add up. When the Leader of the Opposition took office in 1988, the combined pension and Short-Term Benefits Fund received £15.56 a week from contributions. When he left office in 1996 the combined figure had fallen to £12.88 a week, a net reduction

in contributions to the Pensions Funds of £2.68 per week per employee. And even this interpretation is over-generous to the Leader of the Opposition, in accepting that some of the £2.88 to which some of the money by which the Short-Term Benefits Fund had risen, was really pensions money that he was protecting from seizure by the British Government. I cannot imagine what for, since the funds that accumulated would not have paid for anything like the local pensions. But I say that the interpretation is generous because the evidence does not support the existence of this worthy motive. Why? Because when the Pension Fund was dissolved in 1993 following the agreement with the British Government and our contributions then became contributions to the GDC Preoccupational Pension Fund and no longer needed protecting from the British Government, the contribution to the Pension Fund remained for four years at only £10 a week, £2.88 a week continued to be paid into the Short Term Benefit Fund. Further, in each of the four years 1992 to 1995 the weekly Social Insurance contribution was increased by £2.48, £3.60, £3.60 and £3.60, 10 per cent per annum, yet none of this increased contribution was paid either into the Pension Fund or into the Short-Term Benefits Fund. So where did the Leader of the Opposition divert the extra £2.68 per week that the Pension Funds were receiving before he came into office but it was no longer receiving by the time he left the office. The answer is to pay for general Government expenditure, namely the Health Service. This is also where the bulk of the annual contribution increases went as well. In 1988 the Health Service got just £1.40 per week out of each weekly contribution. By 1996 this had risen to £23.80 a week from £1.40 per week. In this way the Leader of the Opposition diverted away from the Pension Fund not only monies that it had been receiving before he arrived in office but also he diverted away from pensions the totality of the very substantial contribution increases that he introduced between 1988 and 1995. Mr Speaker, it is true that the net annual erosion of capital in the Pension Fund has continued even though after we came into office in 1998 we increased the contribution to the Pension Fund from £10 a week to £12 a week per employee. That was the first increase that the Pension Fund had received since the GSLP had come into office

in 1988. The reason for the annual erosion of capital in the Pension Fund is twofold. First the general decline in interest rates over the last decade has reduced the Fund's investment income. Second there is the issue of arrears contributions. I have already announced a vigorous campaign to tackle this. The Government are acutely aware of this erosion of capital and could have addressed it at any time by increasing the rate of weekly contributions. We had not yet thought it necessary to do so. When we do we will. In the meantime it is sheer demagoguery and scare-mongering to suggest that pensions are at risk. They are no more at risk now than they were when the GSLP was last in government. The Leader of the Opposition has frequently been critical of the Government's decision to transfer £5 million from the Short-Term Benefits Fund to the Social Assistance Fund. He has recently repeated that criticism. I roundly reject it. The hon Member is simply wrong. I have already expressed a view about the credibility of his statement that the monies in the Short Term Fund were pension monies put there to prevent the British Government from grabbing it. I think the hon Member watches too many television movies. I think he once said that he was a fan of a programme called the X-Files, but he must not take them too seriously. The Short-Term Benefits Fund was and remains grossly over-funded. In 2001/2002 it had in it over £11 million, even though its annual liabilities amounted to only £500,000. There are provisions in the law to enable the Financial and Development Secretary to pass funds from one Special Fund to another when one fund has more money than it needs. The monies were transferred to the Social Assistance Fund and from there they facilitated a £5 million grant by Government to Community Care, a purpose not wholly unrelated to the purposes of the Short-Term Benefits Fund. For Opposition Members to describe this sensible transaction as "raiding the Pension Fund" or "using pension monies for Government expenditure" is wholly disingenuous and misleading. The Short-Term Benefits Fund still has a surplus of capital in it.

Mr Speaker, I now turn to Community Care. In the Government's judgement, Community Care is sufficiently funded to enable it to continue to make its payments for the foreseeable future. The

Government have not touched a single penny of Community Care monies. We have a commitment to ensure that Community Care can continue indefinitely to make its payments. From time to time we make capital grants to Community Care to top up their capital. So far we have given them £10 million. We will not however, pay monies to Community Care unnecessarily at the expense of other projects and other policies of value to Gibraltar and at the expense of our ability to cut taxes. That would be absurd, so we will continue to fund Community Care properly and prudently but certainly not excessively. Opposition Members can continue to try and scare-monger and abuse the vulnerable elderly if they wish but the elderly know that they are safe with a GSD Government. The Leader of the Opposition has cried wolf on this issue once too often. No one believes him any more because there is no wolf.

Mr Speaker, in my introductory remarks I said that the economy is in good and robust shape. Gross domestic product has grown in 2000/2001 by 7.8 per cent in real terms compared to 3.9 per cent in the previous year. The Statistics Office is making arrangements to accelerate the compilation of GDP figures. It hopes to have published by December this year the figure for the year 2002/2003 and thereafter to keep up that publication timescale. I have no doubt that they will show further growth which brings me to another distortion of accurate debate which I would like to take this opportunity to respond to. The Leader of the Opposition has taken to saying that I believe that economic growth of more than 6 per cent is not possible and that therefore if economic growth is more than 6 per cent I cannot take credit for it because I cannot take credit for what I thought was impossible. I have not said that economic growth above 6 per cent is not possible. What I have said was that economic growth of 12 per cent which is what he promised if elected was not likely and was certainly not sustainable year after year even if it could be achieved in one year. That assessment remains correct. I also said that even if the economy were to grow by 12 per cent per annum it could not sustain his Father Christmas all year round election manifesto full of goodies. The proof is clear even with economic growth of 8.4 per cent the Government's budget is

tightly balanced but we do look forward to a continuation of this sort of healthy and sustainable growth rate which is sustained mainly by an increase in income from employment resulting from the increase in jobs in the economy which has risen 4.1 per cent and the increase in the average earnings which has increased by 6.8 per cent. The average earnings in Gibraltar rose by 3.9 per cent to £17,460 per annum as of October 2003 from £16,802 in 2002. This represents an increase of nearly 30 per cent in the average wage since October 1996. Equally if not more significant than this, is the 25 per cent increase in net take home pay, allowing for inflation during a period that the index of retail prices, that is to say the local measurement of inflation, has itself risen by 12.8 per cent. So net take home pay has increased by 25 per cent after allowing for accumulative inflation rate of 12.8 per cent. This is the real measure of the improvement of pay in the economy coupled with the effects on take home pay of Government's very substantial sustained policy of tax cuts. The 2003 Employment Survey recorded an increase in jobs of 1,153 over the figure for 2002. The level of jobs at October 2003 stood at 15,419, the highest level ever recorded. Stripping out of that number jobs that may not actually have been newly created during that year, and which simply reflect a better return to the Employment Survey by more employers, it is still the case that some 600 to 700 new additional jobs were created in Gibraltar in one year, 2003, an increase of 5 per cent growth in the total economically active labour force in one year. One of the main growth areas in employment is the international gaming sector. There are now 11 operators employing 837 people compared to 10 operators employing 708 people last November. One operator, Cassava, has increased jobs from 144 this time last year to 204 last November and 268 now. Victor Chandler has similarly expanded to 294 from 253 this time last year and 265 in November. Gaming Tax revenue has increased from £1.8 million in 2000/2001 to £3.2 million in 2003/2004 and is projected to rise this financial year to £3.9 million. We expect growth to continue in this sector. The Government are planning to strengthen the gaming legislation and regulation in Gibraltar, particularly with reference to internet. In this connection the Government are monitoring international and telephone gambling

developments in the gaming industry, particularly in the United Kingdom in the light of their proposed legislation to modernise and regulate UK gaming as set out in their November 2003 draft gambling bill. As mentioned in the House last year, the Government will take whatever legislative or other steps are necessary to ensure that Gibraltar remains a premier attractive jurisdiction for reputable internet and telephone gaming operations. The Government's policy remains as outlined previously that it will only license blue-chip companies with a proven track record and good financial standing. Tourism and the port continue to show growth and resilience to external obstacles which nevertheless curtail their potential. Visitor numbers have once again risen to record levels at nearly 7.8 million. Air arrivals continue to rise as do arrivals at our hotels. Cruise passenger arrivals have also risen to record levels. Yacht arrivals have also increased by 9 per cent on the whole a most creditable performance of growth. No doubt all this will be written off on the basis that some other destinations have grown by more. The hon Members should acknowledge the fact that other destinations do not suffer our small size, our limited number of hotel beds and transport infrastructure, nor the problems endured by our airport and our cruise terminal at the hands of Spain. The port has similarly seen increases in excess of 10 per cent in both numbers of ships visiting the port and bunkering. Both of which activities have attained record levels yet another year in succession. I take this opportunity to congratulate my Colleague Joe Holliday for the committed and expert manner in which he constantly and consistently delivers commercial success for both our tourism and our port sectors. The value of imports excluding petroleum also showed an increase of nearly 12 per cent.

Finally, the Finance Centre continues to defy the laws of gravity in the light of the challenges that it faces from continuing uncertainty in relation to tax reform and the exempt status company, and the impending Taxation of Savings Directive, for which legislation is now on the agenda of this meeting of the House. Both areas of uncertainty should improve soon. It seems increasingly likely that the Taxation of Savings directive

will come into effect in July next year if not on 1<sup>st</sup> January 2005 as had been envisaged. Most banks in Gibraltar do not regard the Directive as destructive of the viability of their operations, even though they may experience some short term disruptions. On the tax reform front, the House already knows that litigation has now commenced to challenge the European Commission's finding of State Aid on the grounds both of material and regional selectivity. We hope shortly to be able to make an announcement in respect of arrangements relating to the tax exempt company. In the meantime our Finance Centre continues to develop away from its historical tax haven base into many more areas of more sophisticated international finance centre work. The Government encourages such diversification which gives our Finance Centre more strings to its bow, thus enabling it to withstand challenges to any particular line of business in the future. Banks, banking remains pretty static in terms of licences but the existing operators are very profitable and continue to grow their business, their profitability and their employee numbers. These are currently fluctuating at around 650 up from 600 in 2001. Insurance continues to be one of the exciting new growth areas. There are currently 39 insurance companies, up from 31 last year, 22 in 2002, 13 in 2000. Employment in insurance companies presently stands at around 190. The Company and Trust Management sector continues to perform well, despite being the sector most affected by the uncertainty surrounding taxation. Although the incorporation of Gibraltar companies continues to show a decline, as expected, levels of business is holding up well. Trusts under management continue to increase as do the number of companies for which management services are provided. The number of licences also grew in 2003 to 354. HNWI business continues to grow but the latest new growth area is futures or derivative trading. There are now 120 traders established in Gibraltar, compared to 80 last year, 20 in 2002, 7 in 2001 and just 4 in the year 2000. Early this year I inaugurated at Europort the third largest computerised derivatives trading floor in the whole of Europe, run by one of the world's leading futures trading companies. All of this increase in activity has resulted in a 6.6 per cent increase from 1,883 to 2,007 in the number of people employed in financial services in

2003 compared to 2002. The number of jobs in financial services has grown by 25 per cent since October 1998. We expect this robust economic activity to continue.

Mr Speaker, I now move to this year's specific Budget measures. Parental contributions towards grants for university students are abolished with effect from the academic year commencing this September. Import duty on cigarettes will rise by 7p for a pack of 20, I hope that this will encourage the Leader of the Opposition to give up smoking. That is by 70p for a carton of 200. Cigars, cheroots and cigarillos will be subject to an additional ad valorem duty of 5 per cent. Whisky, spirits and other alcoholic beverages will be subject to an additional ad valorem duty of 5 per cent. Duty on petroleum will rise by 1.7p per litre. Duty on automotive diesel will rise by 1.5p per litre. Duty on computer hardware and software will be restored at the reduced rate of 6 per cent. All the above take effect as from midnight last night. Social Insurance contributions, social insurance contributions and the need to deduct PAYE tax from the earnings of students on holiday jobs during school and university vacations is abolished. All personal tax allowances are increased by 3 per cent. The tax allowance for medical and health insurance premiums is increased from £515 per annum to £1,000 per annum. The elderly persons minimum income guarantee is increased by 6 per cent to £95.40 per week for a single person and £127.20 per week for a married couple. All social assistance payments and statutory Short-Term Benefits are increased by 3 per cent. Mr Speaker, I have the honour and pleasure to join my Colleague the Financial and Development Secretary in commending the Bill to the House.

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

**HON J J BOSSANO:**

I will speak on the general principles Mr Speaker, it is more difficult to speak on the merits. I will first deliver what I had

prepared in anticipation of what the Chief Minister has had to say and then I will put the record straight on his latest explanations which really do qualify him to be running an X-File because of his inventiveness, altering history. Mr Speaker, as far as we are concerned and as the Financial and Development Secretary indicated in his opening remarks, there are two Bills before the House, rolled into one. There is a Supplementary Appropriation Bill to provide additional funding for the last financial year 2003/2004, and the Appropriation Bill for the current financial year 2004/2005. This is the first occasion that a Supplementary Appropriation Bill for one year has been incorporated as part of the Appropriation Bill for a subsequent year since I joined the House in 1972 and in all probability, the first time since the 1969 Constitution created the House. I must say that the argument that has been put by the Financial Secretary that it simply coincides in time and that therefore that justifies it is not one that we accept. I will therefore deal with the general principles as regards the Supplementary Appropriation Bill 2003/2004 which is shown as Part 4.

As far as I am concerned what I have to say about that is what I would say if it was a separate Bill and there are different considerations in looking at one and looking at the other. That is to say we have got a view about the Supplementary Appropriation for last year and that does not necessarily translate into our view about the provisions that are being made for this year. On 21<sup>st</sup> of June a Revised Agenda was circulated which provided for the Statement of Supplementary Estimate No. 1 of 2003/2004 which has today been Tabled. This is what has to be debated at Committee Stage, if we were dealing with the Supplementary Appropriation Bill we would have that at the Committee Stage of that Bill. It would be a debate which would deal with the additional money that had been spent and the reasons for the expenditure. The Constitution in section 65(3)(b) states that any monies that are being expended on any head of expenditure in excess of the amount appropriated for the purpose included in the head by the appropriation law, or for a purpose for which no amount was appropriated, requires a Supplementary Appropriation Bill. It says that that

Supplementary Appropriation Bill has to specify by head of expenditure where the money is going. Well we believe that what is being done today does not comply with the requirements of the Constitution. It says quite clearly that the excess amount appropriated for the purpose in that head by the Appropriation Bill is what the Financial and Development Secretary shall cause a supplementary estimate to be produced showing the sums to be spent or that have been spent, and that this should be laid before the House, and the heads of expenditure are supposed to be included in the Supplementary Appropriation Bill. The Bill before the House does not do this, and that is why we consider in our judgement that it fails to comply with the provisions and the requirements of the Constitution. The £2.5 million we are being asked to approve from the Consolidated Fund is money that has already been spent up to the end of March 2004 in excess of the amounts originally approved by the House in last year's budget. The heads of expenditure are known and this should be identified in the Statement to the Supplementary Bill and an explanation given in each case for the extra amount that has been spent up to the 31<sup>st</sup> March. Last year we voted in Head 12 a sum of £2 million to provide for pay increases and another £2 million to provide for unforeseen requirements arising during the financial year and requiring additional funding. When money is reallocated from this Head 12 to whatever department requires the extra funding, it is done by warrant from the Financial and Development Secretary and the information is provided in the Schedule, Tabled subsequently in the House. To date there have been five such Schedules. No. 1 showed a total of £15,744 being moved between subheads but within the totals applicable in last year's budget for each expenditure head. No. 2 used £1,032,000 from the £2 million in Head 12 to supplement expenditure in five heads, leaving a balance of £968,000 available for redistribution. No. 3 again moved small sums between subheads as was the case with No. 1, but in addition took £400,000 from Subhead 1A to Subhead 1B of Head 12. The explanation given was that the money was not going to be required to meet pay increases and would be used to supplement other excess spending. This happened on 25<sup>th</sup> May this year after the close of the last financial year and when the

extra spending had already occurred. No. 4 of the same date disbursed from Subhead 1A of Head 12, £1.405 million to meet pay settlements, leaving there a balance of £95,000. No. 5, which is the last one that has been tabled, used £1.333 million from the Subhead 1B in Head 12 to supplement other spending in eight expenditure heads, leaving a balance from the amount that was already identified of £35,000 unused. Head 12 exists for this purpose, to allow the Government to meet pay settlements which cannot be quantified at the beginning of the financial year, and other unforeseen expenditure requirements over and above what was approved in this House. It is not to give this margin to the Government to meet expenditure without specific approval by the House that the provision exists. The Bill before the House today is a misuse of this mechanism and is not what it was intended for. In the forecast outturn for 2003/2004 is shown the revised expenditure by head and subhead of the amounts that have been spent up to 31<sup>st</sup> March. The Financial and Development Secretary has informed us that it includes the changes that were brought about by the five schedules and as I have mentioned the reasons for those changes have been given, but it also includes the way the £2.5 million will be reallocated by the Financial Secretary out of the Head to which we are voting it. That is not the purpose of the exercise, it is not that we vote £2.5 million here for him to then distribute because that is what we do at the beginning of the year since he is not in a position to say to the House where the money is going to be spent. It is not an exercise that we can easily do to try and extract where the £2.5 million has gone by identifying each single element in this book. The spending has already happened, the Heads are known and the Constitution in our view clearly requires this to be identified by Head where the overspending has taken place and individually approved. We cannot therefore support the proposal to put £2.5 million into Head 12 which shows a zero forecast outturn in the Estimate book. The part dealing with the Improvement and Development Fund in the Supplementary Appropriation Bill does not suffer from this defect and therefore we have no problem with that, since it actually asked the House to vote the money in the area where the money has been spent and identifies each component. I am not very sure how we are

going to be able to deal with this though, but clearly the House knows we will have to vote against the clause that refers to the £2.5 million when we come to it. This brings me to the result for the last financial year.

Over and above the £137 million provided by Heads of Expenditure the Government have used the £4 million leeway in Head 12 plus an additional £2.5 million, which is what is being included today, plus £5,988,000 spent by the statutory bodies which the Government have chosen to reflect in the Estimates as if it was money that was going to be spent in the current financial year after 1<sup>st</sup> April. Since there is a Supplementary Appropriation Bill before the House and the Heads of Expenditure in which this amount of nearly £6 million is going to be reflected can be identified, it would more accurately reflect the position of the Consolidated Fund if for example Head A which currently shows a payment of £14.4 million to the Health Authority for 2003/2004, when in fact the Health Authority required in the last financial year £4,225,000 extra and spent the money, if this were to be shown in our view in the forecast outturn and in Part 4 in addition to the £2.5 million. Given the fact that there is a Supplementary Appropriation Bill, the passing over into the current financial year in fact distorts the reality of the amount of cash that there is. It means that when we are looking at the estimate for the amount that is going to be provided for the Health Service we are here going to be voting £22.5 million for the Gibraltar Health Authority when in fact they are not going to get £22.5 million of money to spend, because they have already spent £4.225 million last year, which must have been covered by an advance from the Consolidated Fund because otherwise there would be people who had not received payment. The effect of this is that last year the amount that they really needed was £18,625,000 and that therefore this year, what we are voting in terms of fresh money when we adjust for the fact that the £4,225,000 is money that they should have received last year and which they spent in anticipation of receiving it, the amount this year is £18,275,000. So in fact what the Government are asking this House to do is to give a subvention to the Health Authority for the current financial year which is £350,000 less than what they required last year

and what we are providing by moving the payment into this year. So if one were to look at the estimates in the absence of that information one would get the impression that in fact the Health Service is getting £8 million more than they got a year ago, when in fact what they are getting is £350,000 less. The fact that almost £8.5 million has been spent over the estimated approved budget, the £2.5 million and the £6 million, is not in fact reflected in the Summary on page 5 giving the forecast outturn. The real cash position of the Consolidated Fund is that the deficit for the year just ended is £7,322,000 and not £1,344,000. That is the reality of the position. As well as overspending £8.5 million the Government failed to achieve their projected revenue and therefore the effect was that instead of the year finishing with the estimated surplus that we were told in the House a year ago of £6,744,000, it has ended in the red to the tune of £7,322,000, a result of £14 million worse than projected. Since the Chief Minister likes to come here every year to boast about all the things he has done since 1996, he can add to his long list having achieved a record worsening of the Government's financial position which beats all previous records.

The House may recall that a year ago I predicted that there was not the remotest possibility of the Government keeping to the level of estimated expenditure. The Government planned their recurrent expenditure in 2003/2004 to go up from £158 million of the preceding year by £2 million and this was inclusive of the £4 million in Head 12 to meet pay settlements and unforeseen expenditure. The £5 million over and above the £160 million was to provide a grant to the local charity, which was the terminology that we used last year when it was considered by the Chief Minister sensitive to mention the name of the local charity, since he has mentioned it twice this year I assume that I can now mention it as well, and therefore it was £5 million given to Community Care Limited, which this year he says is additional capital payments to maintain their capital and therefore is not really part of recurrent expenditure. Well that was not how it was shown in the Estimates but in fact in making the comparisons between one year and the next, I made the point last year that we needed to take that out of the equation because it was not



something that was reappearing every year. The £5 million that was put in that Estimate at the time I predicted would only be possible to do this and come up with a surplus at the year end, if in fact the revenue was better than was being anticipated, given that there was not enough money in the rest of the Budget to meet departmental costs. Although I warned that the projected £6.7 million surplus was not going to be achieved and that in fact the year might end in a deficit, I must admit that the massive gap of £14 million between the estimate and the forecast outturn is much greater than I thought was going to be the case. However, I am questioning not just the credibility of the expenditure requirements but also the revenue expectations a year ago. The Government have projected an increase in income tax receipts from £65.7 million to £68 million, and I said that this was likely to be exceeded based on past experience. However I questioned how they expected to achieve £2.5 million more in import duty from £29 million to £31.5 million when in fact they had previously shown in 2002/2003 an increase from £29.9 million to £31 million and achieved in fact a drop of £900,000 and collected less money by only getting £29 million. I asked if there was no increase in import duty where was the extra £2.5 million coming from and I had no answer when the Chief Minister replied, and I was going to say that I hope that I will get an answer this time but of course we have got an answer this time. It may be that it is easier to give the answer that the import duty is going to be increased on a range of things to produce more money this time, because this time is after November last year, last time was before November last year. That may be why the Chief Minister pencilled in £2.5 million and then when he decided on the date of the election decided to rub it out. In 2003/2004 the import duty was £3.5 million less than expected, so in fact the projection that he put in last year's budget which was that he was going to collect £2.5 million more, turned out to be not just wrong in estimating how much more was going to be obtained but actually produced a result of £1 million lower than it was in 2002/2003 and only £28 million came in. It is still incomprehensible unless the explanation that I have pointed to has hit the nail on the head why the Government were hoping to get £32 million without raising anything when in fact the trend on the £28 million must

have been there already, unless something very drastic happened in the second half of the year. Last year the Government claimed that the forecast outturn for 2003 was an over-expenditure of £4.2 million more than the original estimate of £158.1 million, which the Chief Minister argued was reasonable estimating and a reasonably good level of budget control. I do not know whether he would apply the same definitions this year to the result. In fact today we have the final figure for the preceding year 2002/2003 and that figure shows that the forecast expenditure which was £158.1 million was not in fact what was actually spent and that the expenditure came in at £600,000 less, at £157.5 million which was the figure that we had here in this year's Estimate compared to the original estimate of £153.9 million. However, as I pointed out to him a year ago, he was not comparing like with like or apples with apples as he now likes to say. He is in a vegetarian mood nowadays. Because £153 million included the £5 million grant to the then anonymous charity, now revealed to be Community Care which was not proceeded with. So in fact when we look at the figure we need to compare the original one without the £5 million since that did not happen and the Chief Minister when he exercised his right to reply acknowledged that in fact it was legitimate not to have proceeded with that money as otherwise it would have eaten into the estimated surplus that there was in the book. The original estimated recurrent expenditure therefore, for the provision of public services was £148.9 million and the final result came in at £157.5 million, after we have taken out the £5 million grant which did not happen. This was an overspend of £8.6 million not as he claimed a year ago £4.2 million because he had ignored the disappearance of the £5 million grant from the original figure and he was comparing the figure with the £5 million with the result. Of course that was not an accurate calculation. That is why I told the House a year ago I do not think that there is the remotest possibility of keeping anywhere near these figures in the current financial year. Because in fact they had just exceeded the previous year by £8.6 million and they were not providing any money at all extra in the year other than the money in the Supplementary Head 12. As I have already shown, the forecast result of expenditure incurred in 2003/2004 by me has proved

right, and the overspend on this occasion is £8.5 million, £2.5 million in the proposed supplementary for the preceding year and £6 million in the deficits of the accounts of the statutory bodies. So we have a situation where this year the Chief Minister has spent part of his speech arguing that there has been a laxness in budgetary control beyond the expenditure approved by the House, and last year he was congratulating the departments for their reasonableness in keeping to budget, except that last year they overspent £8.6 million and this year they have overspent £8.5 million. I suppose he just reads the figures that get put in front of him instead of scribbling it all like I do with a little calculator. If I pass my calculations to him then maybe he can try to reconcile one with the other.

Can we expect anything different in this financial year, Mr Speaker? I think it remains to be seen. Clearly the amount that the import duty increases which came in last night is estimated to achieve is already reflected in the Estimates otherwise there would be no other possible explanation. But he has said that the other areas where the Government are planning to increase charges like electricity, water and Government rents, are likely to be done during the course of the year and I take it that the figures in the Estimates do not in fact include any expectation of the sums that that might produce. But obviously on that basis, based on what he has said, that the figures are not there, then effectively what we are saying if and when those increases come in during the course of this financial year then it would have an effect on increasing the revenue that is being estimated and obviously in increasing the surplus that is being estimated of just over £2 million. But I have to say that our conclusion is that the Government's approach to spending seems to be that they take on commitments without doing their homework as to what it is going to cost and then they find the cost after the event. There is much, as far as we are concerned, money being spent in areas where we believe it is wasteful, but it is their judgement and their priorities that determine that expenditure and therefore the Chief Minister will come here and say that he is still intent on spending huge sums of money on the Theatre Royal and some may believe him and some may not, I think I belong to the not camp,

but he can carry on saying it. The warnings we have issued in the past have dealt as he refers to the rate of growth of Government spending which was growing faster than revenue and faster than the growth rate of the economy. The argument that we have used is that that position is not sustainable and it is self-evident that it is not sustainable. What is new is the recent statements by him when the surplus started coming down and has now disappeared over the horizon, that this is a deliberate Government policy, that the Government had been deliberately wanting to get rid of the surpluses. He did not wish us to think that and he has always come to this House describing the position as prudent and robust and all the other adjectives that he uses, irrespective of whether he had a £17 million surplus, a £6 million surplus or a deficit. Well clearly if the definition of anything being robust, sustainable, prudent and all the things is because he is responsible, they must all be all those things because otherwise it would reflect some deficiency in him, which is simply not admissible, then of course I understand the adjectives that he uses. I must say I am very happy to learn that the economy has grown by 8.4 per cent and I look forward to getting the detailed information on the composition of the GDP to see where the components have been rising to contribute to this growth, and the Government, the Chief Minister says it is not true that he has argued in the past that the economy could not grow at more than 6 per cent. Well I take it the Chief Minister will not deny that he is being consistently quoted in these interviews that he gives to this journalist that writes on economics and writes about the explanations that he has and what the Chief Minister is doing with the economy, and that all the time in all those articles he is quoted as saying that the economy is growing at around 6 per cent and that it is firing on all cylinders. Well if it is firing on all cylinders and the speed at which it is moving is 6 per cent per annum, then by definition it means that unless he is going to add more cylinders to the engine the economy cannot grow by more than 6 per cent. Unless he knows something that I do not and he watches more X-Files than I do which enables him to move perhaps backwards and forwards in time, which is what he constantly does here when he finds himself in a difficulty over having to explain some of the things that go wrong in his

administration, he immediately takes that car that moves one back in time and goes back to the future now and starts talking about what happened between 1988 and 1996. Well he can keep on doing that in every Budget because every time that he does that the more he spends talking about those years, shows the more concern about what is happening now and wants to sweep it under the carpet. Mr Speaker, if indeed the Government were of the view that it was not possible to increase economic growth any faster, then of course the only other option would be increasing revenue or cutting spending. Now if he does not believe it, then why is he doing those things now? In fact the analysis that we have made was that there were, that the Government sooner or later, it has just happened sooner rather than later, would have to be faced with raising revenue or cutting spending or a combination of both as an alternative to a higher rate of economic growth pushing up Government revenue by itself. Now, this year the Government presumably are estimating that the growth rate of the economy is not going to be reflected in increases in revenue beyond what has been happening in the past, because the figures in the Estimates do not indicate that there are going to be more sums of money other than from betting shops, coming into the Government coffers. That is the activity that is going through the roof and nothing else.

The other action being taken by the Government is the attempt to improve the collection of revenue by reducing arrears. I need to remind the Chief Minister that we have heard it all before. Perhaps he may remember that some years ago he announced in the Budget a blitz on arrears, I do not know whether the blitz of that time was more draconian than what he proposes to do now or less, but I can tell him that the position since he announced the blitz was that the arrears has gone up every year since the blitz. I do not know whether the non-payers have gone into air raid shelters to avoid his blitz but that is the situation that is reflected in the audited accounts which as he says, the Auditor every year points out to the Government that they are doing nothing about arrears and that they keep on going up. So we will have to see what the blitz produces this time. When I asked him in a question earlier in the meeting of the House as to the

position of putting companies in liquidation, because one of the things that the Principal Auditor had said as I pointed out to him, was that in his last Report of 2001/2002, the Accountant General had stopped action being taken against some companies, and I wanted to know how this came about given that the Principal Auditor seemed to be saying that he was not being given any explanation as to why at the eleventh hour action was being stopped and that therefore the recalcitrant payers did not take the threats seriously, because they did not materialise. In fact what he said was that it finished up on his desk and he was the one who sort of triggered the action but that in doing that clearly something that had to be weighed up was the effect of putting somebody into liquidation in terms of employment and so on, and I think that is a reality, a political reality in Gibraltar which cannot be escaped. It is no good saying to the Government, *"look, we want you to collect the arrears even if it means busting up the private sector"*, because at the end of the day what we collect in arrears is going to be multiplied with what we stop collecting in terms of having x people on the dole. So it is not an easy exercise. If it had been an easy exercise it would have been done by somebody else a long time ago. The revenue estimates for the current year as far as we can tell, do not have pencilled in therefore amounts in expectation of higher collection of arrears and we are assuming that to be the case. Therefore if there is success, it will be reflected in an improvement on the situation shown in the book. The only area where I wondered whether there was an element of arrears and perhaps he can clear that up when he replies, is in the £12.5 million collection of electricity which shows a higher year to year change this year than has happened in any other previous year. I do not know whether that means that they are expecting a reduction in arrears or they are expecting that to be the reflection of the increased electricity charges that have been mentioned or it is Part of one and part of the other, or whether in fact neither of those two elements have been reflected. We would like to know so that we can look in at the estimated performance of the public finances for the rest of this year so that we are able to make some kind of judgement as to whether the performance of the revenue and expenditure of the Estimates is likely to be moving in one direction or another.

Clearly how much has been already factored in makes a difference to that judgement.

Whilst on the subject of the performance of the economy I should like to remind the House of the statements made by the Chief Minister in the introduction of last year's Budget. He has not said it this year but he has claimed in the past that I attribute statements to him which he does not make and then attack him on that basis. I can only suppose he makes this claim because this is precisely what he does, and therefore to use a favourite phrase of his, it is a self-serving argument to impute what he does to others. Therefore he does it and then he uses his own misleading line of argument, as he has done today in respect of the Pension Funds which I will deal with later, and as I will show he did last year. In fact what he said last year was before I had even spoken on the Budget, he was the opening speaker I had not said a word so far when he said this, he said, *"in 1999/2000 the Government collected £13 million in corporate tax, in the year 2002/2003 the Government collected £17 million on company profits, that is an increase of 30 per cent in just two years."* Incidentally Mr Speaker, it says something about the Chief Minister's numeracy skills since it was 30 per cent increase in three and not in two years, which makes me wonder whether he has difficulties when he starts getting into double digit counting. Be that as it may, he then went on, we have an increase in corporation tax yield in just two years of 30 per cent and if the hon Member, meaning me, wishes to continue to argue that the economy of Gibraltar is not growing and has not grown in the past since 1996, then he has practically no chance of persuading anyone. Well I have always said that the economy of Gibraltar was not growing as fast as we believe it can and that the Government are not doing enough to make it grow faster. It would have been absurd to have said that there had been zero economic growth since 1996 since the growth in Government spending alone is sufficient to produce economic growth. He also attributed to me another argument that I had never used. He said, as much as the hon Member might try he cannot explain a 30 per cent increase in corporate tax yield by some strange analysis of the collection of arrears. I have never used this

strange analysis as he puts it. But I can tell him who has, he did. In 1997 he was arguing that the yield of corporate tax at over £10 million was the result of the collection of arrears during the time of the GSLP. This was the level he inherited. Since he likes to talk so much about what he inherited as if the world had been created just before he came into office, and nothing had ever happened before in the history of Gibraltar, well I can tell him that he inherited over £10 million in corporate tax and that we inherited in 1988 £2 million a year, and that the difference in the term of office of the GSLP was an increase of 500 per cent in the yield of corporate tax and that I never used it once as evidence of economic growth of this size. So he can see that not only have I not argued that 30 per cent increase in company tax is not indicative of some growth, but I have never placed this as an indicator in the time or boasted of the 500 per cent increase as he boasts of the 30 per cent. However, since he argues when it suits him that 30 per cent in two years is everywhere else in the civilised democratic world regarded as an indicator of economic health, he might wish to dwell on one thought in respect of this year's figures and what they indicate. There is now shown in Head 1 Subhead 2, company tax combined with exempt company payments, and the figures for 2002/2003 are shown as £19.4 million, and the 2003/2004 is shown as £19 million, and the 2004/2005 is also shown as £19 million. Does he now believe that zero growth in company tax yield in three years, everywhere else in a civilised democratic world is regarded as an indicator of economic ill health, is it that the converse of his argument of last year does not apply? Let me say, it is not a view I share, and I sincerely hope that he does not believe that because we have enough problems in the Health Service as it is without adding the burden of ill health permeating our economy as well. The growth that he has given for the year 2001 of 8.4 per cent is something that we hope will continue when the figures are produced for subsequent years and that in fact we hope that the rate will be even higher, if the figures on employment are indicative of that then what we need to assume that the economy is growing faster today than it was growing in the year for which he has just given us the figure. As I have said, the yield from company tax being static between 2003 and 2005, the year we

are in, according to the figures in the Estimates, are not an indicator as far as we are concerned that the economy has stopped growing but what they are an indicator of is that in the current financial year the Government are not expecting to collect more in company tax, and that is difficult to understand. Because it either means that there is no expectation of being able to collect arrears in respect of this sector, or even worse that they are going to be collecting arrears but the fact that the total is no higher means that the level of profits on which the tax yield is based, has fallen in respect of current payments. We see no reason to believe either of these two scenarios and therefore we have difficulty in understanding how it is that a figure of £19 million is there when it was £19.4 million two years ago. Indeed, the Employment Survey levels to which the Chief Minister has referred in respect of October 2003, ought to be an indicator that if anything companies are making currently more profits than they made two or three years ago. In looking therefore at the context of the Budget proposed and the expenditure proposed this year and the estimated surplus shown on page 4, we are doing so on the basis of the economic growth that has been occurring until now, that is the average that there was until now, because we believe that is what the estimates of revenue reflect and we are not factoring in the 8.4 that has been revealed this afternoon. Therefore we look at these figures and try to evaluate whether the appropriation which at first sight appears to be an extra £4.8 million, going up from £165 million to £170 million, is what the Government are likely to require and what departments are likely to require to provide the services which the House asks them to provide in approving the Appropriation Ordinance. However, the figures that are there, as happened in fact last year when I mentioned the need to deal with the £5 million grant, are not comparable if we need to make a judgement as to whether the amount that is being provided extra this year is going to be sufficient or whether the Government are going to find themselves needing to supplement those sums during and possibly at the end of the financial year. A number of adjustments need to be made therefore to compare like with like. The £170 million as I have already mentioned includes the £6 million already spent last year and which we have argued ought

to have been shown as part of the forecast outturn and included in the Supplementary Appropriation Ordinance for 2003/2004. So we have £164 million of new money, after we have taken out that £6 million. However, this is not as might appear a £1.2 million reduction because last year there was a £5 million grant to Community Care, which was made from import duty and paid over in October 2003, the first time such a grant has been made from the Consolidated Fund since 1<sup>st</sup> April 1996. Because as we all know he chose to remove money from the Short-Term Benefits Fund and I will deal with that when I answer the points that he has made. The fact that the £5 million was paid from the Social Insurance Fund into the Social Assistance Fund and then subsequently transferred to Community Care, as has been mentioned today, is something that we have been opposed to from the very beginning and as far as we are concerned, that is money that should be put back into the Social Insurance Fund and that therefore the Government will have to pay back at some stage. That is our view and that is the view that we put to him at the time. So when we are looking therefore at the amount that there is in the Appropriation Ordinance we find that there is £2 million of supplementary funding for an expected expenditure arising during the course of the year. The same as was done a year ago, and in the expenditure estimates what we have is a position in which the amount that was provided for the pay rises last year which was £2 million, we learned during the year as a result of the supplementary schedule of relocations that I referred to earlier, that only £1.4 million had been used for the payment of pay rises and £400,000 was moved and added to the £2 million that was the supplementary for last year. This year there is a sum of £1 million for pay rises, so in the amount that we are adding to the Estimates for this year we have in fact a £1 million there for pay rises and I can only suppose that in estimating a lower amount the Government are doing so because they have indication of the trend of pay rises in the United Kingdom, given that as a result of parity this will be translated here this year, but clearly they are expecting to have to meet a lower level of pay increases this year than they expected last year because last year they put in £2 million and this year they are putting £1 million. The other element in the expenditure comparison

between the forecast outturn and the provision this year is that there is a sum of £1.158 million increase provision in Consolidated Fund charges which do not require the approval of the House mainly made up of increased pension costs and increases in debt charges. This would indicate that when these components are adjusted the Approved Expenditure Estimate is around £300,000 below the forecast outturn, except for the fact that the changes introduced by the removal of electricity expenditure from the Consolidated Fund and its transfer to the Electrical Authority alters the picture and therefore we need to make an assessment of how the picture is altered comparing the outturn for the year ending March to the estimate for the current year. On page 6 we have a figure of £8,134,000 which is the cost of the Electricity Department for 2003/2004 for the part of the year that it remained as a Government department. This is no longer in this year's Estimates and therefore in the outturn of last year there is an expenditure item which is no longer there, but it needs to be balanced by the fact that there is in this year's Estimate a cost that was not there last year which was the payment of £2.7 million to the Authority, made up of a subvention to meet a deficit of £1.5 million and the payment for electricity services provided to Government departments. This would indicate that given the difference between the £2.7 million and the £8 million that if we were to compare like with like, that is to say removing the Electricity Authority from last year's costs and comparing the cost of the remaining departments that there is available in the Appropriation Ordinance a sum of around £5 million to be distributed amongst the different expenditure heads. Assuming that the calculations that I have made are accurate, we then come to the question of how realistic is it that the Estimates of Expenditure that we are going to approve in this House will not be exceeded, independent of whatever action may be introduced by the Government to have more rigid controls over not spending more than is approved.

If there is indeed an extra £5 million is that enough? Well, in looking at that we have to look at all the statutory bodies that are not included now in the Consolidated Fund and there what will we find? We find that the ETB is being provided with £500,000

less than they spent last year. That the Electricity Authority is expected to reduce its deficit by £1.4 million from £2.9 million to £1.5 million. That the Elderly Care Agency will only get £20,000 more in the current year than they spent last year in what was a budget of £3.5 million. That the Social Services Agency is having its budget cut by £580,000 and that the Health Service, after having to pay extra rent for Europort of £1.25 million, and when that is taken into account finishes up with a budget this year of £42,025,000 which happens to be £323,000 less than they actually spent last year. An awful lot of ifs in items of expenditure there that have to materialise for the estimated expenditure to remain and for the surplus to stay at just over £2 million subject of course to the information we have been given today that there will be extra revenue created during the year. It seems to me that it is more likely that the Government will be facing pressure for supplementary funding in respect therefore of these statutory bodies than in the actual Government departments in the Consolidated Fund if the figures in fact that I have quoted and the calculations that I have made are in fact an accurate assessment of the picture in the book. So we may well find that it is in this area that the Government may need to come back to the House to supplement, and these are the areas that the Government have said are demand-led. I think that when I asked the Chief Minister frankly not expecting the answer that I got, whether the Social Services Agency was likely to spend the £2.3 million that had been voted, I certainly did not know that the answer was going to be that they had spent £3.2 million. But of course if we are looking at the Social Services Agency and the fact that it has spent £1 million more than was originally voted, it is difficult to understand why in that £1 million it is the Respite Care that suddenly becomes the important area to claw back. I accept what he has said in defence of her position as the Minister responsible, that she has provided more than was there before, but she also needs to understand that in areas such as this once we provide a service people adjust their lives to it and it is very difficult, and really I would have thought that it would not be impossible to find if there was a need to bring down the budget of the Social Services Agency and I would say that there are other areas of Government spending that can be more easily

tackled without repercussions than the Social Services Agency. But if there is a need to do it then why not look in other places as opposed to looking in the Respite Care which affects such a small group of people. That is why we urged her to wait for the opportunity that we should debate this in the House and then maybe in that debate it would be possible to persuade if the Government feel so essential to cut, that the cut which is not astronomical compared to the figures we are handling, could fall somewhere else. I take it there will be a cut from what has been said in the current financial year as compared to what was actually provided in the year that has just gone by. The Chief Minister seems to say that it is not a cut if one spends less this year than one spent last year because what one spent last year was not what one hoped one would spend. Well look I remember him telling me whenever I have questioned him in the past about the figures that we look at, that Estimates are just estimates and that we cannot hold him to estimates. So if at the end of the year reality is different from the estimates, well so what. What counts is the final picture not the estimate. That has been his argument in the House on previous occasions. Now when he does not like what the final figures produces he turns round and he says no, no, no, the importance is not what the final outcome is, the importance is that we must give to the estimates because that is what the House approves and therefore people that are spending the money and controllers of expenditure must know that it is completely wrong for them to depart from the estimated amount that the House has approved. Well look because that is what the Government considers that the Government will require to provide a level of service and if they find that the level of service turns out to cost more than they hoped, well I do not think it follows necessarily that the answer has to be that the figure that was put there is sacrosanct and the service has now got to be reduced. If that is the view of the Government, fine they are entitled to that view but what they cannot then do is moan because somebody tells them they are cutting. Because they are cutting. In looking therefore at the projected surplus this year and the fact that he has argued without conviction that it has always been his intention to bring the Budget down, and that he has always said it, he can probably

point to always having said something even if it is diametrically opposed to what he claims he has always said on another occasion, because he constantly contradicts himself. Therefore on that basis he can always say that he has said something at one point in time and I can always say that he said the opposite at another point in time and I now propose to do exactly that. I would remind him that in his Budget speech of the year 2000 he preached to us the following which I now proceed to quote. *"So when one looks at the size of the surplus the Hon Member",* meaning me, *"knows how part of that surplus is generated"*. Let me say that that was code for the revenue from a particular commodity which like a particular charity we had not mentioned before, but which this year we have mentioned because he has said that 50 per cent of the money he gets from the duty of tobacco is the equivalent of so much and now from that everybody will be able to calculate the duty on tobacco, from the figure he has given us today because he compared it to the expenditure which is available in another area and he said 50 per cent of the duty of tobacco will pay for that.

In the year 2000, when he was being more skimpy with his information in those sensitive areas, he simply said that I knew how much of the surplus was generated and that he said our prudent approach is to use that money whilst the sun shines. Let me say that when we were together at the Conservative Party Political Election Rally which masqueraded as a Chamber dinner, I told him that if he intended to increase tobacco I would stop smoking, so I suppose that is why he has decided that it has now got a dual benefit, one is that he can blame me for the increase in tobacco and say it is my fault, because he is doing it to protect my health. He then went on, but what we will not do is make the Education budget, or our Health budget, or our ability to continue to pay the Civil Service, or our ability to do the things that are important year in and year out in this community, dependant on a budget surplus to which it is contributed by earnings which we could loosely call of poor quality, meaning that their sustainability is not in our hands. Therefore that is a factor which we take into account and which I would urge them to take into account also. We have heeded his words and we have

taken into account what he said to us in the year 2000. But what I cannot say is that I have any confidence that this philosophy can logically be applied to the £2 million estimated surplus of this year, especially when the £2 million estimated surplus of this year as far as the figures in the book are concerned, are almost entirely dependant on a £4 million increase in import duty and when we know where part of that import duty is being generated, which was the area which may not be so sustainable and the same might be said for the duty on petrol. So, I do not know whether it is that force majeure has made him abandon that advice that he gave us but since we listen very carefully to everything he says when he talks sense, I mean it is easy to do that because he does not do that all that often, therefore we have borne in mind what he told us then. This year there is an area that I also need to look at and that is the Improvement and Development Fund. In the Improvement and Development Fund this year there is also an innovation, which is that the column which showed balance to complete in respect of each project in the I&D Fund, which has been present in every previous year's estimates is missing. We consider that there is a legal requirement for this and that therefore the Estimates have been incorrectly produced and are in breach of the provisions of the Public Finance (Control and Audit) Ordinance which states the following in Part 4, the part dealing with the Improvement and Development Fund. And it says in section 28 "*the Financial and Development Secretary*", that is speaking about the Improvement and Development Fund, shall cause to be prepared and laid before the House of Assembly before not later than 30 days after the commencement of each financial year, estimates of revenue and expenditure of the Fund for that year, and such estimates shall form part of the annual estimates of the Government to be laid before the House in accordance with the provisions of section 65(1) of the Constitution. (2) The estimates shall be in such form as the Financial and Development Secretary may from time to time direct, however he does not have a free hand. Provided that the estimates shall conform with the requirements of proviso (b) to section 41, which deals with the appointment of officers as controlling officers, and (b) show in respect of each development project for which provision is made therein the total

estimated cost of the project and the revised estimated expenditure on the project in the preceding financial year and the amount expended in previous financial year. The effect of having the column balance to complete, is that if one has the amount from the preceding financial year, which is the final figure, plus the outturn plus the estimate, plus the balance to complete, one complies with the requirement that the total estimated cost of the project is being shown. And in the absence of that column the total estimated cost of the project is impossible for us to establish unless what we are being told is that every single project in this year's estimates is going to be completed before 31<sup>st</sup> March 2005 and nothing is going to be there to complete after that, including the infamous Theatre Royal which the Financial and Development Secretary says there is no balance to complete. So perhaps it is a point that can be addressed between now and when we come to the Committee Stage of this Bill because it is not that we are against supporting the Improvement and Development Fund expenditure, we are in favour of it, but we do not see that we can support a Bill that we consider is deficient and does not comply with the requirements of the Public Finance (Control and Audit) Ordinance. It would need to be looked at I would have thought and then if they feel that they are complying and they can persuade us, well fair enough, and if they feel that they are complying and they cannot persuade us, then we shall have to vote accordingly on the basis that we do not think that it is right what they are doing.

Mr Speaker, something else that I wanted to mention was that in last year's exchanges a great deal of time was devoted by myself and the Chief Minister to the input/output study report. I ventured to tell him that the expenditure from tourists which was published subsequent to the figures that were quoted in the report, was an opportunity to test the predictability of the report by reference to an outside factor which was changing. The Chief Minister when he replied, rubbished everything I said, argued that that showed how little I knew about how the system worked and that all the experts agreed with him. Well I have to tell him that in the reply that I obtained in September to that specific query which I had



submitted on 19<sup>th</sup> August 2003, Professor Fletcher answered that my calculations were correct. He said the answer is yes, provided the £177 million is spent in exactly the same pattern as the £145 million was spent, in which case the increase would be pro rata. If the expenditure pattern changed, then the overall multiplier value would change, which is exactly the explanation that I gave in the House at the time in last year's Budget when he said it showed how ignorant I was about economics and that I did not know what I was talking about, and how all the experts told him that he was right and I was wrong and that I did not know. I can only suppose that in fact his grasp of economics is so limited that he cannot even understand what the experts tell him, just like when he kept repeating here year in year out that all the experts confirmed that the MOD was not part of the GDP but part of the GNP. Something that he put right last year when he came back and acknowledged that in fact it was and had always been part of the GDP. But of course he also has to remember that in the preceding year, when he had the draft report, he had told me in the House that the Government's intention was to publish the full report, but that if for any reason they decided not to publish the full report, then he would make available to me on a confidential basis, the bits that were not being published. He subsequently has argued with me that the reason why my calculations are incorrect is because I do not have the bits that he has not given me and that I would only be able to get the figures right if I had the full report, which I do not have because he does not give it to me even though he promised me. If he has changed his mind let him say that he has had second thoughts about giving me the report, presumably thinking that if I have the report I will be pestering him even more with figures and that therefore it is a self-serving argument not to give me the report. But can I remind him that when I wrote to the Chief Secretary, I asked him to request of the Chief Minister that I should be given the report and the reply I got was that I had to write directly to him, and that when I raised the question in the House on the last occasion that I did, the Chief Minister said well he assumed I had not written to him because it was around the time of the Election, this was the reply I had in September, but that all I had to do was to write to him. The very same day that he told me that I went

out, drafted a letter, had it typed and handed it to him by hand. I still do not have the information. I think it would be preferable if he says to me, *"look, I have changed my mind and I do not want you to have it"*, and then I will stop asking for it, or else if he will give it to me in confidence just so that I can see what it is that is missing, because it seems to me that one of the things that was published in respect of previous years input/output studies was the employment multiplier, and that is the element that I had to calculate working back from the published report because in the multipliers in the transaction table that he gave me there are numbers employed but I am not sure that the calculation that I can make from those numbers is the correct procedure to follow to calculate the employment effect. I think it is important to know that because in fact if the whole essence of looking at the inter relations in the economy of Gibraltar is that we are able to see what happens in terms of money coming into Gibraltar, what happens in terms of expenditure by visitors, and what happens in terms of jobs, by looking at the Tourist Survey Report and looking at the Employment Survey Report and those different sources are supposed to link up in a relationship which is what allows Professor Fletcher to give examples in his report of the numbers of people employed as a result of £145 million of tourists or visitor expenditure in Gibraltar, then clearly from my perspective it is not enough to read it there without knowing how the calculation was made. Since as far as I can tell that is the only bit of the report that I have not seen, from the contents of previous reports I cannot see that there can be anything else other than that, I really do not see why that needs to be a State secret for it frankly. If the results are there why not the manner in which the result is elaborated.

Mr Speaker, I would like to move now to the comments that the Chief Minister has made in introducing this year's Appropriation Bill. He has given an optimistic picture of the performance of the economy and the performance of the economy is robust, and it is robust whether it grows at 7 per cent, 8 per cent or 5 per cent. So robust is a moveable target. This is like the British Government being robust over Spain are. They robust over Spain when they capitulate, are they robust over Spain when

they take up the State Aid case. So robust really is a commodity suited to the consumers' needs, one pays one's money and one picks a flavour. We think 8 per cent growth is encouraging and welcome and we hope that it will get even bigger when he publishes the figures in December and that in fact it will make possible for the Government to be able to meet their expenditure commitments without having to raise electricity or water or rent. Let me say that we may disagree with some of the things on which the Government spends money but we are not the ones that are saying that the amount or the size of the expenditure budget is too high, because it does not mean anything. Too high compared to what? What is the yardstick of what is too high or too low. So we may agree with some of the contents and we are entitled to have a different view to the Government as to what our priorities might be and not theirs, but we accept that the people decided that it was their priority that should dictate the pattern of spending last November, and therefore we are entitled to put a different view and to be critical of it and no more than that. At the end of the day it is their responsibility. But of course what we have said is that however worthy the expenditure may be, it is inevitable that in an economy of which the share of the size of the economy is the expenditure of the Government, if that share grows faster then ultimately it is not something that can be sustained indefinitely. The Chief Minister himself recognised that when he said look it was 30 per cent, it is now 32 per cent but the UK which is considered to have a low figure by comparison with other countries is 42 per cent. Well obviously, but if we had a situation where the economy grows by 6 and Government grows by 7 and then the economy grows by 8 and Government grows by 9, eventually, inevitably in the fullness of time, one would catch up with the other and that is not the possible position to arrive at. Therefore when I pointed out to the Chief Minister that the trend was pointing in the direction of that gap closing, and I will give more thought to the figures that he has quoted today, which obviously I have not been able to do immediately after he said it in his speech, but when I have the time to analyse them I will because one of the projections that we made last year was an assumption that the economy would have grown 6½ per cent as opposed to the 8.4 per cent that he has now given us,

and that was based on the fact that the average had been 23 per cent in the preceding four years, which worked out at 5.8 per cent so we actually postulated a slightly higher figure of 6½ per cent but as it turns out in fact, the result is better. [*Hon Chief Minister: I cannot take the credit for it.*] Well, yes he can take the credit for it being better but I do not think he has a problem in taking the credit for it. He takes the credit for everything else, he takes the credit for Community Care which has been paying people since 1996 and he only put £5 million in of his money in October. Yes, he said the elderly people can forget all the scaremongering because their future is guaranteed yes. Yes it is guaranteed because I left them £63 million not because he put in £5 million. He has been able to have the luxury of congratulating people every National Day on a National Day bonus paid by the money we left, so he can take the credit for it, he has been doing it since 1996, why should I begrudge him the credit for a mere 2 per cent improvement in economic growth, which I still do not think is enough. I was under the impression that he did not think it was attainable for the reasons that I have already given him because if he says we are growing at 6 per cent and we are going full blast economically, and he has talked about it before in this House about the under-spending in the Improvement and Development Fund, he has argued in the past that that was because there was over heating, yes over heating in the construction industry and that therefore the figure could not be spent because of lack of capacity. Well if lack of capacity is not a constraint on economic growth then I would like to know what the phrase means. So, I am glad that he has actually corrected that impression today that I had of his approach to economic growth and that now he is saying only that it is not sustainable indefinitely and that 12 per cent is not possible. I hope he hits 12 per cent and then he will find that it is possible. I have to tell him that look given the Employment Survey Report for the year for which he has just given today the GDP of 8.4 per cent, I would expect that the GDP for the year that has just ended would have grown much more than 8.4 per cent, given that we have got an increase in employment levels much higher this year than was the case two or three years ago. So, he may yet be pleasantly surprised and find that he is once again wrong. I am surprised

by the quote and I will have to take a closer look on the definition that he gave that the public sector jobs given the widest definition, including people employed 100 per cent on publicly financed contracts, had grown by less than I thought they had. I was one of those who shared the impression that that.....

**HON CHIEF MINISTER:**

Does he want me to give the history of that? He has got to listen to all of my words carefully on that. Growth, if publicly funded employment, would not include people that were publicly funded but had just moved to another organisation. For example, if before there were employees of Milbury which was Government funded and they have now become more directly a Government employee through the Social Services Agency, they are not in the growth even though they suddenly appear on the public side of the equation. So it is the growth in publicly funded payroll that was the important part of my statement.

**HON J J BOSSANO:**

Well I appreciate the interruption for that clarification but I took it to mean, and if I am wrong perhaps he can correct me or answer me when he replies, I took it to mean in fact that because he was saying it is the widest possible definition that he was doing that, that is he was not counting twice the people who moved from one side of the fence to the other but I also assumed he was not counting them twice if they moved in the opposite direction. That is not the case. I see. So in fact it means that if there are publicly funded estate wardens which have now been relocated to somewhere else in the Buildings and Works, and they have been replaced by contracted estate wardens, that does not show as an increase. Well I would put it to him then that it is not the widest possible definition, there is a wider possible definition.

**HON CHIEF MINISTER:**

Mr Speaker, because this answer was for others who are not in this House who made the allegations in the first place, I just did not want them to think that the answer was limited to Civil Servants as they understand the phrase. It may be possible to widen it even further than I had widened it but the only point I was trying to make was the case which would have been worse than the one that they thought they were making if they had been right.

**HON J J BOSSANO:**

I think what is true is that the Government of Gibraltar is by far the biggest employer of Gibraltarian workers and that in fact it is true that most Gibraltarians would rather work for the Government of Gibraltar than work for the private sector, if they had the opportunity and the choice. I do not think there is any question about that. Therefore to that extent the growth in employment in the Government of Gibraltar provided it can be financed provides better conditions and better security for our own people than the others. I do not think there is anything wrong per se in people being employed by the Government, it is a question of what he has said of using the services of the people that are paid from the public purse in a way which gives the whole community value for money. I do not think anybody in this House would disagree with that. If there are people who argue in the private sector that the public sector is getting too big compared to what they think it ought to be, all I can say is well look the reluctance to employ Gibraltarians seems to be as much on the part of the employer as there is on the part of the prospective employee. Gibraltarians do not go over the moon about working for the private sector but I have never noticed any great enthusiasm on the private sector's part to give priority of employment to Gibraltarians either. So given those facts which are there, it seems to me that the competition is limited because we would expect the Government of Gibraltar to have a policy of giving priority to our own resident labour. No Government has

ever managed to convince the private sector to do likewise and I do not see any indication of it happening now.

Mr Speaker, to round up I would like to deal with the science fiction story about what happened with the Pension Fund in 1988 and what the Chief Minister did or did not do. The Chief Minister who has either a poor or selective memory, seems to forget, even though I have reminded him of this before, that he was the one who in this House accused the GSLP administration of running down the level of the Pension Fund from the level he claims it used to be in 1988 under the AACR. With his poor grasp of figures he actually got it wrong to the tune of £34 million. Because he claimed here in 1997, when he introduced the Insurance Ordinance which was reinstating the suspended Pension Fund, he actually claimed that the AACR had left in the Pension Fund £50 million and that I had run it down to £16 million. Of course he was talking utter and complete nonsense as he often does. The facts are that the £16 million was the amount that was there in 1988, not in 1996, and that it actually went up as far as £55 million when the ODA agreed to pay the Spanish pensions for five years because they argued, at a political level and at an official level, that it was preferable from their point of view to go through the embarrassment of having to get the money approved by the House of Commons on one occasion than to have to go back every year and have nasty questions being asked so that they preferred to put up about £30 million pounds up front and to pay the Spanish pensions by paying out of the income generated by the £34 million which went into our Social Insurance Fund and was managed as a Spanish pensions sub-fund by the Crown Agents and to use that almost as an annuity, with the payments to the Spanish pensioners coming up by partly the interest and partly a reduction of capital. The Chief Minister says that to not put money in the Pension Fund is the same as to take money out. That has been the essence of his argument. He says because in 1989 and in 1990 the payment of the stamps included increased contributions for the Health Service, it means that I was taking money away from pensioners. Well no it does not mean that because in the period that more money was going into the Health

Service there was also more money going into the Pension Fund, and he may believe or he may not believe the separation of the two was an essential part of the strategy of the Government to protect Gibraltar's own Pension Funds from what was the policy of the British Government. In 1988 when we got elected the position of the British Government was that we had to contribute more than had been promised by the previous administration which was £1 million a year. The previous administration had said they would pay £1 million a year from local funds to Spanish pensioners. We fought an election and we said not one penny. When the British Government agreed to pay for five years, and then in 1993 to dissolve the Fund, when the Fund was dissolved if he looks at the Auditor's report for 1993 he will find that there was £30 million. When he took over there was more money than there is now and what he argued in 1997 in this House, was that the Short-Term Benefits Fund was over funded, that it was legitimate to argue that really it was money that could have been put together with the Pension Fund because after all it was initially the separation of Short-Term Benefits and the over funding of the Short-Term Benefits was a safeguard so that more of the money would be ring fenced and not in the Pension Fund to which the Spanish pensioners had a claim through the incompetence of the British Government. The fact that the ring fencing ended in 1997, with the restitution of the Fund was something that I put to him and I told him, *"why do you not go back to the position that there was in 1988 and create a single Social Insurance Fund and forget the distinction between the Short-Term and the Long-Term Fund."* He actually agreed to look at the possibility and put off the Committee Stage of the Bill. Right. Well Mr Speaker, how can he say then how absurd it is to say that they are from the same thing, he agreed to the possibility of merging them, and if he had merged them all his arguments would now disappear. He looked at the possibility, he decided not to do it but what he came back and said was, *"okay we are not going to do it we are going to carry on with a separate fund but what I agree is that we could move the whole of the £8 million out of the Short-Term Benefits Fund and transfer it to the Pension Fund. But that would only cure the problem for two or three years."* Those are his words. He can look at Hansard, it is

all there, I have quoted them to him before, he can shake his head as much as he likes, I suggest he does it less it might fall off. But I am afraid what is there on the record he cannot change, and he was arguing then in 1987 that the problem, which is when he put the contribution up, that the problem would not be solved by putting up contributions by £2 million and would not be solved by moving money from the Short-Term Benefits to the Long-Term Benefits, and therefore we opposed the Bill when he came here to say that the money could be taken out. We do not accept that the, in fact, the legislation has been properly honoured because it says there that the money is taken out because it is not required for the Fund. It is not required for the Fund because you chose to put it in in the first place. If one has a situation where one has got £6 million in a fund and then from the insurance contributions every year you decide to put x pennies in the Short-Term Benefits and so much in the Pension Fund, and one could choose a different distribution, and one puts in a fund that one claims is over funded before starting, £5 million more, when he said before he put the £5 million that it was already over funded, and then he came back later and said *"Ah, it has got £5 million too much I am now going to take it out and use it for something else."* Well it has got too much because he put it in and he put it in when he could have put it in the Pension Fund, and he chose to move money which had been contributed by employees, not all of whom are Gibraltarians, and not all of whom are resident and what does he do with that £5 million? He gives it to a worthy cause. Mr Speaker, I did not say we did not think the cause was worthy. I said at the time that we opposed it that we did not think this was what that worthy cause should be getting the money from. Because it should be getting it from import duty which is where even last year when he wanted us to vote on the provision of £5 million from the Consolidated Fund, I said to him no we cannot, we are not prepared to vote it from the Consolidated Fund, because the Social Assistance Fund exists precisely as a mechanism into which we put import duty and from which we make grants to charity. He has argued in this House that when he dissolved the other Special Funds he retained the Social Assistance Fund because he agreed with its usefulness for that particular purpose. So if the Social

Assistance Fund exists for that purpose and that purpose primarily, why does he want to give money from the Consolidated Fund to Community Care? And why, which is even worse, does he give money to Community Care which is money the source of which is the payment by employers and employees of insurance contributions. [*Hon Chief Minister: That is exactly what we are on about.*] Yes that is exactly what happened, the contributions to the Short-Term Benefit Fund are made by people working in Gibraltar now and the Government took the money accumulated in their time when the Fund grew by £5 million, as a result of those contributions they took that £5 million out, they put the £5 million in the Social Assistance Fund and then they took the £5 million out of the Social Assistance Fund and gave it to Community Care. That is what they did, and because they did that we did not agree with them, we said, "no you should not take that money out, if you want to give money to Community Care give it out of the Government's revenue from import duty like you have done before."

**HON CHIEF MINISTER:**

That is what happened.

**HON J J BOSSANO:**

That is not what happened Mr Speaker.

**MR SPEAKER:**

I ask myself what has this got to do with the Estimates.

**HON J J BOSSANO:**

It has nothing to do with this year's Estimates, Mr Speaker.

**MR SPEAKER:**

Then I can stop you if I want to. If it is not relevant.

**HON J J BOSSANO:**

Well you can stop me if you want to Mr Speaker, but then I do not understand why you did not stop him.

**HON CHIEF MINISTER:**

Mr Speaker, I rise only to say it did not happen the way that he has described it. He should have listened to my words more carefully. I said in my own address this afternoon that the payment of the £5 million from the Short-Term Benefits Fund to the Social Assistance Fund had, quote myself, facilitated the making of a grant. It was carefully structured so that it was not the funds from the Special Short-Term Benefits Funds going into Community Care, and I would urge him not to assume. I will explain it to him more at length when I reply to him but he should not, at least for the time being, at least until he has had the benefit of my explanation, assume that it was the way that he is now surmising.

**HON J J BOSSANO:**

Well Mr Speaker I will wait for that explanation. All I can say is that this is exactly how it looks when one looks at the movement of money. That is how it sounded at the time that it was done when the Chief Minister said that it was for a worthy cause and I answered that it was not the cause that I was questioning it was the source. But I will wait for the explanation.

Mr Speaker the amount of money that there is in the Pension Fund is now, as a result of the reply we have had in the questions in this meeting of the House, down to the level which is

less than it was in 1986. If it carries on going down it will be down to the level that it was in 1984 by next year. Now I do not see why the Government says it is scaremongering, I mean these are facts. The fact is, he may argue that in my time the Pension Fund did not go up by as much as it might have gone up if the money that we raised and gave to the Health Service we had raised and given to the Pension Fund instead. That is all he can argue. All the rest of it is sheer manipulation of facts by him. That is the only thing that he can argue. And he would be correct in arguing that. The point is of course that the level that we left for him to inherit was higher than the level we inherited, and that is the most that anybody can say of any government. But the government that inherits the Pension Fund from him will have less than even we were left in 1988 by the AACR. He cannot get away from that. That is the truth. There is less money now to pay pensions even in cash terms, forget that we are talking about a 20 year gap. Forget that if we look back at the 1980s we are talking about a pension that was not frozen because it became frozen in 1990, and therefore if we look at two things, the fact that the pension was lower then because the further back one goes the lower it was and the number of pensioners were less and the life expectancy was lower, what we have today is that we are now in a situation where the actual payment of the frozen pensions to local pensioners is running at something like £10m and the actual reserve in the Pension Fund is £11.75 million, according to the answer he gave me in the earlier part of this meeting. In fact in 1988 it was the equivalent of 26 months of pension, and when we left it, it was the equivalent of a higher ratio. Since he took it over the number of months of pension covered by the reserves has been going down every year, and it needs to be addressed and sooner or later something will have to be done to bring that figure up so that the ratio is more like it used to be historically. Now those facts are indisputable because they are all recorded in the public audited accounts and he cannot escape from that. He chooses to say that I was the one depleting the funds even though the figures show them not going up, and that he is the one that is protecting the pensioners, even though the figures show the money coming down. Therefore, as is to be expected, the Chief

Minister who never concedes that he can be wrong in anything will continue to argue notwithstanding the explanation that we have given as he has done today. As you correctly say of course, the things that he has said today in relation to the pension or in relation to some of the other references he has made to me, really have absolutely nothing to do with the Appropriation Ordinance before us, but given the fact that he chooses to open the debate picking on these topics, it is impossible to resist the clear invitation for a reply to those points. We know Mr Speaker that the Hon Member will spend the next two days carefully thinking up nasty things to say about me and then spend four hours saying them but we are immune by now to that.

The House recessed at 5.50 pm.

The House resumed at 6.05 pm.

**HON J J BOSSANO:**

Mr Speaker, the position then I think has to be seen in the context of the results of the Government's Revenue and Expenditure over the last three years and if we look at the position in last year's Estimates and this year's Estimates, what we find is that in the actual figures for 2001/2002 which have now been audited the Government had revenue of £159.5 million and expenditure of £144.1 million with a surplus of £15.4 million and that the figures which are the actual figures for 2002/2003 which are being produced in the House today, shows that the revenue moved from £159.5 million to £164 million and the expenditure moved from £144.1 million to £157.5 million bringing the surplus down from £15.4 million to £6.5 million, by almost £9 million less than the preceding year. Now the Government tells us that that is by design, well, we have difficulty in believing that because there has not been any clear linear progression in a particular direction since 1996, the figures that we finally come up with at the end of the year have been up or down depending

on changing circumstances during the course of the year. At the end of the day the Estimates are what the Government expect the result to be and the results sometimes are different. In fact in the year 2002/2003, as I mentioned earlier in my contribution, the fact that expenditure finished up at £157.5 million instead of £158.1 million meant that the starting position of the Consolidated Fund reserve at 1<sup>st</sup> April 2003 was better than had been anticipated. If we look at the preceding year figure what is now page 5 and which becomes in the Approved Estimates page 13 because of the charts that are put in front of it, we see that last year we were told that the Government expected that the balance in the Consolidated Fund would be standing at £30,091,000 and in fact this year we are being told it is £31,390,000 so it is £1.25 million improvement on the position that was produced for the benefit of the House a year ago. But of course what has happened in the course of the 2003/2004 financial year is that as far as we are concerned there has been a drop in the results from a surplus of £6.7 million to a deficit of £7.3 million making the turn round from the prediction enormous at £14 million, this has not happened before a change this drastic and nothing spectacular that we can tell has happened in 2003/2004 to explain this dramatic change in the projections, and certainly as far as we are concerned we hope to be able to give more credibility this year to the Estimates for the forthcoming year than happened to be the case in what has turned out to be the result for last year. In arguing as we do that that money ought properly to be reflected as part of last year's expenditure, because that is what it has been spent, effectively what we would be doing then would be rewriting the pages in question so that we would start with £31,319,000, that would be brought down to £23,985,000 as a result of this year's deficit and from that would be removed the £3 million contribution last year to the Improvement and Development Fund. The reserves therefore on 1<sup>st</sup> April this year really are £21 million. To be precise £20,985,000. Of course since the effect of moving the £6 million back into the preceding year is that we can add it back into this year, it means effectively that the balance predicted of £29,092,000 remains unchanged because there would be a surplus really on this year's expenditure of £8 million. Because

really effectively what the Government is budgeting is for a surplus of £8 million, £6 million of which would need to be given to the statutory bodies to cover their over-expenditure. Of course last year's performance in terms of the Consolidated Fund reserves was also helped by the under-spending in the Improvement and Development Fund, since in fact in the Estimates for the preceding year we had a situation where the amount that it was intended should be taken out of the Consolidated Fund and put into the Improvement and Development Fund was £8 million. Therefore the Government were projecting that they would have £36 million that £8 million would be taken out and that that would produce £28.8 million. The result has been that they are starting with £20m and that in fact they have taken out of the Consolidated Fund for use by the Improvement and Development Fund, £3 million as opposed to £8 million. That £5 million which has not been used obviously is in the Consolidated Fund reserves but the Consolidated Fund reserves were expected by the Government to be higher even without the removal of that £5 million. We therefore enter into the current year with a projection where as I have already pointed out we see, if in fact I am correct in the calculations that I have done in adjusting for the disappearance of the Electricity Department, that indeed the Government have put in, in the figures for this year an amount of £5 million over and above what the department spent last year then really they ought to be able to keep to that because that is more than they did last year. But given that most of the tight controls on the Budget appear to be in the statutory bodies then I do not know whether it is easier or more difficult to keep control of the statutory bodies. From the results of last year it would appear to be more difficult then it seems to me that where the Government could be facing a problem and might well have to come back to the House for supplementary funding would be in respect of the expenditure of those bodies. One of the things of course that we will be monitoring with interest will be the performance of the Electricity Authority, given the fact that the Government argued initially that the change would not produce a more expensive situation than was the case when the production of electricity was done as part of the Government and as a Government department. So, as far

as we are concerned, subject to the reservations that I have expressed about the Supplementary Appropriation Bill and the disappearance of the column on balance to complete in the Improvement and Development Fund, and subject to questions that we shall be raising on individual items in the Committee Stage of the Bill, we will be of course supporting the Appropriation Bill as a whole.

#### **HON MRS Y DEL AGUA:**

Mr Speaker, the Estimates of expenditure for the Ministry of Social and Civic Affairs contain a couple of new items this year as a result of my amended portfolio. My responsibilities now include social security and social assistance, social services, including the elderly, the disabled and the children's residential service, the hostels, the prison, drug and drug rehabilitation, consumer affairs and civic rights.

Starting with social services, this is an area where tremendous progress has been made over the last eight years. When we came into office in 1996 a Department of Social Services as such did not exist. The heavy investment by Government into this area in both human and financial resources, has allowed Social Services to expand in a more structured and effective manner for the benefit of all service users. Although some would argue that it is natural that budgets should increase over the years, this analysis is not commensurate with the dramatic increase that there has been in eight years, and I will prove this although I am not a vegetarian, by comparing apples with apples. The last Estimate book produced by the Opposition Members during their last year in office showed a complement for Social Services of 29 employees. It is important to note that when they came into office in 1988 the complement was 25, an increase of four members of staff in eight years. Similarly only two items are shown in recurrent expenditure, one in relation to child care which increased by a mere £2,000 in eight years and another under handicapped support services which stood at £650,000 in 1996. Therefore the overall budget for Social Services under the



GSLP when they left office was approximately £1 million, a growth in eight years of £550,000. Since 1996 to date the staff complement for Social Services has grown from 29 to 151. Overall the Social Services budget has increased in eight years by more than £1.75 million from £1 million in 1996 to £2,768,000 this year. This figure does not include the items shown under Head 5-A pertaining to support to the disabled, totalling another £435,000. New services being provided include a new children's residential service, a community service for adults and children and families, a counselling psychology service, respite and sitting services, unitisation of Dr Giraldi, independent living for the disabled, a family centre, social worker support for elderly day centres and a Government drug strategy. The increase in expenditure in the Social Services budget is therefore not due to the run of the mill cost of living and inflation. This increase is due to the enormous growth and improvement there has been in this Department and the wide range of services that are being provided. Having reached this standard of care these services have to settle at a reasonable and affordable level. It is true that the more and better services one provides the greater the demand one creates, but nowhere in Europe is demand met 100 per cent. Admittedly there are some areas where demand has to be met, for example, in child protection issues. Unfortunately this has been the case recently with an increase of 100 per cent in the number of children being taken into care since March 2002, with the obvious direct overall effect on funding and more specifically on salaries and related items. This combined with other circumstances including a substantial increase in staff and a package of measures consisting of better pay and conditions for employees, caused a considerable overspend in last year's budget. Another contributing factor to the overspend was the fact that the Agency in its first year of operation has tried to meet demand for respite and sitting services on what is defined as presenting needs. That is giving a service to every person requesting it. This had the effect of creating an overspend in the relief cover item which provides for this service from an estimated £100,000 to £440,000 last year. In a bid to ensure that decisions about who gets services are as fair as possible whilst adhering to the budget, the Agency will shortly be adopting

the eligibility criteria in place among local authorities in the UK, none of which have a limitless budget. The eligibility criteria consists of four bands. Band 1 defines the person's need for help as critical. Band 2 as substantial. Band 3 as moderate and Band 4 as low. This criteria will allow the Agency, by looking at everyone's circumstances individually, to focus its support on people who come into Bands 1 and 2. Those whose need for help is either critical or substantial. If resources allow, help will also be offered to people whose need is moderate or low. Another aggravating contributor to the huge overspend in this item, although to a lesser extent, is the high incidence of sick leave among certain members of staff consequently increasing to an unacceptable level the need to use supply workers. In an attempt to curtail this practice the Agency will be adopting an unsatisfactory attendance procedure. This procedure was implemented by the Elderly Care Agency some time back in consultation with the TGWU when it was encountering similar problems and it has been quite effective in improving attendance at work. Mr Speaker, both these measures that I have just mentioned will hopefully assist the Agency in working as far as it is possible within this year's budget, which as I have said, has increased very substantially over the past years and by nearly £500,000 from last year's Estimates, whilst still maintaining services which are free of charge.

Mr Speaker, all in all disabled people have fared well under this Government. The first thing that we did when we came into office was to include disability matters in a ministerial portfolio. Dr Giraldi Home, the opening of which was delayed for a couple of years because the administration at the time claimed it cost too much to fund it, was taken over by Government and administered through a contracted company specialised in social care. Dr Giraldi was subsequently remodelled into three separate self-contained apartments to allow service users to live more independently and privately. In 2002 a statutory Social Services Agency was formed, taking on board with much improved conditions of employment including pension entitlement, all the employees which had previously been employed by the Dr Giraldi Trust and subsequently by Milbury.

We implemented a structured respite service which has grown dramatically over the years, especially in the last two years. The provision of this service still remains much higher than what was being provided this time last year. The disability allowance which had remained static for eight years has been increased twice. A fund has been created to assist disabled people with the purchase of wheelchairs and other mobility aids. Government has funded a Shop-mobility Centre, a first in Gibraltar, which has allowed disabled people the mobility that they need to lead a much better quality of life. Public sector projects now focus on the needs and accessibility of the disabled. Bearing in mind that two general elections ago the word "disability" did not even feature in other political parties' manifestos, I am proud to say that the progress which has been achieved to date speaks volumes of this Government's track record on disability issues. We are committed to building on this progress and the disabled remain high on our agenda. I would like to take this opportunity to confirm that the purpose-built swimming pool for the elderly and the disabled is still very much on the cards. I am hopeful that this project will commence construction during this financial year.

A project which has been delayed has been the introduction of independent community living for disabled people. I mentioned in my last Budget speech that six of the more able-bodied and independent residents of Dr Giraldi had been identified as possible pioneers of this new service. A service which the Disability Society has been advocating for some time. A flat has recently been allocated to the Agency for this purpose. However there appears to have been a change of heart on the part of the residents who were going to move out, who are now reluctant to do so. In accordance with the philosophy of freedom of choice, the Agency cannot impose itself on the will of these individuals and it is therefore using its best endeavours through its social workers and the counselling psychologist to try and convince them of the benefits of this move. If this fails the Agency will try to identify others for whom this move would be an option, both from within Dr Giraldi and among those who still live at home with their families and who might need future residential care.

Mr Speaker, the last financial year saw a major review of our social assistance arrangements leading to an increase in benefits of 35 per cent especially targeted at those in genuine need. As a consequence single persons under the age of 65 have seen their entitlement rise from £29.10 to £39.30 a week, whilst in the case of married couples it has risen from £50.20 to £67.80. The allowance for dependent children has also risen by as much as 63 per cent. In the case of single parents the additional allowance has risen by 67 per cent and all maintenance payments to the children are now disregarded when assessing entitlement for the parent. In addition to the increases there have also been changes to the eligibility criteria to certain benefits which has allowed more people into the net. A statutory benefit which had not been increased since 1989, unemployment benefit, has also been increased by 35 per cent to provide a more realistic level of benefit. Mr Speaker, a manifesto commitment which will be honoured this year is the extension of the maternity allowance from 14 to 18 weeks. As hon Members are aware this social security benefit replaced the statutory maternity payable under the Employment Ordinance by employers. Legislation was also introduced so that no social insurance contributions are payable by either the employer or the employee during the 14 weeks of maternity leave. This will now be extended to 18 weeks representing a saving for employers for each employee of £1,140. In addition, as already announced by the Chief Minister, social assistance benefits and statutory social benefits will increase by another 3 per cent.

Turning to the elderly Mr Speaker, the minimum income guarantee was increased in July last year from £110 to £120 per week for a married couple and from £85 to £90 a week for a single person. In addition savings income for up to £10,000 of capital is also now disregarded when assessing the level of entitlement. This year, as already announced, the minimum income guarantee will increase from £90 to £94.40 for a single person and from £120 to £127.20 for a married couple. Another manifesto commitment which will also be met this year is the amendment of the rent relief formula so that any increase in

minimum income guarantee and in social assistance payments does not adversely affect rent relief entitlement. Two of the four day centres for elderly people which are now fully funded by Government have moved to new and improved premises. The Day Centre which was housed at Bayview House has moved to the basement of the Social Services Agency and after representations from the users of the Glacis Day Centre, a flat in the area has been refurbished and allocated to them for this purpose. In the past eight years three opportunities from which 660 persons have benefited have been given for people to complete their Social Insurance contributions and so be able to benefit from a higher pension. Again, in accordance with our manifesto, another opportunity will be given this year for those who missed the boat on the previous occasions. Mr Speaker, September will see the completion of a newly refurbished and expanded Mount Alvernia which will be the jewel in the crown of elderly care in Gibraltar. The discovery of asbestos and the need to have it removed by a specialist company has unfortunately resulted in delays in the completion of the project. The end result however, as the hon Members will have a chance to see for themselves, will be well worth the wait and the capital financial investment of £2.5 million.

Yet another example of this Government's commitment to good, open and fair government has been the establishment of a Civic Rights Agency which has now been up and running for just over a year. The Agency encompasses a citizen's advice bureau and a consumer protection and trading standards office. Consumer protection deals with complaints related to private tenancy, home improvement problems, personal goods and services, house fitting and appliances, small claims, new and used cars and motorcycles, vehicle servicing and holidays. Trading standards deals with complaints relating to misleading advertising, deceptive trading practices, unsafe consumer goods, copyright, trade marks and time share. Relevant legislation has already been passed in this House for example, the Misleading and Comparative Advertising Ordinance, Unfair Terms in Consumer Contracts Ordinance together with the transposition of various EU legislation. The Legislation Unit is working on various other

pieces of legislation which will bring us into line with other countries enabling the Department to deliver a high quality, consistent and responsive service based on the rights of the consumer rather than on their expectations. The Citizen's Advice Bureau has proved to be an extremely popular and successful service. The Bureau has introduced and is continuously developing the Gibraltar Information System which gives a wealth of information on rights, entitlements and procedures available to clients. It offers free, confidential and impartial advice on many issues central to peoples lives, including debt counselling, advice on benefit entitlement, housing, education, legal matters, employment and immigration. Advisers help to fill out forms, write letters, negotiate with creditors and represent clients in tribunals or accompany them to lawyers. In 2004 we will see the introduction of an outreach programme with visits planned to the hospital, prison, local school, day centres for the elderly and youth clubs. Clinics will also be based on a regular basis at the Primary Care Centre. Both the Consumer Protection and Trading Standards Office and the Citizens Advice Bureau are currently embarking on a publicity campaign to make more people aware of their existence and the services they have to offer. I congratulate the staff of both sections and the trustees of the Citizens Advice Bureau on their resounding success in providing such an excellent service to the public. Touching on the area of drugs and drug rehabilitation. The Drugs Advisory Council which includes the operational representatives of the Drugs Task Force has been meeting regularly since the Government drugs strategy was launched just over a year ago. Despite the delay in recruiting the Drugs Strategy Coordinator, once in post he has managed to cover a lot of ground towards the implementation of some of the aims and objectives of the strategy. I can assure hon Members that a lot of work is being carried out behind the scenes, although this is not always necessarily visible or tangible. Especially so in the area of drugs where a lot needs to be done and which unfortunately has not been dealt with as robustly as it should have by past administrations. Without forgetting the excellent service provided by the staff at Bruce's Farm and the Gladys Perez Aftercare Centre, I would like to briefly touch on the most

recent work covered so far towards the implementation of the strategy. A very important piece of legislation which underpins much of the aims of the strategy has already been passed in this House. I am referring to the Drugs Misuse (Amendment) Ordinance. Although Gibraltar had a duty to pass this legislation in order to comply with the provisions of the Schengen Convention, the reality is that the members of the Drugs Advisory Council had already been actively working on proposed changes to the Ordinance for some time, because as drafted neither the Ordinance or the Regulations provided effective control on the importation, manufacture, supply and possession of Class A, B and C drugs. Mr Speaker, drug education is a very important element in the fight against drugs. Whereas in the past different bodies have held their own awareness campaigns through advertising, sporting events et cetera, all initiatives now come under the auspices of the Drugs Strategy Coordinator. This will ensure that a unified, stronger and more consistent message is delivered in resonance with the underlying principle of the strategy. Another key element in the strategy on the education side, is the adoption of a structured and consistent drug incident policy for all schools and educational establishments. After a lot of consultation and planning with the Headteachers of the different schools, a comprehensive document on how to deal with drug-related incidents at school has now been produced. The Gibraltar College Construction Training Centre, Youth Service and Police have all been consulted and have been actively involved. It sets clear guidelines on the definition of a drug incident, searching of pupils' desks and lockers, personal searches, searches of school and personal property, involving the police, contacting parents, the identification and disposal of drugs, recording all situations et cetera. A checklist of procedures has also been drawn up for teachers to follow. The document has met with widespread approval and the Coordinator is now in the process of consulting the Attorney General's Chambers to ensure that it is compliant with local legislation. We are hopeful that the new policy will be able to be introduced in the school year commencing September 2004. The Drugs Advisory Council has formed into a sub-committee to work on legislation to protect our youth from the dangers of

alcohol and tobacco. A draft Bill entitled Protection of Children and Young Persons Intoxicating Liquor and Tobacco Ordinance has been carefully revised and discussed amongst the members of the sub-committee and it has been presented to the Council with proposed amendments for their consideration. Discussions are also taking place with the Legislation Unit and with the Attorney General's Chambers. Once these have been finalised the draft Bill will be considered by Government for implementation. The Council has also been discussing the desirability of introducing mandatory drug testing in prison. MDT as it is commonly known is an established practice in all UK prisons. Although every effort is made to ensure that drugs do not find a way into the prison, it is not possible to ensure its total eradication, although I am pleased to say that this problem is minute compared to prisons in other parts of Europe. The aim of MDT is to provide the Prison Service with information about drug misuse to act as a deterrent to those prisoners considering taking drugs, to identify people in need of treatment and to promote the well-being of inmates and others. In essence, MDT is designed to reduce both the supply of drugs in prison and the demand for them while offering the choice of treatment to inmates. It is important to note that voluntary drug testing is already in operation at the prison with the incentive that the inmates enjoy enhanced privileges if they test negative. After lengthy consultation with the Prison Authorities and other relevant bodies, a report on the feasibility of mandatory drug testing in prison has been drawn up and will be shortly presented to Government for consideration.

On the prevention and enforcement side of the strategy an important measure which has been adopted has been to increase the complement of the Customs Dog Section in order to provide more cover at the land frontier. Two extra dog handlers have been recruited and two passive dogs have been trained and purchased from the UK. It is a well known fact that the majority of hard drugs finds its way into Gibraltar through the frontier. I am pleased to say that since the start of this new operation in January of this year, there has been a 472 per cent increase in detections at the frontier. We also have intelligence

which indicates that the presence of dogs at the frontier is being felt by those involved in this illegal trade, and that users and importers are now much more wary of importing drugs from Spain via the land frontier. These measures give an indication of the progress that has been made in a relatively short period of time towards the implementation of the drugs strategy. This is a five year strategy and there is still a lot of work to do. A public information campaign is currently being devised which will give details on a regular basis of the work undertaken and what is in the pipeline for the short, medium and long term. I feel it is important to reassure the general public that things are moving in the right direction as I know that this issue concerns all of us. Finally Mr Speaker, I take this opportunity to thank members of staff of all my departments for their hard work and commitment. I also wish to thank the Chief Minister who makes decisions on ministerial portfolios, for allowing me to retain mine, albeit with a few added responsibilities. Social affairs and working to improve the quality of life of the most vulnerable is an area of Government which I thoroughly enjoy, and although a thankless task at times, it is also very rewarding and uplifting to be able to make a positive difference in helping the least prosperous and fortunate in our community. Thank you Mr Speaker.

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

Mr Speaker, I will be reporting on my ministerial responsibilities for Education, Training and Employment, giving an account of progress during the past financial year and pointers for future developments planned by the Government. In Education as I warned in my Budget speech last year, there is now no doubt that the toughest challenge for our secondary teachers and our education system in the years to come will be the adoption locally of a wide-ranging proposed reforms envisaged by the UK Government for the age range 14-19. The UK Government have now published the interim report of the working group headed by Mike Tomlinson, the former Chief Schools Inspector, on 14-19 reforms. The report outlines the working group's long-term proposals for a unified framework of learning programmes and

qualifications covering all 14-19 learners in the UK. The proposals are intended to be phased in over a period of 10 years. This is not the place or the moment to give details of what is a very complex and technical document, but the proposals are aimed in general terms at offering a coherent and effective way of organising 14-19 learning, which builds upon the strength of the current system whilst seeking to tackle long standing weaknesses. Perhaps the most striking feature is the radical change of the present national qualification system, by a four-tier diploma replacing the present A-level grades with a seven point scale akin to the International Baccalaureate which is common in other European countries, and the GCSE grades A\* to G could be split into two levels, the foundation level and the intermediate level. Now the diploma at all levels is intended to ensure that all young people leave school with the same core skills, namely maths, communication skills including language and information technology. But an innovative and key feature is the requirement that all pupils, again at different levels, do an extended project or personal challenge which should include attributes such as self-awareness, self-management and inter personal skills, what used to be called in my days education for life and which has been largely lost recently since then and which employers are now calling for. All this can be demonstrated by the pupils through a range of extra-curricular activities including community work and work experience. The report also stresses that while the traditional external public examinations would continue to be used for many parts of the diploma, including the core subjects of maths and communications and ICT, other units could be assessed by teachers themselves including trainers or even via computer assessment. Another far reaching aim of these reforms is to enable pupils to do academic or vocational subjects or a mixture of the two in a way that gives both paths equal status. The House will appreciate the radical implications, some have described them as revolutionary of these 14-19 reforms as suggested by the Tomlinson Report. Mr Tomlinson justifies all this by stating that the report sets out proposals, and I quote, for a new structure that will move 14-19 learning from a system that works well for some to one that will meet the learning needs of

all. Members may recall that in my Budget speech last year I announced that the Department of Education had formed a working group to study ways in which our three post-16 institutions namely Bayside and Westside and the College, could collaborate more closely to offer a full range of educational programmes to all students. Well I am meeting with Sue Rogers, the National Treasurer of the NASUWT in the Union, a meeting which took place in January this year, we agreed that any initiatives locally should be held back and measured against the wide-ranging reforms proposed in the UK. Mrs Rogers told us that the proposed reforms were still very much in the pipeline under cautious consideration by educators and the Unions in the UK. The final report on the recommendations from the Tomlinson Working Group are expected to be presented to the Secretary of State in September this year and they would still need to be approved by the Government. Meanwhile it was agreed that both the Department and the Union locally would follow these developments closely.

Mr Speaker as a background to all this let me say, I would like to restate that our education system is of course largely modelled on the system in the UK. I believe that this is a right decision since our opportunities for higher education reside in British universities and colleges. However our policy has been always to adopt but also to adapt whatever happens in the UK to our own needs. Not all reforms in the UK in recent years have been welcomed there by the teaching profession. The complaint has been that these reforms have introduced a level of bureaucracy into the teaching process with an unacceptable workload on teachers. It is often commented that with all the recording and all the paperwork and all the reporting requirements, teachers now have very little time to teach. We have I think, wisely therefore, largely avoided these excesses whilst at the same time adopting all that is good in UK developments.

Higher education, the fact that we are ready to review and indeed widen and improve our post-16 educational provision given the important and far-reaching changes that are being planned in England, should not be seen as a sign of

dissatisfaction with the achievement of our children in public exams. The fact that every year over 40 per cent of our annual intake gain access to higher education is proof of our success in preparing our pupils throughout their school career for public examinations. The statistics speak for themselves, in 2003 the GCSE pass rate, that is from A\* to C grades was 68 per cent, AS level pass rate was 92 per cent and the A level pass rate was 97 per cent. The number of students in UK universities and colleges this academic year is 553. The cost of tuition fees paid this financial year by the Government is £581,833.38. As from next September, as has already been announced by the Chief Minister, the Government will be awarding full maintenance grants to all holders of educational awards and abolishing the present system of parental contributions. Provision for this extra expenditure has been made in the current Estimates. Now the British Government, Members of the House may know, intend to introduce in September 2006 variable tuition fees to be charged by UK universities of up to £3,000 yearly as opposed to the present standard fee of £1,200. In order to comply with EU legislation the DFES, the Department for Education and Skills, is making plans to include EU students and this will of course include Gibraltarian students, if required, in the same arrangements as for UK students once these variable fees are introduced in September 2006. Now these arrangements are as follows. Loans will be offered by UK Government owned company which would only charge interest at the rate of inflation. A student would only be required to pay the loan once he or she had finished the course, was in full-time employment and earning a sum equivalent to 60 per cent of the average earnings in his or her country. Unpaid loans would be written off after a period of 25 years. The new system will only apply to students commencing courses in 2006. Under the current system students on Gibraltar Government scholarships have their fees contribution paid directly by the Gibraltar Government through the Department of Education and Training. The Government intend to continue to fund all tuition fees and not pass the financial burden onto students. Nevertheless investigation is presently taking place to see if this can be achieved whilst still

taking advantage of the UK student loan scheme with the Government of course assuming all repayment obligations.

**Pupil/teacher ratios.** The total complement of teachers on a permanent and pensionable status is currently 308 as opposed to 288 when we came into office in 1996. The average pupil/teacher ratio in our schools is well below the levels in UK. In First Schools the average locally is 1 to 16.38, the agreed maximum with the Union is 1 to 20. In Middle Schools the average is 1 to 18.9, the agreement with the Union is 1 to 25. In Secondary Schools the average ratio is 1 to 14.91.

**Pre-School Education.** We have six nurseries today run by the Government as opposed to two when we came into office in 1996, catering now for 315 children as opposed to 135 in 1996. In recent years we have been able to offer a placement to every child whose parents have requested it. In the course of this coming academic year we will be introducing legislation to ensure adequate academic and health and safety standards in all private nurseries. A summary was provided to owners of private nurseries at a meeting last year in the form of consultation and we are currently awaiting their collective response.

**Performance management.** Performance management in schools has quickly become an established feature of the way schools are managed. Benefits have become apparent. Better focused schools and teachers, better planning and more relevant professional development leading to higher attainment on the part of the children. Progress up the main scale as indeed the upper and leadership scale is also dependant on success in meeting the performance targets and objectives. Next September the third point on the upper pay school that is beyond what is called the threshold becomes available to all teachers on the upper pay point 2 who have sustained a high level of performance set against certain criteria during the past two years. The Government in keeping to their policy of parity will be awarding to teachers the latest pay rise implemented in the UK, that is, 2.5 per cent. In the UK the recruitment and retention

allowances have been abolished at a national level in favour of discretionary school-based allowances. Locally the Government will continue to pay these allowances to present holders at 2003 rates pending further negotiations, which are still open, with the NASUWT/GTA. The position regarding management allowances, what we call here responsibility posts in schools, is also under review in the UK and the Government are awaiting the results of this review before taking appropriate action. In the meantime all vacant responsibility posts that carry management allowances are being filled on an acting capacity to ensure the smooth running of our schools.

**Professional Development.** The Department continues to offer tailor-made courses to meet the professional needs of schools and teachers. These range from courses to update staff on the latest changes in public examinations to diploma courses in management, educational management. It is important to continue to offer management courses since these will become in UK compulsory for promotion to Deputy Headteachers and Headteachers. These courses are being offered in conjunction with Sheffield Hallam University. Of the 52 teachers who were undergoing a course, 25 have already completed their post-graduate certificate, 14 are now working for their diploma and 20 teachers are currently at different stages of their post-graduate certificate level.

**Special Needs.** Our policy continues to be one of equal opportunities. In broad terms children with special educational needs will be educated in mainstream schools alongside their peers, always keeping in mind what is realistic and affordable. In particular the inclusion of such children will not be at the expense of the learning opportunities of other children. Specialist provision will continue to be provided at St Martin's School for those pupils for whom mainstream education is inappropriate. Additionally special units in mainstream schools continue to operate for those children whose needs cannot be met throughout the school day in the mainstream classes or who cannot be met at St Martin's. Outreach programmes nevertheless operate from St Martin's School and the Special

Unit to facilitate social interaction between children with special needs and their mainstream peers. In order to implement such a policy effectively the Government has well-qualified teachers in every school and a substantial number of support staff, classroom aides, nursery nurses and nursery assistants.

Additionally the Government have been engaging supply staff to meet the needs of some children when these cannot be met by redeploying existing staff.

Infrastructural works. The on-going programme of repairs and maintenance in schools amounted this last financial year to around £642,000. This actually included £201,950 to securely encapsulate, they say, the asbestos found at Governors Meadow and Bishop Fitzgerald Schools. Over and above this expenditure and funded from the central vote intended for security measures, we have commenced the programme of installation of shatterproof film in all external windows in our schools. So far the Hebrew School and St Mary's First School in Town Range have been completed. Work continues in the planning phase of the intended projected new first and middle school at Reclamation Road/Queensway. The new schools will cater for around 450 children and will release the pressure, the present pressure on Governor's Meadow and Bishop Fitzgerald Schools. Next September, I am pleased to say, will also see the completion of the extension to St Paul's School in Varyl Begg Estate. This consists of a large dining hall-cum-assembly hall plus five extra classrooms above the hall and a new nursery to replace the old portacabin. This will enable the school to accommodate a greater number of children given again the increased demand as a result of the move and growth of population to this area.

Information Technology. There is now a requirement for ICT to be included in the group of subjects known as the National Curriculum Core. That is Mathematics, Science, English and ICT. Government have invested largely during the past financial year to equip our schools accordingly to the tune of £142,591. Each school has been provided with at least one modern, up to

date computer suite with the latest technology and internet-enabled. The computers in these rooms have been networked to allow for the sharing of internet access and printers, scans and other peripherals and modern software applications.

School Lunches. The fact that the vast majority of children continue to stay in school for lunch, 90 per cent, is a clear indication that parents are very satisfied with the provision being made by the Government. This year also saw an improvement in the conditions and wages of lunch supervisors which has resulted in greater stability for this service in our schools, the change in their conditions notably the attendance bonus which is now being granted to them, has vastly improved attendance. Instability had been caused before by the need to send supplies for absent lunch supervisors very often, with the need to explain to them all the time the set-up and for them to get to know and establish a relationship with the children.

Educational Exchanges. Our children continue to take part in events organised by the Municipio of Los Barrios. Many of our pupils took part in the Dias de Convivencia which took place in Spain on 22<sup>nd</sup> April and in Gibraltar on 5<sup>th</sup> May this year. Two hundred children took part each day, 100 from Los Barrios and 100 from Gibraltar. Children also travel, and this is a popular trip, to Hera which is an archaeological educational site near Chiclana, very good, and to Granja El Dorado, an animal farm with environmental means of education near Jimena.

Tercentenary Projects. I am proud to say that the Department and all our Schools have been and are still fully engaged in brilliant activities related to the Tercentenary celebrations. In the last three years the Ministry of Education and Training in conjunction with the Ministry for Heritage have worked together to produce local history resources. A text book, a lovely text book on prehistoric Gibraltar was written by a First School teacher, Mrs Giselle Montegriffo, and the Museum's Education and Research Officer Dr Darren Fa, an ex teacher himself who continues to work with the schools and children. At present work is going on in a Middle School history module of the same type.



The Tercentenary posters projects was jointly planned by Dr Darren Fa and Mrs Patsy Scott, the Senior Education Adviser, with participation of a multi-disciplinary team. This consists of a series of beautiful full colour posters and accompanying teachers notes for use in schools and the theme "Three Hundred Years of British Gibraltar". The project was funded to the tune of £5,300 by the Tercentenary Sub-Committee on Heritage. Thank you very much. Three children from First Schools and Middle Schools have participated in what all those who were privileged to see the combined, the magnificent combined schools dance display which was performed the other day as part of the programme for the official inauguration of the new Sports Stadium and linked also to Princess Anne's visit to Gibraltar. Murals depicting events throughout the 300 years of British Gibraltar have been painted in St Joseph's First School, in Bayside School and in Westside School. A school exhibition where paintings, friezes, projects, artefacts produced by school children throughout this academic year commemorating the Tercentenary will be on display at the John Mackintosh Hall during the week of 25<sup>th</sup> October, and similar exhibitions actually can be seen in all our schools. Drama presentations by children, Sacred Heart School, Bishop Fitzgerald School, St Mary's School, a compact disc, which I recommend to everybody to buy produced by the children of St Joseph's First School, recording very interesting interviews with their grandparents and parents in some cases with local persons reminiscing on their experience during the Evacuation especially and in the past, together with popular songs and other bits of folklore of the past, including the war and of course the evacuation. Bayside Comprehensive School have gone over the top. They have already held their Walk Through History Project, when all pupils visited and researched key places of historical interest in Gibraltar, but their main event is planned for July, along the lines of the Evacuation Evening and the Verbena held in 2000. The event will include a play produced by Leslie Zammit and the unveiling of a large mural in the main playground, 30 metres of mural. History of Education Book. Perhaps the major project sponsored by the Department of Education is a book on the History of Education in Gibraltar which will be appropriately published during this

Tercentenary year, towards the end of the year. This is a major piece of work researched and written by Albert Traverso and Ted Archer and it is the first time such a wide-ranging account of the development of education in Gibraltar has been published, covering not from 1704 but certainly building up throughout the years before the war and after the war through to the more systematic approaches of recent years, including comprehensiveism and the Education Ordinance of 1974 which governs education today, to the present day. This books fills a crucial gap in our understanding of the growth and evolution of the Gibraltarian people over the last 300 years. In a reflective final chapter the authors write "while there may be room for improvement and development as the third millennium gets under way Gibraltar enjoys the benefits of a well-structured system from pre-school to higher education and beyond, wholly financed and controlled by the Gibraltar Government".

In conclusion in my report on Education Mr Speaker, I would like to add to this that we can all be legitimately proud of this and thankful to all those who today, as in the past, are committed to the education of our people. Sound knowledge, rational understanding, balanced judgement, moral discernment, social and religious tolerance, faith in the future, these are the hallmarks of our community and as we move into the future this Government wants to ensure that through our education system we keep these values well implanted in our collective mind and spirit.

Mr Speaker, I will now turn to my report on training developments. I have already explained to the House the importance being given in UK under the 14-19 report to vocational education as an integral part of a broad based educational curriculum. Indeed not only throughout the 16-19 phase is this being recommended, but as an on-going provision of skills development in the form of what is called life-long learning. The Government believes that training to ensure the development of skills at all levels and in all spheres of activity, is a crucial means to sustain economic growth and permanent employment, and at a deeper level to bring about a sense of

purpose in our community. I will now give an update of schemes and courses currently available. The maritime sector, the Department of Education and Training continues to work in partnership with the Gibraltar Maritime Authority and local Port operators in order to make available training provisions for the watch rating certificate. During the last year we have sponsored 11 employees from the private sector to attend courses at Warsash Maritime Centre in Southampton, to attend basic safety training weeks. We currently have a member of staff from the Registry of Ships undergoing a series of courses and attachments in the UK and a second member of staff who has just commenced an 18 month course at World Maritime University, Malmo, Sweden, leading to a Master of Science Degree in Maritime Administration. We also have a graduate who is furthering his maritime career by undergoing practical training by means of attachment to an international shipping company.

Diploma in Business Administration. This is a business-related course leading to accredited qualifications issued by the London Chamber of Commerce. Lecturers from the Gibraltar College deliver theoretical components of the course at Bleak House and trainees receive work-related experience with local companies.

Financial Services Sector. The Department of Education and Training has been working in partnership with the newly-formed Gibraltar Association of Compliance Officers. Where possible it is envisaged that Government will assist this Association in setting up and delivering accredited courses. Courses leading to a certificate in offshore finance and administration and a diploma in offshore finance and administration will continue to be offered in Gibraltar. The Department of Education and Training continues to offer subsidies to students undertaking the Certified Accountancy Examinations known as ACA during this last year's evening classes, offering tuition in preparation for the Certified Accounting Technicians Exam have been offered at Bleak House for both private and public sector employees. The Association of Gibraltar Insurers and Managers, the Chief Minister earlier reported on the growth of the insurance business and activity,

and insurers and managers are currently discussing with the Department of Education and Training the possibility of offering the Advanced Diploma of Insurance, similar to the ACA qualifications, but in this case for insurers in Gibraltar.

Management Training. A business management programme for the private sector leading to a Diploma in Management accredited by the Chartered Management Institute commenced in January 2004. These courses are being delivered and validated by the Business School of the University of Durham. Courses are also being run for Civil Servants to attain diplomas in management and there are 48 participants from the Civil Service at present in the Professional Development Programme and 21 more participants in the Senior Management Programme. During the past year around 86 persons from the private and public sectors have obtained certificates and diplomas in these courses.

The Construction Training Centre. During this last year 58 trainees have undergone training in the various construction related trades. Of these 24 were new entrants, commenced last September, that was intake 10, of which 17 still continue in our training scheme working towards NVQs. All apprentices are following NVQ training leading to awards by the UK joint awarding body, that is the City and Guilds London Institute and the CITB, Construction Industry Training Board. As part of the Government's plans to reorganise Buildings and Works, labourers in that Department are offered the opportunity to undertake NVQ qualifications in areas where there are shortfalls in core disciplines. A total of 14 labourers originally expressed an interest to undertake NVQ training up to craft level and eight of these took up the final offer and commenced training in March this year.

Engineering Trades Training Scheme at the Cammell Laird Training Centre. During the last year 33 trainees continue their training in the engineering trades leading up to NVQ level 3. Of these 9 apprentices have completed formal tuition and are awaiting results of their assessments in NVQ Level 3

qualifications. It is hoped to have a new intake of apprentices who will commence this coming September, actually the advertisement for applications came out today. The external verifier from EMTA awards visited Gibraltar in late May this year and once again granted the Department of Education and Training Centre approved validation.

Training for prisoners. The Government's Training Officer is currently working closely with the Superintendent of Prison and the Employment Service with a view to extending training facilities currently on offer to persons who are confined to prison. It is intended to offer a range of academic, vocational leisure classes in preparation, hopefully, for the inmates' rehabilitation programmes.

Vocational Training Scheme. VTS. There are currently 158 youngsters between the ages of 16 and 26 participating in our Vocational Training Scheme which continues to be partly funded by the European Social Fund. All participants have the opportunity to receive training in numeracy and literacy skills, with a further option of training in information technology.

Customer Care Courses. The Department of Education and Training has assisted both the Chamber of Commerce and the GFSB, with funding towards customer care training courses. During this coming year it is hoped that with Government assistance, more private sector companies will attain ISO accreditation.

The Training Advisory Council. The Training Advisory Council which was constituted by this Government in December 1998 represents a wide range of relevant organisations and agencies, both in the private sector and in Government departments. I want to take this opportunity to thank all the Members of the Council for their invaluable advice and to Government enabling us to focus on training needs and skills development in different sectors of our services and industries.

Mr Speaker, I now turn to my responsibility for the Ministry of Employment. Because this is for me a new area of ministerial attention, it may be useful, certainly to me and for the record perhaps, to restate the aims and objectives of the Employment Service under the charge of the Ministry of Employment. Let me say from the start that it is not the task of the Employment Service to create or generate employment. This is essentially an economic factor which is governed through a whole range of schemes and initiatives mostly promoted by the Department of Trade and Industry and intended to attract investment and consequently prospects of employment. The general overall aim of the Employment Service is to provide opportunities and assistance to all registered persons to find or secure fair and suitable employment in what can be broadly termed our labour market thereby also of course serving the needs of services and industries which contribute to our economy. As I say, this is a general aim a sort of mission statement but in order to achieve this the Employment Service is equipped and structured accordingly. This can be described as the specific objectives and functions and they are as follows. (1) The registration of all employers, employees, vacancies, notices of terms of engagement, contracts, notices of termination of employment, notices of variations of employment, registration of all unemployed persons et cetera. (2) The provision of assistance by designated employment officers and employment counsellors who make up what has come to be known as the Job Centre and the Job Club, to enable unemployed persons to find suitable employment. (3) To monitor, supervise and enforce the implementation of statutory requirements in our employment legislation. This is done through designated officers who make up the Labour Inspectorate, the Health and Safety Inspectorate and through the secretarial service that we give to the Industrial Tribunal. It is under these three headings, registration processes, employment assistance, enforcement of statutory requirements, that I will now give substance to my report by indicating and indeed analysing the current state of play in each of these areas and pointing to policy options for the future.

Employment Registers. In this context I want to share with the House my admiration upon taking office in this Ministry of Employment, and I say so as someone who comes from the sophisticated world of education, of the extraordinary technological and human resources with which my predecessors since 1996 have equipped the employment service, making it possible almost at the press of a button as they say, to produce all the vast statistical data and information which is of great use of course to the Government in our economic planning, and as reflected also in the litany of questions asked by the Opposition as being also of course of great interest to them as well. I am sure therefore that the Opposition Members opposite will join me in expressing our appreciation to the management and officers of the Employment Service for this efficient, prompt and valuable service to all of us. At the touch of a button we can produce statistics on such key areas of the current and historical employment scenario, as casual workers, detached workers, part-time workers, registered unemployed persons, vacancies registered, new entrants to the labour market, work permits issued to non EEC applicants, registration of self-employed persons, terminations of contracts, variations of contracts, prosecutions initiated by the Employment Service, fixed penalties issued, the use of the Job Club and all this broken down on a monthly basis, and if required also on a daily basis, and by gender, age and nationality. Now given this vast statistical landscape it is important for me at least not to miss the wood for the trees. In other words, the need to analyse the data and focus on salient factors and trends which enable us to assess the reality of our employment situation and its implications for our economy. I will therefore now put to the House the following considerations that reveal the state of play so to speak of employment patterns in Gibraltar currently and in their historical context. Now I would think that the vital statistics, at least in my mind, must be what is our total work force. What is our labour market? Well, as on 31<sup>st</sup> October 2003 our registers in the Employment Service show an active legally employed work force, excluding directors and self-employed persons, of 16,878. Now there are a number of points that I want to raise about this figure. First of all there appears to be an unspecified number of

terminations of employment which are not notified to the Employment Service, hence it is likely that this figure in our registers is somewhat inflated. Because of this we normally turn to the Employment Service of the Statistics Office annually carried out by the Statistics Office, and as reported for October 2003 out of 1,298 employers surveyed, 1,052 that is 81 per cent actually returned information in respect of the number of employees. This actually is an improvement on 2002 when only 897 employers submitted such information. Therefore though very close I think the figures of these statistics of the Employment Service still fall short I believe of giving us a complete 100 per cent accurate picture of the number of employee jobs currently active in our market. The total number of employee jobs reported by the latest Employment Survey is 15,419, which is a feedback from the figure that I gave from our registers, 1,459 short of our own figures. But if we take into account my earlier caveat about the failure of some employers to notify to us terminations of employment, I think the Employment Survey figure should be very close to the mark. My guess, my enlightened guess I hope, is that the total number of employees making up our total work force, that is as of October last year, should be between 15,500 and 16,000. What is unquestionable however in spite of these variables and relatively minor discrepancies in our given statistics, is the trend revealed by all these figures, which actually reflect an impressive pattern of growth and this of course of great economic significance, that is the expansion of the labour market in Gibraltar. 12.5 per cent during the period of 10 years from 1985 to 1995 and from 1996 to 2003 a period of seven years which is of course of direct interest to this Government, there has been a growth of around 18.8 per cent. This is an extraordinary trend in employment growth and of course very good news in terms of our economy. This point is actually highlighted in the Employment Survey Report and I think the Chief Minister actually gave some of the statistics contained there before, recording that the number of employee jobs reported in October 2003 increased by 8.1 per cent over the year from 14,266 in October 2002 to as I said before 15,419 which as they say is the highest ever recorded number of employees in the market recorded from the Survey.

The Report further indicates that the level of employee jobs in the private sector increased by 10.1 per cent, notably in the construction industries and in the betting activities. In that particular industry the increase has been 55 per cent over the year and other data which again was reported by the Chief Minister, is in the Employment Service Report which is worth recording is the fact that average annual earnings from October 2002 to October 2003 have increased from £16,766.49p in October 2002 to £17,460.44p in October 2003. Let me point out that the percentage of Gibraltarians actively employed within this overall labour market, according to all the figures available to us which I have quoted, lies between 62 per cent and 65 per cent. Just about the same as before the frontier opened in 1983. In other words statistics show that the increase in Spanish labour, which obviously came about after the opening of the frontier and which is presently 13 per cent since the frontier opened, has not been and is not today at the expense of Gibraltarian labour. If anything it has been in lieu of Moroccan labour which has dropped over the last 20 years by 12 per cent from 17 per cent when the frontier opened to 5 per cent today. I say this because the Opposition and indeed the Government show natural concern about the number of unemployed Gibraltarians at any particular moment of time. What our figures demonstrate is the following. Firstly that over the year 1983 the average number of unemployed Gibraltarians was 789, this figure began to drop over the years to 456 in 1995 and since 1996 the yearly average of unemployed Gibraltarians has further dropped to an average of 351. Secondly, it is important to heed that what these figures really signify. We are talking of Gibraltarian unemployment at 2 per cent of our total labour market, if we rely on Employment Service figures, or 2.2 per cent if we use the Employment Survey figures. Now Members are aware that these minimal percentages are reckoned anywhere to be equivalent to full employment. Thirdly, it follows that it is naïve and incorrect from every logical and statistical point of view to raise a political issue whenever our published quarterly figures of unemployed Gibraltarians show a minimal increase or decrease for that matter. Only recently the Opposition decried the average increase from January to March 2004 quarter compared to

figures in the same month in 2003. The increase they were referring to was 26. Now whereas we must feel of course for the plight of those 26 individuals who unfortunately, honestly I hope, found themselves in the unemployment bracket, in terms of statistical analysis it is sheer demagoguery to declare those figures as alarming. Members will be pleased to hear that the register for April and May this year shows a marked decrease in Gibraltarian unemployment from 363 in March to 314 in May. A drop of 49. But it would be just as wrong for me to make a song and dance about this, as it is for the Opposition to raise a hue and cry about the smaller increase shown in the previous month. Any statistician will say that these minor fluctuations, these small ups and downs in the average data, can be due to incidental factors. For instance the sudden influx of graduates returning at the end of their academic year and in no way denote alarming trends in the economy or indeed in the available opportunities open to Gibraltarian workers. Employment Assistance is the second part of my report. Mr Speaker, I now turn to the second area of activity carried out by the Employment Service as I have defined it earlier. The provision of assistance and advice to registered unemployed persons seeking and hopefully obtaining suitable employment. Again I have to give credit to my predecessors in this Ministry for introducing in the Service what I would call an ethos of personal attention to the individuals who turn to us for help. I have now had occasion to observe at close quarters the style and the manner in which our Employment Officers and Employment Counsellors attend to individual service users, some of whom I have to say are not always amenable to dialogue, to reasonable dialogue, to face interviews with sympathy and effectiveness and above all courtesy and respect. Over the past year thousands of interviews have been given by the Employment Officers and the Employment Counsellors to service users and although not all employment contracts have been the outcome of these interviews, because some notices of vacancies registered with us already specify the prospective employee, it speaks for itself when we consider that over the year 2003, 6,903 job vacancies were filled. This not only points to the turnover of our Employment Service but indeed it is surely a reflection of the vitality of our economic outturn. Please allow

me to highlight the particular purpose and significance of the Job Club which was created by my hon Colleague and Friend Jaime Netto in the year 2000, following good and enlightened practice in employment services throughout Europe, intended to add a caring and personalised dimension to what would otherwise become a purely impersonal bureaucratic process. The Job Club is primarily intended to assist the most vulnerable and disadvantaged in our community, such as ex offenders, recovering addicts, and single parents, through personalised counselling by qualified counsellors offering not only moral support and encouragement but practical job seeking skills, service workers in liaison with lecturers from the Gibraltar College and with social workers and includes workshops for prison inmates on a weekly basis, and particularly popular are the 10 week computer courses available to all registered unemployed persons. The Job Club had a turnover last year of 566 service users who used the service 864 times. 115 of these service users were under 18 years of age and 182 from 18-25. I have to say that I consider the Job Club in the Employment Service to be one of the most pertinent and caring elements in our community services generally. Well as Minister with joint roles in Education and Employment I am pleased to say that liaison and cooperation between the Department of Education and Training is close and productive, particularly in the field of training, which is so relevant to the promotion of employment. The Director of Employment is able to advise the Training Advisory Council of which he is a member and to which I have referred earlier, in my report on Education and Training on areas where from our perspective the prospects of employment for Gibraltarians, especially school leavers and the young, are most relevant and necessary. Particularly close is the cooperation between the two departments in structuring and monitoring the YTS, the Youth Training Scheme, to which I have also referred in my earlier report on Education and Training but which is seen by the Employment Service as a valuable element in the task of promoting employment opportunities for young Gibraltarians. Mr Speaker, I will now give account of the statutory framework within which the Employment Service operates. The Statutory Instruments are the Employment Ordinance, the Employment

Regulations 1994, Conditions of Employment Orders, Employment Regulations (Offences) Ordinance, Business Trades and Professions Registration Ordinance 1989, GDC Employers Insolvency Regulations 1991, the Factories Ordinance, Working Time Ordinance and the Equal Opportunities Ordinance 2004. A great pressure and challenge for us in recent years is the constant flow of EU Directives requiring transposition into our local legislation. Quite apart from the instrumental mechanism that this process requires and which stretches our own limited resources to the maximum, and here I would like to give credit and thanks to the efforts and efficiency of our Legislation Support Unit, one wonders as I do, and this is a personal reflection, probably wrong, whether it might not be possible for a small community like ours to govern our affairs to the benefit of our community like ours, sixteen odd thousand persons that make up our labour market, actually I do not like the word market I prefer the more classical epithet workforce or working class, and their social partners, mostly small scale enterprises and employers without all the draconian, gigantic edifice of EU Directives. But that as I say is a personal option which I wanted to take off my chest but meanwhile, we have to go along with things as they are. A typical example of what I am getting at is the recent introduction in our local statute of the Equal Opportunities Ordinance. This is meant to transpose European Council Directives 1997/80, 2000/43 and 2000/78. Actually I wholeheartedly welcome this piece of legislation as it touches upon social issues of equality, social justice, which are close to my heart. But it is interesting that for purely logistical reasons, and I repeat purely logistical reasons, no question of principle, in coping with the legal complexities of the European Directives, we have had to postpone the introduction of strictures against age and disability discrimination. Now this is the point which I was making before. The fact that European legalisms have as yet not been adopted by us for as I say logistical reasons surely does not mean that in our caring community, and indeed within the broad scope of our own Employment Ordinance as it stands, and indeed in our very Constitution, we are in any way insensitive to the rights and needs of our aged and disabled. In any case, I am pleased to announce that our

hard working Legislation Support Unit are now completing the draft of legal instruments to establish the requirements of the EC Directives with respect to age and disability discrimination, and these will soon be brought to the House.

As Members of the House will recall there are a number of amendments to the current Employment Ordinance which flow from the Equal Opportunities Ordinance. One of these I am pleased to announce will be the introduction of the principle of constructive dismissal as an explicit area of contention in legally establishing cases of unfair dismissal. The House will recall that the Chief Minister stated in the House that before we went ahead with this we would carry out a process of consultation with relevant parties. This has now been done, the issue was discussed at the last meeting on 22<sup>nd</sup> April of the Labour Advisory Board, which as Members of the House will know, represents the social partners, the Chamber of Commerce, the Federation of Small Businesses, the Unions that is Transport and General Workers Union, Prospect and the Gibraltar Trades Council, and I would like to take this opportunity again here to express on behalf of the Government our appreciation of the time and the effort that these organisations give in advising the Government on employment issues, sharing with us their interest and their expertise in the field. The outcome of the said meeting now allows the Government to go ahead with the proposal to introduce the principle of constructive dismissal into our legislation, and I think we may be able to do it actually during this meeting of the House. Mr Speaker, Members of the House are aware of the accession as from May 1<sup>st</sup> of 10 new Member States into the European Union. That is a challenge for us as well. Now unlike the UK, which I believe has not chosen to do so, Gibraltar will continue to exclude nationals of the new EU Member States from free access to our labour market during their transition period. There is a transition period when derogation powers can be exercised, in other words they will require a work permit as other normal nationals.

**HON J J BOSSANO:**

Is there a period?

**HON DR B LINARES:**

I think it is five years. In conclusion, Mr Speaker, allow me another personal reflection. Employment generally and everywhere, particularly in the European Union, is increasingly becoming a complex scenario where rights and obligations are forever finding their way into the Statute Book. This whole process, often a legal labyrinth but perhaps a field day for lawyers, is a catalyst for legal intervention all round where rights and obligations are often the cause of conflict as opposed to resolution. It therefore requires a real effort on the part of all those of us engaged in this enterprise to focus on the fact that employment is meant to be essentially about people, and to resist to be swallowed up in bureaucracy and legalisms. I am satisfied, as I have tried to put across throughout this report, that this is the spirit and ethos that moves all those who work in the Employment Service and I wish to pay tribute and express my appreciation to all of them. I also want to thank you Mr Speaker and all Members of the House for your attention, and I commend to the House approval of the items of expenditure in the Estimates of Expenditure for 2004/2005 under Heads 1A, 1B, 1C, 102 Subheads 1, 2 and 3, and Appendix B under the heading of Employment and Training. Thank you, Mr Speaker.

**HON J J NETTO:**

Mr Speaker, subsequent to the General Elections held last year, I am both pleased and privileged to be able to continue delivering public services in connection with housing and maintenance. As we all know during the General Election, together with Health the subject of Housing remained at the forefront of political debate and quite rightly attracted substantive discussion and deliberation. This third term gives the Government the

opportunity to continue to implement their comprehensive policies in the area of housing including our manifesto relating to new Housing built.

If one is totally frank one should say that expectations are high and the Government are determined to work hard on their promises. This means that a planned approach will be applied though it will include sufficient flexibility to embrace new needs. That said, Government propose to continuously upgrade the existing housing infrastructure whilst also carefully addressing new emerging demands. I am therefore pleased to confirm that the Government will continue concentrating on these important areas of housing provision with the same level of commitment that our community expects and deserves. Though ambitious these plans may be the Government remains totally committed to delivering growth in the context of housing within three critical areas. These are Growth in Services, Growth in Investment and Growth in Projects. This approach, which I shall refer to as the 'threefold strategy', is necessary to meet the growing demands of a modern society which Gibraltar can proudly boast. The threefold strategy will enable substantial improvement in housing services, substantial investment in procuring these services and substantial continuity in the delivery of major capital and refurbishment projects. I therefore would like to expand further by firstly highlighting the first of these three strands namely Growth in Services.

### **Growth in Services**

Last year the Ministry for Housing updated many of its systems including CIT infrastructure and indeed build new counters for Housing Allocation, Housing Rental and the Reporting Office. It has enormously helped my staff when dealing with the general public, and the benefits include smart facilities that are properly maintained together with back-up infrastructure, enabling quicker access for information. Many of our clients now enjoy much better improved facilities at the ground floor level rather than having to climb stairs, an inconvenience and I dare say an

impossibility for some of our elderly and/or our disabled citizens. I wish to improve this further in due course. For example, the Government plan to centralise the Reporting Office so that clients are able to contact one source when requiring information or assistance within matters concerning public housing, its maintenance and any other related miscellaneous service. In other words, a system will be introduced whereby the reporting office will do the chasing on behalf of the client since it should not be the other way round. This will include for the provision of a centralised telephone recording system so that calls may be verified, which will enable further improvement in customer care.

Mr Speaker, now that I have touched upon the theme of customer care, I wish to remind the House that the Ministry for Housing inclusive of Buildings and Works, has undergone extensive customer care training. This was delivered by the University of Durham and funded by the Department of Education and Training. Firstly may I just say that I am very grateful to my hon Friend the Minister for Education and Training for his support in providing the funding to this crucial area of continuous professional development. This drive within training is already paying dividends whereby numbers of complaints reported by the Ombudsman earlier in the year (aimed at counters), have dropped dramatically. I would like to say that this is much a result of both (a) hard work by my staff when dealing with sensitive housing related issues, and (b) training which has helped foster greater focus and attention at the customer interface. The Government are determined to study further their customer care strategy by looking at other ways of creating greater proactive activity and maintaining a positive momentum in providing a professional service to their clients. May I also add that I welcome the Ombudsman giving suggestions and ideas on general issues relating to housing, since many of these have been discussed within senior management, and I dare say even implemented. Such a collective platform is indeed one that I would like to maintain in pursuit of orientating our mission towards better housing services.



The Ministry for Housing has designed a number of leaflets aimed at members of the public to provide general information on housing matters, maintenance and repairs and rent relief matters. These are now available at our counters as well as the Citizens Advice Bureau and the Office of the Ombudsman. I hope that this will further educate members of the general public about what type of services we can offer. To maintain this information drive the Government intend to continue this supply by introducing topical areas which are both (a) relevant, and (b) informative within the housing domain.

Mr Speaker, for the first time within the Ministry for Housing, I intend to publish an annual report for the benefit of tenants giving useful information and details of housing provision. The draft is already complete and this should be publicly available shortly. This should bring together the external family of housing (inclusive of NGOs) thereby providing a wide range of services and professional advice.

The House will also recall the extensive reforms that have been introduced as a result of an independent audit carried out in the year 2000/2001 by HLB Kidsons Consultants Limited. With this in mind last year, two further Clerks of Works were introduced into the Ministry for Housing to help complement the Technical Division, in the monitoring of works by both the private sector and Buildings and Works. In addition, for the first time, the Ministry for Housing has a properly trained draughtsman to help support the professional staff.

Mr Speaker, I mentioned earlier that the current plans to centralise the Reporting Office in order to coordinate and maintain the proper monitoring of calls. The Government have recruited a Reporting Office Manager whose main responsibilities will be to liaise with tenants and substantiate their queries or, if need be (on their behalf) chase up progress of works. The Reporting Office Manager will also be closely involved in monitoring response times and highlighting to senior management any areas whereby there are perceived to be

difficulties in meeting and satisfying acceptable response times referred to as targets.

This year the Ministry for Housing will have further staff to assist in the development of a much needed Asset Register and implementation of a centralised procurement policy. These two areas are what is remaining in respect of human resources when driving through the necessary reforms to help further improve service delivery. That said, the Government also intend to follow their manifesto commitment with the introduction of a vehicle removal service for non authorised parking within Government Estates. This has been much sought after by Government tenants and for this purpose the Ministry for Housing has two additional Administrative Officers to administer parking permits.

What I have stated earlier demonstrates the importance given by the Government in listening and respecting tenants' reasonable needs. The Government are careful and prudent when introducing policies which will affect tenants and, therefore, they should and are always placed at the forefront of our minds when building on our mission: *"Orientating Housing Services to the Needs of the Community"*. This is our agenda, this is our promise.

In keeping with this policy of consultative participation, where practically possible, the Government will continue meeting with established Tenants' Associations, since this is viewed as the best form of interface in tackling tenants' needs. Just to remind the House, there are currently around 16 Tenants' Associations already in operation. I personally chair these meetings, hence the importance that we place on this vehicle of positive exchange and sometimes, dare I say, negative exchange. It is, therefore, the Government's intention to openly encourage such participation and I hope that we shall enjoy further Associations being developed over the course of time. In order to help further attention in this matter, the Ministry for Housing has designed posters that will be placed within Government Estates and Blocks, that openly encourage such development and participation.

Mr Speaker, one such positive exchange by Tenants' Association was their dissatisfaction on the cleanliness of Government estates in general. As Members will recall, the cleaning of estates was formally conducted by the Wardens Section and in January 2003, this activity was passed over to the private sector. I am pleased to say to the House that our tenants are happy and satisfied with the new service and I wish to place on record my thanks to Master Service (Gibraltar) Limited for their tireless effort in maintaining the highest levels of cleanliness within our estates.

The House will be aware that the last review of the Public Housing Ordinance took place some 32 years ago in 1972, whilst the Allocation Rules were revised in 1994. Since then, the problems within public housing has grown ever increasingly complex and, therefore, the Government plan to introduce new legislation to widen the Ministry's powers to effectively address housing problems and for improving controls on public housing. The Government also plans to put forward proposals for tackling anti-social behaviour in public estates which is causing concern to the Ministry and tenants alike. The proposed legislation will include for a new Public Housing Bill, Public Housing Regulations, Public Housing (Anti-Social Behaviour) Regulations, Housing Allocation Rules and a new Tenancy Agreement.

Mr Speaker, the police, social workers, education welfare officers and mental health practitioners have been consulted as regards the proposed legislative and administrative arrangements put forward for tackling anti-social behaviour, and there has been consensus that the proposals provide an effective response and that there should be prompt implementation.

The Government are keen to further empower tenants in drafting a Tenants' Charter. This will be instrumental in focusing on service delivery and particularly will hold the Ministry for Housing (inclusive of Buildings and Works) to account with target times for the implementation of emergency, very urgent, urgent and routine works. This open and transparent process allows

scrutiny of service delivery, which is the daily essence of where service delivery should be improved.

For the first time, I intend to start a new Housing Advisory Council. This will essentially advise the Government on questions relating to both private and public housing, such as supply/demand, rights/obligations and problems that generally arise from housing issues. The Council will be Chaired by me as Minister for Housing and comprise key members across our community that are well qualified in identifying the needs of Gibraltar. Typically, this will include participation from the Ministry for Housing, Ministry for the Environment, Roads and Utilities, Associations of Private Estates, Government Estates Associations, Land Property Services, Private Landlords, Action for Housing and the Gibraltar Banking Association. This platform will encourage full discussion and consultation, so that Government may enjoy a balanced perspective, both over the short and long terms. Typically, the Council's terms of reference are designed to:

- (1) Study requirements and provide related information on local needs, trends and fluctuations in the local market;
- (2) Assess local demands, supply, and suggest ways of tackling these parameters;
- (3) Identify present and future housing issues within our society requiring attention;
- (4) Provide a balanced perspective between private and public sector needs;
- (5) Compare market trends and subsequent local impact;
- (6) Advise on how to modernise current practices and provide practical solutions;
- (7) Suggest ways of combating anti-social behaviour; and
- (8) Generally to advise the Government on housing matters.

The Council will be held on a regular basis and it is envisaged that all participants will take this opportunity to raise their concerns and advise on practical solutions when dealing with housing, which is increasingly seen by many people as a particularly sensitive subject area.

Last year, I highlighted that it was important to distinguish between the roles of both Housing (as client) and Buildings and Works (as supplier). Though they are part and parcel of the same Ministry, they both serve different functions and, therefore roles. This must be properly defined so that both parties are clear on what is expected from them. I am pleased to say to the House that this has now been drafted and it is expected that these will be further discussed between Housing and Buildings and Works, prior to being agreed.

Before discussing Buildings and Works, I wish to briefly say to the House that never has so much been done for applicants classified as medical or social cases. I am very grateful to those who continue to wait their turn even when this has meant giving way to someone, or, family, in greater need. To give the House an idea of the number of medical and social cases being deliberated, please note that ever since May 1996, under the Government the number of social applications accommodated has been 146 to date. Similarly, the number of medical applications has reached 280. This demonstrates our total commitment to those very people in our society who are in greatest need of public housing assistance, health, care and support. Our campaign will continue as long as the Government are privileged to remain in Government. Never in the history of public housing has so much been done to accommodate medical and social cases. To those who wish to argue against the Governments' policies, in what can only be described as an ever increasing, complex and important social field, is neither in touch with the true picture of events, nor are they in tune with the realities of the problems that we face, today, on a day-to-day basis. With this in mind, I hope all in this House will share in giving thanks to those members of the Housing Allocation Committee, and the Medical and Social Boards, for their unstinting resolve and commitment when scrutinising and assessing public housing applications. Their work often goes unnoticed and it should be placed on record that these people voluntarily and, willingly, give up their free time and energy when undertaking work of this sensitive nature. I hope all in this House

will share in expressing our gratitude to members of the public housing committees.

Mr Speaker, I have generally highlighted growth in housing services and wish to elaborate further the extent of progress within Buildings and Works.

### **Growth in Services by Buildings and Works**

During last year's Budget speech I spoke about the changes that were being implemented in Buildings and Works, since mid February 2003, regarding the way they were conducting businesses via the different Depots. As the House is aware, the three depots' field of responsibility were originally based on geographical areas, simultaneously tackling Flat Refurbishment, Minor and Major works. The reorganisation based on centralisation of resources, is demonstrating that productivity and quality of service has improved.

The House will recall that each of the three depots were given areas of responsibility that were categorised by type of work, rather than geographical lines. For example:

- Flat Refurbishment Depot (including OT cases and pensioner bathroom conversions).
- Major Works Depot.
- Response Maintenance Depot.

Regardless, these changes are by no means the only ones that will be introduced, since change is a continuous process, and as such, will act as a tool to further improve our services to tenants, as and when required.

Mr Speaker, I wish to run through some statistical information for the benefit of the House. Since the reorganisation of the Buildings and Works depots, a total of 126 empty flats have been

refurbished/prepared by Buildings and Works and consequently returned to the housing stock. The average response time for flat refurbishment by UK Local Authorities is around 8 weeks - Buildings and Works average is now down to 6 weeks upon works commencement, though I should stress that there remains a backlog of 47 flats programmed up to December 2004. This figure, obviously, does not include new entries that may arise in the future. The Buildings and Works workforce is positively responding to the Ministry for Housing's needs by showing full flexibility and providing a quick response. This has been achieved by the improvement made in inter-departmental lines of communication and effective pre-planning by Buildings and Works Management.

Mr Speaker, to elaborate further, the response time regarding Occupational Therapy (OT) cases and pensioner bathroom conversions, has also been reduced. For example, a total of 98 individual requests have been dealt with which has reduced the works programme substantially, that is, the backlog has been reduced to 40. Buildings and Works will catch up with the small backlog before the end of this current financial year notwithstanding new requests that will continue to be reported by tenants. The present system will, therefore, help eliminate previous reactive response methods and allow proper pre-planning of works. It will also further decrease the tenants waiting time to an acceptable level.

Mr Speaker the Major Works Depot deals mainly with external repairs and refurbishment of common areas. Again, since the reorganisation, there has been a marked improvement. Estates such as Laguna, Moorish Castle and Glacis are presently getting a facelift. Parts of the Upper Town and the South district are also included in the rejuvenation/refurbishment programme, as well as other estates. By having a centralised depot (nominated by works category) we have noticed that our biggest challenge lies in the further reduction of response times related to day-to-day requests. Although there have been inroads since February 2003 in the backlog of minor works requisitions, we are presently about to introduce minor changes to reduce these further, in

order to aim to eliminate them. This involves a screening process, which, as I speak, is continuing to be properly scrutinised. For example, it has been found that requisitions have unwittingly been entered twice, whilst in some other instances (where works have been completed), these subsequently have not been erased from the system, thereby remaining in the backlog. This is notwithstanding emergencies and new defects that have been reported and executed during this same period. Within the next few weeks, the different works programmes will be scrutinised much more than before and all works considered desirable, rather than necessary, will be placed in abeyance. Flat refurbishment, OT cases and pensioner bathroom conversions, will not be affected. By temporarily removing these desirable works from the programme, we will have freed enough resources to concentrate on outstanding historical minor works backlog. This temporary measure will be closely monitored in case it has any adverse effect on the overall service that the Government wishes to provide to tenants: a quality service that they rightly deserve. I am confident that a substantive reduction in the backlog will be achieved. We will therefore reduce reactive maintenance to an acceptable minimum and thereby free sufficient time for managers to plan works, well in advance. It will help boost the morale of the workforce and improve job satisfaction since this would encourage more positive ownership of their actions so that they may achieve important objectives. Above all, it will increase productivity, effectiveness, efficiency and, generally, the overall quality of service supplied to Government tenants. In addition, it will help mould better teamwork and help address the present entrenched culture of the organisation. Mr Speaker, towards this aim, we will need to invest further by encouraging employees to attend courses such as National Vocational Qualification, B.Tech National Certificate (which is equivalent to the former qualification known as the Ordinary National Certificate) and specialist short courses, covering important areas such as Health and Safety together with the proper handling and disposal of asbestos materials. The Government, therefore, remain totally committed to training their workforce, since we strongly believe that this is the crucial factor in facilitating the improvement of

skills to (a) employees, (b) the organisation, and (c) the most important parameter, the end user, namely the tenant. The Government have recently advertised in the local media, vacancies for labourers and craftsmen. More job vacancies will be advertised in the not too distant future, which will maintain manning levels as agreed between the Trade Unions and Government. In order to further increase productivity and quality of service, Buildings and Works has procured additional plant and tools so that tradesmen may carry out their work more efficiently. I can confirm to the House, that a paper is being prepared to procure more plant that will further and efficiently boost our present stock levels. We have also centralised the control of plant and tools so that greater efficiency may be introduced. This should promote a positive effect in as much as it will reduce the funds spent on hiring. A similar system has also been introduced for the hire and control of scaffolding. Mr Speaker, there has been a remarkable improvement in the dissemination of information and feedback to the many enquiries made by (a) tenants, (b) the Ombudsman, and (c) other Government Departments. This is a secondary service that most of the time goes unnoticed and is just as important as physically undertaking repairs and responding to reported defects. In the great majority of cases, those making enquiries only require further confirmation that this is in hand, and not as we have witnessed in the past, where sometimes, these reports are being simply lost within the system or subsequently forgotten. As stated last year in my budget address, further investment will be injected into Information Technology, and I am pleased to confirm that this is already happening. The result of such an investment is improved communication between Housing and Buildings and Works. Both organisations will be able to interrogate the system without needing to request additional data, thereby reducing time lost when waiting for information. This new system will free more time to adjust the service we provide. For example, rather than having to request the information from Buildings and Works, Housing will directly be able to reply to tenants, when in receipt of queries related to repairs or works. I am very confident that further improvement will transpire thus reducing the number of complaints being

received by the Office of the Ombudsman. It is this independent feedback, together with the effort made by Tenants' Associations, that have generally helped to truly gauge, whether there is any notable improvement in service delivery. I am pleased to say to the House, that this mechanism (one of many) remains a formidable benchmark in measuring the performance within Buildings and Works, and I can confirm that this improvement is beginning to pay dividends. Service delivery is improving though I will be the first person to say that further improvements will be necessary. I also wish to add that proposals are currently being put together to explore further whether it may be feasible to accommodate both Housing and Buildings and Works, within the premises formerly used by the MoD WSM. This would allow for greater centralisation, improving communications, lessening duplication of stores and facilities, though at the same time improving control and integration of these two important arms of the Ministry for Housing. At this point of my address, I would like to quickly update the House on Government's plans to move Buildings and Works into an Authority. The Government are shortly about to begin the process of negotiations with the Trade Unions, on all issues relating to the move. When this process has been completed then further information of any agreement will be made public. As the House will gather, such growth in services is clearly unprecedented and obviously, such plans require proper financial investment. This forms part of the second strand of the three-fold strategy, which I earlier referred to as Growth in Investment.

### **Growth in Investment**

Mr Speaker, I wish to firstly briefly run through recurrent expenditure. The Ministry for Housing has undergone major changes principally in areas such as staff restructure with recruitment and the contracting of services. These changes have had a financial effect on the Approved Estimates of recurrent expenditure for the Ministry, which has increased significantly year by year. In the Financial Year 1999/2000, the

Approved Estimates for this Head of expenditure was £6.275 million and this rose to £7.749 million in the last financial year; an increase that represents 23.49 per cent for the period. It is expected that further increases in recurrent expenditure, during this year of account, will be represented mainly by increases in salaries and wages and to a lesser extent in expenses related to the general administration in providing the service.

This year has seen the need to recourse to supplementary funding in both the Ministry's (Head 3A) and in Buildings and Works (Head 3B). The figure for the Ministry will be approximately £142,000 although in excess of 50 per cent of this figure has been incurred as a result of unbudgeted expenditure, relating to increases in salaries and services contracts to it such as in the cleaning of estates. Similarly, in the Buildings and Works, supplementary funding was also sought to meet areas of overspending, principally in the procurement of materials and specialised contractual services, incentive schemes bonuses, overtime payments, and to a lesser extent, in more general administrative duties. As with Head 3A, a large proportion of the amount of supplementary funding refers to unbudgeted expenditure which was unforeseen and could therefore not have been provided in the bid figure when estimates of expenditure were submitted.

With respect to expenditure in Capital Projects, an unprecedented level of refurbishment has been carried out in a wide cross section of Government Estates and other areas. The works undertaken range from general beautification projects, roofs and general repairs, lifts installation programmes (which is well in progress) and other projects of a more general nature. The extent of Capital Refurbishment, commencing in 1998, has exceeded the £13 million at the end of the previous financial year. The main major projects that have been completed to date are:

- Glacis Estate Beautification and Installation of Lifts;
- Laguna Estate Beautification;
- 62 Flat Bastion Road;

- Sandpits House;
- MacMillan House;
- MacFarlane House;
- Willis's House;
- Anderson House;
- Coelho House;
- Heathfield House;
- Scud Hill House;
- Belvedere and Electra Flats; and
- Tankerville House and the Prison Quarters next to it.

Mr Speaker, this year I am pleased to confirm that the Government are planning to invest a further £3.2 million through Head 101, Improvement and Development Fund, for Major Remedial Works and Repairs to the Housing stock. This level of funding, in addition to the well over £13 million already mentioned and spent since 1998, reinforces the Government's campaign, which, similarly to last year, remains unprecedented in the history of housing services.

The Capital Programme is, therefore, on-going and a number of projects have been earmarked to commenced during the course of this current financial year. To date, there are already a number of important projects in progress, such as the Varyl Begg Refurbishment programme, which includes the replacement of existing roofs and installation of lifts. Other projects in line are the lift installation programme at Alameda Estate and refurbishment works at Upper and Lower Witham's, Vineyard and Rosia Houses.

This leads me to the third and final strand of the three-fold strategy, which focuses on Growth in Projects.

### **Growth in Projects**

Mr Speaker, before elaborating further, I wish to initially summarise what projects we have in hand.

**(a) Housing Initiatives and Refurbishment Programmes in hand.**

New development for home ownership which is expected to begin construction this year; New development for a senior citizens building, this is similarly expected to begin construction this year;

- Replacement of Windows;
- Edinburgh and Bishop Canilla House/Major Repairs;
- General Lift Installation Programme;
- Knight's Court Gates and Parking;
- Upper and Lower Witham's House;
- Varyl Begg Estate, Phases 1 and 2, Lifts and Roofs;
- Scud Hill House;
- Rosia House;
- Vineyard House;
- St Joseph's Estate, External Staircases; and
- Alameda Estate Lifts.

**(b) New proposals for the next four years.**

Introduction of Target times for Housing Maintenance Repairs;  
Review of Public Housing Ordinance;

- Introduction of Anti-Social Behaviour Legislation and Enforcement;
- Estate Wardens;
- Penney House Refurbishment and Lift Installation;
- Referendum and Constitution House Refurbishment;
- Kent House Refurbishment;
- St John's Court Refurbishment and Lift Installation;
- Churchill House Refurbishment and Lift Installation;
- Knight's Court Lift Installation;
- Police Barracks (Officers' and Sergeants' Blocks), General Refurbishment;

- Gavino's Dwellings, General Refurbishment;
- Alameda Estate Scheme;
- Moorish Castle Estate Beautification Scheme;
- St Jago's Estate, General Embellishment Scheme; and
- St Joseph's Estate, General Embellishment Scheme.

Our programme is both ambitious though warranted when tackling the enormous decline in public housing infrastructure that was to become the legacy left by former administrations. Our commitment in raising the standards in public housing remains pivotal in our campaign towards orientating services to the needs of the community. This will continue to take place though it will be balanced with new emerging demands such as that proposed under the new low cost housing scheme.

**New Low Cost Housing Scheme**

Mr Speaker, I believe it is appropriate at this point to update the House on the new Housing Development Schemes. Firstly, the House will recall that established Consultants have already been engaged by the Government to design low cost housing which will be designed to be 'homes for life'. That said, rather than concentrating on a numbers game, the Government plan to construct homes that boast of greater individual space, so families are attracted to stay and enjoy the amenities available. Secondly, the House will be aware that the Government are close to finalising these details with a view to proceeding with subsequent construction. Thirdly, the area known as the 'Sands' has now been vacated by the private concern formerly using this as a parking area, and this area will be constructed first. Fourthly, the first OJEC notice has been advertised to substantiate potential tenders who may be interested in this project. As dictated by OJEC rules, a second notice will shortly be publicised and we will then be in a position to provide further details about cost and design plans.

I am pleased to have led this Government's improvement in housing services. We can proudly witness the major benefits

that this has accrued. Particularly, when we see the embellishment of Laguna and Glacis Estates, together with extensive external refurbishments at MacMillan, Sandpits, MacFarlane, Willis's, Anderson, Coelho and Heathfield house, Knight's Court and of course, other works. It is also a fact that we have cleaner estates, which is regularly attended and further reduces the very real risk of disease and unsightly accumulation.

Mr Speaker, in conclusion, I have outlined a 'three-fold' strategy to delivering growth (in the context of housing) within three critical areas. These are: Growth in Services, Growth in Investment and Growth in Projects. This three-fold approach, is indeed necessary to meet the growing demand of a modern society and will enable substantive improvement in the provision of housing services, substantive investment in procuring these services and substantive continuity in the delivery of major capital and refurbishment projects.

There is much more work to be done and all of these three strands are inextricably linked to the Government's aim of prudently steering housing policies that are in tune with the needs of our community. This has, and remains, solidly at the forefront of our mission: "Orientating Housing Services to the Needs of the Community" - this is our ambition, this is our goal.

Finally, once again, I would like to pay tribute to all my staff both in Housing and Buildings and Works. Particularly to my Principal Housing Officer, my Personal Assistant and my Personal Secretary for their total commitment and loyalty to this task. Thank you.

#### **ADJOURNMENT:**

The Hon the Chief Minister moved the adjournment of the House to Thursday 1<sup>st</sup> July 2004 at 9.30 am.

Question put.            Agreed to.

The adjournment of the House was taken at 8.20pm on Wednesday 30<sup>th</sup> June 2004.

#### **THURSDAY 1<sup>ST</sup> JULY 2004**

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 J J Holliday - Minister for Trade, Industry and Communications  
The Hon Dr B A Linares - Minister for Education, Employment and Training  
The Hon Lt-Col E M Britto OBE, ED - Minister for Health  
The Hon J J Netto - Minister for Housing  
The Hon Mrs Y Del Agua - Minister for Social and Civic Affairs  
The Hon C Beltran - Minister for Heritage, Culture, Youth and Sport  
The Hon F Vinet - Minister for the Environment, Roads and Utilities

#### **OPPOSITION:**

The Hon J J Bossano - Leader of the Opposition  
The Hon Dr J J Garcia  
The Hon C A Bruzon



The Hon S E Linares  
The Hon L A Randall

**ABSENT:**

The Hon J J Holliday - Minister for Trade, Industry and  
Communications  
The Hon Lt-Col E M Britto OBE , ED - Minister for Health  
The Hon R R Rhoda QC - Attorney General  
The Hon T J Bristow - Financial and Development Secretary

The Hon F R Picardo  
The Hon Miss M I Montegriffo

**IN ATTENDANCE:**

P E Martinez - Clerk of the House of Assembly (Ag)

Debate continued on the Appropriation Bill, 2004.

**HON C A BRUZON:**

Mr Speaker, I would like to thank the Hon the Chief Minister for his description of the Theatre Royal as being a vision thing, because in my humble opinion the Government's performance on housing since 1996, as far as I can analyse it, has been a vision thing. The results to date have been abysmal. I will try to demonstrate in my speech today why I think that this is so. I would also like to say to the hon Lady, Mrs Del Agua and the Hon Mr Netto that I sincerely hope that everything they said yesterday will be fulfilled, because for the sake of the people of Gibraltar, whereas their vision seems right and their ideas are good, I found that as I have studied the brief history of the GSD in power they have been able somehow to project the view that

their achievements are imminent but in fact in some cases their achievements have not happened.

It is a privilege for me to be a Member of this House and I have been so for six or seven months, but I attach much, much more importance to the time that I have spent with our constituents, because after all they are our constituents, I have visited in their homes when people have come to me with problems, I have done my best to point them in the right direction so that they can get the necessary help. If it was not for the contact the direct contact that I have had with our constituents, my contributions to this House would be weakened immensely. Let me say that on Housing there have indeed been no shortages of schemes and plans but no new buildings can be seen. Promises made by the Chief Minister in a number of his New Year messages but no new buildings can be seen anywhere to accommodate the many people on the housing waiting list and I would like to quote briefly. The New Year message from the Chief Minister 2001 in January, this is what he said, "2001 will also witness the start of two quite ambitious projects and one of them is the launch of various housing schemes by Government to ensure the availability of low cost reliable quality housing at affordable prices." Then in January 2002 once again the Chief Minister said, and I quote, "this year we also want to concentrate on providing much needed affordable housing for the next generation of first time buyers and for the elderly as well". The GSD administration in 1996, actually just before they were in Government because this is a manifesto commitment, said under the heading of Housing for Rental: "however some people cannot afford to buy their homes and we are therefore committed to providing rental housing. In support of this policy the GSD will allocate financial resources to the building of additional rental housing." And they add a little proviso: "should it be necessary to complement existing housing stock." Mr Speaker there has not been a single day when this has not been necessary. In 2002 they also said, "we will build more housing, including more housing for the elderly and for 2RKB list". Also in their 1996 manifesto we were told that a GSD Government would allocate financial and labour resources to a major programme for the

external upgrading and beautification of housing estates generally, as well as a note, as well as to the quicker carrying out of internal repairs and maintenance. That is what they said in 1996. In fact when I ask the Minister for Housing the Hon Mr Netto to what extent, this is recently in the House, to what extent are Government responsible as landlords for the internal repairs and maintenance of Government housing units. The answer he gave me was to hand me a copy of the agreement signed by every tenant, Government tenant prior to accepting the key to his or her new home. In the agreement it says, and I quote, "the tenant will not be responsible for any damage or defects which in the opinion of the landlord are due to the reasonable wear and tear or to defective workmanship or materials". Well, if it is not the responsibility of the tenant it must follow logically that it is the responsibility of the Government as landlords. All the beautification that the GSD can boast about that is all fine. The external refurbishment of some Government housing estates, the installation of some lifts, yes that is all very well but where is the much needed affordable housing, Mr Speaker? And where are the internal repairs to many of the Government housing units that is affecting many of the Government tenants that I have visited since I was elected to the House in November last year. There is still talk of projects and schemes but no new housing units can be seen anywhere. The Chief Minister has told us on more than one occasion recently, that they were elected into Government on what they promised in November 2003 manifesto. In a sense he is right. But does he not realise that the failed promises of the past years has adversely affected the lives of many people here in Gibraltar. The elderly, yes, but also young couples with children who have had to move to Spain because there is no adequate affordable housing for them here either to purchase or to rent.

In the last Session of the House, in answer to a supplementary question regarding the 33 flats that were being made available to the Government by the MOD in Chilton Court, the Chief Minister said that it would be preferable and more desirable for our elderly citizens to be allocated housing units in a new housing estate similar to Bishop Canilla which was going to be built for them in

the future. Seriously if their past record on housing is anything to go by, God help our elderly citizens. Already there are delays in their plans. They said in November that the housing project at the North Mole Road, North Mole, would start in the spring this year. That construction would start in the spring this year. Already there is slippage of time, already there are delays. In the Official Notice printed in the Gibraltar Chronicle we are told time limit for completion, works are to be completed by 31<sup>st</sup> December 2006. Then it says, final date for receipt of request to participate the 5<sup>th</sup> July 2004. And final date for despatch of invitation to tender for selective candidates 30<sup>th</sup> July 2004. I hope that they succeed for the sake of the people of Gibraltar but if their past record is anything to go by, as I said before, God help our senior citizens. In a Government Press Release dated 15<sup>th</sup> March 2004 we were told that presentations had already been given to the Government indicating outline schemes and that shortly this would be substantiated with final design proposals. That consultants commissioned to undertake the design of the new housing schemes had engaged specialist sub-contractors to carry out ground investigation tests. We were told in November last year, as I said a minute ago, by the GSD administration that construction in the North Mole site would commence in the spring of 2004. It has not happened. We may well ask what the concept of good citizenship or moral behaviour have to do with the Budget. Well economics has a lot to do with how people live and work and budget decisions can and do affect peoples' lives. People living in cramped and overcrowded conditions can and does give rise to different degrees of violence and pressures. It is not the fault of the Housing Allocation Committee if they take longer than is reasonable in allocating homes for the many people on the housing waiting list. I have a short letter here that I received three weeks ago of which the Housing Unit has a copy. This is what it says, "I wish to bring my housing situation to your attention. I have resided with my wife at the above address for the past eight years. This is a 3 bedroom flat belonging to my in-laws. My wife's grandmother also resides there, and in the ensuing years we have also had a child. As you can appreciate we are living in very cramped conditions. Since his birth our three year old son sleeps in our bedroom, we have

absolutely no privacy either in our room or indeed in the house itself. Although we are all reasonable people at home, relationships can at times become tense. In recent years this has continued to deteriorate. The degree of tension was such that I was left with no choice but to leave the house as matters had got completely out of hand. I genuinely feared that the situation was potentially violent."

I referred Mr Speaker, in the last Session of the House to a letter of which I now have more than one copy, because this has happened more than once, about the response of the Housing Agency to elderly couples who request, genuinely request, to be allocated ground floor flats. This was dated January 2003, a year and a half ago. "The Medical Advisory Committee discussed your case at the meeting held on 13<sup>th</sup> January 2003. I regret to inform you that no further recommendation was made on your case. This is because the imminent installation of lifts should ameliorate the problems tenants like yourself are encountering in accessing their flats." I think it would have been much more reasonable if these people had been told that they would be considered, that they would do their best, that the Housing Agency would do its best to find proper ground floor accommodation for them, rather than give them the explanation that I have just read out.

Mr Speaker as spokesman for Social Services I must start by making a few general comments and then concentrate on two specific areas of the service which have been in the news recently. The elderly and the disabled. The feedback we get from the many people who come to us is that there is a lack of adequate information given to those who make enquiries at the Department's counter. But this is not obviously necessarily the fault of the people who work there. According to the Ombudsman Mr Speaker, a person going to the Department of Social Security to ask about a specific benefit will receive a good service. But somebody who goes there just knowing that he needs help is not quite sure how to proceed, and will not receive the same service. This is dependant on whether the clerk behind the counter is able to identify the needs of that particular person.

I agree with the recommendation made by the Ombudsman that the Department should have a general enquiries counter where anyone seeking general assistance can be informed of his or her rights, and of the benefits that may be available to them. I quote the Ombudsman's Report published recently, verbatim, "the Department's contention that the clerks serving at their counters should not be expected to know everything about the different benefits that are available can no longer be sustained." There is one specific case that I would like to bring to the attention of this House before I move on to talk about the matters concerning the disabled and the elderly. It concerns a gentleman who went for help to the Department of Social Security because he was unemployed. But unfortunately did not qualify to receive unemployment benefit because he had not made sufficient weekly contributions during the year in question. He was told by the Department that he had to go to the ETB to sign during the 13 week period but because he was able to demonstrate that he had no source of income he should have been put on social assistance from the word go. He should have been advised accordingly.

Mr Speaker, I do not intend to speak to give a long, long speech. I will actually simply concentrate highlighting two more situations concerning the disabled and the elderly affecting the Ministry that I shadow as a Shadow Minister for Social Services. Let me start first with the matter of respite care affecting the disabled and their families. Contrary to what Government Ministers often say that the Opposition always reacts negatively to anything the Government say or do, I personally was left with no option but to react to the Government decision to make cuts in the help given to the most vulnerable of our community. For this Government who, in my opinion, is well known for its spending on non-essentials to have made cuts on the very sensitive area of respite care is inexplicable. It should have been up to Government to defend their policy of reducing aid to the disabled and their families as the Leader of the Opposition said yesterday in the Budget debate, and that is one of the reasons why we called on them at the time to reverse their decision to implement these cuts until the matter had been properly debated in the

House of Assembly. It is the House that approves after proper debate has taken place what the funding should be for this important service that provides demand-led expenditure. The Hon Mrs Del Agua seems to have got her facts wrong on another matter which I believe needs clarification. When the Dr Giraldi Home was built by the GSLP administration, indeed at the request of the Disability Society, it did include provision for respite care. Just as the GSLP introduced improvements after 1988, it was only natural that further improvements should have taken place after 1996. Clearly in any area where additional services are provided, it is only natural that demand for such services should increase after a period of time. These increases arise in particular in instances where the family carers of persons with disabilities, themselves start having problems relating to health and infirmity and face an almost impossible task in coping with the needs of their loved ones. That is what respite care is for, to give the families a break. To help them to cope. But in a press release I believe issued by the Hon Mrs Del Agua, Minister for Social and Civic Affairs, on the 4<sup>th</sup> May this year concerning respite care, the Minister said that she could understand that the Disability Society should lobby for whatever amount of service its users wanted et cetera. But then went on to say that she had much less sympathy with what she called the GSLP's new found concern for the disabled, and considered that the statement which I issued on behalf of the Opposition on this matter, to be a huge case of unprincipled political opportunism. The use of this kind of language is unhelpful and I think.....

**HON CHIEF MINISTER:**

I think it is very moderate.

**HON C A BRUZON:**

Do you think so? I think it is unhelpful.....

**MR SPEAKER:**

Order, order, I would not like interruptions, please, carry on.

**HON C A BRUZON:**

The use of this kind of language Mr Speaker I think is unhelpful and irresponsible. I will let the people of Gibraltar decide and come to their own conclusions as to whether or not in their view I am an unprincipled political opportunist. In fact only the other day somebody stopped me in the street, a pensioner, and said to me, *"Charles how is political life treating you? How are you getting on in politics?"* And he said to me, *"you will never make a good politician because you are far too honest."* My reaction was well, if that is the definition of a politician, I am no saint but I do my best to be Honest and sincere in everything I do and say. Mr Speaker, the Disability Society in their newsletter made a small comment and they said disability is not an abstract subject. Disablement is the daily life of many Gibraltarians and their families, it is not an issue for the scoring of points or of coming out on top.

I would now like to turn to the question of Government Debentures issued through the Gibraltar Savings Bank. Government decided earlier this year to lower the interest rate payable to pensioners removing the extra half per cent over base rate per year payable to those who are aged 60 years and over. This facility was introduced by the GSD Government in 2001 as a move to benefit pensioners who would be given a secure, risk-free monthly income at a rate higher than non pensioners. The scheme had proved very successful and the Opposition had regularly monitored the growth in savings. We therefore condemned and opposed the decision of the Government to do a complete u-turn and a reversal of policy in going the other way to discourage pensioners from investing in Gibraltar Government Debentures, by ending the half per cent extra for new investors and phasing it out from the amounts already invested as interest rates move up. In addition it appears that a £100,000 ceiling had

been put as the maximum investment and we did not see why pensioners should have been discouraged from keeping their savings in Gibraltar by investing in Government Debentures. It is as if the Government was encouraging Gibraltarians to put their savings outside Gibraltar, when what it should be doing is encouraging the repatriation of money deposited abroad. When the Pensioner Bond and Debentures were brought in, the Government announced it as a move to benefit our senior citizens and the Opposition supported it. We therefore considered totally unacceptable that the Government should have removed the benefit when apparently the scheme had proved to be a success, which must surely have been the original intention. I imagine that the excuse the Government will give for having decided to discourage pensioners from investing in the Savings Bank by lowering the rate of interest and putting a cap on the amount that may be invested, is the fact that by paying half per cent over the base rate it left no margin for the Savings Bank to make a profit. And that in addition for every pound a pensioner saves with the Savings Bank, the Bank has to have a 10p increase in its reserves. The problem with this excuse is that this is not a new development. These factors were already in place when the Government took the initiative to introduce the Pensioner Bonds. That is to say, from the beginning they knew that they would not be making a profit, and said so publicly. They also knew that in encouraging pensioners to put their money in the Savings Bank they would be increasing the reserve requirements of the Bank pro rata. Therefore, what this shows is that this is another example of the Government doing something which they promote as being a good thing and beneficial to a particular sector, and then changing their minds as if they had not done their homework initially and only discovered the implications after the event.

Mr Speaker, in her Budget speech last year, the Hon Mrs Del Agua, Minister for Social and Civic Affairs, made the following statement. Concerning a swimming pool for the elderly and the disabled. This is what she said and I quote verbatim. "Mr Speaker during the last Budget session, 2002, I announced that Government were committed to providing a purpose built

swimming pool for the elderly and disabled somewhere within the reclamation area. I am pleased to say that after lengthy consultations with representative bodies of both senior citizens and disabled people, Government are now in a position to give details of this facility. The new swimming complex will be located within the existing GASA complex, although it may be completely separated from the latter. This project will provide a state of the art pool for the elderly and disabled and I am told by the representative bodies with whom I have met, that it exceeds their expectations by a very long stretch. The complex will be for the exclusive use of the elderly and disabled during the summer season. During winter the use of the pool only will be shared with members of GASA who will utilise it on a sessional basis for teaching purposes." I assume that money must have been allocated at the time in the Budget to make all this possible. Could this not be another example of the Government promising something which they promote as being a good and beneficial thing to a particular sector of our community and then change their minds as to the swiftness of the delivery, of delivering such a project. Another example of a major, as it was described, a major social project was the relocation of the prison to a purpose built facility at Lathbury Barracks. We were told last year by the Minister for Social and Civic Affairs that the existing prison was almost 300 years old and must be the oldest, if not the oldest in the Commonwealth. It was obvious, the Minister told us, that in the 21<sup>st</sup> century this penal establishment had more than outlived the purpose of its original construction, and the need for re-siting it from its present location was well overdue. She then stated that since coming into office, that was she stated this last year, so since coming into office was four years ago now five years ago, the Government had provided funds on a yearly basis to enable the Prison Authorities to improve conditions in general at the prison for both staff and inmates alike, and added that despite all this, the Prison was still visibly outdated and could not serve the functions of a modern prison due to its existing structure and location. The move, she said therefore, would bring important benefits to the inmates, the staff and the immediate vicinity. Is this all rhetoric Mr Speaker? What exactly is happening with this Government? They seem to be good at

announcing projects, at making promises, but the realisation of these promises is slow in coming.

Mr Speaker, I have often asked myself a question. It is a very simple question, and it is this. Is winning an election an end in itself or a means to an end? Surely it is a means to an end. This Government's performance in the vital and important human issues that I have been asked to take responsibility for as Shadow Minister, leaves much to be desired, and the results so far since they came into office in 1996, in some of these areas particularly on housing, give me the distinct impression that for them winning an election is almost an end in itself and this is not fair on the people of Gibraltar. Since November last year when I was given the responsibility and the privilege that I now enjoy of looking after Housing and Social Services, and this includes the elderly and the disabled, we have had in the region of 200 complaints brought to us by the people who have real human problems who need solutions now. I have visited many homes of these people, I have visited them in their homes to see for myself and to understand their problems better, and I can assure the House that in the vast majority of cases a solution to their problems is long, long overdue. Thank you very much.

#### **HON C BELTRAN:**

Mr Speaker, as Minister for Heritage, Culture, Youth and Sport it is with great pleasure and for the first time that I rise to inform the House on all aspects of my ministerial portfolio. This includes the Government Department of Culture, Sport and Youth as well as the Heritage Division, Public Service Broadcasting and Lottery. I will speak on each of them separately for the sake of clarity and in order to avoid giving my contribution an air of disjointedness, given the obvious differences between the areas that I am responsible for.

I would like to start with Culture. Mr Speaker, Gibraltar undoubtedly has a wealth of talent in all fields of the arts, music, dance, drama and the fine arts. The Ministry of Culture has

during the past year not just continued with the process of encouragement, of reinvigoration and reactivation of cultural activities that we have witnessed over recent years, in fact the Ministry has by supporting different groups and organisations with substantial funding, premises, logistical and advisory support, in fact increased vibrancy and frequency of cultural activities. Evidence of this is the extraordinarily successful International Art Exhibition held in January and the equally successful and ever growing in popularity, Spring Festival held from late April to 5<sup>th</sup> June, when almost every day was taken up with cultural events ranging from concerts, plays, shows, exhibitions including the Sixth Spring Art Exhibition, and demonstrations of arts and crafts amongst other achievements. Ince's Hall has had bookings for every week of the year with performances ranging from drama productions, such as the successful plays *Telling Tales* not *Suitable for Children* and the *Mousetrap*, pantomimes by the Trafalgar Theatre Group, dances by Group 2000, the week of drama with participation by Buds, the Annouilh Player, Spotlight Drama Group and Stage Musicals Group. I have to thank all those groups, associations and individuals, too many to mention all, for giving so much of their time for the enjoyment of our community. It is indeed a blessing to have such a wealth not only of talent but also of community spirit. Quite apart from the annual grants given out by Government to support individual groups and associations, this past year premises were renovated for Group 2000 at the Ince's Hall courtyard and the Cool to be Fit Club at the Garrison Recreation Rooms. Substantial remodelling and renovation works were also carried out at the Ince's Hall courtyard in order to accommodate the offices of the Ministry of Culture, my personal staff and myself. Further repairs and refurbishment works have also been undertaken in the Ince's Hall Theatre, including the auditorium. The John Mackintosh Hall, celebrating its 40<sup>th</sup> birthday this year, continues to function as a very important cultural centre. It performs an invaluable social function. In 2003 there were 796 meetings and exhibitions held in the Hall and these were organised by a total of 168 organisations and associations. This statistic also testifies to the active and diverse cultural life of the community. Speaking of

both the John Mackintosh Hall and the Ince's Hall, it is important to point out that refurbishment and renovation works have been completed at Ince's Hall and this year I am giving priority to a similar programme of refurbishment of the John Mackintosh Hall building.

This year has also seen the involvement of this Ministry in a number of Tercentenary events like the model soldiers and the postcard exhibition that proved so successful. I would like to congratulate and thank all those involved for the hard work and enthusiasm they put in to ensure such excellent results. Other exhibitions still to come include the 300 years exhibition of paintings, prints and books, as well as the Art Exhibition of Gibraltar paintings. The Ministry also organised the dance displays performed at John Mackintosh Square by Stylos and the Gibraltar Academy of Dance in honour of Her Royal Highness the Princess Royal. I would like to thank the two dance groups involved for their cooperation and very high standard of performance in spite of the heat which created difficult dancing conditions for the young dancers. The Ministry has also been tasked with the organisation of the Fair Week and National Day celebrations. Substantial work has already been undertaken to ensure the standards set are maintained, if not improved. Also, starting on the evening of 3<sup>rd</sup> August and continuing into the early hours of 4<sup>th</sup> August, there will be a street party and variety show organised by the Ministry to mark the crucial date in our Tercentenary celebrations. As the Chief Minister has said the new Theatre Royal remains a Government objective, although the timing of the project has been subjected to a re-prioritisation of Government capital projects insofar as expenditure for improvements to cultural facilities is concerned, I am very pleased to announce a very substantial increase with £100,000 being dedicated to projects in this area.

Mr Speaker I now turn to sport. During the last financial year the Sports Department continue to build on the work carried out in previous years in the provision and management of the following:

1. Sports facilities – including the Community Use of Schools Scheme;
2. Technical Support – assistance and advice to Sports Associations and schools as necessary;
3. Training Support and Sports Schemes through the Sports Development Unit; and
3. Financial assistance through the Gibraltar Sports Advisory Council.

First facilities. The works at Bayside are well under way. The new Sports Hall and ancillary building, which will include lecture rooms and another squash court, a cafeteria and new offices, are expected to be in full use by autumn, by which time the changing facilities and spectator stands for the hockey pitches will also be ready for use. The Sports Hall now has a name, The Tercentenary Sports Hall, and as hon Members are aware it was recently graced with the presence of Her Royal Highness the Princess Royal, who inaugurated it. The great success in forward planning and vision that this project represents was evident from the many positive reports and comments made by the public following the show put on by the Harlem Globe Trotters in the Tercentenary Sports Hall a few weeks ago, as well as by those present in the inauguration by Her Royal Highness. Mr Speaker I take this opportunity to pay tribute to the huge success achieved by my predecessor and friend the Hon Mr Britto, in other areas too but most outstandingly in the Bayside Projects.

Technical Support. The Sports Department continue to provide support, assistance and advice to the Associations and schools as required in the provision of facilities, equipment and development systems, and in the organisation of events such as the Gibraltar Open Dance Competition, so successfully held in March 2004.

Training and Support Schemes. The Sports Development Unit successfully continued to expand the Summer Sports Programme last summer, including a wide variety of leisure and educational activities. An even wider programme will be launched within the next few days for this summer. An increased number of national coaching foundation courses together with other generic coaching courses from the British Sports Trust, SAQ International and the Youth Sports Trust were again run for local coaches. Assistance and support have also been provided to sports associations in the organisation of Accredited Sports Specific Coaching Qualifications in athletics, in basketball, football, in shooting, in skating, rugby union, squash, badminton, hockey, volleyball, shooting, swimming, rowing, sailing, table-tennis, gymnastics and rhythmic gymnastics. The tutors delivering these courses have included, in appropriate cases, separate school in-service training days thus offering coaches and teachers the opportunity to further develop their expertise. The objectives remain to achieve eventually as much efficiency and self-sufficiency as possible in the delivery of coaching and training. The Unit also introduced schemes for senior citizens in partnership with Social Services and the Senior Citizens Club. Also, for the Cardiac Rehabilitation Group. The Sports Advisory Council and its sub-committees have met regularly and I wish to take this opportunity to thank all its members who are volunteers, as indeed are those many persons who run sports clubs and associations week in week out, and so dedicate much of their free time in supporting sports development in Gibraltar.

Financial assistance. A substantial level of financial assistance has continued to be provided to sports associations through the three funds available. The Government provided £100,000 to enable participation by a large number of teams from over 20 different sports, to compete internationally and locally at different levels of officially recognised competitions. A further £40,000 was provided by Government to finance Gibraltar's successful participation in the Guernsey Island Games 2003 and advanced some funds for expenses towards the Commonwealth Games 2006. Funding was also provided for participation in the 2003 Strait Games held in Los Barrios. The Sports Development Fund

of £55,000 together with the involvement and efforts of the sports associations enabled a large number of sports specific coaching courses to be held in Gibraltar. The improvement to Sports Facilities Fund of £700,000 enabled the provision of specific assistance to associations running their own sports facilities, as well as the purchase of essential safety and other equipment and the refurbishment and improvement of existing facilities, including the resurfacing of the Stadium's football pitch and athletics track. This has proved to be a great success with FIFA and the IAAF Accredited Standards having been achieved in Gibraltar for the first time.

It is expected that the administration of sports in Gibraltar will become the responsibility of the Gibraltar Sports Authority during the course of this financial year. It will assume responsibility for the new sports facilities being built, including the hockey pitches. Negotiations continue with the existing departmental staff. As has already been explained, the staff will not be compelled to join the Authority but will be incentivised to do so. However, if they do not voluntarily agree, no changes will be imposed on existing staff. I wish to highlight the fact that funding for sport this year will again be increased. The main aim will be to extend the services provided, and, as regards the new facilities, to complete current phases and to progress with the next phases of the Extension to Sports Facilities Project at Bayside. A large amount of infrastructural works in preparation for the subsequent phases of the project are also scheduled. For these purposes, £2.5 million is being provided in the I&D Fund.

Some emphasis will also now be given to resourcing non-sporting leisure activities. During the course of this financial year the Government will publicise their plans for the new Leisure Centre at King's Bastion, which we will establish during this term of office. Gibraltar's sport will again participate this coming year in many official international competitions. Government will be providing £160,000, again an increase on last year, to enable our sportsmen and women to represent Gibraltar internationally. A number of events such as the first International Rock of Gibraltar Mountain Race, with the participation of world class athletes and



the visit of the renowned Harlem Globe Trotters have very recently taken place, delighting sports enthusiasts as we celebrate Gibraltar's Tercentenary. Some of these have been funded directly by the Sports Department and others through funds provided specifically by Government for Tercentenary celebrations. In another event supported by Government funding, Gibraltar's young sportspersons once again enjoyed and learned much from the participation in the 2004 Strait Games held in Tarifa in early June 2004. Again I wish to thank all those many volunteers, who through their dedication and selflessness, made such a success of Gibraltar's participation in this event.

In the Sports Development Fund £60,000, again a considerable increase on last year, is being made available to assist sports associations based on their submissions and also the advice provided by the Sports Advisory Council, to cater for the provision of accredited sports specific coaching courses and participation in internationally recognised training opportunities in support of the development of sport in Gibraltar. The number of sports associations organising such courses and events is expected to increase and the level of coaching courses will continue to progress, leading to the raising of standards of sports generally. The Sports Development Unit will continue to supplement coaching strategies with generic courses and qualifications, and with sports development schemes such as the Summer Sports Programme, which I mentioned earlier, and Sports Link, a scheme to encourage formal links between schools and sports clubs. It is also intended to provide some funds to assist events and projects of a more leisure-orientated, or recreational sporting nature, not as yet covered by the criteria used for the programmes, but the new sports facilities which will become available will allow the introduction of new indoor sports into the programme. Such as indoor cricket, indoor hockey and short carpet bowls amongst others. This will also increase opportunities for recreational sporting activities. The excellent cooperation that has been built up between Sports Department, the Education and Training Department, the Schools and the Sports Associations, augurs well for the future.

The sum of £250,000 will be provided to further improve existing facilities including the Westside School tennis courts. A further £100,000 is also being provided to refurbish vacant premises for use by associations and clubs, although this is not restricted to sports and youth societies. In this connection, a study is planned to be carried out in partnership with the Heritage Division, into the feasibility of refurbishing South Jumpers Bastion on similar lines to North Jumpers. A further £100,000 is being made available for the refurbishment of Youth Clubs. The provision of adequate facilities at the Giralda Gardens for petanque is also well under way and is due for completion during 2004/2005. The Hon Mr Bruzon will be pleased to hear that in partnership with the Social Services Department, it is still very much one of Government's projects to provide a new swimming pool suitable for the elderly and disabled, and for the teaching of non-swimmers. It is intended that upon completion the elderly and disabled will indeed enjoy exclusive use of this facility during the summer period. Government hopes to make a start on this project during the current financial year.

The demands on the Sports Department are expected to continue to increase and Government will continue to review resources in order to ensure that a quality service is now continued to be provided. Sports, both competitive and recreational, makes a very valuable contribution to the Gibraltarian's quality of life, and therefore it is Government's policy to continue improving facilities and supporting the Sports Associations in their efforts. Government recognise and appreciate the great work and commitment of the large number of volunteers in the Sports Associations and Clubs who ensure that sports thrives and develops in Gibraltar for the enjoyment and benefit of all.

I now turn to the Youth Service. This last year the Service has continued to consolidate the delivery of its work, emphasising to users and the community as a whole the value and the role of modern youth work. Government continues with its commitment to consolidate and improve its youth work delivery in order to provide opportunities for young people to pursue activities and

interests, not only as ends in themselves but also as a part of a wider developmental process, in which they learn about themselves and the society they live in, through activities that also afford them enjoyment of course. Government will continue to support not just the Government Youth Clubs, but also those associations that are internationally regarded as delivering youth work and have the interests of young people at heart, such as the Gibraltar Scouts Association, the Guides Association and the Duke of Edinburgh Awards Scheme. The Youth Service, often working together with other agencies, offer young people planned programmes of personal and social education that compliment the home and school environment, and that encourage and empower our young people to become active, responsible citizens. With these aims in mind, Government provides funds to the Youth Service to equip their youth workers with the skills and support necessary to deliver these objectives. There is at present a Trainee Youth and Community Worker studying in the UK who will be ready to join the current team in the summer of 2005, on successful completion of a degree in youth and community work. A vacancy exists in the established staff complement for a full-time youth worker, which is intended to be filled by the start of this summer. The demands made on the service are reviewed periodically. The training programme for part-time youth workers has continued this year and has introduced youth work to over 20 persons. The successful candidates will be able to deliver youth work within a Government-funded club or project, as a paid or voluntary youth worker, and/or with other clubs and societies. At present, eight paid part-time youth leaders and three volunteers have already been recruited through this system. Government is keen to encourage training in youth work that conforms to recognised standards in the United Kingdom. Youth Service full-time and part-time staff and volunteers have also attended Health and Safety, First Aid and Counselling Skills Courses, as part of their continuous development training programme. Training during 2004/2005 will include areas such as child protection, counselling, bullying and involving young people in curriculum and service development amongst other matters. All these initiatives underline Government's commitment to ensure that

accredited youth workers deliver competent youth work. In fact a measure of the success of the Gibraltar Youth Services' high standards, which I confirm with much pleasure, is the fact that it has been accredited as a field placement centre for students in the United Kingdom undertaking Youth Work Degrees. This underlines the credibility that the Gibraltar Youth Service has gained with training establishments in the United Kingdom. Parallel to these initiatives the Youth Service has continued to develop opportunities for young people to participate in activities that are educational, as well as being enjoyable. For example, in 2003/2004 a youth educational trip to Sierra Nevada and day excursions and visits to sights in Gibraltar were organised. The Youth Service is also actively involved in the Cheshire Homes Project. Young people who use the Youth Centre were involved also in the construction of floats for the Three Kings Cavalcade as well as participating in rock bands and dance groups. Year 9 pupils from both Comprehensives were also involved in personal development programmes carried out by the Youth Service in partnership with the schools. These programmes assist young people to identify project topics which interest them, and with the support of the Youth Service staff and other volunteers, carry out their own research and help in putting the projects together. Credit must be given to youth workers who are able to respond to young peoples' initiatives and work with them to create a relevant learning environment and experience. This is the real value of youth work and the importance of having competent and properly trained youth workers.

Opportunities for young people to visit local places of interest continues with groups visiting Lower St Michael's Cave, the City Fire Brigade, the local Museum and GBC. Local enthusiasts and professionals have in turn visited youth clubs to talk to members about a number of interesting areas, health hazards schemes, local projects for the disabled and women's needs. The Duke of Edinburgh Awards Scheme also gets support for the delivery of its programme. The Award is currently experiencing a boom in the number of young people following its very demanding programmes. It is a successful youth development programme that attracts young people from a wide diversity of backgrounds

and with different levels of ability. The Award has moved to the Youth Centre, providing a central venue for participants to continue with respective programmes. Government have already provided a site for a new Duke of Edinburgh Award Centre at the new Sports Complex at Bayside, and construction will commence soon. Government will also be assisting the Guides Association and Scouts, with funding to help them with their training and other projects, underlining Government's support for those groups and associations who are willing to support the young leaders.

For the year 2004/2005 the Youth Service has planned to continue its work in partnership with the Comprehensive Schools, in the personal, social and health educational programme. There is also a trip planned to Cyprus that will be concentrating on women's and cultural issues, and another for the future which may involve South American and European countries. Dolphins Youth Club is also organising a trip to Barcelona involving cultural visits there. A series of projects will be worked on with the Sports Development Unit, as well as continuing with the responsibility for the organisation and running of the Youth Pavilion at the local Fair.

Mr Speaker, as part of the Youth Service's active citizenship programme, a trip is being planned to take a group of young people to Brussels and Strasbourg. This will involve them in a series of learning experiences before, during and after the trip, and will deal mainly with Gibraltar's newly acquired right to vote in European Elections.

All clubs and some of the other groups are organising Tercentenary celebration projects. Most important of these will be an International Youth Forum called Rock Solid, to be held in July with the participation of some 60 young persons from abroad.

I am glad to state that there is an increased interest in young people participating in youth service activities and programmes, Mr Speaker. Laguna Youth Club is experiencing an increasing

youth attendance, and in particular more girls are participating. Projects have been organised in response to recent vandalism problems in the area, and these are producing very positive effects. Plater Youth Club collected through a project about the United Nations Children's Charity, over £1,000 for UNICEF. The Youth Centre has been working mainly on encouraging newcomers to take part in planning, organising and assisting the running of discos, cookery projects and away days to local places of natural historical value.

The Youth Service intends to continue reviewing and adapting its programmes to suit the needs and preferences of young people. Issues of loneliness, low self-esteem, bullying, disaffection, exclusion, drug abuse and labelling amongst young people, have been identified as requiring attention, in partnership with relevant agencies. Therefore, the Service will continue with its participation and involvement with the Drugs Advisory Council, the Royal Gibraltar Police, Community Consultative Forum, Social Services, and establishing greater inter-agency cooperation with schools and local community groups. Government will ensure that the Youth Service is well placed to meet its obligations to the young people in particular, and the community as a whole. Government attach great importance to services and facilities that are of direct benefit to young people, and therefore intend to continue to support and resource the Youth Service adequately, to enable it to achieve its goals. An example of this Government's commitment in this respect is the £100,000 that has been allocated for the refurbishment of, and improvement to Youth Clubs.

Heritage. The past year saw the consolidation of the Heritage Division within the new Ministry of Heritage, Culture, Youth and Sport. This was the final stage in a process started by this Government, when we established a Heritage Section, and then a Heritage and Planning Division. It testifies to the importance attached to heritage by this Government. It is also a long term commitment to heritage conservation, and an indicator of our intentions with regard to the pursuance of world heritage status that I shall return to later.

Heritage is of importance across a range of Government policy. It has a bearing on economic development, tourism, environment, housing and education policies. This Government recognise the growing public interest in heritage and will continue to respond to this by providing firm committed and consistent leadership and support, as well as encouraging effective partnerships, developing a solid information base from which to develop policies and facilitating access.

In pursuance of these aims, the Division's strategy has been one of developing four cornerstones.

1. Knowledge and Information.
2. Public Awareness and Access.
4. Stewardship; and
3. Economic and Social Benefits.

The basis for sound policy-making is good and solid evidence Mr Speaker. For this reason the Government will continue to dedicate resources for the development of research programmes.

The work undertaken so far has put Gibraltar firmly on the map. In particular the two major heritage assets, the Fortifications and the Pre-history, have been prominently researched. The Pre-history, involving work in our caves in particular, reached an all-time high in 2003 with up to 60 researchers working in Gibraltar during August. This work is now partly funded by the European Community. Gibraltar, through the Museum, is taking part in an Intereg III B Project within the MEDOC Programme, with Spanish and Italian partners. The Project Paleomed, investigates human occupation of coastal sites in the last quarter of a million years in the Mediterranean. Gibraltar has consolidated its position as

world leader in this field. The Museum team was invited to participate in a major international workshop organised in Rhodes by Cambridge University in April of this year. Within Paleomed itself, Gibraltar organised an international workshop from 19<sup>th</sup> to 21<sup>st</sup> May, which involved major players coming to the Rock from the United Kingdom, France, Spain, Italy, Greece, Morocco, Malta and Israel. This year's Calpe Conference will also be dedicated to the subject of human evolution and pre-history. It is the third occasion that the Calpe Conference, since it was established by this Government in 1997, will deal with this subject. The Calpe Conference on Pre-history has become an item in the international calendar, and Government will continue to support this initiative. Since 1996 the Government has supported archaeological research in Gibraltar, and these results, when added to a number of major international publications that are now featuring Gibraltar, testify to our aim of making Gibraltar a centre of excellence in this field, having exceeded all expectations.

Research into our fortifications is also receiving an impetus as we give due recognition to their huge importance. As I said previously, the Government consider that the fortifications, including the tunnels, the fortified city and the walls, are a major heritage asset of world value, and a cornerstone of our world heritage bid. Hereto, we are making inroads at international level. We were invited as guest speakers at a Conference on Latin-American, Caribbean Region Fortified Cities, organised by the Mexican Authorities and sponsored by UNESCO in Campeche last March. I can also advance that we are giving consideration to hosting a major international conference on fortifications in 2006, under the Calpe umbrella, and the prospects are looking very positive on this front. The Museum and the Archives are the tangible basis for all this research and documentation.

I now turn to the second major component, public awareness. I use the term in its widest context to include education, access and involvement. Earlier this year I launched an initiative that would involve the study of our identity. The Government regard

the study of our identity as a people, as a fundamental area of heritage work. Through understanding our past and our heritage we can better understand ourselves, our make-up and our identity. Public awareness and education are key components of this identity. For these reasons we attach a huge importance to the development of programmes that increase our awareness and understanding, and this has been reflected and continues to be reflected in our recurrent budget.

Last year saw the production of a film on the Sortie. It received wide public acclaim for its content. It was a pilot for other documentaries that could focus on specific aspects of our history. We are currently studying the possibility of further films of this kind on events such as the evacuation or the Bedenham explosion, for example, in which personal testimonies of the events would bring these to life. Personal testimonies are vital to our record of our identity and we are developing a programme of interviews and questionnaires of a broad cross-section of the community, that will record the intangible heritage of our community and conserve it for future generations. We have seen the great interest that there is for this in our community. The recent highly successful Museum Open Day, focused on this intangible heritage, in keeping with a wider international effort in this field. So here too we are keeping well in the fore of international initiatives.

The Division works closely with the Education Department in its Heritage Education Programmes. School visits for hands-on experience in the Museum have now become a regular feature of the education calendar. The teaching of our history as part of the National Curriculum now involves all schools and age groups. Last year we funded the production of an excellent book on pre-history for our First Schools, as well as a supporting kit which has been acclaimed internationally. Work is now advanced for another set of heritage education tools. As part of the Tercentenary Project, we have also funded a series of posters and supporting educational material, covering the decades of Gibraltar's history since 1704.

The Government continue to work closely with the Gibraltar Heritage Trust as part of their plan to involve the community in heritage. I am pleased to recognise the great value and work of the Trust, who we regard as a major partner in our heritage initiatives. We do not want to leave it there. We want everyone in Gibraltar to be proud of their identity and their heritage, so we will continue to encourage collaborative partnerships, awareness schemes and public participation. Access to information will be strengthened further. Especially through the use of the internet, and we are continually reviewing physical access to heritage sites within the natural constraints of their conservation.

Stewardship is the third element in our cocktail. We identified the need to strengthen our heritage legislation some time back, and made the introduction of new heritage legislation a manifesto commitment. We have been working with the Gibraltar Heritage Trust towards a new Heritage Bill, and it is still very much Government's intention to bring a new Bill to the House as soon as it is ready to do so. We have also been active in conservation schemes. During the last financial year we completed the first phase of the conservation of the Tower of Homage. We will continue working on this site during this financial year, in anticipation of the release of the entire Castle complex for heritage use, once the prison is relocated. The Moorish Baths in the Gibraltar Museum have also been fully conserved, and will re-open to the public shortly. Once all these works are completed we will have made a necessary and important contribution to two of our most important monuments.

I lastly move to the fourth element in heritage, which is the economic and social potential of our heritage. The Government are committed to heritage conservation, but in keeping with the current thinking of leading heritage professionals, we do not see heritage as static. We recognise the need for change and our policy is to manage change in a way that brings wealth to our community, improves the quality of life and retains significance. For these reasons we favour schemes that achieve these objectives. I will highlight a number of such schemes that are under way, or that we hope will commence in the medium term.

I have already made reference to our medieval castle. The Government took the significant step of moving towards the relocation of the prison, an important social and heritage investment. We have a medium term view for the Castle complex. It is a view that will involve research on the site to allow a better understanding of its significance. This is a unique opportunity for our knowledge of this part of our history to be advanced, with the aid of archaeologists and historians. Then we will initiate conservation works, and third, we will open up the area as a public amenity.

It is no coincidence that we are promoting several schemes at the northern end of the Rock. We have been working towards opening up an important stretch of 18<sup>th</sup> century galleries and World War II tunnels. This work will continue this year, and will extend in future years to include the Northern Defences. This project will, along with the Castle, provide a series of heritage attractions of benefit to the local community and to the tourism sector. Together, they will represent seven centuries of fortification. These projects will link up with the Casemates area that will be the hub. They will additionally provide an opportunity for business development within the charming, narrow streets and alleys of the medieval town, creating the basis for sustainable urban regeneration.

Our aim is to gradually but actively open up our heritage assets in a planned and coherent manner. For this reason we will commence work on the conservation and exposing of our City Walls along the northern end of the City. In this way we will be able to link these up with projects that I have mentioned above. The Government are therefore contemplating a scheme centred around Orange Bastion, that will improve the City Walls, within that area, while creating a significant public amenity in keeping with our aim of improving the quality of life of our citizens.

This is in sum, our heritage programme. I will highlight that it is a programme that is built into a long-term strategy, and is therefore not to be seen in isolation. We are at an exciting point in our work, a point in which results are becoming patent in many

areas of heritage, as I have outlined. It augurs well for the future of heritage conservation in Gibraltar, and particularly for our bid for World Heritage Status that I am confident will go forward very soon.

I turn now to broadcasting. Mr Speaker, my ministerial responsibility for broadcasting and particularly to the services provided by the Gibraltar Broadcasting Corporation, is what I shall now speak on.

During the course of the financial year just ended, the Corporation has continued to develop and improve its product with the community now enjoying an improved programme choice. The new programming arrangements recently adopted for the Corporation's television service, have resulted in a major increase in output. These new arrangements have seen the television service programme schedule extended to 24 hours a day. This has increased the combined number of radio and television broadcast hours to over 20,000 hours per year. For this year there are plans to broadcast Radio Gibraltar over the internet. This will make the Radio Gibraltar transmission available to a worldwide audience. This will also be a 24 hour, seven day a week service. It is expected that the service will go live very shortly.

The financial management exercise by the GBC's sound, and the range of services offered, continue to be provided within the genuinely approved budgetary limits. The Corporation's audited annual accounts for the year ended 31<sup>st</sup> March 2003 will soon be Tabled. Ahead of this I can inform Members that the accounts reflect an operating surplus for the year of over £30,000. This turn around in the GBC's finances is welcome. For the year ended 31<sup>st</sup> March 2004, the Corporation has achieved a technical break even. The provisional outturn is a small deficit in the region of under £8,000. The main contributory factor to this end of year result was the decline in air time sales of some 13 per cent for the year. This decline was, however, successfully contained to the earlier part of the period under consideration, due to a timely review by management of its sales and marketing

strategy. The revised strategy paid off and the declining situation was reversed. This strategy continues in place.

The Corporation continued its migration plans to digital technology and during the latter part of the year, installed its first digital video editing facility. As part of the preparatory work, two senior managerial grades attended a seminar on digital broadcast services. For this year there are plans to increase the number of digital video editing facilities. A further enhancement will be the installation of an enhanced video graphic work station. One area of delay to the Corporation's plans, is that the digital broadcast frequency or frequencies it is to be allocated, is still pending confirmation. As part of its public service broadcasting limits, the Corporation cooperated with the UK Electoral Commission and produced a public discussion programme as part of the sounding out of public opinion for the inclusion of Gibraltar in one of the UK European Election Regions. During the course of the year, the Corporation also produced and covered a number of important community-related programmes and news events. These included National Day concert, a debate on Gibraltar held at Westminster Hall, London, the Gibraltar Fair and the Elections to the European Parliament.

As in previous years, the Corporation has continued to send its news team abroad to provide coverage of key Gibraltar-related events. This, is an important aspect of GBC's role of keeping the community informed of matters relating to Gibraltar. The success of the 2003 GBC Open Day is worthy of mention. With the wholehearted support of the community, an all-time record sum of £63,000 was raised. I take this opportunity to congratulate all those involved in making such a success of the GBC Open Day.

During the year, GBC continued to play an active part in the activities of the Commonwealth Broadcasting Association. The CBA enjoys a membership of over 100 organisations in 54 countries. Last February GBC was represented at the Association's General Meeting, where GBC's General Manager was re-elected as the CBA's President for a further term of two

years. This year the Government will be making available to GBC a subvention of £1,150,000 and a further £120,000 as part of the Improvement and Development Fund.

I come to my last area of responsibility in the order of speaking, and that is Government Lottery. Finally, I would like to say that the forecast outturn for the Government Lottery for the financial year ended 31<sup>st</sup> March 2004, is shown in the Draft Estimates of Revenue and Expenditure as a projected surplus of £121,000. Projected surplus for the financial year ending 31<sup>st</sup> March 2005, is estimated to be £497,000. The level of returned tickets during the year ended 31<sup>st</sup> March 2004, was marginally lower at 28 per cent of gross sales compared with around 32 per cent within the past four years. However, prizes on returned tickets were also lower at 16 per cent of gross prizes payable, compared with the Approved Estimate of 33 per cent.

The tender for the administration of the Lottery was awarded on 2<sup>nd</sup> October 2003. A number of proposals were included in the tender for changes to the structure of the Lottery, and for enhancing sales of lottery tickets. These, together with other ideas, following the Government Review of the Government Lottery conducted by the Treasury, and discussions with the Lottery Agents, are being considered by Government.

In conclusion, I take this opportunity to thank the Civil Servants and other employees who work hard to ensure the successful attainment of the many varied and at times difficult objectives that we set ourselves in our Ministry. Thank you Mr Speaker.

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

Mr Speaker, on hearing the Chief Minister's presentation, the impression he had to portray is that there have not been any cuts. He said that there has been overspending from Departments and that there had to be control on this spending. It is incredible to hear from this man who spends money himself as

if there are no limits, anyone can just look at the amount that he has spent in Convent Place itself.

In relation to Education, Training, Youth and Culture, the cuts this Government have imposed have had a great effect on teachers, students and pupils generally. I also heard with interest what the Minister for Education had to say on the Budget, which nearly made us bring tears to our eyes, and to which few would disagree. He praised everyone, he gave an expose of the Tercentenary functions and exhibitions in schools, and all the wonderful things children and staff have done. The same can be said about the Minister for Culture, who praised all and sundry. I was expecting both Ministers to state the item of revenue or expenditure where all the praise appears in the Draft Estimates of Revenue and Expenditure.

I will proceed to prove that the Chief Minister's cuts have deprived children of things that they have always enjoyed. I will also analyse how the lack of Government policy and direction affects our education system, our youth and how this GSD Government's priorities have nothing to do with the improvements that he, the Chief Minister, has mentioned. Before I continue with my prepared notes, I would like to state that the Minister was asked by myself way back in the year 2001, whether Government were looking at having ICT, for computing, as a course subject, to which he answered in the negative. And now we see that this is happening in the UK, and I hope that he will amend the 1991 Regulation on the National Curriculum as soon as possible. In relation to workload of teachers which the Minister referred to in his statement, I would like to say that if we are not careful and we do not make an assessment into the teachers' administrative load, we will fall into the same trap as they have done in the UK.

I will now continue with my prepared notes. The funds for the maintenance of schools this Budget has been cut in the last five months, due to the overspending of the irresponsible GSD Government. Schools have experienced these cuts to the extent that there have been reports of members of the teaching

profession having to carry out some minor works, in order to keep children in a safe environment. We have seen a lack of planning in certain works such as that of Bishop Fitzgerald. The school lacks proper toilet facilities due to the large intake that it has to cater for. In the last General Election, the GSD promised to upgrade facilities and spaces in this school, yet we do not see funding provided for this. St Martin's is still awaiting its roof to be refurbished or repaired, and its long promised playground equipment, which has been lying idle in the same place for the past year, to be set up. I wonder whether the item in the Improvement and Development Fund in this year's Estimates, include the repairs of the roof, since only the playground is mentioned, and only last night I had a number of parents calling me up to complain about the lack of lockers for the new intake in September at Bayside School. Many students will have to share lockers as from the first day in a new school. The lack of policy from the GSD Government has seen us with no legislation on truancy, which is fast becoming a problem in our schools. On nursery education where, if it not for the good practices of owners and their assistants, these institutions would be a nightmare story, since his Department has not inspected them since 1997. No School Nurses visit them, no in-service is conducted on an annual basis. Basically, no support from the Department of Education. This, despite having been asked in this House on numerous questions on the matter. This questioning prompted Government to react. Their reaction being a meeting with owners with an Educational Advisor instructed by the Minister, before the Election. After that, no meeting, nothing, nothing has happened since. They will probably meet them in the year 2007 or 2008 before the next General Election. This Budget clearly shows that Government are not going to continue with having, as a policy, 100 per cent full-time pre-school nursery education. No substantial funding has been provided for in this year's Estimates.

The lack of policy and proper planning has also seen us with no school at the Westside area. The GSD has been promising a school at the Westside area since it entered into Government seven years ago. Eight should I say now. In this Session, in



Question Time, the Minister stated that it is still Government's intention to do it, but again, this year no funding has been provided. Another empty promise from the GSD Government.

In relation to the parental contribution and its abolition, a thing that was mocked during the 2000 Election by the GSD, is now going to be a reality. I work on this, but during Committee Stage the Minister could explain how students obtaining grants this year, the Estimate budget is less. Why is it less than last year's Estimate? With the fact that parental contribution is abolished, how is this going to be funded? This Government took the decision to alter the way stationery was purchased, which has been traditionally done by schools directly. According to Government's own figures, this has resulted in the Department of Education increasing capitation by 3 per cent in order to meet the financial cost of this move. Subsequently and despite warnings from the profession and us in the Opposition benches, it resulted in delays on materials and books to schools. Then this idea was scrapped. It is obvious again, that the person who took this decision did not understand why and how the system has been to do direct buying. All this uncertainty led to some schools having disruption of a nature which has never happened before.

The change of school hours happened with lots of turmoil, due to this GSD Government not having consulted properly. The worst thing of all in relation to the change of school hours saga, is that this Government never intended or does not intend to, in the future, to review and evaluate what is currently happening in order to improve. I therefore question his statement that there is stability, when he has not reviewed the change at all. In answers to a question in this House, the Minister confirmed that this Government had not, and will not, carry out any review. It is incredible that we see a running cost of nearly £500,000 spent on Service All to provide dinner ladies and supervisors, and I would like to make it clear that I am in no way questioning the work they currently do, when this could have been done by teachers. For free, if they had been properly consulted and their views taken seriously. This £500,000 is yet another item of expenditure which could have been used for many other things

needed within the Education system. It is not good enough to say that more money is being spent on Education, when the beneficiaries are not our children and students. This has been the case in the last two examples I have mentioned, that is the purchasing of stationery and the contracting of a private company to supervise the change of school hours.

The cutbacks in the last five months, as mentioned above, have affected schools and therefore children, in that children are now being deprived from fulfilling National Curriculum requirements, due to the fact that they are no longer able to go swimming in the GASA pool. The cost, as arranged by the GSD Government, is that £1.50 per child is given to GASA for the upkeep of the pool. This fee was paid by the Department of Education directly to GASA. Now, due to the cutbacks, the burden of paying this bill has fallen to the schools itself, and therefore decreasing in real terms the money provided for the schools.

The asbestos saga is one which demonstrates the attitude of this Government towards the teaching profession and Government employees generally. I heard with interest the Minister for Social Affairs in relation to asbestos, that a specialist company was contracted to deal with the asbestos at Mount Alvernia, and it would be interesting to find out who they were, and whether they were the same ones that dealt with the asbestos in Bishop Fitzgerald and Governor's Meadow. The lack of information to the staff, and the fact that parents were not told, speaks volumes. The fact that subsequently more asbestos was found in the College of Further Education, should have prompted Government to draw up a register of asbestos that might be in other schools and institutions in which people might be exposed and at risk of contamination. In this case, the Government are not complying with the spirit of the law. In a recent article in the Safety and Health Practitioners Magazine, the March publication, it states, and I quote, "recently published research on mesothelioma has reinforced the message that many more people are doomed to die of this cancer in the coming years, because they were exposed to asbestos in the 50s, 60s and 70s. Whilst there is unfortunately little that can be done to halt the

progress of the disease in those people, compliance with the incoming Control of Asbestos at Work Regulation should help prevent further harm in today's workers." The author of this article states that the Regulation introduces a new explicit duty to manage asbestos risk. That the Regulation makes employers, and I quote, "keep an up to date record of the location and condition of the asbestos containing materials, ACMs, in the premises". And finally and more importantly, he states that even without the Control of Asbestos at Work Regulation, which incidentally we do have in our Statute Books, make it explicit in law, finding out exactly where asbestos is present in a premises as an imminently sensible, not to mention morally correct, step to take. So I would urge the Minister to conduct a thorough survey with a view to complying a proper register, at least in schools and other educational institutions, where students, children and its employees can be exposed to asbestos.

Continuing with the cutbacks, the cover for absenteeism has been cut to the extent that classes have had to be doubled up at times. This has been the case because both Supply Teachers and Supply Classroom Aides, have not been contracted lately as was before the General Election and because of these cutbacks there is a shortage of both Classroom Aides and Teachers in all schools. In this year's Estimate there is a decrease in temporary assistance by £250,000. It would be helpful if at the Committee Stage of the Bill the Minister can explain why this year we have a breakdown in Head 1A Subhead 1D, and I wonder if the £250,000 cutback of this year is to buy the promised computers that this Government have been announcing in the last two years, in their usual propagandistic fashion. The GSD Government announced the £250,000 in computers were to be spent at all levels. When asked in this House how much has been spent on computers, the Minister of Education stated that £147,000. But this figure included the suite into which the computers had to be housed. Hardly the £250,000 in computers. In the Youth Service nothing was spent and neither was any money spent on computers in St Bernadette's Occupational Therapy Centre. It was mentioned at all levels. The St Bernadette's Occupational Therapy Centre is yet another case of

total abandonment on the part of this GSD Government. Hardly any educational programmes for the users of this centre. This is due to the lack of policy of this Government, and since I am speaking about special educational needs, I would like to mention that the cuts that this Government have made, has affected both pupils of special educational needs and other children. I cannot understand what statistics presented to this House that there was 1 to 3 ratio of Classroom Aides to children in the inclusion programme. The figures given to this House show that 34 Classroom Aides are assigned to this inclusion programme, yet in the Estimates we have 33 Classroom Aides. The explanation to this can only be that a Supply Classroom Aide over and above the 33, is employed to make the 34. But does this then mean that there is no Classroom Aides anywhere else within the Education system? The Minister stated in this House that eight Classroom Aides are on permanent supply. This terminology of full time or permanent supply is a contradiction in terms. One cannot have a full time supply, a supply is supposedly to cover for absenteeism. Therefore the analysis from the Chief Minister that absenteeism is the reason for some of the over spending is a red herring. What is happening in real terms is that this Government are employing Classroom Aides and Teachers as full time supply, as they state, and these have nothing to do with absenteeism.

Mr Speaker, my portfolio includes that of training, and year after year we see the Chief Minister and the Minister for Education stating that training is both qualitative and quantitative, yet the failure of this Government is that the courses offered are not attracting the number of students that courses require for them to be fruitful, especially in the financial situation that the Government finds itself, and having to do cutbacks in the manner it has done so recently. This year we have had a repeat of the courses that are offered, as he did in the last two Budget speeches. The Training Advisory Council has only met three times this year, and is basically a talking shop, and the Minister thanked all the members of the Council, presumably for having the patience of attending meetings now and then, to see any progress on the part of Government. The School of Tourism

which was announced by the usual media orchestration by this Government has attracted two students this year, of which one has also dropped out. To boot, most of the other students that are in other intakes are on work placements. Is this a school, or is it not the same as a cadet scheme? If we look at the numbers given to this House by the Minister himself, we can see a slow decrease in the number of students enrolling in courses, and therefore the lack of interest on the part of young students.

Mr Speaker, yet another mishandling of the Government's funding is the money which the Government spent on the Retreat Centre at Lathbury Barracks, which has cost over £1 million, and carries a running cost of £117,000 per annum. This place has only been used on fourteen occasions since it was inaugurated. This brings me to two subjects which are of great worry, and that is our Youth Service and the Drugs Strategy.

Our Youth Services needs to be given the right tools to be able to develop, together with Bleak House, Construction and Training Centre and the Department of Education, to draw up a general policy for our youth. It is worrying to see how Government's Drugs Strategy, which again was given all the usual propaganda and has been publicly criticised by a retired senior police officer, seems as if it had not got off the ground properly. Though the Minister for Social Affairs has mentioned Drugs Strategy and she mentioned that now there is coordination between the different departments involved, and I am not reassured by this point. It seems as if the lack of coordination from different departments to engage on what is the task ahead is the problem. It is not just good enough to have a high profile press conference to announce it, and then take months to appoint a Drugs Coordinator. Despite this, and taking into consideration how serious this topic is for our youth, I am willing to give the Minister more time to see if the drugs strategy and all the initiatives mentioned actually brings the results we all want.

In the schools we see that the 14 to 19 education is not as it should be, and we have seen that the committee which the Minister set up has again met six times in four years, and without

any significant proposals to tackle the issue. The fact that the Minister mentioned the Tomlinson Report, and that in the UK they are still considering it, should not mean that this committee can not come out with a strategy for the 14 to 19 young people, whilst we wait for developments in the UK. The one year course offered to 14 to 15 year olds before they leave school should be a priority, since at present it is not giving the pupils any qualifications or any skills at all. Another factor that is worrying is that of juvenile delinquency which is on the increase. We see on a weekly basis juveniles being taken to court for petty crimes, and at times not so petty.

Mr Speaker, the lack of the Government's support to our Youth Service, the failure to recruit young people to training courses, the lack of coordination on the Drugs Strategy, the lack of commitment in relation to the post 14 education, and finally the increase of juvenile delinquency, shows that this GSD Government are failing our young adolescents. It is no longer an argument that these things were not done during the previous administration's time in office. We have now moved on and practices have developed. No, what has developed is ethos and practices in Western Europe, not from the Chief Minister's Convent Place nest. It has not developed there, it has developed everywhere. Yes. We have moved on and practices have developed since 1996 as the Minister mentioned. The Tomlinson Report is an example, yet our youth are currently getting a raw deal.

Mr Speaker, on culture. When hearing the Minister for Culture he gave the impression that all events that he mentioned only started when the GSD Government came into office in 1996. Is it that before 1996 there was not a Spring Festival, a Drama Festival, Exhibitions, talent in Gibraltar? Of course there were.

I now move on to the infamous Theatre Royal. What can be said about this Millennium Project? It seems as if the then Minister for Culture, the Hon Bernard Linares and his buddy the Chief Minister got together one day and had this vision. This vision was probably to emulate Tony Blair. Tony Blair's Millennium

Dome. The similarities were not the word “millennium” but the disastrous ending that both projects have had to date. The Theatre Royal has been the big failure of this Government. From the outset it clearly shows that both the Chief Minister and the Minister for Culture did not have a clue as to what they wanted from the project, and what the cost was going to be to the taxpayer. The consultation process that the Minister said he had undertaken, were also done well after the agreement was signed in November 2000. When the Minister signed the agreement with the owners, and he stated and I quote, “we sincerely appreciate the genuine efforts made by the owners of the Theatre Royal, to reach an agreement with Government. We believe it is a good and fair deal, both for the owners and for the people of Gibraltar, who can now aspire to the restoration and re-opening of this historical monument as part of the cultural heritage”, which is now a hole in Bishop Rapallo’s Ramp or in City Mill Lane. It is ironic that not only was it a terrible deal for the Government, since it now has a running cost of £60,000, the price of probably employing an extra Educational Psychologist or Occupational therapist. The worst part of this is that there is nothing to show for it to date, for this expenditure, and to boot it has lost its heritage value due to the demolition works which have to date cost over £3 million. Anyone would have thought that before embarking on such a project, that proper surveying of the building would have been done. A proper feasibility study should have been conducted. In answer to Questions to this House, the new Minister for Culture confirmed that only two surveys have been commissioned. It takes no rocket scientist to find out, like I have done on numerous occasions, that there is probably some 2,000 people interested in opera or likewise or with the capacity, and with a capacity of 520, four shows are more than enough for this place. This means that if tickets were sold at an average of £20 per seat, it would come to £4,000 which easily falls short of the cost of bringing a theatrical company to Gibraltar. Albeit with the logistical nightmare of transporting all the necessary props and equipment to the theatre in the middle of town, which has difficult access. With respect to conferences that has also been mentioned, we have to see how the hotels are doing as conference centres. I realise

that they are small in nature and bigger ones are also being entertained. So, is there a need for these facilities? Mr Speaker, this eccentric venture was announced as a project that would obtain EU funding under Objective 2 Programme, and due to the Government’s incompetence to date, only £481,855 has been received as EU Grants. These figures fall well below the expected 40 per cent as stated by the Minister in this House. Forty per cent of £3 million should have been up to date, the Government should have obtained £1.2 million. The sum of £481,000 odd is just a quarter, are we to get the rest? It is not only me who thinks that this project is one which is eccentric in nature. Even the Chamber of Commerce thinks as much. In a recent article entitled “A £9 million White Elephant”, published by the Chamber’s magazine B2B, the author and editor seems to share my views. Firstly he states, cultural flagship stranded on financial sandbank. Secondly he states, miscalculation of costs, uncertainty about the extent of the surveys undertaken before the works began and Ministerial determination to another public doubts under a blanket of hype, have all contributed to the creation of a costly white elephant. Thirdly, it questions the project by stating, in fact has the unfolding story of the Theatre Royal Project been a saga of time and budget miscalculation. Fourthly, it points towards the lack of planning, which I have been stating all along, and I quote, “consultants point out that the elaborate provisions of the theatre had not taken into account the need of access for the scenery”. It continues, “but it was not clear whether either the Minister for Culture or for Tourism, had researched the economic viability of a theatre in which performances of opera and zarzuela were to be staged”. The article states that any layman, including myself, have been saying all along. Many thought that seating of only 520 would make it impossible to balance the books for a major stage production. Would the buying power of so limited a venue, that is the cost ratio between tickets for available seating and the likely fee to be commanded by a visiting reps’ company or opera companies, be viable? This article proves my point that not only has the GSD Government made a big blunder in this project, but they have not done their homework or the background work needed before embarking on this project. Just as an anecdote I

remember the Chief Minister telling me that I was like an accountant, in that I knew the cost of things but I did not know the value of them. Well, it is clear that I and the people of Gibraltar, know the cost of the hole that has become the Theatre Royal, and quite frankly no one is able to see the value of that hole which has cost to date £3 million. Again, as the Leader of the Opposition said this year, we do not have a balanced complete column in all items, but especially on the Theatre Royal, since they might have to show that they have fallen short in this balance to complete. It is interesting to see what is meant by postponing the construction of the Theatre Royal, and how much this is going to cost the taxpayer, as this delay, since this also carries a running cost as mentioned above of £60,000 per annum.

In conclusion, our Education system that we have traditionally been very proud of, is quickly going down a slippery slope in a way which Gibraltar has never seen before. It is no longer acceptable for the Minister to pull the wool over peoples eyes by saying that our Education system is good and that everything is hunky dory. Again, echoing the Leader of the Opposition in relation to spending, the GSD Government were elected to spend whatever they want but it is our statutory duty to highlight to people when cuts have taken place, and more importantly who are the ones who suffer from these cuts. It is also legitimate to highlight where we believe Government fail to fulfil their own policy, or the lack of policy in areas. The overspend, as I have mentioned above, in most cases are not decisions that have been taken by Heads of Department, but it has been taken at a political level. A decision taken at Convent Place by the GSD Government for its own political ends. Thank you Mr Speaker.

The House recessed at 11.30 am.

The House resumed at 12.41 pm.

#### **HON F VINET:**

Mr Speaker, some of our Members will recall that in past years I have sat in the public gallery and listened with great interest to the contents of the Budget session produced by both sides of the House. It is therefore a genuine privilege to address the House in what is my inaugural Budget speech.

Mr Speaker, I will address my political responsibilities in the following order. Environment. Technical Services Department, Roads and Transport, the Electricity Authority, Gibtelecom and AquaGib.

If I can start with the Department of the Environment, as in previous years, the pressure from the EU in the field of environmental legislation continues. In order to manage this we have created a specific Department of the Environment so as to deal with the transposition of EU Directives, and even more importantly, putting in place systems to manage the requirements of such directives. We continue to transpose all those directives which we are obliged to, and in some instances, also those that although not obliged to adopt, we consider appropriate in order to pursue our commitment to the EU policy on the preservation, protection and improvement of the environment, the protection of human health and the prudence and the rational utilisation of our resources.

This financial year will see the installation of two air quality monitoring stations. It will provide the framework for the management and assessment of air quality in our community. The purchase and the maintenance of the pertinent equipment represents a significant financial investment by Government, and proof of their commitment to environmental matters is that, as I have already informed this House in the past, there will be two separate monitoring stations, at distinct locations, notwithstanding that we are legally obliged to supply just one. A website will be set up that will allow the general public to access daily updates of air quality measured by the station, together with

a summary of the current pollution levels, a data download facility and information on the health effects of pollutants.

The Water Framework Directive has already been transposed. Work is under way to identify how best to prepare the system, that will allow monitoring of the quality of all our waters, and to devise a plan to keep improving this. We will also shortly be initiating a waste study, which will provide us with information on the types and quantities of waste produced in Gibraltar, in order to continually update Gibraltar's Waste Management Plan. This Plan will identify how the disposal of our waste can be best effected in keeping with the requirements of EU Directives. Government are fully committed to recycling and this significant step is to be seen as the first stage of a more vigorous recycling policy that we wish to introduce, albeit subject to financial and geographical considerations. Other important issues to be dealt with imminently, are those in relation to directives on the disposal of refrigeration equipment, fire extinguishers and other equipment containing solvents, and also that in relation to the disposal of end of life vehicles. The tenders for the storage and subsequent exportation through a disposal facility of end of life vehicles, was advertised on 18<sup>th</sup> June 2004, and the tender for the disposal of refrigeration equipment, fire extinguishers and other equipment containing solvents, will be advertised shortly.

Some initial preparatory work has already taken place to fulfil our manifesto commitment to draw up a local environmental charter. The consultation process with responsible environmental groups and individuals will commence shortly, and I am hopeful the charter, which will guide all sectors of the community insofar as their actions impact on the environment, will be published within this financial year. As this House knows the cemetery which is the subject of a wide project dealing with two companies, dealing with the aspect of vegetation encountered various difficulties during the execution of these trials and so Government has embarked on considering other options that will be more cost-effective and result in a greater impact on the enhancement of the cemetery. Design work on the re-paving of all pathways, as

well as of the general embellishment of the cemetery in a viable and workable manner, will take place during this financial year.

Also during the course of the current financial year, Government will be inviting tenders from interested parties wishing to invest in the construction of a crematorium and clinical waste incinerator. This will be a shared facility to be located at Lathbury Barracks within the area of the ex Guardroom complex. The successful tenderer will be required to invest and undertake everything that is necessary for the development of this site for the stated purpose. In return for which, Government will grant the successful tenderer a concession to operate the facility on agreed terms and conditions.

The structure of the new Department of the Environment continues to take shape, and this Department has been tasked specifically with monitoring the many contracts in place for the carrying out of services which have an impact on our environment. The contracts relating to planted areas, including the Botanical Gardens, the cleaning services and the maintenance of parks and playgrounds, together with those affecting our fauna and pets, are being revised in what is a very significant exercise to improve the services in keeping with update requirements, and bringing on board new technologies and methods.

Mr Speaker, a substantial number of organisations, groups and individuals, carry out important work pertaining to the environment. I would like to take this opportunity to thank them, because in carrying out that work they ensure that environmental issues become part of the public culture, and thereby assisting us in our commitment.

The Technical Services Department has been involved in the design and/or project management of a number of construction projects during the last financial year. The following are the major projects, all of which are still on-going, although some are now nearing completion. Construction of a spectator stand and administration centre buildings for the new sports complex at

Bayside, as well as acting as the client's representative on the construction of the new sports hall. Provision of new roofs, lifts installations and refurbishment of the four large blocks at Varyl Begg Estate. Refurbishment of the building in Town Range intended for use as an extension to the Law Courts. The installation of new lifts to five blocks at Alameda Estate. The installation of new potable and salt water and electrical distribution system at the New Harbours Industrial Estates. Waterproofing of the podium at Sir William Jackson Grove. The Department was also involved in the design and project management of a new car park project at Landport Ditch, which was completed during last year. Works continued at a steady pace on the John Mackintosh Square beautification project, which has now achieved its practical completion. This project has served to enhance the central focal points within our city, and create a pleasant open space for the enjoyment of all, and which is more in keeping with its original layout and function.

During the past year the Highways Section of the Department has undertaken the resurfacing of a number of roads. These include Tank Ramp, Secretary's Lane, Governor's Lane, College Lane, Witham's Road, the southern part of Red Sands Road and a section of Naval Hospital Road. Sir Herbert Miles Promenade was also resurfaced and new ramps constructed to facilitate disabled access. Other works undertaken during the year include the construction of a new wider footpath at Cornwall's Parade and the construction of parking bays and a footpath along Rosia Road. In consultation with the Occupational Therapy Centre, ramps for disabled access have also been constructed at various locations and on our footpaths. A new pedestrian crossing has been provided adjacent to Westside School, Boyd Street and at Waterport Roundabout. Repair works have also been undertaken to a number of retaining walls such as the Upper Galleries and Rosia Lane.

The Highways Section was heavily involved in defining and managing the works required to the bus stops and public highway to cater for the introduction of a new bus service. Other

works are planned for the coming year to further improve traffic flows.

With regard to works related to the sewer and storm drain systems, the Department has undertaken the rehabilitation of the storm water culverts at Europa Point, the storm drains and sewer at Hospital Hill, the storm drain at Gowland's Ramp and the manholes at Lathbury Barracks. New storm drains have been installed and improvements undertaken to the existing systems at Buena Vista Road and Glacis Road, and major repairs carried out to the sewage pumping main adjacent to the Watergardens complex. As part of its programme for the cleaning of sewers, the Department undertook last year the cleaning and flushing of the sewer and storm drain systems at Devil's Tower Road, part of the Westside Reclamation area and Catalan Bay Village.

The various studies initiated in previous years in connection with the proposed sewage treatment works continued during last year, and have now been completed. The final reports are currently being compiled and will shortly be submitted for the Government's consideration. This will enable the project to move on to the next phase, which is the procurement stage.

The Department has also acted as technical adviser to the Department of Trade, Industry and Communications, in connection with the project for the creation of a small boat marina at Coaling Island, intended for the relocation of boats from Western Beach. The initial design phase of this project is now complete, and pending the relocation of a number of MoD facilities in the area, works should commence within the next quarter. In connection with these MoD relocations, the Department has also been actively involved in providing technical advice and project coordination services, also to DTI for the relocation of such facilities to Gun Wharf. This latter project already having commenced. Both these projects are due for completion during the current financial year. Works recently also commenced at the Frontier on the construction of a new canopy spanning over the vehicular entry and pedestrian entry and exit gates. These works are being undertaken by contract for the DTI

with Technical Services performing the role of technical adviser and project manager. This project is also due for completion during the current year.

I will now turn to the Department of Transport, this is another department which falls within my portfolio. As mentioned by my predecessor last year, the Government relocated all the various Government departments that dealt with matters relating to motor vehicle licensing and testing, to the newly refurbished facilities at Eastern Beach Road. This has created a one-stop site that provides for faster, convenient and enhanced service delivery to the public.

This year, 2004, has also seen the introduction of a new bus service. This, by far, has been the most significant project that has been completed in terms of transport, during the course of this financial year. A new bus company, the Gibraltar Bus Company Limited, has been set up by the Government and has acquired licences of Rock City Services. To this end, the Government will ensure that this new company operates to the very highest of standards. By now most of us will have seen these buses operating on our roads. Indeed, how can we possibly fail to notice them, given the vastly improved frequency and reliability of the service. I am sure this House in its entirety will agree with me that the service they offer is far superior to what was available previously. Our new environmentally friendly public bus transportation system has brought us into the new millennium. Members will have seen these are modern, attractive, comfortable vehicles. They have air conditioning, adequate seating, low floors and ramps that allow persons on wheelchairs to board or disembark comfortably, together with a whole raft of other features never before seen on our public buses. Passenger numbers are up by the hundreds upon hundreds per day, and I am confident that the introduction of the season ticket travel cards and the corresponding price reductions, will be yet another incentive to make increased use of the brand new fleet of vehicles. Also, September will witness the start of a comprehensive bus service for school children, full details of which will be announced in due course.

Mr Speaker, I took over the responsibility for the buses in April, once the Gibraltar Bus Company Limited started operations, but the preparatory work had been completed prior to my involvement, and I would like to thank and congratulate my Colleague, the Hon Joe Holliday, not just for the very visible and obvious achievement on this front, but also for the tremendous patience and restraint demonstrated when confronted with the barrage of unfounded, misleading and short-sighted criticism from the Opposition. Opposition Members have been proved wrong. The feedback from the general public has been as positive as it has been overwhelming, and this is a success story that Government are rightly proud of.

Another issue that is high on the Government's list of priorities is the further provision of car parks. The Government have already taken great strides in this area with the commissioning of free car parks such as Commonwealth Parade and Landport Ditch. However, given the number of vehicles that use our roads on a daily basis, further provisions for car parks have to be made. In order to ameliorate the situation the Government continue to look at increasing parking facilities in the Upper Town area and now, also, in the South District. Several options are currently under active consideration.

In their Election Manifesto, the Government said that derelict vehicles are a plight in the urban environment and occupy parking spaces. We also said that in order to address both of these issues, legislation would be introduced and enforced to more effectively remove derelict vehicles from our roads. The Government have now published the Abandoned Vehicles Removal Regulations 2004. The scheme of the Regulations is that police officers and other designated officials may, when they believe that a vehicle has been abandoned, either remove it to a place designated for that purpose by the Government, or affix a notice of apparent abandonment on the vehicle. Details of vehicles so dealt with will be published twice in a daily newspaper. If not removed or reclaimed, the Government will then place a further notice in the Gazette, giving seven days notice of intended disposal of the vehicle. We will now embark



on a programme to enforce this new legislation, and remove the accumulation of derelicts and abandoned vehicles from the highway.

The Government also continue to pursue their aim to ensure that the general public is provided with greater information on road works and closures. Unfortunately, there are times when roads have to be closed but by implementing an integrated road works programme, Government will coordinate road works and ensure that these are kept to a minimum and the general public is inconvenienced as little as possible.

The Department of Transport also closely monitors European Union legislation to ensure that Gibraltar complies with and meets its obligations. To this end the Government will shortly be introducing a harmonised vehicle registration document, log book. This document will be issued to new vehicles that are registered after the implementation date, and will not be retrospective. However, should any person wish to change the current document, they may order a new one from the Department upon payment of the prescribed fee for a duplicate document. This is in response to new EU legislation aimed principally at combating car theft. The document will be of a common format throughout Europe and will incorporate various security features that include, amongst others, watermarks and fluorescent fibres woven into the paper.

The Department of Transport maintains close links with other licensing authorities within Europe, forms part of EUCAREG, which is a pan-European association of licensing authorities aimed at combating car crime. The EUCAREG executive board meets on an annual basis and Gibraltar attends these meetings of its own right. I would like to take this opportunity to thank members of the Transport and the Traffic Commissions who give of their time voluntarily, I am very grateful for their assistance.

I will now turn to the Utilities, but before doing so I would like to thank the management and workforce of Gibraltar Community

Projects Limited, which comes under the auspices of the Ministry, and whose work on occasions goes unrecognised.

The Gibraltar Electricity Authority became established on 1<sup>st</sup> April 2003, and following detailed and close consultation with its workforce, all have now transferred to it. The last group doing so on 1<sup>st</sup> February 2004. The last financial year saw the Authority replenish its most important assets namely, the human resources element. A total of 26 new employees joined the Authority. These include engineers, technical and skilled grades. It is vital for a complex industry like electricity, to have a succession plan for its workers. One hundred and fifty four employees will make up the total workforce.

This coming financial year, an emphasis will be given to the modernisation of the Authority's accounting system, so as to bring it in line with commercial standards. The main priorities in the continued development of the Authority will see the implementation of computerisation throughout all its activities, improvements to its transport requirements and training of its human resources. The Authority has embarked on an ambitious in-house programme to do away with its 6.6 kilowatt high voltage system and transfer all high voltage feeders to the new distribution centre at Orange Bastion. The SCADA was commissioned in December 2003. The Authority continues to have a major input in all developments taking place in Gibraltar, and the requirements for more sectors of the community for the services provided by the Authority demonstrate no signs of abatement. There are very few activities that take place that do not require an electrical supply or lighting. The Authority is also responsible for providing the electrical contracting services to Government, to Government housing and official buildings, as well as traffic lights.

During the last financial year, the power peak demand reached a high of 26.3 megawatts and the total units of energy generated by Waterport Power Station and OESCO reached an all time high of 136.59 million units. Net units, within the distribution of the system, totalled 129.35 million, representing a 3.3 per cent

increase over last year. Units billed to consumers totalled 124.75 million units, and the amount collected was £11.34 million. The total outstanding debt stood at £7.45 million and the Authority is committed to recover as much of this debt as possible. The number of consumers reached a high of 15,746.

An additional generator, having a power output of approximately 5 megawatts, is in the process of being installed at the OESCO Power Station, and should be commissioned before this coming winter peak demand. Further expansion to the generating capacity of Gibraltar is under consideration, and this is linked to the proposed residential and commercial developments. As is widely known, fuel prices have suffered significant worldwide increases in the last few weeks and these have not escaped the Authority. The situation is being monitored.

Finally, the Estimates of Accounts presented in this Session for the current financial year 2004/2005, represents the transition from being a Government Department to a free-standing Authority.

Mr Speaker, I took over as Chairman of Gibtelecom, Gibtel and AquaGib, following the General Election. I would first like to pay tribute on behalf of the respective shareholders, to the sterling work of my predecessor the Hon Ernest Britto.

If I can start with the telecom companies, he chaired these for nearly eight years, overseeing the developments of the internet business, and the two companies coming together into common ownership in an expanded joint venture, between the rival communications of the United States and the Gibraltar Government. I also pay tribute to those staff who took early retirement as part of the restructuring of the business, for their contribution, including the Hon Lucio Randall.

Last year regrettably due to the close of Gibtelecom, Christmas Eve having to lodge an application with the Court of First Instance of the European Communities against the EU Commission. This action relates to the complaints to the EU

Commission brought by Gibtel in 1996, concerning the impossibility for its customers to be able to roam with their mobile phones in Spain. The original complaint, hon Members may recall, concerned a breach of the EU Treaties competition rules. In 1997, it was converted into a complaint by Gibtelecom against the Spanish Government, following the latter confirming to the EU Commission that it had given instructions to Telefonica not to conclude the roaming agreements with Gibtelecom. Those instructions had been given on the grounds that the Spanish Government considers that the recognition of Gibraltar's ITU telephone code (350), tantamount to recognising Gibraltar as an independent state. The Gibtelecom's Board initiated EU proceedings, following the EU Commission's October 2003 Decision to take no action on the complaint, despite some seven years of deliberations. The case is not expected to be heard in Court till later this year. Further public debate, beyond what I have said, would not be useful at this stage.

There is the related but separate complaint concerning the unavailability of telephone numbers due to Spain's non-recognition of Gibraltar's 350 code, which was lodged with the EU Commission in 1996 by Gibraltar Nynex Communications Limited. The Commission has not yet taken any final decision on this case and communications continue to the company by counsel and Commission officials. The shortage of numbers continues to impact on Gibtelecom, as well as Gibraltar more generally. For example, mobile services, both prepaid and post paid, can now only be offered by a numbering shadowing module. Although some subscribers can live with this option, there are currently over 100 customers who require the full post paid mobile service, if and when occasional numbers become available through natural churn.

With regards to fixed line services, the company has been able to stretch the number supplied a little, primarily through the introduction of their on-line service in December 2003. For this service the customer enjoys a 50 per cent reduction on the residential numbering line rental.

The turnover of the Gibtelecom group in the calendar year 2003, rose to over £21 million, an increase of nearly 3 per cent over the previous year. The dividends received of £1.7 million, shown in the Government's Estimates, reflect the final dividends of £700,000 for the financial year 2002, and an interim dividend for 2003 of £1 million. The final dividend for 2003 has yet to be declared by the Board.

The company continues to make substantial investment in enhancing their telecommunications infrastructure, which is now being utilised by a number of competitors carrying international traffic, or offering IT services. The group's capital investment of some £4 million in 2003, includes enhancing the network for both voice and IT traffic, increasing the availability of leased band width and demand, introducing ADSL or broadband services, and building a new mobile switch and upgrading new related network. In addition, hon Members may be interested to note, the company have recently introduced distributing denial of service technology, in which Gibraltar's IT band width has been protected to a large extent from extortionists running major businesses in experienced internet traffic unless they pay a ransom. Two months ago, in May this year, Gibtelecom also introduced the facility for the customers to pay their telephone bill, or view their account, over the internet. This includes, for the first time in Gibraltar, itemisation of local calls. The Government welcome these initiatives, which contributes to our commitment to the development of e-commerce in Gibraltar.

I would like to highlight Mr Speaker, two particular developments. First, the investment in the GPRS switch and general traffic radio service switch. Whilst the new mobile switch is now in operation for GSM traffic, it is not expected to be until later this year, that this is brought into operation, for 2.5 G technology, enabling data and images to be transferred at higher speeds. The project is proving to be technically demanding and there are commercial challenges for such a small operator setting up partnering arrangements for transmitting mobile data around the globe.

I have not used this opportunity to promote the company's various initiatives to reduce and simplify international tariffs over recent months, as this is now a more competitive market with several service providers offering alternative services. However, in view of the remarks by the Opposition Members at the last Question Time, I consider it is necessary for me to comment on the company's ADSL pricing strategy.

Gibtelecom's prices are often compared to the lower prices available elsewhere in Europe but most of these companies are either multi-nationals or have a market share of tens, or even hundreds of thousands of customers. Gibtelecom does not enjoy the critical mass of such operators or service providers and as the Hon Opposition spokesman on telecommunications will know from his time working in the industry here, the substantial capital investment involved has to be spread across a small customer base. Gibtelecom also offers an ADSL service with hardly any contention. Whilst in other parts in Europe the average contention is as high as 50 to 1, which means that approximately 50 users will share the same band width. Additionally, many operators add restrictions, such as the time which can be used and the excessive download charges. Gibtelecom does not. Gibtelecom has, since the introduction of ADSL, been looking at ways in which to enhance the value of its service. The company is presently reviewing its ADSL pricing structure, with I understand, a view to introducing a cheaper offering in the very near future. Indeed, press advertisements to this effect have already appeared, and the new price structure will be applied as from 7<sup>th</sup> July.

I now turn to the business of the merger. The completion of the integration of the two companies was achieved last year, and following many months of negotiation with the Union, the company is on the brink of introducing new, integrated pay and conditions, which will bring all employees together under the Gibtelecom employment umbrella. This new pay arrangement provides for further modernising the workings of the business and delivers the flexibility the company and its employees require to move forward in the fast changing and challenging world of

telecommunications. It was, however, with concern, that the shareholders of the company learned of the industrial action that took place in April but we were pleased that Gibtelecom managed to continue to operate all its networks and call centres, such that the impact on Gibraltar was minimal. The strains of merging the two companies with different background cultures, together with the pressures of the changed management programme under way and the new challenging demands placed on the workforce by telecommunications-hungry businesses in an increasingly competitive market, will have contributed to unsettling hearts and minds. Nevertheless, the positive and constructive way in which the company's management and the Union have got down to resolving the various issues over the past few weeks is, I believe, a testament to the success the business can continue to enjoy in the future.

Finally, I turn to the company's acquisition of 13/21 John Mackintosh Square. Planning and building permission has been sought for the construction, which the company hopes will get under way shortly. It is regrettable that this construction was not able to get under way at the time the Square was undergoing the main refurbishment but this is largely due to circumstances beyond the company's control. The building was purchased in the spring of last year, and as a condition of the sale, the vendor then had to knock down the old building, which was the subject of a Demolition Order. Once this was completed, extensive surveys had to be carried out, together with consultations with the Planning Authorities on the scope of the building on this sensitive site. It is planned that the building will house Customer Services, General Offices and, being close to the City Hall and the Haven, will facilitate the continuing development of fixed line services.

Mr Speaker, I now move on to AquaGib, previously Lyonnaise des Eaux, and I would like to start by referring to the circumstance behind the change of name. The majority shares in Lyonnaise des Eaux Gibraltar, were held by Northumbrian Services Limited, previously Ondeo Services (UK) plc, then passed to the Suez Lyonnaise des Eaux Group. In May last

year, Suez sold 75 per cent of its holding in Ondeo Services UK, retaining 25 per cent. Northumbrian Services Limited is now part of Northumbrian Water Group plc, a company listed on the London Stock Exchange. As a consequence of these changes, Lyonnaise des Eaux Gibraltar changed its name to AquaGib Limited, with effect from 15<sup>th</sup> December 2003. This change does not affect the way the company operates and, as has been demonstrated to date, the company continues to deliver the services as usual.

During the last financial year a total of 1.21 m<sup>3</sup> of potable water was supplied. 3.42 m<sup>3</sup> of sea water were pumped to the various sea water reservoirs, and the sewage pumping stations were operated at 100 per cent availability. Throughout the year the quality of potable water supplied by AquaGib complied with the requirements of Directive 98/83/EC.

The two reverse osmosis plants have performed at greater capacity, producing potable water of excellent quality. The Waterport Distillation Plant meets some 40 per cent of the water demand. Fuel oil is the main source of energy to power the Waterport Plants, making the company vulnerable to fluctuations in the price of oil. The cost of this fuel has risen by over 30 per cent in the last two years and continues to rise.

Additional to the capital expenditure driven by its asset management plan, the company has developed and increased Government's water supply infrastructure. This, in order to supply directly, some of the premises previously supplied by MoD, such as the Shiprepair Yard. The company continues to offer those customers that so wish to receive bills via electronic mail, and make payments to bills on line. Customers are now offered a range of payment methods.

Turning to human resources, AquaGib currently employs 101 persons. Of these, 14 are Government employees, seconded to the company. Together, they provide the company with a wide range of skills required to operate effectively. The training and development of employees continues to be a priority for the

company. This year training has been concentrating on health and safety issues, the safe excavation and reinstatement of the public highway, plumbing skills and maintenance of special regulating valves. In the course of the last financial year, Aquagib obtained certification of its quality management system through the new ISO 9001/2000 standard. The scope of its certification covers the production and supply of potable water, extraction and supply of sea water, sewage pumping facilities, metering and billing services, design and operation of water cycling infrastructure. In line with the necessities of Amber Security Alert status, the company strengthened physical security and implemented appropriate security measures. Those measures are currently in place.

Mr Speaker, that concludes my address as to the various elements of my ministerial responsibility. Before finalising my contribution however, I would like to express my sincere gratitude to all those ladies and gentlemen who make up the Ministry I head, and who form part of the respective Government Departments. Their loyal support is invaluable in ensuring delivery of the Government's programme and commitments. My thanks also to the management and workforce of those commercial entities for which I have political responsibility. Thank you Mr Speaker.

#### **HON F R PICARDO:**

Mr Speaker, budget debates in this Parliament have been focused for many years now as debates on the state of our nation, and it is right that that should be the case, for as Gladstone observed, finances as it were, the stomach of the country, from which all other organs take turn. But when Joe Bossano started the tradition of referring to this debate in such terms, some in our community scoffed. We have moved on considerably since then, that we should consider this debate as a time to reflect on the economic state of our nation is no longer scoffed at. Indeed, even the Chamber of Commerce now holds a state of the nation dinner. But perhaps the most welcome

development is that no one in Gibraltar would challenge the concept of Gibraltar being a nation. Now that is what I call progress and I want to start by congratulating the Hon Mr Bossano on having embarked us on that road to nationhood. That is a distinction which cannot be denied here.

I have now been a Member of this House for seven months. I have learnt more in that time than I imagined possible, and I am grateful for the indulgences of yourself, my Parliamentary colleagues on both sides of the House, and your staff. I hope that my learning curve has not been too trying on your patience. Perhaps it has been on the Government Ministers.

Government will not like what I have to say in this speech, and they may not congratulate me for it. But my responsibility in this House is not a partisan one, it is a duty of care to our people, and in discharging that duty, I will endeavour to be both helpful and constructive when I can, as I hope I have shown in my attitude to Third Readings, but firm and vigilant in the performance of the role for which I, we, are paid in this House, namely to oppose the Government of the day.

I am responsible for a number of shadow portfolios. I have been entrusted by the Leader of the Opposition, with responsibility for the Finance Centre, Employment and Industrial Relations, the Environment as well as the Media. I will deal with the economic and political issues that affect each of those portfolios, in addressing myself to this Bill and reviewing the Estimates, but I want to start my contribution by reference to the wider picture, setting the income and spending of £170m that we will debate in its historical and international context, and in the legal framework of the Constitution and the Public Finance (Control and Audit) Ordinance.

Mr Speaker, economic self-sufficiency must be the goal of any emerging people. Whether emerging into nationhood, whilst in the case of Gibraltar, emerging from colonialism into nationhood. Much of the struggle to emerge from the yolk of colonialism, must be to free the colonial people from the economic shackles

of empire, as much as from the social vestiges of imperialism. A people weaned on imperial handouts cannot easily stand on their own two feet when those handouts disappear. And that has been the defining zeal of our endeavour as a people in the last quarter of the twentieth century. To move our society away from being dependent on an economy orbiting around the colonial power's activity in our land. In the Gibraltar in which I was born, we were still used as a people, to the syndrome of "Isabelita paga", the Crown will fund it all, and the Crown in that sense, in right of the United Kingdom, and those were the 70s in Gibraltar. During her short address this week, the Princess Royal herself has noted the changes in our economic activity. Noting as she did, the changes undertaken at the Dockyard, which had previously been a much greater economic hub and often referred to as a pillar of our economy. So the politics of creating home-grown economic activity, literally by the people and for the people, is the only real politics with the ultimate aim of political self-determination in its sights. Now in a world of growing economic interdependence, economic self-sufficiency is not made out only by ensuring that the economy of a nation takes over, pays for itself and grows moderately. We can debate how much an economy like ours should grow, but one other essential ingredient of self-sufficiency is that the economy of a nation should have depth. By depth I mean longevity. Economic longevity to withstand national, or international times of less growth than the growth we might all want to agree is the minimum necessary. In effect, the economy of a truly self-sufficient nation must therefore enjoy the benefit of diversity and prudent reserves. In that the Hon Mr Caruana has previously made clear that his view is that saving for a rainy day is not his style. In the Gibraltar Chronicle of Saturday 19<sup>th</sup> June 2004, he is described as having told the Annual Dinner of the Gibraltar Society of Chartered and Certified Accountants, that the Government, and I am quoting him now, "*had returned to the taxpayer the budget surplus that it had*". He has kindly repeated those words in this House in his presentation of this Bill, so I do not need to, I think, prove that statement. In fact, that has been the theme of budget speeches he has made in recent years, not just this year.

I cannot believe how foolhardy such statements are. First of all the absence of tax cuts and goodies in this year's Budget is not because everything is going to plan. Everyone in Main Street knows that the problem the Chief Minister is facing is that his capital projects are all overspent. The new hospital, the Theatre, the Piazza, the new fleet of buses, just about each of those falls into that head. And that means waste borne from ineffective planning of capital projects, all of which has a serious effect on the overall state of our finances. Indeed, in the words of Disraeli, there can be no economy where there is no efficiency. That may explain to a great extent, why the balance to completion column in the Estimates for the spending from the Improvement and Development Fund, may have disappeared, despite convention and legal imperative. The alternative is that we have no on-going long-term projects. Gibraltar at large also knows that recurring expenditure has risen dramatically under this Government. It is in particular recurring expenditure that has snared him into its trap. He has been lured into a web of annually growing costs which is now spiralling behind the growth rates, and which he, and his party, are capable of growing our economy. The one is catching up with the other. But the level of expenditure incurred by this administration is not the problem per se. It is in both the failure to create a matching increase in annual growth and the items on which expenditure is concentrated, that we will principally find the disagreements between us. Expenditure into black holes, like the demolition conservation project that is the Theatre Royal, like the parties at The Savoy and at the RAC, all those things have contributed to the scenario that we now see developing. And we as a people are left with our public finances staring down the twin barrels of deficit and over-spending whilst having to head off serious challenges to the financial services industry, one of our economic engines. In effect during the course of my intervention, I will accuse the Chief Minister, who I shadow on most of my portfolios, of recklessly risking the growth of our economy, our most essential prop, in the battle for self-determination, by spending on a litany of frivolities which have him at the core.

What is unforgivable is that this comes about as a result of the culture of pecuniary waste over which Mr Caruana has presided. Like a spoilt, little rich boy Mr Speaker, the Chief Minister has squandered a splendid inheritance on a bonfire of vanities. If that sounds harsh see as an example one aspect of the schedules of reallocation of expenditure provided by the Financial and Development Secretary.

Statement No 1 of Reallocation approved by the F&DS in respect of the Improvement and Development Fund, shows a transfer of over £500,000 to the refurbishment of No 6 Convent Place and the Post Office. That is not £500,000 to refurbish No 6. It is an extra £500,000 for the cost of on-going refurbishment works higher than budgeted. Here it is in case they have forgotten that they gave it to us at the beginning of this Session. The total cost Mr Speaker, of adding grand chandeliers, a lift and other luxuries, must therefore now be totally astronomical and all while spending on respite care is slashed. I just cannot understand it. In effect this amounts to moving money away from necessary Heads of Expenditure to the refurbishment of the Chief Minister's own immediate environment at No 6. In fact the Chief Minister has taken money in this reallocation from the Fire Brigade and Police budgets for equipment and the budget for infrastructural works in order to adorn and decorate his own offices. Like a modern day pharaoh, creating a temple to himself but he is not Rameses, for he has not heeded prudence and for the past seven years of spending plenty, he has saved less and less for the leaner years or un-neighbourly attacks which may come. His technicolour dreams of theatres and the like, that vision thing, now leaving us all vulnerable to a potential economic failure borne of a lack of proper economic planning of capital projects. And to add to the decline in our fortunes in these eight years of Caruana rule, we have paid an expensive human and social price. These Caruana years, the Chief Minister has presided over a new exodus of locals from Gibraltar to Spain. An exodus objectionable when it is brought about by the desperation of those who find that no new affordable homes have been built. Although now, as he feels the electorate's displeasure rising, the Chief Minister puts out a tender to develop in a short time table

at The Sands, which appears in the press only last week. Mr Speaker, too little too late. Another squandered inheritance. Where the Housing Waiting List had been tamed, now lack of housing is again a major social problem. The Government may wish to deny it but that is the reality and in their hearts of hearts they know it. Even those steps that will be taken now at The Sands to build some homes will rely on land reclaimed by the first socialist administration. And I have to ask myself is this the spendthrift Chief Minister who has yet to lay a brick for affordable housing projects, the same man who questioned the tax payer meeting the cost of Joe Bossano having a sandwich at his desk. History tells me that it is, but what a hard face he has, to paraphrase a common Spanish expression. How politically hypocritical. The man who complained of under £5 being spent on keeping a Chief Minister fed and watered whilst he remained at his desk, goes on to spend £30,000 of snacks, apparently none of them containing cocaine, at the Savoy, and hundreds and thousands of pounds on Club Class travel. I can accept the argument that some things have a value beyond their cost but surely the Chief Minister has to accept that the waste that surrounds him alone is now quite out of hand. He has spent the last eight years behaving like the chief executive officer of one of the best performing companies on the FTSE, and in common with most of those fat cats, the more he spends on himself, the worse his successors become, the worse his company, our company Gibraltar plc, performs.

Mr Speaker, now to try to ensure the figures do not reflect these expenses by the next Election, we move on to what appears to be a new stage of the Caruana economic plan. What I will call the plastic surgery approach to economics. Nip, tuck, cut, tighten and stretch. Except that the Hon Mr Caruana is no plastic surgeon and he is cutting in all the wrong places, he is tightening all the wrong belts and he is stretching all the wrong features. We are going to end up with a pretty disfigured economy by the time he is finished.

The Leader of the Opposition has already demonstrated the potentially unconstitutional exercise undertaken by the

Government to obfuscate the reality behind this year's dramatic overspend on capital projects. In fact, the breaches highlighted of both Chapter 6 of the Constitution and Section 28 of the Public Finance (Control and Audit) Ordinance, betray a serious and perhaps even potentially impeachable attempt to hide the reality behind this year's Estimates from public scrutiny, unless all capital projects are to be finished this year. Why, even if not illegal, should the balance to completion column have disappeared? What good excuse could there be? Except that the electorate might find the balance of that now missing column, hard to stomach. And to compound it all this year's Bill includes Supplementary Appropriations which should have been debated separately. So much then for the Chief Minister's alleged respect for constitutional checks and balances. The quality of his commitment to those principles of propriety has to be tested now that he holds office, and he holds the purse strings, and on his performance he fails abysmally, although I have no doubt that he will blame others because let us face it, when things go wrong it is never his fault.

In fact, returning to my analysis of the Chief Minister's spendthrift CEO style, we might benefit from pensioning him off now with an expensive golden handshake. It might prove to be cheaper and more effective than to have him remain in centralised control of the cheque book for three and a half more dismal years. Indeed I sincerely hope that the new hospital is not added to the growing list of failed projects presided over by him because already as it is after the next election, when his political obituary is written, the negative side of the balance sheet will far outlist the positive. As to credibility, I also want to take this opportunity to answer one small point which the Chief Minister made in his reply to the Opposition last year. As part of his onslaught, I am looking forward to the one that is yet to come, when he alleged that everything said by the Opposition was a catalogue of falsehoods, he tried to rebut an obvious truth. Namely, that the Theatre Royal is in an area of difficult vehicular access and that this could be added to the mounting evidence that the project was badly thought out. At page 276 of the relevant Hansard Mr Speaker, and I have it here, he said, *"the National Opera House in*

*London, which has just been built at the cost of tens, and tens and tens of millions of pounds, I think actually in excess of £100 million odd, is built in Covent Garden Square, which is pedestrianised and where traffic cannot get hardly anywhere near to it. It certainly cannot be driven up to and there is no parking around it"*. That is a direct quote on what the Chief Minister said. Let us look at the credibility by which we can test the Chief Minister's remarks. Given that we are often accused by him of not telling the truth, let us analyse that statement forensically.

The main entrance of the Royal not the National Opera House, is in Covent Garden Square, but it is hardly 20 metres from where vehicles can set down passengers. The exits, the stage door and the backstage door are all surrounded by roads, namely, Bow Street of the famous Magistrates' Court, Floral Street and Russell Street. In effect therefore, traffic can come straight up to the Royal, not National Opera House, on three of the four sides of that opera house. It is possible even actually to park. So in the truth stakes, when the statements are analysed forensically and measured against hard facts, the fact is he does not fare very well.

Mr Speaker, another fact is that the Theatre Royal, whether the Government like it or not, in respect of that project, a little less haste and a little more delay and a little better planning, would have saved Gibraltar a considerable amount of money. He has now accepted that there was a gross underestimate of the cost of that project, although less than the cost of the Scottish Parliament. But he has not told us in fact what that gross understatement was. He has just told us it was less than the Scottish Parliament. Well if the Scottish Parliament was going to cost £40 million, and it has now cost £400 million and growing, there is a margin of error there of £360 million which even this F&DS will not let him get away with, I am sure. I wonder why he, the Chief Minister, fails to reveal that figure.

Again I see in this a potential reason for the disappearance of the balance to completion column in the pink pages of our Estimates.



The philosophy behind this project and so many others of this Government's capital projects has been to make decisions in haste and repent at leisure. It is not the Government alone that are repenting, for others have to repent with them. Like P&O for example, who must be repenting their decision to rely on the Government's commitment to have the North Mole ready to have received the Queen Mary II, and relying on this to add Gibraltar to its prestigious itinerary. That project was not properly planned and it had to be abandoned.

Mr Speaker, even the Chief Minister's usually sycophantic press are clear on this. The Chamber of Commerce's own publication which the Hon Mr Linares has already referred to, now unashamedly refers to the Theatre as a £9 million white elephant. It may be that all governments have white elephants and it is just my own experience that leads me to be surprised at that reference. But if that were not enough to illustrate how capital projects are falling by the wayside due to ineffective planning, what of the rest of the projects which he himself said in his New Year Message of 2002 would commence that year. The new hospital was to be ready by the end of 2003. It is not ready now and we are in the middle of 2004. The King's Bastion leisure centre was to be ready by the end of 2003, yet nothing, we are going to vote £1,000 for that leisure centre so not even in 2004.

How could all these projects have been sold to the electorate as part of the Chief Minister's electoral programme if we were headed for a £14 million discrepancy. How can the projects now be competing between themselves if they were sold to the electorate in November. Unless, there was not a massive electoral, political fraud perpetrated by the Chief Minister on our country's voters. On that evidence I impeach the Chief Minister's electoral promises as unreliable.

Mr Speaker, we are therefore at a stage in our history where we cannot take for granted the prudent, economic management that we deserve of our economy, in a manner that is socially benefiting the wealth of our community, and which stimulates our

economy to perform at its best. Even our trading community is suffering. Many companies that trade with the Government have found themselves not having their bills paid within the normal credit periods. In effect, the Government of Gibraltar under Peter Caruana has become a second-class covenant. It is in that less than perfect shape that we face the wider world.

Internationally, having left behind the deplorable attempts by the UK and Spain to share our sovereignty, we are not by any means out of the woods. Cooperation with our neighbouring nation remains, for them, subject to the Brussels Agreement. Economically, greater cooperation with our neighbours on non-sovereignty related issues, would be favourable or would be favoured by both sides and welcome, but never with a sovereignty price tag. It is time to stop sending conflicting signals. We in Gibraltar will not contemplate discussing, negotiating or auctioning our sovereignty, not for sweeteners or threats from Madrid, not for sweeteners or threats from London. And that means that our economy must be designed to grow and prosper despite London and Madrid and as a result, despite Brussels in its EU incarnation. That leads me well into my first portfolio specific analysis of our economy, in respect of our financial services industry, where I shadow the Chief Minister.

Mr Speaker, the Hansard reflects that most contributors believed that last year had been a difficult year for the Finance Centre. Well it was, but this year has been even worse. Where last year we faced arguments on State Aid from the Commission, we now face negative decisions already taken against our best interests, and with a clear, underlying political objective to disable Gibraltar's ability to operate as a successful financial services hub that it is. There will be a number of areas that I will want to touch on in my contribution on financial services, and the State Aid investigation I have just referred to is only one of them. I think it is also important to address the interplay with the Primarolo group initiatives and the implementation of the Savings Directive. I also want to touch on issues affecting insurance, pensions and generally to address the absence of available office space. I will also wish to deal with the problems faced by

local investors in the now notorious TEP Plans, and in that context I will seek also to touch upon the on-going evaluation of the Financial Services Commission.

By far the most pressing matter however, is the negative conclusion of the Commission on the Government's proposals in respect of the State Aid investigation and I will start with that. Gibraltar has been allowed to get itself caught in a pincer movement of the EU Commission and the Primarolo Group. Both are seeking to undo our tax competitiveness by attacking the exempt company. The zero percent vehicle that has served Gibraltar well for many years. Yet it is not only Gibraltar that is under attack. All of the previously named offshore centres, save perhaps for Delaware in the United States, are under attack. All face the challenge of repositioning themselves to continue to provide a competitive product. But we in Gibraltar are privileged to have a financial services industry, like so many other sectors of our economy, can succeed in the face of serious onslaught and can even flourish despite a lack of effective leadership. Why do I say that there is a lack of effective leadership? Because the Government's handling of this most serious of challenges has left a lot to be desired.

First of all the Government have failed to consult widely on their now rejected alternative corporate tax proposals. Yes, they sought views in certain sectors of the industry, but they did not really listen to the views expressed. In my view, the decision on how to react had been taken already. The Opposition itself had not been consulted or even informed of how the Government intended to act. There is no need for anybody to convince me or any Opposition Member that the State Aid investigation and the need to adjust our financial services products accordingly are a matter of national importance. I am signed up to that view from day one and the Opposition's approach from the beginning has been consonant with such an attitude, but what we cannot hide from is the reality of what has transpired in the last three years.

Despite repeated requests from the Opposition, and despite, of late, repeated grimaces from the Government, we have not yet

had sight, even on a confidential basis, of the submissions of the Gibraltar and UK Governments to the EU Commission. Although it is clear now that the UK had no objection to those being provided to us and the Gibraltar Government had apparently no objection to providing their own. Given that these submissions were already with the Commission and available to the Spanish Government, what possible legitimate reason could there have been not to have provided a copy to the Opposition? None, Mr Speaker. I do trust that the Chief Minister will undertake in his reply to us, that the copies of these submissions will be provided to the Opposition as a matter of urgency. The disclosure will at least enable us to understand what it is that has been rejected.

Secondly, I and many of my friends and colleagues in the Finance Centre, smell the onset of an embarrassing volte face. The Chief Minister is already talking about interim measures on low tax in place of the no tax option which was the core of his proposal to the Commission. In fact, when the purported consultation process began, there were many, I would say a majority, in the Finance Centre who believed that the real future of the Gibraltar Financial Services industry, lay in the low tax alternative. Small operators believed that a continued no tax regime was the only alternative for them. I believe that the latter were in a minority, but that they were very well connected.

In addressing myself to this point, I want to answer specifically a point made by the Hon Mr Caruana on Newswatch on Friday 18<sup>th</sup> June. Just over a fortnight ago. In his interview that day he said that at the time of the consultation process undertaken by the Government in 2001, the Finance Centre was speaking with one voice in favour of the zero percent company over the low tax alternative. I have no hesitation in saying that the Chief Minister's interpretation appears to me completely at odds with the reality lived and breathed within the industry at that time and I believe I can prove that he is speaking with a forked tongue when he makes these remarks. The large majority of the Finance Centre has been calling for a low rate of tax, in single figures if possible, since 2001. The fact is that some of the minority who favoured the zero tax option, were prominent

members of the GSD Executive and the Chief Minister favoured the preferred option of his own disciples over the option proposed by the clear majority. I will accept however, that he has moved artfully to cover his tracks by enlisting the public, if not private, support of the professional bodies involved. None of which would, for fear of incurring his wrath, or could, for fear of undermining Gibraltar plc, have said anything other than they supported the proposals submitted by the Government. Even now, I will not air publicly my views on why low tax may be better for Gibraltar, because I do not wish myself to give any assistance to those who reject the Government's proposals for zero tax. At the end of the day, the proposals rejected are now the subject of further representations and legal challenges are the Government's, but we all in this community have a collective stake in them. But he certainly cannot be allowed to get away with rewriting history in his usual revisionist style. He will have to answer for the mistakes he has made by listening overwhelmingly to his partisan colleagues.

For that reason the Chief Minister cannot have been surprised to read in the Chronicle of Tuesday 22<sup>nd</sup> June, in that paper's financial column, that when he said at the Accountants Association's dinner, that he has always encouraged the Finance Centre in Gibraltar to adopt low tax as opposed to no tax, the remarks drew astonished gasps.

Mr Speaker, I actually think that the better description would have been to say that the serious Finance Centre received his remarks with a sigh of relief, given that his conversion to low tax comes three years too late. And that is not to be interpreted as a criticism of the drafting team. They produced legislation to order. It is the order that I criticise. Quite unlike other parties the Opposition have continued to act in a sensible and responsible manner by holding back on specific criticism of the proposals throughout. We will continue to do so. Indeed, I will go further. I will make clear to the Chief Minister that we wish to see Gibraltar succeed in identifying and implementing a new financial services product, or products, that will enable our financial services community to develop even more into one of the most able,

sophisticated and prosperous. But that cannot be taken as a licence exonerating him from political responsibility, from his own shortcomings in the handling of the State Aid issue. And I call on the Chief Minister to release to the Opposition the documents requested, on a confidential basis, without any further delay.

I want to add that last year the Chief Minister actually brazenly confirmed that the Government had specifically chosen to hide the fact that the presentations could be made to the Commission on the issue of the State Aid investigation by non-governmental bodies. He said that he would not have wanted all and sundry allegedly interested parties to have started writing willy nilly letters on the basis of the sort of depth and breadth of knowledge that the Opposition had. Boy was he wrong in his assessment. The tightrope act which he said he had carried out for the benefit of what he called some of Europe's leading legal minds in terms of European law and State Aid Rules, has gone badly wrong, and the trail of responsibility leads squarely to the door of 6 Convent Place and nowhere else. Now is the time for the Chief Minister to show real intellectual humility and listen to the professionals in the serious Finance Centre. We have now to move quickly and effectively. The uncertainty created in the Finance Centre by the negative decision of the EU Commission has undermined confidence. In the first quarter of this year we have seen 842 companies formed in Gibraltar. At the same time, 11,730 have been removed from the Register of Companies. Those are the figures provided by the Government in answer to Questions 1279 and 1284 of 2004. Many of those may simply be old companies being removed under new rules but it is a process that seems to be taking years. But many also will be redomiciliations or liquidations, as some decide to leave us to the risks of the battle that we now face with the Commission.

Losing more than ten times the number of companies from our Register than we have gained, does very little to bolster confidence, and our competitors are themselves moving to secure their own business. Let us for one moment look at changes being made in Austria to the corporate tax rates of that country. Austria is not a clear competitor of ours, but the

Austrian Government have lowered corporate tax rates to 25 per cent from 34 per cent, as from 1<sup>st</sup> January 2005, making Austrian corporate tax rates the second lowest in the euro zone, after the Irish Republic's 12.5 per cent. In conjunction with the cut in rates, new rules are being introduced in Austria to allow deductibility of foreign subsidiaries losses, and new rules on taxation of groups of companies. That level of competition from traditionally onshore states like Austria, and the on-going review of UK tax on betting exchanges and high street bookies in the Gaming Bill, not the Gambling Bill as the Chief Minister referred to it, although he may be gambling that it is not going to get on the books in the UK soon, must be a source for concern to the developments of our own armoury of financial services products. Well beyond the simple exempt company.

Into all of this melting pot, the added ingredient of real poison is the commitment required by the Primarolo Group that Gibraltar should, independent of the State Aid investigation, and in relation to the separate imperative of the eradication of harmful tax practices, abandon the exempt company. We have been told in Gibraltar that this has been met by a political commitment from the Government of Gibraltar, to sign up to the code of conduct roll back date 2005. In answering Opposition questions on this issue, in particular my supplementaries to Question No. 450 of 2004, the Chief Minister has told this House that it is, and this is a quote, *"currently understood by the UK and accepted by them, that we cannot be expected to roll back the exempt regime until we can replace it with another one. We cannot be without a regime, but if that were to change, then that is the only other date which might intervene in the horizon"*. That is the end of his quote. That does not actually evidence much certainty. In fact that answer betrays the possibility that we may in fact be, at some stage, without a regime. Why is that possibility even open? Is it that any commitment that was given by the Gibraltar Government to the Primarolo Group, was not properly caveated to take into consideration the possibility that the Commission might actually reject the Government's reform proposals? If so, that would certainly speak volumes of the arrogance of the Government's approach to the reform. The answer to that may

also be the answer to the reason why we have not yet in the Opposition, received a copy of the Government's submissions to the Commission. A clue appears from paragraphs 103 and 111 of the Order of the President of the Court of First Instance, of 19<sup>th</sup> December 2001, in the cases commenced by the Gibraltar Government against the Commission. In paragraph 103, the President found that it was public knowledge that the legislation identified by the Primarolo Group must be rolled back by no later than 2005. Now, that terminology referring to an obligation to roll back by 2005, is repeated in paragraph 111 of the President's ruling. In Gibraltar however, we have repeatedly been referred to the Government having given a political commitment to roll back the legislation by 2005. That is the spin put by the Government on the commitment they have given the Primarolo Group, driven by an obvious conviction that the alternative regime would certainly have been approved before then. Yet now that appears not to be the case. How do we really stand on that alleged political commitment to the Primarolo Group, which is interpreted by the President of the Court of First Instance, as an obligation expressed in imperative terms to roll back by 2005. Greater clarity is required on this.

Thirdly, Mr Speaker, one issue related not just to the financial services but to our economy as a whole, where the Opposition and the Government have no quarrel, is the seriousness of the regional selectivity argument to the whole of our economy. We also have no quarrel with the Gibraltar and UK Governments' rejection of the application of the regional selectivity arguments to Gibraltar. These arguments are being deployed only to assist in the sabotage of our economy, and they are wholly without merits and they must be seen off firmly.

Leaving the State Aid investigation behind, I want to deal now with the insurance industry which has continued to grow in the past year. This is to be welcomed. But in this respect I think it would be churlish for the Government to take the credit where it is not due. The growth in the insurance sector is clearly industry-led, and there is little the Government are doing which can be pointed to as the reason for the growth. All the primary

legislation was there in the late 80s. In fact, it might even be wise to actually ask the Government to steer well clear of the sector. Please, can the Government kindly leave well enough alone. Perhaps in that way the players in the industry can be allowed to continue their sterling work, growing the sector further. But it is in niche areas like this on which we must concentrate. Areas where the real business is done from Gibraltar. It is that Finance Centre that we are best placed to develop from within the EU. A sophisticated alternative to the secret pocket tax havens of the past, and it is within the EU that we must wish to remain, although alive to the challenges which come with the benefits of membership and the aggression of Spain's abuse as its position as a Member State. I would also say, that many of the advances we have seen the Chief Minister refer to, are possible only because of the investment in telecommunications made by the first socialist administration, which provided the conduits for businesses such as the trading exchanges we now see and welcome. *[Interruption]* I would add to those giggles from the Government Members, that the ex Minister for Trade and Industry, the ex ex-Minister for Trade and Industry, in his last budget speech was at least kind enough to recognise that that was the case and that the Hon Mr Montegriffo recognised that the investment in infrastructure had been essential to the growth that had followed. One other particular area highlighted previously for growth, but where there has been no progress at all, relates to legislation on pensions. Here we could exploit deficiencies in the treatment of pensions and the fiscal efficiency of pensions in other EU States to become an exemplary centre for pension fund administration. I commend this to the Government as an area where they have delivered nothing by way of legislation or other progress, to enable professionals to market Gibraltar, but where they must act.

Again, I think it shows an element of unacceptable lack of that vision thing and neglect. There is a market out there waiting to be tapped. The implementation of the Savings Directive is now also upon us either by January or July next year. Repeatedly both sides of the House have agreed that we in Gibraltar should not be subjected to the unfairness of an uneven playing field on

the implementation of this Directive. Yet Gibraltar is not to enjoy the benefits of choosing generally or specifically between exchange of information or withholding tax. We will be required in every instance to exchange information, putting us at a gross disadvantage over some of our competitors. In effect, although the Chief Minister has sought the UK's agreement to allow Gibraltar the choices to be enjoyed by our competitors and other Overseas Territories, he has failed to obtain their agreement to any such concession. Perhaps now, he would benefit from being reminded of his words in relation to the Financial Services Commission (Amendment) Ordinance 1994, where on 26<sup>th</sup> April 1994, at page 13 of the Hansard, he said of the Hon Mr Bossano who was then the Chief Minister, *"whether he likes it or not, the position in which we all now collectively find ourselves unquestionably reflects a failure of the Government in general, and the Chief Minister's in particular, by lateral diplomacy with the United Kingdom to the extent that there is a matter of financial services importance and a degree of constitutional importance, that he has been unable to secure for Gibraltar the position that Gibraltar would have wanted him to secure, represents a failure on his part to deliver success from his bilateral relations with the United Kingdom"*. That is a direct quote. The same applies now to his performance as Chief Minister in respect of the Savings Directive and the Taxing of Savings Ordinance.

Mr Speaker, finally now in relation to my responsibility for financial services, I want to deal with a very local issue. The collapse of the TEP Plans which have plunged so many Gibraltarians into financial turmoil. The Opposition has supported the formation of the TEP Plan Association which has been formed by individuals who are holders of these ill-fated investments. We believe that the formation of the Association is a positive development for all those affected as it will help ensure that their voice will be collectively louder than it is individually. Only in that way will all the parties involved perhaps start to realise that these investors will not simply roll over and accept the loss of the investments without more. It is clear to anyone who with the benefit of hindsight undertakes an analysis of the

product that it is fundamentally flawed when leveraged and paired with an inordinately high gearing. It is also abundantly clear that the product was being sold and advertised as low risk income producing and guaranteeing capital, perhaps even after it was, or should have been clear, that it was nothing of the sort. Many issues arise which may affect any legal action which might be commenced or served in respect of this investment, and a number of regulatory issues also arise, especially as to the actions of the Financial Services Commission when the product was first advertised. After problems were brought to the FSC's attention, and since the product's collapse became obvious and the FSC began its intervention. All of these issues will fall to be determined in time. But a number of issues arise immediately for this House in this debate.

The FSC is an independent statutory body, any shortfall in the budget of which is funded by a vote in this House. This year, in the reallocations of expenditure, we see we have contributed almost £300,000 to fund the FSC's conduct of one piece of litigation, £292,000, item 7 in Notice No 5 of Reallocation of Expenditure of the Consolidated Fund of 2003/2004.

Mr Speaker we have to ask ourselves, does that body provide a sufficient service to small investors who lose their investments in Gibraltar, or is it geared overwhelmingly as an industry-friendly body, better equipped to communicate with the professional advisors or licensees, rather than with disgruntled customers. If so, what body should be established to take over such a consumer-friendly approach? A Financial Services Ombudsman perhaps. I believe so, and from answers to my Parliamentary Questions on that subject, I believe that the Chief Minister may be persuaded of that also. We are talking of a failed investment here of over £11 million collectively. That will not go away and it cannot be brushed under the carpet. In order to preserve the confidence of local investors however, the problems affecting TEP Plan holders have to be addressed now. Any Financial Services Ombudsman will likely take time to be established and will only have prospective jurisdiction. If the Government can help to advance the claims of TEP Plan holders, then, I entreat it

to do so. There may be a formula that enable the Government to assist without straying into the jurisdiction of the FSC. If so, as I have said before, this is not a partisan issue and I would hope that the whole House can somehow support those affected. I call on the Chief Minister to bring this issue up on his agenda of important issues affecting our people and to act positively where he can. The individual TEP Plan holders and their collective TEP Plan Association, deserve the unequivocal support of this House, to enable them to find a workable, short-term, final and acceptable solution to the problems.

That leads me also to the review of the Financial Services Commission, which is on-going, and to which the Opposition will be making representations. As I have already identified, there are issues about how the regulatory functions have failed to prevent the TEP and other problems in the past financial year. It is necessary to assess whether the legislation governing the FSC therefore, needs amending. Now is the right time to do so. But one thing must be clear, what would not be an acceptable outcome for the review, would be the imposition on Gibraltar by the front or back door, of a more stringent regulatory environment than in the UK, in a manner designed either, to disable our financial services industry as part of a wider master plan, to sabotage our economy, or in order to take away from any sector of our financial services industry, a competitive advantage it may enjoy over London, the Channel Islands or elsewhere.

We, are being asked to vote over £750,000 for the Finance Centre offices of the Finance Centre Director, as part of this vote. In fact, the amounts involved are even higher than that given that Ministerial responsibility for this has now been taken over by the Chief Minister. I think it is fair to ask that this expenditure should be monitored in some way to reflect directly what it produces for our economy. Why are issues such as niche pensions legislation not already done and dusted as projects for the future? The answer is probably little to do with the Finance Centre Director and his team, and more to do with the doctrine of centralised control which has affected all areas of our public administration.

It is necessary to say also that Gibraltar is presently, in any event, in no shape to enjoy an economic boom from developments in pensions legislation, a positive resolution of the State Aid investigation, or anything else. Why Mr Speaker? Because the investment in the physical and infrastructural fabric of Gibraltar has been so noticeably absent for so long, and this reflects directly even on Finance Centre activity.

Property is becoming so expensive that it is pricing even middle management out of its range. Organisations wishing to set up in Gibraltar now find office space prohibitively expensive, if it is available at all and a dearth of residential property. That is what I mean Mr Speaker, about the lack of funding of infrastructure. In fact the Hon Mr Caruana has turned into a reality the GSD dream of using the Campo as a dormitory for Gibraltar, by its neglect of property development. What a turn out for the books then. That all this is really caused by the Hon Mr Caruana's fundamentally flawed decision to turn Europort into a hospital, and it is not that our Finance Centre industry is doing so extraordinarily well that the Chief Minister can afford to pat himself on the back. It is that the decision to put the hospital into premium office space, is such an extraordinarily bad one. The Finance Centre and traders and professionals of Gibraltar, are suffering for it.

I now move on to my shadow responsibilities in relation to the media, where again, I shadow the Chief Minister. Although we are a small community, we enjoy our own television and radio station, two daily newspapers, one of them the second-oldest English language newspaper in the world, two weekly's, as well as a plethora of locally produced magazines. All of these have become a part of the communication of ideas and information between and about our people. Of the media in public ownership, GBC in particular, I am very conscious in this debate. The Chairman of the Corporation is right to say that during the period of the joint sovereignty discussions, GBC once again demonstrated the importance of Gibraltar continuing to invest in its own public service broadcasting capability. That is in the Annual Report and Annual Accounts for the years 2001/2002.

As he has himself recognised, it is important for the Corporation to ensure its output is politically balanced, both at news time and at feature time, for GBC's influence on our society is unparalleled. Indeed, GBC are the custodians of an ability to communicate massively with Gibraltar, that although dented by the greater choice and quality offered by the onset of satellite television, remains second to none, and I know that my hon Colleague Mr Randall, will be dealing specifically with issues relating to broadcasting. But in the same way that our society is large enough that we require a means of mass communication in order to inform our people, we are also small enough to know the truth of what happens all too often in the news room. An anxious Government Media Director calls in. The Chief Minister refuses to be interviewed on a particular issue, he is not happy that an Opposition Member has been interviewed, he wants a story told in a particular way. It is ridiculous but it is true and that is not just done to the public service broadcaster, it happens also to the printed press. The Chief Minister himself delivers tellings off to some editors for the words that they have written, or that their journalists have written, and they have printed. We have seen the way he tells off his own Ministers in this House when they fall foul of him, so I pity the journalists that he holds out for discipline. That is not the way to conduct political affairs, especially of a Government in the modern era. If that were not enough, some journalists complain of having to submit written questions before interviews with Ministers and of having to submit draft articles before the same are published. All of them to be approved by the Chief Minister himself. How he can he justify that to this House? Talk about control-freakery. Mr Speaker, that is not my definition of media relations and I deplore the fact that he should bring the weight of his office and his natural arrogance to bear on journalists in order to advance his political objectives. I do, however, believe, that the influence of his complaints is waning. Why? Because he has built his administration on fear, not on respect, and the fear of him is starting to disappear, and rightly so. I am reminded of an interview he once gave whilst he was Leader of the Opposition, saying that if he became Chief Minister, persons would be able to proclaim him a fool from the highest roof tops in Gibraltar but not suffer when it came to the

grant of tenders of other Government contracts, permits or permissions. He cannot even pretend to have stuck to his promise on that one. Indeed, after this speech, I do not fancy my chances for any tenders, permits or permissions.

Returning to GBC, the Corporation has recently seen some of its elder statesmen retire. The torch has passed progressively to a new, younger generation, and that is reflected in both output and outlook. The Open Day collection improves every year, and that is positive, but the cost of running a station like GBC is also rising and we need to ensure that this cost is managed as effectively as possible, to deliver what the community really looks to GBC for. Namely, general entertainment locally-produced programmes and news and current affairs programmes on the issues that affect us all collectively. I do not believe that the three hour loop which is daily on our screens, has been as popular as the Corporation expected, and more needs to be made of the potential for digital terrestrial transmissions.

Mr Speaker it is important to ensure that the resources are there for GBC, for the GBC that we want and deserve. We are very lucky to have GBC and we cannot afford to undermine it, but we must keep an eye on the bottom line nonetheless. I have faith in the professionalism of our print and broadcast journalists and I believe their output eschews the deplorable, attempted influences of the Chief Minister. I may not always agree with what they broadcast or write, I may vehemently disagree, but I defend their right to broadcast or write it, without fear of reprisal or political pressure. There is no democratic alternative. I want also as an essential part of this section to my speech on this Bill, to address matters relating to the proceedings of this House and the media.

I do not believe that this House meets often enough. As a Parliament I believe that we should have more regular meetings for questions, which would make our Question Times more topical and would naturally cut down on the build-up of questions. None of this requires any reform. The Chief Minister has it in his gift to call monthly or bimonthly meetings of this

Assembly. Our ability in the Opposition benches to scrutinise public spending would be enhanced in that way. And, if there is anybody in this House who does not want to be in this House, or considers it a drag, they should not have stood for election. Importantly, this House and its proceedings would also in that way become a more obvious part of the political life of our nation. What is happening here is as important to the assessment that the public must make about each of us, as of the public statements that we make and the political campaigns that we run. That also requires that this House be a welcoming place for members of our public and for members of the press. It is true to say that there are little or no facilities here for members of the fourth estate. They are our bridge to the population and we must ask ourselves if we are failing to make provision for the press, are we failing ourselves in getting people interested in the proceedings of this House.

I have been approached by a number of people who are upset at the fact that the proceedings of this House are only transmitted on the medium wave frequency on GBC Radio. They tell me that reception of that frequency is not great, and that the three hour loop on GBC TV, now deprives them of the ability to hear the relay on television. I go further, I believe we should have a debate on the merits or demerits of televising the proceedings of this House, and of modernising our timetable. However much of a hard worker each of us may be, we are not giving of our best at 11 at night. It is simply insipid to pretend otherwise. We can have a testosterone-fuelled contest to see which side can outlast the other, I am confident that we would win it, but that would actually get us nowhere. And none of us requires anything other than that the Leader of the House should be amenable to a civilisation of procedures. There is no need to reform our Standing Orders or anything of the sort. Just call more meetings. Give better notice of business and stick to sitting no longer than agreed times.

As for broadcasting, we already do more than other territories which only offer highlights of their Parliaments but we must not consider that enough. If GBC is to feature a blank screen or a



three hour loop of repeats during the day, we can use that time when we are on in this House, to reach out to the people who put us here. In my personal view, we should assess the cost of televising the proceedings of this House and debate seriously whether we want to go down that road. And this is not a partisan issue because I am conscious that I am echoing the Hon Mr Azopardi's words last year, in what was his last budget speech, and I may not be speaking to the preference of everyone on these Opposition benches. In fact, I think this may be an issue where the Leader of the Opposition and the Leader of the House actually find themselves in agreement.

This House must reach out through the media to its masters in the population. Not just at election times. We must make better facilities available here for members of the press, and we must not scrimp and save on that. It is too important.

I want to address a small number also of issues, that relate to law and order and which relate to these Estimates. Many promises have been made to the Royal Gibraltar Police, to the City Fire Brigade and to the Customs Department, about the resources which were to be made available to them by this administration. Very little has actually been delivered despite the promises. Those that are at the forefront of the battle to secure law and order in our community, should not have to battle for resources, human or otherwise. It is wrong that they should be led up the garden path to believe that resources will be there and that those same resources should later be denied or delayed them. The purchase of new patrol bikes for the RGP is one case in point. Although new bikes were quoted for a tender, an order for new bikes was not placed. The existing bikes were repaired over and over again. The cost of those repairs soon exceeded what would have been the cost of obtaining the new bikes. Only then were the new bikes ordered. The cost is therefore double. The culprit, well, only one person has abrogated to himself the power to make such decisions, centralised at 6 Convent Place.

Mr Speaker, in our Courts many family cases are being delayed pending Social Services reports, which can now take up to nine

months to be completed. That is not the question of court resources but of Government Departments affecting one of the most sensitive areas of our Court's legal activity. Even if not its most lucrative. For the sake of the welfare of the children involved in these cases, I urge the Government to act. I will add here my own views on the increased costs to the taxpayer of legal aid and assistance. I can speak as a lawyer who has never sent a legal assistance bill and only once sent a legal aid bill in my first year of practice and it is not because I am not on the roll or because I do not do the work. The cost of legal assistance has grown exponentially, on that the Chief Minister and I are agreed. The answer to this problem must however be crafted carefully to ensure that in worthy cases, those who are entitled to legal assistance, do obtain it. That may require actually raising the minimum earnings before eligibility for legal assistance, because those were set so long ago, but limiting the funds available for lawyers to charge. I would sound a cautionary note in relation to the important distinction between legal assistance and legal aid. It is legal assistance, that is the public funding of civil cases, that is responsible for the massive rise in the cost to the taxpayer. Legal aid, which provides public funding for criminal defence work is not so much the problem and is much more essential in terms of the fundamental rights to a fair trial under the Constitution and under the European Convention. We must be alive to ensure that the controls necessary in relation to legal assistance are not allowed to act as strictures on legal aid which might inevitably impact a defendant's rights.

I would also urge, and I am disappointed that the Attorney General is not here to hear me, that by next year the Estimates should also make provision for the remaining cost of the implementation of PACE into our laws, as well as for the adoption of any recommendations made as a result of the death in custody investigation, which has been recently completed. I say remaining because so much of the expense has already been incurred by the welcomed introduction of recording devices to record interviews and other such material. Some expense would remain, some related to retraining and some to the duty solicitors scheme. But these expenses will outweigh the benefits

of the full introduction of PACE into our laws. I say next year because I do sincerely hope that all reporting which remains of the Committee chaired by the Attorney General in respect of the legislation, should have been completed by then and the draft legislation should have been brought before the House even before then. Again, this area I do not believe that these would be partisan issues.

I want to deal again with this question of the refurbishment of Convent Place because it is relevant to this question of law and order. The monies moved were moved from monies set aside and voted by this House for the equipment of the RGP and the equipment of the Fire Brigade. That is the reality of the commitment which the Chief Minister has to the men and women of law enforcement. Much the same as his commitment to the swimming pool for the elderly and the disabled. No commitment at all. I should add here my own concerns about the men and women of the Ambulance Service. They do a fundamentally important job that could save the lives of any of us within the community when the time comes that we might need urgent medical attention, as I am likely to do if I were to wander into the ante-chamber at the wrong moment, after this probably. They are clambering for better terms of conditions of employment and that includes a claim for increases in salary. The men and women of the Ambulance Service are very concerned also about their working environment which by all accounts is far from dignified and includes a shower area with broken switch pipes and a sleeping area which is not segregated between the sexes. The Trustees of the St John's Ambulance may be the direct employers but their operation of the ambulances is funded by a vote from this House and it is important that we ensure that the scrimping and saving also does not affect them. Theirs is one of the most important jobs in our community. Their terms and conditions of employment cannot fall foul of employment legislation in particular in relation to the structuring of their holiday pay, and their terms of their working Bank Holidays, Christmas Days and Good Fridays. That leads me to my contribution in respect of my responsibilities for employment, where I shadow the Hon Dr Linares.

Mr Speaker, this is the first time that I have an opportunity to address myself to the Minister of Employment unrestrained by the formalities of having to formulate my contributions towards him as a question. I have known Dr Linares most of my life. He is one of the people who I regard as having nurtured my development as an individual. He is one of the people who watered the seeds of my political commitment. You may be surprised to hear that and Government Members might wish they could get into a time machine and undo what he did, but that is the truth. I sit opposite him today but I cannot imagine that we have widely divergent views on what a Gibraltar Minister for Employment needs to be doing. We may have different views of what is happening, or how to solve the problems, but I am sure that we cannot disagree about what the aim of policy must be, namely, that the Gibraltar Government must do whatever it can within the law to ensure that priority of employment should be for Gibraltarians. Of course that presupposes that we agree that the same Government must do also everything it can to stimulate the growth of the job market. Perhaps we do not agree on that, given that in his intervention yesterday, the Minister suggested that that was an issue which needed to be left to the market.

But the desire to ensure priority of employment for Gibraltarians is not a jingoistic, nationalistic or racist one. It is simply what we are elected to do by the Gibraltarian people. We are not elected by residents of the Campo or by Poles, or Lithuanians to promote their employment prospects. We are elected by our people to manage our community in a manner designed to deliver the greatest good to the greatest number. That includes necessary appearance to the legal principles we are all signed up to in the Common Market, and the moral obligations we may have, as well as the legal obligations we may have to non-EU workers such as our Moroccan friends, who have been members of our community since the 1960s. So I believe genuinely that there will be very little between me and the man I shadow on this portfolio, as to the substance of the aims we would wish to see fulfilled. I was very surprised however, by two things that he said. The first was his praise for the principle of employer and employee registration. This was one of the things most criticised

in fact, by the Hon Mr Caruana and Mr Vasquez when they sat on these benches. Then, they liked to refer to the ETB and the registration requirements, as growing bureaucracy making business progress in Gibraltar impossible. The second surprise was the suggestion that the computers are in place to enable information to be provided at the touch of a button. How can this be? If we are regularly told at Question Time that five days notice of questions is not long enough to provide the answers and that an extra ten days are required. I cannot reconcile those two principles.

From all sides of the House we would all wish to see full employment, and I think we all recognise that the absence of full employment may some times have more to do with the shortcomings of the individual than the unavailability of jobs. That is undeniable. But I do not think that there are as many unemployables in Gibraltar as there are unemployed. In fact, the Hon Mr Caruana and the Hon Dr Linares now claim we have reached full employment, although with lower unemployment figures in May 1996, the Chief Minister was crying about an unemployment crisis.

Mr Speaker, the fact is that some people will not be qualified to work in the online betting industry or in the insurance sector, and for those this Government has done very little. I have had careful regard to the words of the Chief Minister last year, when answering my Colleague Mr Baldachino, on his contribution. The Chief Minister told the House then, that unemployment in Gibraltar hovered around 300 and that these were principally people who were not really looking for jobs at all, they are just registered as unemployed because it is a precondition to get social assistance, that is a quote directly from last year's Hansard. The Chief Minister went on to say that if Spaniards or anybody else were taking jobs at the expense of Gibraltarians, that Gibraltarians were remaining in increasing numbers in unemployment whilst jobs went to outsiders and that would be a serious matter but that is not the case. Again, that is a quote from page 248 of the Hansard if the Chief Minister would rather forget those words. Well, I do not accept that this is the case. A

large number of people remain unemployed because jobs are being taken by outsiders. I have already been consulted myself by a number of individuals who complain that they are made redundant and that shortly afterwards, a Spanish worker is recruited to the same job, with a different job description, but doing the same work. On some occasions the redundancy comes just before the employee has been employed for a full year, or just three months from the dismissal. The employer in that way ensures that the employee is at least at first blush, unable to take action in the Industrial Tribunal. So the issue in the number of unemployed is not as cut and dried as the Chief Minister would have this House think, and I call on the Minister for Employment to have regard to the potential that unscrupulous employers should be acting in this way. In fact the statistic of 6,903 vacancies filled is not, I am sorry to say, seen by the Opposition Members as evidence of a vibrant labour market. In fact, we see it as evidence of the churning of contracts and the abuse of employees on fixed term employment contracts. Otherwise, a third of the employment population would be getting a new job every year. In effect therefore, I can assure the Chief Minister that he was totally wrong in fact when he said at page 249 of Hansard for last year's Budget debate, at column 2 in case he wants to check it instead of snooze, that it is wholly misleading to suggest or to pretend that non-residents are taking the jobs of residents or Gibraltarians. It is simply not the case. The Minister tried the same argument from a different angle by saying that the percentage of Spaniards employed in our economy is static at about 13 per cent. That is simply wrong. It is not true. It is happening all the time and I hope that the Chief Minister does not just deny it for political ends. The proper thing to do is to investigate such problems. The statistic which the Minister refers to of course, relates to registered employment, and so many of the frontier workers who take local jobs are unregistered. Otherwise, how could we account for the divergent numbers that come through the frontier and who are registered as employed.

But employees have other problems short of being made purportedly redundant in favour of cheaper immigrant labour.

Many are presently employed without the benefit of constructive dismissal legislation. The Government have withdrawn their own Employment (Amendment) Ordinance, which would have made amendments required to give effect to the changes after the Equal Opportunities Ordinance. That deprived the Opposition of the opportunity to proceed with our proposal to the effect that the introduction of constructive dismissal legislation should happen immediately and be put on a statutory footing. I agree with the Minister responsible that in effect we now suffer an Equal Opportunities Ordinance without the necessary consequential amendments of the Employment Ordinance, and employees continue to be deprived of the right of constructive dismissal. I am therefore delighted to hear that the consultation process on this is now totally at an end. My own consultation process indicated that there was general approval of the Opposition's proposal to introduce the principles of constructive dismissal on a statutory footing, certainly from all the Unions. I now hope we shall see such legislation brought to this House and in place before the end of the calendar year, because I have heard immediately and shortly too often from this Government. Please, I implore the Government, for the sake of the employees that need it, move on this quickly. I have, in fact, already drafted the necessary simple, short amendment to this legislation and they can rely on me to assure them that it is very easy and it can be done without taking much Parliamentary time.

I would also wish to remind the Minister that both Charles Bruzon and I, in our contributions on the Equal Opportunities Ordinance, stated that we believed that the rules on discrimination on grounds of age and disability, should be brought about as soon as possible. I will pause there to reply to the suggestion that the draft of the constructive dismissal legislation proposed by us and prepared by us is not to be relied upon. In fact, we have seen that it is the legislation which is brought to this House by the Government that is not to be relied upon and which requires consistent amendment.

We were told by the Chief Minister then, at the time that we were bringing about the provisions for the Equal Opportunities

Ordinance as it is now, that the transitional provisions in relation to age and disability allowed the Government time until 2006. Later at Question Time, the Chief Minister told us that the Government would try to move on these anti-discrimination provisions this year. We welcomed that change of timetable. Indeed, it is the Equal Opportunities Ordinance that brings me to the next part of my address on employment.

The Ordinance creates many new areas of recourse to the Industrial Tribunal. The Tribunal is already cracking under the weight of the cases which are pending before it. An adjourned matter cannot be brought on again for four or five months. In order to fix a date, diaries have to be coordinated not just between counsel for the parties, but also with the Chairman who is also a lawyer in private practice. That can add to the problems in fixing a date. I therefore believe that the post of chairman of the Tribunal should be made a permanent appointment, that would ensure the daily availability of the Chairman and would also add the consistency of a single decision-maker, like we have in relation to all matters relating to this Government, leaving less to chance when one lawyer or another is appointed as ad hoc chairman. Moreover, as we were at pains to point out during the debate on the Bill for the Equal Opportunities Ordinance, the Tribunal should have the resources to deal with a potential increase in cases. Now, it is also important to put the results of the Employment Survey in their proper context.

The Survey is perhaps more accurate than is usually the case, given the very high response rate from employers. The preface to the Report evidences that 1,290 employers out of 1,298 sent the survey actually replying to the questionnaire. For that reason the figures are not capable of exact comparison with earlier years, where many less employers have replied to the survey. For that reason, the results of the Survey cannot be spun to show record numbers of employment helping the defeat of the spectre of unemployment. In fact whatever the position in October 2003, the figure for Gibraltarians out of work in the first three months of 2004, has gone up compared with the same period a year ago. Analysing that in detail and dealing with the

loss of 26 jobs is neither demagoguery nor pettiness, it is real concern. The February 2004 figure is the highest for that month since 1998 and is above the February 1996 total. Taking the average for the first three months of unemployment, taken the average, the first three months unemployment has risen by 7.4 per cent compared to last year's average for the same period. This must obviously be a source of serious concern across the board and is a statistic from which the Government cannot hide and I am sure that the Minister has that concern related to that statistic despite what he told us, and I understand the need to say it politically, yesterday. But this may explain why quarterly unemployment figures have not been published timelessly at the end of each quarter, as the Government had committed themselves, of their own volition, to do. Certainly, the results of the Employment Survey show that there has been an increase in employment largely attributable to the growth in offshore betting, where industry-led growth has opened many new vacancies. Again, this is an area where all the relevant legislation and infrastructure had been put in place by the first socialist administration, and where this Government would be hypocritical to try and take credit for having created an industry, although I accept of course that they have nurtured it. We must be keen, however, as a people not to have too many of our own eggs in one basket and rely only on one industry to grow our employment, as appears to be the case with this Government, is an unacceptable gamble, if they will excuse the pun. But the growth in employment appears principally to favour frontier workers given that there were almost 1,000 new Spanish entrants registered in the local labour market in 2003. The exact number is 945 according to the answer provided by the Minister to Question No. 250 of 2004. At the same time local unemployment reached record highs for the month of February as I have just told the House. The answer to Question No. 257 of 2004 is also relevant. That shows that out of 358 part-time jobs taken by males in the year 2003, only 132 went to Gibraltarians and 226 went to workers of other nationalities. Of 754 female part-time jobs, only 297 went to Gibraltarians, whilst 467 went to workers of other nationalities. Maybe that is the price of membership of the EU. But returning to the Chief

Minister's analysis last year that Gibraltarians were not being left unemployed whilst other nationals got jobs, there is the imperial evidence that he is wrong. Spanish workers are gaining advantages and taking posts from local workers who remain unemployed. When the Hon Mr Netto was Minister for Employment, his press releases on the quarterly unemployment statistics used to end with a Government call for employers to do more to source employees from the pool of locally resident workers. That phrase has disappeared from the press statements now issued with the quarterly, but usually too late, employment statistics. If that phrase was necessary then, it is even more called for now that the February headline figure is 7.4 per cent up. I call on the Minister for Employment to renew the call for employers to source employees from the pool of resident labour and to take any other measures possible to promote the employment of Gibraltarians.

Mr Speaker, another area worth highlighting is that which relates to local expenditure of £210,000 for the Construction Training Centre, and that appears at page 113 of the green pages of the Book of Estimates. What results have we to show for this expenditure? The number of Gibraltarians in the construction industry is actually down, even in the Employment Survey which Government appear to be so proud of. The whole point of the expenditure is to promote and create local skills in construction, yet now the numbers employed in construction are at the highest levels ever, but the number of Gibraltarians employed is down. The number of Gibraltarian males in the industry is down from 2002 to 2003, from 491 to 463 in a year. So, how can that expenditure on construction training be said to be delivering results. Despite their words of gratitude and praise for the employees of the ETB, the amount we are being asked to vote under Head 1B for the Employment and Training Board will actually be one third less than last year, £300,000 less than the £900,000 voted last year. In fact, in the year 2002/2003, the Appropriation was for £1.4 million. This year it will be £600,000. I guess that reduction in budget evidences the reality of the gratitude of Ministers. As I have already alluded membership of the EU requires us to have a job market open to nationals of all

Member States but some action can be taken to control numbers. Most Member States have, for example, been able to negotiate derogation from specific freedom for transitional periods in respect of nationals of the ten new Accession States. Those are included in the accessions. The UK has not done so in relation to the right to work but has done so in relation to the right to remain within the UK if unemployed. We now hear and welcome, that Gibraltar will invoke the benefit of the transitional provisions in the Accession Treaties, in respect of applications for employment from nationals of the ten new Accession States. Given the evidence that already exists of large numbers of migrant and frontier workers taking up employment in Gibraltar, this is actually very welcome. In fact, Government's failure to act earlier may account in part for the increased number of Gibraltarians unemployed, priced out of their own job market by cheap labour the Government have not been astute enough to control. I say that because the accession of these ten new states happened on 1<sup>st</sup> May of this year but we have not yet invoked those provisions, we have left ourselves open to the obligation to grant permits for over two months.

I want to turn now to an area which I think has not been touched upon before in this House and which relates to the interplay between employment and the issues that concern us all about law and order. I understand from a number of people who have consulted me in my capacity as Opposition Spokesman with responsibility for Employment, that in many application forms for jobs in both the private and public sectors, employers are requiring disclosure of an applicant's previous convictions. That is understandable. An employer should know if he is recruiting a person who has a recent conviction for any offence, particularly an offence related to drugs, an offence relating to violence or an offence relating to dishonesty. But similarly, an individual who has been convicted and sentenced for the commission of a particular offence and who has not re-offended after a prescribed and lengthy period of time, may also be entitled to say, I have put that behind me it should not be held against me any more. That is a difficult balancing act but it may help many long-term unemployed break down the barrier to their employment, if it is a

previous conviction that is preventing them for securing employment. The Minister has told us about the Job Club helping people back to responsibility, but how can this help if employers are prejudiced against those who have formed. In the United Kingdom, legislation providing for this has been in place since 1974 in the form, of the Rehabilitation of Offenders Act. This Act prescribes the type of offence involved and provides the period by which it is to be considered spent. That relates both to the prosecution in its rights to refer a court to a previous conviction, and importantly, gives the offender the right not to have to make reference to a conviction after the relevant period for that offence has passed. Of course, some convictions for very serious offences can never be considered spent, and that is right. But this is particularly relevant to young offenders, who may have offended as juveniles but who have turned over a new leaf. Their chances of employment in life should not be conditioned by mistakes made when they were teenagers. That is the case at the moment, especially in relation to the public service, where the RGP Records Office do, as I understand it, release details of previous convictions, even of juveniles, upon application for employment to the public employers. Although the manner in which this may be done now may have been affected by the implementation of the Data Protection Ordinance. I would call on the Government now, to consider seriously the introduction of a Rehabilitation of Offenders Ordinance, closely modelled on the UK Act.

I want to highlight in my contribution this year also, the confusion that appears to have arisen on the Government side during previous budget debates, on the apparently draft Protection of Young Workers Employment Ordinance. When he held responsibility for employment the Hon Mr Netto announced that such an Ordinance had been drafted to make provision for the protection of young workers who are not otherwise protected by the Working Time Ordinance, which transposes the Working Time Directive 94/33/EC. He said as much on the debate on the Bill in this House in 1999. Subsequently, in answers to questions, it was stated that the Protection of Young Workers Employment Ordinance would be abandoned. The Bill had

apparently been drafted in 1999 but it had not seen the light of day by 2003. Hopes ran eternal, when Mr Corby who is not here with us today, in his intervention last year as Minister for Employment, either shed light or renewed confusion on the issue. At page 116 of the Hansard for this debate last year, at column 2, Mr Corby contradicting the answer given in answers to question, said referring to the Working Time Ordinance, and I am quoting him now, *"much of the latter reflects provisions in relation to the protection of young people at work, and in order to give whole effect to the relevant Council Directive, 94/33/EC, a new Ordinance has been drafted, the Protection of Young Workers Employment Ordinance, which will be brought to the House in the immediate future"*. Well, no such Bill has been promulgated and no such Ordinance has been passed by this House. According to the Hon Mr Netto, in 1999, the Bill was to be brought that year. Later, the Bill appeared to have been abandoned. According to Mr Corby in 2003, the Bill was very much alive and kicking and was necessary to give whole effect to Directive 94/33/EC. Mr Corby had added that the Bill was coming to the House in the immediate future, but we are now told the constructive dismissal legislation will come. So what situation are we in now? Young workers do not have the protection they are entitled to and Directive 94/33/EC has not been given whole effect to, despite the transitional provision having expired. I would imagine that none of this is done in order to purposely deny protection to young workers. I would not imagine laying such an accusation at the feet of the Hon Dr Linares. But I do believe that the failure to get it right on something important like this, does evidence to the slide of inefficiency into which this Government have fallen. Someone has taken their eye off the ball, and on this, it is young workers who are open to suffering the effects. The rhetorical questions to ask are obvious. (1) When will the position be regularised? (2) Will the regularisation now be done by bringing the Protection of Young Workers Employment Ordinance or by amending the Working Time Ordinance? and (3) finally, who is responsible for the five year failure to rectify the position? Certainly, it speaks volumes that the Legislation Support Unit are asked to draft legislation which is not then proceeded with. That is clearly not a

good use of resources. From the point of view of the integrity of our Employment Protection legislation, this problem must be resolved, and quickly, one way or the other.

That leads me to say that the Employment Survey for October 2003, does show in relation to young people that despite the spin, the numbers of young people employed today are much lower than they used to be. The figures speak for themselves. In April 1996 there were 112 full-time, monthly paid juvenile male jobs. In October 2003 the number had fallen to 57. The eight years of GSD Government have therefore produced a 50 per cent fall in full-time, monthly paid jobs for juvenile males. The figures are there at page 22 of the Survey, I am not making it up. In April 1996 there were 16 full-time, weekly paid juvenile female jobs. In October 2003 the number had fallen to 11, having been as low as four in October 1997. The eight years of GSD Government have therefore produced an almost 40 per cent fall in full-time, weekly paid jobs for juvenile females. Again, the figures are there at page 16 of the Survey, I am not making it up. The figures are even worse in respect of full-time juvenile females. In April 1996 the number of female juveniles in full-time, monthly paid employment was 65. By October 2003 the figure was down by over 40 per cent also, down from 65 to 39. They went as low as 21 in October 1998. What is happening? Again, the figures are there at page 23 of the Employment Survey. So much, for this Government being the one that got young people into employment. Forget the spin, look at the figures and allow them to speak for themselves. Employment is about people. It is about real people that are being really let down. On young workers protection and employment prospects, the Government's record is not one that can be commended.

Mr Speaker, in relation to the question of registered and unregistered labour, we certainly believe that there is more room for an increase in the number of inspections carried out to determine whether or not employees are legally registered as required. In relation to the fitting out of the new hospital for example, we have seen how a very small number of inspections were carried out, although it was clear to all and sundry that

there were large numbers of non-EU unlikely unregistered workers on site, well in excess of the numbers dealt with when inspections were carried out. It would be wrong, this year, not to take the opportunity before ending my contribution in relation to employment, and when addressing ourselves to the subject of employment, not to make reference to the threat of contractorisation that has been faced by employees of the MoD in Gibraltar.

Those affected know that they have the support of the Opposition Members, and I hope of the Government also, in seeing off threats to their jobs. Also, MoD employees and hopefully also no longer under threat, are the men and women of the Gibraltar Regiment. I trust there will be no redundancies to speak of there. Losses of jobs in either of those sectors of the MoD would clearly add pressure to the local pool of labour.

I turn now to the expenditure envisaged in respect of our common environment. In this portfolio I shadow my namesake across the floor the Hon Mr Vinet. I must start by saying that very little has happened in relation to the environment since the Hon Mr Vinet and I became Members of this House. In fact, the Government seem to act on this issue only when embarrassed by one of the groups dedicated to the environment, all of which do sterling work in making the environment a real live political issue. As I said during the course of the debate where the Hon Mr Vinet and I appeared together on television some weeks ago, so he cannot say that he was the one to say it first in this House. As yet, despite repeated promises starting in 2000 and the fact that little expenditure would be required, we do not yet have an environmental charter. The fact that this could be achieved easily, without great levels of expenditure, and that nothing has happened, belies the fact that there is very real, very little real commitment there from the GSD to the protection of our common environment. I sincerely believe that this is an area in respect of which the Government pay lip service to policy but really do only what they have to in order to get by. Now we are told that the charter will be ready this financial year. Earlier this year, when the charter became an issue first, we were told it would be ready

within the calendar year, another delay. In fact, most if not all the action taken by the Hon Members opposite, relates to the transposition of EU obligations and not real thought-out policies of the type which our country needs to deal with the environmental problems that we have on our doorstep. I do note that the Estimates Book carries a provision of £130,000 for the provision of an air quality monitoring station or stations. That has been promised many times before but has never been delivered, so I am heartened to see provision being made for it in the Estimates this year.

As we have been told already however, we are to have the monitoring stations in two locations in Gibraltar. I would urge the Government not to try to locate the stations only where they will always give clean readings, but to ensure that the areas addressed are those of real concern and pollution, which existing reports already point to air quality being below the required averages, and note, I have not accused the Government of being about to do that, I have urged them not to do it. This is especially relevant given the SO<sub>2</sub> emissions which have affected our environment in the past weeks and which emanated from the industry in the Bay. It is for that reason that we have proposed that a study be undertaken into the quality of the air that we breathe in Gibraltar, as a result of the heavy industries, and to take action to ensure compliance with European and International Standards on emissions. In the context of these Estimates funding such a study would be feasible and would probably be one of the best investments this Government could make.

One of the most outstanding Heads of Expenditure which grab the reader's attention in reviewing the Estimates for this environmental head, relates to the cost of disposal of fly ash and other items. This was provided for previously under Head 4B. Looking at page 46 of the Estimates, the sums voted for this Head last year 2003/2004, were estimated at £35,000. The previous year the sum actually spent amounted to £82,000. Members need to bear in mind that this expense has been incurred for some time in order to dispose of the ash created by



the incinerator plant at Europa, which was a product of the first socialist administration undeniably. Last year despite an estimated expenditure of £35,000, the forecast outturn is actually more than ten times that, which is an absolutely incredible overspend. It is worse than the overspend at the Social Services Department. If that were not enough the estimate for this year now under Head 4A on page 43, is another £300,000. That expenditure is astronomical compared to the expenses incurred so far, and more details of how and why the sum has grown so inexplicably would be welcome. I am conscious that the reference in the Estimates is to the disposal of fly ash and other items, that is why I am raising the issue, because those other items, if they are the ones responsible for the increase in cost, are not in any way particularised and that is what the Opposition is here for.

Mr Speaker I also note that the cost of control of seagulls is now up to £69,000 per year, but that the seagull population is now actually greater than ever. Are we getting value for money in respect of that expense? One thing that is not provided for, at least specifically, is the provision of noise insulation for the OESCO plant at Europa Business Park, now that a third engine is to be operational by September. This is a serious issue of concern for inhabitants of the South District who find the noise unbearable. Whatever the Government may wish to say about whether there is a noise nuisance or not, when the Hon Mr Britto was the Minister responsible and less than a month before the last Elections, he sent a letter to all who had signed a petition on the reduction of noise pollution in the South District, except me. I have also signed a petition and it was not sent to me, might have been the Post Office.

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

Point of order. Point of correction. The letter was sent to every single signatory of the petition and that included the hon Member.

**HON F R PICARDO:**

I accept that Mr Speaker. I never got the letter and I have here somebody else's because I needed to have it and it was never sent to me. Mr Speaker, the letter of which I have a copy here, contains the Government's commitment to fund the necessary noise reduction works. Given this specific commitment, why are we not voting money for these works to commence this year? The Government say they are committed to recycling also, but they do no recycling themselves. Perhaps on this score the issue is not so much expenditure but that the Government should lead by example. The fact that this is one of the most important portfolios for securing our common futures does not appear to have spurred this Government into action. Very little has been done by this Government to really protect our common environment, at trying to prevent abuse by industrial operators across the way. More action is necessary.

In conclusion, our money is not being spent on the best projects for our people. Our spending on capital projects is not well thought out. That may explain the attempt to do away, perhaps illegally, with the balance to completion column in the Estimates Book. When it comes to cutting recurrent expenditure, the Chief Minister is cutting in all the wrong places. He needs to change his millionaire's lifestyle. The one which he enjoys at taxpayers expense because it is not his money to waste. He needs to deflect cuts from respite care to the cost of parties and Club Class international travel. Turning an estimated surplus of £6 million into a deficit of £7 million cannot have been easy, but now it is done. Where the numbers should have been black, they are now red. The Government has nothing to be proud of in these Estimates. By the Chief Minister's own analysis, net debt is up from £24 million in 1996, to £45 million now. That is an increase of almost 90 per cent, not a comforting thought. Those are my concerns about the Heads of Expenditure for which I hold shadow responsibility.

Finally I want to add only two things. First, yesterday we were accused of scaremongering and abusing the elderly, that is what the Chief Minister said, abusing the elderly, because of our concerns on the level of pension funds. That is a shameful accusation and it is wrong. What the Chief Minister cannot get away from is his repeated remarks in 1995 and early 1996, that Gibraltar was bankrupt. That was scaremongering of the worst sort, abusing the young and the elderly at the same time. In fact, as all his Budgets since 1996 have shown, Gibraltar was far from bankrupt. Secondly, and finally, during the course of his intervention yesterday, he claimed for himself improvements to both the face and soul of Gibraltar. The custodians of the soul of Gibraltar are the Gibraltarians collectively. No one man or group of men in this House should be so arrogant as to claim stewardship of our common soul or of our common identity. Governments steer economies and administrations but nothing else. That he has attempted to take credit for changing Gibraltar's soul, evidences only the grandeur with which he regards himself. Perhaps that accounts for the financial waste over which he presides.

The House recessed at 2.02 pm.

The House resumed at 3.35 pm.

#### **HON L A RANDALL:**

Mr Speaker, I think you will be pleased to hear that in view that my Colleagues who have preceded me have mentioned all the salient points that I had included in the opening part of my address, I propose to eliminate the opening part of my address to supporting each and every iota of the contributions made by them and those that will follow me.

Mr Speaker I will therefore now turn to my responsibilities and start with transport. At this time last year, the Hon Joe Holliday informed the House that a new company had been set up which

would acquire the existing bus licences of both the Rock City Services and Calypso the two existing bus operators. Today, and over £800,000 later, Government have only acquired one licence. It appears that they have no intention of now acquiring the licence of Calypso, although this stands to be confirmed. A fleet of new buses acquired is now operating a service. Big and heavy as they are for the geography of Gibraltar, and I say this after having travelled in them. Our neighbours on the other side of the frontier appear to have chosen a smaller type of disability and environmentally-friendly urban bus, with which to provide an improved service. I have been informed that this type of urban bus has a capacity to carry 15 passengers seated and 10 passengers standing. This being the case, and I say this because I have not as yet had an opportunity to check this information out, why did the Government opt for oversized buses, when an alternative existed that was better suited to negotiate the geography of Gibraltar.

When in the past the Hon Juan Carlos Perez raised the issue of public transport in this House and told the Chief Minister that the only way of achieving an improvement in the service was by throwing money at it, the Chief Minister said that in no way was he prepared to subsidise public transport. He stated that improvements had to come as a result of Government initiative with companies but in no way did he envisage pumping any money into public transport. But this is precisely what his Government has done. Late last year my friend the Hon Charles Bruzon and I met with the Chief Minister at the Prospect Christmas party. When the Chief Minister gave us an impromptu lecture on the differences between recurrent and non recurrent expenditure, he stressed the risks involved for Government in increasing the level of recurring expenditure. Well, this is precisely the risk the Government have taken with the new bus service. So much for the prudent public spending policy that the Chief Minister referred to yesterday. Based on the accuracy of the assumptions that I have used in the operating plan I have constructed for the bus company, the bus company may need in its first year of operation, a cash injection by Government that could be in the region of the level of compensation that the

Government pays to AquaGib in lieu of water tariff increases, namely, £1.25 million. I am therefore concerned to note that in the Estimates we are considering the Government have provided a nominal sum of £1,000 for public bus services. In fact, should the Government decide at some point in time to recover the subsidy from the consumer, as the Government were reported in the press to be considering doing with the compensation they pay to AquaGib, and which the Chief Minister more or less confirmed last night in this House when he informed us that the Government proposed to raise water charges, an average fare of £1.75p per paying passenger would have to be levied in order to achieve break even point. Alternatively, the average number of paying passengers transported per day, would have to be increased from the level of 3,000, that I assumed in the operating plan, to just over 10,200. More than the hundreds that the Hon Mr Vinet alluded to earlier today.

In keeping with the style in this House, when he gets the opportunity later in the meeting the Chief Minister will no doubt consider accusing me of petty lies and distorting the truth, or showering me with similar derogatory remarks. Well let me tell him that I do neither one nor the other. I have worked very hard at the reputation which I have for being an honest man and a straight person.

Let me tell him that I have done what he should have asked someone to do for him. Namely, assess the on-going financial consequence of investing in the buses prior to investing in them. I say this because when I asked in this House for Government to state what was the estimated loss in the first year of running the bus service, the reply I received was that the financial performance of the company will depend on the usage of it by citizens, and that it was not possible to assess what it will be at this early stage. I dread to think what two of the Government Members who I have been privileged to have as directors of the company I used to work with, would have said if I had asked them for £2.8 million of capital expenditure for a project and provided them to the question I asked the Minister with the answer he provided me. However, should the Chief Minister so

wish, I am prepared to sit down with whoever he nominates to discuss the accuracy of my assumptions and hence, the level of the estimated cash shortfall of the bus company in its first year of operation. I assure this House that I am a sufficiently humble person to come back to this House and admit to my mistakes if this should in fact be the case. However, we are where we are. The buses are now operating on our roads. I am pleased to inform the House that I recently used the service to travel from Europa Road to Fish Market Steps, and that big and heavy as they are for the geography of Gibraltar, the quality of the service that the company is providing for the people of Gibraltar, is superior to that which was provided previously. However, God forbid if this were not to be the case after the Government have thrown in excess of £2.6 million of non recurrent expenditure, at solving the problem and at the same time inherited a potential risk of a recurrent cash shortfall of £1.2 million per annum.

I will now move to another of my responsibilities, traffic. Traffic congestion is a problem that the people of Gibraltar have to suffer, be they travelling on buses, private cars or any other form of vehicle. In my opinion, the traffic congestion is partly due to poor planning when the Government decided to pedestrianise large areas of our City centre. I concur with my Hon friend Juan Carlos Perez, that pedestrianisation is desirable, but we have to base our decisions on what is possible and not on what is desirable. The programme of pedestrianisation undertaken by the Government has resulted in traffic being pushed to the adjacent side streets, with no proper studies of traffic flows and no proper planning. During the winter months and just before nine o'clock in the morning, it takes me at least 30 minutes to get from my residence in South Barrack Road to my party's headquarters in Watergardens. The problem is exacerbated when it rains, as a greater number of vehicles converge on our roads at the time. The problem is further aggravated when it rains hard and Rosia Road and Queensway get flooded in certain areas, which this Government have failed to resolve during its quasi-nine year old term of office. Dudley Ward Tunnel has been closed to pedestrian and vehicular traffic since the fatal accident that resulted in the tragic death of a young Gibraltarian.

The accident happened over two years ago. Questions that I have posed in this House to establish when, if ever, the tunnel will be re-opened, have received inconclusive answers insofar that they have revealed nothing more than the Government are considering different options. I note that there is a provision in the Improvement and Development Fund in the Estimates, of £750,000 for rock safety, coastal protection and retaining walls. Part or all of which I trust is designed to deal with the re-opening of the tunnel. When and if the tunnel is eventually opened to traffic, vehicular traffic coming from the area of the frontier via Spain and wish to access the southernmost end of the South District, should be encouraged to use the tunnel and thereby help to decongest the traffic flow in Queensway and Line Wall Road. In order to alleviate the chaotic traffic situation there needs to be access to Line Wall Road other than by both ends of it. We need to manage the traffic coming from the Upper Rock. Gibraltar needs periphery arrangements across the Airport for traffic in and out of Spain. We need to use the miles of tunnels available to us better than we are doing today. However, one thing that we do not need is to bring in external experts at substantial cost, to tell us how to improve the problem. We have in our community people with a wealth of experience in traffic matters, prepared to make a civic contribution. I call on the Government to use this wealth of experience to attempt to remedy the problem. The compilation of a short and long-term traffic plan, which is made available to the general public for comment, would not be out of order. Last year the Hon Joe Holliday said that the major road resurfacing programme continues as part of the Government's strategy of improving our road network. The total programme was allocated a budget of £1.25 million. Almost the entire budget was spent during the year. However, when I asked in this House for Government to disclose details of that programme for the resurfacing of Gibraltar's public highway up to and including December 2004, I was informed that the programme has not yet been decided. If the programme has not yet been decided, what has this year's estimate of £550,000 for road maintenance and resurfacing, been predicated on? Or is the term contractor allowed to decide the programme? Let me remind the Government that there are

areas of our public highway that are in desperate need of resurfacing and proper maintenance. One such area is the stretch of South Barracks Road from Brympton to Lamorna and beyond. The areas of this road in worst need of resurfacing have been marked on the ground on more than one occasion. But the resurfacing has as yet not taken place. Also, the road that stretches from just beyond Princess Caroline's Batteries to the Galleries has been closed to vehicular traffic for at least the last six months. It appears that the pillars supporting the platform on the top of the Rock have been deemed to be unsafe to support the weight of vehicles. The site may only therefore be accessed by visitors travelling on foot, which is not a very attractive proposition at any time of year, particularly during the summer months. Additionally, the road from Poca Roca to Rock Gun is subsiding. When does Government propose to do something about this, beyond the concrete columns that have been placed on the affected side of the road? There are other areas of Gibraltar, such as the area of North Mole leading to the Cruise Liner Terminal, where there are areas that are in desperate need of resurfacing and maintenance.

Mr Speaker it is evident that more parking spaces are required to cope with demand. At Budget time last year, the Hon Joe Holliday said in this House that the creation of new car parks was high on his agenda as part of the Government's transport policy. I am therefore disappointed to note that the Government spent only £269,000 of the £750,000 they estimated to spend in the financial year 2003/2004, on the construction of new car parks. If the creation of new car parks was high on his agenda, why did he not deliver? The essence of good management is to deliver projects on time and within budget. I therefore hope and trust that the Hon Fabian Vinet will fare better with the plans for building car parks that he referred to in his address.

I am pleased that obstinacy has given way to common sense, and that the Government has applied the minimum requirements set by the EU for an MOT test every 24 months instead of every 12 months. However, I am concerned that despite this change, the time it takes to obtain an appointment for an MOT test has

not improved. Additionally, I have been informed that only one examiner is available to carry out driving tests for vehicles other than private vehicles. This sorry state of affairs needs to be put right, and once and for all.

I would now like to turn to postal services. As a user of the service it pleases me to note the improvements that have taken place with the delivery of mail. I note with pleasure that the Government intend to continue to maintain this level of service at almost the same cost. However, I am disappointed that the Hon Fabian Vinet did not report on the key targets that the Hon Col Britto referred to in his address last year. He set out a 7 point plan and I would love to see how the Department has fared against the targets set.

I will now turn to the cemetery. Members of the public continue to complain to us about the poor state of the cemetery. The Government have been considering how to improve the situation for too long a time. I am, as I am sure most of the people of Gibraltar are, of the opinion that the least we can do for those of our friends and members of our families that have preceded us, is to offer them an embellished and well-kept place of rest. In this respect I urge the Government to act decisively on the matter once and for all.

I now turn to telecommunications and have to admit to feel like a gamekeeper turned poacher. I welcome and support the major investments that Gibtelecom has made and proposes to make to continue to expand its IP bandwidth. It is essential that the company offers the international gaming and betting sector of our economy, as resilient and failure-proof services as are possible. I am sure that both sides of the House want to see this sector of the economy continue to expand, and the provision of quality services is a sine qua non with the attainment of this target. This sector of the economy employs over 800 people, and growing. It is therefore one of the more vibrant sectors of our economy. The estimated growth in revenue of 22 per cent in gaming tax, from £3.2 million in 2003/2004, to £3.9 million this year appears to confirm that this sector of the economy is climbing at a healthy

pace. However, we must ensure that we do not become complacent and we must therefore leave no stone unturned, to ascertain that the level of growth continues in ensuing years. Although I sympathise with the reasons for the delay in upgrading the mobile switch and network to offer 2.5 G services, the sooner Gibtelecom starts operating such service, the sooner it will be able to attract more of our customers residing in and visiting Gibraltar, to migrate their mobile data requirements onto the network, particularly those from roaming customers. That is to say, customers of visiting networks who are presently compelled to log on to networks operating from Spain, for these services. I welcome the reductions that the company has introduced in respect of international voice services, and the reductions that the company has announced it will introduce with effect from 7<sup>th</sup> July in respect of ADSL and other internet services. However, I do not think that these reductions go far enough. At this time last year, the Hon Col Ernest Britto, revealed that the turnover for the group had risen to £21.5 million in 2002. However, what he failed to reveal was that the profit before tax was £5.5 million, 25 per cent of operating revenue, but that profit after tax was £38 million, 18 per cent of operating revenue, and that the dividend paid for that year was 3.2 or 15 per cent of operating revenue. This morning I got into work and obtained the results of 2002 of Verizon, and I can tell this House that Verizon have been very pleased to have been able to match the results of Gibtel, and as regards 2003, the results of Verizon are even worse than they were in 2002. So it seems to be that the company has plenty of scope to continue to reduce prices.

The Estimates show that the Government expect to receive from the company for its 50 per cent stake in the equity, a dividend or dividends of £2 million in the financial year 2004/2005. I am sure that the House will agree that the payment of dividends paid by the company constitute an excellent return on investment, and one that most companies in and outside Gibraltar would be envious of. I would therefore strongly encourage the Hon Fabian Vinet, as Chairman of the Company, to use his influence within his Verizon peers on the Board, to ensure the company reduces at a much faster pace, the level of the charges it levies for

providing its services. It is not as if we have to be blindly loyal to Verizon as around two years ago Verizon published in the press their intention to dispose of their interest in Gibtelecom. I was pleased to learn that the company and the Union representing its work force recently signed an agreement regarding pay and conditions. This should now pave the way for both to work in tandem, in order to successfully fend off the threats and capitalise on the opportunities that the company will undoubtedly face in the future. I welcome the companies that have recently entered the market. It is their presence in the market that has no doubt influenced the decision of the incumbent to reduce the charges they levied for international voice services. One of the salient goals that liberalisation was set out to achieve, was that consumers or customers got a better deal. A goal that has just started to be fulfilled in Gibraltar, but which still has a long way to go to reach fruition. In my opinion, fruition will be attained after Gibtelecom faces competition across all of the services that it provides. This is unlikely to happen until the complaints that were filed in 1996 with the European Commission, in respect of roaming and Gibraltar's numbering plan have been settled. While I understand that eight years after having filed the formal complaint, it is now in the hands of the European Court of First Instance. The latter has not reached yet this stage. Yet it is the second complaint that in my opinion has to be resolved in order for Gibraltar to stand a chance of breaking Gibtelecom's monopoly of the local telephone call market. Potential competitors are unlikely to consider entering the local telephone call market unless the Gibraltar Regulatory Authority has telephone numbers to assign to them for this purpose. Regardless of the entitlement that Gibtelecom may have under European Community Directives to rebalance tariffs, in my opinion, it would be immoral if Gibtelecom increased local tariffs, while they continue to pay out such handsome dividends to shareholders, and hold a monopoly of the local telephone call market. Almost three years to the day have elapsed since the telecommunications market was liberalised in Gibraltar with the Telecommunications Ordinance of 2000 coming into force. Yet Gibtelecom still hold on to the local call monopoly. Twelve months ago numbers were very scarce and were expected to run

out by this time. It is thanks to the ingenuity of a number of dedicated people employed at Gibtelecom and the Gibraltar Regulatory Authority that the situation has not yet reached breaking point. But how much longer can they stretch a piece of string? Sooner rather than later, the Government as the owner of the numbering plan, will be compelled to take the bull by the horns in order to resolve the situation once and for all. I trust that when they decide to do this, they remember that an AACR administration got us into the mess that we find ourselves in today, by conceding that voice traffic could be terminated in Gibraltar other than using the 350 access code assigned to Gibraltar by the International Telecommunications Union, and which is recognised by all bar one administration in the world. Hence, I would like to see that the decision, when it is taken by Government, ensures that Gibraltar's numbering plan is fully controlled by the Gibraltar Regulatory Authority, which is where control should rest by virtue of EEC Directives, and that this control is not diluted in any way or form.

Mr Speaker, I would now like to turn to AquaGib. It is commendable that the equity partners of the Government of Gibraltar should have made, and continue to make, a considerable investment in Gibraltar in state of the art technology, to ensure that the quality of tap drinking water that is provided to the people of Gibraltar, is second to none and with very few breakages in the supply. One only has to travel outside the borders of Gibraltar to acknowledge that this is in fact the case. The only downside is the high level of charges and obviously, these are likely to rise during the course of this financial year, as we heard last night from the Chief Minister.

I now turn to the lottery, and I note from the Estimates that Government proposes to continue with the lottery and Opposition Members welcome this. The lottery is very popular with the people of Gibraltar and we should strive to keep it going in its current form, or in an improved form, for as long as we can. I trust that any changes that Government make to the running of the lottery will take into account the interests of the lottery vendors, agents et cetera, who make a living out of the sale of

lottery tickets, and everybody else involved with the running of the lottery.

I now turn to electricity. I am pleased that the contract with OESCO was finally renewed. I trust that the renewal of the contract ensures that Gibraltar's future electricity capacity needs have been secured. Our sources have informed us that the production of electricity at the Waterport Power Station, has been increased without stretching resources. I note from the Estimates that the sale of electricity to consumers is estimated to grow by £1.2 million this year but that the purchase of electricity from OESCO is estimated to grow by, I think the figure is £21,000. Is this because as a consequence of the contract renewed with OESCO, the cost of a unit of electricity bought from OESCO is no longer cheaper than the cost of a unit produced at the Waterport Power Station? This was certainly not the case with the previous contract and the people of Gibraltar have a right to know whether this is in fact the case. All of the ex employees of the Electricity Department have now transferred to the Gibraltar Electricity Authority. Most were enticed to transfer by being offered considerable increase in salary, which the Chief Minister said would be offset by increases in productivity in what was already a very productive sector. Time will be the judge of whether the Chief Minister is right. The feedback that I get, is that one of the first initiatives of the Gibraltar Electricity Authority is the discontinuance of the repairs and maintenance work during night time, as part of a cost-cutting exercise. Traders are thus experiencing interruptions in their electricity supply during working hours, with the inconvenience to traders and their customers that this affects. Is this an example of a benefit that consumers may expect from the creation of the Authority? The Ministry of Defence has announced that it proposes to relocate its generating station to a site in the area on the top of the Rock. If it has not already done so, the Government should approach the MoD to ascertain whether future capacity needs of Gibraltar can be met by the Gibraltar Electricity Authority or its contractor, OESCO, from this environmentally-friendly site. More so as the electricity capacity of requirements of Gibraltar may increase

dramatically if, as I hope, the Government delivers the East Side project.

I now turn to broadcasting. I welcome the statement made by the Hon Clive Beltran that the strategies that have been introduced, has resulted in the Corporation operating within budget. I trust that the results of the ensuing years will continue to uphold this trend. I spent some time in the last two weeks watching GBC. GBC's TV broadcast over the silent hours, over the silent hours of the day, to assess the quality of the programmes. I should be obliged if the Hon Clive Beltran did the same thing, and then act as he deems necessary.

Mr Speaker, in conclusion, I would like to take this opportunity of thanking the people of Gibraltar for giving me the opportunity to serve them in this House. The numbers of the staff covered by the Estimates for the effort and dedication that they put into making their Departments work for the benefit of their country. I have thoroughly enjoyed my first seven months as a Member of this House. Outside my immediate family circle, nothing has given me more pleasure in life than the opportunity to serve the people of Gibraltar.

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

Mr Speaker, after the Elections last November, I exchanged my previous political responsibilities in a ministry with a large number of portfolios, to my new post as Minister for Health. The last seven months have been intensive and with a steep learning curve. It has been an experience which I have found extremely challenging, but even more rewarding at a time when the Government are committed to commissioning a new hospital, as well as to a complete overhaul of Gibraltar's Health Services, which once it has taken place, will provide Gibraltar with the Health Service that it deserves and expects.

The House will be pleased to hear that the two most notable and important innovations to be provided at the new hospital, will be

CT Scan services and a Renal Dialysis Unit. There has been long time expectation for these services to be provided in Gibraltar, to all the many patients who at the moment have to travel to Spain to obtain them. The Government are delighted that the availability of these services in the new hospital, will meet these expectations. The Government recognised last year, that our Health Services had reached a crossroads. My Colleague, the Hon Bernard Linares, the then Minister for Health, is to be congratulated for having had the vision and the courage to commission a complete and in-depth examination by the Clinical Governance Unit of the modernisation agency of the NHS in the UK. This major review which is being conducted locally by the Health Care Development Team, still continues under my ministerial responsibility and leadership, and I would also like to take this opportunity to pay tribute to the dedicated work of my predecessor during his term as Minister for Health. But let me unequivocally tell the House that we will implement all those recommendations of the Review which are accepted by the Government in our clear determination to correct the criticisms of the Health Service. At the end of the implementation of these changes, Gibraltar's Health Services will have been transformed beyond all recognition. We gave this undertaking to tackle the Health Services in our manifesto. We reinforced it during the Election campaign and the Chief Minister himself reiterated the commitment to the people of Gibraltar the very same morning we were re-elected into Government last November.

During her contribution on the Budget debate last year, the Opposition spokesman for Health Miss Mari Montegriffo, spoke at length highlighting a number of health issues. Her criticisms covered items which can be summarised under the following six main headings. (a) Complaints and the complaints procedure. (b) Bed and patient management issues. (c) Nursing staff issues. (d) Lack of dialysis in Gibraltar. (e) Waiting Lists and private practice. (f) New hospital issues.

The Hon Miss Montegriffo's contribution last year, was consistently negative and nowhere in her speech did she offer

any practical solutions, or any positive suggestions, on how to tackle and solve the problems she was describing. Well this year the hon Member should not be tempted to do the same thing, if she wants to maintain credibility. The Government have acknowledged that there are problems within the Health Service, and have already taken, already taken positive and far-reaching steps to tackle them. All aspects of the Health Service, including all the issues raised last year by the Opposition Member are being addressed as the result of the work being carried out by the Health Care Development Team in the review that is taking place.

Now the media have recently reported that Miss Montegriffo is about to move to shadow another Ministry, and therefore, if the report proves to be true, this could be her last budget intervention as Opposition spokesman for Health Services. So I would like to take this opportunity to pay tribute to her for her stamina and for her tenacious and motivated style in carrying out her work during the 20 years she has been involved with health matters in this House. I trust that her exit from the Health portfolio will be graceful, and displaying the political honesty and courage to acknowledge that the Government are indeed taking positive and determined action to tackle the challenges to improve our Health Service. Rather than regurgitate her negative criticisms as if the Health Review was not taking place, as if the Government were not already taking positive action to tackle the challenges, as if a new hospital did not exist and was not about to be commissioned.

Let me give the House more details about what is, without doubt, the greatest and most extensive review of our Health Services ever carried out in Gibraltar. The Review started in April 2003, and examines all aspects of health care. It seeks to identify strengths and weaknesses and, without seeking to attribute blame, to focus on changing the ways our health services function, in order to improve them and strengthen them to the level that Gibraltarians have come to expect and indeed deserve. Phase 1 of this Review was made public on 17<sup>th</sup> September 2003, and received wide circulation, which included publication



on the GHA website. Such transparency by the Government in making publicly available such a detailed diagnostic analysis of our Health Service, clearly shows the political courage and determination of the Government to face the challenges and implement the recommendations that the Review is already producing.

In preparing this diagnostic report, data and information was sought from local residents, and as a result almost 10 per cent of the people of Gibraltar have contributed to this Review. I can assure the House that this will not be a review about which the Government will be criticised for accepting recommendations for change and then not implementing them. The Health Care Development Team has been commissioned to produce a detailed blueprint, based on their finding in the first phase of their work, and to make recommendations on how to improve the way health services are delivered.

Since September last year, work has continued non-stop on Phase 2 of this extensive review, and we are now at the more visible and exciting stage, at which tangible changes are starting to be made. The recommendations of the Health Care Development Team are being presented to the Government as and when their work is completed on any particular aspect of the Health Service. If and when such recommendations are accepted by the Government, they are then implemented over the following weeks and months. Implementation of these recommendations has indeed already started, and the Government are already actively engaged in the process of recruiting a new Chief Executive, who has international experience of health care management. The recruiting process for a Director of Nursing Services and Patient Management, and for a Director of Human Resources, will begin shortly.

Following a process of consultation with the Unions and other interested parties, the Government have already accepted the new Complaints Procedure recommended by the Health Care Development Team. At a later stage of this meeting of the House, I expect to table a Bill which will provide for an

independent review panel, to determine complaints remaining unresolved by GHA, to the satisfaction of the complainant. This second phase of the Health Care Development Programme involves a total of 19 different work streams, which cover all aspects of the services provided by the Gibraltar Health Authority. It also includes reviews by independent clinicians of each of the specialty services provided by our Consultants, with recommendations to the Government on how to achieve improvements in service delivery.

The second phase of the programme can be grouped under the following five headings. (1) Human resources. (2) Processes. (3) Primary Care. (4) Clinical improvement. (5) Clinical Service Reviews. Mr Speaker, when I deal with each of these headings in some more detail, I hope the House will realise what I said a few moments ago, that all the public criticism and all the negative aspects that people highlight about the Health Service, many of which are true and have been identified, are being tackled by all the work that is being done and will be solved as time progresses.

OK, first to take the group of human resources work streams, which look at the different ways in which the GHA staff carry out their work. This group includes not only how they are managed, but also how they are recruited, how they are paid and rewarded, and how their skills and experience is developed. This group of work streams includes firstly proposals for new management arrangements, which are contained in work stream 1 and which recommend changes in the current management infrastructure in the GHA. Management is essential to the implementation of change and to its subsequent operation. The proposed changes in the management structure should not be interpreted as blaming existing management for the current position. It should be seen as a recognition of two facts. First, that modern health care management has become a highly complex and specialised activity. Second, that deep and wide fundamental cultural changes and reform, such as Government are determined to see in our Health Service, is very difficult to bring about entirely from within. The Government has therefore, accordingly accepted the

recommendation to recruit specialised senior health care management from abroad. The new Chief Executive will also be responsible for consolidating services in the new hospital, and for implementing a whole range of changes that we anticipate will be forthcoming. Making this change will enable Mr Ernest Lima to focus on the role of Finance Director of the Health Authority, which is the role that he has for many years been carrying out, in addition to that of Chief Executive. This will ensure that sufficient time and attention is given to the vital function of managing the Health Authority's finances, and enable the GHA and the Government to benefit from Mr Lima's considerable experience and expertise in this area.

We have also accepted the recommendation to widen the recruiting process and to create the new post of Director of Nursing and Patient Management. The role of Director of Nursing has been covered on an acting basis since the retirement of the previous holder of the post, and it is now important that this new expanded post is filled with an experienced Nurse Manager, who can lead the nursing profession and introduce new and further improvements in the delivery of patient care and management. In this vital area of new management arrangements, the Government have also accepted the recommendation to introduce a new post into the executive team. That of a Director of Human Resources, to lead the development and implementation of the many changes in the management and development of GHA's most important asset – its staff. It is essential that GHA has full and autonomous control of its human resources management issues. Before leaving this point, I would like to take this opportunity to specifically record the Government's gratitude to Mr Ernest Lima, who has been carrying out the duties of Chief Executive up to now, for the wholehearted and unselfish way in which he has put aside all issues of personal position in the wider interests of the community and the reform of the Health Services.

Government are already moving ahead to introduce these management changes and interviews have already taken place for the post of the Chief Executive. In the meantime, two

experienced Health Care Directors have been appointed on an interim basis, to strengthen and support the present executive management team. Mr John Langham has been engaged to work as Joint Chief Executive with Mr Ernest Lima, and Mr Frank McGorran has been engaged as Co-Director of Operations with Mr Joe Catania. This last appointment has enabled Mr Catania to concentrate most of his time on the important issue of commissioning and opening the new hospital later this year.

Secondly Mr Speaker, the Health Care Development Team continues to do much work on the medical staff complex and private practice work stream No. 3. This has included a great deal of consultation with the medical staff. They are also examining possible new models, which will change the way the medical staff are recruited, and the way in which they carry out their work. The Government remain determined, as promised in our manifesto and reiterated it during the Election campaign, to break any and all links between private practice by doctors and unacceptably long waiting lists for public patients. The team is expected to recommend drastic changes in the present private practice arrangements, designed to make such waiting lists a thing of the past, so that people will no longer need to seek private care to ensure rapid treatment of their medical conditions.

Thirdly, in this group of work streams, work stream No. 5 is examining the relationship between the GHA and the Civil Service, and is expected to make recommendations regarding the redefinition of this relationship. These recommendations are expected to include, not only the recruitment and management of staff, but also the management of financial resources. They will allow the GHA to modernise the management of its services in ways that will maximise the benefits, both to the staff and to patients.

Fourthly, work stream No. 13 on training needs analysis and staff appraisal, will underpin all the recommendations in the programme. It aims to develop a process for the appraisal and on-going development of all staff working in the GHA. Some change introduced will need to be matched by corresponding staff training programmes.

Moving on to the second group of work streams, that of processes, this group, under that general heading, looks at the different ways that delivery of patient care is supported. This group includes firstly the GHA Complaints Procedure, which was introduced in 1999 and does not have the confidence of the public who believe that it needs to be drastically improved. Complaints process, work stream 2, has produced a new Complaints Procedure that is responsive, effective, requiring quick responses from the GHA and offering an independent right of regress, where this is not forthcoming. The new Complaints Procedure will be fully functional by autumn this year and information about the new procedure and how to use it when necessary, will be widely distributed. The importance attributed by this Government to a proper complaints procedure that works, has the confidence of the public, and which ensures that complaints are given the attention they deserved, will be evidenced by the Bill that I will be tabling during this meeting of the House. This primary legislation will make provision for the appointment, by the Ombudsman, of an independent review panel, as the third stage of the process to consider complaints from users of the medical and health services provided by the Gibraltar Health Authority. This will be the final stage of the procedure and can be invoked by the complainant when he or she is not satisfied with the outcome of the investigation of a formal complaint, or, when a final response from the GHA has not been received within eight weeks of such a complaint being made for the first time. Names of nominated persons, independent of the Authority, will be held on a list by the Ombudsman and he will appoint three members to constitute the review panel on each particular case, and he will do this within seven days of receipt of notice in writing from the complainant to the Ombudsman, to conduct an investigation of their complaint. If the complaint involves a clinical matter, then the Ombudsman will be empowered to appoint clinical assessors external to the Authority, to advise the review panel. For the purposes of any investigation carried out under the proposed Ordinance, the panel will have the same powers as the Supreme Court, in respect of attendance and examination of witnesses, and in

respect to the production of documents. We shall have ample opportunity to discuss the Bill at a later date, and I do not wish to take up any more of the time of the House at this stage, but I would just like to add that this is additional proof, if proof were needed, of the transparency of this Government and the determination with which we are improving public services.

Secondly, the Government have made a commitment to eliminate waiting lists for planned medical procedures. Waiting lists, work stream No 4, explores a number of different options to enable the removal of these lists. A cataract waiting list initiative in November/December 2003, saw over 180 eye patients treated over several weekends, and nowadays patients have their cataracts operated within six weeks of their outpatient appointment. Previously, the waiting list was 14 months. We are determined to achieve comparable reductions for all surgical specialities, with the ultimate aim of a wait of not more than four weeks for an outpatient appointment, and a further four weeks for any elective surgery that may need to be undertaken.

Thirdly, phase 1 of the programme identified the potential for planned, surgical services in Gibraltar, to move away from a waiting list to a scheduled service. A scheduled service is based upon the idea that all the resources that are needed to treat and manage a patient, are identified and reserved when the consultant makes a decision to admit the patient. Scheduling work stream No 8, aims to enable the implementation of a fully scheduled service.

Fourthly, in this group, the current process of discharging patients from St Bernard's Hospital presents the GHA with a number of difficulties. Discharge work stream No 9, aims to develop a discharge process that starts as soon as it has been decided to admit a patient. The Government intend to take firm action on this matter. It is unacceptable that any acutely ill patient should have to wait for a bed, when at the same time, up to a third of all the beds at St Bernard's Hospital are occupied by people who have no medical need to be in hospital.

Fifthly, emergency admissions work stream No 10, completes the review of the whole patient journey, by looking at the process used to admit patients into hospital in an emergency situation, with the aim of rapid assessment and admission into the hospital.

Sixthly, phase 1 of the programme identified the potential for improvement in prescribing practices and processes. The aim of pharmacy work stream No 17, is to develop a more efficient and effective service.

Moving on to the third group, and as could be expected, a group of work streams under the heading of primary care, looks specifically at the way the Primary Care services are carried out. They include firstly the GP services work stream No 19, which covers a full review of all aspects of working arrangements and practices. Secondly, patient re-registration work stream No 6, designed to make recommendations on the issues of entitlement to health care and on the process of re-registration. This is an important exercise because we need to ensure that we have a comprehensive and up to date data base of the entire population. It will lay the foundations for the future introduction of computerisation of clinical data. The Health Care Development team has examined and endorsed recommendations prepared by local management on this subject. GHA is also preparing to introduce a revised health care entitlement card in the form of the familiar plastic credit card, and which will replace the cardboard cards currently being used. It will be issued in tandem with the revised interim E111 Form to be issued in similar format.

Thirdly, phase 1 of the programme identified the need to improve the primary care appointments process, and at work stream No 7, builds upon work that has already been initiated within the Primary Care Centre, and presents a number of different appointment options, all of which are designed to speed up the process to be seen by the appropriate member of the health care team. The group of work streams under the fourth heading of clinical improvement, looks specifically at improving the quality of clinical practices within the GHA. They include, firstly risk management work stream No 11, designed to make

recommendations regarding an organisational process for the identification and management of both clinical and non clinical risk. Secondly, clinical recommendation standards, work stream No 12, makes recommendations about the content of clinical recommendation for primary and secondary care. Thirdly, work stream No 15, is designed to develop a process that will enable the on-going evaluation of the quality of care, using agreed evidenced space standards to promote continuous improvements in patient care. After implementation, doctors, nurses and the professions allied to medicine, will be subject to the ongoing clinical audit process. Fourthly, integrated care pathways, work stream No 16, focuses on the development of protocols of care for the treatment and management of certain clinical conditions. Fifthly, quality awareness training, work stream No 14, is designed to deliver training in quality improvement techniques to staff throughout the GHA, so that they can participate fully in the drive to improve health care services.

The group of work streams under the fifth heading of clinical service reviews, includes 11 reviews of clinical services, which in addition to the reviews of primary care, accident and emergency and orthopaedics carried out in phase 1. These reviews are being carried out by the relevant UK Medical and Nursing Royal Colleges, and other professional bodies, and are designed to look specifically at the quality of clinical care being delivered by the staff of GHA. They cover, obstetrics and gynaecology, general medicine, general surgery, care of the elderly, ear, nose and throat services, oral surgery, pathology, radiology, paediatrics, mental health and ophthalmology. The reports, when presented, will help to guide us in making changes to clinical services, to ensure the highest standard of services are provided to the people of Gibraltar.

Mr Speaker, I will now turn to other important issues, starting with the new hospital. To fulfil our vision on how health care should be provided, we also need new facilities in which to deliver our services, and a workforce equipped and managed to provide the best possible care. St Bernard's has served us well for nearly 150 years, with its varied facilities. However, a new

hospital is undoubtedly needed for this new millennium, and our magnificent new hospital, which will open in the autumn, will be providing excellent, new facilities for patients and for staff, and represents, without doubt, the largest capital investment in health care that Gibraltar has ever seen. The hospital will have a capacity of 211 beds and will incorporate new facilities not currently available at St Bernard's Hospital. These include, CT Scan and mammography services within the Radiography Department, and a renal dialysis unit. These services are currently not available in Gibraltar, as the House knows, and patients need to travel to Spain to obtain them. Other new services will include a day surgery unit, an integrated rehabilitation department, incorporating a hydro-therapy pool, a palaeotive care unit, specially designed infection control units within both medical wards, and assisted bathing and in-patient treatment cubicles, within four walls. Outpatient consultation facilities are considerably improved and include comfortable and spacious waiting and reception areas. On the technical side, a number of services have been included, which have not previously been available at every bedside in every ward. These include air conditioning throughout the hospital, piped medical gases at the bedside, nurse call and emergency alarm systems, as well as a fully computerised building management system. The GHA have reached agreement, in principle, with the Directors of the Dialysis Unit in La Linea, which currently dialyses Gibraltar patients, for the La Linea Unit to assist with the day to day running and resourcing of the new dialysis unit at Europort Hospital.

Draft migration programmes to move the services from St Bernard's to the new hospital were prepared by the appointed specialists, following consultation with the project director and GHA staff. A revised master migration plan has now been finalised. This plan foresees a phased initial move of non-clinical departments, such as management and the School of Health Studies, which is expected to move during the summer. This will be followed by the partial move of departments such as Radiology and Pathology, which will initially provide all outpatient services in the new hospital, while maintaining the emergency

presence at the St Bernard's site. Prior to the main in-patient move, elective outpatient consultations and elective surgery will not be programmed for a pre-determined period. This will ensure that in-patient movement will be limited to those requiring emergency in-patient care. A programme of site visits and department-specific site induction, has continued throughout the year. This has included departmental managers and senior clinical staff. The programme continues with nursing staff visits and will encompass all other departments of the GHA, so that all staff are familiar with the new environment before moving to the new hospital. The exercise will intensify prior to the move, when the programme will include departmental operational functionality, as well as inter-departmental relationships.

Induction and training on the use of newly purchased equipment continues, and comes to a climax during the months of July and August, when major equipment training will be carried out. I would like to take this opportunity to specifically record the Government's gratitude to Joe Catania, the Director of Operations, who is liaising with the design team and who has overall responsibility for commissioning of the new hospital, and also to Derek Alman, the Project Technical Director, who is spearheading the brunt of the technical work. Without their unfailing and unflagging commitment to the new hospital project, the GHA would be struggling to meet the tight time scales involved.

Mr Speaker, the health care that GHA can offer, is only as good as those who deliver it. We have in GHA an excellent work force who are more than capable of delivering that first-rate service. It is essential to good staff motivation that appraisal is an integral part of our activities. It brings form and structure to the efforts expended by our staff and allows for constructive dialogue and feedback. Staff must also have a voice in the affairs of the GHA. They are the health service of Gibraltar, and without their full and active involvement, little can be achieved.

I take this opportunity to pay tribute to the GHA staff at all levels, and in all disciplines, for the dedicated, efficient and productive

way the majority of them carry out the day to day execution of their duties. I will also record the Government's and GHA's appreciation for the enthusiastic and cooperative way in which the staff is participating in the various stages of the Health Care Review.

Mr Speaker, vitally important to achieve efficient health services, is the continuing training and development of our current and future staff, carried out by the School of Health Studies initiated by this Government. The school has continued its sterling work and invested, on behalf of the GHA, some £160,000 in the last financial year, including expenditure on short and long term courses, in training and in overseas courses. The school has also provided all pre-registration students with e-mail facilities. In respect of pre-registrations, nurses training, the culmination of four and a half years work and cooperation with the University of Sheffield, has resulted in the successful completion of the Diploma in Nursing by the first 10 candidates who commenced their training in September 2000. These first nursing grades received their Diploma in Nursing from the University of Sheffield and the Gibraltar School of Health Studies, at a special awards ceremony held here in Gibraltar. Eleven student nurses are currently completing their second year of training and the school is due to recruit a further 15 students this autumn. In March 2003, seven nurses completed their two year pre-enrolment training, to become enrolled nurses, and in June 2003, eight new people commenced on the then new intake that is due to complete in June 2005. The relationship with the University of Sheffield has strengthened at post basic and post registration level, with the development of specialist nursing modules that are delivered in Gibraltar by specialist lecturers from the University. So far, six modules have been delivered for the following areas of health care. In ITU, in A&E, in the Operating Theatres, in surgical and in medical nursing. To date, 58 places have been taken up by the nursing staff.

Let me turn to our mental health services. We will shortly have a brand new hospital and our Primary Care Services bear comparison with the best the UK has to offer. Around one in five

of us will suffer some form of mental illness in our lifetime, and a modern, dynamic and responsive mental health service available within Gibraltar, is necessary to deliver this service to the same comparable standard. Moving to primary care, at the Primary Care Centre a new computerised appointment system for all GPs and nurse practitioner clinics was introduced in the summer of 2003. This has been successfully in operation since then and has improved the process of making appointments. It has also served to update basic patient details. An increase in telephone lines has also made it easier to make appointments by telephone. Nowadays the Records Office keeps the appointment lists open until clinics closing times, without closing down for lunch, so as to enable patients greater facilities in making appointments. Following the increase earlier this year of GPs to a total of 16, there has now been a considerable reduction in the waiting times for patients to see the doctor of their choice. This, and other changes arising from the Health Care Review, will help patients to receive better access for follow-up for referral appointments, less queuing up, friendlier approach and continuous care by the same team members. As part of the continuing programme to improve services at the Primary Care Centre, a new reception and enquiry desk will be operational later this year, as part of the scheme to improve services.

In respect of public health issues, control of infection remains a high priority for this service. The fall in laboratory-confirmed notifiable infections, noted in previous years, has continued and is currently at 184. This is slightly higher than last year but substantially lower than all previous years. In the autumn there was public anxiety over the imminent arrival of the cruise liner Aurora of the P&O line, following news of an outbreak of over 500 cases of novo virus gastroenteritis on board. Fortunately, the liner's efficient outbreak containment protocol procedures, helped to stop the outbreak spreading rapidly and by the time the liner reached Gibraltar, new cases were in single figures. Thus, barring a few persons deemed to carry a risk, most passengers were allowed to disembark, without risk to public health. No impact on local infections was reported, putting into clear

perspective the unjustified and politically motivated frontier closure by the Spanish Authorities at the time.

Protecting the public however is not simply a matter of controlling infection but also of the implementing measures to protect the public. In this area legislative steps are necessary and steps are being taken to regulate, by registration, the professions allied to medicine, which include, physiotherapists, occupational therapists, laboratory staff and many others in related fields. The UK legislated some years ago on improved regulatory arrangements for these groups of staff, and Gibraltar is now following suit. The purpose of the new Regulations is to ensure that where practitioners present themselves to the public using a recognised title, such as for example, physiotherapist, they have undertaken the requisite training for that qualification, or have had their years of experience recognised as equivalent of that training. Thereafter, unless practitioners have such registration, they will not be allowed to practise in Gibraltar.

Mr Speaker, I will end my contribution on the health services by reiterating the Government's intention to implement the massive programme for change that we have initiated and to ensure that health services are of the standard Gibraltar deserves and is entitled to expect. I hope that the House will appreciate that the programme that I have gone to some pains to outline in detail, is not simply another review but is something that is being undertaken in depth and being taken very seriously by the Government and that time should be given to allow for the programme of change, and implementation of such changes to have an effect before continuing the process of criticism that is sometimes apparent in Gibraltar, not least from Opposition Members and which serves, as much as anything else, to discourage and to demoralise members of staff who are seeking to improve those services.

Our forward planning envisages that all of our in-patient specialities will have at least two clinicians, at consultant level, to allow for such specialisation between them, and therefore providing a more rapid treatment of patients and better cover

arrangements for doctors. But we cannot provide unlimited services, nor do we have unlimited funds, and there is a constant balance to be met between what can be safely provided within Gibraltar and what can only be provided in the larger health care settings of the UK, Spain or other bigger country. Medical and surgical services in all Western countries, have over the past decade, become more and more specialised. In contrast, we in Gibraltar need to realise and accept, that Gibraltar's medical services, with their inherent limitations of human resources, have to remain more generalist in nature, with reliance on the Sponsored Patients programme for specialist treatment.

Finally, I will deal with the City Fire Brigade for which I also have political responsibility. During the last financial year, training, development and recruitment have been at the top of the Brigade's priorities. With the introduction of the Ambulance Service in the Brigade, all personnel have attended an extended course in first responders for ambulance attendants. Junior officers have undergone progressive command and control courses at the Fire Service College, together with certain elements of the Fire Safety Section of the Brigade, who have also attended specialist safety courses. Due to the increased security threats, the Brigade has also purchased further decontamination equipment, and various officers attended a local bronze command course through Cranfield College at Bleak House, in conjunction with other emergency services, on command and control in major incidents. The Brigade has acquired a number of important items in the last financial year. We are awaiting the arrival of a new, rapid response vehicle built on a Mercedes Benz chassis, which will replace the existing appliance which has been operational for the last 15 years. The new appliance will be deployed to all fire and rescue incidents, mainly in the Upper Town area. This new appliance will carry a high-pressure pump and a fog attack system, which will greatly enhance our fire-fighting operations and reduce water damage to property.

The Brigade has also purchased a new fire-fighting kit for all members of staff. The PBI Gold, is a lightweight kit and offers

greater protection from heat and flames. The PBI kit will shortly be introduced and will greatly enhance operations, especially in prolonged incidents. The Brigade staff have also carried out extensive refurbishment works to the rear of the Station, on a self-help basis, and have practically completed the construction of a new conference room, kitchen and toilet facilities.

On the operational side, the Brigade has responded to 1,704 calls between January 2003 and 31<sup>st</sup> December 2003. These were classified as follows. 512 fire calls, 910 special services and 282 ambulance attendances. Finally, the Brigade mobilised the ambulance service on over 4,000 calls. Thank you Mr Speaker, that completes my contribution on the Budget debate.

The House recessed at 5.00 pm.

The House resumed at 5.12 pm.

Debate on the Appropriation Bill continued.

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

Mr Speaker, I was intending to start my contribution on health and then I would continue on sport, but I have been told by the Hon Minister for Sport, Mr Beltran, that he has to go to the Special Olympics because he has to give an Opening Address, and therefore, I have no problem in acceding to his request, and I will start my contribution on sport.

In this area Mr Speaker, having heard the Minister earlier this morning talk about sporting issues, there are many issues which worry us. First the Gibraltar Sports Authority which was created by this Government when they brought the legislation to the House in the year 2002 has still not materialised. The next matter is the Sports City. Then we have the long saga of the transfer of the boats to Coaling Island and the other long

standing saga is the Leisure Centre, something which the Government promised they would build in their manifesto in 1996, eight years ago.

As far as the Gibraltar Sports Authority is concerned the House will recall that we expressed reservations as to the Gibraltar Sports Authority. Since the year 2002 we have been continuously asking questions here in this House and still, the matter appears not to have progressed much. If anything it has not progressed at all. The Government have still not come into an agreement with the staff and its Union, and more so, in the last meeting of the House the new Minister for Sport, the Hon Mr Beltran, confirmed that there were no plans yet to sit down with the Unions. It also therefore concerns us, that two years have elapsed and nothing has happened. Hon Members will recall that we have warned the Government about the problems that can easily materialise as a result of having two sporting facilities side by side, and employing staff in them, working with different terms and conditions of employment.

To the Sports City. In the Estimates of 2002/2003 the Government put in £1.5 million and they spent £342,000. In 2003/2004 they put in £3.4 million and they spent nearly £1.6 million. This year they are putting in another £2.5 million. Given that in the last two years the rate of expenditure has been £1.5 million, how can it be ready in autumn, as the Minister has said today, when the amounts already spent, plus the £2.5 million put in this year's Budget, is not going to come anywhere near the final figure which was given by the previous Minister for Sport, the Hon Mr Britto, in his last year's Budget contribution, which he said was going to cost £8 million. Also, even though the Sports City was officially inaugurated last week, we have not yet seen any official advertisements to employ the required staff to run this facility. The Minister for Sport today has confirmed to this House, that it will be fully operational by autumn. So what will now happen? That is what we are interested in knowing. Until we get to autumn is it going to be closed or can it be used, and if so who will man it? Even the hall has not been completely finished, and neither have its adjacent facilities, as the Minister



has also confirmed in his Budget speech that all the facilities related to the sports hall need to be completed by the autumn. Everyone, everyone expects that when a facility is inaugurated, that facility should be fully functioning. I know Mr Speaker, that the Government wanted the Princess Royal to inaugurate the sports hall, but it is rather a strange situation that having done it, the place should remain closed. However, we are by now used to the idea that this Government only works at a very leisurely pace.

As regards the hockey water-based pitch. Here we have also seen delays. The first being the stands. The pitch was officially used three years ago and still the works to the changing rooms and the showering facilities have not yet been completed. More and more delays. Also, last year and during the various meetings of this House, I have asked the Government what arrangements are in place for the upkeep of the water-based pitch. Due to the fact that the Government did not want to use the present groundsmen at the Victoria Stadium they engaged the services of AMCO, and they said in the last meeting of the House in April, that the relevant staff will be employed when the Gibraltar Sports Authority becomes operational. That answer worries us enormously because the Authority, as I have already said, was created two years ago and during all this time the Government have had to contract AMCO and it is costing them quite a bit of money. The Government are also spending a lot of money in the water that is being used. We were told in the last meeting of the House that the potable water expenses were running at about £4,000 a month. However, when we initially expressed concern at the running costs involved, the Government told us the water-based pitch would not be costly to run, because the water used filters and goes back into the tanks. Therefore, we cannot understand why so much money is being spent on the water. Unless the system is not being properly run. It is a pity that the Government did not accept the present groundsmen to carry out this job. I am sure, with the right approach and negotiations, the Government could well have entered into a temporary agreement with them and saved themselves a lot of money in the process until the Sports

Authority got off the ground. On the other hand the present staff has shown cooperation by allowing sports people, and also teams from abroad, who use the new facilities that are still unfinished, to have access to the existing changing rooms and showering facilities that they man.

What can I say about the Leisure Centre, which was given so much prominence by the Government in 1996. The Government took the decision to build the Sports City before the Leisure Centre but the Sports City has taken nearly eight years to come to fruition. I remember in my last Budget speech, I kept questioning the then Minister for Sport, Mr Britto, on the matter. He said the old King's Bastion area would be used but he gave a commitment in answer to questions in this House, that works for the Leisure Centre would commence before the end of his term of office. I remember saying that perhaps we would be seeing some scaffolding going up, some works to clear the building, or some other similar jobs. Not even that has happened. Nothing has happened at all since 1996. During the last meeting of the House, and today, the new Sports Minister, the Hon Mr Beltran, gives us the same commitment that works would commence during his term of office. After eight years of waiting we have not lost our patience at all, so we will still keep on asking and we will see what happens.

I also hope that the new Minister for Sport has learned not to hail victory until the game finishes. Sports people know that until the whistle is blown, winning is not guaranteed. Here, I am referring to the Europa Sports ground, which the previous Minister for Sport announced in a reception with the Cricket Association four years ago, and then he said that he had managed to get the MoD to hand it over to him, and then that he would pass it on to the cricketers. Then of course Mr Speaker, after years and years of questioning the Government on the issue, they now say that they are not going to proceed with negotiations with the MoD because the MoD have changed their minds. I am not too convinced that this is the end of the story, but in view that the Government said that the cricketers were happy with the present situation, then so be it. But it proves that the Hon Mr Britto, then

the Minister for Sport, hailed victory before he actually saw that the agreement had been signed, sealed and delivered.

Mr Speaker, we have also kept a close watch on another long drawn saga, the transfer of the boats at Western Beach to the area of Coaling Island. The Government, in last year's Budget, provided expenditure for the move, they have continued to provide it in this year's Budget, and again, we are talking about a commitment given by the Government nearly eight years ago. Last year they confirmed that they had been negotiating with the MoD for the past six years. How can I not be constantly criticising in this House the Government, for the slow pace in which they work. Works lack momentum, quickness, impetus are works alien to this Government.

Finally sport. I always end up my contribution by applauding the achievements of our sports people. They are one of our best ambassadors, they represent us as a country, they fly our flag and the outside world, through their participation, get to know the people of Gibraltar, and they realise that we have our own special identity. A large number of our associations have fought well and have won against Spain, putting all sorts of obstacles in their way so that they would not be able to achieve international status, and hence Gibraltar would be accepted as a country in its own right. With a lot of lobbying and hard work a lot of our associations have won these battles. We still need to assist the GFA and the Gibraltar Olympic Movement, but I am sure they will eventually also succeed, because I know they will battle on until they do so. Also, Mr Speaker, because of our sporting associations achievements in sport, they must be warmly congratulated. A few months ago for example, the Gibraltar Football National Team won a tournament at the Victoria Stadium, where the Isle of Man and the Isle of Wight participated. It gave us all some measure of satisfaction that they beat the Isle of Man especially because during the Island Games of 1995, they happened to beat us. The Island Games was a huge success because of the GSLP Government and it was hailed as one of the best Island Games ever by the international committee of the Island Games.

I would like to start my contribution on health by speaking on the spending of the Gibraltar Health Authority. If, during the year that has just finished, the budget fell short of what was required, by £4.2 million, do the Government think that this is slack budgetary control? The control of the spending in the GHA is not the control of the House. The usual control, as laid down in the relevant legislation, as far as Government Departments are concerned, does not apply to the Health Service, because all we do in this House is to vote the subvention. The GHA can spend more than what has been approved by the House consequently. The Health Services spend more money because there is a demand. If the demand required last year was £42 million instead of £38 million, and if this year there is an extra £1.25m for rents for the new hospital building, how then do Government expect the move to the new building to take place if they are not budgeting for more money? More so, how do Government also expect to carry out the relevant improvements, if again, more money has not been provided. Or, could it be a case that the Government are working on the assumption that the current financial year will finish up with another deficit for the Gibraltar Health Authority. After having heard the contribution made by the Hon Mr Britto, the Minister for Health, I am afraid that the GSD can still do better but to continue to come up with their same old strategy, propaganda about all the plans they now have, propaganda about the Europort hospital, and propaganda about the miraculous cure the Clinical Governance Audit will bring about. Eight years down the road and the Government definitely still need more time, and we still need to see whether they can eventually reverse the process of decline which started soon after 1996. The reality is that since 1996 the Government have not been able to get to grips with the problems that have materialised, and consequently, as we predicted, they were bound to escalate. Last year I remember quite clearly the Chief Minister telling me that improvements were imminent. He said that last year, that improvements were imminent and that no longer would I be able to continue criticising the Government. So, who really is living in cloud-cuckoo-land, who is the real Alice

in Wonderland in this House Mr Speaker? Eight years down the road and we still have the same problems.

Today everybody in Gibraltar accepts that the problems that came about after 1996 are still there, still unresolved. These problems are purely and simply problems which the Government have created as a result of their policies. Policies which we have tried to convince them not to implement because we foresaw the adverse consequences they would bring about. The Minister has spoken today of the changes that have already been implemented, and as I speak, no one appears to have seen any quantifiable improvements, and the patients are still coming to our offices with the same old problems. The Government have kept trying to exonerate themselves for this important deterioration. It is an inescapable fact that they, and only they, are totally responsible for the decisions they have taken and the measures they have implemented and I will prove this during my Budget speech. And they cannot keep on forever trying to pass the buck on to others. They cannot expect people to continue having to wait for years, and years on end before they see any tangible results, in the meantime being constantly bombarded with endless announcements on the part of the Government, on the wonderful and wonderful things they are intending to do. A lot of statements, press releases, interviews about what they intend to do, and then it takes them years and years to take any action. In many instances they take no action at all. The GSD love using impressive and fancy words but the record now clearly shows that they lack initiative, foresight and remedial action is not taken by them at the appropriate time. As I have just said, the problems have kept on escalating and the situation we have reached, is the worse ever seen in our Health Services.

As to the clinical governance, when are Government going to realise we are against it. When are they going to realise it, after all the reasons we have given for us being against it. Last year, I said that the clinical governance had been officially announced by the Government on about 12 occasions. Since June of last year I believe it has been announced again on just about the same number of times, if not even more. The Government would

want us all to believe that the audit is going to be like a magic wand, and we beg to differ for the reasons that I gave last year, and will give again this year.

The Government have already commissioned expert after expert, and the problems have not been resolved. Yet again we have been proved right when we said that this audit, since it was first announced, until we see what recommendations the Government accept and implement, about seven years, seven years will have elapsed. So even as I speak, we still need to wait for a few years to be able to judge the final results of the mother of all audits. Remember, the experts will advise but the Government have already confirmed, and the Minister has done so today in this House, that it is up to them to implement or not implement that advice. Whether the advice is correct or not, is yet another matter. So many years wasted by the GSD and such huge sums of money expended in the process on experts. And why the Government have found it most convenient to wipe their hands and let the experts find the solutions to the problems. If they cannot, I suppose then they can also blame the experts for not finding the solutions. Then, they pass on the bill to the taxpayers, and in addition, the patients suffer for the many years wasted in the process.

In the end, we all suffer for this sheer incompetence on the part of the Government. There is already, more than ample proof which clearly suggests that the Government have been incapable of finding answers to the solutions required. Just, for the clinical governance audit, the Government have confirmed to us in this House, that they expect to spend about £1 million. One million pounds because of their sheer incompetence. I can assure the House that more and more people in Gibraltar have started to see through the GSD propaganda machinery, and their patience is starting to reach the end of the line. As the famous saying goes, you can fool some of the people some of the time, but you cannot fool all of the people all of the time. Proof of this is that months before the General Elections were called, a local newspaper in an opinion poll said, the GSD would take 62 per cent of the votes. In last year's General Election, they got 51 per

cent. The Chief Minister himself, in the morning after the votes had been counted, said in his speech that he had accepted the electorate had reprimanded his Government because of health and housing. For once, for once, we hear the Chief Minister accept some form of responsibility, and the mood around town, is that the people of Gibraltar will no longer tolerate these two issues to continue unresolved within the next four years. Otherwise, the reprimand, I can assure the Government Members opposite, next time round will be even greater.

Last year I gave a detailed account of what had transpired during the two terms of office, when the Hon Keith Azopardi and the Hon Dr Bernard Linares were Ministers for Health. Now, it is the turn of the Hon Mr Britto. He took his new portfolio at the end of last year and I am convinced that he could only have been shocked and awed, at the enormity of the task ahead of him, immediately after he sat on his new chair at Johnstone's Passage. I have kept a very close watch at the performance of previous Ministers for Health, and of course, I have done the same with the present one. The third Minister for Health under a GSD Government. I am afraid, that the Hon Mr Britto did not have the best of starts as Minister for Health. Already he too has committed quite a number of blunders. In an interview with GBC in January this year, he made the most incredible and unbelievable statements. Even the interviewer could not resist the temptation of questioning the logic of his arguments. Then we had the situation of quite a number of people waiting in the corridors of the Accident and Emergency Department, until there was a bed available. These patients even had to stay there overnight lying on stretchers waiting for a bed. The Minister had this to say when interviewed and I quote, *"as is usual at this time of the year, the number of admissions into the hospital increases, and this has a consequent effect on the number of beds that are available for admission."* He said, as is usual at this time of the year. No wonder the interviewer then asked the hon Member, and I quote, *"have these things happened in the past?. You have also mentioned that this time of the year, there is an increase of patients. You make it sound as if there were no winters pre 1996."* The Hon Mr Britto then does nothing but

waffle. He says, *"no Richard, let us not turn things round."* Then he goes on to try and explain why there are shortages of beds but he did not answer the question. Therefore, I put this question to him in the last Question and Answer Session in the House, as a supplementary to Question No. 832, which was at the end of this April. I was able to prove to the Hon Member, with the figures provided by the Gibraltar Health Authority, by his Department, that in previous Januarys there had not been an increase in the number of patients, not even in January of 2003, Mr Speaker. The Minister then changed his tune and said that during last January, for some unknown, inexplicable reason, there had been more patients requiring admission. So I ask myself why did he not give this very same explanation, both in his press release and interview of 12<sup>th</sup> January. Then, he said something completely different. I will remind hon Members of what he said then, *"as is usual at this time of the year, the number of admissions into the hospital increases, and this has a consequent effect on the number of beds that are available for admission."* I recall that the Hon Dr Bernard Linares, the previous Minister for Health, used to quote Shakespeare. He quoted from the play "As You Like It", and I ended the phrase by quoting what I thought said a lot about him. *"Each man in his life plays many roles."* I think Mr Speaker, that the phrase that comes very quickly to my mind today about the new Minister for Health, which befits him, is, *"a man for all seasons"*, Mr Speaker. A gallant man, yes, a gallant man for all seasons.

There are even more statements Mr Speaker, the Hon Mr Britto has made, which again do not make sense at all. How can anyone, seriously accept the Minister's view that there are 100 patients in St Bernard's Hospital that should not be there. We now have a situation when he is not only blaming the elderly. Given the number of the elderly in hospital, the new Minister for Health believes that about two thirds of the people who are presently in St Bernard's Hospital, do not need medical treatment. Does the Minister for Health really believe that the people of Gibraltar want to be in hospital rather than in their homes. Do the people of Gibraltar really consider St Bernard's Hospital to be such a fantastic holiday camp? Who really wants

to be there when patients are constantly either being transferred from one ward to another, female and male patients are mixed in all the wards, and others are being placed in beds in the TV rooms, or in beds which are cramped one beside the other. The Hon Mr Britto continues with the absurd, by further stating that the experts have told him, that in a place like Gibraltar less than 100 beds are required for a hospital. I quote what he said, *"the experts tell us that in a place like Gibraltar, we need less than 100 beds."* Then he continues to say that because of the 100 patients which are non-medical patients, if all those were not there, only 67 beds would be used. So he said that the expert figures cannot be far out. That is what the new Minister for Health said.

If, the Minister says that only 100 beds are required, then why have the Government built a hospital with 211 beds? How is it that during the four years when Dr Bernard Linares was Minister for Health, he said the very opposite in this House. He said, in answer to Question No. 1,083 of 2001, that the number of beds for the Europort Hospital would be arrived at using the statistics I was asking about the admission figures into St Bernard's Hospital, and the average length of stay. The mind boggles, even though by now we are used to hearing so many contradictory statements from different Members of the Government.

In the last meeting of the House, I naturally asked a question on the subject, and the Hon Mr Britto, confirmed what he had earlier said in his statement that the experts had come to that conclusion and he agreed with them. In supplementaries, I therefore asked, if when the new hospital is fully operational, whether its occupancy level will then have dropped to a situation when there are about 67 patients hospitalised, as the Minister for Health had said in his statement.

Very quickly, the Chief Minister stood up and came to the rescue of the Minister for Health. But what he said totally contradicted everything his Minister had said only seconds earlier. The Chief Minister did not agree at all with the Hon Mr Britto's opinion.

This is what the Chief Minister said in answer to Question 863 of 2004. *"Almost every UK expert that has come to look at our health service has expressed the view that this community does not need a hospital with 211 beds in it and they apply UK benchmarks. UK benchmarks are that if in the UK, a population of this size would have a hospital with "x" number of beds, for a start, the UK is hardly a benchmark in this respect to be followed. Secondly, I will keep on pointing out to them, Gibraltar is not comparable to the UK."* and then the Chief Minister went on to explain that if there is an overflow there are always more hospitals down the road at some number of kilometres further away. In Gibraltar, whatever we cannot provide here, there is nowhere else." That is what the Chief Minister said. Some months ago, I recall that during a session of the House, when the Chief Minister was getting a bit agitated, which is not uncommon with him, and his hand were all over the place, he nearly slapped the Hon Mr Britto on the face who sits next to him, had he not ducked. In theory, the Chief Minister's reply to the new Minister for Health's statement, was indeed a real slap on the face if there ever was one. And surprise, surprise the Chief Minister was in fact agreeing with the point we always make, that experts from abroad evaluate situations in Gibraltar with norms and procedures which bear no relevance to us at all. I especially liked the phrase in which the Chief Minister said, and I quote, I will keep on pointing out to them (meaning the experts), Gibraltar is not comparable to the UK. So much for the experts which the Government Members rely so much on and which they are praying will solve all of our health service problems.

There is no doubt, after all the evidence that I have produced in this House during the past years, plus the complaints publicly voiced by the users, the different entities, individuals and even comments made in official Government reports, that our health services have unquestionably suffered enormously at the hands of the GSD Government. The Chief Minister when he knows that his Ministers cannot defend the indefensible, he gestures to them to sit down, he then stands up and immediately resorts to making personal attacks at the Opposition Members. He constantly

accuses us with his favourite phrases, which by now are completely out of context. They have always been out of context. Hundreds of times we have by now heard that we are living in cloud-cuckoo-land, we are inventing things, we are politically dishonest cowards, he questions our intelligence levels, insults after insults. Even when we produce evidence in this House to back our arguments, the Chief Minister says that we have either invented it or we conveniently got a doctor to produce it, even though the evidence I have brought to the House had the letterheaded paper of the Gibraltar Health Authority, and was signed by its management. That is the extent that the Chief Minister goes to. Therefore, is it that the letters sent to me by the UKCC and Sheffield when I was Minister for Health, which I also produced in this House as evidence, were also cooked. When the Government find it difficult to come up with replies, then we do all the cooking, how very convenient. I think that the Government Members react in this manner because they do not like having to eat their words. Remember they never wanted to admit that for the first time ever there were acute shortages of beds at St Bernard's Hospital. When they had no option but to admit it, they then blamed the patients. For the first time ever in the history of our health services, wards had to be mixed with male and female patients. Again, initially, they did not want to admit that private practice was a total failure. They took the same attitude with the fiasco of the Complaints Procedure. For the first time ever again, very, very few of our nurses have been sent to the UK for specialist training, and consequently, for the first time ever, we have a record high level of contract nurses. In the meantime the Government continue blowing their own trumpet about the wonders the School of Nursing was doing. But the important thing, is that the evidence that I bring to this House is reported in Hansard and the Government Members will not detract us from doing our job properly as an Opposition, which is to bring to the notice of the Government, areas where there are real important problems that need tackling. The truth is that this Government do not like to hear what we tell them, so they think that if they accuse us of inventing things or they try to rubbish everything we say, that they will succeed in deterring us to continue saying what they do

not want to hear. They also think that by clouding the issues with insults, the electorate will forget what the issues were in the first place. But their tactics are no longer working, as I can assure the House that everybody in Gibraltar today is absolutely convinced, that our health services are declining and have declined to the worst levels ever. This year is again no exception. I have here more evidence to prove to the House that what I say is the absolute truth. I am referring to the Complaints Procedure of the GSLP, the one the Government have on many occasions vehemently said again and again that we did not have one when we were in Government. As their complaints procedure has been such a complete fiasco, they have again tried to defend their abysmal record by saying, *"well, at least we have one and you did not."* I am afraid to disappoint the Government Members because as I have said previously, we certainly had one, and here it is, more evidence to the House. The Complaints Procedure of the Gibraltar Health Authority when we were in Government, I thought it was quite an opportune moment to bring it here to the House during my Budget contribution and show it.

We took a policy decision on the matter as soon as we came into office in March of 1988, because then, before we came into office there was no complaints procedure. It was drawn out by the management of the Gibraltar Health Authority and it is dated 31<sup>st</sup> October 1988. This, is a public document that was circulated to the staff of the GHA by the then Hospital Manager, Dr John Cortes. For the record may I add, that it did not gather dust as theirs did and neither were there so many people using it or criticising it as being useless, as has been the case with the GSD's complaint procedure which in everybody's opinion, except the Government's, it has been a complete disaster. So, this business about us not having had this or the other is quite frankly nothing else but smokescreens on the part of the Government. In any case, even if all the things the GSD have said about what we did or did not do, or had or did not have, even if it was factual, the Government are here to defend their record. They cannot continue indefinitely going back to years and years ago desperately trying to find excuses for their failings. I honestly

think that if the Government continue with this tactic, looking for another pretext, they are going to end having to go back to the Stone Age, when there were no health services and no houses, only caves and witch doctors. Then, then can they easily defend their record. Only then. Today, the vast majority of the people of Gibraltar agree that our health services are riddled with all sorts of problems. The people are now saying that the GSD have been eight years in Government and that they are therefore no longer willing to give them another four years after this term of office expires, if significant improvements to the present situation are not seen by them. The people no longer want to hear what we are going to do, on the part of the Government. They want to see results and so, the GSD have a huge task ahead of them for the simple reason that it is extremely difficult to produce in four years, what they have failed to do in the eight years they have been in power.

How can the present Minister for Health say today, that the problems that I highlighted for years are only a few. I highlighted problems and I actually detailed the problems and I think they came to about nearly 30. Today, as I speak, I am highlighting even more than what I did last year. The Government Members, when we first started to highlight the many complaints we were receiving on matters of health, they started by denying their existence. So we produced a dossier. Then they said that we the Opposition, were inventing the complaints, that we were exaggerating. When that did not work, they said that the users were too fussy, and then that the complaints were the normal every day ones in every hospital. Today, they are going down a route never before adopted by any previous Gibraltar Governments. Basically, what they are saying is, *"either you do as we say or you are out."* That is what they are saying. This new attitude by the GSD Government was already clear for everyone to see in their manifesto of the last Elections. These are two quotes from their last manifesto: *"No one in the Health Service will be allowed to obstruct or undermined the changes we want to implement, and doctors that deliver that service will be valued, well remunerated members of*

*the GHA staff. Those that do not, will be invited to pursue their careers elsewhere."*

**HON LT COL E M BRITTO:**

Absolutely correct Mr Speaker.

**HON MISS M I MONTEGRIFFO:**

These are, very, very strong words. What happens then if the staff do not agree with those changes the Government want to implement? Are they going to be told to go? If they do not, what are the Government going to do next? Are they going to sack them? Their latest style of Government falls short of putting a pistol behind peoples' heads. This is democracy a la GSD Mr Speaker.

It is now no longer a question of voting for the GSD can seriously damage your health, but also, voting for the GSD can seriously damage the prospects of keeping your job. We believe the Government are going down a very dangerous route, but it is their policy and we will do what we always do, wait and see what results the new policies produce. Last year, as I have said earlier, I listed 24 areas which we had identified within our Health Services, where there were serious problems. Not problems about the staff and their delivery of service, but problems emanating specifically from policies or lack of policies from the Government. For example, the Complaints Procedure. The Complaints Procedure, nothing to do with the staff, Government policy. Waiting lists shooting up to unprecedented levels, nothing to do with the staff but rather due to the effects of private practice arrangements and not enough patients being sponsored abroad. Introduction of private practice, nothing to do with the staff, Government policy. The long saga of the dialysis facilities, nothing to do with the staff, Government policy. Nursing staff publicly denouncing the conditions they are having to work in and the lack of basic equipment, nothing to do with them. The failure

of the Government's new bed management system, nothing to do with the staff. The adverse effects of their having introduced the new prescription charges, nothing to do with the staff. Never, ever, have I questioned, not once, the delivery of service or said that this is the reason why our health services are in a state of chaos. Something which I have on occasions been accused of by the Government. What I have questioned is not the delivery of the service, but the policies of the Government. That is why I have specifically mentioned some of the issues that I highlighted. Therefore, the public statements we make and the examples we give to point out the many, many problems which exist in our health services, always refer to the incompetence of this Government, whose policies have either not worked or have made matters worse. That is why we make them fully, fully responsible for what has transpired in our health services from 1996 onwards. On the other hand, I want to emphasise the fact that it is the Government who have made public statements which clearly imply that it is indeed the staff who are to blame. I would refer hon Members to some of those statements. I quote, "the Minister does not take the temperature of the people, or fails to take the temperature of people in wards at night. He does not administer medicine. He does not operate or not operate on people well or badly." These are words by the Government.

What is the Government getting at? Are they not implying that because Ministers are not nurses or medical practitioners, they are completely exonerated from any responsibility? Is it not then this Government who are linking the deterioration of our health services to the delivery of the service? The responsibility for the deterioration of the health services is not due to the staff, or their delivery. The issues we have highlighted as I have demonstrated earlier, prove beyond doubt that it is due to Government policies having failed miserably. There is not one single instance when I have raised an issue which purports either to mismanagement by the staff, or questions their professionalism. It is the Government who have, and continue to question it. Another clear example is their new policy, to replace local managers with outsiders. We believe this to be again another error of judgement on the part of the Government. They

are implicitly inferring that they believe outsiders are better than Gibraltarian managers. It is nonsense to say that because harsh decisions have to be taken, outsiders are better. Better at what? Using the axe? This, is but another instance of the Government trying to put the blame on others. Gibraltarian managers, for the record have never, ever failed in their duties. I was working side by side with them when I was Minister for Health and I had my office inside St Bernard's Hospital and I was accessible to everyone, patients and staff. They were very efficient and very committed to their job, and they do a good job also because they naturally love their people and they know how they think, and they know how they react. Outsiders do not, they come from a different culture. Furthermore, it has been tried before, prior to 1988, and by hon Members.

When we came into office in March of that year, 1988, the AACR had already engaged the services of a UK general manager, and without wanting to go into much detail, I will only say one thing. He spent more time playing golf in Sotogrande than in Gibraltar. When his contract expired, we replaced him with a Gibraltarian general manager. His commitment and dedication was first class. Unfortunately for our health services, he took advantage of an offer which enabled him to pursue his career in the area in which he had qualified in the UK. That person, we then replaced with another Gibraltarian, who happens to be the present, or should I say, the ex local chief executive of the Gibraltar Health Authority. He, also carried out his duties impeccably. So both of them have served under different administrations, and they have unquestionably carried out Government policies successfully. It is now the height of hypocrisy on the part of the Hon Mr Britto, to thank him for his past services and now give him the axe. The height of hypocrisy. But, what it all really boils down to, is the nature of the policies they are asked to implement. Therefore, for all the reasons I have just given, we believe the Government are once again very mistaken in their policy of replacing Gibraltarians with outsiders.

The problems within our health services, I have demonstrated year after year in this House, have unquestionably materialised



because this Government have not bothered to be on top of the situation. Government Members have created a very bureaucratic system, which alienates them from the staff, and the users of their respective departments. Hence, they have been quite oblivious to what has been happening. This has been very evident during Question Time in this House, when on many occasions different Ministers for Health have not even been aware of certain problems we have pointed out to them. I now wish therefore, to turn to an exercise I have carried out in order to record the accuracy of the problems we have brought to the attention of the Government. I will refer to our questions and the replies we have been given by the Government, and then I will quote from other official reports which comment on the very same issues. Hon Members will recall that in September of last year, the report of the Gibraltar Health Care Development Team was published. The summary of which was given publicity by GBC as they said it had been leaked to them. There is still a very big question mark in our minds as to whether the report would have been published by the Government had the summary not been leaked to GBC, especially just before the General Elections were called. Anyway, what I have done is compare apple with apple, a phrase I already know the Minister for Health likes using a lot. I will be demonstrating that when it comes to the Government's apple, it is somewhat rotten inside.

Let us start with the complaints procedure. We have put in questions after questions, warning the Government they were too bureaucratic and that the complainants themselves were coming to see us, telling us that it was not working at all. A lot of people were not even receiving replies to their complaints and then naturally, ask the Government whether they are going to change the system they have implemented. This we did just months after it had been implemented, when we had a good feedback from the users.

In April of 2001, answering Question 666, the Chief Minister took over from his then Minister for Health, Dr Linares and as I have mentioned earlier, waffled his way through saying that I never had a complaints procedure. Something which is false because I

have brought it here to the house. And he said the following, and I quote:

*"How ever badly off the hon Member may think people are now, it strikes me that they must necessarily be better off than they were when she had the stewardship of the health authority."* False again, Mr Speaker, we had a complaints procedure, and nobody went to Government Members then when they were in opposition complaining about it.

The Chief Minister continued by saying that in so far as the Ombudsman makes policy suggestions, the Government will be digesting at leisure, at leisure, he said, which of his policies the Government would wish to adopt.

A year then transpired with no action being taken. More leisure prevailed involving an issue to which the Government should have given more priority.

Then in answer to Question No. 582 of 2002, the Hon Dr Linares confirmed that he had discussed the complaints procedure with the Ombudsman. The Ombudsman had already been critical of it in his three annual reports.

Dr Linares, further confirmed that the Ombudsman's suggestion, and I quote: "is not being at presently considered by the Authority. What we are doing is looking at the actual complaints procedure as it stands in order to ensure that it is made more effective." This he said in May of 2002.

We proceed to March 2003, again nearly a year after. In answer to Question No. 263 of 2003, the Minister says that the Ombudsman went over his remit suggesting to the GHA how the complaints procedure should function.

In any case, I quote, "there will be comfort to the Hon lady to know that along the lines, not exactly the same idea that the Ombudsman had over completely independent external type of complaints officer, but along the lines of keeping a certain arm's

length by the officer who will be designated to process complaints that is being taken up by the Authority, and we will shortly be advertising to contract a dedicated officer with full-time responsibility, quality assurance. This Mr Speaker, the previous Minister for Health said in the year 2003. In March of 2003. "The advert", he continued, "will soon be coming out with a very definite job profile as to the terms of reference of the performance of that officer."

I went on to remind the Minister, the previous Minister, that three years had elapsed during which time the Ombudsman had been critical of the procedure. In fact in his third report he had complained that the Government had said they were going to review it and that by the end of 2002 the expected changes had still not materialised. What happens next, Mr Speaker? The usual, the Chief Minister gets up and takes a totally different position.

Again he falsely refers to the non-existent complaints procedure when we were in office. But wait for it, Mr Speaker, he says that this issue is in the brief of the clinical governance and they have asked them what would be an appropriate complaints procedure. After years and years of saying they were going to do one thing and the other and they never did it, they now say, ah, the clinical governance audit will take care of it. As on so many occasions, which are recorded in Hansard, the Minister for Health takes one line, and the Chief Minister takes a totally different one.

Yet another year goes by, six years down the road, and this time in May of this year I am told by the new Minister for Health the following, in answer to Question No. 888 of 2004.

*"The Government accept that the complaints system introduced in 1999 has not been as effective as is required or as the Government would have wished. That is why we are establishing a new one."*

Mr Speaker, six years on, and the Government have the cheek to say it has not been as effective as it should have been. And now eight years on, they have still not established a new one. They say they are going to do it but they still have not. There is a Spanish saying, Mr Speaker, that very aptly describes this Government: - siempre van *"a paso de tortuga"*

The new Ombudsman says in his report of December 2003, the following, Mr Speaker. *"Without a doubt, the GHA's complaint procedure has proved and continues to be an abysmal failure."* He continues:- *"The majority of complaints that are brought to the Ombudsman's attention are concerned with the inefficiency of the procedure. On one instance, a complaint was received this year (March 2003) from a lady who, not being satisfied with the explanations she has received, asked for her complaint to be taken to stage 3. The request was made as far back as May 2002. By the time it was brought to our attention no action had been taken to address her request. It was only as a result of our intervention that a reply was eventually received (November 2003). One and a half years later and thanks to the Ombudsman."* These were the words of the Ombudsman. The Gibraltar Healthcare Development Team report of September 2003 has this to say about the complaints procedure.

*"The GHA complaints process is ineffective from everybody's point of view."* (Except the Government's of course, Mr Speaker – they just want to fine tune it)

The report continues: "It involves a multitude of access points ranging from the Chief Minister to the ward clerk. Can involve up to 10 people. Does not routinely involve face-to-face contact with the complainant – complaints can take years to be resolved. Everything we have been telling the Government for the last six years. Six years on, and now we have the new Minister for Health saying that the new one is imminent. We have heard that word so often before. Imminent. Let us wait and see what the Government bring to this House, again, through legislation as far as the complaints procedure is concerned. Eight years down the

road and they bring another piece of legislation on the complaints procedure.

Nearly two months just before the last elections, the Chief Minister, accelerated his propaganda machinery and delivered a statement which begins quite frankly, with an incredible statement.

He said: "Since 1996 the Gibraltar Government has embarked on a series of major policy initiatives to modernise and improve Gibraltar's health service". What a cheek, Mr Speaker.

And I say to the Chief Minister the following: *"since 1996, the Government has embarked on a series of policy initiatives which have taken our health services back 20 years and instead of improving them they have led them to a deplorable state."* That is my statement. That is my answer to his statement.

Just the one example I have just given, on how the Government have handled the complaints procedure, completely destroys the Chief's Minister's words. Of course, he was then going to an election and he needed more spin and more propaganda, so in his statement he again lists all the wonderful things the GSD intend to do. After eight years they still say they intend to do wonderful things which they have not done in the last eight years they have been in Government. Nobody can really believe them any more.

The Chief Minister also said that he is going to eliminate the remaining defects within our health services. But, are the Government still not listening to what everybody else is saying, the patients, the staff, and all the different reports, who talk about our health services being full of all sorts of defects? One has to be a politician with no scruples when you still try to and paint a different picture to what everybody else is seeing.

I can do the very same analysis I have done with the complaints procedure, with every single problem existing today in our health services since 1996. I will have to go back to some of the areas I

listed in my budget contribution of last year, in order to be able to continue with the exercise.

Complaints about private practice. In this area, the Government defended private practice by saying they were regulating it. We, on the other hand when in Government, were phasing it out. The Government took the view that there was a need for private practice, and they said this in this House, and they said they were going to introduce a system of control.

In answer to Question No. 561 of 1999, the Hon Mr Azopardi, the first Minister for Health of the GSD, said that if we regulate it and make people aware of when, and if, and how they can visit a doctor privately, I think it will be easier for us to account and control waiting lists. I asked him if he would agree with me that private practice will have the effect of increasing the waiting lists. His words, the Hon Mr Azopardi's words, and I quote, "no, is the answer to that question."

Then in May of 2002 in answer to Question 564, the second GSD Minister for Health, Dr Linares said when I asked him in supplementaries the following question:

*"Will the Minister accept that patients are being coerced by medical practitioners as regards the question of going private because they have to wait longer than if they go public?"* I quote "no", was his reply.

Let us now look at what the report of the healthcare team of September 2003 has to say about private practice. It talks of the failure of the current private practice agreement, and that it can and should be quickly remedied. The report even sets out in table form the agreement struck by the Government and the consultants. And the Government had refused to our previous request soon after the agreement was struck to provide us with this information. One simple glance at the agreement in the report convinced us why it had been a complete failure. The system did not allow the GHA to control the situation at all. So much for the prominence initially given by the Government to

their well regulated, controlled private practice agreement. Another case of us telling the Government – “*we told you so years and years ago, we told you so.*”

And what of the latest position taken by the Government? We only need to read their last election manifesto again, to realise what they are on to. It is a complete reversal to what their position has been in this House for the last eight years. In their manifesto the GSD even link private practice to public waiting lists. They use it as one of their headings on health. They accept their policy has not worked and say that under the current reform initiatives, the matter will be dealt with more radically. I quote: “*private practice will simply not be allowed until there are public waiting lists.*” This particular sentence being in bold and underlined, Mr Speaker.

Well, Mr Speaker, this can only mean one thing and one thing alone. Private practice might just as well be eliminated if they go about what they said in their election manifesto. Because, if it can only be allowed once there are no public waiting lists, who is going to be stupid enough to pay for it if they could have been seen to previously by the consultants. So, we will now have to wait and see what effects their new policy on private practice will result. Now, I will compare the GSD waiting lists.

Up to now, the situation of the waiting lists has still not improved, only in the area of ophthalmology. And we all know what happened in that specialty. The Government very conveniently took action on the eve of an election campaign, when they had had plenty of time in which to have remedied the situation, so that patients would not have been unnecessarily subjected to wait for years on end. Is this a caring Government, or a Government that is only interested in vote-catching? And to make matters worse, they said in a press release that they issued, that the problem was brought to the attention of the Chief Minister by the Senior Citizens Association. We had been asking for information on waiting lists for years and years before. What did the Government do with this information, did they not see what we saw? Is it not incredible that they had to wait for the

senior citizens to contact the Chief Minister before the Government took action. A shameful situation. Now let us look at what the healthcare report has to say regarding waiting lists.

They say that they are excessive in almost every area. At Question Time at the end of April this year, just two months ago, the Minister for Health confirmed that there are still 718 persons waiting for elective surgery. Another situation, which continues to be totally unacceptable, eight years on. So again the report agrees with us and with the many, many patients that come to see us asking us to help them because they have been waiting for four and five years for a routine operation. So let us look now, at the GSD's record for waiting lists from 2002 to May of 2004. Based on the information that they have given to us in different meetings of this House.

	2001	2003	May 2004
<b>Gen. Surgery</b>	6 months	6 months	Up to 1 year
<b>Orthopaedics</b>	8 months	From weeks to years	From weeks to years

(In orthopaedics the report says from three months to years). To years could mean as what I have said what the patients say, four, five, six years.

We continue:

	2001	2003	May 2004
<b>Gynaecology</b>	6 weeks	12 to 18 months	8 months

But it should be noted that in this speciality there is no private surgery.

	2001	2003	May 2004
<b>ENT</b>	12 months	18-20 months	18-20 months

The situation, therefore, is still unresolved to say the least. Of course, we look forward to again the imminent improvements that the new Minister for Health has announced in this area.

Let me continue with more problems, which started after 1996. Shortages of beds, the up-trend in having to cancel routine operations. People waiting in TV rooms to be admitted for such operations and then being told to go home. People waiting in the A & E department all night waiting for a bed.

Two cases still stand out in my mind, which occurred only a couple of months ago. An elderly lady having to wait in the ambulance, at the entrance to St Bernard's Hospital for a bed, and an elderly lady waiting in the A & E to be admitted, and being told by a Senior House Officer that there were no beds and that the relatives should take her home. The relatives resisted, stayed there until there was a bed for their mother. That lady, unfortunately passed away about a week after she had been admitted. There are still many instances which are brought to our attention by relatives of patients. Only two weeks ago, there was a lady waiting for a bed in the Intensive Care Unit for four hours. Four hours waiting for a bed for the Intensive Care Unit. Shameful.

This proves that what has been publicly stated, not only by us, but by other persons, is the correct scenario. That there is a very dangerous situation existing today because there are patients either being treated in the wrong environment or there are patients that should be in hospital but are forced to stay at home because there is no bed for them.

These sorts of problems never ever existed prior to 1996. God help us, if they did, as the then Opposition would have used every available opportunity to attack us. And they did not, and it is not recorded in Hansard that they did. For the simple reason that they were not there, as simple as that, these problems were not there when we were in government.

Now, to another Government policy. The new bed management system, that the Government announced four years ago. The one they said in this House, repeatedly, that would go a long way to solve the shortages of beds. As far back as to the year 2000, in answer to Question No. 509 of 2004, the then Minister for Health said:

*"We have a designated bed manager monitoring the situation on a daily basis and taking action as necessary in close consultation with the medical staff and other professionals in the hospital and the community. A bed management policy has been drawn up and this will assist in ensuring that cancellation of admissions is kept to the minimum possible level."*

Then in 2001, again in this House in answer to Question No. 303 of 2001 the previous Minister stated:

*"I am very pleased to say that the situation has much improved with regard to the problem of the shortages of beds in St Bernard's Hospital. Much of the improvement can be attributed to the change that has been introduced in the patient admission procedure."*

The story continues, in answer to Question No. 961 of 2002, two years on, the Hon Dr Linares was still extremely optimistic about his new policy. He said the following referring again to the bed shortages:

*"I like to think and I hope that it is the new system, the bed management system that we have implemented is yielding some results."*

Then in 2003, last year, in answer to Question No. 228 of 2003 he continued saying that the Authority were taking steps in relation to the new bed management system.

During all of these years we, on the other hand kept reminding the Government that it was not improving the situation at all. In fact, if anything, it was worsening it. Patients were telling us that

without any prior warning, having previously been told they would need to stay in hospital for a few more days, suddenly they were being told to get dressed and go home. Patients, continued waiting at home and when in St Bernard's Hospital, they were required to wait in TV rooms. Quite a lot of them were told either do not come in, or were told go home, because there was no bed for them. Another unsatisfactory state of affairs which has continued for years on end and is still continuing today.

Now, let us look at what the report of the healthcare development team has to say about the ex Minister for Health's bed management system that he has said on a number of occasions was working well during the last four years. I quote from the report, page 204:

"The GHA bed management process:

- is straightforward for a simple admission but becomes increasingly unwieldy in the case of unplanned or complicated admissions;
- involves 12 steps if a bed is readily available. This increases to at least 20 steps if a bed needs to be found;
- involves four people if a bed is available, increasing to at least nine if there is no availability;
- means that planned patients are prioritised by the bed manager, and not necessarily by the clinical need;
- is reactive, not proactive. The bed manager only becomes aware of bed unavailability when there is a problem with an admission;
- relies upon ward staff making consultants aware of outliers;

- relies upon consultants discharging patients – there is no nurse led and limited Senior House Officer led discharge."

A complete disaster, the new bed management system introduced by the Government Members, by the GSD Government, has been a complete disaster and it has been said so by the patients, by us and by the healthcare development team. And what left us somewhat dumfounded as well, is the fact that the report points out that since 2000 to 2002, admissions to St Bernard's Hospital declined by almost 10 per cent. They declined by 10 per cent. So admission are down, the bed management system according to the Government, is improving the situation, but the acute shortages of beds continues. So, forget the elderly, forget the clinical procedures, in fact, forget everything the Government attribute to the shortages of beds. It is their policies and the decisions they have taken, which are the root of the problems within our health services. It is a question, that I put to this House. Can this Government get anything right, Mr Speaker?

Let me continue, the Accident and Emergency Department and the problems that have occurred there. Where patients have told us that they have been subjected to wait hour upon hour before being seen by a Senior House Officer. Four years ago, again four years ago, we warned the Government of these problems. We put in a question in the year 2000, No 207. We asked – *"Have Government now taken a decision as to whether a Senior House Officer should be based at the Accident and Emergency Department from 5.00 pm to 9.00 am the following day, as recommended by the nursing review team?"*

The nursing review was commissioned by this Government and its report was made public 2 years after the Government had had it in its possession, after we put a number of questions urging the Government to make it public.

Then, we naturally kept asking the Government which recommendations they accepted and which they did not. They

did not say which they were. They spoke only on percentage terms. For example, they said, we have accepted 40 per cent of them and rejected for example, 60 per cent of them. They did not specifically refer to any recommendations being accepted or not being accepted. This is yet another reason why we are so sceptical about this Government's dependence on reviews, reports, experts and audits. And then, what reply did we get to Question No. 207? That a flat is provided in the hospital quarters for those Senior House Officers on call, and that the number of SHOs on call was increased from one to two. *"So, the answer is no"* – that was my supplementary,

Mr Speaker. The previous Minister for Health then had this to say:-

"Not in the Accident and Emergency Department, but the hon Member will understand that next door in the flat, and it is not actually next door, it is quite many metres away from the A & E, the old nursing quarters, is very much in proximity to the needs of the department".

Then I asked, Mr Speaker: "But I am only asking the question because this is one of the recommendations of the Nursing Review Team. So the Minister is confirming that they are not implementing or have not implemented this recommendation, is that correct?"

The Nursing Review Team made this recommendation because they said they thought it was important to have an SHO continuously based during these hours at the A & E. The fact that the SHO's were based instead in their quarters, or were elsewhere in the hospital, was contributing to more and more delays as patients were having to wait for hours before being attended in what happens to be a very important department of the hospital. This is what the Nursing Review report said. The then Minister for Health said, and I quote,

**HON LT COL E M BRITTO:**

On a point of order.

**MR SPEAKER:**

Stop. There was a point of order and I want to hear what the point of order is.

**HON LT COL E M BRITTO:**

Mr Speaker, actually it is two points of order if you will allow me. The first one is, what is the relevance of the nursing review which happened years ago, and all the other points that the hon Member has been making, on a Budget debate, on the Budget for this year? We are talking about the Budget debate and we seem to be going back to questions back in 2002, and even the year 2000. This is point number one, and point number two, can I ask you Mr Speaker, whether it would be in order for me to repeat my speech because it seems to me that she has listened to nothing that I have said, and all the points that she is addressing have already been raised and she has already been told all the things the Government is doing. So I honestly do not see the relevance of the speech. All these points have been conceded and she is speaking as if I had said nothing and had not made a contribution. Would it be in order for me to repeat my speech for her to listen to what I said.

**MR SPEAKER:**

First, on the second question, the answer is no, because the Chief Minister will have the right of reply. On the first one, the question is that the House must now adopt it, not the question of Budget speech but a state of the nation address starting from all the Members. This is a big nation so I have got to let her carry on.

**HON MISS M I MONTEGRIFFO:**

Thank you Mr Speaker. Then I ask, but I am only asking the question because this is one of the recommendations of the Nursing Review Team, so the Minister is confirming that they are not implementing or have not implemented this recommendation. Is that correct? I am referring to the Nursing Review, because this is another review and this is what the Government did precisely, and I want to compare what the Government did with previous reviews and the actual prominence they are giving to present reviews. As I said before, that the Nursing Review Team made this recommendation as I said, because they thought at the time that there were many problems in the A & E, that demand had increased and therefore, they thought that it was necessary. In fact they said that it was important that there should be a Senior House Officer there, and they gave the specific hours in which they had to be there. The then Minister for Health said, and I quote: *"Yes, the recommendation becomes somewhat obsolete and irrelevant because of the increase in the number of SHOs."* He goes on to say the unthinkable, that in any case he thinks what the Government has done is in line with the spirit of the recommendation. Nonsense, the recommendation was quite clear. The reason for it being that there had been delays in getting the Senior House Officer from the nursing quarters and that one needs to have one permanently there because already there is an urgent need to warrant it. The nursing review did not say that the complement of SHO's had to be increased by one, it says, there should be one permanently based there and specifies the hours.

Again, the Chief Minister jumped from his seat and quite honestly, his contribution to the debate demonstrated his style of resorting to ridiculous and childish arguments when he cannot defend a given situation. Arguments which are really completely out of order, when we are speaking about people who are sick. He said *"there are two choices here, the Senior House Officer can sit in the A & E doing crossword puzzles and watching television in an uncomfortable hard back chair waiting for the ambulance to arrive up the hill, or he can be sitting in the comfort*

*of his easy chair, watching his own television set in the comfort of being on call down the corridor".* I would like to know when anyone has seen a SHO in Casualty either watching television, or doing crossword puzzles. Any patient can say that the A & E Department works constantly round the clock, non-stop. They simply have not got the time for such nonsense. So, the Government completely ignored this recommendation of the Nursing Review Team, and it is their fault and only their fault that matters have worsened in that department.

Let us look at what the healthcare report says about the situation there. Page 214, – *"the accident and emergency process typically takes 50 to 60 minutes to complete."* Then it goes on to give specific examples in the form of a flow chart, showing the time and the process, involving the patient arriving either with injuries, or with chest pains, or having to be admitted. The total time taken for a foot injury is 76 minutes. For the chest pains, the total time taken is 1 hour and 30 minutes. For a surgical admission the number of steps taken is 34 and the total time taken is 63 minutes. Unfortunately, the Senior House Officers, to use a phrase of the Chief Minister, continue today to do their crossword puzzles in the comfort of their quarters. Another example where we can say, *"we told you so"*.

**HON LT COL E M BRITTO:**

Mr Speaker, will the Hon Member give way.

**HON MISS M I MONTEGRIFFO:**

I have not finished yet, I will if he waits, but the Minister has the cheek to say that he gives so much importance to the clinical governance report, and he then goes on to say, that I am talking out of context. What I am doing, is actually proving to the Government that everything I have been saying, everything we have been saying about the problems within the health services, is actually being said also by the report. I will give way.



**HON LT COL E M BRITTO:**

Just to mention something that will be of interest to her because of what she has been saying, is that in the new hospital there will be facilities for the doctor on call in the A & E area. So he is not watching television but he will be able to be there, right next to A & E, and available when he is needed. And he will be able to be resting because the ambulance has not come up the hill.

**HON MISS M I MONTEGRIFFO:**

Well, he did not say this in his Budget contribution. But in any case, after having been eight years in Government, now the Minister says something which the Government should have done within the eight years that have transpired. Well, I do not believe that the Government have to take action only and when the new hospital materialises. This could have done without the new hospital being fully functional.

Other problems we have kept warning the Government about, and which are vindicated practically word by word by the Healthcare Development Team report, refer to the new prescription charges, insufficient specialist training for our nurses, and recruitment problems.

Mr Speaker will recall that when the Government increased prescription charges from £1.20 to £2.50, we strongly opposed this measure, because we thought the Government were penalising the patients and the chronically ill by making them pay more money for medicines, when on the other hand the Government were spending huge sums of money in less important areas. We said then and we still say today, that their priorities are all wrong. I mentioned in last year's budget session that the Government's defence was to tell us that there was abuse, and it was this abuse, of which they said they did not have proof of, but rather suspected it, that had prompted them to take this decision. They wanted to stop the abuse, hence the increase. That is what they said.

When after a few months, the Government then realised that public opinion was against them, they announced a new system. Medicines would now be free for pensioners, and those patients eligible for payment of items would only need to pay for three items, that is £7.50. Every other item be it 4, 8, 10, or 20, would then be completely free-of-charge.

We could not believe it. The new system was not only going to have the opposite effect of what they intended, but it was bound to eventually increase the number of items. When people know that after three items, everything else is free, what can we expect? Another disastrous measure, and another case of – *“we told you so.”*

Let us look now at what the report said about the cost of pharmaceuticals. It says that the cost of pharmaceuticals to the GHA has shifted significantly over the last five years. Expenditure has increased by a stunning 50 per cent in three years. It gives a number of reasons, for example, a huge rise in the price of generics (another measure the Government introduced), but it also points out to an increase in the number of items per script. Just as we said was going to happen.

The Government in answer to Question 796 of 2004 said that the overall increase from 2000 to 2004 was 34.5 per cent. This means, that they do not agree with what the report says. The Government came up with different figures to those produced by the team of experts. Again, more reasons why we are so sceptical about their reviews and their experts. Again, when I pointed out the increase in items on prescription in the last meeting of the House, something which we had predicted would happen, the Chief Minister in supplementaries, without getting up from his chair said, and I quote: *“I do not know what the hon Member is talking about”*. He said that, Mr Speaker, because he really did not know what to say. Well he now knows what I am talking about, and I think it is a question that he would rather not know what I am talking about.

Another issue I have been pointing out to the Government in this House, and which I also spoke about in last year's budget, were the problems of recruitment. I mentioned all the different specialities where it had taken the Government years in order to employ medical practitioners. There have also been a number of incidents when the Government have not renewed or given contracts to those practitioners popular with the public. That a medical practitioner should now be given a contract for a year does not provide either continuity of service to patients and does not allow that practitioner time enough to be able to settle well in his job.

Even though the GSD created for the GHA its own personnel department, the healthcare report confirms problems in this area as well. I quote "the GHA's recruitment process is complex and lengthy, involving a variety of individuals and departments.

- A five stage process involves the identification of a vacancy, advertisement of the post, vetting of applicants, selection and employment arrangements. It is made up of 40 steps, each generating "hands offs" and communication requirements.
- It is poorly communicated. Even unsuccessful candidates do not receive any notification or feedback."

The more we analyse Government policies the more we see their ineffectiveness and their incompetence.

With Nurse training we have another disastrous situation. For years, we have been asking the previous Minister for Health, how many of our nurses are being sent to the UK for specialist training. Last year, I went through a sequence of different questions I had been asking on this matter. Each time, the then Minister, either was not sure how many there were, or assumed there should be some, because of what he termed as his Government's commitment on further training. Then it took another question in the House for him to confirm that only two were in training in the UK. Only two. Over a year later, when I

asked the present Minister for Health a question on training needs for staff, this is what he had to say: *"historically, during the time when the hon Member was Minister for Health, training requirements were reactive and failed to contribute to a coherent provision of training."* What a cheek Mr Speaker. Again more and more smokescreens. However, he then says, *"the increase in training requirements and the continued desire to produce an efficient and coherent workforce has meant that the school and the GHA recognise the need to further develop a system of staff appraisal. The school now will work closely with the Healthcare Development Team to produce a more systematic and proactive manner of assessing future training requirements."*

Again, eight years down the drain, and now the Minister says they will look to solve this issue, Again, as with previous Ministers, and falling in line with the way the GSD try to defend their errors, the present Minister for Health goes back to 1988.

Mr Speaker, for the record, we used to send many, many more nurses to the UK for specialist training, and the proof of this as well, is that we did not have to contract the number of nurses that this Government today have had to. But, again it is a question that they are in power, and they have been in office now for eight years, and they are answerable for those eight years. Again in the meeting of 30<sup>th</sup> April, I asked the Hon Mr Britto to confirm how many of our local nurses were training in the UK. He said in answer to Question 839, *"the situation remains as given in answer to Question 178 of 2004."* The answer to this Question was given in the last meeting of January, five months ago, and it was as follows:-

*"There are two local nurses training in the UK developing their careers in mental health nursing and orthopaedic nursing."* Two, only two again. I would not be in the least surprised if these were the same "two" the previous Minister for Health quoted some years back. Again, eight years down the road, and the Government now have the audacity to say, that the matter is going to be given impetus.

Now, let us look at what the report of the Healthcare Development Team has to say about training needs assessments in relation to our nurses. More importantly, it points out that the staff expressed dissatisfaction with a number of important aspects of their current jobs and working conditions, and one of them happens to be their complete dissatisfaction with training and development. The staff say, they are dissatisfied with the training and development.

The Healthcare Report goes on to say that if changes are not made, it is likely that staff morale and motivation will decline, and that this will have a negative impact on the performance of the quality of patient care. Who is responsible for this situation? Most certainly, not the staff, and certainly, not me. Last January, in this House, the Chief Minister went to the extent of saying that the staff of the GHA were demoralised because of me. Another ridiculous remark. I have to say it again what a load of nonsense. The staff have spoken quite clearly and they have given the reasons for their being demoralised, and the report of the Healthcare Development Team agree with us, and not with the Chief Minister. Yet again, another attempt by the Chief Minister in trying to do what he always tries to do when he is cornered, and that is, trying to convince people that white is black and black is white.

What also lends credence to the lack of training, contrary to everything that the the new Minister for Health, has said today, to the lack of training for our nurses is the next problem, which I have highlighted just earlier on. The very high numbers of contract nurses the GHA have had to employ. As far back as October 2002, the Government confirmed to us in this House that there were 36 contract nurses employed by the GHA. In March of 2003 the figure was 39, in January 2004 it was 49 and at the end of March it was 48. The breakdown we have been asking for in relation to these figures by specialty, show that the bulk of our contract nurses are in the area of midwives, 10, registered mental nurses 5, and quite surprisingly, there are 18 in registered general nursing. That is, Mr Speaker, staff nurses. If we look at the overall complement of nurses, again given in

answer to our questions, we see that out of the 12 midwives in post 10 are on contract. This is a really high figure. So again, in the eight years the Government have done nothing to ensure that our nurses are given the opportunity to be sent to the UK for further training, so that they can specialise as midwives and registered mental nurses, and replace those we have on contract at the moment. And on top of it all, we have already experienced a situation, that the GHA, having engaged the services of a contract officer, sends this officer back to the UK for further training. The opposite of what should be happening. As to the staff nurses, I believe it must be due to the fact that the number of intakes to study for first level training, have not produced enough staff nurses, and hence the GHA have had to resort to contract them as well.

When we first highlighted to the Government the whole issue of contract nurses, they tried to justify the position by saying that they were bringing in contract nurses to cover for what they said was a short-term problem whilst people were training. Well now how many are in training? The Government said, when we highlighted the whole issue of contract nurses, that they were bringing them in to cover for what they said was a short-term problem whilst people were in training. This is not valid any more as quite a number of years has since elapsed, and it is quite obvious that there are not enough people to replace the contract nurses which is what the Government promised they were going to do. The Minister for Health, the Hon Mr Britto, in the last meeting of the House, agreed with me that this was indeed a dangerous situation. I said that if the GHA continue with this trend they might end up employing more contract nurses from outside than our own people. So this is an issue the Government need to tackle and tackle quickly, and we will monitor the situation as we always do.

The other important factor that has to be taken into consideration is the extra expenditure that is required to contract nurses from abroad. To give an example, for the financial year 2002-2003, the Government in answer to Question 814 confirmed that the expenditure in accommodation was £219,692.01. The Chief

Minister in the last meeting of the House, agreed with me that the expenditure seemed excessive and that he would be making further enquiries on the matter. What I am trying to prove is that a series of problems are created when one starts to employ more and more contract nurses.

Also on the question of nurses, we are also concerned that after years and years of asking questions in the House as to the offer to enrolled nurses to apply for first-level training, that in the last meeting of the House and today, the Minister for Health has also confirmed that only nine had applied to take up this offer. We were told in supplementaries that enrolled nurses (a grade which no longer exists in the UK and which we, the GSLP, were successful in retaining when we were in Government through negotiations with the UKCC), do not have to be in possession of the required GCSE's, a condition put by this Government, before one can apply to become a trained nurse. We have been persistently urging the Government to allow those without GCSE's, that had been in employment before the requirement came into being, to be able to train one step further. This now being the case, we are pleased that even though the matter has taken the Government some years to resolve, all enrolled nurses, irrespective of whether they have GCSE's or not, can now apply to train as staff nurses.

However, I hope the Minister will look, as he promised, at the reason why so few have taken up this offer, because it is quite incomprehensible to us why only nine have applied to progress up the ladder.

The House recessed at 1.30 pm.

The House resumed at 2.35 pm.

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

Another point I wish to highlight, is the statement made by the Government on various occasions, more so, during their election campaign, that nursing practices and procedures in our health services are currently more than 40 years out of date. At this point in time I wish to point out that there are only two Ministers on the other side of the House listening to me. So, as I always do, I went back and looked at what the Government had had to say on this matter in the House. In answer to Question 183 of 2004, the Minister for Health stated:

“As in other areas of healthcare, nursing practices and procedures are constantly changing. The Government are pleased that the GHA provides facilities to continue to update its staff as per current best practice in the UK and elsewhere.”

My question, therefore, is that if we received excellent reports both from Sheffield and the UKCC, as the Government also received, how can the Government now, after they have been eight years in office, suddenly come up with a statement alleging that present practices are so out-dated. Especially, when it is in complete contrast to what they have been saying during their last eight years in government. Even two months ago, they said they were pleased that the GHA continue to update its staff as per current best practices in the UK and elsewhere. We have said it on many occasions. The Government says one thing and the next minute they say the opposite when it suits them.

Now as to the dialysis facilities and of course I do hear what the Minister says, and I do take note of the contents of his contribution but again, I must say that this has been another long-standing saga.

After years and years of questioning the Government on their commitment, the present Minister for Health in the meeting of the House last January, and today, they have finally confirmed what we have been wanting to hear, that our patients will have facilities at Europort which will not require them to go Spain. So,

after having heard the words of the Minister we will do what we always do, we will keep a very watchful eye. However, we believe that they have left the question of training our staff to use the equipment somewhat late, as we were also told the staff would be coming from Spain, until the GHA trained its own staff.

The Government contracted the services of yet another expert, that of Professor Terry Feest. The previous Minister for Health said that the Government were looking at his report, but he never confirmed whether the Government had accepted his recommendations. In the last meeting of the House, in reply to a question, the Chief Minister told me, that he would check and confirm to us whether or not the recommendations in his report had been accepted, or not. We would like to know because we have not been told yet, whether having decided to commission yet again another review, this time on the question of the dialysis facilities, whether the report has produced value for money. Up to now, what I can say is, that there is no evidence to suggest that the many reports, the reviews, the audits, this Government have commissioned during the last eight years, have produced any real significant improvements. Instead the Government have spent hundreds of thousands of pounds and in the process they have wasted valuable time. Time, which in an area such as the health services can only mean it has been to the detriment of the well-being of the patients. This again, is another reason why we are against the Government now having to spend £1 million on the latest review.

Now, from dialysis facilities to the stress machine at the Primary Care Centre. We took this matter up in the last meeting of the House, and the Government said that it was not a stress machine, but that it could be converted to one by the purchase of some electronic gadgets. The users forum contacted us on the matter after what the Minister had said in this House and that is why originally we raised the issue. We were contacted by the users forum. They then wrote to us after having heard what the Minister had to say and they confirmed that they had consulted with clinicians who undertook stress testing examinations very frequently, and were conversant with the purchased unit at the

Health Centre. The users forum further stated, that according to the clinicians, the purchased unit can be used for stress testing in conjunction with the ECG unit available at the Primary Care Centre. They further stated that most doctors support the idea of having the stress done at the Centre.

**HON LT COL E M BRITTO:**

Not true.

**HON MISS M I MONTEGRIFFO:**

Mr Speaker, I am saying what the users forum representatives have told us.

**HON LT COL E M BRITTO:**

Mr Speaker it is not true, there is no explanation to support this.

**HON MISS M I MONTEGRIFFO:**

And that none of the doctors in the Health Centre mentioned that the unit was inadequate to perform it. So really, what I would suggest to the Hon Mr Britto, is that it might be a good idea for him to have a meeting with the medical practitioners at the Centre and discuss the matter.

**HON LT COL E M BRITTO:**

Mr Speaker, will the Hon Member give way and I will answer that point.

**HON MISS M I MONTEGRIFFO:**

If indeed it is just a question of purchasing a few electronic pieces, we believe this to be a good investment by the Government, which will not cost them a lot of money, and which will go a long way to alleviate the waiting lists at St Bernard's Hospital where patients now have to go for a stress test.

I now wish to turn to another issue, and that is the agreement the Government made with the pharmacists regarding the dispensing of medicines.

**HON LT COL E M BRITTO:**

Mr Speaker will the Hon Member give way.

**MR SPEAKER:**

At least pay attention whether she gives way or not.

**HON MISS M I MONTEGRIFFO:**

At the end Mr Speaker, because otherwise I mean, I am losing my trend.

**HON LT COL E M BRITTO:**

Particularly on the stress machine, is she willing to give way. Does she want answers on the stress machine?

**HON MISS M I MONTEGRIFFO:**

The Hon the Chief Minister can answer in his contribution.

**MR SPEAKER:**

Silence. Order. The question is whether you are willing to give way or not. If you are not willing to give way, you say I will not give way.

**HON MISS M I MONTEGRIFFO:**

No, I am always willing to give way. I was just thinking that I would give way, I was only considering giving way when I was actually closing, finishing with what I had started.

**MR SPEAKER:**

He has asked whether you are willing to give way. So you sit down.

**HON LT COL E M BRITTO:**

Mr Speaker my only purpose in asking the hon Member to give way, is that she said she was going to move on to a different subject. I thought before she moved on to a different subject, I would try to deal with the point she has made on the stress machine. I do not want to turn this into a debate. I will just be as brief as possible. Firstly, at the moment it is an exercise machine. It was donated by the people who donated it. I have had a meeting with the people who donated it, which I think includes members of the users forum, I think we are probably talking about the same person, to clarify the situation. I have asked them to tell me under what conditions they made the presentation, because if the conditions are that it can only be used in the Health Centre, or in the Primary Care Centre, then the Government policy is that there will not be stress testing in the Primary Care Centre, because the UK advice, and the advice from Dr Wynn Davies, the visiting cardiac consultant, is that stress testing should be done under very strictly controlled

conditions, and we need an ITU close by and we need medical back-up and expert back-up close by, to the stress testing, which is very stressful on the heart and these facilities are not available in the Primary Care Centre. That is the medical advice which the GHA has, and therefore it is GHA policy not to have stress testing in the Health Centre. I have put the position to the people who donated the stress machine at the meeting with them and I have asked them to clarify what is the purpose of donating it because it seems to me that there were strings tied to the presentation. The clinicians to which the hon Member has referred to in the plural, seems to be either down to the singular or to a couple. To a couple, not more than that. The remainder or the majority, I am not sure whether it is one or two, I do not want to be then quoted as she normally does in three months time saying, because he said there were only two and now there is three. The majority of the GPs are against stress testing at the Primary Care Centre, and that is the situation. It is not that GHA does not want to do stress testing, stress testing is available under controlled conditions, and that is what we will continue to do. We have asked, or I have asked, the people who donated it, what are the conditions, if the conditions are that they donated it for stress testing to be done at the Primary Care Centre, well, I may invite them to take it back because it is not going to happen. Now, having said all that, when we move to the new hospital, there may be possibilities of doing the stress testing there.

**MR SPEAKER:**

Now let me be quite clear, this question of giving way is entirely up to you. If you do not want to give way.....

**HON MISS M I MONTEGRIFFO:**

But you told me to sit down.

**MR SPEAKER:**

Yes, of course, because you gave way. Now stand up and carry on.

**HON MISS M I MONTEGRIFFO:**

I do not mind giving way, except that as I said previously, I was continuing with my trend. But I do not mind. What the Minister is now saying, is that in actual fact the machine is indeed a stress machine. Otherwise, how is he saying that a stress test can be carried out, but not at the Health Centre. It has to be done at the hospital. Let me be clear, I have brought out the question of the stress machine because it was brought to our attention. The Minister made certain statements in the last meeting of the House. All I am interested in, is whether the stress machine is going to be used or is not going to be used. What we would like is a situation that it will be used as stress machine. That is all. The Minister is looking at the possibility of it being used as a stress machine, then I am glad because in the last meeting of the House he confirmed to me that the Government were not willing to spend money on the few gadgets that were necessary. He said that in the last meeting of the House.

Now, I wish to turn to another issue. That is the agreement the Government made with the pharmacists regarding the dispensing of medicines. As soon as the Government announced the agreement in 1999, we asked questions in the House and the then Minister for Health said that the agreement was a good one as far as the Government were concerned. The Hon Dr Linares confirmed, a few years ago, that £750.000 was the maximum that the Government would pay involving all the pharmacies that had signed up to this agreement. He told me that he considered the new agreement to be quite a triumph for the Government. But as time went on, we were told in other questions and in supplementaries, that the pharmacies were being paid a 15 per cent addition to the cost of the medicines they dispensed. We asked for these figures and then, the whole

scenario changed. We were able to come to the conclusion, that it was not such a good agreement after all. I honestly believe that the previous Minister for Health completely forgot that the agreement included the Government having to pay an additional 15 per cent on the price of the medicinal products. So on top of the £750.000 in the first year of the agreement the GHA paid the pharmacies nearly £400.000. In the years that followed, the figures increased dramatically:

- 2000/2001      £563,357.94
- 2001/2002      £689,124.41
- 2002/2003      £778,478.42
- 2003/2004      £886,611.45 (this figure being incomplete)

This is the reason why we give so much importance to asking statistical questions in this House. They produce extremely valuable foolproof information and in many instances they destroy the picture being presented to us by the Government.

Mr Speaker, I now turn to the issue of our sponsored patients. We have asked quite a number of questions in the House, and we have seen that there are more people being referred to Spanish medical institutions. We are not surprised at this trend because quite a number of patients that come to see us tell us that our waiting lists are so excessive that having had to wait for years to be seen by a specialist or having been years waiting for an operation, they do not mind being referred there or anywhere else for that matter. However, some patients have wished us to highlight in public the problems they have encountered when they have gone to Spain.

They have complained to us of lack of contact between the GHA and the Spanish hospitals, and that they feel as if they are lost in the woods so to speak. They are finding difficulty in finding appropriate accommodation or difficulty, if they have to stay longer, and then they require, further sponsorship allowance. We put a question again, as usual, on this matter in the last meeting of the House and the Minister for Health said that patients and escorts are given telephone numbers in case they

need assistance, but the patients tell us that at least in the UK there is the Gibraltar Tourist Office who help them a lot, but in Spain, there is nothing of the sort. So we have taken note of the reply from the Government and as usual we will monitor the situation.

Still on sponsored patients, we have also been approached by a number of individuals and their relatives, extremely worried that they are now being told by the GHA, even though they have been referred for specialist treatment or reviews to the UK, that they have been going there for a number of years, that they have been told they will no longer be sent, because the review will take place in Gibraltar. This is naturally creating a lot of concern to the patients who believed that the review should continue to be conducted by the very same doctors and their teams who originally saw them. We issued a press release and asked the Government to come out with a public statement explaining what this new policy entailed, and whether it is driven by a desire to cut expenditure. Not only the physical aspect of a medical condition comes into play, the mental aspect, the confidence of a patient, plays a big part on the recovery of that patient. So the Government must understand that if a patient is sent to the UK and the review is followed up here, patients can be put under a lot of stress when they are suddenly told, that they are not going to the UK. If anything, we believe the Government should implement a policy which gives the patient the option as to whether he or she wants the review to be followed up by the medical practitioners that saw them, in the first place in the UK, or, they are content with being followed up in Gibraltar. That, I believe, is the best and fairest approach and one which fully takes into account the interests of the patients.

Finally, on sponsored patients, after years of asking for information on a formula which is approved by this Government, regarding the payments of our patients, and telling the two previous Ministers for Health that it appeared to be too cumbersome and too bureaucratic, we are now finally told that the GHA are discussing with the Department of Health, a new agreement which will result in a sum of money rather than the



number of people. Again, we were right Mr Speaker, and I must mention that the Hon Dr Linares, when he was Minister, referred to the formula as the notorious formula.

As I have mentioned earlier, we place a lot of importance on statistical information, as we do our homework when we receive the information from the Government. I have found that some statistics conflict with those appearing in other official Government reports. I gave a few examples to the Hon Mr Britto during the last meeting of the House. He asked me to write to him and I did. It is a question of looking at Government answers, given periodically during the course of a calendar year, comparing those figures with the Government's Abstract of Statistics, and then comparing them with the figures which have been produced by the Healthcare Development Team, in their report of 2003 for the same periods. I know the Minister said that one had to compare apple with apple, but the figures I have compiled, relate to the same years and the same category of patients. This is the reason why, during the last meeting of the House, I specifically asked for quite a number of statistical questions covering calendar years, so as to compare apple with apple. So, we look forward to the explanation from the Chief Minister when he replies to me.

I now turn to the new hospital. The House will recall everything we have said in this House on the matter so we have made already our position quite clear. During the meeting of April this year, I put in a question asking when would the hospital at Europort would be fully operational. We heard the Chief Minister's remark – it was not the official reply, Mr Speaker. But he said that we had already asked that question more than once, sounding and looking quite upset. Of course we had and why? Because every time we have asked the same question, we have been given a different date. Does the Chief Minister expect us to keep quiet and forget about when it is going to open, especially when we get three different dates in the course of over a year. There is no question as to the fact that there has been a number of delays, and because of this, we are more than entitled to be questioning the Government, until they get the date of the

opening right. In answer to a question in the last meeting of the House, the new date given by the Government is that the hospital at Europort will be fully operational by the autumn of this year. Today the Hon Mr Britto has said as much, again he has mentioned that date. The Government also confirmed in the last meeting of the House, that they still have not finished their negotiations with the developers of Europlaza for car parking spaces and they have still not concluded arrangements that they want to put into place in the old wine factory building in Waterport, where the meals will be prepared and then transported and supplied to the patients in the Europort building. So it is clear that the Government have encountered quite a number of major problems before the hospital even begins to function and is fully operational. And why because of what we told the Government which my hon Colleague, Mr Fabian Picardo, said this morning. The building at Europort was not designed as a hospital, and a lot of alterations have had to be made, which have even meant that our state of the art new hospital, is lacking in kitchen facilities, parking facilities, and has no wards for the elderly. I do not think I have ever heard any authority transferring a hospital into a building which, for a start, deprives our economy of an important asset which was there for future inward investment. The hospital then ends up without having a proper kitchen, without having car parking facilities, or wards for the elderly. The people of Gibraltar are flabbergasted when they hear that the Europort hospital lacks these facilities. We also trust that the Government have taken steps to ensure that the leak of ammonia which recently occurred there, does not happen again. Otherwise, on the next occasion, patients and hundreds of staff, will have to leave the hospital.

Surprise, surprise, I continue on the subject of yet more experts. The migration team. Something which the Minister today has not mentioned at all. First of all, we are extremely surprised at the fact that the Government confirmed in answer to Question 865 of 2004, end of April, that they had engaged a specialist migration firm to assist with the move from St Bernard's Hospital to the new Europort facility. They even gave us the name, Cyril Swert, migration specialists, which would cost them £90,000.

However, on 22<sup>nd</sup> June, only two weeks ago, they put an official notice inviting interest from suitably qualified relocation contractors, to provide a migration service from St Bernard's Hospital to the new General Hospital at Europort. I am surprised, that the Minister has not mentioned the fact that this conflicts with the answer that he gave me two months ago. That the Minister has not made any mention in his contribution, as to the tender, the official tender that the Government actually put out on 22<sup>nd</sup> June.

In any case, I am convinced that the Government will go down in our political history as beating all other Governments as to the number of experts they will have engaged. But again, it is a question of where the migration team will take us for the money the Government have stated that they will cost. They said in the last meeting of the House that they would need to spend £90,000. As to the clinical governance audit it has acted like a mirror. It has mirrored everything we have been saying for the last eight years. And, moreover, we have been bringing to the attention of the Government more problems which were not identified in the report. For example, the report of the Healthcare Development Team also agrees with us on the question of the dental service, which the report says is understaffed to meet the demand which exists today and that both the waiting lists and waiting times for this service are excessive. It also highlights problems in the Primary Care Centre as to the excessive steps a patient requires to take before seeing a GP. For years, the Government have not accepted our concerns about the appointments system at the ICC. Many patients have come to complain to us about it. The Minister for Health, has said that a computerised electronic appointments system was introduced in the summer of 2003. He said he was confident that the new system is better than the old one and that it will continue to improve. So, again, Mr Speaker, we were right. The previous appointments system, in place since the Primary Care Centre was opened in 1999, was not adequate, and the patients were right as well. Another issue we will monitor and we will see whether the Minister's confidence is justified.

The report further highlights problems in:-

- Laboratory services
- X-ray department
- Community nursing
- Mental nursing
- Etc, etc, etc, Mr Speaker.

So, it is quite evident, that there are problems nearly everywhere within our health services. Now, it is a question of, can it get any worse? We shall have to wait and see what the Government will do with the recommendations and what transpires in the different phases, that the Minister has spoken of today. He has said that they require to see what measures they will be accepting and what recommendations they will not be accepting.

We all know, that the Chief Minister has said in this House, in fact in the last meeting of the House, that peoples' jaws will drop when the Europort Hospital opens. The Chief Minister said this in supplementaries. I honestly hope that people's jaws will not drop, because the waiting list in this specialty, in orthopaedics is quite excessive. The Government are completely mistaken in believing that the situation will improve significantly when the hospital moves to the Europort building. It is not what one sees on the outside, and how good it looks, what it boils down to, is what is inside. The packaging of a product can look very pretty, but what counts is what is inside. If the problems within our health services continue after Europort is fully operational, then it will not be a question of jaws dropping, but rather a question of heads rolling and I predict that the heads that will eventually roll will be those of the Government and they will roll with the electorate being completely justified in taking that decision if the problems will simply migrate, with a migration team, from one building to another.

Finally, Mr Speaker, after having listened to the new Minister in his contribution, there is nothing to suggest that there is light at the end of the tunnel but rather that there are more endless tunnels to go through. I take his comment on what he said he

saw in a local newspaper, as a compliment. He had a smile on his face when he said that the report said, in the local newspaper, that I was soon to leave my portfolio as Shadow Minister for Health. I take that as a very, very good compliment, because his smile can only mean, that he hopes that I do and that means that if he does, that I have done a good job in Opposition. Thank you Mr Speaker.

#### **HON J J HOLLIDAY:**

Mr Speaker, my ministerial responsibilities cover Trade, Industry, Tourism, Shipping, Telecommunications and Postal Services. I will therefore be presenting the estimates of revenue and expenditure in these fields. I will also wish to highlight various projects, to be funded from the Improvement and Development Fund, which fall under my responsibility.

In essence, my ministerial responsibilities cover a wide range and allow for a one-stop shop in matters of development, investment and promotion of Gibraltar Plc. I am sure that this will be particularly pleasing to both the Chamber of Commerce and the Federation of Small Businesses, as they will now be able to address the issues of interest to their members and bring forward proposals and ideas from these members in discussions with me, under the one roof.

Mr Speaker, before I begin my address on the different areas under my responsibility, I would like to comment briefly on the much criticized by the Opposition, new Bus Service. My Colleague and Friend, the Hon. Fabian Vinet has already commented on this project, as it now comes under his stewardship. However, all I would like to add is that I am proud of the new Bus Service Gibraltar has today. A Bus Service this community needed badly and deserves. The Opposition can continue to rubbish this initiative for as long as they wish, but the service is there for all to see and enjoy. The Hon Lucio Randall in his contribution today informed the House that he has finally travelled on one of the buses and he found the service to be

excellent. I am glad that he has finally started to see the light.

I would firstly like to dwell on tourism. We are at a cross-roads in tourism. The writing is on the wall for traditional travel agents. More and more people are travelling, and choosing to make their own arrangements through the internet. Tour operators are offering last minute discounts, and more and more persons wishing to travel abroad are buying on price at the last minute. International tourism and the aftermath of the shock waves of 11 September are still being felt. Events in Spain may result in a smaller than anticipated number of visitors this year, which will have a knock-on effect on Gibraltar's tourist arrivals from Spain. Other international events may similarly impact on tourism in different regions. Short-term damage is also caused by events such as the recent Spanish refusal to allow cruise ships to call at Spanish ports after a Gibraltar call. We are not immune to such impacts.

However, this does not mean that there has as yet been any fundamental shift in the source markets for Gibraltar's tourism. The UK continues to be our primary source market for overnight visitors. The tendency is for UK visitors to stay for five nights, and the length of stay appears to be on the increase. The Gibraltar Tourist Board will therefore continue to promote short-breaks for the UK market and will additionally run a campaign to promote seven-night stays.

Spain is potentially an interesting market for Gibraltar, but the level of business of overnight visitors is small due in large measure to two basic reasons. Spanish hotels are cheaper (although at the quality end of the market the prices of Gibraltar hotels compare favourably on the basis of value for money), also, getting to Gibraltar from Spain is difficult unless a visitor owns or hires a car. These are issues which need to be addressed and access to Gibraltar from the hinterland is one of the items on the agenda for discussions at a technical level, between officials, with the Mancomunidad de Municipios of the Campo Area. I am aware that, often, coaches from Spain discharge their visitors who cross the frontier on foot, to be

followed by the empty coach. The delays experienced at the frontier, although much shorter than was once the case, continue to be unacceptable.

Visitors from abroad to Spain and Spaniards themselves make up the bulk of the day trippers who access Gibraltar. They are welcome and they make an important contribution to the economy. In 2003, the total number of visitors arriving in Gibraltar through the land frontier with Spain was 7,502,700, an increase of 2 per cent over the previous year.

Cruise visitors are also welcome, as are the crew of visiting cruise ships, and the growth in this sector is most gratifying. There were 165 cruise calls in 2003, with over 143,000 passengers. There were over 200 bookings for 2004. These figures would have been unheard of just a few years ago. However, the recent disruption experienced by cruise ships as the result of the banning from Spanish ports of cruise ships calling at Gibraltar is unacceptable and unjustified. As we all know Spain has since lifted the restriction but has publicly said that the lifting is on the basis of a three month moratorium with an option for another three. This is simply not enough and I urge the United Kingdom again to take a more energetic stand on this issue and ensure Spain declares the lifting of this ban indefinitely. This is important to the future well being of this success sector of the tourism industry.

The yacht marinas continue to do excellent business and enjoy high levels of occupancy all year round.

The Tourist Survey report for 2003 shows that income for the economy of Gibraltar from tourist expenditure was a record £202 million. This works out at roughly £550,000 per day, on average. It also reflects an increase of 14 per cent over visitor expenditure the previous year.

Generally, visitor arrival statistics reflect a pattern of growth and stability. The 7.78 million visitor arrivals in 2003 is once again a record. The 114,500 visitor arrivals by air is the highest since

1990, and up 19 per cent over the previous year. Visitor arrivals by sea, which came to 164,000, was also the highest ever, and up 20 per cent on the previous year. Visitor arrivals at hotels were up by 4 per cent to 61,800, and hotel occupancy was very healthy, at just under 65,000 on a year-round basis. The hotel occupancy figure does not reflect the fact that hotels were sometimes completely full and turning away guests in the peak seasons. I welcome and applaud, and will support, initiatives such as the staging by one of our hotels of an international chess tournament in Gibraltar in February each year, in order to increase visitor arrivals at hotels in traditionally slow months.

Hotels are now graded by the RAC, and they are featured in the RAC guide. Growing hotel occupancy requires more hotel beds for Gibraltar. This does not happen overnight. The plans for new hotels are developing, and it is anticipated that new hotels will be built as part of the East Side project. Other potential sites for hotels are also being considered.

The year 2004 is expected to be an equally successful year for tourism. The new Monarch air service between Manchester and Gibraltar is growing the number of visitor arrivals by air. A record number of cruise ships have booked to call at Gibraltar. The hotels offer a good product. Additionally, there is considerable activity as a result of our Tercentenary celebrations.

The centre point of the Tercentenary celebrations will be the events planned for the evening of 3rd August and for Wednesday 4th August, which will be a bank holiday. There will be a street celebration for all to enjoy, and on the 4th, the Royal Navy will be granted the Freedom of the City of Gibraltar. The main concert will be staged on 10th September, Gibraltar's special day. Sir Elton John will appear in concert. There will also be a classical concert on 4th September. The major events which are being planned could not have taken place without the financial assistance of the Tercentenary sponsors, all of whom I thank.

Our tourism marketing campaign will develop from this year's slogan which is "Gibraltar - Take Another Look". It will now read,

"Gibraltar - Take Another Look and Stay a Little Longer". To successfully attract large numbers of visitors to Gibraltar requires adequate marketing and imaginative strategies that can compete with the multi-million pound budgets available to competitor destinations. The range of elements that will make up the marketing spend of the Gibraltar Tourist Board will be:

- Design, printing and distribution of brochures and literature
- Point of sale material, including posters, videos and updating the picture library
- Familiarisation trips for travel journalists and for the staff of tour operators and travel agents
- Above the line advertising for both travel trade press and consumer press, the internet and teletext, including brochure panels and generic advertising
- Attendance at travel shows and exhibitions
- Support for special events held in Gibraltar
- The cost of public relations and advertising agency support

This is a dynamic programme, which will be assessed on its performance at regular intervals.

Mr Speaker, I now wish to turn to the subject of economic development. The face of Gibraltar continues to change for the better. During the course of this financial year, work on the John Mackintosh Square project will be completed. The Government will then need to consider whether they wish to carry out further beautification projects within the historic city centre. The Catalan Bay project will also be completed. This project was to have been done last winter but work was held back pending the Little Genoa development. The Government could not see any sense in carrying out works at the southern end of Catalan Bay only to have the contractors for Little Genoa deface it as work on that development progresses. The scope of the Catalan Bay works have now been redefined to include just the access hill to the north of the village and the central access route from the area of

William's Way tunnel to the waterfront. Work will commence after the bathing season.

There is one big development project which has just commenced, which is the construction of the Ocean Village. This will generate considerable activity during the construction phase, and will produce at the end of the day, more apartments, commercial units and a new leisure area. There will be a direct pedestrian link from the area of the Coach Park along the waterfront all the way to Marina Bay.

A complement to this will be the Island project at Queensway Quay. These are good projects for Gibraltar because they will offer a complement in terms of leisure activity, for Gibraltarians and visitors alike, to the nearby Casemates area and the Main Street. This will extend the lively centre of Gibraltar, to include Queensway Quay, the whole of the Main Street shopping centre, the newly refurbished John Mackintosh Square, as well as Casemates Square and the Ocean Village and Marina Bay.

The Rosia project is also poised to commence shortly, once a number of issues have been addressed. This will generate housing at different prices in the South District, which is favoured by many. The area of the Rosia Triangle opposite Fortress Headquarters will be better utilised than at present.

There are other projects which are at different stages of development. They include the East side development, the mid-harbour reclamation project and a Western Beach project. Each of these projects offers exciting opportunities.

Negotiations with the preferred bidders for the East side project are at an advanced stage and Government are confident that an agreement will be concluded during the summer. The Government will be pleased to make a detailed announcement on this development at the earliest opportunity. What I can say at this stage is that the Government are looking towards the development of at least one hotel on the site, together with a new marina, a boutique cruise terminal, housing and leisure facilities.

This development will be complemented by an enlargement of Eastern Beach and Catalan Bay and the protection of the beaches with submerged breakwaters. The agreement with the developers will include the construction of affordable homes for local purchasers.

The concept of the proposed mid-harbour reclamation will be progressed during this financial year. There are new opportunities open to the Government in this respect, consequent on the land deal agreed between the Government and the MOD. In the first instance, initial decisions need to be taken on the precise scope of the reclamation which will be carried out, and the different types of development which the Government would wish to see in this prime site. This development area needs to be seen as an element within the wider land available for development comprising the multi-storey car park on Queensway, the Fleet Pavilion, Naval Ground No 1 and the old Generating Station on Queensway. The Government believe in taking an overall view of development, particularly where large parcels of land are concerned, in preference to the piecemeal allocation of land for development. There is only one opportunity to get things right and the Government will ensure that this opportunity is used to maximum effect and to achieve the optimum balanced benefit for Gibraltar in the redevelopment of this important part of the central area of Gibraltar.

With reclamation on the cards in the mid-harbour area adjacent to the rowing clubs, and in front of the Yacht Club, the Government are taking a wider look at potential sites for further reclamation, as it makes commercial and economic sense to carry out all reclamation projects at the same time. The economies of scale which can be achieved are considerable. A further area which has been identified for reclamation is the area off Western Beach, where the pontoons for small boats are today situated. Development of the land mass which can be created at this location will be tempered by the necessary height restrictions which apply close to the airport landing strip. Indeed, in parallel with Government's plans to better utilise this area, I have had approaches independently from developers who wished to

propose developments in this area to the Government. The possible reclamation of land in this area, and the uses to which it can be put will therefore be considered by Government early in this financial year.

The above projects were those which the Government had been planning and on which work has been progressing for some time. Now, a whole new series of opportunities have opened up for the Government, and for Gibraltar as a whole, through the excellent package negotiated between the Government and the MoD which will see the release of large parcels of MoD land. Many potential Government and private sector developments had been held up because of an MoD dimension and these problems have now been overcome. The projects which had been held up can now proceed. The Hon Marie Montegriffo will be pleased to note that the relocation of the small boat facilities at Western Beach to the Coaling Island Basin will finally become a reality in this financial year. In addition, Government will be considering how best to maximise land handed over to the Government by the MoD. Some properties will be sold off and the proceeds of the sale used to fund the building of affordable housing for Gibraltarians. Further industrial parks will be developed as there is obviously a need for industrial units. The demand for units, on every occasion when tenders are invited for such units, has always considerably outstripped the supply. Indeed, I will shortly be carrying out a reappraisal of all the industrial park, with a view to harmonising some of the historical differences which have developed over the years.

With regard to the Ministry for Trade and Industry, I have reviewed the structure of the Department of Trade and Industry, and reassessed and evaluated its various components. These changes will soon start to pay dividends.

An essential part of development and investment in Gibraltar is the planning process and obtaining all the necessary approvals. There have been a number of marked improvements in this field in the last few years. The planning process is now much more transparent than it has ever been. There is public consultation in

respect of certain types of development, there is a right of appeal to a Development Appeals Tribunal in cases where an applicant is dissatisfied with a decision of the Development and Planning Commission, and there has been a general speeding up of the processing of applications. The review of the planning process continues and further improvements will be introduced during the course of the year.

Work continues on the new development plan for Gibraltar, to take account of all the changes that have taken place since the last plan was published. The intention is for the plan to be completed during the course of this financial year.

Mr Speaker, in relation to matters of concern to trade and small businesses in Gibraltar, I wish to say in the first instance that I am pleased with the good working relationship that exists between Government and the Chamber of Commerce and the GFSB. Prominent members of both these trade organisations already sit on advisory committees which I have set up. However, the Government wish to go further.

Already, work has begun on reviewing the Trade Licensing Ordinance, through a consultation process with both the Chamber and the Federation. The trade licensing regime has remained unchanged for many years and no longer meets all the needs of the business community of today. It needs fine tuning and I intend to bring proposals for changes to the Ordinance before this House during the course of this financial year.

Unfair competition is one of the concerns raised with the Government by the business community and the Government will be examining the problems and putting in place solutions, in consultation with trade organisations. Changes to the trade licensing regime will be of material assistance in this matter.

The Government are also considering the views of trade on the question of the re-structure of the social insurance regime. The Government are aware of the issues that have been highlighted in the past and will be addressing some of these concerns in the

coming months. In particular, the Government wish to make it more attractive to get qualified part-time workers economically active, something which is discouraged by the existing social insurance regime.

The Government, in addition, wish to address the issue of occupational pensions for persons employed in the private sector. The views of the Chamber and Federation in this matter are being considered.

I now turn to investment. In the past, the emphasis has traditionally been on what has been termed "inward investment". I wish to change this emphasis. I seek investment in Gibraltar, whether it be from outside entities or from Gibraltar players. Indeed, I believe that more needs to be done to encourage investment and economic development, and there will be large strides taken in this direction during the course of this financial year.

The first steps have been taken. The Department of Trade and Industry has been restructured into two divisions - the Planning and Development Division and the Commercial Division, which both come under the Chief Executive of the Ministry. An Investment Unit has been set up. I wish to put in place stronger links between the various units in the DTI to create a one-stop shop, taking account of the opportunities offered to us by modern technology.

I have set aside a marketing budget for the Investment Unit, and I am now putting in place a strategy for the development of the Unit. I will be moving towards marketing Gibraltar as a jurisdiction, whether the specific investment is in the field of tourism, shipping, trade or development.

The availability of EU funding for business initiatives in Gibraltar will be reinforced through a more proactive approach by the EU Funding Unit. In addition to the Europa newsletters, which are produced quarterly and widely distributed, a short TV film is being finalised which is designed to encourage businesses in

Gibraltar to consider applying for EU funds to assist with new initiatives. I believe that maximum advantage is not being derived by the business community of EU funds and this needs to change.

A further area to which I am devoting time is the development of e-business. There are two particular initiatives which I wish to follow. The first is that of e-procurement. I am studying the opportunities available to the Government to fundamentally review the manner in which the procurement of certain types of goods or services is carried out, with a view to introducing greater efficiency, bigger savings and better results.

The other area is that of the development of an e-business house. This would give the private sector opportunities to develop export activities in Gibraltar through a new type of bonded store, which has significant business opportunity. A blueprint for an e-business house is presently being drawn up and will then be studied by the Government.

Mr Speaker, I will now turn to shipping. There are two completely distinct limbs to shipping: the Ship Registry, which is also the Maritime Administration, and the Port. The Ship Registry continues to grow. The Gibraltar Register has now overtaken the Bermuda Register (also a Category 1 Red Ensign registry) in size. A principal advantage for the prudent ship owner is that Gibraltar is an EU flag, and ships which fly our flag can therefore benefit from EU cabotage. The registry continues to attract favourable comments from ship owners, who are pleased at the way in which information is disseminated to them, and how the requirements under new shipping legislation which affects them is explained to them. Considerable work has been done, and continues to be done, to keep Gibraltar's maritime legislation up to date.

The Ship Register now contains close to 180 ships, many of which are new vessels and quality shipping. The Maritime Administration has, as a matter of policy, struck off the Gibraltar register vessels which were deemed to be substandard. The Maritime Administration carries out port State control on ships,

and this area is functioning correctly, with the necessary percentage of ships calling at Gibraltar being subjected to inspections. The growth of the Register is reflected by increases in the manning levels of the registry. It will be particularly noted that, notwithstanding the additional costs of running the Registry, the revenue from this source has increased and continues to increase to the extent that the registry generates a net profit for Government.

On 1 April 2004, a Gibraltar-trained marine surveyor completed his training, part of which had been carried out within the Gibraltar Ship Registry and part of it abroad, and has now taken up full time employment in this capacity. The young man in question had been appointed initially as a clerk in the registry, and worked his way up the ladder. Through personal contacts established by the Maritime Administrator, another young Gibraltarian is receiving training abroad on board a ship as an officer cadet. The Government are keen to train other young Gibraltarians in maritime disciplines, with a view to offering opportunities in due course to fully qualified Gibraltarians as surveyors, ship pilots, and even the Captain of the Port and the Maritime Administrator.

Insofar as the port is concerned, this year should see the introduction of new legislation to establish the Gibraltar Port Authority and to introduce a licensing regime for port operators. Consequent on a consultation exercise carried out in recent months with all players in the shipping industry, I have now considered the representations made and have reviewed the draft legislation which is now being considered by Government.

The formal establishment of the Port Authority will involve the introduction of changes to the terms and conditions of port personnel and the introduction of new working practices. Some of the changes include the introduction of new technology, a changed approach to clearing arriving ships and a refocus on the way in which yacht reporting is effected. These are issues that have been much discussed with the representatives of port staff at very considerable length. Negotiations continue and should be



concluded during this summer.

In the meantime, the port continues to grow. The Government are very satisfied with the way in which this important area of the economy has progressed during the course of last year, and the forecast for this year is very healthy. There were 7,459 ship calls in 2003 compared with 4,834 in 1996. The tonnage of ships calling at Gibraltar has increased significantly from 92 million tonnes in 1996 to 175 million tonnes in 2003.

The major activity for the port continues to be bunkering. Over 3.58 million tonnes of bunkers were supplied in 2003, which is more than double the 1.7 million tonnes delivered in 1996.

The port, however, continues to provide a much wider range of services. It means that a vessel calling at Gibraltar can obtain maximum benefit from its call by taking on supplies or ship stores, changing crew, carrying out repairs, and so on. Off port limits operations continue to grow. The prospects for the port for this year are healthy.

Direct income to Government from the port continues to grow from berthing charges, tonnage dues, licence fees and the bunkering levy.

Through Gibraltar's membership of the Alliance of Maritime Regions in Europe, Gibraltar continues to gain profile at an international level as a maritime region. I am pleased that a representation of the Gibraltar Ministry with responsibility for shipping was invited to chair one of the four working sessions of the High Level Conference held in Genoa on 13th and 14th May 2004, and that Gibraltar was singled out as the only member maritime region (other than the hosts) for this honour. The Gibraltar representative at AMRIE also chairs the Specialist Working Group on maritime centres of excellence.

Our AMRIE membership is valuable as it allows us to be aware of and influence intended EU directives which impact on maritime matters and therefore to ensure that Gibraltar's interests in this sector are best protected.

The International Ship and Port Safety code came into effect on the 1<sup>st</sup> July 2004. This is an international code, which applies to all ports. It requires the establishment of security regimes applicable to both ports and to ships. The requirements of the code will mean that the port will now need to be much more closely controlled than has ever been before. Details of the safety plans for the port have been worked on for many months and I am pleased that Gibraltar is compliant with this international security and safety requirement.

Mr Speaker, I turn now to the field of Postal Services. The new management team at the Post Office has delivered what it promised the Government. Letters are delivered promptly. The public is attended courteously by trained, uniformed staff at the General Post Office. Mail services have been improved, mail handling has been speeded up, and new services have been introduced. The business community in particular fully recognized the improvement in this area of the public service.

The Gibraltar Philatelic Bureau continues to produce excellent postage stamps and demand for them is increasing at an international level. The rapport between the Ministry, the Bureau and the Post Office has led to highly successful participation at the London Stampex exhibition last February and to the Tercentenary stamp exhibition held at the Casemates Square exhibition centre last month.

My leadership style involves consultation. It is for this reason that I have set up new advisory councils over and above the Tourism and the Port Advisory Councils. They cover the fields of e-business and commerce. In addition, I meet regularly with trading associations, Gibraltar Hoteliers and the UKGTA.

In conclusion, Mr Speaker, I am happy to report that the different departments for which I hold ministerial responsibility continue to grow and develop for the benefit of Gibraltar. Tourism, shipping, the Post Office, planning and trade and industry are all areas of the economy that have performed well. The public in Gibraltar is

too sophisticated to be misled by some of the hysterical statements sometimes made by the Opposition. The facts speak for themselves. Clear strategies and firm leadership are delivering results.

I commend this bill to the House.

**HON DR J J GARCIA:**

Mr Speaker I hope he does not accuse me of making a hysterical speech. I think it says a lot about this budget, that the Chief Minister himself in his introduction, had so little to say. In the past years he has given marathon opening speeches and this year we were braced for another such address. The fact that it did not come reflects the fact that there is little to celebrate in this budget. The Tabled Estimates of Revenue and Expenditure confirm the analysis made by the Leader of the Opposition last year.

On a separate point, it is interesting to note that many Ministers have followed a similar strategy in this budget. They have told the House what they have done since 1996, and then compared this to when the GSLP was in office from 1988 until then. This is ancient history in political terms. People want to know what is in it for them in 2004. They want to know what the Government are doing in 2004/2005. They want to know how they will be affected by the state of the economy and of Government finances today. The answer is therefore not very encouraging. Increases in petrol duty for the motorists, and other products for those who use them. The threat of increases in housing rents and essential services like water and electricity in the future. This is why the Government continue to cloud the issue with tales from the past. Many Government Ministers continuously point to the Opposition benches and accusingly use the phrase, *"when the hon Members there were in Government."* This is now wearing a bit thin. In any case, as an anecdote in the interests of accuracy, let me remind them that the majority of Opposition Members have actually never been in government at all.

Like I said before the past is the past. This is 2004 and not 1988. 1988 was not last year or the year before, it was 16 years ago. It is the Government and not the Opposition that have to answer for their actions and their policies in this House. The other curious factor that has emerged from the Budget debate, is the record number of times that Government Ministers have congratulated each other, or patted each other on the back. It was amusing to hear the Hon Mr Beltran congratulate the Hon Mr Britto, the Hon Mr Vinet congratulate both the Hon Mr Holliday and the Hon Mr Britto, and the Chief Minister congratulate the Hon Mr Holliday as well. All very cosy. But nobody has congratulated the Chief Minister.

Mr Speaker, the Government have become a mutual admiration society. However, let me remind the Hon Mr Holliday, as one of the more congratulated Members, to be very wary of this. His two predecessors in the office of Trade and Industry have since both left the Government and this House, after serving one term in that post. Time will tell whether the present Minister will follow in their footsteps.

I now start the more detailed address with Trade and Industry. The Opposition Members have in the past highlighted that the Government have a tendency to announce the same project over and over again, until it finally materializes. In the same way, they also announce projects which fail to materialize altogether. This creates an illusion of activity and investment, which in reality is not there.

Last year I remember pointing to the e-Com project in Lathbury Barracks, where 100 jobs were promised, and which never took off the ground. Cable link projects with Morocco and Lisbon also never appeared on the scene. It is not surprising that this year there are more for the list. In his Budget address at this time last year, the now Minister for Trade and Industry, Joe Holliday, said, and I quote, "the main project that will be carried out is the enhancement of Europa Point. The Government wish to demolish the old Du Farol Restaurant building, which is an eyesore, develop a picnic and leisure area, improve the mound

and create a new car parking area to accommodate visitors to the area.” The Minister added that there are more details which would be made public in the autumn of last year. I saw no further details being made available. What was described as the main project that would be carried out, has not even got off the ground. No doubt the Government will have great fun in making the announcement again and again in the years to come.

The House will recall that at the end of last year, there were front page stories in the media, which suggested that the Government were in discussions with Power Chips Plc, to set up a manufacturing facility in Gibraltar. The impression was given that this project was at an advanced stage and that talks had already been initiated as to potential sites on the Rock. At the first available opportunity in January of this year, I asked the Minister in this House, at what stage discussions were with Power Chips Plc, to set up the manufacturing facility in Gibraltar, and what potential sites were being examined for the project. The Minister replied that there had been intermittent contact over the last two and a half years, but there were still no concrete proposals. Therefore, the Government could not say whether there was any real possibility of any sort of facility being set up in Gibraltar. Since the answer left open the possibility that the project might take off, in the next House in April, I asked the Government again whether any more contact had taken place between them and the company. The answer this time was a flat no. This is another example where expectations are generated that an important industrial project might materialize and in the end nothing happens.

It is a fact that during their time in Government, no major industrial projects have been attracted to Gibraltar, and that the wine bottling plant which originated before they came into office, closed down completely. Also in his contribution to the Budget debate last year, the Minister said that he looked forward greatly to the final product in relation to the Piazza. I could have added and so do we all. By that I mean those who work or live around the Piazza area, or those who have to pass there every day. These people have had to put up with considerable

inconvenience for nearly two years. The time taken to basically flatten a square, and the expense involved, has been considerable. Let us remember that this was not the construction of a skyscraper or the refurbishment of a building which might reasonably be expected to take longer. It was nothing more than the simple demolition and beautification of a square. I can only assume that part of the reason for the time taken was the decision to include underground toilets as part of the project. This obviously added to the expense. We know that a sewage pumping station had to be built at considerable costs. We also know that emergency lighting had to be provided, since the toilets were underground and people using them need to see what they are doing when there is a power cut. And even when there is not.

However, it is curious to note that a further toilet is being constructed at ground level for persons with disabilities, or mothers with prams who cannot climb up and down steep stairs. The cynic might well wonder why a ground level toilet was not constructed for everyone, saving much time and expense in the process. The estimate of over £100,000 spent on a toilet, when this could have been sited somewhere else, or above ground at less expense, is totally illogical and lacking in economic sense. I understand that it is a centre of excellence.

I understand the whole Piazza project was speeded up at the end so that it could be opened by the Princess Royal during her recent visit. May I venture to suggest that we invite more Royals to Gibraltar on a regular basis, in order that the different Government projects are also given the degree of urgency that the people deserve. While on the subject of the Princess Royal let me say that she was very welcome in Gibraltar, and that the visit went very well. However, there can be no doubt that the public mood is that 300 years of British sovereignty merits a visit from Her Majesty the Queen. I share this view. She too would have been very welcome. It has been reported that the Foreign Office in London advised Buckingham Palace against such a visit. If this is so it is appalling and I condemn it.

I will now move on to issues relating to e-Commerce and the internet. Mr Speaker, the Opposition have long highlighted inside this House, and outside it, the lack of computer misuse legislation in Gibraltar. We have passed directives into Gibraltar law which assume, that this framework of computer misuse already exists. Only last month we learned how international hackers had gained access to a number of websites hosted by Gibconnect. A few years back, Trojan viruses were found in Government computers, which opened them up to being accessed and hacked. During the debate of the Data Protection Ordinance last year, the Chief Minister was sympathetic to the call for computer misuse legislation from the Opposition benches, and suggested that it was somewhere in the pipeline. It was therefore disappointing to learn from the Minister for Trade and Industry when I questioned him in May, that he was not aware that such legislation was at any stage of production. The length of the pipeline Mr Speaker, is therefore an unknown quantity. As someone once said, when the Minister sees light at the end of the tunnel, he orders more tunnel. Mr Speaker, this means that hacking computers in or from Gibraltar remains perfectly legal. That is to say, that areas of computer misuse which are against the law elsewhere, are not against the law in Gibraltar. In the context of the development of e-Commerce, and in the context of data protection, which is designed to ensure privacy to data subjects, it is totally illogical that computer hacking is not a crime.

It is relevant to point out while we are looking at internet related matters, that the cost of ADSL remains very expensive in Gibraltar when compared to the prices charged in small territories of a comparable size. This is reflected in the fact that of over 6,000 internet connections in Gibraltar, 5,028 are dial-up and 989 are ADSL. There is no doubt that lower prices will encourage more people to switch to ADSL. When we raised this issue with the Government in the House in April, the Minister said that he did not understand what was meant by prices being more competitive, and added that Gibtelecom prices were competitive in the local market. The Government Minister is the Chairman of Gibtel. They must be aware that prices are not

competitive when compared to the prices offered by other jurisdictions for the same service. In his contribution this morning, the Hon Mr Vinet, said that the reason for lower prices for ADSL elsewhere in Europe, was because companies were multi-nationals and had hundreds of thousands of people as a customer base. Mr Speaker, the Hon Member must also be aware that the Government's partner in Gibtelecom is also a multi-national. Second, the comparison is with smaller territories of a comparable size to Gibraltar. Thirdly, my understanding is that it is cheaper in a small territory of about 3 km to provide ADSL through copper wire, than in larger countries. Having said that, I welcome the Minister's announcement that cheaper rates are to be published on 7<sup>th</sup> July. Therefore it is essential to address basic issues like computer misuse and cost of access to the internet before we can aspire to develop Gibraltar as an e-Commerce centre. Indeed, there are many in the industry who believe that we have already missed the boat in this respect, and this is regrettable. Any industry based on new technology needs to move fast, to keep ahead of the times. Gibraltar has not done this. When the Electronic Commerce Ordinance was approved by this House in 2001, the impression was given that Gibraltar was going to be flooded by e-Commerce projects. This has not happened. Once in a while a grand policy announcement on e-Commerce is made, and then we hear nothing else on the subject until the next grand policy announcement comes along. The latest was the development of an e-Commerce house project, which the Hon Mr Holliday has referred to in his address a few moments ago.

This was announced in the Budget debate of 2003. The Government said at the time, and I quote, "during the course of this financial year the Government would unfold the details of an e-Commerce proposal, not based on Gibraltar hosting web farms, but logistical support structures to enable Gibraltar traders to retail and wholesale their goods globally, across the whole world on the internet." It may have escaped the Government that traders across the whole world and even some in Gibraltar, have been selling on the internet for years. This would never have happened had they waited for the e-Commerce house project to

materialise.

Mr Speaker, moving on now to heritage matters, and I understand that the Tercentenary comes under the Minister for Tourism not for Heritage, but from the Opposition I do both. The main heritage event of the year is the tercentenary. Defence Minister Adam Ingram, told the House of Commons at the end of June, that, and I quote, “the British Government acknowledges the forthcoming 300<sup>th</sup> anniversary of the capture of Gibraltar by British forces in 1704.” It is no secret that as far as the Opposition is concerned, the tercentenary marks 300 years of the liberation of Gibraltar from Spanish rule. The capture by British forces is the loss by Spanish forces, and the liberation of the Rock from Spain. I know there are those who do not like us to refer to the tercentenary in this way. However, it is a historical fact.

Charles II of Spain had died childless, and named Phillip of Anjou, a grandson of French king Louis XIV as his successor. He became Phillip V of Spain. In short, Britain and her allies, went to war in order to prevent the Bourbon Royal house from controlling, or even uniting, the thrones of both France and Spain. Phillip’s rival claimant to the Spanish throne was the Archduke Charles of Austria, from the Hapsburg Royal house. The Spanish Governor and Garrison of Gibraltar had sworn allegiance to Philip V, and they, and the bulk of Gibraltar’s Spanish population, left the Rock after the Allied Forces had taken the territory. Therefore, it is indisputable that 1704 saw the liberation of Gibraltar from Spanish rule. Indeed, the representatives of the Spanish Bourbons had left the Rock. However, perhaps where there is some justification for confusion, is as to who or what exactly replaced them. The German Prince of Hess, was the representative of the Austrian Archduke. Hess negotiated surrender terms with Gibraltar’s Spanish governor. He took Gibraltar in the name of Charles of Austria. He raised the Hapsburg standard and became the Rock’s first non-Spanish governor. Therefore, Gibraltar was taken by a British admiral, commanding British and Dutch marines, in the name of an Austrian Archduke, who was

represented by a German prince. But as we all know Gibraltar became British and not Austrian. Charles of Austria did not become king of Spain. That would have indeed been a different story.

As I said earlier, Phillip of Anjou became Phillip V of Spain. Therefore, one thing is clear. There was no Spanish control of Gibraltar after the supporters of Phillip V had left the Rock in 1704. Indeed, we are confident that there will not be Spanish control over Gibraltar ever again. I am sure the whole House joins me in that sentiment. Therefore, 300 years ago this August, Gibraltar was indeed liberated from Spanish rule. It may have been liberated by a peculiar alliance of British, Dutch, Germans and Austrians, but liberated it was. And it is a pity there seems to have been such a lack of direction on the part of the Government as to the calendar of events to commemorate such an historic landmark in our development as a people. The Government have failed to generate the kind of public enthusiasm which is necessary for an event of this magnitude. When I asked questions in this House about the budget or the projections for the tercentenary, I have been told that this was not known. When I have asked for dates on which certain events are planned, again, I was given the same answer. When I asked for venues, again, there was no meaningful response. Most confusing of all, was the conflicting impression given by different Members of the Government as to the objectives of the tercentenary events. The Opposition rightly pointed out that tour operators need to know in advance, what the calendar of events is going to be, in order to plan ahead for potential visitors who may be interested in coming here. To this the Chief Minister told me that events were mainly for local people for enjoy, and were not regarded as tourism-marketing events in general. This is in conflict with the statement made by the now Trade and Industry Minister, Joe Holliday, during his budget address of last year. The Minister then said of hotel bookings, and I quote, “I expect demand for next year should be even higher, as the special events being organized to mark the 300<sup>th</sup> anniversary, will attract interest from many quarters.” I have no doubt that the Minister was referring to attracting tourists around the events that were

being planned. However, because the events have not been finalized until well into the year, some have vanished from the calendar altogether, and others have no venues or dates. I know that the Minister will find it impossible to attract visitors to them on such an ad hoc and disorganized basis.

For what the Chief Minister told the House in May, does not tally with the objectives set by his Tourism Minister. For instance, we found out in the middle of June, halfway through the tercentenary year, that Elton John had agreed to perform in Gibraltar in September, three months later. Had this information been made available sooner, and properly marketed, it could have been used to attract visitors to Gibraltar around the event. Moreover, if the main objective was not to attract tourists, then why on earth is the Government spending £9,000 a month, in advertising the tercentenary on 40 London taxis. Surely not for the benefit of Gibraltarians on holiday in London.

Mr Speaker, the Opposition is appalled at the lavish spending by the Government on tercentenary events in London, at a time when they have been cutting back on essential services spending at home. In answer to questions we were told that a reception at the Savoy Hotel in London, cost over £35,000. This begs the question as to whether a reception at a less ostentatious venue could not have served the purpose equally well. Why the Savoy Hotel Mr Speaker? It cost £937 to house the Chief Minister there, and nearly £1,500 to house two members of his entourage at the Swiss hotel, the Howard. In addition to this, the Government also incurred over £12,000 in travel and accommodation costs in respect of persons from Gibraltar who were invited to London. The items that I have mentioned alone, run up to nearly £50,000. The manner in which the Government have handled the tercentenary events leaves much to be desired. The decision to invite 500 war veterans from the United Kingdom to Gibraltar at public expense is also a questionable decision. The total cost has now been estimated at £210,000. It is not clear how this links in to the tercentenary but suffice it to say that I was stopped by some Gibraltar war veterans the other day who wondered why the

Government had done nothing for them in this special year. It probably would have cost the tax payer considerably less. This is yet another example of the Government throwing money away on badly thought out projects, which are of little benefit to Gibraltar as a whole.

I move on now to tourism issues directly. Last year the tourism marketing budget over run the estimated amount, and passed the £1 million mark possibly for the first time. The Opposition was told the reason for this was the taxi advertising in London, had been moved to this tourism subhead from elsewhere. The estimated marketing budget for the coming financial year has been increased to £980,000, which is £30,000 more than last year's estimate, as the Miss Gibraltar Show has been included in this subhead. It is therefore perfectly reasonable to expect that more money means more tourists, and to measure the results by this criteria.

Mr Speaker in 2002/2003, Gibraltar sent a delegation of nine persons to the World Travel Market, and this cost in total over £44,000. This works out to about £4,888 per person. In November last year, some inexplicable reason, sending less than half the people cost nearly twice as much. In answer to questions in this House, the Minister said that the official Gibraltar delegation to the World Travel Market consisted of four persons. The total cost of the event was £72,000. This worked out at £18,000 per person. At the same time also in November, a further £43,000 was spent in sponsoring the British Guild of Travel Writers dinner. This event also took place at the Government's favourite hotel, the Savoy. The most expensive single item on the menu, was a £15,000 video presentation. The World Travel Market was not the only event where costs have soared from one year to the next. The same has happened with FITUR. In January 2003, it cost nearly £25,000 to send seven persons. This year it cost £44,000 for eight.

Mr Speaker, the figures show that there is a pattern of cost spiralling out of control from one year to the next, in relation to the many conferences and trade fairs attended by the

Government. It has cost over £50,000 more for the Government to attend the same Trade Fairs, compared to the previous time they went. The World Travel Market, FITUR, the London Boat Show, Confex and Seatrade, cost about £178,000, as compared to £125,000 last time round. This is an increase of 42 per cent in one year to do the same thing. It is clear that the results being obtained have no bearing on the huge sums of money being spent. We are nowhere near corresponding 42 per cent increase in tourists.

Mr Speaker, the Government have said that they intend to use value for money as a criteria. How are they measuring whether the £449,000 spent on advertising last year, are yielding results? How do they know whether the £119,000 spent on literature has had any impact? The huge increase in marketing costs is not reflected in a proportional and matching increase in visitor numbers, and this continues to be a matter of concern year after year.

Despite the opening and manning of a Gibraltar office in Madrid, and despite the sums of money being spent in promoting Gibraltar in Spain, the number of visitors coming to Gibraltar by coach continues to fall. The figure for the number of coaches that came here in 2003, is the lowest since 1996. It also represents 951 coaches less than came in 2002. This is a serious downward trend which continues year on year, regardless of the money spent promoting Gibraltar in Spain.

It is obvious that if the number of coaches goes down, then the number of tourists in coaches falls as well. The figures for coach arrivals for 2003 is also the lowest since 1996. There were also about 30,000 less tourists by coach when compared to 2002. In the past the Government have blamed September 11<sup>th</sup> for the drop. They have also blamed the exchange rate of the pound to the euro, and they have blamed the alleged fall in the number of tourists coming to Spain. They also blame the lack of proper road communications while the Spanish Costa del Sol motorway was being built, and the dual carriageway was being improved. None of these excuses hold water any more. There are more

tourists coming to the Costa del Sol and to Andalucia. The House will recall that the nearby Spanish road network has been vastly improved. We need to know why less and less tourists are making a day trip to Gibraltar.

It is alarming that this downward trend continues into the first quarter of 2004. There are already 78 coaches less, and over 2,000 tourists less by coach than in the same period of 2003. Indeed this is a reflection of the fact that the global figure for all visitor arrivals through the frontier is down in the first quarter of 2004, when compared to the first quarter of last year. There are already nearly 50,000 land visitors less. I need to remind the Government, given what the Hon Member said earlier about the Spanish terrorist attack, that that happened in March, and when looking at the first quarter, even before March, this trend was already there.

The Government have always used the Upper Rock entrance figures as evidence of their claim that tourism is doing well. They tend to do this when the figures go up. However, from 2002 to 2003, the number of visitors to the Upper Rock has gone down by over 24,000. More than that, in the first quarter of this year there have already been over 10,000 less visitors to the Upper Rock than there were in 2003. The number of tourists visiting the Upper Rock is in free fall. It is also a matter of concern that the Moorish Castle remains closed and has been closed now for months. I repeat the point that the comparatively poor results obtained by the Government in respect of visitors by land, therefore, have no bearing on the huge sums of money that have been spent in this field.

I move on now to tourism by sea, and specifically to cruise calls and cruise visitor arrivals. The House will recall that in January, I asked the Minister what the position was in relation to cruise ships calling at Gibraltar from a Spanish port, or sailing to a Spanish port from Gibraltar. The Minister for Tourism replied at the time that this happened frequently and routinely. It was therefore a shock to everyone that in April, on instructions from the Spanish Foreign Ministry, Spanish ports started to deny entry

to cruise ships that sailed there from Gibraltar. This restriction was lifted but we understand that the threat remains in the form of a six months moratorium. The European Commission has asked Spain for an explanation, and obviously, like the Minister we also urge the United Kingdom to resolve this issue. I therefore wish to point out that in analysing the development of the cruise industry in Gibraltar, I will limit myself to using statistics before April 2004. The Spanish restrictions, therefore, have had no effect on the analysis which follows, as the figures used refer to the period before those restrictions started.

The Opposition have long argued that ports around Gibraltar were doing better than Gibraltar, in attracting cruise ships and cruise passengers. Year on year we pointed to Cadiz and Malaga as examples of ports that had started behind Gibraltar in the industry, and which have overtaken Gibraltar both in percentage growth and in actual numbers of ships. Given that cruise passengers are the highest spending tourists, according to the Government's own statistics, it is important to produce a detailed analysis of the facts.

Mr Speaker, the Opposition have now obtained statistics which were not available to us last year, which provide a full picture of Gibraltar's rate of growth, when compared to other ports in or around the Mediterranean. A list of 25 ports was compiled, showing the number of cruise passengers received in 1996, or in the nearest available year, and the number in 2002, the last year for which figures were available. The figures show that in that period, Gibraltar is in position No. 25 on the list, in terms of the rate of cruise passenger growth, which in our case was 21 per cent. Lisbon, for example, had 39 per cent. Malaga 64 per cent. Tangier 135 per cent. Barcelona 204 per cent and Malta 393 per cent. I have specifically chosen those ports, because none of them start from a particularly low base, so the percentage figures are not exaggerated or disproportionate. Gibraltar started the period in question with about 97,000 passengers, Lisbon with 115,000, Malaga with 98,000, Tangier with 54,000, Barcelona with 277,000 and Malta with 72,000. Indeed, the case of Malta is particularly relevant. They have increased from 72,000

passengers in 1996 to 357,000 in 2002. This was at a time when Gibraltar went up from 97,000 to 117,000. Malta started 25,000 passengers behind Gibraltar and in 2002 were a staggering 240,000 passengers in front. This trend is also reflected in other ports. The ports of Andalucia, mainly Malaga and Cadiz, received 591 cruise ships and 375,000 passengers in 2003.

Mr Speaker, the Opposition are not saying for one moment that cruise ships and cruise passengers are not coming to Gibraltar. What we are saying is that other ports are receiving more ships and more passengers, and we are entitled to question the effectiveness of Government policy for that reason. Given that the Government has, over the years, given a variety of reasons as to why this is happening, it is important that they stop the excuses and address the matter once and for all.

The Government rightly said in the past that cruise liners are getting larger and carrying more passengers. The Queen Mary II is an example of one such super liner. Traders in Gibraltar were therefore looking forward to the four calls booked by the ship for this year. The Government encouraged this excitement with the news that the Western Arm of North Mole was going to be dredged in order to accommodate the vessel. A tender notice was published, and although nothing more was heard, the Minister for Tourism was quoted in the media as having said that the works had commenced. Imagine the surprise of the Opposition, when the Minister told the House in answer to questions in May, that the works had not even commenced and that the future was in the balance because of the high cost involved. The first call by the Queen Mary II was due on 27<sup>th</sup> May. On 17<sup>th</sup> May, 10 days before, the Government issued a statement in which they said that the cost was much more than had been estimated. Sadly, the Queen Mary did not come to Gibraltar at all on 27<sup>th</sup> May. Alternative berthing sites, which did not involve the security afforded by the North Mole nor the use of the Cruise Liner Terminal, were not acceptable to the operators of the vessel. It is illogical that a Government that continue to spend millions of pounds on projects which yield no appreciable return, like the Theatre Royal and the Retreat Centre in Lathbury



Barracks, should have been unwilling to make an investment like this, which unlike the other ones, would yield a financial return to Gibraltar. Moreover, it would also be an investment in the future, given the Government's own acknowledgement of the fact that cruise ships are getting larger and larger. The fact is that sooner or later, Gibraltar will have to adapt or get left behind.

It is also relevant to note that the financial return in the first year would not be insignificant. The Queen Mary II carries 2,620 passengers on board. The 2003 Tourism Survey says that cruise passengers are the tourists who spend more money in Gibraltar, and calculated that they spend £46 per person, on average. This means that using the 2003 figures, one visit by the Queen Mary would have generated over £120,000. There were four visits scheduled for the year. It should have generated nearly £500,000 million of tourist expenditure in Gibraltar. This figure does not include supplies for the ship or spending by the 1,253 strong crew. While the Opposition appreciate the expense that the dredging and other works entailed it is surprising that the Government have chosen to give priority to other projects which will not generate any income at all.

While on the subject of expenditure by cruise visitors, it is quite amazing that the Government do not record the number of cruise ship passengers who actually come ashore in Gibraltar. This means that the tourist expenditure figures are based on the number of passengers on board, or the capacity of the cruise ship, as opposed to those tourists who actually disembark and spend money, which is what the survey is intended to record. This was confirmed by the Minister for Tourism in answer to my questions. This is something that needs to be addressed in the interests of producing reliable and accurate statistics. It is also in the wider commercial interests of Gibraltar, to know exactly how many tourists come ashore, and what proportion choose to stay on board, so that we can entice those who may think about staying on the ship, with new products or new tours in the future.

Continuing with maritime matters in relation to the Port Department, I wish to give notice to the Minister that I will be

raising queries in the Committee Stage, in relation to Head 6-C Subhead 4(h), which deals with inspections, Subhead 5(b) which deals with port security, Subhead 5(c) which deals with radio communication system and Subhead 5(e) regarding the estimated £150,000 for waste discharge, Slop Oil Reception and Treatment Limited.

Mr Speaker, there were flights to Gibraltar, between Gibraltar airport and five airports when the GSD came into office in 1996. There are now flights to three. The Government have spent the better part of eight years that they have been in office, trying to replace the air routes that have been lost, before they can move forward from the position that they inherited. The most recent route that was reopened was the Manchester route, which is something that the Opposition welcomed at the time. The regional airlines experiment with the Casablanca route proved to be a complete failure, and air links with Morocco continue to be non-existent. The estimated revenue figures for airport departure tax for 2004/2005 suggest that the Government do not expect any growth in this area. The House will recall that it was a major policy objective of the Government to attract more tourists to stay in our hotels. These are largely tourists who come by air with tour operators, although many also come overland. The Government often points to increased air visitor arrivals as evidence of the success of their tourism policy. This is a misleading picture.

Mr Speaker, the reality is that although more people are coming to Gibraltar by air, more and more of those people go straight to Spain and do not stay in Gibraltar. Indeed, the 2003 figures for visitors by air show that nearly 30,000 more people flew to Gibraltar in transit than those who stayed here. This gap between those in transit and those who remain in Gibraltar has widened. This trend is reflected in the tourism figures of local hotels. Hotel statistics are divided into two categories. These are, all visitors on the one hand, and tourists on the other. All visitors could be anything, from businessmen to military personnel, to crews of sailors waiting to be transferred to a ship. The tourist component relates to people who come here on

holiday, and this is the relevant criteria that needs to be used in order to measure the performance of the Government.

The marketing strategy is aimed at attracting people to come here for a holiday, fly to Gibraltar, and stay in local hotels. The number of tourist arrivals at hotels is down in 2003 from what it was in 2002. The number of guest nights sold to tourists in 2003 is also down from what it was in 2002. Tourist occupancy in hotels is also marginally down. Earlier, I mentioned that the marketing spend of the Government was higher in the last financial year than ever before. This has not resulted in more tourists staying at hotels. The average length of stay of tourist arrivals, and indeed of all arrivals, was lower in 2003 than it was in 1996.

In conclusion in the last financial year the Minister responsible for tourism was away from Gibraltar on Government business for 27 days. This is just under a month travelling to one place or another, at considerable expense to Gibraltar. Government have also spent more money than ever before in order to attract tourists to Gibraltar. It is perfectly legitimate to measure the success or failure of the Government's policy using value for money as a yardstick. While we are not saying that tourists are not coming to Gibraltar it is clear that much more could be done with the money that has been spent. The results, in terms of visitor numbers, do not match the record levels of expenditure which continue to escalate out of control. Gibraltar is spending more and more money doing the same thing and not obtaining results in proportion to the money that has been spent. Particular advantage could have been taken this year of the Tercentenary, as a means to attract more tourists to Gibraltar. This is indeed what the Minister for Trade and Industry said that he wanted to do. Indeed, there has been a total lack of long-term planning. Events have been concluded half way through the year itself. This lack of knowledge of the full programme has severely curtailed the ability of the industry to market the Tercentenary. These things are planned months, if not years in advance. After all, the Government have known since 1996 that the tercentenary would be approaching. Why did they not do

something sooner to capture the public mood throughout the year? Why did they not embark on a marketing drive well in advance to attract more visitors? The liberation of the Rock from Spanish rule is something worth celebrating properly.

To conclude Mr Speaker, a cynic once said that governments are like nappies. They should be changed regularly and for the same reason. I will leave that there. Except that before closing, on behalf of the Opposition, I would like to thank the Clerk of the House of Assembly, Dennis Reyes, the acting Clerk, Paul Martinez and the staff of the House of Assembly, Coral Schembri and Kevin Balban, and you Mr Speaker, for your assistance throughout the last financial year. I would also like to welcome the advent of air conditioning to this House, which means that we are no longer working in a sauna. Thank you Mr Speaker.

#### **ADJOURNMENT:**

The Hon the Chief Minister moved the adjournment of the House to Friday 2<sup>nd</sup> July 2004 at 9.30 am.

#### **FRIDAY 2<sup>ND</sup> JULY 2004**

The House resumed at 9.30 a.m.

#### **PRESENT:**

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

#### **GOVERNMENT:**

The Hon P R Caruana QC - Chief Minister  
The Hon J J Holliday - Minister for Trade, Industry and  
Communications

The Hon Dr B A Linares - Minister for Education, Employment and Training  
The Hon J J Netto - Minister for Housing  
The Hon Mrs Y Del Agua - Minister for Social and Civic Affairs  
The Hon C Beltran - Minister for Heritage, Culture, Youth and Sport  
The Hon F Vinet - Minister for the Environment, Roads and Utilities

**OPPOSITION:**

The Hon Dr J J Garcia  
The Hon C A Bruzon  
The Hon S E Linares  
The Hon L A Randall

**ABSENT:**

The Hon Lt-Col E M Britto OBE, ED - Minister for Health  
The Hon R R Rhoda QC - Attorney General  
The Hon T J Bristow - Financial and Development Secretary

The Hon J J Bossano - Leader of the Opposition  
The Hon Miss M I Montegriffo  
The Hon F R Picardo

**IN ATTENDANCE**

P E Martinez - Clerk of the House of Assembly (Ag)

Debate continued on the Appropriation Bill 2004 (Item 78).

**HON CHIEF MINISTER:**

Mr Speaker, it does not surprise me too much that only three Members of the Opposition, four now sorry, four, the Hon Dr Garcia has joined us, has thought it worth their while coming to listen to my response to their addresses of yesterday. In fact, I have to say that for the first time in eight Budget speeches in this House, in eight Budget Debates, I have been sorely tempted not to reply on this occasion. Because frankly, the novelty and substance of the speeches of the hon Members has been so poor, there has been so little new, so little difference to what they said last year, that there is almost the temptation not to reply. A temptation which I have pinched myself to resist, and so here I am on my feet.

Mr Speaker, as I say, the hon Members have limited themselves to regurgitating their same old prepared speeches. To listen to the Opposition, to listen to the party, or one should say parties, that hope to replace the Government, by persuading the electorate that everything in Gibraltar is dreadful, I mean any Gibraltarian that had been listening to yesterday's speeches and the day before, may come to the conclusion.....

**HON S E LINARES:**

Mr Speaker, on a point of order. I would like to state to the Chamber that the other Members are here now to listen to whatever the Chief Minister has got to say. There are some Ministers still missing on the other side as well.

**HON CHIEF MINISTER:**

Mr Speaker, there is one Minister in the toilet. The hon Member is a teacher, he should know that one is singular not plural.

Now, Mr Speaker, the message from the hon Opposition benches to the people of Gibraltar is, *"let us all go to the top of*

*the Rock, jump off and commit collective suicide, because the situation in Gibraltar is so dire as a result of this dreadful Government that you have elected, for the third time in succession, we do not know what on earth you were thinking of electing this shower again, but as we think it is so dreadful, then we might as well all commit suicide collectively.”* Then when you strip the hour upon hour, upon hour of prepared speech which made no attempt whatsoever to answer the cases put by Ministers in their own addresses.....

**HON F R PICARDO:**

Mr Speaker on a point of order. I would like to say that on a number of occasions, specific reference was made to statements made by Ministers in their own addresses, in the replies. So therefore, that statement must surely be incorrect.

**HON S E LINARES:**

Mr Speaker, point of order. The point of order is that the Chief Minister is saying that we have repeated our speeches and I mentioned my speech, the main thrust was the cuts of the last five months, so it could not have been the last years.

**MR SPEAKER:**

That is not a point of order, it might be a point of exclamation, but then.

**HON CHIEF MINISTER:**

Mr Speaker, it may be that the hon Members think that the only tactic left open to them, to disrupt my response to the speech, is to jump up and down on their feet, like nervous jacks in the box. Mr Speaker, it may delay the time that I finish, which they may

not welcome, but certainly it will not deprive me of getting things out. Then when one strips their hour after hour, I mean the Hon Marie Montegriffo was on for nearly two and a half, three hours, the Hon Mr Picardo the same. When one strips their speeches of all the flannel, of all the rhetoric, of all the invention, of all the distortion, and one strips it down to what is the essence of their political criticism of this party in Government, it boils down, more or less, to three things. That they think that spending £35,000 on a cocktail party in the Savoy is frivolous. That there has been a slowdown, not a cut, a slowdown in the rate of increase of respite care to a handful of people, and that we have given away too much money to the tax payer in tax cuts. In other words, that we have cut tax so much, that the Budget surplus has become a tightly balanced budget, or a budget with a minor technical deficit. That is the bottom line of criticism involved in the combined political effects of the Opposition Members.

Mr Speaker, we draw great comfort from their view that everything is therefore well on the ranch. But what it demonstrates, as anybody that listened to their speeches on radio yesterday must have concluded, from their rambling nature, what it demonstrates is that the hon Members, far from being embarked on a political resuscitation, are as bored and uninspired as they have been for the last eight years. That is what their budget speeches demonstrated in this House.

If I could just start with the comments of the Leader of the Opposition, in which he appears not to be interested since he is leaving the Chamber.

**HON J J BOSSANO:**

If the Chief Minister is going to interrupt his budget speech just because I get up from my seat to go to the Chamber, without knowing what it is that I am going to do. What I do is what I have got to do and I will do for his benefit but he will know that I am not doing it because I do not want to listen to his speech.

## HON CHIEF MINISTER:

Well Mr Speaker, I have been on my feet for less than nine minutes, and that is the fifth interruption. Starting with the observations of the Leader of the Opposition. He pretends to the people of Gibraltar that this is the worst economic record by any government in Gibraltar ever, because the performance is £14 million or £15 million worse. Well, I have got 12 year old children at home, who know the difference, not that the Leader of the Opposition does not know the difference, and this is the gravity of the charge, who know the difference between the difference on the one hand, between what one estimates would happen, 12 years in advance, and what actually happened, on the one hand, and the difference between actual performance last year and actual performance the year before last. The record of financial performance is not whether what one prognosticated happened, the proper measure of financial performance and record of performance, is what happened one year compared to what happened the year before last. Mr Speaker, by that obviously correct mathematical definition of record and events, the figures peddled by the Leader of the Opposition, are simply wrong. He can say if he likes, and it would be true and accurate, that a surplus of a few million pounds last year, had become a deficit of £1.3 million. He can say that the deficit, if everybody funded by the public service had brought last year's deficits into this year's Consolidated Fund, last year that has just finished, and not carried forward losses, as I explained in my budget speech, he could argue if he wanted to, and as indeed he did, that the deficit technically should be higher than the £1.3 million that the Estimate shows. And he would be correct, if that were to happen. Statutory bodies have been carrying forward deficits to be cleared up by the Consolidated Fund in future financial years, for some time. It is not as if this has happened for the first time this year. Then, the hon Member says, *"Ah, now as a new statement, the Government say that the elimination of the surplus was deliberate policy, now."* Thereby trying to give the impression to the House that this is an excuse found after the event, for the fact that budget surpluses have been eliminated. Well, there is nothing new about the statement and there is

nothing now about the statement. I invite the House to revisit Hansard on almost each and every one of my budget addresses in past years, when I have carefully explained the four golden rules, underlying each and every one of this Government's economic policies. I have explained the Government's intention to divide the results of its economic resources, and of its economic success, in shares. Part to return to the tax payers in tax cuts, part to invest in capital projects without having to borrow as much capital as otherwise would be necessary for an investment programme of that sort, by using surplus revenue as capital in the next year. Thirdly, to improve public services. Every year I have said that, every year I have done that, and now, when the exercise runs its course, the hon Member says that it is a new statement, and that he now says that the elimination of the policy of the surpluses, is a matter of record. Well, look, I had not thought it necessary to point out to somebody who claims to be versed in economy, that if a government raises expenditure, as he knows we have been doing every year, cuts revenue, as he knows we have been doing every year, by reducing our tax take and therefore not getting our share, the Government's share of the growing economy. It must be plain to him, as I am sure it must be plain to anybody that runs even a household economy, that if one raises ones expenses year after year and cut ones revenue year after year, then, eventually, ones revenue and expenditure will match, and if we carry on, expenditure will exceed revenue. It has been such an obvious, declared, admittedly, not explained as to the consequences. The consequences are so obvious of the policy, that I had thought it unnecessary, but look in the future I will take nothing for granted. But I would have thought that everybody in Gibraltar understands that the Government have been returning money to the people, through tax cuts, and through expansion and improvement of public services. That the consequence of that should be the erosion of the budget surplus, where on earth does the hon Member think all that has been paid for. So there is nothing new in the statement and there is nothing now about the statement. Just as it is not new, that the hon Member just distorts the reality for the purposes of his debating convenience at any given time.

Then, for a man who professes knowledge of economic matters to say, *“well if the hon Member boasts in an interview in a newspaper, that the economy is firing on all cylinders, that must mean that he does not think that it can grow any more than the 6 per cent that it grew that year. If he thought it was already firing on all the cylinders, at a time when the economy only grew 6 per cent, if it turns out that it grew 8 per cent, then he cannot take credit for the 2 per cent because he thought it was impossible.”* Mr Speaker, this is economic theorising reduced to a level which is beneath the comprehension even of economic illiterates. That is the reality of it.

Mr Speaker, one of the principal reasons why I resisted the temptation not to bother to reply, given that there was so little new in their speeches, one of the reasons why I resisted that temptation, amongst others, is that I think that the hon Member did raise a question that deserved an answer. That was their view that the Estimates of Revenue and Expenditure on the one hand, in their presentation, and the presentation and the content of the Appropriation Bill, were not in keeping with the Constitution, or with the Public Finance (Control and Audit) Ordinance. We do not share that view, but if the Leader of the Opposition chooses to express that view in the budget debate, I think it is incumbent of the Government to respond to him.

I think he was making in fact three different points. He did not necessarily make them all together but under that general head, I think he made three points. If I could just pose them as a question. He thought that the Constitution may not allow, I cannot remember whether his view was that it did not allow or that it was not clear or that it may not allow, on this particular point, I was clear on the other two points but on this one I was not certain whether he was actually saying that it did not allow or that it was unclear. The point being the question whether a Supplementary Appropriation Bill could be combined with an Appropriation Bill, or had to be physically two separate pieces of legislation brought separately to this House.

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

Mr Speaker, I can clear the point if the Chief Minister wants. I did not say that the Constitution did not allow them to be combined. I said, as far as I was aware, since the Constitution came in 1969, it had never happened before.

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

Well, Mr Speaker, that may be true. Our clear view and our clear advice is that it is perfectly constitutional because what the Constitution requires is the House to approve the excess expenditure, by an Appropriation Bill. In the case of excess expenditure, a Supplementary Appropriation Bill. That is a reference to the statutory legislative mechanism that has to be deployed. The Constitution does not require, let me put it this way to more directly address the facts before the House, the Constitution in no way prevents that if the Government have to bring a Bill to approve monies for this year, and a Bill to get the House to approve monies for last year, it can be brought in the same Bill provided that it is separately set out. In other words, providing we do not try and pretend that the money for clearing up last year's excess, is part of this year's expenditure. That would be wrong. But the way it has been done in effect is two Bills, with separate parts showing separately what is money that we are voting now to pay for excess funding, excess expenditure last year, and what is, we are advised, after the event, as indeed we were advised before the event, that this was perfectly acceptable. If the hon Member says it has never happened before, I have no reason to doubt him, he has been here longer than me, I am not aware, personally, whether it has happened before or not, but that is not the issue. The issue is whether it is legal or not legal. There are many things that do not happen before which are perfectly proper. The second issue of a legal nature that he raised, was the question, if I could just summarise it in telegraphic language, just to identify it. Whether it was legitimate in a Supplementary Appropriation Bill, to vote funds to

the Supplementary Funding subhead. In other words. I am just describing it telegraphically, I will go into it now in more detail. In other words, the essence, just so that the record shows that we are discussing the same issue. Some years ago, the Government, in fact it was his government, introduced the what I think is, I do not remember what he expressed at the time, but now that I have been in Government and seen the difficulty of accurate estimating, the perfectly sensible mechanism of adding a new head of expenditure in the Estimates, which generally we could call supplementary. In other words, whereas normally the budget is divided into departmental expenditure, so much for housing, so much for trade and industry, so much for education, so much for health. At the end, so much for the police, so much for the judiciary, at the end, there is an additional head that says supplementary funding. Money goes in there and as a result of the laws that govern Government finances, the Government, through a warrant of the Financial Secretary, can then take funds from that sort of catch-all head at the end, and pass it to any of the departmental subheads. When there is excess expenditure in the departments, there is a sort of netting exercise happens, virements within the heads, and then the Financial Secretary takes money by these warrants, from this head at the end, catch all head, to wherever it is needed. The essence of the hon Member's point is that there is a requirement, when there is supplementary funding, in other words, when even the money in that catch all fund has run out, and the Government need even more money than that, that was authorised for the House, that the Government should set out which of the departmental spending heads originated the need for that extra money, rather than say I need the extra money for the catch all head at the end, and once it is there I will, without anybody seeing what I am doing, pass it to where the actual over-expenditure took place. That is the issue.

Well with respect to the £2.5 million Supplementary Funding Appropriation now being allocated to the Supplementary Funding subhead for the last financial year, I have to tell the hon Member that this follows a precedent established by him in 1995 when he was in government. He did this for the first time. The only

difference is that we have done it for a bit more. I think he did it, we are doing it for 1.7 per cent of total expenditure and he did it in 1994/1995 for 1 per cent. So, fine, it is for a slightly bigger sum now, but it is the same. *[Interruption]* Yes Mr Speaker, I have heard what the hon Member has said that he did not do it before the end of the year. But, that is the same difference, that is a distinction without a difference. What is the difference? One is just as able now to see in the forecast outturn figures, to see where that money has been spent. *[Hon J J Bossano: No we cannot]* Do not worry Mr Speaker, I am going to give it to him now. The only point I am trying to make is that the principle of getting supplementary appropriation authority in this House, after expenditure has been incurred without authority, and not coming to the House to say I need it because the education budget has spent too much, or I need it because the health budget has spent too much. But just to say give me more money to put in the catch all pot at the end, for me to distribute as I like, that principle was not established by us. He established it, and the fact that it is now after the end of the financial year, and when he did it was before the end of the financial year, really makes no difference to the principles. I am putting facts before him in the House. He has raised a question of the legality of certain Government presentation of the Appropriation Bill. He may now feel that he is able to distinguish the behaviour on the facts, but that distinction is irrelevant to the question that he has put before the House, which is the legality. It is not the legality. The legality is whether when the House is asked to vote supplementary expenditure in a Supplementary Appropriation Bill, the law requires the Government to set out there and then, at the time that the House is being asked to provide the extra money, what excess of expenditure generates that requirement for additional funds. That is the legal question, and that practice of not doing that, has not been done by us for the first time, it has been done by him for the first time.

**HON J J BOSSANO:**

I challenge the truth of that. That is what the Chief minister will not let me do.

**HON CHIEF MINISTER:**

Well, Mr Speaker, if the hon Member thinks that I am not telling the truth, that is a point of order which I am sure the Speaker will allow him to speak. But I am not willing to give way to him just so that he can keep me on this issue, which as far as the Government are concerned, is a non issue, for the next 25 minutes whilst he debates it with me. As far as the Government are concerned, it is a non issue. Because it is no less in breach of the requirements of statute now, that it was when he did it. He can spend the next half hour trying to explain that it, in his case, was different to it now, by reference to factors which have no legal relevance.

**HON J J BOSSANO:**

Mr Speaker, on a point of order. First of all if the Chief Minister says that it was no less legal now than it was then, and he is suggesting that if it was illegal then it is perfectly legitimate for it to be illegal now, that seems to me a very strange argument for somebody who purports to know the law, like he says I purport to know economics. The point that I am making is, that that argument cannot be factually correct, because if the Financial and Development Secretary had exhausted the £2.5 million in January, and come to the House and said in February, I want a Supplementary Appropriation Bill because I have now run out of money from the £2.4 million that I had in the supplementary head, after he moved £400,000 from the Pay Review Head, and I know that I am going to need this money but I do not know what I am going to need it for, so I want to top up the supplementary. To me, that is not in conflict with what the legislation and the Constitution says. Because he cannot give us a breakdown by

head, because he does not know where it is going to be spent. But if the Hon Member comes with the law here, three months after the end of the financial year, then he is in a position to say, the money I am asking the House to vote, has been spent on such and such a thing, and there would be a little note which would tell us why it has happened. Since we have not had the opportunity to do that, then what I am saying to the Chief Minister is, well, we expect now that he will be telling us in respect of the £2.5 million how it has been distributed.

**HON CHIEF MINISTER:**

Well, Mr Speaker, I am glad that I sat down and let the hon Member speak, because it just confirms me in the view that the distinction that he is drawing is wholly irrelevant. Look, it would be a wholly improper for the Government to come to this House in January and say I am going to need more money but I do not know what for. No, that is what he did in 1994/1995. But for the hon Member to suggest that it is legal to come to this House and say, give me more money, and I am not going to tell the House what it is for, because I do not know what it is for, the view that he has just expressed that in his judgement that is legal, but this, which is in principle exactly the same, except that we know what it is for, and that the channelling of it through that route is just for mechanical convenience, is an extraordinary situation. So I am glad that the hon Member has stood up, I am now reinforced in my view that his assessment that this practice is against the Ordinance, which we are being advised is a view which has no merit, actually has no merit, because when the hon Member has explained in this House the thinking behind.....

**HON F R PICARDO:**

Point of order Mr Speaker. It is not the Ordinance, it is the Constitution.



## HON CHIEF MINISTER:

Mr Speaker, it is like debating with sixth formers. What is the difference. Mr Speaker, I have said the law. The Constitution and Ordinances are both laws of Gibraltar. Well, because there is aspects of Ordinance and there is aspect of the statute. Mr Speaker, honestly, it is like debating with first year law students at the university. They rise, just for the sake of interrupting, to make points that advances the debate not one iota. It is all for the sake of interrupting. Mr Speaker, so in summary then, when the hon Member in 1994/1995 wanted the House in January to give him £500,000, he brought a Bill that simply said Consolidated Fund, Head 18 Reallocation and Conventions £500,000. That is in principle, exactly the same thing as the Government have now done. As the hon Members, when we come to the Committee Stage of the Bill, can ask the Government why that money actually was necessary. If they do, we shall give them the information at the Committee Stage. Just so that the hon Members do not think that we have formed the view that it is legal because they did it, and therefore if they did it there is nothing wrong in us doing it now, because they might have been wrong when they did it, that is not the basis upon which we have come to the view that it is legal. The basis upon which we have come to the view that it is legal, is that the Constitution, in article 65 says, that the heads of expenditure shall be included in a Supplementary Appropriation Bill, and the head of expenditure to which the money is being voted, is the Supplementary Funding head. In his case, it was, as it was then called, the Reallocation and Subventions Head. That is the head and that, therefore, is what the Constitution requires the information that the Constitution requires the Bill to contain. Of course it does not say, perhaps, because at the time that the Constitution is written the hon Member had not yet invented the very appropriate practice of having a supplementary head at all. Perhaps if the writers of the Constitution had known that the hon Member was going to be elected Chief Minister of Gibraltar a few years later, they might have been more careful in many more of the provisions of the Constitution, and drafted them a bit more sharply. For example, this one might have said, and the Bill

shall set out the excess of expenditure in the departments which gives rise to the need for extra funding. If that had been the language of the Constitution, then that would have required what the hon Members claim is required. But because the Constitution says Supplementary Appropriation Bill must set out the head of expenditure to which the money is being voted, that is exactly what the Bill does.

Mr Speaker, the third point that the hon Member made was that he believed that it was not in keeping with the requirements of legislation for the Government not to set out the balance to complete figure in the Improvement and Development Fund. Again, we do not share his view. The presentation of the balance to complete has not actually been abandoned, but the information is now presented where it is presented in notes to the Estimates. As can be seen from page 109 of the Improvement and Development Fund, in respect of expenditure on EU programmes. This is in compliance with the requirement of the Public Finance (Control and Audit) Ordinance to show, "the total estimated cost of the project". That is the statutory requirement.

In 1997 the Government moved to presenting more generic subheads, covering numerous projects, and where some of these clearly continued from year to year, the balance to complete was shown. Large projects, like the purchase of the new hospital, were identified separately and carried balance to complete figures. Over the last four years estimates, the number of balance to complete shown in the balance to complete column has varied between six and two. In the 2003/2004 Estimates, there were 52 subheads presented in restructured I&DF fund heads, of which only six had balance to complete figures. Two of these related to EU programmes and continue to be shown in this year's Estimates, albeit as footnotes. One was the Theatre Royal, and as this project is on hold, the balance to complete is not relevant. In two other cases the relevant programme or projects were, I believe, completed. Therefore there is no balance to complete. In the final case of remedial works and repairs to housing stock, the balance to complete was of spurious accuracy, due to the continuous nature of this

programme and the changing requirements year on year. The Government will continue to show, for large individual projects, the balance to complete, but will not be doing so for generic subheads covering many projects, as has been the case now for a number of years.

The hon Members will know that the requirement in the Ordinance, section 28, to show the balance to complete figure, is in respect of each development project for which provision is made. Now, the hon Members will see that the format of the Improvement and Development Fund over the last several years, has moved away from the concept of identifying individual projects, to generic heads. So, for example, now it says repairs to school buildings, or it might say repairs to Government buildings, or it might say tourist beautification projects, or housing maintenance projects, and they no longer identify, in the main, they no longer identify individual development projects. So, this is not to say that it is not entirely legitimate for the hon Members to seek that information. I think they are entitled to say to the Government, for example at the Committee Stage of the Bill, *"what projects does your head £3.2 million tourist projects, what projects do the Government expect, at the moment, to spend that money on?" And what is the total cost of those?"* I mean, it is not that the Government do not want to give the information away, it is just that the presentation, the way that the Estimates, Improvement and Development Fund are set out at the moment, it would be nonsensical. Because, for example, if we say, take the repairs to the refurbishment of Government housing estates, just as an example. Well, what would be the balance to complete figure? It is an annual rolling programme, it is a bit like painting the Forth Bridge. So it is actually nonsensical, but the Government are perfectly happy to answer questions in detail, at Committee Stage for example, of what are the projects and, where the project is not expected to complete in this year, to give an indication of the best estimates at present of how much the project will be, come its end.

Mr Speaker, moving on if I may, the hon Member said also, if the Government do not think that the economy can grow faster, then

the only alternative is to raise revenue or cut expenditure. So why is he doing so now? In other words, the hon Member was saying, *"if you think that the economy can grow faster than it is growing now, you would know that there would be increased revenue to the Government in the future coming from that growth. Therefore, you only raise other revenue heads when you do not think that there is going to be more growth, and therefore when you do not think that more revenue is going to come to the Government from that as a result of that economic growth. Therefore, the fact that you are raising the other revenue now, must mean that you do not think there is going to be more economic growth."* [Interruption] Well, it is not logic Mr Speaker. I am describing his logic. I do not think it is logic and that is the essence of my point, that that is a complete non sequitur of logical associations. First of all, cuts in taxation which the Government have done every year for the last eight years, and intend to resume as soon as possible, cuts in taxation deprive the Government of its share of that economic growth. Because, of course, if we did not cut taxation and watch the economy grow, that would result in more money coming in to the Government, and it would result in my surpluses rising. Well, to the extent that I give away, per year, in tax cuts, more revenue through give-aways than I get extra through the economic growth rate, in previous years reflected through fiscal drags in the taxes that I collect in the subsequent years, that is giving away a share of the Government's share in the economic growth that he is referring to, and the Government can not do both. The Government can not have both a tax cutting agenda and rely on increased revenue from economic growth, to pay for their capital investment programme and to pay for the rising costs in public services. Just as the Government can not rely on growth. The Government think that there is going to be growth. The Government are confident that there is going to be growth. But it would be wholly irresponsible, for the same reason that I think his election manifesto at the last Elections was irresponsible. Even if his judgements were right, which they are not, but to say, *"I promise you all these things, which I can only afford to pay you if there is a 12 per cent rate of economic growth sustainable year on year."* Mr Speaker, economic growth may or may not occur.

There may be external factors, there may be global trends that arrest or interrupt what one thinks is going to be one's economic growth. But if we have established our public expenditure, assuming that there is going to be economic growth, and it does not materialise, then we are left completely and utterly exposed. For the hon Member therefore, to deduce from the fact that we are raising revenue in areas which have not been touched, in one case for 20 years, which we do both as a matter of prudent public financing and to deliver fairness to those tax payers who are now home owners, but who through their taxes are financing both their home ownership and the subsidy of public housing rents, for the hon Member to deduce from that, that the Government do not believe there is going to be economic growth, is simply devoid of logic. I recognise in it the Hon Member's debating style. Because there is an element of truth in it. I mean, if the Government did not think that there was going to be economic growth, then the Government would certainly increase revenues. The corollary of that is not true. The fact that they do increase revenue does not mean necessarily that they do not think there is going to be economic growth. I therefore believe that that argument is completely spurious.

Mr Speaker, the hon Member pointed to the static three years of corporate tax yield and said, *"ah you see, there has been economic growth and this disproves the theory that 10 years ago, or six years ago, or four years ago, whenever it was, that growing tax yields is an indicator of economic growth."* First of all I do not think the hon Member's logic is again sound, but is he still contesting the proposition? That if there is a growing yield in tax, and it is not caused by such thing as collection of arrears, if there were genuine growth in corporate tax yields, does he dispute the proposition? That this must mean either, that there are more companies doing more business, an indication of economic growth, or that the existing number of companies are doing business more profitably. Another indicator of economic growth. So, I am surprised that the hon Member challenges the proposition that rising tax yields, rising company, well so is individual tax yields for that matter, but growing company tax yields is an indicator of economic growth. I agree it may not be

an indicator that is extractible on a straight line basis, so that there is a 20 per cent increase in company tax yields, then there has been a 20 per cent growth in the economy. It is not a straight line extrapolation but there is no rise in, subject to fiscal drag, there is no rise in take from commercial activity, that is what tax is. Corporate tax is the Government taxing profitable commercial activity. Well, in an economy that is not growing, there is no growth in taxable commercial activity.

But then, that to one side, could I just point out to the hon Member, that one of the principal reasons why the Corporate Tax rate take is static, is that as he quite rightly identified, it is now combined with the Exempt Status tax, and there has been a decline in that. But the exempt status tax, that is not a measure of economic growth, because the £200 or the £225 a year that the exempt companies pay, is no reflection, numerically, of any underlying commercial profit or loss, or activity or non activity. But it does reduce the Government's yield from corporation tax. So the reductions in exempt status yield, has masked small increases in domestic, if I can put it that way, corporation tax yield.

The hon Member asked whether the fact that we were not prophesying, we were not predicting or estimating increases in tax yield, whether that meant that we did not think there was going to be economic growth. Well, it does not actually mean that. What it does mean is that the Government are proceeding cautiously in all matters connected with yields from corporation tax, because we are in a transitional period. We are in a period where there is uncertainty affecting our tax, we do not know yet what is going to be the future of the exempt status company in the next five years, therefore we do not know whether our revenue from that source is in jeopardy or not in jeopardy. We just did not think that it was prudent budgeting, to in those circumstances, to actually be predicting increases. We would rather just stand still, a little bit like rabbits caught in headlights, and do not touch anything and await events, rather than start writing in to Government finances predictions of increase, when

really what there is, is a fair degree of uncertainty, for reasons which the Hon Members know.

The hon Member also asked whether, well he speculated that the fact that there was less provision for public sector pay in the Supplementary Funding Head, whether this meant that the Government knew or had indications that pay settlements in the UK in the future were going to be lower or not. It does not mean that. What it means is, and I might if I had thought of it I would have mentioned it in my opening address, what it does mean is that because the current pay deal is three years, and we know what this year's pay increases are going to be, they are already built into the emoluments heads. In other words, we are not relying on that vote to its usual extent. We may rely on it for some things that are not covered, we may rely on it for some elements of the public sector funded pay which is not covered by the three year pay deal. But for the bulk of the public service, the increases that will be due in 2004/2005, are already factored in to the principal provision for emoluments.

Mr Speaker, when the hon Member addressed the question of my remarks during the election campaign, about whether the economy could grow, when he addressed my remarks earlier in the day on that issue, he said, now he is saying only that 12 per cent is not sustainable but that it is possible. Yes. But I am not saying it now. What I said to him in my opening address was a clarification of his misrepresentation of what it was that I had said originally. Well, having told him, if he says, because he said that I had blue eyes, and I say to him, *"no, hon Member, I did not say that you had blue eyes, I said that you did not have green eyes."* When he replies to me he cannot say, now he says I did not have blue eyes. What I had just said to him is that he got wrong the first time, the use that he has made of what I had said. So it is not that I am now saying only that 12 per cent is not sustainable although it is possible. What I have said to him is that from the very outset I said to him, 12 per cent is unlikely, but even if it could be obtained one year, as it could easily be one year, it is not a sustainable rate of growth. So, to make spending commitments based on the assumption that our economy can

year after year grow by 12 per cent, is unrealistic. That is what I said at the outset and that is what I say again, and that is what I believe the hon Member, in the bottom of his heart, understands. He must know that there is no economy in the world that can deliver sustained year on year indefinite 12 per cent increases in economic growth. Now, if he does not think that, then it is another issue upon which we will just have to agree to differ.

Mr Speaker, the hon Member embarked on another classical example of Bossanesque oratorical style, when having heard me go at some length and in some specific detail about the record of the Social Insurance Funds, and when he had heard me out he stands up and says, when he starts his reply, well first of all I am going to deliver my prepared text and then, when I have finished my prepared text, then I will deal with the Chief Minister's inventiveness, his exact words, inventiveness about the record that I had just put straight. So, had I not fallen out of the habit of quaking in my boots at anything that the hon Member says, there was a time, about 10 years ago when I might have quaked in my boots waiting to see how the hon Member was going to demonstrate my inventiveness. Alas. It then turned out to be his usual trick, which is to scatter on the issue in a way that does not address the point that I was making, and I am still none the wiser as to whether I was being inventive or not in what I said, because he never addressed the issue that I said, he addressed some other tangentially related issue. The Hon Member is really the political equivalent of the Gatling gun. The Gatling gun mounted on the back of a ship so that when there is an aeroplane coming in to attack or a missile, one just sprays the air with bullets. None of them actually targeted at the incoming attack, but one fills the sky with bullets in the hope that amongst all the other things that one kills, one kills the attack. The hon Member's political style is really as close to the Gatling gun as I have seen in anybody. But it is a huge waste of ammunition, particularly when not even with the Gatling gun, and despite filling the air with bullets, one actually kills the target. Now, the hon Member addresses as pure inventiveness my analysis that he reduced the Social Insurance contribution going into the Pensions Fund, he describes it as inventiveness, and the reasons why he thinks

it is inventive have nothing to do with the level of pension contributions. It is on the basis of the self evident fact and reality, which I have not disputed, that when he left office in 1996 there was more money in the Pension Fund than he had found in it in 1988 when he arrived. Well, look, that is a self evident reality which my address had nothing to do with. If I had said in my address, well because he eroded the funds, as I once said 10 years ago, when I did not have in front of me the information that allowed me to work out how much of the fund was ODA money and how much was Gibraltar money, but on the occasion that I spoke yesterday, which is the occasion on which he said that I was being inventive, I said nothing whatsoever to do with the amount of capital in the fund. I said, which is an incontrovertible fact, which I will not allow his Gatling gun to shoot down, that he was the first Chief Minister, indeed the only Chief Minister of Gibraltar, ever to have reduced the proportion, the share, the amount, so that nobody thinks I am playing with percentages, the cash amount of the weekly contribution going in to the Pension Fund, no Chief Minister before or after him has ever reduced the amount of money per week from the Social Insurance stamp going in to the Pension Fund. That is not inventiveness on my part. That is incontrovertible fact. If he had wanted to demolish my arguments and sustain his absurd suggestion that I was being inventive, he would have had to show that I was wrong in saying that he had reduced the amount of money going into the pensions contribution. He should remember that I gave him the benefit of the doubt when he said that part of the pension monies he was putting in another fund, the Short-Term Benefits Fund, to protect it from the British. So he cannot say, no, no I did not reduce it, because the bit that I reduced I was putting to one side, it really was pensions but I was hiding it from the British. Because in my analysis I gave him the benefit of that doubt and I combined the both funds, even until 1996, when he carried on paying the £1.44 into the so-called UK theft-proof Short-Term Benefits Fund, the figures are still lower. When he left office in 1996, the amount of money going in to the combined Social Insurance Funds, and definitely going to the Pension Fund, but even the combined fund was less per week than the amount of money that had been going into it when he arrived in office in

March 1988. Of course, he could say if he wishes, that he diverted money away from pensions because he thought the Pension Fund was then over-funded. He could say, well look yes, I reduced the element of pension contribution of social insurance contribution going into the Pension Fund, because I did not think the Pension Fund needs it because after all the capital is rising and as the capital is rising, I do not think we need to put more money into pensions, and as I do not think we need to put more money into pensions I am going to divert it to health, which is what he did. But he has not argued that. It would be, surely, grossly irresponsible given that he now says that it is evident that we are all living longer, and that it is evident for all those things, that there are more pensioners, it would have been only fat cats, to use the phrase that has been used across the way there, only fat cats in the public sector, in the private sector raid into the Pension Fund in the good times because they think it is over funded. Not thinking that the good times provide the fat for the bad times. That is what I have accused him of. I have accused him, which is incontrovertibly true, of being the only Chief Minister, not only did he not grow the level of contributions, well he grew the level of contributions but he reduced the catch share of it that went towards pensions or Short-Term Benefits Fund, or both. That is the case that I made against him. There is no element of inventiveness. There is no element of the Chief Minister does not know what he is talking about. It is a fact. As it is also a fact that notwithstanding his raiding of the Pension Fund it nevertheless grew during the years. Well, no thanks to him. Of course no thanks to him. Thanks to rising interest rates and rising investment income of the capital.

Mr Speaker, nobody that cuts the income of a fund can take credit for its growth. The erosion of capital, which I accept has accelerated since 1996, for the same reason, for the same but opposite reason as it grew in his day. In other words, that there has been a huge fall in interest rates. If the Pension Fund has two sources of revenue, one is contributions and the other is the money earned on interest by the capital in the fund invested in the bank. So if the Fund has £20 million or £25 million and interest rates are 10 per cent, one gets £2.5 million in the Fund

just on interest from reinvesting the capital. But if interest rates fall to 3 per cent, that same amount of capital will pay you a third of the amount of income and that reduces, and it did not start happening in 1996. I do not know if he has examined, if he has had a close look at the figures, but actually it started to happen in 1994/1995. Albeit by small amounts, and another increase but still not very significant amount of erosion occurred in 1995/1996. As the years have passed, and as interest rates have fallen, the hon Member knows that this is the case. When he fixed the terms of the Bond, of the Gibraltar Bond, the £50 million that he floated on the market, at the time he thought it was a good deal to fix it at eleven and five eighths per cent. Because that is where interest rates were at the time.

Well, look the Government have just done a deal which is more expensive than ordinary borrowing for the hospital at 5 per cent. That is the reason and it is true that the erosion has accelerated whilst we have been in office. But it has not been because the contributions have fallen, because they have not, they have risen, it has not been because there are less contributors, because there is not, there are more contributors, the number of jobs in the economy has grown. It is because pensioners are happily living longer, and it is because interest rates and therefore the investment income of the fund. Is the Government aware of this? Of course the Government are aware of this. Does the issue have to be addressed? Of course the issue has got to be addressed. Does it mean that pensions are in jeopardy, and that the Government may run out of money to pay pensions to the pensioners sitting down there in the Lower House should worry about whether at some stage in the future the Government are going to stop paying them their pensions. Answer, obviously not.

Mr Speaker, the hon Member says that one of the things that the Government could do is to combine the Funds again. Indeed it is one of the things that we are considering doing. There was a time, in fact when he came into office, there was a combined Social Insurance Fund and the, yes before he arrived in office in 1988, the position was that there was then a combined Social

Insurance Fund which dealt both with Old Age Pensions and with statutory Short-Term Benefits. That is indeed one of the options that we are considering, but that is wholly different to the question of the level of contributions to the Fund, which at some stage have got to increase. Really we are only waiting to see how much of the capital erosion we can reverse through collection of arrears on a more aggressive basis, although I know the hon Member thinks that our words are paper tiger, well, we want to see how much of the capital erosion can be fixed through just getting people to pay back the arrears they have accumulated over the years, which are millions and millions and millions of pounds. Now that interest rates are creeping up, we want to see what effect that will have as well, and when we have studied that, of course we will take action. It is not true to say, well, it may be true to say it depends when it happens, the hon Member says the next Government will inherit less Pension Fund than he inherited. Well that remains to be seen. Well, that is him speaking so the he there is me not him. He said, I left Mr Caruana, well Mr Caruana if he was that courteous to me, I think it was just Caruana, I left the Chief Minister more money in the Fund than I Joe Bossano inherited, which is absolutely correct. But he, Mr Caruana, will leave to his successor less money in the Fund than he, Mr Caruana, inherited. Well, I do not see, he will have to wait and see whether that is true. I accept that it is certainly true as of this day. But, unless I fall under a bus immediately that I leave this House, yes, one of the buses that are they say too big and therefore there is an increased danger of falling under, I do not intend that judgement to be made today.

Mr Speaker, listening to the Hon Mr Charles Bruzon, it is difficult to come to the conclusion that he is not being sincere. It is difficult to come to the conclusion that he is motivated only by political opportunism. I do not think that that is in his personal nature and I therefore, not only do I not assume it against him, but it is only a judgement to which in his case I would come as a last resort. Because I do believe that he has high levels of personal sincerity and integrity. But of course that is not the same as accuracy of political assessment on his part.

Mr Speaker, the hon Member, Mr Bruzon, and indeed the Leader of the Opposition before him, this is one of the three great criticisms of the Government. I only identified three great criticisms of the Government in the whole budget debate that we lavishly spend £35,000 in the Savoy reception, that we cut taxes too much and hence the elimination of the surpluses and this one, this dreadful cut in respite care. The hon Member the Leader of the Opposition said, *"of course, once you provide a service people get used to it."* In a recent public statement outside of this House, he went further. He said, *"of course if you raise the level of service just before an Election."* Well, Mr Speaker, the number of people benefiting from this huge increase in unauthorised expenditure, are not electorally relevant. Yes, I am going to explain to him the huge increases that there has been.

So I am putting into context. When the hon Member, Mr Bruzon, speaks emotionally about cutting in the help given to the most vulnerable members of our society, of course, he can say, as indeed one of his colleagues there said, *"well, although I am a Member of the GSLP and I think they are the best thing since sliced bread, I am not to be held accountable for what the GSLP did before I joined it or when they were last in government."* Well, this cut in help given to the most vulnerable members of our society, is a service which his allegedly more caring party, thought fit not to have at all, at all. I do not hold the hon Member personally responsible for that. But I think the Government are legitimately entitled, when they are subjected to criticisms from the hon Members, and I know they like to write this off by saying they cannot look back eight years, they have now got to account for their record, but as I say to them every year when they say that, the past record of the person crying wolf, is relevant when assessing the political sincerity and credibility of the criticism when they make it. I do not think I am being hugely unreasonable in saying that people who did not think that a service was necessary at all, are not really the most credible advocate of the view that a small reduction in last year's hugely increased expenditure, is cutting the help given to the most

vulnerable members of our society. I am perfectly happy to be judged by others in the reasonableness of that view.

Mr Speaker, the Leader of the Opposition said, *"yes, but of course, respite is just an estimate and then you get people used to the service and then the Government cannot cut it back."* With the greatest of respect to him, I do not agree with either of those statements. Yes, it is an estimate. But honestly the hon Member must surely not intend to indicate that therefore, when the House votes in this House on an estimate, that that is a meaningless figure. The Government do not view the appropriation mechanism of this House as being a meaningless discussion on an estimate, that the Government are free to ignore. As far as we are concerned, we do not always succeed in keeping to approved estimates, but as far as we are concerned, at least I am concerned, and this is what I mean by budgetary discipline, when the House votes the budget and says, *"you shall spend on education so much"*, or on health so much, there has got to be a real effort to keep to those limits. There are some heads of expenditure where it is not possible. For example, as we often discuss the head for university grants, well, that cannot be done because that decides for itself how many students get a place in university, that is then the amount of grant. How many people get sent to England on sponsored patients, that is not something that one can calculate in advance. People get ill, whoever needs it gets sent. But when there is a budget for a service, the size of which can be designed by the budget controllers, there is an obligation to keep the delivery of the service to within those bounds. It cannot just be demand-led.

Let me say to the hon Member, let me remind the hon Member of what he had to say on these issues, that is the Leader of the Opposition, back in 1993, he will remember that in those days his concern was not about whether he could afford respite care, his concern was whether he could afford to man the home at all. The Dr Giraldi Home was built, this was in 1993, and it remained closed because the hon Member said he could not find the money to run it. There was a demonstration by the Disability Society saying, *"why on earth are you not opening this facility."*

This is what he said to the House, and I do not wish to rely on that aspect, that was just background context. This, quoted from the Hon Mr Bossano when he was then Chief Minister in 1993, is what he had to say generally about the affordability of demand-led public services. The Hon Mr Francis asked him, Mr Speaker is there any indication of when the Government will be in a position to open the extra floor, or provide for the staff and the equipment. Answer, the Hon the Chief Minister, no. No indication. The question of the extra floor and what it involves is something that I am currently discussing with the Society for the Handicapped, but I will make clear to them that the amount of money we can devote to this sector of our community is not unlimited. Therefore, when the Government will be doing what the Government will be doing in this budget, which it started doing in the last budget, is to identify all the money that we spend in support of handicapped people in different heads of expenditure, so that we can finish up establishing of the total money that the people of Gibraltar spend on different things. How much is it reasonable should go as the share of this particular group, which are very deserving, and which we feel a great deal of sympathy for, but we still have to know what is the total amount of money that is available. At the end of that, within that total budget, decisions will have to be taken if there are more demands than there is money, as to what the priority should be. Very sensible, very prudent, very obvious. But why then do they subject, when we do the same, to a wholly different treatment of cutting the services to the most vulnerable members of our society.

Carrying on. It has been made absolutely clear, this is quoting from the Chief Minister in 1993, it has been made absolutely clear to the representative of the society that there is not an infinite budget. Therefore, the only way that we can commit ourselves is by saying that we have got so many hundreds of thousands of pounds a year, and there are so many people. In other words, we divide the money that we are able to provide by the amount of people demanding the service, and we distribute it fairly. Well, in fact, what we have done is not even as stringent as that. Because what we have done is simply to rein in a small

amount of the unauthorised growth last year. But the amount of money provided in this year's budget for the respite service is still much higher than the amount provided in the budget for that service this time last year. They nevertheless at a department level, decided to spend hugely more than that, and what we are saying this year is, *"well we are not willing to allow you to decide what this year's provision should be by simply replicating what you decided to overspend by last year. We are reining in, not the original budget, we are reining in the amount by which you have exceeded the original budget, and still providing you with an increased budget."*

Mr Speaker, in 1995, respite was still not being provided. It is true that a few hours on weekends for a handful of people, work was done on an informal basis. In 1997/1998, after we had introduced a formal structured respite service, a total of 2,338 hours of respite were being provided at a cost of £10,521 per annum. By 2002/2003, three years later, 13,202 hours, that is up from 2,338, 13,202 hours costing £71,158 were being provided. In 2003/2004, 19,054 hours were being provided costing £150,000. In other words, the increase between 2003/2004 over 2002/2003 was over 100 per cent, and considerably more, much more than was approved in this House. The hon Member is mistaken and I am not going to succumb to the temptation to refer to individual cases in this House. The hon Members are mistaken if they think that this huge increase in public expenditure in this area, is benefiting most the people who most need it financially. They are mistaken if they assume that this exponential growth in the provision of respite care, is actually caused by an increased use of it by the people that he and I would no doubt agree, financially are most deserving of Government's help and support. That is another reason why the Government feels that this head of expenditure has to be allowed to grow. Because when the Government say that they are developing social services, and that they are expanding their social services, it includes this one, which we introduced and have grown year on year. So it will continue to grow, as is growing this year, over the approved estimate last year. But what we cannot allow to happen in this, or in any other area of public



expenditure, however worthy the cause might be, is to say, well, departmental managers can decide with the users of the department, how much money they want to spend in the department and next year, the Government in the House of Assembly jolly well finds the money, and jolly well repeats whatever we chose to spend last year. I have never heard anybody articulate the view that it is possible to run public services and public finances on that basis. One thing is for the Government, through a conscious decision, to develop public services and caring services and therefore annually increase substantially the service of respite provided, and another thing is just to allow a handful of individuals to pass costs to the tax payer because they have decided that they want to convert a respite, which is a rest service, into a care service. It is not. Look if somebody thinks that the Government ought to provide a care service on a more permanent basis, that is a debate, but the respite service is not that. The respite service is to give members of the family of disabled people, who we all know live under huge stress and who need respite, to give them the periodic opportunity to go away and rest, to go away and do what the fortunate parents of people without those problems can do. Go out one night, go out two nights or go away for a weekend, or go on holiday. That is what the respite service is for. It is not a permanent care service. This has got to be understood. When the Government say the service must not be used for what it is not, and when the Government say the already increasing authorised provision for this service cannot be exceeded by whatever factor one likes, and the Government just reins that in a little bit, to say to the Government that they are cutting the service to the most needy is, in my opinion, wholly unfair analysis of commentary of what has actually happened, the facts which have caused it to happen. It is not true, I assure the hon Member, the Leader of the Opposition that there has been a conscious decision by the Government at any level, political, to increase this last year before or after the General Election. This is just something that the departmental management has done. No doubt with the best intention in the world under pressure from users. The hon Member must remember what it was like when he was on this side of the floor. This is not a basis upon which

one can hold oneself out responsible for the state of public finances in Gibraltar.

Mr Speaker, the Hon Mr Bruzon, also had something to say in criticism of the Government. Well, first of all he made a remark which frankly sounded awful, but I have no doubt he did not mean in that way. To say that somebody stopped him in the streets to say to him, "Charles, the problem with you is that you are too honest to be a successful politician", is to heed gratuitous insult, I am sure unintended by on all the successful politicians in this House. I mean, winning three elections in a row, is quite a success. I do not think I have achieved it by dishonesty. Well, then presumably they think that when their own leader, the Hon Joe Bossano, achieved two successive election results, he achieved it by dishonesty as well. After all if the view is that in politics one cannot be successful unless one is dishonest, how can one be elected twice as Chief Minister, which is the pinnacle of success in politics, without being dishonest. Therefore, I say that the hon Member I am sure, did not intend to convey the insinuation or implication, which is implicit, in that remark. I would have more clearly understood if he had come to this House and said that somebody had stopped him in the street to say to him, "*Charles, the problem with you is that you are not aggressive enough to be successful, or que no tienes bastante mala leche, to speak in Gibraltarian, to be a successful politician.*" Or that to be a successful politician one has got to be a hard nut and that he is not a hard nut. I mean, there is an element of truth in all of that. But there is a difference between that and honesty. I am glad the hon Member is now confirming from a sedentary position, that that is what he meant. Well, that I recognise more but of course the record now shows, that in their nervous reaction, I mean not realising I suppose that I was going to deal with this in such a gentle and friendly fashion, the hon Members have now placed on record, in Hansard, the fact at least those of them that engaged their jaws before their brains, have now put on record the fact that they think that I am dishonest. Well, I could not care less what the judgement of them are. The people of Gibraltar obviously know. The reason why is that the people of Gibraltar obviously do not share the

view that I am dishonest. Because if they shared the view that I am dishonest, they would not have elected me three times in succession, they would not have given me the considerable satisfaction of having led his entire eight man team, three times in a row to the first eight slots in the ballot paper, and they would not have given me the considerable pleasure of being the only Chief Minister in Gibraltar to have had his team re-elected every year, three years in a row, with more than 51 per cent share of the vote. Therefore, but look, there is only one government that has been sacked from office, under at the very least the suspicion of dishonesty, and that was theirs and not ours. I think the hon Members, those who in sixth formish style just utter words into the air without bothering to think of their meaning or implications, that they should remember the political party that they have chosen to join and support. They should remember the track record of that political party when it was in government. They should remember the reputation for integrity that that political party enjoyed when it was last in government. That they should remember all that before accusing this Government, *[Interruption]* Mr Speaker I think the Hon Member should stick to the rules of the House.

**MR SPEAKER:**

Order, order. Carry on but relevant to the budget.

**HON CHIEF MINISTER:**

Well, Mr Speaker, I believe that that is wholly relevant. I am answering what they have said in their addresses. How can it be, this is my right of reply. So I do not accept that replying to what they have said in my reply is irrelevant. Unless, of course, what they said in the first place was irrelevant, in which case it should not have been allowed.

Mr Speaker, I will however move on. I will take your advice. The hon Member then criticised us, that is the Hon Mr Bruzon, then

criticised the Government for reducing by half a per cent, the level of our base rate that pensioner bonds enjoyed in Gibraltar. He refers to it as removing the benefit. First of all he said it is limited to £100,000. Well, the reason why it was limited to £100,000 is that this was a subsidised service. Services that the tax payers subsidise is not for capitalists to take advantage of. The idea that a facility that the Government were making available to pensioners to give them their maximum income on their limited investment, should be available to people to come and invest hundreds of thousands of pounds in, is not something that I, this is why we stopped it. We introduced £100,000 limit let me say, when we heard, when it was reported to me that there was an application by one individual, who to boot was not a resident of Gibraltar, but which frankly I would have had the same view even if it had been a resident, that was going to say, *"ah, well here is the most generous bank in the world. Where else can I get half a per cent above base rate on my deposits"*, and he was going to deposit several hundred thousand pounds. That is not the spirit in which the Government made this facility available, which was to maximise the income, in the context of falling investment interest rates, to ordinary pensioners with modest amounts of capital and savings available to them. We have done it, we have kept it at half a per cent above base rate for as long as we could afford it. The hon Member must know that banks charge more than base rate when they lend money. But when one lends them money, in other words when one deposits money with them, they pay less than base rate. This is how they make their profit. Here was a bank, the Gibraltar Savings Bank, that was paying to depositors more than base rate. No other bank in the world does that. And, we were willing to do that because we were not in the business of making profit. So whilst we could get at least that much return ourselves, so if one comes to deposit £50,000 and I can invest that money at more or less the rate of interest that I am giving, I give it. That is how the Government are able to pay disproportionate rates of interest to depositors. Because the Government say the profit that the bank would have made in lending this money out to somebody else, I am not going to make it I am going to pass it on to my depositors. But of course, it is very difficult to get that

equation completely right, because interest rates are fluctuating, and there was an element of subsidy. In other words, the Gibraltar Savings Bank was very difficult to calculate because all this then comes to roost much later on when the maturity value of bonds that one buys arise, but it was clear that it was actually costing money to pay that much above base rate. So what we did is that we cut it by half a per cent, still much more than anybody could hope to get in any normal commercial bank, and still notwithstanding that it is an unusually high rate, still income tax free. Because that is what has happened. Of course, the elderly want to receive as much as they can and do not like it to be reduced. But to assess what the Government have done by reference only to that factor, is a luxury that one can take in Opposition. It is not a luxury that one can take in Government, when one is responsible for public finances. Government are still hugely subsidising, in terms of giving up any pretence of making money on it, the interest rates payable to pensioners on deposit, and they know this. Because the hon Member may be interested to learn that since February 2004, when this happened, the amount of money in pensioners monthly income debentures has risen, not fallen, risen from £56 million to £60 million. So pensioners still accept and recognise that it is still a hugely good deal, unmatched anywhere else. That is the context in which the hon Member has to form his view. He can say, *"well never mind, you should have carried on paying at this rate"*, though, of course one thing is to subsidise when it is £10 million worth of deposit, but once we start getting £50 million, £60 million of deposit, the cost of the subsidy in terms of lost money becomes more significant. We can take it on the chin whilst it is small amounts of money but as the policy becomes popular and money starts pouring in to these instruments, the amount by which one is subsidising it converts into very substantial sums of money. The Government keep doing it for as long as they feel it possibly can. When they feel that it cannot carry on any more, it cuts a little bit but still it is the most charitable savings bank anywhere on the face of this planet. At least for pensioners. That much we can rest assured on.

The Hon Mr Bruzon, also chastises the Government for taking too long, four years, to build the elderly a swimming pool or moving the prison. Here there is a difference in political style between the Government and the Opposition. I follow politics around Europe, one of my hobbies is just to follow the political process through the media in other countries, I follow very closely in Spain, in the UK, in America and elsewhere in Europe. It is just a hobby. I have to say, that I have never come across an Opposition that makes the essence of its political case against the government of the day, not the facts that they do things badly or the fact that they do things different to what the Opposition would have done, but simply a fact that in the Opposition's view, the Government takes too long to implement its manifesto, full of its policy commitments, that are not even the policy commitments of the Opposition Members. The hon Members did not have the policy of moving the prison from Moorish Castle to Lathbury Barracks. So what difference does it make to them whether the Government takes one year, two, three or four. They were not going to do it at all. So to convert the fact that six months after the Election we still have not moved the prison from Moorish Castle, it is a very weak source of political attack, if he does not mind my saying so.

The Hon Member finished his intervention by saying that the results in social affairs of the GSD since 1996, is not fair on the people of Gibraltar. The results in office of the GSD in social affairs since 1996 is not fair on the people of Gibraltar. *[Interruption]* He said the elderly, the disabled and social affairs. I have to say that I am glad that he is, I accept that clarification and therefore I will not address the points that I was going to address. If the hon Member wants to say that the Government delayed too long the building of houses, for young married couples, well actually that is a criticism that I accept. I regret not having started two years earlier. There are reasons for it but I accept the criticism. But if the hon Member is saying that the Government are being unfair to the elderly in the housing, then he is not entitled to have that. I do not think the facts sustain the view. When before, has a Government built 86 houses specially designed for the elderly, in sheltered accommodation. Answer,

never. When before this GSD Government, has a government spent millions of pounds installing lifts in public housing, so that elderly people are not prisoners in their own home. Answer, never. Not even the alleged socialist party that preceded us thought that genuine care and concern for the elderly required any of that. What was the last government in Gibraltar to almost entirely abolish income tax for the elderly. Never. Not until we have come. What was the last government in Gibraltar to say it is not acceptable that there should be any person in Gibraltar, elderly, who because of his lack of pension or lack of this or lack of that, should not have enough money to live on, and introduced an elderly persons minimum income guarantee, which now ensures that the State will make sure that no elderly person, single, has to live on less than £95 a week or a married couple on £127. What government ever in Gibraltar before us has done that for the elderly? For the hon Member therefore, to finish an address on social affairs by failing to recognise those things, by failing to recognise that no government has done more on a comprehensive policy basis for the elderly of Gibraltar than this Government, his failure not only to recognise those indisputable facts but to actually say that we are being unfair to the elderly, is in my view, the closest that he came to showing lack of sincerity in his entire address. Because the facts speak for themselves. The progress made speaks for itself. He can criticise if he wants that we did not do more, but he cannot criticise that our performance is not a huge improvement on what came before us. Only that could be the definition of unfairness. When he says, which is I think the point that first led him to this line of argumentation, that the Government were not doing enough to help elderly people move to ground floor flats, and he read a letter or he produced, he referred to a case in which the answer had been we are putting in a lift in that block. Mr Speaker, that is not an example of bad administration. That is an example of good administration. That is not an example of an uncaring administration, that is an example of caring administration. Why? Well, look, the Government do not have enough empty ground floor flats to move all immobile elderly people to. Therefore, the one or two that I have.....

#### **HON C A BRUZON:**

Would the Chief Minister give way one second? Just for the record Mr Speaker, I did acknowledge the fact that it was a good thing that some lifts had been installed. I did acknowledge the fact that there had been external refurbishment of some Government estates. But what I questioned was the fact that since they came into office, there had been no new buildings to solve the housing problem. Thank you Mr Speaker.

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

Look, I know that the hon Members, because we have not built any new houses for rental, I know that they are trying to convert that into the definition of doing anything for housing. But it is simply not true to say that the GSD Government have done nothing for housing for rental. It is not even true to say that we have not built any housing for rental. It is even less true to make the point in the context of the elderly. The reason why I say all of that is that because specifically for the elderly, we have built, for rental, Bishop Canilla House. The hon Member may want to say, well that is not enough. That is a valued judgement to which he is entitled. But he is not entitled to say we have not built any. It is not true. Nor is he entitled to say that we have done nothing for the rental stock for non senior citizens. Because look, I have no doubt that if the hon Members had been in office when the MoD gave Edinburgh House to the Government, they would have done what they did with every property that came into their hands, which is to offer it for sale. We, not only decided not to offer it for sale and make the quick grab for cash, we decided to add it to the Government's housing stock, and to offer it for rental, and to spend several million pounds in refurbishing it before putting it out for rental. Now, the Hon Member may want to say that adding 186 flats to the housing rental stock is not enough. That is his judgement, I respect his right obviously to make his judgement. What he cannot say is that we have done nothing to improve the stock of the housing for rental. He can say that we have not built for rental any houses other than for the

elderly. That would be accurate. But he still cannot say that we have done nothing for housing, which presupposes that the millions and millions and millions of pounds spent by this Government in refurbishing and beautifying almost every public housing estate in Gibraltar, unless they think that that is doing nothing for housing. I agree, it does not do anything for people waiting on the housing list for a flat if they have not already got one. That is accurate comment. To suggest that the Government have done nothing for housing in the context of all of that, is to falsely create an inaccurate impression. How much housing for rental did the hon Members build in eight years that they were in office? Answer, practically none. And I say practically none, because I recall, I think it was in their time, I think they added a floor in some of the blocks in the Laguna Estate. Yes, two blocks in Laguna Estate where instead of fixing the roof, they very sensibly decided to put in a flat between. That is the only houses they built for rental. Because even when they built Gib V, people who clearly could not afford home ownership were forced into this Option C, which strung liabilities around their neck, which they could not afford and from which we have subsequently had to release them. So, it is all very well criticising this Government for not having built any houses for rental on the waiting list. But they did not build any, except three or four, in the top floor of two blocks in Laguna Estate. The hon Members chose to concentrate their resources in the home ownership sector. Fine, it is a perfectly legitimate decision, but the result of it was no new homes for rental, during eight years of so called socialist government. I think all these facts have got to be brought out and remembered when the hon Members now make wild statements about this Government doing nothing for housing.

The House recessed at 11.30 am.

The House resumed at 11.39 am.

Debate on the Appropriation Bill continued.

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

Mr Speaker, if I could now move on to the contribution of the Hon Steven Linares in relation to mainly education. He started off by referring to the cuts in education, training and culture, have terrible effects on students and staff. Then he said that the Chief Minister's cuts have deprived children of things that they have always enjoyed. What cuts in the education budget? I have here the same figures as he has, which figures that affects what children have always had and enjoyed is there a cut in? As opposed to the reality which is, an increase in. It is true that there is a cut in an attempt to place downwards pressure on it, in the costs under personal emoluments of temporary assistance. The hon Member asked why we have split the temporary assistance vote into all the various things that it pays for, specialists, classroom aides, cover for maternity, paternity leave, and temporary cover for other absences. The reason is the last element. That the principal item of this expenditure, which has been rising significantly, is absenteeism which has to be separately funded.

If the hon Member wants to say that there are cuts, he has got to say where he thinks the cuts are. It is all very well to make general statements, which are both wrong and then not particularise. There is no cut in the education budget. There is an increase in the education budget. So why do I find myself on my feet explaining to people that there is an increase and not a cut, when it is obvious on the face of the document. Answer, because despite what is obvious on the face of the document, the hon Member thinks it is appropriate to simply assert that there are cuts. He referred the funds for maintenance for schools have been cut. Never under any government in Gibraltar, has so much money been spent on the development and maintenance of school buildings, as has been spent by this Government. But of course, if one goes on a binge of maintenance, and on a binge of new building halls and new building sports hall and new building for schools, and one comes to the end of the process and one therefore reduces the amount of the binge, well I suppose that the year in which the Italians

finished building Milan Cathedral, which took several hundred years, I suppose in that year they might have been accused of cutting public expenditure. I suppose the only thing that they could have done to protect themselves from the hon Member's accusation of cutting public expenditure, was to have carried on building cathedrals for ever so that the amount of money spent on building cathedrals was never cut. That way the hon Member would never have been able to stand up and say, they are cutting the money spent on building of cathedrals. Mr Speaker, we can reduce the debate on public finances to that absurd degree. But frankly, the hon Member only has to tot up the amount of money spent by this Government, year after year, on the upgrading of school facilities and school buildings, and the amount of money that they used to spend on the same matter, and the results of who is cutting or not cutting, or driving our educational system to near crisis, he would be able to judge for himself who has the better record in that respect.

The cutbacks in the last five months are now affecting the National Curriculum. Well my goodness, it is just as well I am in this House and that I know a little bit about this, because if I had just been Peter Caruana the lawyer, sitting in his office listening to the debate, I would have said, Oh my goodness, does this mean that my children are not going to be able to do their O levels or A levels. After all if the Government are cutting expenditure to the extent that the National Curriculum delivery is being affected, this is terrible. But then it transpires, as always, that the story never matches the headline. Never. The story never matches the headline. Because what it transpires is that he is referring to the fact that there has been a reduction in the number of occasions and children that are taken to GASA swimming pool. And he is wrong, even then he is wrong. Because the cut that there has been, because of the amount of money that GASA charges the Government for it, which is something that I am going to address by the way, given that that is a publicly funded asset. But awaiting on that, there is no affecting of the National Curriculum. He reacts to that statement of mine as if it is the first time that he has heard it. He heard it from the Minister for Education at the last Question and Answer

Session, he heard it again from the Minister of Education in his speech in this budget, but he ignores everything that he hears and continues to regurgitate the same factually inaccurate allegations, as if he was not being told what the position is. It is most impossible to debate. Yes, the hon Member has been told repeatedly that the element of swimming pool access, which is relevant to the National Curriculum, has not been cut and continues to be funded by the Education Department. So why he uses the swimming and the GASA as the only example that he cited of how the cuts are affecting the National Curriculum, I do not understand. It is not affecting the National Curriculum. There is nothing else in the cuts that is affecting the National Curriculum. He has had this explained to him repeatedly, but he is not interested in the truth or the facts. He is just interested in politically expedient headlines, regardless of whether they are true or false. This is the reality of the hon Member.

The hon Member mentioned, he said, and all of this, when he was referring to the cuts in absenteeism, the attitude of this Government, this is the attitude of this Government to Government employees generally. He said, I have got it verbatim, *"that shows the attitude of this Government to Government employees generally"*, is what he said. I ask myself, could I possibly be hearing this, are my ears failing me. Is the GSLP government, of which of course he is not a part but I mean, when his partners were in government, is he really trying to persuade Civil Servants that this Government, unlike them, has an attitude to them? What attitude? Is he referring to the fact that there is now recruitment to the public service, which there was not in their day in office. So that when people retire it is not a question of the rest of them slaving even more. Is that the attitude of this Government that he is lamenting, or that he thinks Civil Servants are lamenting? Or does he think that the Civil Servants are lamenting the attitude of this Government which now gives them promotion opportunities, of which they were starved for eight year? Does he think that is the attitude, generally, of this Government to Civil Servants, which the Hon Member, or does he think that they are lamenting the attitude of this Government to Civil Service training? When there are now

hundreds and hundreds of Civil Servants undergoing, at Government's expense, training in any area of their choice, compared to the situation before 1996 when there was zero training for the Civil Service. Does he think that is the general attitude of this Government to Civil Servants, that he is trying to persuade them that we have? Or perhaps the attitude of this Government to Civil Servants that he is referring to, is the fact that we have refurbished all their offices, and they are no longer required to work in hovels. That must be the attitude of this Government to Civil Servants that he is referring to. Or perhaps, he was referring to the attitude of this Government, that has led us to make permanent and pensionable Civil Servants that were being exploited on permanent supply terms. Or perhaps he was referring to the attitude of this Government to the hundreds of employees of Government owned companies, that their Government that was supposed to be showing an example, nevertheless had employed without even an occupational pension. Perhaps that is the attitude of this Government to their employees that the hon Member was referring to. They have all got them now, by the way. Hundreds and hundreds of workers. Perhaps the attitude of this Government to their employees that he was referring to, is the fact that we have given hundreds of Government company employee workers a decent contract of employment, with decent terms and conditions, which they did not have before. These must be the general and dreadful general attitude of this Government to its employees. The hon Member either did not know what was going on before, does not know what is going on now, or both, possibly.

The hon Member asked why we were cutting the cover for absenteeism. I think that is a legitimate issue to raise. Well, the answer is that it is the same reason as to why we have sub-divided it. Look, until last year, the heading was just temporary assistance. That conceals a multitude of expenditure. The multitude of expenditure is even more than is listed now. But now at least there are four main heads. Specialists, classroom aides, cover for maternity, paternity and four, temporary cover for other absences. Which basically means sickies. Well, in 1995/1996 he may be interested to know, that the expenditure on

this head of expenditure was £324,000. Last year, it rose to £950,000. A threefold increase in the temporary assistance vote. The Government have done two things in an attempt to put a downward pressure on that figure. Firstly, we have required the Education Department to sub-divide the vote so that the House can see which element of it is going, because of course, look, if the classroom aide vote goes up, because the Government decide to employ more classroom aides, that has an explanation. But if the temporary cover for other absences vote goes up, it may well mean that the incidence of sick leave is increasing. That is something that management can remedy and should remedy. Therefore, there is more transparency of information so that the House can gauge for itself this exponentially rising head of expenditure and if it is reduced from £950,000 to £700,000 because we do not wish to allow the Department simply to grow this figure. So one year we provide an estimate, they spend more. If the following year we make what they spent more the next year's estimate, then next year they will spend even more than that. So that becomes the following year's estimate. On that basis, that ratcheting is simply unacceptable. That is the reason. It is not acceptable to the Government that these heads should continue to increase by these amounts of money, except to the extent that Government policy explains the reason for the increase. As there has been some element in relation to the increase in the number of classroom aides, which is explicable, which explains part of this increase.

Mr Speaker, he referred to the Tomlinson Report, which I have not read and I suspect neither has he. He says, Gibraltar students are getting a raw deal. I say to myself, gosh this is a very worrying state of affairs indeed. Here we are, thinking that we have an excellent educational system and we were all constantly praising our teachers and everything, and here pops up the Shadow spokesman for Education, in the House of Assembly, and says that our students are getting a raw deal. I, who am responsible for the whole Government, sort of immediately perk up in my seat and say, what could this mean? I ask myself, where is the raw deal? Is it in the fact that our exam results are much better than they are in the UK and getting

progressively better still? Is that the raw deal? Or is the raw deal the fact that our children enjoy class sizes and teacher to pupil ratios, that in the UK they do not even dream about? Is that the raw deal? Or is the raw deal that our children are suffering, the fact that the Government have invested millions and millions of pounds in building new halls and new this and new that? That must be the raw deal to which he is referring to. Or perhaps the raw deal is that our university students now get a full grant and that parents are relieved of the need to make a parental contribution? That might be the raw deal that the hon Member was referring to.

The same element of inaccuracy and distortion permeates many of the other points that the hon Member makes. For example, the Theatre Royal has been a big failure. That is a matter of opinion, it has not finished yet. I suppose they can do, like they have done with the buses and with the hospital. They can make hay until such time as the Government either builds those things or does not. The buses, too long, too short, too wide, too high, the wheels go round, the windscreen wipers go swish, swish, swish, and there was all manner of criticism until such time as the facts take over the rhetoric. When the facts take over the rhetoric, the end for vacuous words of the hon Members arise. So, between now and the end of the Theatre Royal, the hon Members can beat the Government over the head with it if they like. But what they cannot do is distort the truth. We did not have a clue what we wanted. There was no consultation process and the agreement was signed after the event, or the consultation took place after the agreement. Well, I said to myself, now, well it might be that he says these things, he might have gone on a Himalayan backpacking holiday that year, for six months, and he may have been away from Gibraltar all of these months, and therefore, the only thing that could drive him to say that there was not a consultation process must be that he was not in Gibraltar to see the extensive press coverage of the extensive consultation process that took place. Nor could he have been in Gibraltar whilst the models and the plans for the Theatre Royal were exhibited in the John Mackintosh Hall, for days and days and weeks and weeks, before the Government

made a decision as to. He could not have known that the Government were in intimate consultation with Thespian groups and other users of the Theatre, and that there was a wide public debate and consultation. At no time during all of that, by the way, did he open his mouth to criticise the project. At no stage then, did any of the Opposition Members say hang on, do we really want a theatre? How many zarzuelas are we going to be able to organise in it and what is the total capacity, and can we bring the props to the backstage door? What about this business of there not being any parking? At no stage during any of that time did any of them open their mouths to say boo to a cat on any of these issues. Now, after the most extensive process of consultation that there has been in Gibraltar in relation to any publicly funded project, now they pretend, and they assert with all the straight face in the world, that there has not been a consultation process. I say to myself, the only explanation for the hon Member's assertion is, that either he is seeking to distort history, or he was in the Himalayas on a backpacking holiday. It cannot be anything else. It can not be anything else. Now he is free to say, well we thought about it more and we think it is a very bad idea and that the Government should not do it. It is a different matter. He is entitled to his view and to change it as often as he likes. But he cannot convert his view, you know people in Gibraltar are getting a little bit tired of this, if there is a new bus service we have got to find something to criticise it, if there is a new hospital we have to find something that the Government forgot the kitchen. Somehow they have to tarnish every project that the Government do. If we are going to build the Theatre Royal, it is the fact that we cannot get the props to the stage door and there is not a multi-storey car park next door. No doubt when we build the new housing they will say, that the colour of the parasols on the balconies is not to their liking. People in Gibraltar now understand the obsession that they have with finding criticism in everything that the Government do. No that is not opposition. Opposition is in faulting what the Government do wrong. But Mr Speaker, nobody in Gibraltar believes, nobody in Gibraltar except the Hon Mr Picardo, as I will remind him in a moment, nobody in Gibraltar believes that everything that the Government does it does wrong. One has



really got to question the offence that the hon Members aim at the people of Gibraltar, and their intelligence, when they pretend that the Government that they choose to re-elect, time and time again, gets everything wrong. Well what is wrong with the people of Gibraltar? Why do they elect governments that get everything wrong all of the time? So might it be that we do not get everything wrong all of the time, and that it is just their destructive, insincere style of opposition that drives them to criticise everything and anything that the Government do, lest it should be popular.

**HON F R PICARDO:**

Mr Speaker, on a point of order. Perhaps the Chief Minister could at this stage,

**HON CHIEF MINISTER:**

Well he should identify the issue.

**HON F R PICARDO:**

Yes, I am identifying it to the Speaker, not to you Chief Minister. Mr Speaker, perhaps at this stage, and dealing with this particular point, the Chief Minister could identify why it was that he put a motion of no confidence when the GSLP was elected with 73 per cent of the vote in 1992. It was directly to that point.

**HON CHIEF MINISTER:**

Mr Speaker, under the guise of points of order, they do what they like with the Rules of this House, and they interrupt me as often as they like.

**MR SPEAKER:**

You give way all the time.

**HON CHIEF MINISTER:**

Well, Mr Speaker, the Rules of the House are there and that is not a point of order, he knows it is not a point of order and he is just consciously abusing the Rules of the House to frustrate their intention. That is what is doing, and fine. He can carry on doing it for as long as Mr Speaker is willing to accept it. I am not going to complain.

**MR SPEAKER:**

I have got to listen to a point of order to find out what it is.

**HON CHIEF MINISTER:**

But then you should make the ruling so that at least he learns what points of order are for.

**MR SPEAKER:**

I will not argue with anyone. Carry on.

**HON CHIEF MINISTER:**

The issue then of the Theatre Royal is that. Then he says "*even the Chamber of Commerce Business to Business magazine has the same view. You see, it is a white elephant.*" Well, Mr Speaker, it does not mean that at all. What it means is that the

writer of that article has chosen to regurgitate everything that the Opposition has ever said on the project. The article is simply regurgitating the views that they have expressed. That is what the article does, and it remains to be seen the extent to which the authorship of that article, and the content of that article, does not actually more reflect the commercial interests of those people who have existing conference facilities or plans for new conference facilities in Gibraltar, and with which the Theatre Royal would compete. That remains to be established because it is certainly the first time that the Chamber of Commerce has taken such an intense interest in Gibraltar's cultural affairs. They do not worry that I spend millions of pounds refurbishing housing estates but they do worry that Gibraltar should have a theatre. Now we may agree or disagree about whether Gibraltar should have a theatre, but I think we can all agree that it is hardly the most pressing issue for the Chamber of Commerce. Yet they have laid on it in an article and therefore the Government have their suspicions about whose interests that article is actually designed to promote. Although I recognise that there are many people in Gibraltar who are not in favour of the project, for reasons and judgements with which although I do not agree with, I recognise are rational reasons. I do not put the Chamber of Commerce into that category.

Then, just before he sits down, as if he did not think he had already generated enough unjustified headlines, he says, the education system is quickly going down the slippery slope. What is there that he thinks justifies the statement in this House, that the education system is quickly going down the slippery slope? This is just completely sort of intellectually insincere, politically opportunistic vacuous statements.

And so I turn to the contribution of the Hon Mr Picardo. Well, the hon Member appears not yet to have learnt, and I do not give up hope that at some stage he will, that one does not persuade the people of Gibraltar that one is a better alternative for office, by dedicating himself almost exclusively at the personal insult and vilification of his opponent. And, whilst he wishes to continue with that style, this is fine by me. But of course, what I am not

going to allow him to do, is to somehow induce me into his play pen to play with his rattles and his toys with him. That is not what he is going to do. He is not going to do that. I mean, he can stand in his playpen playing with his rattles by himself for as long as he likes until he eventually grows out of that politically. But in the meantime he is not going to draw me onto that ground. So I shall ignore all the personal vitriol, all the personal abuse, what I will not ignore is the falsehoods that he has uttered in this House. That is what I will not ignore. But of course, the hon Member starts his political debating with a huge intellectual disadvantage. That is that what I said before, about the hon Members believing that the Government get everything wrong, in the case of the other Members, it is more or less speculation on my part, but in the case of the hon Member, Mr Picardo, it is not speculation. He has just finished saying the very same thing in an extensive interview in El Faro de Gibraltar newspaper. Where he is asked a question, and the very first line of his answer is, well I will say it in Spanish first, *"yo creo que el gobierno social democrata esta consiguiendo equivocarse en todo lo que hace."* For the sake of Hansard, *"I believe that the GSD Government are achieving making mistakes in everything that it does."* So, in the case of the hon Member, when I say that their political style is to think that the Government get everything wrong all of the time, in his case it is a documented statement. Of course, if one imposes that millstone around ones neck, before one even opens ones mouth, if that is the conditioning that one gives to ones own brain before one even opens ones mouth to participate, it is hardly surprising that he is forced to utter the factual nonsense that he then has to go on to utter, in order to sustain what is unsustainable from the outset. The Government fully understand that they do some things very well, they do some things badly and they do some things okay. But who in Gibraltar does he wish to persuade that the Government get everything wrong all of the time. He has got to understand that this affects his own credibility. This does not damage the Government's political prospects, it damages his.

Mr Speaker, he says, recurring expenditure is growing dramatically and this is snaring the Government. Then the

examples he gives are the Theatre Royal, which is not an item of recurring expenditure, and the party we threw at the Savoy and at the RAC Club. Then he says the Government are spending money on a litany of frivolities. I would like to know which are the litany of frivolities. Of course, if he thinks that it is a frivolity for the Chief Minister of Gibraltar to travel Club Class, let me tell him that it was not me who started that, his own party leader used to travel Club Class. I do not know whether he thinks that Mr Bossano was frivolous as well. Or perhaps he thinks that it is proper that the Chief Minister of Gibraltar should not sit in Club Class. When he speaks about the frivolity of spending money in putting, as the Hon Dr Garcia did, the frivolity of putting up the Chief Minister at the Savoy Hotel, he may be interested in knowing that the Savoy Hotel is cheaper than the Waldorf Hotel, which is the choice of hotel that I inherited from his party leader, the Hon Mr Bossano when he was Chief Minister. When I first went on my first trip to London as Chief Minister, and I asked why am I going to the Waldorf? I was told because this is where your predecessor came and this is where Chief Ministers come. I said well, fine, that is all right. But the Savoy is cheaper than the Waldorf, so I do not know whether that makes me more or less frivolous in my expenditure than them.

Mr Speaker, apparently the Theatre Royal, on which the Government have so far only spent £3 million, is according to the Hon Mr Picardo, "leaving us all vulnerable". Well imagine how much more vulnerable we were not left by their nearly £50 million that this Government have had to invest in correcting the fiasco in the In-town Incinerator, which was a contract, which anybody with a brain in their head who read it at the time would have known was a nightmare for Gibraltar, and so it became, and the millions and millions of pounds that we have had to invest in correcting their fiasco in Harbour Views. So I do not know whether the £3 million so far invested in the new theatre, I do not know, well I do know whether it is making us vulnerable, I know that it is not. But certainly, they are not in a position to allege that it is making us vulnerable. Because it is a drop in the ocean compared to the tens of millions of pounds that have had to be spent to put right their own negligence and their own failure to

conduct public affairs of Gibraltar with even a molecule of common sense. Then, he cannot even read Hansard accurately. This, he says, pointing at me, this is the man, this is when he was in the full flow of his denigrate Caruana, the ogre, phase of his speech. This is the man who complained that Mr Bossano was eating lunch in his office, and now he incurs in the frivolity of throwing a reception in the Savoy Hotel. Wrong. This is not the man that raised in the House of Assembly the fact that the Chief Minister had lunch in his office. Indeed I have lunch in my office. It was not Peter Caruana, it was Peter Cumming. I know there is a coincidence of first names and I know that the second name starts with the first letter, and that both our initials are PC, but somebody who is a member of the legal profession should not be thrown by those similarities to utter something which is wholly false in this House. I have never. So this man, has not done any of the things that the Hon Mr Picardo, with scant regard for the truth and the accuracy of his statement in this House, nevertheless declares. That is the nature of his debating and political style. Just the same observation can be made to his statement, this man is the man who said when Joe Bossano was Chief Minister, that he did not believe in saving for a rainy day. Not true. I have never said that I do not believe in saving for a rainy day. What I do remember telling the Leader of the Opposition, when our roles were then reversed, is that there was no point in saving for a rainy day if one was not also making the necessary investments to ensure that the rainy day could be avoided. That is what I said. I do not know why the hon Member thinks that, even leaving aside his misreading of Hansard for the second time in the five minutes of his address, even leaving aside his failure to accurately represent in this House the content of Hansard, why does the hon Member say that I do not believe in saving for a rainy day, when public reserves now are higher than they were when we came into office. Or has he not heard me say frequently the importance that the Government attach to maintaining a prudent level of reserves. Well, what does he think public reserves are? Or does he think that it is only funds for a rainy day if they are put in an account with a little sticker on it saying, funds for a rainy day, sort of Winnie the Pooh style. Unless it says Owl's House, on top of the tree house, it is

actually not an owl's house. What does it matter? He does not appear to be able to understand the contents of Hansard, and he does not appear to be able to understand the content of financial statistics placed in front of him. This is not a good start to his four years in the House.

Well, anyway, be that as it may. Of course, the sort of inaccurate, to put it at its most generous, the inaccurate characteristic of almost everything that he said continues. When he is talking about the tax reform proposal, because the Chief Minister, of course, what he is trying to do now, typical, this is another example of the buses and the hospital, and the Theatre Royal and the wheels going round and all that. Now, the latest trick, is to try and pin political personal responsibility for the tax reforms situation on the Chief Minister. So how can we do it, ah, well, the first thing we have got to do to make sure that everybody blames Caruana personally, for his incompetence. The first thing we have got to do is to make sure that everybody believes that nobody else took part in the decision. Now let us see, how can we do this? Well we know it is not true, but how can we nevertheless create the impression that it is? I know, they say, we will say, as he did, that he failed to consult widely and that the decision had already been taken. Absolutely false. And he knows that it is absolutely false because important partners in his law firm, were part of that consultation process and indeed, benefited from fees, as no doubt he did, from advising the Government on the consultation process, advising the Government on the legislative process and working for the Government on that account. So unless he was, with the Hon Mr Linares, in the Himalayan backpacking holiday together, he must know that there was a huge consultation process. A huge consultation process by the Government, with all elements of the industry, before a decision was made as to which model the Government should pursue.

**HON F R PICARDO:**

Will the Chief Minister give way?

**HON CHIEF MINISTER:**

No I will not. Mr Speaker, giving way is not an alternative. Point of order is not an alternative.

**HON F R PICARDO:**

Well no, because I would have made the point if the Chief Minister had given way. But seeing as he has not, I think I have to make the point on reflection, given what he has said that any fees which were paid to any law firm in Gibraltar, in relation to the State Aid case, related to instructions given to any such law firm, or partners of such law firms or associates of such law firms, to act on decisions taken by whoever it was that took them. That is the debate we are having. Not in relation to the consultation process, which is what the Chief Minister has said, which is therefore a falsehood. Therefore, Mr Speaker, this is a point of order.

**HON CHIEF MINISTER:**

Mr Speaker, actually what the hon Member has just said is not true. There were a number of lawyers who were engaged by the Government during the formative period of the proposals. Not just to legislate, it is true that they also did the legislation drafting, it is not true that people were not on fees when during the advisory stages to the Government. It is just not true.

**HON F R PICARDO:**

Mr Speaker, that is a complete change from what the Chief Minister said. The Chief Minister gave the impression or said, I do not have the Hansard in front of me because we do not have it immediately, that he paid partners or associates of law firms, for the consultation process, not during the consultation process. Now, if you pay for something like that, you are paying for

advice, you are not consulting Mr Speaker. Let the Chief Minister make clear what he is saying and let him not pursue his reply based on falsehoods and that type of bad milk which he referred to before.

**HON CHIEF MINISTER:**

Mr Speaker, there is no falsehood in what the Chief Minister has said. The Chief Minister will not withdraw it, and if the hon Member wishes to carry on interrupting me to nervously rebut every point that I make, as I said before, he may carry on doing so, for as long as the Rules of this House can be disregarded.

Now, then he goes on to say there is a volte face. There is a volte face by the Government. Now, they are saying that they are in favour of low tax as opposed to no tax. Well, the hon Member is either totally ignorant of the history of the discussions between the Government and the Finance Centre on tax reform, or, as is more likely, he is intimately aware of them and is choosing to misrepresent them. The Government and the industry, from day one, have always considered that there are two ways forward. Indeed at one point there were three ways forward, and following investigations it was dropped as a potential way forward. One was low tax and one was no tax. The essence of the original consultation and discussions between the Government and the Finance Centre Council, was whether the Government should pursue the no tax or the low tax route. The Government accepted the no tax route on the advice of the Finance Centre Council. In my view, correct advice at the time. It is not a question of volte face. The Government and the Finance Centre have always discussed the medium term benefit to Gibraltar of moving to low tax, but the industry advised the Government that it was not yet in a position to do so, and therefore wanted the Government to go for no tax for the time being. That is not a volte face. The Government's position from the outset was that we would go for whatever route the Finance Centre industry advised the Government so long as it ensured the same degree of revenue for the Government. No volte face.

There has been no Government position to change because the Government never had a position of their own. The Government's position, now these are the options, which does the industry want us to pursue. So it is not that there has not been a volte face because there has not been a volte face. There has not been a volte face because there was not a face, and as there was not a face there cannot be a volte of the face. I believe, he said, that the majority of the Finance Centre Council were always in favour of low tax. Untrue. Only one member of the Finance Centre Council then said that his preference was that the Government should even then go to low tax, and that was Tim Revill, who was then not even representing the accountants, he was representing Steppe.

**HON F R PICARDO:**

I would like to make a point of order.

**MR SPEAKER:**

I am not accepting more points of order.

**HON F R PICARDO:**

He is misquoting me, therefore it is a point of order.

**MR SPEAKER:**

No, it might be a point of explanation.

**HON F R PICARDO:**

It might be a point of explanation, well or clarification. I said to him in my address, I have it written down, that the Finance

Centre, speaking generically, now the Chief Minister has said that I said the Finance Centre Council and is going through identifying who in the Council said what or said something else. I did not say the Finance Centre Council, and I did not say one person or two persons of the Finance Centre Council.

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

I think it is wholly incredible that the hon Member should now be trying to protect himself by drawing that distinction. Look, there is a Finance Centre which comprises of lawyers and bankers, and insurance operatives and fund managers and people of this sort, and they make up the Finance Centre. They are collectively represented as sectors by a Finance Centre Council, which is composed of the chairman of each of the associations. So, the Insurance Association has its chairman and its vice chairman on the Finance Centre Council. The Bankers Associations has its chairman and its vice chairman on the Finance Centre Council. The Bar Association has its chairman and its vice chairman in the Finance Centre Council. The Company and Trust Managers have the chairman and the vice chairman in the Finance Centre Council. So all of these representatives of the Finance Centre, is the interlocutor with the Government. They speak for the Finance Centre, having consulted, and having debated the issues in their own associations first. In addition to consulting them, the Government also widely consulted directly to individual operators in the Finance Centre. Senior partners of firms, senior accountants, senior lawyers. So, when the hon Member says that he believes that a majority of the Finance Centre were always in favour of low tax, he is simply not telling the truth. When he then adds the vicious twist in the tale, by saying, that the majority of the Finance Centre were calling for low tax, rubbish, nobody was calling for low tax except one individual. Then he adds, but of course, the minority, he said, were well connected because they were members of the GSD Executive. That is what he said. In other words, that the Government ignored the advice of the majority. Untrue. Not satisfied with uttering that untruth, he then invents a dishonourable motive for

the Government's hypothetical and untrue rejection of the majority's advice, namely, that the minority were well connected because they were members of the GSD Executive, and therefore able to get their way. It is lie upon lie, it is distortion upon distortion. That is the inescapable factual reality of the hon Member's representations in this matter.

Of course he was desperately keen to ensure that any failure for Gibraltar, any bad news for Gibraltar in this matter, should be strung around the political neck of the Government of the day. He was so obsessed with trying to do that, that he did not mind the number of inaccuracies that he uttered in order to achieve it. He said the proposals that were rejected were the Government's proposals. Not true. The Government stand by the proposals, but actually the decision to formulate those proposals was a decision taken by the Government upon the almost unanimous advice of the Finance Centre, and Council, both. Not a solitary voice of representation was put to the Government, in any of this period, by any member of the Finance Centre, urging low tax straight away. These are the realities of it. Therefore, the reforms have gone badly wrong, and No 6 is responsible, or Caruana personally. Let us make sure the millstone sticks around. The reforms have gone badly wrong and No 6 is responsible and there is a need for the Chief Minister to have some intellectual humility and accept that the decision has gone badly. Well he cannot conceal his motives in all of this. His inability to conceal his motives destroys his credibility.

Mr Speaker, first of all, it is sad to see the hon Member almost wishing failure for Gibraltar, so that there is some failure that he can attribute to the Government. Not a word of hope that the Government succeeds. Not a word of saying, "well, you know, the Commission has turned down the proposal on material selectivity, and of course that decision is outside the Government's control, and of course we take note that the Gibraltar Government, around whose neck I am already trying to pin this, which I am already describing as a failure, that the British Government's lawyers think that the European Commission's ruling is wrong, that some of the best and most

expert European lawyers, who have addressed this issue, both before the proposal was formulated and after the Commission's decision, have all said that the Commission has got it wrong." Never mind that the Gibraltar and UK Governments are both determined to challenge these decisions, because of the confident that we are that it is wrong, just as we rightly challenge the previous exempt status decision. All of that, is ignored in the hon Member's indecent haste, at the earliest possible opportunity, to describe this as a failure to be attributed personally to the Chief Minister as a result of his lack of intellectual humility. I am sorry, the hon Member says things and they have some natural interpretations. Then he cannot escape from the natural interpretations of the things that he says.

It is not a failure for Gibraltar. It is not yet a failure. It is part of the process. He, as a lawyer, must know. I hope he should know that the fact that somebody is subjected to a decision to an action by others with which they disagree, and that they have recourse to the courts to see who is right or wrong, at that point there is still no failure. The failure is when the court of last recourse says he is right and you are wrong. Even then we have to see what it is a failure of. He thinks it is a failure of intellectual humility. He thinks, obviously, it is a failure of competence. He thinks that it is a failure of the Government having made the right choices. But he says that without any understanding of how these decisions were made and by whom they were made, and after what process they were made. Or rather, he says them despite knowing all these things.

**HON F R PICARDO:**

Mr Speaker, this is a good point for me to say I have to make a point of clarification, which is that the Chief Minister has said specifically, that I did not wish that the proposals should succeed although that would be bad for Gibraltar. I actually said specifically, I will go further and make clear to the Chief Minister that we wish to see Gibraltar succeed in identifying and implementing a new financial services product, or products, that

will enable our financial services community to develop even more into one of the most able, sophisticated and prosperous. Because of what I said Mr Speaker, I recognised that we all have a stake as a community in those proposals.

**HON CHIEF MINISTER:**

No he did not. What he actually said.....

**HON F R PICARDO:**

Mr Speaker, I said specifically, I have my speech written down here. He accused me of reading my speech, I can give him the copy if he likes, and then we can check in Hansard who did or did not say the things we are saying we did or did not say.

**HON CHIEF MINISTER:**

Well, we have already established the inaccuracy with which he quotes Hansard. I do not suppose the next time he does it will be any more accurate. Whilst he refers to Hansard, let me actually remind him of what he said. After lunging into this tirade on the failed reform that had gone badly wrong, which is a reference to the material selectivity ground, he then said, but on the regional selectivity issue we see the importance and we support the challenge et cetera et cetera. At no stage did he demonstrate any degree of support for the Government on the content of this reform, or which is, by another name, the material selectivity challenge. That is the reality, not what he has just said by way of the twentieth point of order, that he thinks that he can stand up to make every time he is peeved by something that I say.

Mr Speaker, and he is also wrong on his description of the Primarolo Group. Having invented a degree of ambiguity in a non-existent commitment, he then says, why was the

commitment given which did not foresee rejection of the tax reform proposals. Well let the record show that he is nodding his head in agreement with my description of what he has said. Because in case he does not like what I am now about to say, he cannot attack it on the basis that I have misquoted him.

Well Mr Speaker, the Gibraltar Government have made no commitment to the Primarolo Group. The Gibraltar Government's formal position is that the Primarolo Group does not create international legal obligations, and therefore the United Kingdom is not constitutionally entitled to impose that obligation. Let me say that the United Kingdom has a different view of that, of the constitutional aspect of it, but that is as I have explained in this House many times. The United Kingdom Government has chosen to say certain things about Gibraltar and all its other territories, in relation to the Primarolo Group, ignoring the constitutional difference that exists between us as to whether they are entitled to say those things. Now, even the United Kingdom's commitment in respect of Gibraltar, commitment is perhaps too strong a word. Even what the United Kingdom has said about Gibraltar in the Primarolo Group, has taken into account our tax reform proposals, when they have made clear to the Primarolo Group that Gibraltar cannot be expected to roll back the exempt company regime, which the Primarolo Group has adjudged to be harmful, until Gibraltar is able to replace it with something else. And that the Commission, through this finding on both material but particularly regional selectivity, has made it impossible for Gibraltar to replace the exempt status regime. That is the United Kingdom's position on the Primarola Group.

Mr Speaker, in his obsessive concern that nothing that is successful should benefit the Government politically, he says, *"ah, yes, in the Finance Centre there is growth in the insurance sector, but this has got nothing to do with the Government. This is industry led, and the Government can claim no credit for it whatsoever."* Well, if any of the other Opposition Members, other than him had made that remark, I would have written it off as simple lack of familiarity with the details, because none of them

are Finance Centre players, but coming from him, it is an absolutely extraordinary statement. Or does he not know that the growth in insurance derives from insurance passporting into the European Union Single Market, for which the Gibraltar Government fought and obtained, after three long, hard years of effort. Does he not know that? Or what is the matter with the hon Member? Does he not know that? I mean, it is not possible to be a lawyer in practice in Gibraltar and not know that. So why does he come to the House to make remarks which are not compatible with that fact.

But anyway, leaving that to one side, to the statement, to the political philosophy that the Government get everything wrong, we must therefore now add a second string to his political philosophy. Not only do the Government get everything wrong all of the time, but the Government are to blame for things that go wrong but can claim no credit for things that go right. That is the second tier of GSLP politicking style. Good luck to them.

Mr Speaker, the hon Member reached for Hansard with great excitement to quote what I had said on the occasion that the Leader of the Opposition and I, back then debated the merits of the loss of control that the Government of Gibraltar were suffering over financial services, because of the Financial Services Ordinance transfer of the FSC control in effect from the Foreign Office to the Governor. Well, he can if he wants compare that with what he tried to compare it with. But I do not think that he can legitimately with any intellectual legitimacy. There is surely, he must understand, a huge difference between the Gibraltar Government's failure to keep control of an activity that it had always been in control of, and suddenly the Foreign Secretary becomes responsible for the control of our Financial Services Commission, and he must surely understand the difference between that on the one hand, and the Gibraltar Government failing to persuade, despite the most timely pointing of it out to the British Government, of the British Government's refusal to negotiate a derogation for us from a particular EU measure. That is what we failed to do. We failed to persuade the British Government to say, "look, when you are dealing with



Gibraltar in the context of the Taxation of Savings Directive, do not be unfair to us. Do not allow, at the end of the day Gibraltar to be in a worse position than any Member State, and preferably, not even in a worse position than any of the Crown Dependencies. But if you do want to draw a distinction between us and the Crown Dependencies, because at least we are part of the EU and they are not, at least do not put us in a worse position compared to full Member States of the Commission of the Community." Despite us having this at the top of the agenda with them, month after month after month, that is precisely what they did. Mr Speaker, one it is something for which the Government are not responsible and is outside of their control. The other is, keeping control of something which Gibraltar was always in control of. Now, I remember at the time of that legislation that we were all very worried about how negative the money laundering provisions in it were going to be, and we were all very concerned because it was all new. In the event I think that was very helpful and all these concerns that there were at the time about regulation and money laundering and all that, everybody worries about change, in the event I think that aspect of the legislation was very positive. But I do not think that the loss of control over our regulatory mechanism to the Foreign Office was very positive, and that is what was at stake in the debate which he cited in comparing it to my own failure to persuade the British Government to deliver a level playing field for us in the Taxation of Savings Directive. The hon Member also raised the TEP Plan, upon which he appears to have gone on a sort of unilateral political crusade. Let me say that the Government have not been approached, at least I have not been approached, I am both the Chief Minister and the Minister for Financial Services, I have not yet been approached by the TEP Association or by I have had a social conversation at a Divali party last year I think, with one of the affected victims, and there are affected victims in my family, or my wife's family. So I know something about it. But the Government have not yet been approached by anybody representing the TEP investors, with any representations about what the Government can do to assist them. Actually if they ask to see me, I will see them as I see everybody that asks to see me. If there is anything that the

Government can do, properly do, to assist them, the Government will. But of course the starting point is that whatever view one has about what has happened and why it happened, and whether it should or should not have happened, the starting point is that the Government do not indemnify people from failed investments. Now, if ultimately any of the loss that they have suffered is established to have been the result of a failure of Government, in its wider sense. For example, failure of the regulatory machinery, well that would be a different matter. Then the peoples' rights would have easily been established against the State, in its widest terms, and the State will have to suffer the consequences of that adjudication, whatever it might be. But I am sure they are not expecting the Government, at this stage, to insulate them and therefore, when they have decided how it is they think that the Government can help, so far all that I am aware of is that about three or four weeks ago, after the last Question Time, I received a report which has been written for Savignon Insurance Brokers, by some yes, I do not remember the gentleman's name but there is a report and they have sent a copy of it. But that is all that the Government knows officially about the matter at the moment.

Mr Speaker, it is clear that the objective of the hon Member's address was to denigrate and personally attack the Chief Minister, which I think is legitimate politically, I have a different view about whether it is the sort of politics that turns on the electorate or does not turn on the electorate, but that is a matter of judgement. The hon Member's tirade in relation to alleged interference with the press, is extraordinary. Of course it is true that the Government do not have less right than anybody else to complain to the press. The Government are neither in a privileged nor in an under privileged position when it comes to complaining to the press about inaccuracies and about things that they object to. So, the Government are as free to express to any organ of the press their view on a particular output, as the hon Member is, and as anybody else is. The alternative view is to believe that the Government are the only party referred to in the press that is not entitled to express their views to it. I hope that is not the hon Member's position or view. All that said the

suggestion made by the hon Member, that the Government regularly or frequently put pressure on any organ of the press, because of their editorial content of their coverage, is simply not true. No, it is not true, it is true that we have done it on a few occasions, which I personally would limit to fingers of one hand in eight years in office, when we have thought that the excess has been excessive. Sometimes we do it more frequently, when it is not the party's and political interests of Gibraltar that are at stake, of the GSD party that are at stake, but rather the wider political interests of Gibraltar as a whole are at stake. When that happens, and when we think that a report in the local press is unhelpful to Gibraltar, regardless of political divide, we do sometimes approach the press and make these observations in the interests of Gibraltar. We either persuade them that the interests of Gibraltar, or not. Then they do what they like. Well let me tell the hon Member that the same members of the press that he has coffee with downstairs, also talk to me. Presumably the same members of the press that tell him, if indeed anybody has told him and he has not just invented it himself, that the Chief Minister's Press Secretary is constantly ringing up the press and wringing their necks and abusing Government power whilst they do it, these are the same people who tell us that the hon Members on the opposition benches are haranguing the press on an almost daily basis. Not just about what the press says about them, but that they harangue the press when the Labour Party gets interviewed. "Why have you given the Labour Party an interview? They have not got seats in the House. Why have you reported the Labour Party's press release on the front page? They are not even members of the House of Assembly, "and that this is continuous.

So Mr Speaker, I think the first point that I would make is that the hon Member has exaggerated the size of the glass house. The second point that I would make is that whatever may be the size of our respective glass houses, certainly throwing stones in glass houses is a well known danger. Now, the suggestion therefore, that the Government put pressure on the press to say things or not to say them, is wholly untrue. Compared to what used to happen before 1996, perhaps the hon Member was not then

observing the political process in Gibraltar as carefully as he is doing it now, but if he wants to know what governmental pressure on the media actually looks like, what he ought to do is observe the state of the media between 1988 and 1996. Then he will discover what it was to have a press under the attempted intimidation of the government of the day because of course, to their credit, on the vast majority of occasions, the press were professional enough to withstand the pressure. Then as a sort of throw away remark, because the Chief Minister cannot pretend to have kept to his tendering process policy, he does pretend that he has kept to his tendering policy statement, and on the rare, exceptional occasion when it has not been possible, we have said why it has not been possible. He then goes on to say that he does not believe the House does not meet enough. He was expressing a personal opinion, that is his personal opinion. He should know that it meets more now than it used to before, with the exception of last year. But if he compares the number of meetings, the number of sittings, the number of hours of duration of the sittings between 1996 when we took up office and does the same calculation in respect of the period 1988 to 1996, he will notice that there has been a huge increase in the process and sitting of this House. Now, that does not mean that his view is still not right. Notwithstanding that, his view that the House does not meet enough may be right. It is a matter of opinion. But what I can tell him is that any possibility that the House may meet more often, would have to be accompanied by a complete and utter restructure of the way the House conducts its business, and all aspects of it. Because, certainly, what the Government are not willing to do is to come to this House every other week, to be kept by the hon Members in this House for as long as possible answering statistical questions that then never result in supplementaries, so that Ministers have got time to do nothing else. We do not have a back bench. Therefore, that is my view about that, and he said, "ah well, we would ask less questions if the House met more often." Well, ask less questions, but in January they said, I think it was the Hon Dr Garcia, he will correct me if it was somebody else, but I think it was him, the Hon Dr Garcia said that the number of questions then being asked was so high because there had only been one Question

Time the previous year. But when the House met for the second time this year for Question Time, just three months after the first occasion, the number of questions was double the number that were put in January when they said that the reason was that there had only been one sitting the previous year. Thereby giving the lie to the suggestion that the number of questions reflect the frequency of the meetings of the House.

Mr Speaker, if I could just conclude with the remarks of the hon Member. In a two hour speech, I think it was probably more, one hour and forty minute speech, that as the Minister for the Environment that he should have devoted that hour and forty minutes, only six and a half minutes to the environment, in a two hour speech means either that the Government are not doing anything wrong in relation to the environment that he needs to bring to the House's attention, or hold the Government to account for, or that he has no views of his own on the environment. Neither of which will please his very close friends in the Environmental Safety Group, which will not be best pleased by his thinking that the environment only deserves six and a half minutes of a one hour and forty minute speech, despite the fact that he is the Shadow Minister for the Environment.

Mr Speaker, as to whether the House sits too late. Well, I happen to believe that there is much reform of the parliamentary process that we should engage in. There is a lot, I think, frankly the political maturity and the development of the political process in Gibraltar, over the last 25 years but possibly even more so in the last 16 years, I think has outgrown the processes and the procedure of this House. That is my view, and that it would benefit from a root and branch close look, at about how this House can be reformed so that it better reflects the modern political realities of Gibraltar rather than the days when, we all know, that the political realities were slightly different in terms of self government and political awareness and all of that. The Government are certainly willing to convene, in fact I think we have a manifesto commitment to convene a Select Committee of the House to look at things of this sort and talk about them. But just commenting on this business of the late sittings, again I have

to tell him that he may be right. That from time to time the sittings have to go on. But he will have noticed that on the whole I rise the House at a pretty sensible hour. He ought to compare that to what the situation was before 1996, where the numbers of late sittings were much more frequent and the lateness of the sittings were much further into the early hours of the morning and the night. Now, again, that does not disqualify his statement as meaning that whatever happened eight years ago does not mean it is still possible for him to have a view that it sits too late. That might be true, but again it is part of the way the House's business is structured.

Then, the hon Member's last remark when he was returning to the, by the way, inaccurate articulation of the amount of money that had been passed to the Police and the Customs and the Fire Brigade, to the refurbishment of No 6, he has overlooked the fact that it says, including No 6. So, I think he said £500,000, it is nothing like that. There is not £500,000 in that warrant. I think it adds up to two hundred and something hundred pounds.

**HON F R PICARDO:**

Sorry, will he give way just on that point, because I have the warrant here. I did say during the course of my speech that it was also in relation to the Post Office.

**HON CHIEF MINISTER:**

But not just in relation to the Post Office.

**HON F R PICARDO:**

Convent Place, Post Office and the amount is actually £469,000 or £468,000, not £200,000.

**HON CHIEF MINISTER:**

But Mr Speaker, including the Post Office and No. 6 does not mean only the Post Office and No. 6. It means amongst others, in fact there were 18 Government projects that were the beneficiary of that transfer of funds. But it does not matter the refurbishment work of No. 6, about which the Government are very proud and which was long, long overdue, has cost what it has cost. If the hon Member wants to know what it has cost, he need only ask the question and we will tell him what it has cost. Government are not trying to conceal. The Government think that No. 6 is now a proper, dignified office for the Head of the elected Government of Gibraltar, and that before it was not. Therefore, we have spent money in making it so. But the last use he made or a reference to the sumptuous refurbishment, and he has taken the money from the Police. That is the Chief Minister's commitment to the Police, he takes money away from them to spend it on thick carpets for himself. Well, I have got to give him a little bit of the treatment that I gave the Hon Mr Linares, when he was referring to this Government's attitude to the Civil Service in general. The Police know what this Government's attitude to the police is. They remember what the previous government's attitude to the police was, and they know how to compare one with the other. They know that they are now better paid. They know that much more is now invested on an annual basis on their equipment, than ever was the case in the days of the previous government. They know that they are now allowed to recruit from the general public and not made to make do with every discontented person from every other Government Department. That is what they know. That is what they know of the Chief Minister's commitment to the police. They know that this Chief Minister politically supports their work, as opposed to also remembering that when it came to police versus tobacco smugglers, the government of the day supported the tobacco smugglers. That is what they know.

**HON J J BOSSANO:**

Mr Speaker, I demand that he withdraws the statement that the government of the day supported tobacco smugglers.

**HON CHIEF MINISTER:**

Mr Speaker, I most certainly do not withdraw. I most certainly do not withdraw the support. He used to openly say it when he used to go to the sixth form, to talk to the liberal studies group, he used to say to them that there is nothing wrong with tobacco smuggling if it is not illegal in Gibraltar.

**HON J J BOSSANO:**

That is a complete falsehood Mr Speaker. The Chief Minister is making false statements in the House. I have not openly supported smuggling. He has supported a deal with Spain openly, as the election agent of the PAG

**MR SPEAKER:**

Sorry, I adjourn for lunch. I will come back at 3.00 pm or 2.30 pm.

**HON CHIEF MINISTER:**

Well, Mr Speaker, that is one alternative. The other alternative is that you step down from the chair and the Attorney General takes your place.

**MR SPEAKER:**

I step down.

**HON CHIEF MINISTER:**

Fine, you step down.

The Speaker of the House, having vacated the Chair without adjourning the House, it is the wish of the Government that the Hon the Attorney General should assume the Chair as provided by the Constitution and by the Standing Orders of this House. Now that you are in it, I beg to move the adjournment of the House until 2.30 pm.

**HON ATTORNEY GENERAL:**

The House will adjourn until half past two this afternoon.

The House recessed at 1.30 pm.

The House resumed at 2.35 pm.

**MR SPEAKER:**

My apologies for rushing out, but what has been said cannot be unsaid. Someone asked for an apology but I think everything can be cleared by withdrawing the previous statement. That is the end of it. I am carrying on. Are you willing to withdraw any statement?

**HON CHIEF MINISTER:**

Mr Speaker, if Mr Speaker is referring to the remark that I made to which the Leader of the Opposition took objection, I most certainly do not withdraw it.

**HON J J BOSSANO:**

Mr Speaker, I will not withdraw anything that I said in response to that, and the Chief Minister as far as I am concerned, is a liar and he is lying in this Hous

**MR SPEAKER:**

All right. Can you live with one another as if it had not happened.

**HON CHIEF MINISTER:**

Why should we live with one another. I have made a statement which I believe is entirely accurate, with which the hon Member disagrees. He has expressed his disagreement in very graphic terms in the last 30 seconds, and I believe that my statement is wholly correct. Perhaps we should both agree to allow listeners to make up their own minds of who is saying the truth and who is not.

**MR SPEAKER:**

Yes. The thing is this. Whatever you said amounted to an allegation of a criminal offence. Now, as you know, in the law of libel, the bigger the truth the bigger the libel. So, are you quite happy to carry on without I having to adjudicate and then getting into trouble over it.

**HON CHIEF MINISTER:**

Certainly Mr Speaker. Adjudicate on what? I have expressed a view, by which I stand.

**MR SPEAKER:**

Suppose I were to say, if you do not withdraw I will name you.

**HON CHIEF MINISTER:**

Well, Mr Speaker, it depends what it is. Well you can do that and then the House can vote on a substantive motion, as to whether it accepts or does not accept your ruling. That is the procedure. Name me for what? For saying that in my opinion the Leader of the Opposition did not support the Police in the fight against tobacco smuggling. Openly supported tobacco smuggling. Well, all right, same difference, sorry, yes that is the version. Well fine, it boils down to the same thing.

**MR SPEAKER:**

Anyhow, if you are not prepared to withdraw and he is not prepared to withdraw, I will name you, then we will put it to the motion.

**HON CHIEF MINISTER:**

Indeed. You can name me.

**MR SPEAKER:**

You are already named and the motion is whether the House supports the Speaker's motion. All right. We will take it straight away by voting. Question put.

For the Ayes:       The Hon J J Bossano  
                          The Hon C A Bruzon  
                          The Hon S E Linares

The Hon Miss M I Montegriffo  
The Hon F R Picardo  
The Hon L A Randall

For the Noes:       The Hon C Beltran  
                          The Hon Lt Col E M Britto  
                          The Hon P R Caruana  
                          The Hon Mrs Y Del Agua  
                          The Hon J J Holliday  
                          The Hon Dr B A Linares  
                          The Hon J J Netto  
                          The Hon F Vinet

Abstained:         The Hon R R Rhoda  
                          The Hon T J Bristow

Absent from the Chamber:   The Hon Dr J J Garcia

The motion was defeated.

**MR SPEAKER:**

All right. We carry on.

**HON CHIEF MINISTER:**

Mr Speaker, and in any event now that the motion is over, let me say that since it is the view of the Leader of the Opposition, often expressed, that the exportation of tobacco from Gibraltar in the way that it was being done, did not breach any law of Gibraltar, I fail to see how it can be interpreted to be an allegation of committing a criminal offence. But that, just as an aside, to everything else that you have said. I think Mr Speaker's decision to name the Chief Minister in circumstances in which there is no procedure in this House that entitles him to name the Chief Minister for that said, there is privilege in this House, and there is

privilege in this House on terms that the Members make themselves responsible for the statements that they make in it. There is no rule in this House that allows the Speaker to name a Member for expressing his view in it.

**MR SPEAKER:**

I did it once with the Leader of the Opposition.

**HON CHIEF MINISTER:**

Well, fine. Therefore you think it is only fair to do it again for me.

**MR SPEAKER:**

No, no, no. Please do not tempt me again. Carry on.

**HON CHIEF MINISTER:**

Mr Speaker, look, I am not tempting you but nor am I willing to be curtailed or constrained in the legitimate exercise of my rights and obligations in this House. The procedure is that Mr Speaker can make a ruling, which he has made, and the procedure also is that the House can express its view about whether Mr Speaker got his ruling right, which is also expressed, and has expressed the view that he got it wrong.

**MR SPEAKER:**

Yes, you want to have the last word.

**HON CHIEF MINISTER:**

Mr Speaker, moving on

**MR SPEAKER:**

No, no. Now no. Now I will say, even if the naming has not been passed, whether the House as a whole supports the Speaker in his ruling.

**HON CHIEF MINISTER:**

We have just voted on that Mr Speaker.

**MR SPEAKER:**

Yes, but with this implication if the vote is against it will have to take over for ever.

**HON CHIEF MINISTER:**

Do you want to put it to the vote again?

**MR SPEAKER:**

I will. Does the House support the Speaker's ruling.

Question put.

For the Ayes:

The Hon J J Bossano  
The Hon C A Bruzon  
The Hon S E Linares  
The Hon Miss M I Montegriffo  
The Hon F R Picardo

The Hon L A Randall

For the Noes:

The Hon C Beltran  
The Hon Lt Col E M Britto  
The Hon P R Caruana  
The Hon Mrs Y Del Agua  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon J J Netto  
The Hon F Vinet

Abstained:

The Hon R R Rhoda  
The Hon T J Bristow

Absent from the Chamber: The Hon Dr J J Garcia

The motion was defeated.

**MR SPEAKER:**

As the Speaker has got no support, I will definitely not vacate the chair but I will be leaving the House quite soon. I am resigning, that is the issue. Carry on now.

**HON CHIEF MINISTER:**

Mr Speaker, turning now to the remarks by the Hon Lucio Randall in his contribution. He said that I had said, that the Government were not prepared to subsidise public transport, and that despite my having said that, we are now obviously having to subsidise private transport through the new company. Well in fact, I have never said that the Government are not prepared to subsidise public transport. What I said was that the Government were not prepared to pump public funds into the private operators. I was implicit in the fact that the Government were willing all along to make the investment in acquiring the buses

through their own company, and then to stand behind the financial operation of the activity that it sets up, then it is implicit in the Government's position all along that the Government are certainly willing, and often described it as a service that in other places in Europe is publicly funded and subsidised. Indeed, in many parts of Europe the municipal urban transport system is run by the local authority. In UK they started the nationalisation process at a given point in time with due regulation, but this is certainly a service that the Government feel, not only should be subsidised, but indeed needs to be subsidised because given the size of Gibraltar and the number of people which are the client base of a public transport system, no commercial operator could make a commercial success of running a proper, reliable, regular public transport system with the necessary capital investment to keep the equipment up to standard, without charging huge fares. It is just not enough turnover of people. So, if in even larger cities and towns it is necessary for the local authority to subsidise, in a small community like Gibraltar it becomes even more important than that to do so. Then of course, the other aspect of the hon Member's comments that I wish to myself remark on is this. Now that we have done the buses, leaving to one side all his criticisms of the size of the buses, leaving all that issue now which I have commented on to one side, his remarks about the funding and financing of it. We announced the public bus service some years ago, and is quite usual for the way they press the Government on our own manifesto commitments, during the last few years they have been pressing the Government, "when are you going to do the public transport system? What is the delay? Another delay by the Government in one of its policies. " Then when we do it, the criticism is that it requires public subsidy. I think that if the hon Members were of the view, which I do not actually think that they are, subject to anything they may wish to say on it, I do not think that they are opposed, I mean may be opposed to the size of the buses and all of that, but I have not heard them express opposition to the fact of a publicly funded public transport system. But certainly, if they are opposed to a publicly funded public transport system, then of course it rather puts in a different light all the holding to



account of us that there has been for the delay in introducing the new Government public buses.

Mr Speaker, he also raised in his contribution, of when the Government would be re-opening Dudley Ward Tunnel. The answer to that, is that there are schemes in the making, I think that now there is a technical assessment of what needs to be done, and I think also it is true to say that there is a preliminary costing of it which is high, very high. We are not talking about hundreds of thousands of pounds, we are talking about much more money than that. So, he is not right in thinking, or he speculated, whether the £750,000 in the Estimates this time for cliff faces and all of that, whether that might include the cost of the project for the opening of Dudley Ward Tunnel. And it does not. That project, if the Government decide to do it, when and if, if and when, put it whichever way he likes, would be of a much larger order than this figure suggests. The hon Member again, and I think this time just taking up the language that used to be used in this House by his predecessor Opposition Spokesman on these matters, the Hon and in parliamentary terms much missed Juan Carlos Perez, referred to the chaotic traffic situation. Now that used to be his favourite phrase, chaotic traffic situation. The Government do not think that there is a chaotic traffic situation. The Government understand that in Gibraltar, as in every other city and town in the world, there is a rush hour, or two rush hours a day. That when there is a rush hour, traffic is more intense than usual and there are delays, and it takes people longer to do the same trip than it takes at other times of the day. That is called the rush hour. It does not amount to traffic chaos. There is no traffic system that Gibraltar could implement, with whatever degree of consultation with experts, local or international, there is no traffic system that could be implemented in Gibraltar that would relieve the community, particularly in Gibraltar, I think it is true everywhere but particularly in Gibraltar, where we have basically two or three streets running north south, relieve the community of more intense traffic congestion during the rush hour. To suggest that there is something that the Government could do in respect of traffic management, which they are not doing, but which if they

did do would have the effect of relieving what he calls the chaotic traffic situation, is not an analysis of the position with which we agree. Other than in rush hours, the only "chaotic traffic situation" that some times develops is when the Spaniards impose restrictions at the frontier, and the frontier traffic reaches all the way back into Winston Churchill Avenue, clogs up the roundabouts, clogs up Line Wall Road, Devil's Tower Road, Glacis Road and all points leading to the north of Gibraltar. That often results in huge traffic disruptions and delay, but I hope that the hon Member will agree, first of all that the cause of that is not in the Government's control. That there is very little, if anything, that the Government can do about that, except what the RGP already does, which is to operate third lanes up the runway, and deploy a huge and expensive manpower deployment to traffic point control duties around the affected areas. So, the hon Member calls for a traffic plan. The first point then that I would make to him is the points that I have already made, about what such a traffic plan might and might not reasonably be expected to achieve. But the second thing that I would say to him is that of course, Gibraltar does have a traffic plan. The Government have a clear, integrated transport policy, perhaps for the first time ever in Gibraltar, which is a properly resourced, properly run, reliable, frequent scheduled public transport system, so that people have a choice, a real choice about whether or not they use their private vehicles or not. Now, during the day if an individual takes his car out from his home and loses his parking place outside his home, and then struggles to find a parking place at his destination end, it is because he is not willing to wait a maximum of 15 minutes for the bus. Because the buses are every 15 or 20 minutes, I think it varies on the routes. At weekends, I think the schedule gets longer. I think on Saturday and Sunday afternoons, there is more time between the buses to meet demand, to reflect the much lower demand. But that is an important part of what he calls the traffic plan. Another important part of this integrated traffic plan, is the fact that the Government are opening car parking facilities in as many places as possible around the City Walls. So we have done Commonwealth Parade, more recently we have done the Landport Ditch car park and free so that people have the most incentive not to touch

their cars. Of course, because if it was paid parking, the people would say "well, I am going to take the car out of the parking place to save the parking cost." If it is free, and there is a decent public bus service running, and there is plenty of parking for people to leave their cars, all right not outside the front door of their home, but reasonably accessible to their home, then that is an important part of the integrated transport plan. We recognise that there are particular parking problems in the Upper Town area, and in some areas of the South District, and that these are in the process of being addressed as well. That is the combination of buses and parking, is two important parts of the Government's integrated traffic plan. As indeed is the pedestrianisation policy which the hon Member, on the contrary, appeared to think was worsening the traffic situation. I think that an environmentally sensitive, integrated transport plan will strike a proper balance between the needs of the motor car and the needs and the quality of life of the pedestrian. I think it is probably no longer challengeable that as a result of the pedestrianisation of places like Main Street and now the John Mackintosh Square, on three of its sides, and Casemates Square, that these have created large areas which are for the benefit of the pedestrian at most times of the day, and that this is an improvement to the quality of pedestrian life in Gibraltar, which is no less important than the importance of satisfying the needs of the motorist in Gibraltar. So, a decent public transport system, decent parking facilities and the pedestrianisation element, are all elements of the Government's comprehensive traffic management/transport plan.

The hon Member said that the roads are in need of resurfacing, and he gave two or three examples, one of which was immediately outside the front door of his home. It reminded me of this television programme on Wednesday nights, Talk About Town, where it is regularly said, quite unfairly by the way but never mind, it is regularly said that Irish Town is the most frequently scrubbed street, because of course, that is where the Chief Minister lives, and this line is cracked frequently. But it is cracked in jest, and what I would say to the hon Member, is look, there will always be roads that need doing. Even if the

Government were doing six roads there would always be another six roads, given that they cannot all be done every year at the same time, there will always be roads that can be pointed to as being in need of maintenance and refurbishment. But, I do not think the hon Member should overlook what the Government have done in respect of road maintenance, which is, to spend much more money in this area than used to be the case before 1996, and to set up road maintenance measured term contracts with private contractors, to do it on an on-going basis. Of course, wherever there is a rolling programme, the hon Member is free to ignore the roads that are done and point to the ones that remain to be done. I suppose politically that is not an illegitimate technique, but we should not lose sight of the fact that although there are roads that remain to be done, there are many that are being done and the Government dedicate an annual provision of capital, every year, for this process. That is the annual programme that they have had answers in the House and until recently had not yet been decided by those that decide how they want to prioritise the resource that the Government and the House provides to them.

The hon Member raised the question of telephones, where he knows that I particularly welcome his input because I know that he has some expertise at a technical level on this. He said that the real and full competition will not be available until the numbering complaint is resolved. Well, I think the position is even worse than that in the sense that I do not think that we can wait until the complaint is resolved. The European Commission has in effect led us down the garden path since the complaints were first filed in 1996, making statements, and the British Government Ministers making statements in their own Parliament, which amounted to an indication that action would be taken because the remarks that the British Government were saying that it was illegal and the European Commission was writing letters saying that the situation was intolerable, to the Spanish and the British Government and to Telefonica, and saying that something had to be done about it and that the situation could not continue like this any more. So we can imagine everyone's surprise, not just the company but also the

Government, when eventually they decide they are not going to do anything about it and close the dossier. At that point, that is the first point that the company can then say I am litigating them. Because it was not until the Commission finally confirmed that it was not willing to act, which it has now done in respect of roaming but has not yet done in respect of numbering, that the company is able to say, well now I am suing the Commission for failure to act. That court case is now started on the decision that has been made, and will be commenced as soon as the Commission makes the decision, as it will do, not to act, on the numbering complaint as well. But of course that process then has its own time scale. It goes to the Court of First Instance, it is at least 18 months to two years there, and then if either side appeals it could be another two years at the European Court of Justice. And I do not think we can wait another two or four years for the benefit. Well let me give the House an indication. There is a licence, which the Licensing Authority in telecommunications, who is the Minister for Trade and Industry, is about to issue. It is one of the names that is brandied about when the Hon Dr Garcia asks questions of this sort. The Minister is minded to grant the licence and is about to grant the licence. It is for a general service provider of the sort that he believes, and I agree with him, would be in a position to provide real competition to Gibtelecom. But what is that going to mean in practice? Because if the Government, as owners of the numbering plan, are not in a position to give any subscriber numbers to a second telecoms operator, how can they offer a service to the public? All right, technically there is number mobility, the new company could come to him and say, "do you want to be my client instead of Gibtelecoms?." and then I could say to Gibtelecom " my number is now transferred to the new company." That is called number mobility. But it is well known and any regulator will say that number mobility by itself does not provide an adequate basis for competition because it is too difficult, people think it is too much of a hassle. They can not be bothered to go through with it. The only real basis for real competition is, when the regulator, which actually administers the numbering plan, even though it belongs to the Government, the regulator administers the numbering plan on behalf of the Government as he knows, is

able to say to a new licensee, "here is a block of 5,000 numbers allocate them to your clients as and when you can sell your services to them." But of course we are not in a position to do that and will not be in a position to do that until either, the numbering case is eventually won, so that we can go to 350 with as many numbers as we like. Or in the meantime, we manipulate, notwithstanding the Spanish restrictions, we manipulate our numbering system in a way that at least for incoming calls from countries other than Spain, we are able to expand our numbering plan. The only model, and this is an issue in which I personally have taken a huge interest because of the macro economic consequences, when businesses cannot set up in Gibraltar because there are no numbers to issue them.

Well, I am advised that the only way of achieving this is either, to accept some version of the Spanish offer, which includes allowing them to be the primary regulatory authority for the numbering plan, which I have said before in this House and I repeat, has always been, remains and will always be unacceptable to the Government. Or, what is called number shadowing module. Now number shadowing module is said to have technical user unfriendly characteristics. Now, making due allowance for the fact that the Chairman of Gibtelecom is here, and indeed the Chief Executive Officer, one of the things that I need to be clear about is whether Gibtelecom's concerns about the number shadowing module are really technology based, or whether it is just self serving. In the sense that whilst the Government do not implement it, they cannot have any competition, because there are no numbers to award to anybody. There are big Chinese wall issues within the Government about this, making sure that the Government's own assessment of the Gibraltar-wide issue, is not unduly driven by the views that emanate from Gibtelecom, which has interests in there not being competition as opposed to there being competition. I am not saying that that is what is driving their advice to the Government, but the Government have got to be conscious of the fact that it suits Gibtelecom commercially that there should be as little competition as possible, and that the present situation whereby the Government have no numbers to give another competitor,

perpetuates, continues the present system where competition is very difficult to shoe horn in.

There are competitions around the edges. There are companies providing voice over the internet protocol, and there are companies providing this or that peripheral service. I agree with him, real competition of the sort that will drive prices down, as per market, as opposed to unilateral Gibtelecom decision, of which they are making some very big ones, but that will only really happen when there is somebody standing in the market as a, I am not going to say the phrase as universal service provider in its technical sense, but somebody providing a wide range of competition service, both mobile and fixed. Therefore, I think it is only a matter of time before this House has to debate in full, and in substance, whether Gibraltar should move to a number shadowing module system, and for how much longer we should desist from doing that, by managing with the current insufficient number of numbers. And we shall have to present to the House, for the purposes of that debate, whatever technical advice we have about what could be the technical implications of number shadowing. But number shadowing already exists for calls from Spain to pre-paid mobile numbers in Gibraltar. What we are told by Gibtelecom is that if we applied number shadowing more widely, for the purpose which I am describing, that this could have the effect of bringing us back to the days of dropped calls and people ringing from abroad not being able to get through to Gibraltar. Well, obviously I am not technically competent to analyse that, and the hon Member might be, and I would be very happy to pass him the papers and invite him to give me his view about whether he thinks that there is any technical merit to the advice that we are getting. But a solution has to be found before the resolution of the litigation, because that is three or four years ago. So there is no point in failing to address the point. We are going to have to address the matter and the question is which of the options available to us do we select.

**HON J J BOSSANO:**

May I ask ? If the licence is given and there are no numbers available, would the new operator not be able to also take the matter up with the European Commission?

**HON CHIEF MINISTER:**

Well, no, the position then is actually better than that and one in which the Government may well find themselves. That is that having licensed an operator, that the operator might turn round to the Government and sue the Government in the courts of Gibraltar, for failure to implement the Gibraltar Telecommunications Ordinance. Then the Gibraltar court can refer the matter directly to the European Court of Justice, for a preliminary ruling on the question. Now, I would like to find a way of doing that, that does not expose the tax payer to a damages award. But from a procedural point of view, it might actually accelerate the placing of the matter before a competent European court. But of course, at the moment we are saying to the licensee, "look you can have your licence but know ye that we have got no numbers to give you." That might make it harder for him to sue the Gibraltar Government. If they sue the Gibraltar Government and we can persuade them not to seek damages, but simply to seek a declaration, we would then support them in their application to the Chief Justice, or to the Additional Judge, whichever one it comes before, to make the reference to the European Court of Justice, because then, Gibraltar is in front of the European Court of Justice with the ability to place before the court the entire saga. So, the opposition might actually be even better from that point of view than the hon Member's question anticipated.

When he was speaking about the Electricity Authority, the hon Member said that this was done on the basis of increased pay which was to be funded by increased productivity in what is already a highly productive sector. Well, some parts of the Electricity Authority were already highly productive. I do not think

we could ask the people in the Generating Station to produce electricity any faster than they were producing it, the machines are always running. Whether or not it was already a very highly productive sector, in the other areas is moot. And moot, not least because a lot of their manpower had been allowed, the Distribution Section, the people who do the work out on the street, a lot of their manpower have over the years, and now during both terms of office of both governments, has been allowed to fall. There were sections of the Electricity Department that simply did not have the manpower to carry out some of their statutory duties. But I want to say to the hon Member that it was not just that it was to be funded from productivity. That was not quite the deal and is not the deal. The deal is that it would be funded from monies that are presently already being spent through overtime payments. In other words, this is not true of the deal that we did with the mechanical section. That is extra new money. Let us not call it the mechanical section, the generation division, the shift workers in generation. That is new money. But the much higher cost of funding the new pay deal for the Electricity Authority for the distribution section and the electrical technical section, and all the non generating sections, that is to be funded almost entirely from money that was presently being paid to them in overtime. The element of productivity increase comes because they have agreed to do, during conditioned hours, the work that they used to do during overtime hours and were paid overtime for. So there is an element of productivity but there is no need for great amounts of new money because they have accepted cuts in their overtime earnings to receive it in respect of conditioned hours instead of what used to be overtime hours. Coupled with the commitment to do the same amount of work, concertinaed so to speak, within the conditioned hours without the need for them to have to come and do overtime hours.

As to the hon Member's remarks about the appropriateness of GBC silent hours broadcasting, I can dispose of that point quickly by saying that I agree with him entirely. I think that to turn on ones television screens and to see somebody being interviewed on it and suddenly it dawns that this interview is 18 months old or

two years old. Frankly, we have got to wonder whether it is safe for us to give interviews now in these programmes. Because of course, the Leader of the Opposition or I, or any of the other Members of the House, may be interviewed, in a discussion programme. It may then be rebroadcast two years from now, again, when the facts may be wholly different, all the remarks that one says sound stupid, because they have been overtaken by events or changing circumstances, but one has still got to suffer the whole community seeing this interview again, and some people not clicking that it is an old can. At least, as I once read in a newspaper, if they put on the screen archives first broadcast in 19.. whatever, at least people would have an indication that it was old. I would have thought that, if one is watching somebody make a pudding, I do not suppose it matters that one first saw them making the pudding two years ago even though one might be tired of eating the same pudding by now, but the same is not true of interviews of a topical nature which are topical at the time that they are recorded but not otherwise.

In fairness to GBC, the reason why they do it. I do not think it justifies them doing it, but this is not an irrational decision on their part. We may disagree with it but the reason why they do it, is that it gives them more advertising slots to sell. Because of course, if they are not broadcasting, they cannot broadcast advertisements, there is no programming to slot advertisements around. If they are broadcasting, albeit old programmes, they might be able to persuade somebody to place an advertisement for Sunday afternoon, during the 16<sup>th</sup> repeat of the interview with poor old Mario Finlayson, who must be tired by now of seeing himself sketch that etching that he does. Well fine, that is the reason why it is done.

Mr Speaker, what can one say about the contribution of the hon Lady the Spokesman for Health, Marie Montegriffo. Well, I suppose one can say that it was her usual rant on health, and I suppose one could say that given that it was almost identical to the speech that she gave last year, even to the point of rehearsing the 24 alleged points. I suppose at least, the House typist benefits from the fact that with a bit of luck she might not

have to retype this year's speech. With a little bit of cutting and pasting she might be able to make do with her typing efforts last year. Well, I had thought that as she is now denying the rumours, I had thought that this might be her swan song and that before moving portfolios, that she wanted one final time to just get it all off her chest, and put us all through of hearing it all again. But as she is now denying that there is going to be a change of portfolio, I cannot even console myself with that thought.

Mr Speaker, the hon Lady's contribution adds nothing to what she said last year, adds nothing to what she was saying before the General Election, ignores the fact that there has in the meantime been a General Election, ignores the existence of everything that the Government are doing to put right some of the things that she is describing. And then she just regurgitates the same material. Well, that is the hon Lady's right to do so, but frankly, it is all very old hat, very old hat indeed.

For example, she has a sort of systemic tendency to ignore everything that she is told in this House. So she is being told in this House, and indeed in a recent Government public statement, that the Europa playing fields are no longer going to be handed over by the MoD. Does that stop her, at the next opportunity in this House, criticising the Government for the delay in the transfer of the Europa sports field. No. Look, in case she is tempted to raise the issue again, the matter is no longer one of delay, it is not going to happen at all. It is not going to happen at all because the Government have agreed with the MoD that we will have the Naval Ground No. 1, the one without the car park built on it, instead. That is the position. So, please would she no longer ask when the Government are going to get the Europa playing field, or even a criticism at the Government for the delay in obtaining the Europa playing field, because we are not getting the Europa playing field any more.

Then she says, "everything that the Government does takes for ever, delays in all the projects." Well, half the time they are saying that the Government are spending too much and the

other half of the time, they criticise the Government for not spending it fast enough. Well, nor is it true that there are these systemic delays in Government projects. In the last eight years, the Government have deployed £150 million worth of publicly funded projects. That is unprecedented. Never in Gibraltar's political history has Government funded, in eight years, £150 million of projects through publicly executed projects. Therefore the hon Lady has got to understand that there are capacity issues here. Already when we debate the Improvement and Development Fund in this House, the hon Members are always pointing out that we estimate they were going to spend twenty something million pounds, and then when the chickens come home to roost we never manage to spend more than somewhere between fifteen and twenty. There are capacity problems. There is a limit to the design team resources, there are limits to the construction company resources, there is a limit to the number of projects that the Government's own personnel can prudently supervise at the same time. Now, given that we already have a record level of publicly funded expenditure programme, I think that this much repeated statement that everything that the Government do is hugely delayed, has to be seen in the context of the sheer scale of the Government's publicly funded programme and there are programmes and there are things waiting in the queue. Now, the hon Member might say, "well why do you announce them?" Well, Mr Speaker, I suppose she wants us not to announce projects until the day before they go out to tender, that would protect us from the accusation that there is delay. The Government give a long range statement of what their capital programmes are, and yes, there are occasions in which the Government hope and expect to do things in a particular year and says so, and then finds that it is not possible. Then there are occasions which fall more into the category that she describes as policy driven delay, for example, the leisure centre, where the Government's political commitment to do a leisure centre falls by the wayside in terms of delay, for extraneous reasons. The Government want to do it in the King's Bastion. Then that debate gets overtaken by the debate demolish or not demolish the King's Bastion station. Then when the Government make a decision on that, some private

developer comes up with a development scheme for the whole area, and says, "but if you do the leisure centre there it does not work, and I will do the leisure centre for you somewhere else." Then while that negotiation takes place, and possibly fails, there is more delay. The projects where the Government accept that there has been delay of the sort that they apply to all projects in criticising the Government the leisure centre and the other is in the Government's home ownership schemes. Those are the projects in which, for a variety of reasons, there has been delay. For the rest of it the Government do not accept that criticism.

The hon Lady said that the House does not control Gibraltar Health Authority expenditure, because it is not a Government Department and we only vote the subventions so they can spend what they like on services. That is a rather naïve assessment of the position. The Health Authority has its own sources of revenue, from Group Practice Medical Scheme contributions and from one or two other sources but the vast majority of the GHA's revenue is now the subvention. Even if it was not a large proportion of it, anything that they spend as they like, as she says, which is not met from the Group Practice Medical Scheme contributions and from its other sources of revenue which are finite, can only come from the Government subvention. So any overspending flows straight into the Government subvention which is voted for in this House. So to say that the Government should not control the levels of expenditure in the Health Authority, or does not control the level of expenditure in the Health Authority, because we are always voting for the subvention, is not in practice realistic. I mean, if the Gibraltar Health Authority was fully funded from its own sources, without having to have recourse to Consolidated Fund resources, then they could spend it as they like. But that is not the position. The Health Authority depends on the money that we vote in this House, just as any other publicly funded service does. I think therefore that comments do not apply.

Then she said Government wash their hands and allow the experts to find a solution. This was supposed to sound like a criticism of the Government. I think it is entirely meritorious that

the Government, and there are no medical experts sitting anywhere on this bench, that the Government allow experts to find solutions to technical problems in the medical field, and allow experts to find solutions in the engineering field because this goes straight to the core of this, in our judgement, misconceived attitude that Opposition Members have, that somehow relying on experts is bad. I think that relying on experts is good. Perhaps, if the hon Members had relied on experts a little bit more than they did, we would not have had the Harbour Views fiasco, we would not have had the In Town incinerator fiasco.....

**HON F R PICARDO:**

Point of order Mr Speaker. I think it is appropriate to make a point of order at this stage, because we have had to hear about the Harbour Views fiasco, I think now about 10 times. I think the Chief Minister should be made to accept, when he makes that point, that a lot of the money spent, which he repeatedly says is the fault of the Government, could not have been the fault of the Government because the money was repaid as a result of showing that it was actually a third party, the contractor I believe, not the developer, who had made the mistakes and therefore the money had to be repaid. And all this expenditure resulted in repayment.

**MR SPEAKER:**

This is not really one or the other. Carry on.

**HON CHIEF MINISTER:**

Mr Speaker, but you see he is wrong, even when he gets up to interrupt. Because the settlement reached with the contractor, by the way, which was only reached after the Government had invested millions of pounds into the litigation, not millions but

hundreds of thousands of pounds into the litigation, did not produce 100 per cent recovery of the cost. There is still several million pounds, I think four or five or six, but Mr Speaker, it was still the cost. The fact of the matter is that their flagship project, because they did not want to rely on experts, their flagship project which was the home ownership scheme down there, was so disinterestedly supervised by the Government, that it cost more to repair than to build. It is all very well saying it was the contractor's fault. Yes it was. But it was also the fault of those people who were funding the contractor, who were going to become owners of half of each house in it, who looked the other way and showed no interest in supervising the standards of construction that were being built there. If the hon Members have a different analysis of the position, so be it.

Then of course the hon Lady has the whole of Gibraltar believe that the problems in the Health Service started on 16<sup>th</sup> May 1996. She actually said that much in her address. The problems started to happen in the Health Authority we came into office. So she wants people to believe that. So she wants people to believe that whereas she was so hugely competent that until 1996 the Health Authority had none of the problems that it suffers from now. That the Hon Mr Azopardi, the Hon Mr Linares, and now the Hon Mr Britto, in contrast to her, are incompetent. All of them. And for her to think that she can get away with that analysis, she first of all has to persuade people that she is competent, and then she has to persuade people that every single GSD Health Minister has been incompetent, and then more than that, she has to hope that the people of Gibraltar suffer from instant, simultaneous collective insomnia.

#### **HON F R PICARDO:**

Insomnia or amnesia?

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

Yes. Thank you. Amnesia. Well it is one all. I corrected the hon Member on the asbestos and the ammonia so he can correct me on the insomnia and the amnesia. But Mr Speaker, does the hon Lady seriously stand up in this House, and pretend that before 1996 the people of Gibraltar were satisfied with their health service, she says that the problems began in May 1996 and there were none of these problems when she was in office. This is not a question of degree. If she had said the problems have got worse since the GSD came into Government, well, that might be true in some areas and it is not true in others. But that is not the nature of her allegations. The nature of her allegations is not that matters have got worse. The nature of her allegations is that the problems began at midnight, the moment that the Returning Officer had announced the votes, on 16<sup>th</sup> May 1996. That is the nature of her allegation. So that before 16<sup>th</sup> May 1996, there was not any problem with private practice, people did not die in hospital when they should not have died, there were no complaints, the staff was terribly high moraled, even though we all know how it used to be run at the time, and all of this starts on 16<sup>th</sup> May. Well, she can continue to try and persuade the people of Gibraltar of that. She does not have it in her to be sufficiently persuasive to succeed. *[Interruption]* Well Mr Speaker, you see, the hon Member from a sedentary position says, that we got, I know that he is heckling, I know that he is constantly heckling and I know that he is constantly being allowed to do it. That is fine, that is nothing to be proud of. Now Mr Speaker, the hon Member says that we have had a reprimand. Let us assess this reprimand. Incidentally a reprimand, which I knew how to properly interpret, but which I think Opposition Members should draw very little political comfort, because after all, despite bringing the Health Services to the chaotic crisis situation to which they allege we have driven it, as a result of the cumulative incompetence of every GSD Minister since 1996, despite it all being the fault of the political incompetence of the GSD, despite having in the words of the Hon Mr Bruzon, failed the people of Gibraltar to provide them the most basic amenity which is housing, if despite all of that the



people of Gibraltar still preferred this Government to theirs by a margin of 11 per cent, what is going to happen to them when we put these things right? *[Interruption]* Or I see, they think it is electoral fraud. All right.

Well, hon Members should draw no comfort from any alleged reprimand that they think the electorate has given us. Because frankly, if I were them, I would be asking myself, goodness gracious me, if these people have done as badly as I say that they have done, why is it that the people of Gibraltar still prefer them to me? What do we have, political leprosy or what? Because it can only be political leprosy if having presided over the catastrophe that they claim that we have presided over, we still beat them in General Elections. *[Interruption]* Oh, I see, by a whisker. By a whisker. 11 per cent. And of course, when they themselves realise this, they then console themselves by saying, "ah well, but compared to what the polls were predicting, the Government got a much smaller share of the vote." Ignoring the fact that their share of the vote was static. So look, I do not know where the percentage that we lost, through natural wastage, went. But it certainly did not go to them. They have been stuck on 40 per cent of the electoral vote in each of the last three Elections. So it seems that however badly the GSD does things, which according to them, I mean the education system is on the slippery slope to extinction, the Health Authority is in a chaotic state, housing and all these issues, and despite that they cannot persuade more Gibraltarians to vote for them. Look at the rate of 150 votes every four years, I would have to be here for the rest of my life, and I do not want to be here for the rest of my life. . Perhaps in their hearts they have just settled for their Opposition retirement pension.

Then the hon Lady says, Government say that 100 people do not need to be in the hospital, and however many times the Minister for Health explains to her, that it is not the Government, it is not Ministers as she accuses us of saying that 100 people should not be in hospital, It is the doctors who say that 100 people should not be in hospital, because they have chosen to discharge them, or would discharge them. Now she and I, as non medical

laymen, could if she likes, go downstairs and over a pint of beer somewhere discuss whether the doctors are right or wrong in their professional, medical assessment unless of course, she does not like those professional advice either. Perhaps she thinks that the Minister for Health should exercise clinical judgements as well, as I have no doubt it used to do when she was the Minister for Health. That may be what she means. But leaving that point to one side, it is not the Minister that says that 100 people who are in hospital do not need to be in hospital. It is the clinicians who say that.

**HON J J BOSSANO:**

The Chief Minister has no doubt that my Colleague, when she was Minister for Health, was over ruling doctors' medical decisions. That is another one of the things he has no doubt, and he hides behind parliamentary privilege to say that.

**HON CHIEF MINISTER:**

Mr Speaker, just as she is persistently wrong when she says, despite the fact that the Minister for Health clarifies the position to the contrary, when she says, the Minister says that only 100 beds are required in Gibraltar, and that Gibraltar does not need a hospital with more than 100 beds. When the Minister has repeatedly said to her that he has not said that, that it is not his view, that all that he has been doing is saying to the House what one of the consultants said, at the same time as telling her that the Government have rejected that advice, as is self evident by the fact that we are building a hospital with about 211 beds. So why does she persist in insisting that the Minister says that Gibraltar does not need a hospital with more than 100 beds, when he has not said that Gibraltar only needs a hospital with 100 beds. He has said that a consultant has said that Gibraltar does not need a hospital of more than 100 beds. I do not suppose it matters on how many occasions we clarify this for her. Next time she gets the opportunity to speak on health I have no

doubt that she will again attribute to the Minister for Health the statement that Gibraltar does not need a hospital of more than 100 beds.

The hon Member says that we do not like eating our own words. It is not that we do not like eating our own words, it is that we do not want to eat our own words after they have cooked our words and decided what our words were. That is what we do not like doing. Government are perfectly happy to be held accountable for the statements that Ministers actually make. What we are not willing to do is to be held accountable for the distorted version of the words that they put in the mouths of Ministers. That is not, not being willing to eat our words. It is not being willing to eat her words, which we are certainly not willing to do.

Then there was a haw-haw over there when I said that staff were expected to cooperate, men and doctors, she extended it to others but we were referring to doctors, were expected to cooperate or leave. There was shock when I confirmed it. Well I do not see why. Look, the hon Members like to hold us politically accountable for the things that are not fixed in the Health Authority, and we accept, even though we are none of us doctors or health administrators, we nevertheless accept political responsibility for the Health Service, for the good and for the bad. But what the hon Lady cannot do, is demand of the political Government that we put right whatever needs putting right, so that she cannot stand up and criticise us every 15 minutes about us, but then expect us not to be able to put right what is wrong unless every last member of staff approves of our remedial action. It suggests to me that what she wants is for us not to be able to fix what is wrong with the Health Authority, so that she can continue to criticise us for it. The Government have made clear, and the vast majority of the members of staff accept, that once the Government, in consultation with the staff, not as a unilateral act of prepotence, but when the Government in detailed consultation with the staff, have established a way forward for putting right what is wrong and needs putting right with the Health Service, the Government will not tolerate individual members of staff usurping the functions of

management, usurping the functions of employer, usurping the political responsibility and commitment of this Government to put it right, by deciding, motivated by God knows what extraneous motive, to sabotage the benefit of the Health Reform for the benefit of the whole community. There is no way that the Government are going to do that. It is true, absolutely true and I repeat it here and now, that any doctor or consultant that does not cooperate with the Government and the Health Authority, in whatever is decided to put it right, will not be allowed to continue to work in the Health Authority. I do not see why the hon Lady finds any of that so shocking. She should be welcoming it. Instead of leading us to believe that she thinks that we should harbour saboteurs within the Health Authority, even at the expense of the quality of the public service that her family and mine, and us all, have to suffer unreasonably, if the Government make a proposal which is not reasonable and the staff, in the consultation process say to the Government, look Government we do not agree with this, or that does not work, how about this. I am talking about what emerges from the consultation process and from the consensual approach to this. Absolutely, they will be shown the door. The front door, not even the back door.

Then, what can I say about her care to repeat, make statements like, I have never questioned the delivery of medical services by staff. I have only ever questioned GoG policy. Not one single instance is there, when I have blamed staff. It is always the fault of Ministers. Does she really expect ordinary thinking, or even unthinking, people to accept that extraordinary situation. It is not even true, because when a young man dies in hospital as a result of alleged poor delivery of service by a doctor or a nurse, or a combination of them all, she does not put out a statement criticising the doctors or the nurses, she puts out a statement criticising the Minister for Health. So even what happens on the ward at four o'clock in the morning, is the fault of the Minister and not the fault of the staff that delivers that service. Mr Speaker, it is an extraordinary, absolutely extraordinary position for the hon Members to hold. They can hold Ministers responsible for lack of resources, for lack of policy, for lack of funding policy, for lack of encouragement of management to manage. For all of that they

can hold Ministers responsible but to hold Ministers responsible for the behaviour of one doctor or one nurse, at a particular time of the day, on a particular day of the week, on a particular month of the year, with a particular patient, whether the temperature was measured when it should have been measured or not, or whether the right medicine was given, or whether the doctor responded quickly enough or did not respond, to hold Ministers responsible for that, whilst at the same time saying that they hold the staff that did it blameless, just raises issues. Does she not understand of the credibility of everything that she says about health.

Then we have again their sort of what I call pseudo-nationalism. Pseudo-nationalism. This business about it has always got to be a Gibraltarian and do not bring experts from abroad because we Gibraltarians, these jobs are for us. Regardless of whether there is competence, regardless whether there is expertise, regardless whether it is what the people want by way of professional management, can only be described as pseudo-nationalism, and an extraordinary view for a so-called international socialist to articulate. I have never seen socialism reconciled with pseudo-nationalism as they try to do.

It is like the Leader of the Opposition's May Day message. First of all he says I am an international socialist, and then in the last paragraph of his May Day message he says, but I criticise the Government for letting so many Spaniards get jobs in Gibraltar. Well I have never heard, look I am not a socialist, international or domestic, but I have never heard somebody who is a genuine socialist articulate views of that sort. No, and all the people whom I recognise in Gibraltar as real socialists are as aghast by their views on nationalism and on pseudo-nationalism, and on all these issues as I am but they do it from an ideological home base, I do it just as an external observer. So, the bottom line for the hon Lady is that the staff is excellent, the management, to quote her words, is impeccable yet because of the incompetence of the Health Minister, one individual, the GHA is in crisis. So, it is quite hard, I do not think it would be possible. Look even if one employed Mr Bean as the Minister for Health, I do not think it

would be possible even for Mr Bean to deliver a chaotic crisis health service if it were true that all the staff were excellent and that all the management was impeccable. It is just not possible.

Mr Speaker, I heard her remarks once again about the new hospital. I have no doubt that the new hospital will be like the new buses. The Opposition will bluster, and will taint, and will tarnish, and will perform the most contorted political summersaults regardless of the damage it does to their credibility, just to get some mud to stick on what is a project that they fear will deliver political kudos to the Government. As they have done with the buses and as they have done with everything. I am surprised they have not yet complained about the colour of the lamp posts in John Mackintosh Square. But of course, as I said before, just as all that gets put an end to when the thing gets up and running and people get on the buses and see the extent to which it is an excellent service and an excellent improvement, I suppose it is no coincidence that the stream of press releases critical of the buses dried up almost on the day that the bus service started. I have no doubt that the same will happen on the hospital. When people start visiting the hospital and see what it is, and that there are no kitchens, I told her before, far from there not being any kitchen, there is a kitchen in every ward, but I tell her all these things and she ignores them and she continues to assert that the Government have not got a kitchen. The Government have forgotten to put a kitchen in the hospital. We have forgotten to put a kitchen in the hospital, we have forgotten to make provision for parking. Well, as I say to her, the risk that she runs is that of course, as happened with the buses, when people see for themselves, people will see for themselves and will know the sincerity of the remarks that she makes in the meantime but I accept and understand that until that day we shall have to continue to suffer her hypothetical, speculative, critical remarks.

Mr Speaker, the Hon Dr Garcia started his address by saying that the Government have become a mutual admiration society because we pat each other on the back and applaud each other for our speeches. Well, so has the Opposition become a mutual

admiration society by that definition but we at least all belong to the same political party. What is absolutely staggering is that he should show the sycophantic political love for a politician whose manifesto he tore up, saying it was a load of rubbish and which Gibraltar could not survive. That is the only strange love-in. That is the only mutual admiration society that is open in town at the moment.

The hon Members wish to continue their pretence that they are different political parties. Look, it is indeed a pretence. I do not know how the Hon Dr Garcia, back slaps the Leader of the Opposition to the point where he drools over his every word, when in fact, only four weeks ago he was telling the people of Gibraltar that voting for the candidate recommended by the Leader of the Opposition was a betrayal of our sovereignty. Well, I do not know whether there has been any even temporary introduction. I do not know whether there was any interruption to the mutual admiration society but he must surely by now have come to doubt the Leader of the Opposition's political judgement because I can understand that there can be differences of policy, even within a party, even within a political party there could be individuals that have different views on the same issue, but it cannot be on something quite as fundamental as that. The Leader of the Opposition says, vote for the Labour Party because bla, bla, bla, whatever reasons he may have had. And the Hon Dr Garcia, sells the people of Gibraltar that a vote for the party being recommended by the man in whose judgement he believes he says he trusts, is a vote for joint sovereignty. Now even if he has not resigned from the political mutual admiration society, at the very least he should by now have begun to question the political judgement of the number opposite.

**HON DR J J GARCIA:**

Can I raise a point of order in relation to the relevance of this. I understand that the mover is confined to issues raised in my speech. I did not mention the European Elections in my address.

**HON CHIEF MINISTER:**

Mr Speaker, the hon Member chose to make the quip about the Government having become a mutual admiration society. I do not see how he can think that it is relevant when he raises it, but irrelevant when I reply to it. They can both be relevant or they can both be irrelevant.

**HON DR J J GARCIA:**

No Mr Speaker. It was actually in his speech. I mentioned specifically that Mr Vinet, Mr Beltran and himself had all congratulated each other. It was in their speeches. The European Elections was not in my speech.

**HON CHIEF MINISTER:**

As to the point that the hon Member made about the Government, which he offered as the only example of political propaganda, the power chips statement. When the power chips thing did not materialise, I thought that we had already indicated to him that this had been a unilateral statement by the company, that the Government have made absolutely no statement and raised absolutely no expectations. This is just something that appeared, we believe, because the company was about to do a share placement in Canada and we pursued the company for it and said, "why are you making these statements, it is just not true." From that to what the hon Member is saying is yet another example of the Government raising expectations and publishing political propaganda, when we have answered in careful language what the Government were and were not doing at that time, seems to be, again, to disregard everything that we have said that is said to them in this House.

Then pursuant to the hon Member's obvious policy of, "first of all you rubbish the project, then you rubbish the cost and if you do not get away with both of those, you say that it is taking too

long.” The time taken to flatten a square, a simple demolition and beautification of a square. What is the matter Mr Speaker? The Member’s office is round the corner. During the whole construction period he must have passed those works every day. Or did he not see that all the services and all the utilities were replaced. The sewers, the water systems, the telephone infrastructure, the electricity. Did he not see all that happening? So why does he call it just flattening the square as if all that the project involved was sending in the bulldozer to knock down the monstrosity that was there before, and then four days later somebody could have come with a pile of tiles and just laid them on the floor. So why on earth did the project take more than a week? Why does he describe it as a simple demolition and beautification of a square, when he knows that that is not all that the project entailed. It is a rhetorical question. I do not know the answer to it and I do not suppose that he does either.

Then we had his, I enjoyed reading the hon Member’s book, he still has not sent me a complimentary copy by the way of his latest, for my collection. But anyway, he gave us this tour of the Bourbon dynasty and the Hapsburg pretenders to the Spanish throne, but of course, then they wonder why it is that the Government think that it is absurd, politically, for the hon Members to assert that in 1704 we were liberated from Spain. Mr Speaker, in fact, given that he wants to convert everything into a history lesson, in fact, Gibraltar was not taken either for the British or for the Dutch. In 1704, which is what it is the tercentenary of today, Gibraltar was taken in name of the Spanish crown as represented by the Hapsburg pretender to it.

**HON DR J J GARCIA:**

Mr Speaker, that is what I said in my speech so he has been listening very attentively.

**HON CHIEF MINISTER:**

All right, but then they must realise the nonsense of saying that it was liberated from Spain. Because I suppose it is an.....

**HON DR J J GARCIA:**

Charles of Austria did not become king of Spain, so it was liberated from Spain.

**HON CHIEF MINISTER:**

Well Mr Speaker, I understand that. But then by the same token he must be recognising that if Charles of Austria had won the War of the Spanish Succession, Gibraltar would have been Spanish in 1704 and would never have been British because it was conquered in his name. So if the referee.....

**HON F R PICARDO:**

Mr Speaker, with respect, as a point of order. Spain would have been Austrian.

**HON CHIEF MINISTER:**

Mr Speaker he cannot get up every time something occurs to him to say. So by that standard, if the referee had awarded Austria a penalty in the last minute of the game of the War of the Spanish Succession, then the result would have been wholly different. I think, for the Government it is entirely legitimate to say that it is the tercentenary of British sovereignty over Gibraltar. It is entirely legitimate and welcome to say, as we are entitled to do and say, that we are celebrating whatever we want to celebrate of our three hundred year relationship with Britain. But to say that it is the 300<sup>th</sup> anniversary of the liberation of Gibraltar, in my judgement, is unnecessarily provocative to

Spanish opinion. Absolutely. Wholly unnecessary, wholly pre-meditated, factually wrong and historically wrong. I say more, it weakens our case as colonial people because if our political rights today depend on what they call an act of liberation in 1704, then the liberation did not take place for our benefit because none of us were here. I give way to the hon Member.

**HON DR J J GARCIA:**

It was actually the Rock that was liberated from Spanish rule. We the Gibraltarians were the descendants of the people who settled here after 1704.

**HON CHIEF MINISTER:**

Mr Speaker, when I have expressed these views, the hon Members have latterly modified the articulation of the point to refer to the liberation of Gibraltar. Their first articulations of it were not by reference to the liberation of the Rock or the territory, it was by reference to the liberation of the Gibraltarians. That is the reality of the matter. But I am glad at least, that they have recognised the point and I do not think that their modification of it is sufficient, but at least it recognises that the liberation is not normally territory that is liberated. The word liberation usually applies to people not to territories. When territories are liberated, they are normally liberated for the benefit of the people that live in them, not for the benefit of the apes, and not for the benefit of the soldier that just did the liberating. The reality of it is, that in my opinion, it is a nonsensical articulation of our political rights as a people, of the historical facts and it is a nonsense analysis of the facts that occurred.

The hon Members think that spending £35,000 on celebrating Gibraltar's tercentenary event in London is lavish. Well, we do not agree. We think that spending £35,000 on an event of that profile, was entirely appropriate and hugely in Gibraltar's best interests. But of course, that is an example of the hon Members

knowing the cost of everything, or wanting to know the cost of everything and understanding the value of nothing. Because it follows, there is a pattern to their attitudes and their views. Because nor did they think that before 1996 there was anything wrong with Gibraltar's image and reputation.

So if they did not think before 1996 that there was anything wrong with Gibraltar's image and reputation, it is hardly surprising that they consider that everything that the Government do to enhance Gibraltar's image and reputation, is logical that they should think is a lavish waste of money. But if the Government had not done all the lavish wastes of money that we have done since 1996, to slowly reposition international opinion's perception of Gibraltar, we would still be in the dire political situation that we were in 1996 on that front. So the Government reject the view of the Opposition Members that there was anything lavish or unnecessary about that.

Look, the Cayman Islands hold their receptions in the Ritz Hotel. I do not see why that is too lavish for Gibraltar. Perhaps the hon Member would have thought it was more appropriate if we had had it in the Golden Eagle Hotel in Earls Court. He might have thought that was more appropriate. Well, just as they missed the point when they say, it is dubious to invite UK veterans. How is this relevant? And if we invite UK veterans why do we not do anything for local veterans? The PR value for Gibraltar of the two or three hundred thousand pounds that this has cost, is huge value for money. Well he shakes his head, he does not agree. We know that his judgement and his standards are different. He is entitled to have different views. I respect his right to have different views and the fact that he has them but the Government that is elected to exercise these judgements, think that this is an appropriate way to commemorate the, but for goodness sake, how ungrateful can he be? He thinks that these poor guys' ancestors liberated Gibraltar from Spain, and now he is not willing even to throw them a cocktail party, 300 years later, or invite them to Gibraltar to have a few beers on Main Street with us. Well the hon Members have no vision of anything.

The hon Members are like frustrated book keepers. They do not understand that there are things which are of value and of interest to Gibraltar, which one cannot look up in accountants book and attach a balance sheet value to it. The reason that they do not understand that, is the explanation of why the perception of Gibraltar in the world now is so hugely different to what it was before 1996, because they just do not understand what it takes and they do not attach value to doing what it takes. Whatever the equivalent is of little England, or I suppose the little Gibraltarian mentality where the only thing that is of any value, it is only of value if one can touch it. Now let me see, how many bricks are there on top of another, four bricks and cement, that is of value, but throwing parties, where Gibraltar gets a profile, where Gibraltar gets the opportunity to network with important political, economic and military opinion formers in the UK, the very people that are then going to decide whether they cut back MoD expenditure or not, none of that is, according to them, of any value to Gibraltar. Well, we beg to differ and whilst we are in office we will continue to differ with them on that.

Mr Speaker, I have mentioned the point that the Savoy, I think I have already mentioned the point that the Savoy is actually cheaper than the Waldorf. So I am sorry, if he prefers that I stay at the Waldorf as I used to. The reason by the way he may be interested to know why I no longer stay at the Waldorf, well it has gone all modern. The Waldorf was a nice, conservative little hotel, which I am sure is why the Leader of the Opposition enjoyed it as well, given that he really is a closet conservative, but if he revisits the Waldorf he will find, I do not know how long it is that he has not been there, but if he goes he will see that the rooms and the public areas have gone all modern. They have now got sort of pointed chairs like Star Trek and things of that sort. It has gone all sort of avant-garde and it is terrible. So we have moved, to humour my more conservative tastes, we have moved to a hotel which is cheaper than the Waldorf, which I thought the hon Member would welcome.

The Hon Dr Garcia says that there is a downward trend. Every year he has got this sort of impossible mission. The impossible

mission is to somehow manipulate statistics or arguments, to suggest that tourism in Gibraltar is going very badly. First of all, well it causes a bit of a problem this, because visitors in the hotels is up. So how can I convert up into down. Oh I know, I will draw the distinction made in the survey between the various types of visitors. So I now separate visitor into business visitors and tourists, and says, ah, visitors to hotels in Gibraltar are up but the sort that is categorised as tourist is down. Well has it occurred to the hon Member that the reason for that is the internet. That increasingly now people book their own hotel accommodation through the internet. They, therefore, do not get caught as tourists, they get caught in the category that he apparently believes does not matter, the businessmen, the MoD, the visiting crewmen and all these other people that lie in our hotel beds, which he appears to think are less valuable to the economy than tourists. Why are less and less tourists visiting us from Spain? Well, we cannot stand at the frontier asking everybody that crosses the border but what I can tell him is that the number of visitors from Spain are at record levels. But of course, I suppose the hon Member has an obsessive need to convert record visitor numbers from Spain into less and less tourists visiting from Spain. All to give the impression that, whereas the reality is that the statistics of visitors are at record levels, all time record levels, that somehow the very country from where all that record level are coming, nevertheless is down.

Figures for coaches are distorted. He says well why are the figures for coaches, well has he not asked himself why it might be that the figures for coaches are down even though the total is up. Well, it can only be two reasons. Either people are jumping over the frontier, or they are walking over the frontier, or they are coming in private vehicles. But has he not asked himself what might be the explanation why at a time when the level of visitors from Spain is at a record level, the number of people recorded as visiting in coaches is falling. Has he not thought of that? He has not even asked himself this out of curiosity. Well I will give him the reason. He knows the reason. He has been told before. The reason is that because of the queues and other factors, a lot of Spanish coaches are disgorging their passengers on the other

side, the passengers walk to Gibraltar, the coach then drives in, presumably to fill up with diesel, empty and as a result, those passengers are not recorded as arriving in the coach terminal. They are recorded in the figures for.....

**HON DR J J GARCIA:**

No Mr Speaker, because the number of coaches is also down. So the coaches drop their passengers on the Spanish side, allows them to cross over, the coach still comes in. So the coach still comes in, it gets counted and the number of coaches is down.

**HON CHIEF MINISTER:**

No Mr Speaker. The coach only gets counted.....

**HON DR J J GARCIA:**

The Government's own figures and they are down.

**HON CHIEF MINISTER:**

The coach gets counted if it goes to the coach terminal. If the coach does not go to the coach terminal, it does not get counted. The answer to that is the same as with cruise ships. How does one end up with more cruise passengers but fewer ships? Well it is the same reason as why one ends up with less coach passengers, a steeper fall in coach numbers than passenger numbers. Coaches get bigger all the time, or has he not seen the double-decker coaches arriving in Gibraltar. Of course coaches get bigger and carry more passengers per coach than before. I do not see why he should be so amused that this should be the case with coaches, when they readily accept that it

is the case with passengers with cruise ships. It is the case with both of them.

Then of course, as the final attempt to convert record tourism performance into falls, he says, the fall in cruising. Well, in 2002, 116,918 passengers arrived in Gibraltar on cruise ships, in 2003 it was 143,508, that is an increase of 22 per cent. Of course he has not found a way to convert that sharply upward pointing arrow into the downward pointing arrow for which he has a political need. So how do we deal with that? I know, I will find a long enough list of ports and show that there are other ports growing more than Gibraltar. It is like rather sort of the Joneses. How big is my neighbour's colour television, well he has bought himself a 23 inch screen and mine is only 17, we will change ours immediately and buy a 27 inch screen.

Mr Speaker, 22 per cent growth in an activity which he knows, I think he understands what is involved in this activity, is not to be dismissed as failure. It is all very well for him to compare us to Malaga or Malta, or Cadiz, but these are ports that are servicing huge parts of the Spanish coastline. When cruise ships go to Malaga, the passengers do not just get off and go to "el jardin" or whatever it is called. These people go to Ronda, they go to Granada, which are world heritage trust sites, not world heritage trust, world heritage status sites. In Cadiz, they go to Jerez, they go to Cadiz, they go to Seville. The hon Member's analysis is that little Gibraltar, with the Upper Rock, Main Street and the Cable Car, we are supposed to compete in terms of growth rates with all of this. He may consider, obviously he does, that that is an appropriate bar to set, the Government think that it is ridiculous. Government think that it is absolutely ridiculous that he should do it.

Mr Speaker, in closing, the Government do take huge amount of comfort from the fact that the hon Members have got so little real, credible, true objective to say, about the state of the economy of Gibraltar. Because if they, whose job it is, to criticise as much as possible of what the Government do wrong, are limited to the three and a half points that they make, we regard



that as a huge vote of confidence to the Government's stewardship of the economy.

Question put.

**HON J J BOSSANO:**

We are abstaining until we clear up this business when we come to the Committee Stage on the I&D Fund, where we are going to be given additional information. Then we will be taking a decision on the Supplementary Appropriation Bill on which we are voting against the £2.5 million.

The House voted.

For the ayes:	The Hon C Beltran
	The Hon Lt Col E M Britto
	The Hon P R Caruana
	The Hon Mrs Y Del Agua
	The Hon J J Holliday
	The Hon Dr B A Linares
	The Hon J J Netto
	The Hon F Vinet
	The Hon R R Rhoda
	The Hon T J Bristow
For the Noes:	The Hon J J Bossano
	The Hon C Bruzon
	The Hon Dr J J Garcia
	The Hon S E Linares
	The Hon Miss M I Montegriffo
	The Hon F R Picardo
	The Hon L A Randall

The Bill was read a second time.

**HON FINANCIAL AND DEVELOPMENT SECRETARY:**

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

Question put.                      Agreed to.

The House recessed at 4.30 pm

The House resumed at 5.40 pm.

**COMMITTEE STAGE**

**HON ATTORNEY GENERAL:**

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

**THE APPROPRIATION BILL 2004**

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

**Clause 2** – Consolidated Fund Expenditure

**HEAD 1- EDUCATION, EMPLOYMENT AND TRAINING**

**HEAD 1 – A EDUCATION**

**Subhead 1 - Personal Emoluments**

**HON S E LINARES:**

Mr Chairman, is it Head 1 – A only or are we going to do all the subheads?

**MR CHAIRMAN:**

It is Head 1 – A only with the subheads.

**HON S E LINARES:**

As was mentioned in my speech and in the response from the Chief Minister, I would like to enquire as to why there is a breakdown this year of temporary assistance, as in specialist classroom aides, cover for maternity leave, paternity, temporary cover for other absenteeism. So an explanation as to why there is a breakdown and is it because whilst last year it is in No. 4, it seems as if the impression given in the book is that the temporary cover for other absences is £950,000 as opposed to £230,000 this year.

**HON CHIEF MINISTER:**

That is not the correct interpretation. Last year it was (d) temporary assistance and the estimate was £700,000 and the forecast outturn for that would have been £950,000. What we have done is that we have broken up (d) temporary assistance, into the various constituent parts that it has always consisted of. But it was all just wrapped up in one label. So the previous temporary assistance vote, the monies in it were applied to either the employment of specialists, the employment of classroom aides, cover for maternity/paternity leave and temporary cover for other absences, for example, humanitarian leave or unpaid leave or mainly, sick absences.

**HON FINANCIAL AND DEVELOPMENT SECRETARY:**

Mr Chairman, I may be able to resolve that. I think there is a presentation on improvement that we can make when we issue the final estimates, in that I can see the hon Member's point, that it implies that the £950,000 is against (d) little 4, and in fact if we were to move that up and put it against the line temporary assistance, I think it will resolve his problem.

**HON S E LINARES:**

I appreciate that. I think that would be a good move actually and not only that.

**HON CHIEF MINISTER:**

We would have to do it for all. In other words, we would have to put the forecast outturn for roman 1, 2, 3 and 4.

**HON S E LINARES:**

We might not have the problem next year because we have already categorised it this year. Therefore maybe next year it will not arise. But yes, as in presentation, if it were under temporary assistance at the top, it would mean that now that we have categorised the four, that that was a big figure. But going back as well to this item, therefore, what it says here is that the 230 plus the 50, that is, item 3 and 4, is what has been spent for absences, because classroom aides are not absences, since there is full time supplies, and specialist, since there are have full time specialist supplies, So this is my point. The point is that absences really is 230 plus 50.

**HON CHIEF MINISTER:**

No, for a start, the figures mentioned there, £260,000; £160,000; £50,000; and £230,000 are estimates for the current financial year. It is not what was spent last year. But if we wanted to know and reflect in the forecast outturn column what was spent last year, for each of those items, the £950,000 would become a much lower figure and the three noughts above it would each have a figure in there instead of the nought. Because each of those heads, these are not new heads. Now, the head is temporary assistance which includes all four of those votes.

**HON S E LINARES:**

Which should have been the £950,000 and that is what the Financial and Development Secretary said.

**HON CHIEF MINISTER:**

That is what the Financial Secretary has conceded. That the fact that the forecast outturn for what is the four together, is put at £950,000 but against the figure for temporary cover and other absences, it gives the impression that last year £950,000 was spent only on temporary cover for other absences. It was not. £950,000 was the amount spent on temporary assistance which includes those four subheads.

**HON S E LINARES:**

Yes. But that is not the point I am trying to make. I appreciate that, I agree with that and fine. What I am on about is that have item 3 and 4, which Government have estimated to spend this year £50,000 on one hand and £230,00 on the other. So therefore what the department are actually estimating to spend this year, on cover absences is £230,000 plus £50,000. So

Government are actually expecting to spend £280,000 on absenteeism, which is the issue that I am trying to make.

**HON CHIEF MINISTER:**

No, because we want to give this further breakdown because not all absenteeism, as he calls it, falls into the same category. The word absenteeism suggests that there is choice about whether one is absent or not. Whereas somebody being absent on maternity leave is a statutory right. In other words, the idea is that the House should know how much it is costing to provide temporary cover for other absences. Because that is the manageable figure, the others are not manageable. The Government could decide to reduce specialists or classroom aides, the Government cannot decide to reduce maternity or paternity leave. But the Government can, through management, or policy, influence the figure of 4 but not 3. We do not want to lump them together.

**HON S E LINARES:**

Therefore what the Chief Minister is doing is spending £230,000 for absences, which is the point I am trying to make.

**HON CHIEF MINISTER:**

For other absences.

**HON S E LINARES:**

Well other absences would be a teacher being ill on a day, or three days which is usually the norm.

**HON CHIEF MINISTER:**

Or unpaid leave.

**HON S E LINARES:**

It is very difficult for teachers to get unpaid leave.

**HON CHIEF MINISTER:**

No it is not that difficult. There is compassionate grounds, there are all sorts of grounds. But the hon Member is right in his analysis but we just do not agree with the conclusion that it leads him to. It is true that maternity and paternity absence is an absence. That is why we say maternity and paternity and then little four does not just say absences, it says other absences, recognising that one type of absence has already been covered by roman three.

Subhead 1 – was agreed to and stood part of the Bill.

**Subhead 2 – industrial wages**

**HON J J BOSSANO:**

Is it that there has been an increase in the numbers employed, it goes up to £1.482 million last year on the basic wages. Or is that the effect of last year's pay review.

**HON CHIEF MINISTER:**

There are two issues, there are two pay reviews in last year's figure. This year the forecast outturn apparently includes two

figures. The current estimate includes the one year's figures on the basis that I explained to him before that we know what the pay rise is going to be, so it is there, and there were some vacancies that have been filled apparently.

**HON J J BOSSANO:**

So the £1.482 million includes back pay?

Subhead 2 – was agreed to and stood part of the Bill.

**Subhead 3 – Office Expenses** – was agreed to and stood part of the Bill.

**Subhead 4 - School Expenses**

**HON S E LINARES:**

Can the Minister explain in 4(j), this is a new item and it only appears when it comes to school expenses rather than or including office expenses. Is it that the schools will have to pay for the electricity?

**HON CHIEF MINISTER:**

No, first of all it is not electricity, it is electrical services. In fact it is not the only place that it appears I think it also appears in No. 6 and one other, and Buildings and Works. This is we have moved the Wellington Front electricians, we have moved them into the Authority. But of course they are not engaged in generating or distributing electricity. They are engaged in repairing electrical installations, plugs and systems. So their main clients, in fact their only clients, are going to carry on being

Government Departments as they were when they were a Government Department in Wellington Front but the cost of them is being borne by the Electricity Authority. These are the twenty odd, I cannot remember how many electricians there were in Wellington Front. So the Government are now a purchaser of electrical services, not electricity, of electricians' services from the Electricity Authority, where all these people now are. Now, there is this item for schools, for which extra money is obviously being provided, because the schools are a major user of these electricians services, as is the Buildings and Works Department. Because they do all the electricians work in all the Government housing stock. Other Government Departments also, as a whole collectively, also use the electricians services but instead of scattering them all around every head, because none of the other ones are major users, they have been put in the Head 8A Subhead 13, where there is a new vote of £540,000 electrical services for Government Departments. So the Government is saying we are going to be buying electrical services from the Electricity Authority, and there are three provisions for that. Head 8 A, subhead 13, No 6 Convent Place, for the Government as a whole. There is a provision in the Buildings and Works, which we will see when we get to it, and there is this provision for the Education Department.

**HON F R PICARDO:**

The 3(b) which is electricity and water under office expenses, is that inclusive of electricity and water for schools?

**HON CHIEF MINISTER:**

Yes.

Subhead 3 – was agreed to and stood part of the Bill.

**Subheads 4, 5 and 6 –** were agreed to and stood part of the Bill.

#### **Subhead 7 - Scholarships**

**HON S E LINARES:**

We could have done that. On the assumption that the same number of students would go this year to university from the schools as went last year, it could have been done in that way, yes.

Subhead 7 - was agreed to and stood part of the Bill.

**Subheads 8, 9 and 10 –** were agreed to and stood part of the Bill.

#### **Head 1 - B Employment.**

**Subheads 1, 2, 3, and 4 -** were agreed to and stood part of the Bill.

#### **Subhead 5 – Contribution to Gibraltar Development Corporation**

**HON F R PICARDO:**

The amount voted last year was £900,000, this year it is £600,000. I can see from 113 that the forecast outturn for this year is £900,000. In other words the amount that was voted by those then in this House will be the amount spent. The estimate this year is much lower, it is down £300,000. I can see that the

estimated contribution from the European Social Fund is actually estimated to be £700,000, which would immediately show how we would expect to make up the balance. But I see that the estimate of contribution from the ESF last year was £500,000, where in fact we will only be receiving £140,000. Is there not a risk that by only voting £600,000 there, there could be a considerable shortfall if we are only able to achieve amounts similar to the amounts we are actually going to achieve this year from ESF.

**HON CHIEF MINISTER:**

The Financial Secretary will address in a moment the question of the European Social Fund but can I just make sure that he draws the right conclusions from the figure. It is not correct for him to assume that the drop in the contribution from the Consolidated Fund is to reflect an expected higher income from the Social Assistance Fund. If he looks below the page, at the bottom where it says training and development courses, (a) EU projects, that is being increased. But other, that is to say projects funded by the Gibraltar Government not the EU, those are falling. There are the £300,000. It is the difference between the £1,284,000 last year and the £870,000 that we are estimating to spend on other as opposed to EU, training and development courses. That is an intended curtailment in that expenditure.

**HON F R PICARDO:**

Can I just take the Chief Minister to task on that because I see that when we voted £900,000 not £600,000, we had actually estimated a spend of £960,000 not the £1.2 million that we actually reached. Therefore, there might have been a reduction of the difference between £970,000 and £870,000 but not a reduction of £300,000, based on the explanation which has been given.

**HON CHIEF MINISTER:**

Well, I was not offering him an explanation. I was pointing out to him that we do intend to trim back expenditure on other training and development courses. This is one of those areas where there has been expenditure in excess, department driven, in excess of the amount estimated. So in other training and development courses, (b), we estimated this time last year that we would spend £960,000 and in fact they spent £1.284 million. This year we want them to limit their spending to £870,000. So there is a real intention to try and cut the expenditure there.

**HON F R PICARDO:**

I understand it but the estimated expenditure was £960,000, he is trying to cut it by this lower vote, I appreciate, down to £870,000. That is a difference of £90,000 but we are slashing it by £300,000 not by £90,000.

**HON CHIEF MINISTER:**

No because he cannot compare the need to increase or decrease the vote from the Consolidated Fund, which is how we got to this issue, is that he has got to compare the forecast outturn with the estimate not estimate to estimate. He is saying we estimated £960,000, we are now estimating £870,000, we think that that only requires a cut in Consolidated Fund contribution of the difference between £960,000 and £870,000. I think that is a false calculation. To decide whether the contribution next year, or this year, needs to be higher or lower than last year, is a product, amongst other things, of whether this year we want to spend more or less than was actually spent last year, not that we were estimating to spend last year.

**HON J J BOSSANO:**

Is it not a fact the House in last year's Budget, voted £900,000 which together with other sources provided revenue to the employment and training body of £3,750,000, which they were estimated to spend. Now this year, the over run has been as a result, which is what is shown at the end, £391,000 in excess of the amount provided is shown, is really the difference in the income between the £550,000 and £141,000. If in fact the Employment and Training Board is in deficit to the tune of £391,000, as it is, it is clearly because it got £410,000 less of European money. Not because they spent more, but because they received less.

**HON CHIEF MINISTER:**

Yes, but remember we cannot spend EU money except on EU authorised projects. So if we want to cut the subvention from the Consolidated Fund, we have got to expenditure that is fundable by the Consolidated Fund and not EU funded. It is true that if we collected the extra money that has not been collected of EU funding, then all those other heads of EU projects, which have had to be funded by the Consolidated Fund, would have been funded to the tune of about £600,000 extra, 700 minus 141, or 550 minus 141, from EU pot rather than from Government pot.

**HON J J BOSSANO:**

Yes, but the whole point, and that is the point that my hon Friend was making, that in fact the cut is not to reduce expenditure because people spend more than they should have done, but because what was spent and would have been financed from EU funding, was spent but because the EU funding was not there, was financed from, or is going to be financed and at the end what we have got is a final figure over the page of £391,000.

**HON CHIEF MINISTER:**

Yes, the deficit that he is referring to as appearing at the end, is generated by two things.

**HON J J BOSSANO:**

Well principally by lower income.

**HON CHIEF MINISTER:**

Yes by lower income but also by the fact that there was higher expenditure than estimated in the other projects, the non EU projects. If that had not happened there would be no deficit, or there might be a little deficit.

**HON J J BOSSANO:**

Absolutely. But is that not an indication, when we are talking about training and development courses, and when we are talking about construction training centre, where in both cases we see the EU project side going down and the locally funded side going up. Then surely what we have got is a policy to provide a certain level of training, which if we can get the EU to pay for well and good, and if we cannot we pay for it ourselves.

**HON CHIEF MINISTER:**

No, what we have is a policy, set by those who set the budget centrally, which said, "the policy is that you should spend £96,000." Then those that administer the policy on a day to day, decided to spend £205,000 instead, for example, on the construction training. This is another example of what I addressed in my speech on the Second Reading of the Appropriation Bill. That the amount of Consolidated Fund

subsidy is fixed by reference to estimated expenses and then those that administer the policy at departmental level, decide to spend as much as they like on this.

**HON J J BOSSANO:**

Yes, but in this case the bottom line shows that that analysis is not correct. The bottom line shows that there is a figure of £3,750,000 which was expected to require £900,000 from the Consolidated Fund and the balance from other sources. The bottom line now shows that the end result was £3,700,000. The difference, if we look at the penultimate line, is because of what this peculiar system, which now seems to have been abandoned, where the Government gave them money one year and then sought to retrieve it in another year as a reimbursement. Whether it is £516,000 of reimbursement in the estimate originally, which is now not in the forecast outturn. But the point that I am making is that surely, we are talking about training in the Construction Training Centre, training for school leavers who are not able to obtain the possibility of going to the UK. We are giving more money to the Scholarship Fund. Then unless we are saying to the Training Board, we have got a cut on the number of people that they can provide training to, particularly if we look at the Construction Training Centre. In the Construction Training Centre, I imagine, I stand to be corrected, but I imagine that what we are talking about is the number of youngsters that have been doing construction NVQs and the resources that are needed to provide that training.

**HON CHIEF MINISTER:**

In the case of the Construction Training Centre yes. In the case of the other one, training and development courses, it is a matter of how many courses the Government decide to make available.

**HON J J BOSSANO:**

But the Chief Minister has just quoted the figure of £96,000 and that is in the other than EU projects Construction Training Centre. So therefore what we are saying is, the Construction Training Centre originally, was supposed to be providing training worth £216,000 for x number of young people in the construction trades. Of that, it was hoped, or expected, or planned that £120,000 of it would come out of the £550,000 ESF contribution. In fact it did not come in. Well, look, it is not an unreasonable thing that if it did not come in, rather than lay everybody off, which would have caused a political problem for the Minister, they used local funds to keep the kids there training.

**HON CHIEF MINISTER:**

Mr Chairman, looking at the bottom line of that subhead, for an estimate £216,000 lumped in EU and non EU together, there was £216,000 estimate in 2003/2004, they actually forecast £276,000 and were wanting to trim that back to £210,000. Now, that will not be achieved at the expense of turning people out of the Construction Training Centre. It is either achievable or it is not. If it is achievable it will be achieved, if it is not achievable it will not be achieved. Unlike the one above, the training and development courses, which really is a product of the Government saying how much money is there for development and training courses, how many development and training courses do we offer, and as a matter of policy we decide to offer only £870,000. But I agree in the case of the development training in the Construction Training Centre, that it is not the policy of the Government to turf out people from the course, or to take less people in to the course.

**HON DR B LINARES:**

This is for materials and equipment whereas the trainees are paying on vocational



Subhead 5 – was agreed to and stood part of the Bill.

## **HEAD 1 – C - TRAINING**

**Subheads 1, 2 and 3 – were agreed to and stood part of the Bill.**

## **HEAD 2 - HERITAGE, CULTURE, YOUTH AND SPORT**

### **HEAD 2 –A - HERITAGE AND CULTURE**

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

#### **Subhead 4 – Culture Expenses**

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

Can the Minister or the Chief Minister explain why the Museum, Knightsfield Holdings Limited, has an increase this year, estimated increase, from the forecast outturn. Is it wages or is it an upping on the wages? Or is it a specific project that Knightsfield Holdings Limited have in mind?

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

I am told that the contract itself contains a provision entitling the company to a 5 per cent up rate and, in addition to that, there is a £12,000 increase for temporary staff, or part time staff.

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

Can I ask on the £60,000 rent for the Theatre Royal? In view of the fact that the continuation of the project is now deferred, does the agreement with the owners of the place entitling them to this £60,000, say anything about the completion date of the Theatre?

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

No, what the Government can do at any time is buy the site, as I think I have explained to the hon Member before. The contract allows the Government to buy the site at any time for a price calculated under a formula that is established. I suppose that if the Government were to decide, at some stage in the future, as he suspects is the case, not to proceed with the Theatre Royal on that site or anywhere else, which is not the Government's position at the moment. But if that were to become the Government's position, I suppose the Government would be free to buy the site and sell it for some other development purpose, and then presumably the Heritage and the planners will ensure that the façade were preserved. So the Government can either pay the rent, or exercise the option to buy the property, and then use the site for something else or to sell the site.

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

Is there a time limit to that option?

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

No, I think he is testing my memory now. So subject to that, I think it does not. It runs for the whole duration of the lease. There is now a lease in place it is not just an agreement.

**HON S E LINARES:**

Is it not a 40 year lease? I think that when they signed it, it was a 40 years lease.

**HON CHIEF MINISTER:**

The outside limit at the end of the lease. But it is at the end of that period. I mean this is not freehold.

Subhead 4 – was agreed to and stood part of the Bill.

**Subheads 5, 6 and 7** – were agreed to and stood part of the Bill.

## **HEAD 2 – B - YOUTH AND SPORT**

**Subheads 1 to 9** – were agreed to and stood part of the Bill.

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## **HEAD 2 – C - BROADCASTING**

**Subheads 1 to 3** - were agreed to and stood part of the Bill.

## **HEAD 3 - HOUSING**

### **HEAD 3 – A - HOUSING ADMINISTRATION**

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

## **Subhead 4 – Operational Expenses**

**HON J J BOSSANO:**

The cleaning of estates which was an actual £223,000 in 2003, £600,000 last year, £614,000 forecast outturn and then £635,000. I think there was a supplementary estimate where the money was moved to Master Services Ltd. Is that something that is reflected here or is it somewhere else?

**HON CHIEF MINISTER:**

I understand that the amount reflected there as the forecast outturn is the amount actually spent in financing the contract. That the reason why the actual figure for 2002/2003 was so low, was because it only covered a part of the year. It was introduced two thirds of the way through the year, I think. That is why the actual was £223,000.

**HON J J BOSSANO:**

I seem to remember having seen that in one of the supplementaries that were Tabled.

**HON CHIEF MINISTER:**

That might have been for street cleaning expenses where we may have extended the contract to new areas.

**HON J J BOSSANO:**

I see. Not here.

**HON CHIEF MINISTER:**

Not necessarily. Well, I do not know what it is that he has seen, but it would not surprise me if he had seen it in relation to the street cleaning.

**HON J J BOSSANO:**

Additional requirements, that is under the environment. Here, in the £635,000, is there a clause that provides for annual increases in that contract?

**HON CHIEF MINISTER:**

I think that there is and there is a clause that provides for the financing by the Government of pay rises for the staff. I do not think there is a clause that allows them to more profit or anything like that, or to more revenue for other purposes. Cost increases.

Subhead 4 – was agreed to and stood part of the Bill.

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

**HEAD 3 – B HOUSING – BUILDINGS AND WORKS**

Subheads 1 to 5 – were agreed to and stood part of the Bill.

**HEAD 4 – ENVIRONMENT, ROADS AND UTILITIES**

**HEAD 4 – A ENVIRONMENT**

Subheads 1 to 4 – were agreed to and stood part of the Bill.

**Subhead 5 – Natural Environment and Animal Welfare**

**HON F R PICARDO:**

Should my friends in the Environmental Safety Group, as they were referred to earlier, complain that I do not have a magnifying glass out on this issue, the paltry amount put in here for air quality monitoring, of £130,000, does that relate to the purchase of the equipment only, or also to the leases et cetera of land, if any, necessary for the equipment to be set up?

**HON CHIEF MINISTER:**

There is a provision in the Improvement and Development Fund for the purchase of the equipment. This is the running costs of the equipment and the tests that need to be carried out, and the analysis of the results and all of that. So this is a recurrent item. This is the cost of, the annual cost, of having the air monitoring station functional. It is not the cost of acquiring the equipment itself which is provided for in the Improvement and Development Fund.

**HON F R PICARDO:**

Is this going to be run by the Environmental Agency or by the Government?

**HON CHIEF MINISTER:**

By the Environmental Agency.

**HON F R PICARDO:**

But is the Environmental Agency not funded out of the environmental health, (f) of that, environmental agency grant of £1.1 million? Should not therefore that amount be added to that £1.1 million vote?

**HON CHIEF MINISTER:**

Maybe in future years but at the moment there is no contract. The contract for that is not yet in place. So at the moment it is a Government function, even though they are going to do it. When it becomes a contractual obligation for them to do it, then it would appear, presumably, added under the Environmental Agency contractual cost.

**HON F R PICARDO:**

So this is in effect then the cost of sub-contracting the Environmental Agency to do that for Government, for this year at least.

**HON CHIEF MINISTER:**

It is a way of reflecting the fact that it is a provision for air quality monitoring. We cannot book it to the Environment Agency, I suppose, because the contract has not yet been done. But it could have appeared already, I suppose, it could have appeared in (f) as an estimate, in anticipation of concluding that contract with them. So the intention is that they are going to do it. It could easily have already been parked as an estimate under the Environmental Agency vote.

**HON J J BOSSANO:**

This has not happened yet has it? That is to say, there has been no air quality monitoring yet, because the equipment has not been bought yet. Is that correct?

**HON CHIEF MINISTER:**

Correct.

**HON J J BOSSANO:**

So in fact, this is what is estimated to be needed what, in a full year or in the year that remains?

**HON F VINET:**

For the maintenance for the full year.

**HON J J BOSSANO:**

The next item, (c), which is Environmental Monitoring - Gibraltar Development Corporation staff services £72,000. The people are doing that environmental monitoring are not capable of doing the air quality one. Is that the position?

**HON CHIEF MINISTER:**

I wish it were true but I am told that this is a specialist. The environmental monitors are for the litter monitors and people of that sort. I understand that this requires a greater degree of sort of scientific base than that staff would have.

**HON F R PICARDO:**

I crave everybody's indulgence if it is not the practice to go now to the pink pages where they relate to the white pages. But on page 107, which is the head environmental projects is set out and there is £550,00 voted there on last year's £150,000 and expenditure of £125,000. Is that increase in the estimate from last year to this year, to account for the purchase of the equipment?

**HON CHIEF MINISTER:**

Yes.

**HON F R PICARDO:**

Can we safely assume that the difference amounts to that, or is it that this year, that is the one and only project that we are running under that head?

**HON CHIEF MINISTER:**

That provision includes £200,000 for the purpose of air monitoring equipment.

**HON F R PICARDO:**

How is the difference made up?

**HON CHIEF MINISTER:**

The hon Member will see that when we discuss the Improvement and Development Fund.  
Subhead 5 – was agreed to and stood part of the Bill.

**Subheads 6 and 7** – were agreed to and stood part of the Bill.

**HON J J BOSSANO:**

Can I just go back one minute Mr Chairman, to the contracted services in the street cleansing. I think that was the one that I was looking for before. It was in supplementary No. 5 from the block vote, the £118,000 was moved. It is Subhead 6 (d) Street Cleansing. There is £118,000 which was provided by Warrant No. 5 dated 25<sup>th</sup> May, which was added to the original provision to bring it up to £220,000. Given that the explanation is that the amount is extra areas.....

**HON FINANCIAL AND DEVELOPMENT SECRETARY:**

Yes that is the explanation Mr Chairman. There were additional contractual requirements which were extending the areas they cover.

**HON J J BOSSANO:**

And it is just plus annual increase, and the annual increase is what, the wages of the people employed in the street cleansing?

**HON FINANCIAL AND DEVELOPMENT SECRETARY:**

Yes. We had under provided in the estimates for what was the contractual obligation.

**HON J J BOSSANO:**

And is the Minister not under providing this year, when he is actually cutting it by £25,000?

**HON CHIEF MINISTER:**

Well it remains to be seen. Remember that overtime in that company is also a moveable feast.

**HON J J BOSSANO:**

I see. So is it that, I am not very sure what the nature of the contract is. Is it that they have not got a fixed contract that they get paid so much for cleaning the areas and that if they do overtime they can then pass the overtime on to the Government?

**HON CHIEF MINISTER:**

As I recall the contract, there are schedules for the frequency with which they have got to clean each street actually named. The schedule sets out the name of each street, whether it has got to be cleaned daily, weekly or three times a week. That is what they are obliged to do with the contract fee. But if the Government ask them to clean, sometimes Ministers walk down Main Street and it is particularly dirty and they want it cleaned, that is extra. Anything extra ordered for may have to be done on overtime and whether it is done on overtime or not it incurs an additional charge.

**HON F R PICARDO:**

Mr Chairman, on subhead 7 of 4-A can I go to (b) which is those items that I raised during the Second Reading, in relation to disposal of fly ash and other items. Now we have seen that there is a provision for £300,000. The forecast outturn, which used to be shown elsewhere before, was £333,000 but in this House the estimate last time, I was not here, was £35,000 on an actual the year before of £82,000. What is it that has cost that much in relation to the fly ash and what are the other items?

**HON F VINET:**

It is actually a transportation issue. It used to be the case that domestic refuse used to be transported to the Los Barrios landfill site together with fly ash and other refuse. Since last year Los Barrios has implemented the recycling set up and now we have to segregate the refuse at source. That means that they have to be transported in different manners. That lowers the cost of one and increases the cost of the other.

**HON F R PICARDO:**

Does this include the cost of segregation? That must be a new cost.

**HON F VINET:**

I presume it does. It does, I am told it does.

**HON F R PICARDO:**

But if we are now moving three different types of item rather than one, in one lump, why is the figure not multiplied by three, rather than by more?

**HON F VINET:**

Because for example, fly ash together with the other refuse, is more voluminous than domestic refuse. So it does not automatically mean that because what used to be transported in one go now is divided into two, it is not a perfect sort of perfect balancing act.

**HON F R PICARDO:**

I appreciate that. But there cannot be more volume than there was before when it was all transported together.

**HON F VINET:**

It may be of use if I read out the technical information that I was given. That is the following: those items that could no longer be disposed of with the domestic refuse, as from last year, that is the reason for the higher expenditure last year and for the estimate of this year. The over expenditure in Subhead 7(b)(ii), should have equated to be under expenditure in 7(b)(i). This is not so because domestic refuse has a very high density, whilst items covered under 7(b)(ii) are bulky. Consequently the unit rate increases, since we are not able to pack the waste into the lorry as densely as we are with refuse. In addition to this, there was last year a price increase at source coinciding with the introduction of the new facility at Los Barrios.

**HON F R PICARDO:**

We are talking about this before we actually transpose the provisions in relation to refrigerators and cars and all that sort. We are talking about all of that being lumped in together in these estimates until they are further divided once the provisions specific to those items are implemented.

**HON CHIEF MINISTER:**

I do not know whether it will be so, that the estimates will ever show it broken down item by item.

**HON F R PICARDO:**

I hate to carry on talking rubbish, but seeing as that is what he thinks I have been talking all day. The next item which is skip services. We see an estimate there of £4,000. Is that for the purchase of skips or are we going to be renting skips? On the next item which is the incinerator, water production at Europa Incinerator Limited, there was at (iv) recorded an actual for 2002/2003 of £382,000, an estimate for last year of £152,000, and outturn of £354,000 and now still an estimate of £170,000. Is that one of the items that lacks budgetary discipline that is going to be brought under control?

**HON CHIEF MINISTER:**

No, I think that the reduction estimates are based on the fact that some of the staff of Europa Incinerator Limited are intended to be redeployed to other Government related employment.

**HON F R PICARDO:**

That was actually estimated for this year as well, is that right, and did not happen?

**HON CHIEF MINISTER:**

It did not happen last year.

#### **HEAD 4 – B TECHNICAL SERVICES**

**Subheads 1 to 5** – were agreed to and stood part of the Bill.

#### **HEAD 4 – C TRANSPORT – ROADS AND TRAFFIC**

**Subheads 1 to 5** – were agreed to and stood part of the Bill.

**Subhead 6 – Public Bus Service**

**HON L A RANDALL:**

Am I right in assuming that is only a nominal sum that has been put in?

**HON CHIEF MINISTER:**

The hon Member is obviously right in assuming that it is a nominal sum. But he is not right. We do not think to speculate the figure that he speculated in his address on the Second Reading. At the moment and subject, on the basis of the limited information that I have had so far, and somebody that was listening to the debate when we were having it on the Second Reading sent me in a note into the House, at the moment they calculate that if everything carries on the way it is going at the moment, they think the subsidy may reach £300,000 to £350,000. Not the £1.2 million or £1.7 million.

**HON L A RANDALL:**

Would that include the repayment of principle and payment of interest.

**HON CHIEF MINISTER:**

There is no repayment of principle. The Government have made their investment through share capital in the company.

Subhead 6 – was agreed to and stood part of the Bill.

**Subhead 7 – Traffic Management** – was agreed to and stood part of the Bill.

**HEAD 4 – D UTILITIES**

**Subheads 1 to 5** – were agreed to and stood part of the Bill.

**HEAD 5 – SOCIAL AND CIVIC AFFAIRS**

**HEAD 5 – A SOCIAL AND CIVIC AFFAIRS**

**Subheads 1 to 4** – were agreed to and stood part of the Bill.

**Subhead 5 – Support to the Disabled**

**HON J J BOSSANO:**

The Special Care Abroad, £197,000. How many people do we have under special care abroad in that subhead?

**HON CHIEF MINISTER:**

It is one and that is the amount that previously used to be shown under the Education subhead, which accounts for the reduction in that subhead.

**HON J J BOSSANO:**

I see. Is this sort of an open-ended life long commitment of £200,000 a year?



**HON CHIEF MINISTER:**

Well it is at the moment. One does not want to talk about money and life expectancy in the same breath, but yes at the moment

**HON J J BOSSANO:**

We will want to see how this compares with the amount that we are providing for respite and for how many people.

**HON CHIEF MINISTER:**

Yes, the hon Member makes the same point as the Government made when we have considered, does he remember some time ago we were considering the possibility of establishing in Gibraltar something called a Unit for Children, a Challenging Behaviour Unit. At the time of Milbury. The reason when we were discussing that was that we could set up that unit in Gibraltar, repatriate the two students, one here one under the Education vote. By the way it is put under Education if the person is still of school age and Social Services once they become adults. We thought that we would bring those to Gibraltar, create a Unit that could take some of the worse cases also off the Giraldi Home, and at least the money would be spent on creating jobs in Gibraltar. Because that £300,000 sustains a number of jobs, in other words, to have the economic activity, the employment activity in Gibraltar rather than just sending cheques out to sustain nursing jobs in Devon, or wherever it is that this young man is. We have not done it yet because the capital element costs involved, and I think also the initial studies on the manning requirements suggested that one would end up paying more than this. But against that, eventually when we make the final decision, which has not yet been made, one has to offset the fact that even if it costs a bit more, it is money that is staying in Gibraltar through wages in Gibraltar, rather than the whole amount leaking out so to speak, to the UK. That project is still

under consideration. The decision has not been made to do it or not to do it yet.

**HON S E LINARES:**

The added benefit would be of having these specialists because we would have to have specialists to look after them.

**HON CHIEF MINISTER:**

That is one of the factors that goes into the decision making process. That this is not just carers. These UK schools give specialist educational occupational therapy and it is not just carers.

Subhead 5 – was agreed to and stood part of the Bill.

**Subheads 6 to 13** – were agreed to and stood part of the Bill.

**HON J J BOSSANO:**

Mr Chairman can I just say, in relation to these contributions that we are making. Obviously we are voting in favour because that is where the money is, and we are in favour of those two agencies getting the money. But we believe a more accurate way of reflecting, given that the money has already been spent and we are not giving them money to spend in the current financial year, that this is in fact part of last year's contribution and as I said in the general principles, if there is going to be an argument about bringing in a Supplementary Appropriation Ordinance for last year, incorporated in this year, then there is even less of an argument for showing this expenditure in this part of the Ordinance as opposed to showing it in the part of the Ordinance that refers to overspending last year.

**HON CHIEF MINISTER:**

Yes. I am not sure whether the point that the hon Member is making turns on the view that we are teeming and lading with deficits. This figure clears both last year's deficit and provides them with funding for the full current year.

**HON J J BOSSANO:**

I am aware of that. What I am saying is that the fact that last year's deficit is incorporated as the estimated cost of the service this year, because otherwise if there was no last year's deficit the amount of money that would be there would be

**HON CHIEF MINISTER:**

The hon Member's point is that it is not recurrent.

**HON J J BOSSANO:**

That is not the recurrent expenditure for 2004/2005.

**HON CHIEF MINISTER:**

Yes. The information that the hon Member wants is given broken down in the Appendix, which clearly shows how much of that amount is for and much is for their annual operating cost this year.

**HON J J BOSSANO:**

It is not that I do not know how much it is. It is that I have already argued in the general principles of the Bill, that if the argument that is used for Part 4 is that there is a supplementary

appropriation of expenditure to clear up the excesses of last year in all the heads of departments, then the logic of that argument applies equally to this particular money paid to those agencies. Therefore, really, we are not voting £3.8 million and giving it to the Social Services Agency to spend in the year 2004/2005. Any more than we are not voting £2.5 million in Part 4 and including it in Part 1.

**HON CHIEF MINISTER:**

Well it is arguable but it is not as clear cut as the hon Member has persuaded himself. Because the expenditure in the Agency is not subject to the appropriation mechanism of the House. They are entitled theoretically, in terms of the Public Finance (Control and Audit) Ordinance they are free to spend more. If they can go to the bank and borrow money, they could go to the bank and borrow money and spend as much as they like. The appropriation mechanism of the House refers to what is drawn from the Consolidated Fund. What is being drawn from the Consolidated Fund is this and it is being drawn this year to finance what in effect has been financed by a suspense account from the Treasury.

**HON J J BOSSANO:**

That is precisely the point that my Colleague Marie Montegriffo made in her speech, which was rubbished by the Chief Minister. Because he has just said they could spend whatever they like. Theoretically they could go to the bank. The point is that if he has been telling us that one of the things that we are doing in this Budget is not cutting spending, or reflecting a problem of shortage of money, but in fact, ensuring that there is observance of the budgetary discipline. Well he has just told us that in respect of £5,000,988 the argument about the budgetary discipline does not apply. It applies to the £2.5 million.

**HON CHIEF MINISTER:**

No. The budgetary discipline in non-Consolidated Fund statutory agencies or authorities, is for the Government to implement. The House could theoretically deny the Government, through refusing an increase in the subventions, if I could just use that word loosely to describe these payments. The House could deny the Government the ability to fund the excess expenditure in the statutory authority by refusing to vote monies from the Consolidated Fund for that purpose. But the budgetary discipline which the Government insists, and which the House should insist on, relates to those items of expenditure which are subject to the appropriation mechanism of the House, which are Government Departments. Also indirectly but not directly, the statutory agencies, because at the end of the day the House, through denying these subventions, could deny them the funds to make up the excess of expenditure of subvention.

**HON J J BOSSANO:**

The money which has already been spent and has already been advanced to them.

**HON CHIEF MINISTER:**

And has already been advanced by the Government without a guarantee that the House would then release it through the appropriation mechanism. Obviously we rely (a) on the fact that we have got a majority in this House, and (b) on the fact that provided that the expenditure is for purposes that the hon Members would support, they would not withhold their consent. I did not rubbish the hon Member's point, I rubbished the point that she was making which is different to the point that the Leader of the Opposition now thinks I am contradicting. I rubbished the point that she was making, which was that because it was not a Government Department, they were not subject to the Government's control and they could spend as much as they

liked. That is not a reality for them, actually it is more a reality for them than it is for this because the Health Authority Ordinance does allow them to borrow money. I do not think the Social Insurance Ordinance does the same. But at the end of the day, even if they do that the financing costs of the debt would have to come from the Government. So the Government say, "you cannot spend Health Authority, you cannot spend as much as you like because ultimately you pass the bill to the Government, and I have to come to the House to seek an increase in the grant to the Gibraltar Health Authority from the Consolidated Fund. Therefore I the Government in the first place, and then the House collectively has an interest in the amount that you spend because I pick up the tab of the difference between what you spend and what you collect from your own sources." Since the funding gap is paid for by the Consolidated Fund, those who control the Consolidated Fund which are the Government in the first place, and then the House of Assembly through the appropriation mechanism, have a direct interest in how much the Health Authority should spend or should not spend.

**HON J J BOSSANO:**

We do. This is why what I am saying is that there are two points really that I am making. That is that whereas in the departmental budgets we actually approve each head, here we are approving a balancing figure.

**HON CHIEF MINISTER:**

Absolutely. In other words, the Government could theoretically ask for the subvention without giving the information in the Annex.

**HON J J BOSSANO:**

That is correct. Therefore unlike the rest of the expenditure from the Consolidated Fund, the appropriation legislation in the other cases, requires a Supplementary Appropriation Bill precisely because once we exhaust the £2 million available at the beginning of the year, our view is that to supplement that, if the money has not been spent, we need more money in the Supplementary Fund but if the money has been spent then tell the House where the money has been spent and we vote it head by head. In this case, what I am saying is that it would have been a more accurate reflection of reality if there had been a Supplementary Appropriation in which the £2.8 million of the Elderly Care Agency, and the £2.3 million of the Social Services Agency were supplemented through a Supplementary Appropriation Bill, by the amount of the deficit which would then have shown that the results in this column eventually, when we get the final figure audited.

**HON CHIEF MINISTER:**

It could have been done that way and there would have been no reason not to do it that way but we do not agree that it is a requirement to do it that way because it is not a Government Department and it is not subject to the appropriation mechanism, it can be funded through suspense accounts. Really this is funding the Treasury. They have been funded already, this is not voting monies now to fund their expenditure. Their expenditure has already been funded, they have received the money from the Treasury suspense account. In a sense what the House is doing here, is funding the Treasury suspense account. In other words, reimbursing, releasing the money lawfully to the Treasury.

**HON J J BOSSANO:**

Cancelling the IOUs.

**HON CHIEF MINISTER:**

Yes, cancelling the suspense account. Yes that is the budgetary discipline point I am not sure Opposition Members agree on the Government with. The message to the Authority also is, "look do not spend more than you have been voted for on the assumption that we are always going to provide the money. You are required to keep within your limits."

**HON J J BOSSANO:**

What the Chief Minister is saying is, do not do it on the assumption that it is going to be approved on 31<sup>st</sup> March, it will not be approved until 1<sup>st</sup> April.

**HON CHIEF MINISTER:**

It could have been done the other way as well. Of course it could have been done the other way. The difference between us is whether it should be done the other way or whether it must be done the other way. That is the difference between us.

**HON J J BOSSANO:**

I am not making the point that it has to be done or that there is a legal requirement. I am saying it would have been preferable, and it would have been our preference to do it the other way, and it would have given a more accurate reflection of the money that has actually been spent. When the final outturn for the year 2003/2004 appears, it will look as if in fact the.....

**HON CHIEF MINISTER:**

The same is true of the outturn for the following year which we are to disregard.

**HON J J BOSSANO:**

Well, assuming that we are going to have a repeat exercise, then next year we shall have the same figure. I suppose that if that keeps on going for ever more, the peculiar jump will only appear in the first year and not in all the subsequent ones.

**HON CHIEF MINISTER:**

The hon Member is right to this extent. If we had done it by supplementary vote in respect to last year's revenue and expenditure, posterity would record in the forecast outturn column, the amount actually expended by the funded authority during that year. But this is not a column that reflects the expenditure of the Authority. For that he has got to go to the Appendix. This is a recording of the flow of cash from the Consolidated Fund to the Treasury in the year in which the financial transaction takes place for the Government.

**HON J J BOSSANO:**

Yes, and the Authority has no other source of income other than that. So what the Chief Minister is saying is, that does not show how the money was spent. It just shows how much was spent.

**HON CHIEF MINISTER:**

Part of how much was spent. In the case of Authorities with no other source of income.

**HON J J BOSSANO:**

The Elderly Care Agency gets a contribution from residents.

**HON CHIEF MINISTER:**

The Social Services Agency possibly gets no other revenue. Well, it gets a small contribution from the Improvement and Development Fund. Yes it all comes from appropriated funds in this House.

**HON J J BOSSANO:**

In the context in fact of the money that we are voting, and the money that we are voting for last year, there is no way of obviously of deciphering where the amount that they actually spent last year on respite care, what that amount actually came to and what we are actually voting being provided for them to spend this year.

**HON CHIEF MINISTER:**

No because respite care is all an emolument cost. The only costs attached to respite care are, no that is not quite, they eat food and all of that which I suppose increases some of the material other charges votes. The main element of cost for respite care is the extra carers that one has got to bring in as the supply relief cover workers, and supply workers, so the vote that he should be looking at is this on page 120, is relief cover. There may also be a bit of overtime to the extent that the existing staff do it, and there may be some additional cost in the food vote. But the main element of cost is that relief cover, which he has seen has risen from £43,000 in 2002/2003 to £100,000 estimated. We thought last year we were doubling the provision when we estimated. It actually came in at ten times the amount of the previous year. That is not all due, let me say, to increased levels of respite. There is a huge increase in respite care but it is also due to the fact that when the employees were Milbury employees, they did not have the sick leave entitlements that they got when they became employees of a Government Social Services Agency. There has been a huge increase in the

incidence of absenteeism by the very same staff that previously used to work for Milbury and now work for the Social Services Agency. Those have to be replaced. When a member of staff is absent due to sickness, somebody has to be brought in because very often these people are providing one to one care. So if a member of staff of the Social Services Agency goes sick, somebody has to be brought in, a supply worker or another supply carer, has to be brought in to cover the absent person and it is funded under this head. So it would not be correct to assume, it would be incorrect to assume that the whole of the £440,000 is a measure of the increased cost of providing respite care. That is not the case.

**HON J J BOSSANO:**

This is an important point because in fact when we came out reacting to the news that the level that was operating was being cut back because of excess spending over what the Government intended to provide, we suggested that since it was already happening, the Government should in fact wait till we were able to discuss the matter here in the House, this is why I am trying to find out exactly what it is that we are talking about.

**HON CHIEF MINISTER:**

I cannot give him across the floor of the House, the factual circumstances behind the explosion in respite care. I have given him, precisely because he cannot deduce the information from the financial figures here, I have given him earlier today the hours of respite care provided so that he can see the amount to which the hours of respite care provided has increased from year to year, and the cost of those hours. He got that this morning. I do not know if he made a note of it, if he did not I am happy to give them to him again, so that he knows what has been the increase in extent year on year of the actual quantum amount of the service provided, and what has been the cost of that increased quantum amount of service. I alluded this morning,

obliquely, to who was benefiting from that mushrooming cost. I did not think it was appropriate to give further and better particulars across the floor of the House in public on that. I do not know whether even the confidentiality arrangements, but speaking personally and subject to any confidentiality arrangement that the professionals in the Department may feel binds them, I do not mind sharing that information with the hon Members, so that they can see the increased hours and who has actually benefited from them, and who has not. But I do not want to have that debate across the floor.

**HON J J BOSSANO:**

I accept that, but is the implication of the fact that we are voting a contribution from the Consolidated Fund, which will enable the Social Services Agency only to provide £100,000 of relief cover, which was what they had in last year's budget, and which they exceeded by £340,000. How is that going to compare with what has been happening and what the Government intends should happen in the current year.

**HON CHIEF MINISTER:**

The hon Member means how does that reduction reflect, how are we going to control relief cover given that we have already said that there is only a small decrease in the over expenditure of respite care, which we said publicly. Well, I think the hon lady alluded to her in her address, and I think she may have said so on another occasion, or not, but she certainly alluded to her by the Hon Mrs Del Agua, by saying that there is going to be a management attempt to curtail the abuse of sick leave by introducing an unsatisfactory attendance procedure, which has been very successful in addressing, not eliminating, but in curtailing this very same problem when it happened in the Elderly Care Agency. Now the measure of success that we will have, and whether we shall be so successful to keep the figure down to £100,000 is moot, and that figure may come out when we come

to the forecast outturn of this current financial year, the relief cover figure may be over £100,000. It will be a measure mainly, not of the small cut back in respite care, but it will be a measure of the extent to which we are able to manage the absentee problem, the incidence of absenteeism.

**HON J J BOSSANO:**

But is the small cut back, a cut back on the level of cover that actually materialised or on the level of cover that was initially intended in last year's budget.

**HON CHIEF MINISTER:**

No. It is the cut back. If last year the estimated amount, which is not revealed, is not discernible from the figures in front of him, but there was a provision internally, for a certain amount of money that would purchase a certain number of hours of respite care. That was exceeded hugely in terms of numbers of hours. We have cut that huge excess, still leaving a huge increase over the number of hours that were estimated for last year. In other words, there has been a curtailment of the excess.

**HON J J BOSSANO:**

Fine, then if there is a curtailment of the excess, there ought to be an increase on the original £100,000 even if there is a cut back on the £440,000.

**HON CHIEF MINISTER:**

Well, yes, possibly. That is just a question of, they have been allowed internally to spend for a certain number of, we mean hours not in pounds here, although the hours are convertible into

pounds. They have been authorised to spend a certain amount of money which provide a certain number of respite hours, which is considerably more than were estimated for last year, and slightly less than the outturn hours for last year, which was a huge over provision compared to the estimate.

**HON J J BOSSANO:**

Fine, and I am saying that the logic of that, as reflected here, should be that then if that is under other personnel relief cover, then if there was £100,000 last year, before the increase then there ought to be more than £100,000 this year to be able to finance what he has just said.

**HON CHIEF MINISTER:**

No because the £100,000 estimated for last year was not all for respite care. I just explained, I am not sure whether he was distracted but I just explained that that vote also provides for relief cover when ordinary employees of the Authority go absent, on sick leave, and their services have to be covered. If tomorrow morning one of the carers employed with the Social Services Agency reports sick and does not go into work, leaving aside the question of respite care, a relief worker has to be called in just to give lunch to everybody else. Or to the one person if it was a one to one carer that is missing on sick leave. Therefore, it is not that straight line as the hon Member sees it.

**HON J J BOSSANO:**

But there are only two personal emoluments heads. There is one which was £1.4 million, right at the beginning, salaries, where the spending was £1.7 million, which is now being reduced to £1.6 million. Then there is the relief cover which is relief for anybody that is in the £1.6 million.

**HON CHIEF MINISTER:**

No. It is relief cover for people in the £1.6 million that go absent and also for extra staff that needs to be brought in to provide after hours respite care for the respite care service. Both.

**HON J J BOSSANO:**

So if we have 147 people covered by £1.6 million. Last year we put £1.4 million for the same number of people, and there was £100,000 and that £100,000 was to provide reasonable, not excessive, relief cover for both the level of respite and the £1.4 million covering 147 non industrials.

**HON CHIEF MINISTER:**

Reasonable, we were estimating to double it.

**HON J J BOSSANO:**

Well no, he did not double it because it was 43 in relation to 642 because it was only part of the year. The ratios appear to be the same, 43 to 642 and the other is £100,000 to £1.4 million. Now what I am asking is, if the argument that is being put to the House is, that this is something that got out of hand but that within that there are two components, the bit that got out of hand and the bit that was perhaps not an unreasonable increase but not as much as the Government would have wanted. They have taken two steps. One is to try and put something in that will control the degree to which relief cover is necessary to cover absences. Also to cut back on but not back to the beginning, the increase in the level of respite care. I am telling the Chief Minister that that explanation is not consistent with £100,000 being provided to cover both, 147 non industrial workers with absences and provide relief cover which is more than it was at

the beginning of last year because it is exactly the same sum as they provided last year before there was an increase.

**HON CHIEF MINISTER:**

It may turn out to be right. It depends by what extent we are able to curtail the other sick leave absences because in the £100,000 there was also some sick leave absence. Now, he may be right.

**HON J J BOSSANO:**

But on the other hand it could only have been the same level of £60,000 as there was in Milbury, because we have already established that it is not an increase of 2002/2003. The point I am making is that since we have argued publicly that when we came to the budget we would say to the Government, "well look, if you have got a problem in not being able to provide from the Consolidated Fund more money after there has been a £1 million overspend, compared to what was provided last year." Here we have a situation where the Government are in fact increasing the amount.....

**HON CHIEF MINISTER:**

I understand the point that he is making but remember he could say that if this were a head here, if this green page here was a head. But the hon Member I am sure understands, I know he does, that we are not voting these heads of expenditure here. We are voting the element of subvention. The element of subvention for example, might not need to increase even if the figure of £100,000 comes in at more than £100,000, because there might be savings in some of the other heads of expenditure there. So there is not really a vote that the hon Member can propose to increase in order to make his point about the respite care, because the vote that he would have to increase is the £100,000 and we are not voting on that.



**HON J J BOSSANO:**

I am saying all this because it is the only opportunity that I have to say it because it is when we are voting money into the head. Therefore my argument will be well look, it is our view and this is the opportunity that we have to put it across to the Government, and if the Government were to argue, the level of respite care has to be cut back because we cannot afford to give the Agency more than £2,768,000 this year, then for us there are two other ways of looking at it. One is well, cannot they save off money somewhere else within some other subhead rather than there. Which might be a less urgent or sensitive area. Or alternatively, how much more would that require and could we not see whether it would be better to cut somewhere else. At the end of the day that is what we would be able to do if this were heads of expenditure.

**HON CHIEF MINISTER:**

I understand that that is what he is trying to dissuade the Government of but I am trying to persuade him that, as a matter of policy, the Government, analyse where all these extra hours are going, the Government have decided that as a matter of policy it should not be accommodated. This is not a question of the Government saying, I have looked at the hours, it is all going to people in circumstances where the policy was intended for, and therefore we should move the moon and the earth to try and leave that level of service. The Government have looked at those hours, have seen why they have increased and have decided as a matter of policy that it should not continue to be accommodated.

**HON J J BOSSANO:**

I accept that is a different position. I take the point.

**HON CHIEF MINISTER:**

That is why the cut is relatively small because we are not willing to cut it to the people that we thought were making profit in the respite service, even for more hours. But when the increase in hours reflected what we regard as abuse of the respite service to what the respite service was not intended, that element we believe is what has been cut. That is why the cut is small and is not driven by the desire to reduce the estimate done.

**HON J J BOSSANO:**

The policy consideration is not a question of the money. It is a question of where the money is going to.

**HON CHIEF MINISTER:**

Absolutely. It is an attempt to crawl back what we regard is the use of the service, for which it is not intended, rather than cutting back on the growth in the intended use of the service, which we are not trying to cut.

**Subhead 14 – Consumer Affairs** – was agreed to and stood part of the Bill.

**HEAD 5 – B PRISON**

**Subheads 1 to 5** – were agreed to and stood part of the Bill.

**HON CHIEF MINISTER:**

Mr Chairman, when I said this before in my earlier address, that some Departments are already very good at budgetary

discipline, the House will have noticed that the Prison is consistently one of the most disciplined administrators of their budget in the whole Government. There are others which I will mention when we come to them.

**HON J J BOSSANO:**

Can I just ask in terms of the Social Services, which has disappeared now, if we look at the actual that is still there, as a remnant of what there was, on page 56. Is the combination of that and the one that there is shown in the Social Services Agency for that year, what it cost in the transition period when it was moving from one to the other? Or are there any other costs that have moved somewhere else?

**HON CHIEF MINISTER:**

No, correct. It has not moved anywhere else. I am not sure whether that is the whole year.

**HON J J BOSSANO:**

The point that I am making is in page 120 and 121, there is an amount which is for part of the year. In page 56 we have got an actual figure which I assume is for the other part of the year.

**HON CHIEF MINISTER:**

For the whole year. It does not match.

**HON J J BOSSANO:**

It does not. I know that it does not match but I will phrase my question again. If we spent £2.6 million in the Social Services

Agency in 2003, is it correct to say that that was until the point in the year when people transferred to the Social Services Agency, and that the £1 million on page 120 is what was spent in the remainder of that same year 2002/2003 by the Social Services Agency with the people transferred.

**HON CHIEF MINISTER:**

Yes from November 2002.

**HON J J BOSSANO:**

From November on.

**HON C A BRUZON:**

Mr Chairman, could either the Hon Mrs Del Agua or the Chief Minister just clarify something for me because in her budget speech last year, reference was made to the fact that funds were being provided to improve conditions in the prison. Is this still happening?

**HON CHIEF MINISTER:**

Improved conditions, that is on page 55. There is not an increase in the recurrent budget, there is a provision in the Improvement and Development Fund for improvements to the prison, on page 105. The hon Member will see that Head 101 Subhead 5, Prison Equipment and Refurbishment, we are providing £50,000, that is, £50,000 for improvements to the prison. Let me say to the hon Member that we are keeping to a minimum the capital works improvements to the prison, because we are hoping to do, as soon as possible, the building of the new prison.

## **HEAD 6 – TRADE, INDUSTRY AND COMMUNICATIONS**

## **HEAD 6 – A TRADE, INDUSTRY AND COMMUNICATIONS**

**Subheads 1 to 6** – were agreed to and stood part of the Bill.

## **HEAD 6 – B TOURISM**

**Subheads 1 to 5** – were agreed to and stood part of the Bill.

## **Subhead 6 – Gibraltar Tourist Board**

### **HON CHIEF MINISTER:**

The Hon Dr Garcia, applauds the reduction in the marketing vote for the Tourist Office, given that he thinks it is applied to such little use.

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

Mr Chairman, the actual marketing vote has been increased, it has not been reduced because the Miss Gibraltar Show has been added into it. So if he looks at the estimates for last time, it was £950,000 and this time it is £980,000.

### **HON CHIEF MINISTER:**

Yes but it is from a forecast outturn of £1.26 million.

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

Well because he forced the Hon Mr Holliday to have to pay for his taxis from there.

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

I take it that the people who actually overspent the approved amount of £950,000 by £76,000 were suitably chastised for lack of disciplinary control in respecting budgetary ceilings.

### **HON CHIEF MINISTER:**

They will be this year where every Department is required to submit a monthly return in this form, in the form of the budget, showing that they are husbanding their vote in a way that will last the whole year.

### **HON F R PICARDO:**

Talking generally about this budgetary discipline. They have overspent by £76,000 but they are getting an extra £30,000. In Social Services Agency, they overspent by £1.03 million and they are getting an extra £500,000. So it is budgetary discipline but allowing them an element of greater expenditure in any event.

### **HON CHIEF MINISTER:**

The amount of the excess that we allow them to keep for the next year as well, depends on the social worthiness of the head of expenditure. If the tourism vote spends more on advertising, and the Chief Executive of the Social Services Agency spends more on genuine respite care, I am more likely to let the Social

Services man keep his increase for next year than I am the Tourism because it is a relative ordering of priorities.

**HON F R PICARDO:**

Yes exactly. But then it has not just been a question of overspending which results in the sort of reprimand that they are likely to get.

**HON CHIEF MINISTER:**

The reprimands do not apply to last year.

**HON F R PICARDO:**

Yes, but this year they are not just being told that they have got to go back to an increased estimate relative to RPI or anything like that. The increased estimate takes account of some of the overspend.

**HON CHIEF MINISTER:**

This year even for them, the increased discipline this year is that they cannot continue indefinitely. So having allowed them to keep the extra fat that they have put on themselves last year, having allowed them to keep the lions share of that extra fat, they cannot build up on it again this year, and then ask me next year to let them keep on extra fat. In other words, we are drawing the line now, so to speak.

**HON F R PICARDO:**

That is what I mean. Budgetary discipline is on the basis of the overspend.

**HON CHIEF MINISTER:**

Part of the overspend, it varies from head to head.

**HON F R PICARDO:**

Pity the fellow who has to turn up with the monthly estimate that shows an increase.

**HON CHIEF MINISTER:**

Well that is why they will probably send them by fax rather than bring them in personally.

Subhead 6 – was agreed to and stood part of the Bill.

#### **Subhead 7 – Tourist Sites and Entry Points**

**HON DR J J GARCIA:**

I have a query here in relation to 7(c), which is the security at the sites. The query was in relation to the fluctuation in the actual for 2002/2003, the estimates for that year, the forecast outturn and the estimates for the coming financial year which we are already in. Can the Government explain that fluctuation?

**HON J J HOLLIDAY:**

This is just increase in the requirements based on tender and therefore adjustments in amounts based on new levels established from year to year.

**HON DR J J GARCIA:**

It is not that there are more tourist sites now covered than previously or anything like that?

**HON J J HOLLIDAY:**

Well there may have been additional manpower actually set in some of the tourist sites in order to address some of the logistical problems that may have arisen as a result of possibly more use of certain sites but this is assessed on an annual basis because the tender is renewed every year.

**HON J J BOSSANO:**

Is this based on, I think when I asked about the Health Service, I was told that it was based on a rate per hour for security guards and that in fact, if the hourly rate changed, then the Government's contract was adjusted accordingly. A similar process seems to apply in the cleaning from what we have just been told. Is this something that applies in this case as well or is there a fixed contract?

**HON J J HOLLIDAY:**

The security at different sites is specified in the tender notice, which actually specifies the site, the number of hours, the days, cover over the weekend et cetera, and then there are tender submissions that are proposed based on hourly rates, which may fluctuate between this sort of normal working hours and weekends et cetera. But it is based on an hourly rate which is agreed at the beginning of the year and that stays fixed for the duration of the tender. That tender is actually put out on an annual basis.

Subhead 7 – was agreed to and stood part of the Bill.

## **HEAD 6 – C PORT**

**Subheads 1 to 4** – were agreed to and stood part of the Bill.

### **Subhead 5 – Contracted Services**

**HON DR J J GARCIA:**

There are also some queries which I mentioned in the Second Reading, that we had in relation to Subhead 5. One of them was the security aspect, the port security. Do I take it that it is the same situation that we have just explained for the tourist sites.

**HON J J HOLLIDAY:**

Yes, it is exactly the same situation but he will recall that we actually awarded a tender and then found ourselves in difficulties with the actual ability to be able to man security due to differences of opinion between Government and staff on that. What we did was that we actually used part of the manpower during the duration of that contract, to cover some of our other necessities in other sites. In fact I must say that Detectives and Security International were actually quite good, in the sense that we were able to cut down a lot, as much as possible and therefore a tender that was worth maybe £120,000 or £130,000 actually was down to £92,000. That over-spill to the following year, where there was an £18,000 spend, and now we have made a provision in the new ISPS Code requires security, which has now been cleared with members of staff there. Therefore we will now possibly be putting into place a tender if we go down the route of actually contracting a security company to take care of that security aspect of the port.

**HON DR J J GARCIA:**

The next query relates to the next item which is 5 (c). That is the fact that £3,000 seems to have been estimated twice but no money has actually been spent either in 2002/2003 or 2003/2004. I do not know whether the Minister can explain that.

**HON J J HOLLIDAY:**

Last year we made a provision of £3,000 in order to buy a set of TETRA radio system like emergency services do have. In the light of the fact that we were in the process of implementing the ISPS system for all the port, we decided not to proceed with the purchase of this equipment until we knew whether it actually fitted in with the whole new environment that we were going to put in place. We put a bid in for this year because we feel that it will now be compatible with the system we intend to run within the port.

**HON DR J J GARCIA:**

In relation to 5(d), the cleaning, Business International and Management, where it was estimated that £16,000 would be spent on the cleaning but only £6,000 was spent.

**HON J J HOLLIDAY:**

Well this was just the cost. We put an estimate of £16,000 to carry out cleaning, not just port offices but the port area, and we have been using some of our members of staff that actually were in charge of doing some cleaning up in the Upper Rock, to cover some of the areas of the port as well. Especially before the arrival of incoming cruises. So the actual cost of undertaking cleaning by Business International Management has actually been less. This year we have put in a budget which is basically in line with what our expectations are.

**HON DR J J GARCIA:**

In relation to the next one which is 5(e) this is a new item, Slop Oil Reception and Treatment Limited. Can the Minister explain that estimate?

**HON J J HOLLIDAY:**

Well, under recent EU Directives, we now have an obligation to have all ships calling at Gibraltar receiving the obligation of recording their waste on board, and actually undertaking the function of discharging some of the slop waste in Gibraltar if they have a certain level on board. A tender went out some time last year, and as from October, there were two applicants for that and Slop Oil Reception and Treatment Limited were awarded this tender. They now have an obligation of, what happens in actual fact is, that ships that call in to Gibraltar are charged by the Port Authority in the same way as we, in fact the charge is incorporated into the tonnage due. Then we in turn have to pay Slop Oil for undertaking the works themselves. So it is mainly a book entry in the sense that this is the cost that we have of actually undertaking this exercise but we actually have income coming in, which we charge. The Port just cover an administrative cost per ship. So the actual revenue to the Government is not significant but obviously it is a service and an EU obligation which we must now undertake because of the competitiveness in the area, and the number of ports in the area that were observing our strategy in what we were going to charge for this service, we have included the charge in our tonnage dues and therefore it does not appear as a separate item. Therefore they have found themselves in a situation of being able to undercut us or feel that they can really compete on this. The market has accepted it well. We have been running this operation now since October and it has been operating quite well to the benefit of the port of Gibraltar.

**HON F R PICARDO:**

Is Slop Oil a Gibraltar company or an international UK company?

**HON J J HOLLIDAY:**

Slop Oil Reception and Treatment Ltd is the facility that we see up along the North Mole on the right hand side by the tanks there. Originally it was a UK company, and well the name Sort was changed to Slop Oil Reception and Treatment, that was changed towards the middle of last year, when they joined forces with some of the local operations because they felt that they needed some local involvement and contact. So, it is partly owned by local concerns and partly owned by UK concerns, who really have the expertise in this particular field.

**HON F R PICARDO:**

Is it registered in Gibraltar or is it registered in the UK?

**HON J J HOLLIDAY:**

No, I believe it is a fully registered company in Gibraltar.

**HON J J BOSSANO:**

If this has been going on since October, how come there is no payment to the company in the current financial year? Well in the one that has just finished.

**HON CHIEF MINISTER:**

We are told that the Port was billed by the company after the end of the financial year.

**HON J J BOSSANO:**

I see. So the £150,000 will in fact be covering them.

**HON CHIEF MINISTER:**

Yes, that is for more than one year of operation. If the hon Member looks on the revenue, the blue pages, at the amount of increase in tonnage dues, he will see it is not £150,000. It is less than £150,000. The compensating revenue item is not £150,000.

**HON J J BOSSANO:**

Did it require sort of an adjustment to the tonnage dues

**HON CHIEF MINISTER:**

Yes, but as ports increase their tonnage fees regularly, they could not say that the increase was for this or for that.

**HON F R PICARDO:**

Does the fee we are going to pay, which is not £150,000 per year it is less than that, because it is for more than one year, a fixed fee, or will it depend on the number of vessels that they are required to record?

**HON J J HOLLIDAY:**

No it is a fixed fee depending on the size of the vessel, there are basically three rates.

**HON F R PICARDO:**

But the Government have not got a fixed fee obligation to the Company. They will have an obligation depending on the number of vessels the company inspects.

**HON J J HOLLIDAY:**

Absolutely. It is three fixed fees and it depends on the size of the ship.

**HON CHIEF MINISTER:**

The tonnage part is also a product of the size of the ship.

**HON F R PICARDO:**

Yes I understand that but we have to adjust the amount we pay them.

**HON CHIEF MINISTER:**

We do not know for sure how much we are going to have to pay them because we do not yet know the size configuration of the ships that are going to come into the port during the year, and therefore how much the fee due by the Government to them is going to be.

**HON F R PICARDO:**

It is on a fixed fee contract.

**HON J J BOSSANO:**

But then the payment is driven by the same consideration as the revenue and it is not dependant on the amount of waste that they actually handle.

**HON J J HOLLIDAY:**

Absolutely.

Subhead 5 – was agreed to and stood part of the Bill.

Subheads 6 to 8 - were agreed to and stood part of the Bill.

**HEAD 6 – D SHIP REGISTRY**

Subheads 1 to 5 – were agreed to and stood part of the Bill.

**HEAD 6 – E AIRPORT**

Subheads 1 to 8 - were agreed to and stood part of the Bill.

**HEAD 6 – F POSTAL SERVICES**

Subheads 1 to 7 – were agreed to and stood part of the Bill.

**Subhead 8 - Management – Contracted Services**



**HON J J BOSSANO:**

The contracted services, we have seen a number of reallocations of funds taking place during the year, to bring it up to the 2006. Can the Government explain what is the nature of this payment, in terms of the contract? Is the contract permanent contract, does it go up every year, how does it work?

**HON CHIEF MINISTER:**

It is a contract which is based on the company employing a certain number of people and making their services available for the management of the Post Office. I think there is an inflation linkage. There is a formula for annual increases but it is basically a cost plus contract, with the Government deciding the cost in terms of the manpower resources to be provided.

**HON J J BOSSANO:**

But this is the contract that the Minister was saying in his speech that the targets that had been laid out had been met. He said it was as a result of them.

**HON J J HOLLIDAY:**

Yes, as far as the targets that had been set in terms of delivery of mail et cetera those targets have been achieved. Next day delivery.

**HON J J BOSSANO:**

And those targets have been achieved? I think the Minister attributed the success of that to the management contract. Is that not the case? So I mean, is it that the management contract is dependant on those targets being achieved or not?

**HON CHIEF MINISTER:**

I do not think so. The targets have been met by a combination of two factors. One, the deal that the Government did with the employees in the Postal Services, the sorters and the postmen, is being honoured by them. They are the ones that do the delivery of the mail and the management is managing the situation and ensuring that that happens. The management is not the one that delivers the mail to ensure that it is delivered on time. That is done by the staff who are honouring the terms of the deal that they did with the Government.

**HON J J BOSSANO:**

Yes I am aware of that but the point I am making is, that the people who are delivering it are getting paid extra for delivering the stuff and that is why we see the personal emoluments went up in 2003/2004, apart from the normal pay increases. I suppose it went up by more than the average from £1,192,000 to a figure which is £1,530,000 some back pay may be in there. We have got £1.480 million this year. Now, what I am saying is, there is this management contract in place but if there is failure to deliver the objectives, the targets that have been laid down, is there any penalty in the management's contract?

**HON CHIEF MINISTER:**

I have not got the contract here and I do not recollect but to the extent that I have recollection, I think not.

**HON J J BOSSANO:**

Can Government say how many full time bodies are covered by the £220,000.

**HON CHIEF MINISTER:**

We think it is five. The Chief Executive and four others.

Subhead 8 – was agreed to and stood part of the Bill.

**HEAD 7 - HEALTH AND CIVIL PROTECTION**

**HEAD 7 – A HEALTH AND CIVIL CONTINGENCY**

**Subheads 1 to 5** – were agreed to and stood part of the Bill.

**HON MISS M I MONTEGRIFFO:**

Mr Chairman, I wonder if we could go back to the contribution to the Health Service because I have got two questions on the Health Service. I would like to ask the Minister for Health why the GHA are providing nearly £1 million less for sponsored patients in this financial year.

**HON LT COL E M BRITTO:**

What I can definitely assure the hon Member, is that it is not because as has been highlighted by the Opposition, it is not because there is any policy to cut back on sponsored patients. This is due to, the hon Member may remember that she asked me during Question Time earlier on this year, in Question 849 of 2004, about the new arrangements that were being made between GHA and the Department of Health in relation to payments for sponsored patients treatment in UK, the sum of money rather than numbers of people. In relation to that and the arrangements that have been made, DoH has now made available to the Government a sum of money which is held in

credit for us. So payments for sponsored patients this year, once we use up that credit, we will not need to make actual cash payments from here. So the actual credit is of the order, not all is going to be used this year, but the actual credit is of the order to an excess of £2 million. So the vote for sponsored patients does not come down but is in fact much more than what appears in the Appendix, because we have got to add to it that £2.75 million that is available in credit in UK.

**HON MISS M I MONTEGRIFFO:**

Can the Minister say the extra money that they are getting from the Department of Health, what period it relates to?

**HON LT COL E M BRITTO:**

Yes it relates to quite a few. It relates on the figures that have been agreed up to 1999 and for projections up to March 2004. So there will be some adjustment at a later date. So she can have here usual fun and ask me questions from now on, have I now received the information and has the figure now been adjusted and what is the final figure, and I will then tell her for the next couple of years, if she is still doing the post, no the information has not been received and has not yet been adjusted, and we do not know what the final figure will be.

**HON F R PICARDO:**

You are still on voted funds.

**HON LT COL E M BRITTO:**

No because her pattern of questioning still seems to be the same. So in the last two Question Times and going back, flippancy apart, that is the situation, that is the agreed figure up

to 1999 estimated from then on to be adjusted when the actual costs are known.

**HON MISS M I MONTEGRIFFO:**

Flippancy apart, in relation to the migration, where is the money for the migration experts?

**HON LT COL E M BRITTO:**

Where is the money for the migration experts.

**HON MISS M I MONTEGRIFFO:**

Yes because the Minister confirmed that the money that the Government would be expending would be £90,000.

**HON LT COL E M BRITTO:**

All matters to do with the new hospital are under the new hospital funding. There is no new hospital funding here.

**HON CHIEF MINISTER:**

I think the implementation at the moment, is that it will be paid for out of the capital under the private finance initiative as part of the cost of setting up the hospital. There is no provision for it here under the Government. The expectation is that it will be funded as part of the hospital set up costs.

**HON MISS M I MONTEGRIFFO:**

Is the Chief Minister referring to the new hospital development rental or running.

**HON CHIEF MINISTER:**

No it would be included in there, because everything that is funded by the PFI provider is then paid for by the Government under the new hospital development rental payment.

**HON LT COL E M BRITTO:**

Can I also take the opportunity to clarify for the hon Member, when she was speaking I asked her to give way and I never actually got round to explaining. There seems to be some confusion about a recent advertisement for tender for relocation that the GHA had put out. This figure of £90,000 for the migration plan by Cyril Sweets, and for the avoidance of doubt let me clarify for the hon Member. That figure of £90,000 was a contract that was given to a firm called Cyril Sweets, for preparation of what is called a migration plan. Now that migration plan covers all aspects, the planning of the move from the old hospital to the new hospital. At what time, at what day, what particular week, what particular month, the bottles are going to be moved, the beds are going to be moved, the patients are going to be moved. It is a very comprehensive, long programme. That is what that planning migration plan was all about. The advert that went out recently by the GHA, which in the hon Member's mind seems to have been linked, or she appeared to think in her speech that it was instead of the original Cyril Sweets programme, is as well as, because what we are tendering for now is for the lorries and the vans and the wheelbarrows, and the people to drive the lorries and push the wheelbarrows to move the furniture and the patients and everything else that needs to be moved.

**HON MISS M I MONTEGRIFFO:**

Except that I hope the Minister will understand that if anybody reading the advert sees, qualified relocation contractors to provide a migration service, then we naturally assumed that it was in relation to the migration experts.

**HON LT COL E M BRITTO:**

Yes, I suppose the use of the word migration, which has the obvious meaning, applies to both. A migration plan is the plan to migrate, and the migration and the relocation experts, is the execution of the plan. But they are two completely separate things.

**HON J J BOSSANO:**

All the equipment in the hospital is also included in the arrangements with the bank?

**HON CHIEF MINISTER:**

All the new equipment. Some of the existing St Bernard's equipment is coming down. There is, I think, £4 million, perhaps even as high as £5 million, of new equipment for the hospital. That is in finance through the PFI.

**HON J J BOSSANO:**

What is the formula for the rental? The rental that is being shown here as £1.25 million as opposed to £3 million, is related to what, to a total capital cost of what it was originally considered to be and what it is now estimated to be?

**HON CHIEF MINISTER:**

Yes, it all ends up in a rental, because everything that the Government wants to do, new equipment, the refurbishment and all of that, all of that is paid for by the Royal Bank of Scotland. Then when the hospital is up and running, when the hospital is there and all the equipment has been put in by then, even though we are doing the choosing of the equipment and all of that, all of that is funded by them. The amount of that expenditure determines, in accordance with the formula provided in the PFI documentation, how much we have to pay to rent a hospital so equipped. That is the formula. So it all ends up in a rental payment but really it is renting the hospital after they have paid for putting it in the condition that we want to rent it from them in, including equipment.

**HON J J BOSSANO:**

Does that imply that in fact we could see a higher figure than this, or is that figure already taking account of all those things?

**HON CHIEF MINISTER:**

No, we think that this is the final figure. It provides for annual adjustments but that is the full starting figure that we anticipate.

**HON J J BOSSANO:**

The contract provides for what, annual adjustments in relation to what, inflation or something like that? Gibraltar inflation or UK inflation?

**HON CHIEF MINISTER:**

I do not know, but I think that the Financial Secretary appears to recall that it is a fixed uplift every year. One per cent annual up lift.

**HON J J BOSSANO:**

And that was also in relation to the original £3 million. I think we were not aware of when the original £3 million was mentioned, we assumed it was a fixed rent for x number of years.

**HON CHIEF MINISTER:**

That does not change. That is in the original formula too.

**HON J J BOSSANO:**

The 1 per cent was in the original formula too. Is that 1 per cent already reflected in the £4.25 million or is it once the hospital sort of opens?

**HON CHIEF MINISTER:**

Well we are already paying but of course we may not already be paying all the full amount because it might not all be ready. I suppose by now most of it should be there, most of the equipment should be procured now. Yes. The full amount.

**HON J J BOSSANO:**

It is just that it seems to me that if we paid £3 million in rental for a full year in the last financial year, and there has been additional costs, if there was any kind of relativity between the £4.25 million

we have got now and the £3 million, it would mean that the additional cost was between 40 per cent and 50 per cent over the original one that triggered the £3 million payment.

**HON CHIEF MINISTER:**

Yes, because in addition to the equipment, there were increased costs in the actual construction contract and we drew more capital under the PFI arrangements. The construction contract, has not yet been finalised in terms that the architect has not yet done the final account. We think we have secured enough under the PFI, reflected by that figure, to pay for the fee the contract is going to come in at.

**HON J J BOSSANO:**

Can the Government say what is the figure that the £4.25 million is related to?

**HON CHIEF MINISTER:**

It is £54 million including construction costs and the new equipment.

**HON J J BOSSANO:**

And the £54 million this year we service by the £4.25 million. If there was no increase on the £54 million, then what one would expect would then be a 1 per cent increase on the £4.25 million.

**HEAD 7 – B FIRE SERVICE**

**Subheads 1 to 4** – were agreed to and stood part of the Bill.

## **HEAD 7 – C POLICE**

**Subheads 1 to 5** - were agreed to and stood part of the Bill.

## **HEAD 8 - ADMINISTRATION AND FINANCE**

### **HEAD 8 – A No. 6 CONVENT PLACE**

**Subheads 1 to 11** - were agreed to and stood part of the Bill.

#### **Subhead 12 - Overseas Offices**

**HON J J BOSSANO:**

In the case of the Madrid office, originally it was running at £37,000 and the vote in this case actually was overspent by going up from £37,000 to £85,000, and now, in this case, there is no attempt to find a budgetary control bringing it below the overspending. In fact, on top of the overspending the figure goes up by an extra £5,000.

**HON CHIEF MINISTER:**

Yes, there is a partial explanation for that. It used to be staffed together through the GDC, it used to be staffed through the GDC, so going to the Estimate for 2003/2004, he would have to add the £37,000 to the £45,000 immediately underneath it. That has become £82,000, that forecast outturn that £85,000 plus £12,000 which is £97,000.

**HON J J BOSSANO:**

So the change from GDC to Civil Service happened during the year, is that correct?

**HON CHIEF MINISTER:**

No it is the contracted. Apparently there has been some change of which I am not aware, in the employment model. Whereas before it used to be an employee of the GDC, now it is a self-employed person who is engaged and paid a fee which is now included in the £90,000. So it is not shown as staff any more.

**HON J J BOSSANO:**

But this is what? Somebody that is employed and contracted in Madrid or somebody who is employed here and sent there?

**HON CHIEF MINISTER:**

Apparently the person is still employed by the GDC, but I would prefer to give him the explanation in the Ante Room.

**HON J J BOSSANO:**

I take it that in No 6 Convent Place is where they are going to start this budgetary control business before it spreads to further corners of the empire.

**HON CHIEF MINISTER:**

No one is exempt from it Mr Chairman.

Subhead 12 - was agreed to and stood part of the Bill.

**Subheads 13 and 14** - were agreed to and stood part of the Bill.

**HON F R PICARDO:**

Is that principally state aid led?

**HON CHIEF MINISTER:**

I have it here broken down by firm. Yes I can see from the names of the recipients that the state aid accounts for about £250,000 of the £840,000.

**HON F R PICARDO:**

So there is still about £340,000 under estimate in respect of the forecast outturn.

**HON CHIEF MINISTER:**

Well there are other items in the £840,000 as well as the state aid.

**HON F R PICARDO:**

That is what I mean there have been other extraordinary legal expenses that Government did not expect.

**HON CHIEF MINISTER:**

Does he want to know how many of it was for his firm?

**HON F R PICARDO:**

Absolutely none because Picardo and Co has not yet received any cheque from the Government General Account, I am sorry to say.

**HON CHIEF MINISTER:**

I am talking about his real firm not his made believe firm.

**HON F R PICARDO:**

Mr Chairman, as he will see, if he searches the partnership registry, the only firm which I can claim is now my own, and of which I am the senior managing partner is Picardo and Co.

**HON CHIEF MINISTER:**

I am sure that is technically correct.

**HON J J BOSSANO:**

As technical as his departure from Triay and Triay. Given that the state aid is going to be around for a very long time, from the information we have been provided with previously, and that it has already started, is the £250,000 for this year a realistic figure?

**HON CHIEF MINISTER:**

It depends on how many other cases run. If we have the state aid case and any other major piece of litigation, then there will not be enough.

**HON J J BOSSANO:**

I think he mentioned that of last year's figure £250,000 was for state aid. Does not leave much change there for this year's figure.

**HON CHIEF MINISTER:**

Well, a lot of that was for advisory work. The fees for litigation are not normally at such a high rate because once one has prepared the pleadings and sent them in, nothing happens until the case actually goes to hearing for the first time. Whereas on the advisory side it was constant.

**HON F R PICARDO:**

I have to say that going back to the blue book, the estimate was also £250,000 the year before, where the actual turned out to be £800,000. Is it just customary to put in an estimate of £250,000?

**HON CHIEF MINISTER:**

I would be very surprised if the forecast outturn at the end of the current year is more likely to be nearer £840,000 than £250,000.

Subhead 15 – was agreed to and stood part of the Bill.

Subheads 16 to 25 – were agreed to and stood part of the Bill.

## **HEAD 8 – B HUMAN RESOURCES**

### **Subhead 1 - Personal Emoluments**

**HON J J BOSSANO:**

Why is it that there is a Human Resources Manager in the Buildings and Works and a Human Resources Department for the whole of the Government.

**HON J J NETTO:**

The post of Human Resources Manager in Buildings and Works preceded the changes of the title of the Personnel Department into the Human Resources Department.

**HON CHIEF MINISTER:**

He is asking why the Buildings and Works Department needs its own Human Resources Manager.

**HON J J NETTO:**

Well, that explanation was given a long time ago in this House. I remember debating with him the necessities of having a full time Human Resources Manager. So I would not like to regurgitate all those issues again. Suffice to say that we feel it important, to be able to deal with the whole series of numbers of issues within the portfolio of human resources management.

**HON J J BOSSANO:**

Well since we are having to vote money every year for human resources, and I understand the Human Resources Manager in the Buildings and Works is now past retirement age, I wondered if it was time to reconsider the necessity of having him there.



**HON J J NETTO:**

Well the Human Resources Manager in Buildings and Works has had his contract extended for one year. But the position is not that, the position is that even when his contract expires, the policy is that we will have another human resources manager to deal specifically with the issues of Buildings and Works, which is not part and parcel of the broader spectrum of the role of the Human Resources Department.

**HON J J BOSSANO:**

So the Minister believes that there is something about human resources in the Buildings and Works that requires to have a dedicated human resources manager, which no other section of the Government needs?

**HON CHIEF MINISTER:**

Well, it is not true that no other section, Health Authority has it too and will have it more so in the future.

**HON J J BOSSANO:**

Yes but that is because the Health Authority is treated as not being a Government Department.

**HON CHIEF MINISTER:**

And GDC have one as well.

**HON J J BOSSANO:**

Yes, let me make it clear that it is not that we agree that there is a need for this multiplicity of human resources managers, but that in those other areas the apparent justification is that they are not being treated as part of the Civil Service. So presumably there is one in the Elderly Care Agency, one in the Social Services Agency. Now is it because the Human Resources Manager in the Buildings and Works is in anticipation of it becoming an authority?

**HON CHIEF MINISTER:**

Well it will become an authority but that was not what the resources maintain.

**HON J J NETTO:**

But not only that. The thing is that I do not want to keep on coming back to issues we debated in this House. At the time that the restructure of the senior management in Buildings and Works, and the various posts that emanated as a result of that, given the advice that the consultants when they did the review of the Buildings and Works Department, specifically mentioned that there was a necessity and a need to employ someone permanently to do all the various functions within the broad definition of human resources management. Not just, for instance, to ensure that at the lower level of management, we are talking about the front line managers, works supervisors, PTOs manning the depots, they fulfil the function in relation to industrial regulations, to a certain level but they also deal with health and safety matters, welfare matters. In other words, all the various spectrums and that is one of the recommendations we carried out and we implemented.

**HON J J BOSSANO:**

In terms of recruiting is the Human Resources Department the one that does the recruiting? In terms of recruiting, Government advertise a number of vacancies in the Department, does that go through the Departmental human resources manager or the Government Human Resources Manager?

**HON CHIEF MINISTER:**

I think the essence of what the Minister is trying to explain to him until now, is that there is more to the function of human resources management than the more limited functions provided by the ex Personnel Manager, now called Human Resources Manager in the Government. The specific answer to his question, training, allocation of staff to various functions, which the Human Resources Manager does not profess to do for the whole of the Government. The answer to his question on recruitment, is that it is taken to a certain point, the planning, the job description, all this is taken by the Human Resources Manager from the Department. But when it comes to actually placing the advertisement and administering the process thereafter, it is done by the Human Resources Manager because these people are Crown employees when they get recruited.

**HON J J BOSSANO:**

So the selection is done by the Human Resources Department.

**HON CHIEF MINISTER:**

The selection process and the recruitment process is done as per any other Government Department. That might change if it becomes an authority.

Subhead 1 - was agreed to and stood part of the Bill.

**Subheads 2 and 3** - were agreed to and stood part of the Bill.

**Subhead 4 - Operational expenses**

**HON F R PICARDO:**

There is a new expense there, which is medical examinations, which does not seem to fit or sit well with the type of expenditure we would expect to see here. What is leading that head of expenditure?

**HON CHIEF MINISTER:**

I suspect it is that from time to time the Government asks for staff that are on extended sick leave to be examined by the Government's own Medical Officer, as the Government are entitled to do under General Orders. In the past it used to be done by the GHA GPs but they are becoming increasingly unwilling to do it.

**HON F R PICARDO:**

So are Government actually going to resort to private practice for those, in effect? Or is it what appears to be an internal charge GHA Government?

**HON CHIEF MINISTER:**

Apparently the GHA used to do it for free and take the cost on the chin, but now as we are imposing budgetary discipline on them, I think they now want to charge us for the service that they provide to the Government.

**HON F R PICARDO:**

And that must be a cost fixed at what it must cost the GHA. It is not that the Government are going to jump the waiting list and go private when it comes to this.

Subhead 4 – was agreed to and stood part of the Bill.

#### **HEAD 8 – C CIVIL STATUS AND REGISTRATION OFFICE**

**Subheads 1 to 4** – were agreed to and stood part of the Bill.

#### **HEAD 8 – D FINANCIAL AND DEVELOPMENT SECRETARY**

**Subheads 1 to 4** – were agreed to and stood part of the Bill.

#### **HEAD 8 – E TREASURY**

**Subheads 1 to 11** – were agreed to and stood part of the Bill.

#### **HEAD 8 – F CUSTOMS**

**Subheads 1 to 4** – were agreed to and stood part of the Bill.

#### **HEAD 8 – G INCOME TAX**

**Subheads 1 to 4** - were agreed to and stood part of the Bill.

#### **HEAD 8 – H FINANCE CENTRE**

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

#### **Subhead 4 – Marketing, Promotions and Conferences**

**HON F R PICARDO:**

That is a lower amount than was estimated last year in respect of marketing promotions and conferences. I will not for one moment pretend that I am going to ask the Chief Minister whether our question on this has finally got to him. Is this to account for the fact that he is now responsible for this Department and therefore there will not be a Minister travelling specifically to these conferences, and he will restrain lavish travel to where it used to be?

**HON CHIEF MINISTER:**

No, not necessarily. It also reflects the fact that whilst there is uncertainty of the products of the Finance Centre, the Government do not think it is appropriate to market as much. The Government's policy at the moment is to keep the head relatively low rather than stand up in the market place shouting from the rooftop, when actually we are more or less on survival mode until the tax issue is clarified.

**HON F R PICARDO:**

I accept that.

**HON CHIEF MINISTER:**

Last year we spent more than estimated for the reasons that I have just explained to him.

**HON F R PICARDO:**

But we are still going to spend £180,000, even though we want to keep our head down. Is that the cost of keeping our head down?

**HON CHIEF MINISTER:**

We want to keep our head down as much as we did last year.

Subhead 4 - was agreed to and stood part of the Bill.

**Subhead 5 – Gibraltar Development Corporation Staff Services** – was agreed to and stood part of the Bill.

**Subhead 6 - Contribution to Financial Services Commission**

**HON F R PICARDO:**

We spoke earlier about the fact that the contribution to the Financial Services Commission, I think it was £292,000 this year to fund part of the litigation which was the judicial review. I think that was the x and y judicial review. There is an estimate now of £150,000. Is that because there is other litigation on foot or other types of extraordinary expenses which are coming to the Commission?

**HON CHIEF MINISTER:**

This is the routine annual subvention which the Government have been paying to the Financial Services Commission for some time.

**HON F R PICARDO:**

It was £120,000 last time.

**HON CHIEF MINISTER:**

Well it oscillates because it depends on how much reserves they have carried forward from the previous year.

Subhead 8 - was agreed to and stood part of the Bill.

**HEAD 9 – LAW OFFICERS AND JUDICIARY**

**HEAD 9 – A LAW OFFICERS**

**Subheads 1 to 4** – were agreed to and stood part of the Bill.

**HEAD 9 – B SUPREME COURT**

**Subheads 1 to 4** – were agreed to and stood part of the Bill.

**HEAD 9 – C MAGISTRATES AND CORONERS COURT**

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

#### **Subhead 4 – Operational Expenses**

**HON F R PICARDO:**

The security expenses there, that is a new figure it has not appeared before. I note that in the past year we had the event where the magistrate was attacked and a jug thrown at him. I have not seen anything change though in the Magistrates' Court in terms of added security. There appears to be no security guards, no new protective screen or anything like that. What are we going to be paying for?

**HON CHIEF MINISTER:**

This is only a token vote, as he can see, whilst we decide as a matter of policy whether to fully fund a recent request that we have from the Clerk to the Justices for permanent security guard in the Magistrates' Court room whilst it is in sitting, given the alert state that used to prevail at the time, which has now been reduced, but expressing the view that it should be put even if the security alert is reduced, given that a glass object was recently thrown at the prosecutor.

**HON F R PICARDO:**

It is an interesting issue because we would all want to ensure that the sanctity of the court room is preserved as much as possible, there is permanently a police officer sitting next to the prosecutor.

**HON CHIEF MINISTER:**

I agree, that request did not come past my desk. That is why there is only a provision of £1,000. With £1,000 they cannot do it. What we can do is use it as a head to fund from supplementary funding, if we decide to accede to the request. But the request has not been acceded to, it has not come to me. Frankly, subject to anything that the Stipendiary Magistrate may have to say in support of his submission, I would have thought exactly that there is always a policeman there, and this is the job of the police and should not be paid for separately for private security.

**HON F R PICARDO:**

In fact, if I could add to that, on that day and that time I was not there but the police officer who is daily there, who acts as the usher of the court, and the fellow was actually being taken into custody. So he was actually being escorted himself by two other officers when he threw the object. So we have got to put that into the equation before we start spending on issues like this.

Subhead 4 – was agreed to and stood part of the Bill.

#### **HEAD 10 - HOUSE OF ASSEMBLY**

**Subheads 1 to 8** – were agreed to and stood part of the Bill.

#### **HEAD 11 - AUDIT OFFICE**

**Subheads 1 to 4** – were agreed to and stood part of the Bill.

### **Subhead 5 – Professional Fees**

**HON J J BOSSANO:**

On the value for money audit, is there any particular reason why none took place in the last year? It looks as if they are going to do twice as many this year.

**HON CHIEF MINISTER:**

It is in effect a hangover from the fact that the forecast outturn is zero and bills in respect of work done last year have not been submitted yet.

**HON J J BOSSANO:**

There was work done then.

Subhead 5 – was agreed to and stood part of the Bill.

Clause 2 – was agreed to and stood part of the Bill.

### **Clause 3**

### **HEAD 12 - SUPPLEMENTARY PROVISION**

**Subheads 1(a) and 1(b)** – were agreed to and stood part of the Bill.

Clause 3 – was agreed to and stood part of the Bill.

### **Clause 4**

### **HEAD 13 - CONTRIBUTIONS FROM CONSOLIDATED FUND - RESERVE**

### **Subhead 1 – Contribution to the Improvement and Development Fund**

**HON J J BOSSANO:**

Mr Chairman, in terms of the fact that we have had a lower use of this Head last year than was originally estimated, if there is less requirement because of lower expenditure. Is it the policy of the Government to cut back on the intended use of the borrowing facility or to cut back on the intended transfer of the money from the Reserves?

**HON CHIEF MINISTER:**

It is considered from time to time. There is a policy to consider which of the two to effect, but there is not a policy always to effect one rather than the other. It is a question of we do not want to allow, unless and until we are able to negotiate increased borrowing limits, we really do not want to let the borrowing limit get too close to the hundred just to have a little bit there. So it is a sort of balancing act and it might vary from time to time. This year I think it is likely that there will be less from either here or borrowing, because I think that we have under estimated the proceeds of sale from Government properties on the Improvement and Development Fund, given things that the Government are going to offer for sale this year.

**HON J J BOSSANO:**

I take it that in the £6 million that has been put in, on the sale from Government properties that is going to the I&D Fund, the Government have already assumed that some of the MoD properties are going to be sold.

**HON CHIEF MINISTER:**

No I do not think so. I do not think that that is factored in, nor is factored in there other things that the Government hope to do in relation to sale of sitting tenants and things of that sort. At the time that this estimate was drafted, the people who put this together did not have any source information about the cash flow graph for the sale of MoD properties vis a vis the handover dates. Therefore the dates in which the sale might reasonably be expected to produce cash.

**HON J J BOSSANO:**

I know we are not quite there but the revenue is always a problem to decide where one can raise it. Is the £6 million in any way a reflection of the fact that last year half of what was expected was achieved. Last year the property sales were estimated to bring in £3.5 million and in fact they brought in £1.75 million. What I am asking is, is the £6 million partly accounted for because last year Government got half?

**HON CHIEF MINISTER:**

There are certainly deals in the pipeline being run by my Colleague the Minister for Trade and Industry, which have suffered a delay. Therefore there is a delay in receipt of proceeds of sale and premia and things of that sort. There are a number of deals, apart from the MoD lands deal, there are deals that are currently being negotiated with developers, that will

produce several millions of pounds that are not reflected there either. There is the East Side development, which if it comes off will produce several million. So, there are so many balls up in the air in terms of negotiation that it is either going to be much lower than £6 million or much, much higher, depending on how many of these chickens come home to roost.

Subhead 1 – was agreed to and stood part of the Bill.

**Subhead 2 – Resettlement Scheme** – was agreed to and stood part of the Bill.

Clause 4 – was agreed to and stood part of the Bill.

**Clause 5**

**IMPROVEMENT AND DEVELOPMENT FUND**

**HEAD 101 - HOUSING, HEALTH AND SOCIAL AFFAIRS**

**Subhead 1 – Major Remedial Works and Repairs to Housing Stock**

**HON J J BOSSANO:**

As we go through the Heads, we would want an indication from the Government, given that the final column is not there and that we have been given an explanation for it not being there, of the projects where there is a global label for the projects. I think in the case of the major remedial works and repairs to housing, the explanation we had was that it is a rolling programme and

therefore there is no final completion date, it goes on forever. Is that the case?

**HON CHIEF MINISTER:**

No it does not go on forever. It goes on for as long as the Government are willing to fund it. That is this year. There are the £3.2 million vote there, is for certain specific projects. Now, it is possible that those projects might change. Unlikely, but we are happy to give the hon Members details of what the provision currently is intended to accommodate, but the hon Members have got to understand that that is not what the money has been voted for, in the sense that we can change it. We can change the projects. That involves mainly, the completion of Varyl Begg Phase 1, Varyl Begg Roofs and Lifts Phase 2. Then there is a provision for the Alameda Estate lifts and shafts and other remedial works and there is a provision there for Upper and Lower Witham's House, and one or two other minor, there is a provision there for window and shutter replacements, this annual expenditure on windows and shuttering, and one or two other more minor houses which do not form part of a large estate.

**HON J J BOSSANO:**

But then, for example, if there is something like an amount of money included there in respect of the Varyl Begg, is the assumption that when that money is spent in the current financial year, that will be the end of the Varyl Begg Project. So there would still be money expected to have to be spent on Varyl Begg.

**HON CHIEF MINISTER:**

The project is in phases. Phase 1 we have already done, phase 2 is going to be done this year and as different projects it is extended to other phases. We intend to do it. So it is not so

much a balance to complete, it is only really a balance to complete if we view it as one project. Refurbishment of Varyl Begg. But actually is formally divided into phases and this is phase 1 is more or less finished. I think it has been finished. Phase 2 is the next, I do not know exactly which blocks is phase 2.

**HON J J NETTO:**

Basically phase 2 encompasses the small blocks as opposed to the big blocks which is phase 1. If I am right, phase 2 will go beyond this financial year. In other words, it will scatter on to the next one as well because there are, at the top of my head, around 18 blocks of the small ones. So it will go beyond one financial year.

**HON J J BOSSANO:**

In the forecast outturn where there was £1.1 million more than estimated, it was because the programme actually went faster than was originally envisaged. Is it that the contracts for these things allow contractors to move faster and bill more or what? It is an unusual thing.

**HON J J NETTO:**

No, partly due to the new resources in terms of the extra recruitment being in the City Hall, in terms of the people who prepare the contracts for all the Building Surveyors, the Contracts Officers. They were much able to be in a position to do all the tender documents, the designing and everything put together, so we were in a position to put more tenders out and obviously do more work.



**HON F R PICARDO:**

Mr Chairman, can I just go back one step to Head 103 Receipts page 112, and look at the EU grant on Konver projects, which this year has a forecast outturn of zero, and an estimate of £900,000 for this year. Is that because the payment is going to come in late? Because it looks like two payments in one year. Except, of course, that where we have estimated previously, I see we have estimated here £900,000 and that may be two £450,000 but where we have previously estimated something like £750,000 we have only got £421,000, which was what we had the year before. I would be grateful for an explanation about that.

**HON FINANCIAL AND DEVELOPMENT SECRETARY:**

I think it is the first of your presumptions that there is simply a delay in the payment of EU funds, and I think it also relates incidentally, and I omitted to answer it earlier on in relation to the European Social Funds, that there is a delay from the UK and in the payment of these funds over. If I could also just take this opportunity whilst we are on the revenue, just in case they are figure spotting between estimates next year. Is that the figure in the actual column for 2002/2003 in respect of land and building sales and leases, reads £10,952,351. In fact there is a typographical error there. It should read £10,092,351. So it is just a minor typographical error which we will correct in the Approved Estimates.

**HON F R PICARDO:**

As a matter for the record, this would be obviously in the blue book.

**HON FINANCIAL AND DEVELOPMENT SECRETARY:**

Yes, we correct it in the approved estimates. In actual fact in the summary, instead of the receipts for that year 2002/2003 being £21,293,250, they will be £19,279,240, which is on page 103. We will correct that in the final book.

**HON F R PICARDO:**

Mr Chairman, just taking the Financial and Development Secretary back to what he said about the Konver Projects. He said that the delay is at the UK end. The UK has already received those funds and is delaying paying them over to Gibraltar? Or what else could be happening there?

**HON FINANCIAL AND DEVELOPMENT SECRETARY:**

I think I may have misled the hon Member. I think in relation to the European Social Fund, which we are not talking about here, that is definitely at the UK end. The delay at the UK end is in turn caused by delays, I gather, in Brussels in the payments being made to the UK. So that explains that. In relation to Konver Projects, those are claims that we make directly upon EU funds and the rate at which we claim is the rate at which the projects are proceedings. There are certain trigger points at which one can claim. What we thought we would be able to claim last year, we had not claimed but we are expecting to claim in the current financial year. Hence the reason. It is a catching up exercise going on.

**HON F R PICARDO:**

What is the usual ratio of claim to recovery? Is it 100 per cent of what one claims one gets back?

**HON CHIEF MINISTER:**

It is a percentage.

**HON F R PICARDO:**

If one submits a project that has spent 100 per cent expecting to get 40 per cent.

**HON CHIEF MINISTER:**

We get 100 per cent of what we are entitled. Different projects may have different rates of funding percentage.

**HON F R PICARDO:**

Are things disallowed routinely?

**HON CHIEF MINISTER:**

I do not think so.

**HON J J HOLLIDAY:**

What I can add to that is that I have discovered since I have been in DTI, that claims were being put through maybe once or twice a year, when there was an accumulation of funds. I have now put a system in place in order to put claims through every quarter. I feel that when one puts a claim say stretching over a period of a year, they take much longer in assessing the whole thing coming through. Whilst if one does it in smaller claims over a shorter period of time, the turnaround will be much quicker. That system has only recently been implemented.

**HON F R PICARDO:**

For the last quarter, so to speak.

**HON J J HOLLIDAY:**

Well, there will be a claim going in for work at the end of June, covering, which normally would have not gone in until the end of the year.

Subhead 1 – was agreed to and stood part of the Bill.

#### **Subhead 2 – Consultants Fees**

**HON J J BOSSANO:**

These consultants fees are related to the capital works. They are nothing to do with the structure of the Buildings and Works. Is that correct?

**HON CHIEF MINISTER:**

Yes.

Subhead 2 – was agreed to and stood part of the Bill.

#### **Subhead 3 – Gibraltar Health Authority**

**HON MISS M I MONTEGRIFFO:**

Out of these £200,000, £100,000 is being provided to the GHA for works. Since St Bernard's is moving to Europort in the autumn, can the Government confirm what these actual works involve.

**HON LT COL E M BRITTO:**

The works are all at KGV and not at St Bernard's.

Subhead 3 – was agreed to and stood part of the Bill.

Subheads 4 to 7 – were agreed to and stood part of the Bill.

**Subhead 8 – Social Services Agency – Capital Works**

**HON J J BOSSANO:**

Given that last year we were asked to vote £150,000 and nothing was spent, what is the explanation for the fact that the amount that is being required this year is in fact one third of what was estimated last year, since nothing has been spent.

**HON CHIEF MINISTER:**

Well, this is what is being allowed this year for maintenance and refurbishment works to Dr Giraldi Home and St Bernadette's Centre.

**HON J J BOSSANO:**

Yes, but it does not explain, this is not a case of overspending and being cut back.

**CHIEF MINISTER:**

Well whatever was going to be done with the £150,000 that did not happen last year is now not going to happen this year. Except to the extent of £50,000 worth.

**HON J J BOSSANO:**

Yes I can work that out for myself. It is just that it seems peculiar that we have a situation where the Government say because of the need to maintain financial discipline, if people go ahead and spend more than the approved element of whatever they bid, then they are going to discover that they are not going to get the money the following year. Here we have got the Social Services Agency getting the approval of the Government to spend £150,000 on capital works. They do not spend it and the result of that is that they finish up with £100,000 less than they would have if they had spent it and I find that peculiar.

**HON CHIEF MINISTER:**

It was a specific project, which is the refurbishment of the Bishop Healy Home.

**HON J J BOSSANO:**

And that is not going to be done any more.

**HON CHIEF MINISTER:**

No.

**HON F R PICARDO:**

Is there a specific reason why that is not going to take place any more? Clearly it seems like a fairly worthy cause.

**HON CHIEF MINISTER:**

It is on hold at the moment, because when the project was planned, there was a provision for £150,000 but actually an estimate of £80,000 or £90,000, I think it was for the scheme. When it actually came to materialise, the quotation was £500,000. So the project then takes a different dimension and it has to be re-evaluated.

**HON J J BOSSANO:**

On the forecast outturn of £168,000 for the relocation of the Civil Prison, since nothing has really happened but we are told it may.

**HON CHIEF MINISTER:**

Architects fees. Design team fees. The project has been designed to a very advanced stage. It is literally ready to start, ready to go out to tender for construction.

**HON J J BOSSANO:**

So, in fact, what we are being told is then that even though there is not a head for this, it may actually start in the current financial year.

**HON CHIEF MINISTER:**

It is not impossible. It depends on our capital cash flow, depending on whether we do the East Side development, how much of these other land sales go through. If we can afford to do it, we would like to start it this year.

Subhead 8 – was agreed to and stood part of the Bill.

## **HEAD 102 – EDUCATION, SPORT, LEISURE AND YOUTH**

### **Subhead 1 – Refurbishment of Educational Facilities**

**HON S E LINARES:**

As a matter of interest, why is it that St Martin's, I know we are on subhead 1, but why would not St Martin's School playground, which is not a new school building, which is under the new school building not under the refurbishment of educational facilities?

**HON DR B LINARES:**

The sum of £50,000 has been costed and allocated for St Martin's playground, the resurfacing of the playground to be able to install the equipment. It is a capital expenditure and it is being put together with new school buildings. It is a question of semantics to some extent

**HON CHIEF MINISTER:**

Yes it could have been under refurbishment, it depends whether the hon Member interprets the new playground project as a new project or as a refurbishment of the old one. If he takes the view it is just a refurbishment of the old one, it might just as easily have gone into subhead 1.

**HON S E LINARES:**

Within the £500,000 that is for refurbishment of educational facilities, does it also include St Martin's roof?

**HON DR B A LINARES:**

The £500,000 includes a whole lot of areas of refurbishment. It is something like the Chief Minister's Milan Cathedral. One does not build cathedrals every day so not build new toilets every day, new flooring every year, and the roof of St Martin's will be one of those areas prioritised. The way this works is that Heads present bids for what they think should be done in terms of refurbishment. Then this is surveyed by the technical officers and the administrator in the Department, and things are prioritised accordingly.

**HON CHIEF MINISTER:**

This is a provision. Whereas in other votes I have here a list in front of me of why what we want to do with that money, here this is just £500,000 which the Education Department decides what they might well they might think more than that is needed. But they get £500,000 and they can apply it to whatever they want to prioritise, whatever they want to do. In other words, we do not impose on the Department a particular programme. We provide them with a sum of money and the Education Department decides what it spends it on.

Subhead 1 – was agreed to and stood part of the Bill.

**Subhead 2 – New School Buildings** – was agreed to and stood part of the Bill.

**Subhead 3 – Educational Equipment**

**HON S E LINARES:**

In the educational equipment, would the £100,000 also include equipment as in computers.

**HON DR B A LINARES:**

No, computers come under a different heading.

**HON S E LINARES:**

Which one? Do we know?

**HON DR B A LINARES:**

In the schools equipment which is in the Consolidated Fund.  
Subhead 3 – was agreed to and stood part of the Bill.

**Subhead 4 – Provision and Refurbishment of Premises for Clubs and Association** – was agreed to and stood part of the Bill.

**Subhead 5 – Construction of Swimming Pool for the Elderly, Disabled and Teaching**

**HON J J BOSSANO:**

The token amount of £1,000 is an indication that they have no expectation of proceeding with that in the current year. Is that correct?

**HON CHIEF MINISTER:**

No. We do expect to proceed with this. I think this is one of the projects that we hope to start towards the end of the financial year with the hope to having it ready for next summer. But we are hoping that the amount of expenditure incurred during this financial year will not be very substantial, and that it will mainly fall into the next financial year. But any that does fall into this financial year, we will try to meet from cash temporary virements from some of the other projects under this Head.

**HON J J BOSSANO:**

There has been £30,000 spent already in the last financial year, and £3,000 in the case of 2002/2003. So this is a project which is a single project and in which presumably there is a balance to complete.

**HON CHIEF MINISTER:**

Well we do not know what it is because it has not actually gone out to tender yet. So the tender has not yet been awarded, there is not therefore a known sum because we have not yet chosen the tenderer. But it is not a project, most of the expenditure will fall in the one financial year. In other words, when it does go out to tender, we would expect it not to straddle a subsequent financial year, except for whatever falls into this financial year. So it would be finished next financial year.

**HON J J BOSSANO:**

In terms of the £30,000 of last year, what has that been paid for and to whom?

**HON CHIEF MINISTER:**

We think it is the design team. Architects and others. Again, this project has been designed up to a, well it went out to tender with a design, it was not a design and build.

**HON F R PICARDO:**

If there has been no tender et cetera, how could the £450,000 been estimated last year?

**HON CHIEF MINISTER:**

Because it was put in as an estimate. The procedure for Government projects is that the Government's in-house quantity surveyors, estimate, give the Government an estimate of what the project is going to cost. On the basis of that estimate the Government decide whether they want to put it into the programme and go out to tender. But what almost invariably happens is that when it goes out to tender, either because there has been under estimation by the estimators, or because there is overheating in the construction market, it is a contractors market, and they quote higher prices, the tenders are almost always, I think are always, and on some occasions by very large margins much higher than the Government have estimated. For example, on this one, where last year it was estimated at £450,000, I think that has risen to £750,000. So the value of these in-house estimates are becoming increasingly less useful and reliable.

**HON F R PICARDO:**

The amount of £750,000 is the new in-house estimate or what? Because we have just been told there is no tender.

**HON CHIEF MINISTER:**

If the tenders are in they have figures attached to them. I have not seen them myself, I do not know what those are.

**HON F R PICARDO:**

So the tenders are in?

**HON CHIEF MINISTER:**

I am told that the tenders are in. Yes.

**HON F R PICARDO:**

It has just not been awarded.

**HON CHIEF MINISTER:**

Yes, not been considered and awarded.

**HON J J BOSSANO:**

Is it the case that if, for example, when the policy decision on building the pool is taken, it is taken in the context that it is expected to be costing something like £450,000 and is that then reviewed if it turns out to be double?

**HON CHIEF MINISTER:**

It does sometimes happen. This is what happened with the previous item we discussed. The Bishop Healy Home. There is re-evaluation and Government then have to decide whether, as a matter of policy, they want to go ahead with the project notwithstanding the much higher cost than is now on the table, compared to when it took the previous policies.

Subhead 5 – was agreed to and stood part of the Bill.

#### **Subhead 6 – Improvements to Sports and Leisure Facilities**

**HON S E LINARES:**

In this item I heard the Minister having an interview on GBC, and he was asked how long it would take to complete the new leisure centre, the new Sports City, the new building, and he estimated about two years. Is there a sort of balance to complete here as well?

**HON CHIEF MINISTER:**

The new sports facility is not in Subhead 6.

**HON S E LINARES:**

Sorry, I apologise. I meant No. 7.

Subhead 6 – was agreed to and stood part of the Bill.

#### **Subhead 7 – New Bayside Sports and Leisure Facilities.**

**HON S E LINARES:**

What I was coming to is that the Minister said it was going to take two and a half, two years, obviously depending on how the buildings were going. But what would be the balance to complete? How much funding, extra funding, will Government have to put over and above the £2.5 million which is estimated for this year, how much more will be needed for the year and a half approximately left to finish off the whole project.

**HON C BELTRAN:**

The total cost, as far as I can gather now, is £8.5 million for the totality of the project. The amount used to date is some £4 million. The hon Member has before him the £2.5 million essentially for completing the stands and fitting out the new sports hall, and also some infrastructural work for new phases. So the balance for completion, as an estimate, is £2 million.

**HON S E LINARES:**

After the £2.5 million already spent plus up to £8.5 million.

**HON CHIEF MINISTER:**

This is a project for which I think it is appropriate to have a footnote with the balance to complete information in it. (a) It is a specific project and (b) it is on a sufficiently large scale to warrant that information.

Subhead 7 – was agreed to and stood part of the Bill.

**Subhead 9 – King's Bastion Leisure Centre**

**HON F R PICARDO:**

When the Chief Minister was talking about why the vision thing is not going to proceed this year, and it is going to proceed another year, he told I think GBC last night and the House yesterday that it was because the reprioritisation meant that the leisure centre was going to go first. We have only got £1,000 booked in for the leisure centre. Is that a nominal amount or is that really evidence of the fact that even this vision thing is not going anywhere this year?

**HON CHIEF MINISTER:**

No Mr Chairman, it does not mean that. What it means is that as things presently stand, of course it might change again, but as things presently stand it is envisaged that the funding for the building of the leisure centre will not result in Government expenditure. It is not to say it would not be a Government project but it might be taken as a quid pro quo in lieu of premium for a wider land deal. So that the leisure centre will be built by a developer and handed to the Government ready built.

**HON F R PICARDO:**

And run by the Government?

**HON CHIEF MINISTER:**

And handed to the Government ready built for running by the Government. Yes. Well for running by the Government or for the Government to make arrangements for the running thereafter.



**HON F R PICARDO:**

Otherwise are Government going to run the cinema and the bowling alley?

**HON CHIEF MINISTER:**

No. Exactly not. What I was trying to say was, that the leisure centre would not be built, owned and operated by the developer who will build it. It is rather a provisioning. So the developer will build it, hand it to the Government, and the Government will then presumably make arrangements with cinema operators and other operators, cafeteria operators et cetera, et cetera. The Government are not going to be the operator of the leisure centre but it will be a publicly owned facility.

**HON S E LINARES:**

Would the Sports Authority have anything to do with the running of, or should I say the management of,

**HON CHIEF MINISTER:**

That is one of the possibilities. To the extent that there is a residual role for the Government, one of the Government's thinking at the moment is that the logical place to deposit that is in the Sports Authority.

Subhead 9 – was agreed to and stood part of the Bill.

## **HEAD 103 – ENVIRONMENT, CULTURE AND HERITAGE**

### **Subhead 1 – Environment Projects**

**HON F R PICARDO;**

We were told that out of the provision of £550,000, just over half a million, £200,000 would relate to the purchasing of the air quality monitoring equipment. I was asked to wait until we got to this page to ask what the rest would be for. Can any indication be given? My friends in the ESG would I am sure be delighted to hear.

**HON CHIEF MINISTER:**

Well, it is a variety of projects. There is a provision there in the balance for improvements and enhancements to the cemetery. There is a provision for parks and playgrounds. There is a provision for wildlife botanical garden project. There is a provision for a conference, an environmental conference.

**HON F R PICARDO:**

How can a conference be a capital expenditure? A conference centre yes, but a conference?

**HON CHIEF MINISTER:**

Well the Improvement and Development Fund is for capital and economic projects. So long as we can establish that it has an economic value to Gibraltar and is viable, but I agree. I agree basically with the hon Member's comment that this should better have been placed in the Consolidated Fund under the environment. I think in future years, I do not know if this is a regular conference or a one-off. If it is a regular conference I think in future we should remember to put it in the Consolidated Fund.

Subhead 1 – was agreed to and stood part of the Bill.

## **Subhead 2 – Rock Safety, Coastal Protection and Retaining Walls**

**HON L A RANDALL:**

We heard earlier that in the £750,000 works not intended to be spent on the Sandy Bay tender. So what do Government intend to spend that money on?

**HON CHIEF MINISTER:**

This is rather like the schools vote. This is a provision which is made available to the Technical Services Department for them to decide what projects need to be done. Although at an administrative level I am sure the Government have a programme, it is not a politically driven programme. It is whatever the engineers think is of most priority. Yes, as the Minister is reminding me, there is a reactive element in that there are sometimes emergency situations of things that need to be put right and that bites into this. The same would apply to the next Subhead.

Subhead 2 – was agreed to and stood part of the Bill.

**Subhead 3 – Storm Water Drains and Sewers Replacement** – was agreed to and stood part of the Bill.

## **Subhead 4 – New Incinerator**

**HON F R PICARDO:**

We were told in answers to questions that the transaction manager had not yet been appointed but that progress was

being made in that respect in relation to the new incinerator and sewage sullage plants. We see now £31,000 estimated cost this year. A manager will be appointed during the course of this year and as a result of his appointment we are expecting to pay design costs or whatever for the new plants. Is that right?

**HON CHIEF MINISTER:**

Well I think the hon Member is right to assume that this project is going to make progress during this financial year. The papers for the tender of the appointments are in my room, I think coming across from the environment. How much of it will be funded once the project gets under way, both as to design and execution, from Government sources through this fund, will depend on how we decide to fund that project. If we do another PFI for example, it may not feature here just as the new hospital has not.

**HON S E LINARES:**

Mr Chairman, as a matter of interest. Is the new incinerator, since the Minister said that currently Government are transporting most of the rubbish which is segregated first locally and then transported to Spain, and that the Government have also been interested in recycling it as a concept, what would be the sort of residuals that we would be putting into this new incinerator?

**HON CHIEF MINISTER:**

Everything is not recyclable there is an element of segregation and there is an element of recycling but there is still refuse for burning basically glass and plastics are taken out. Metals are segregated and can be recycled but there is still burning to be done. Of course all the money that we are presently spending in

disposing of the refuse in Spain, will go towards the annual operating costs of our own incinerator. That is how it works.

Subhead 4 – was agreed to and stood part of the Bill..

#### **Subhead 5 – Improvements to Cultural Facilities**

**HON S E LINARES:**

Again I would like to ask where exactly this money is going to be spent as in the improvements, the Ince's Hall, Mackintosh Hall.

**HON C BELTRAN:**

The Government intend to refurbish the John Mackintosh Hall building, which is in need of refurbishment. At the moment I do not have a figure exactly for that but this is the Government's intention in respect of that money.

**HON S E LINARES:**

So the £100,000 will be facilitated?

**HON C BELTRAN:**

I do not know exactly. It is a provision for that kind of thing.

**HON F R PICARDO:**

Is that what was described I think rather ungenerously last night on a television interview as a town hall, is going to have to serve

as a theatre royal whilst that main project goes into a holding pattern.

**HON C BELTRAN:**

I did not say that we were going to refurbish the theatre at the Mackintosh Hall. I said we were going to refurbish the John Mackintosh Hall building.

**HON F R PICARDO:**

Oh I see. The theatre stays as it is.

**HON C BELTRAN:**

Well it might, depending on the needs.

**HON CHIEF MINISTER:**

Well it has had quite a lot of refurbishing already in past years.

**HON F R PICARDO:**

No, I accept that. It is just that I did not describe it as a town hall the Minister did.

**HON CHIEF MINISTER:**

Well it is. It is a town hall.

Subhead 5 – was agreed to and stood part of the Bill.

## **Subhead 6 – Heritage Projects**

**HON DR J J GARCIA:**

What projects are envisaged in that expenditure?

**HON C BELTRAN:**

Yes it is the sum available to the Ministry and there are various projects in hand. There is the Moorish Castle, the Moorish Baths which are undergoing works, the World Heritage Bid. That kind of project.

Subhead 6 – was agreed to and stood part of the Bill.

## **HEAD 104 – TRANSPORT, ROADS, PORT AND AIRPORT**

### **Subhead 1 – Airlines, Ferry and Hotel Assistance Schemes**

**HON DR J J GARCIA:**

My understanding is that the Airline Assistance Scheme and the Hotel Assistance Scheme have both ended. Is that £10,000 relating to this new Ferry Assistance Scheme which I am not aware of?

**HON J J HOLLIDAY:**

No the £10,000 are basically, although the Hotel Assistance Scheme as such is now finished, there is an element of the Hotel Assistance Scheme in that there is assistance being given to hotels in respect, I think, of the electricity which is a small

reduction which is being refunded to hotels, so long as their invoices are maintained. I think the provision is just to take account of that. I presume it is also a token in respect of air lines in case there are any possibilities for the future.

Subhead 1 – was agreed to and stood part of the Bill.

### **Subhead 2 – Road Maintenance and Resurfacing**

**HON L A RANDALL:**

Is this sum of £500,000, are the plans for that expenditure ready or is that just a sum that has been budgeted without any dedicated expenditure?

**HON F VINET:**

That is the provision for the Department that then decides how best to spend that money.

**HON L A RANDALL:**

There is no plan to spend it now, or a detailed plan?

**HON CHIEF MINISTER:**

We do not know what it might be here, but I am sure that the Highways Engineer has a list of things that he wants to do with that £500,000.

**HON L A RANDALL:**

I ask this because when previously I have asked, I have been told that the plans are not yet ready.

**HON CHIEF MINISTER:**

Yes, I should have added that, of course, the maintenance term contract is included there. So it is all the sort of small jobs that are done through the MTC, through the Maintenance Term Contract, plus any other project that the Government may do separately and outside that.

**HON J J BOSSANO:**

But is there an explanation why last year there was £750,000 more provided for this.

**HON CHIEF MINISTER:**

Yes, the Government redistributes the capital that they spend from year to year on different issues. In past years there has been a higher degree of capital allowed in this project and this year it has been cut back. The Government do not say every year we spend £1.25 million or something like that. Some years it is higher, some years it is lower, this year it is lower.

**HON J J BOSSANO:**

Yes but when the Government were explaining in the general principles of the Bill the reason for a lower level of appropriation at this stage, one of the arguments they used was the performance, in terms of how much of what was provided they actually managed to spend. Well here we have got a vote where what is actually being spent is very close to what was provided.

So is it that they do not think that there are all that many roads requiring surfacing any more?

**HON CHIEF MINISTER:**

No, it is that we are willing to spend less money on the road refurbishing programme. The amount of work that needs doing is the same but we are willing to do less of it this year.

**HON F R PICARDO:**

Of the £1.25 million that was estimated and on the forecast outturn of £1.188 million, I can see in the reallocation of expenditure that money was moved from this Subhead to the Port Infrastructure Facilities and Equipment, which related to £56,000 spent on dredging works at North Mole. Now those, I imagined, when I saw this reallocation, should have or would have related to the QM2 dredging. If that dredging did not go ahead, what did we spend that money on? Or is that the most expensive cost estimate I have ever seen?

**HON CHIEF MINISTER:**

Where? Which vote?

**HON F R PICARDO:**

That is in relation to this Head of Expenditure, the statement of reallocation No. 1 of the I&D.

**HON CHIEF MINISTER:**

Which Head of Expenditure?

**HON F R PICARDO:**

Road maintenance and resurfacing. The one we are looking at now.

**HON CHIEF MINISTER:**

Yes, money was reallocated from there to where?

**HON F R PICARDO:**

To the dredging works at North Mole which never happened, £56,000.

**HON CHIEF MINISTER:**

That is a different project, that was not to deepen the seabed but to clear the seabed because in addition to, even for normal ships for the normal draft that the harbour can take, there is an accumulation of motor cycles and cars and rubbish there on the floor that the tide brings in or people throw over. From time to time one has got to dredge it all away to remove, I think there was an incident where one ship took a washing machine away with it in its propeller or something. Some cruise ship. There is too much clutter there on the seabed and that is the dredging exercise to which that relates, which was carried out during the course of last year.

Subhead 2 – was agreed to and stood part of the Bill.

### **Subhead 3 – Road Construction**

**HON L A RANDALL:**

Is that just a nominal sum that has been put in?

**HON CHIEF MINISTER:**

Yes. The Government have three road projects in the pipeline. Do not please tell me in six months time that we are taking too long to do it. I mean, in the long pipeline. One is the new Westside road. In other words, a road linking the Westside reclamation to Queensway, from the Rowing Clubs across the front of Rooke Yacht Club to the Coaling Island junction. It is likely that that road will not be funded by the Government, that it will be funded by a property developer who, on tender, will do that project. The whole project to which the road will just form a part. The Government also have a project to do a road through the Chatham Counterguard, linking the Reclamation Road to Fish Market Road, through Chatham Counterguard. There is a project also for a relief road in the Upper Town to create a big one way system, Castle Road, Willis's Road to decongest that area, and it requires basically the building of a new road from what I think is Tankerville House, just near the prison, round the back of Tankerville House just at the bottom of Lyonnaise des Eaux reservoir that there is there, linking to Willis's Road at the top, to create a loop there. Both of those projects are at a very advanced stage of design. Indeed one of them is ready to go out to tender. The Government have not yet decided whether we want to press the button this year, so there is a provision. A provision which is nominal, and if we wanted to do it we would almost certainly have to bring a Supplementary Appropriation Bill because I do not think in this vote there is sufficient leeway for virement, given the cost of those projects.

**HON F R PICARDO:**

Just before we get on to the next Head, but related to what the Chief Minister has said in relation to this Head on construction,

and as a resident of Willis's Road, whether that new road one-way system project and the much wanted, very persuasive, I would not have thought of voting for the GSD on this issue, parking at Willis's Road area going to materialise at the same time?

**HON CHIEF MINISTER:**

That is one of the issues that is holding back the decision on this. In other words, given the cost, the overall cost of the project, do we just do the road or the parking? Or do we bite the bullet and do the whole lot even though it is several million pounds together? That is the issue.

**HON F R PICARDO:**

So the vote in relation to the next item does not involve that parking facility?

**HON CHIEF MINISTER:**

No. It is a provision but what we had in mind for that is a project in the South District.

**HON F R PICARDO:**

That is the one by Knight's Court area.

**HON CHIEF MINISTER:**

Yes, which actually the way the project is going to come out is quite urgent in relation to other events taking place in the area, sporting events et cetera and therefore we have got to get on with it quickly if we are going to do it.

Subhead 3 - was agreed to and stood part of the Bill.

**Subhead 4 – Construction of Parking Facilities** - was agreed to and stood part of the Bill.

**HON J J BOSSANO:**

Last year there was £150,000 and they have actually spent £206,000. There is £150,000 again this year. Are there specific things that they buy out of this vote every year, or is there something that has.....

**HON CHIEF MINISTER:**

No it is a provision for different things. It is not recurrent, it is not a regular recurrent item in terms of what they do with the money. So there is a long list of bits of equipment that they want to buy. Invariably they need to bid for more, but they get the amount and it is up to them to decide what they spend it on.

Subhead 5 – was agreed to and stood part of the Bill.

**HEAD 105 – ECONOMIC DEVELOPMENT, INDUSTRY AND INFRASTRUCTURE**

**Subhead 2 – EU Objective II 2000/2006 Programme**

**HON J J BOSSANO:**

In the note at the bottom it says that the balance to complete is £9.9 million. It tells us that this balance includes projected

expenditure on EU projects funded under the Improvement and Development Fund heads.

**HON CHIEF MINISTER:**

That is based on the funds available. Well, it is based on the value of projects that have to be built to that value, access the maximum funding available under the programme.

**HON J J BOSSANO:**

Yes but the balance to complete is £9.9 million, that is what remains to be spent.

**HON CHIEF MINISTER:**

But not just the EU element of it.

**HON J J BOSSANO:**

I see. So what is the EU element of it then?

**HON CHIEF MINISTER:**

Forty per cent of that figure.

**HON J J BOSSANO:**

I think last year there was a different figure given in the balance to complete. Is there an explanation for that?

**HON CHIEF MINISTER:**

This is one of the areas where I said that I would give him details of the projects that we had in mind for the £1.7 million that is estimated. Those projects are the Lathbury Barracks Phase 2, the Industrial Park and there is the Western Beach reclamation and industrial park, which is something new. It is a reclamation in the corner there by the airfield at Western Beach. Where the small boats now are.

**HON J J BOSSANO:**

And that would be new funding? It would be what, 40 per cent of what the project would cost?

**HON CHIEF MINISTER:**

In most cases 40 per cent under this Head.

**HON J J BOSSANO:**

Would the provision that we have got there of £1.7 million is what it would cost in total, that is the whole cost of which the EU would deposit?

**HON CHIEF MINISTER:**

Yes EU funding.

**HON J J BOSSANO:**

In terms of the figure that has been put there, is that the departmental estimate of these things?



**HON CHIEF MINISTER:**

Yes.

**HON J J BOSSANO:**

It is. So it could be higher. In last year's figure, there was a balance to complete of £9.6 million on top of £2.4 million between the actual, the forecast and the estimate, which makes it £12 million. That is why I am asking how it is. The figures do not add up, that is what I am saying.

**HON FINANCIAL AND DEVELOPMENT SECRETARY:**

One factor that I am just sort of weighing through my mind is that the value of the programme going forward is changed dependant on the euro/sterling exchange rate. So that will certainly be one contributory factor but I doubt that it explains the difference. There must be another factor.

**HON J J BOSSANO:**

I can understand that affecting the receipts that we get but the balance to complete the project which is a project that has been tendered for in sterling, I would have thought would not change because of the euro rates.

**HON CHIEF MINISTER:**

There are occasions in euro rates.

**HON J J BOSSANO:**

I accept that but if for example, the Chief Minister says the Western Beach reclamation goes out to tender and it is going to cost £100 million, and he spends a quarter, then the balance to complete is another quarter, irrespective of what the euro may be. It may be that we get more or less pounds for our euros but the balance to complete, I am assuming, is based on the cost of the project here.

**HON FINANCIAL AND DEVELOPMENT SECRETARY:**

No, the balance to complete here is the balance of that programme, not a particular project. It is made up of many projects so the euro/sterling exchange would affect it.

**HON CHIEF MINISTER:**

The balance to complete is the remaining funds available to us from the EU, levered up by the 60 per cent that we have got to spend, that we have got to contribute to the cost.

**HON J J BOSSANO:**

I see. So that means that in terms of what this is supposed to be showing, which is the balance to complete so that we know the whole cost of the project according to the explanation that I read out in my original contribution to the general principles of the Bill.

**HON CHIEF MINISTER:**

It does not read, technically, balance to complete is the wrong terminology. This really should be described as value of projects that would need to be built, or that can be built, in order to

maximise the use of remaining EU funding available. I do not know how we label that but that is what it means.

**HON J J BOSSANO:**

I see.

**HON CHIEF MINISTER:**

Another way of just giving information would be just to have a footnote saying how much EU funding is left available in the Objective 2, so that we can follow how much is being spent and how much is not being spent, and not lever it up to include the Government's contribution. If the hon Members prefer the information to be given in that way it can be.

Subhead 2 – was agreed to and stood part of the Bill.

#### **Subhead 3 – Gibraltar Enterprise Scheme**

**HON F R PICARDO:**

This head of expenditure has been estimated at £50,000 less each year for the past three years. I note that the estimate for 2002/2003 in the blue book was £150,000, the outturn turned out to be £61,000. Then an estimate of £100,000 which gave an outturn of £107,000. Now an estimate of £50,000, is that project being run down?

**HON CHIEF MINISTER:**

Yes, this is Government's own funding. There is less projects being put forward and this is a figure that the Government can

decide how much they are going to devote to as a matter of choice. Because these are exclusively Gibraltar Government monies.

Subhead 3 – was agreed to and stood part of the Bill.

**Subhead 4 – Gibraltar Development Plan** – was agreed to and stood part of the Bill.

#### **Subhead 5 – E-Procurement Projects**

**HON J J BOSSANO:**

Mr Chairman, can I just ask something about the next note which has disappeared, which shows a Konver expenditure of £168,000 in respect of the financial year 2002/2003. In the light of what we saw on the receipts side where in the section on grants it says that we are expecting £900,000 from Konver, even though we have not spent anything in the current year that just went by. We do not intend to spend anything in the year that started on 1<sup>st</sup> April, and we only spent £168,000 in the year before that. So if we claim after the event, how long after the event do we claim?

**HON CHIEF MINISTER:**

Well that programme has finished now. So if we are expecting £900,000 it has to be recovery of monies due in respect of years gone by. I am told there is a final payment due and outstanding to us from the Commission.

**HON J J BOSSANO:**

For expenditure that happened a long time ago?

**HON CHIEF MINISTER:**

Some of it may be 2002/2003 but it would not explain for the £900,000, it must be before 2002/2003.

**HON FINANCIAL AND DEVELOPMENT SECRETARY:**

The Government spent in total about £750,000 in 2001/2002. So it is that plus the further spending that is being recovered.

**HON F R PICARDO:**

So it is the columns that we saw in what is now the blue book, which amount to over £900,000, are the expenditures that we are dealing with.

**HON CHIEF MINISTER:**

No we are not dealing with expenditures here at all. The Leader of the Opposition has asked a question about the revenue rather than the expenditure.

**HON F R PICARDO:**

Yes, the receipts will relate to these expenditures.

**HON J J BOSSANO:**

To expenditures going back to 2001/2002.

**HON CHIEF MINISTER:**

Yes to expenditure going back to the years as commented.

Subhead 5 – was agreed to and stood part of the Bill.

**Subhead 6 – Upper Rock Improvements and Maintenance**

**HON DR J J GARCIA:**

Mr Chairman, can I ask the Hon Member whether the projected expenditure, the estimate, of £150,000 includes any toilets for the Upper Rock.

**HON J J HOLLIDAY:**

No it does not.

**HON DR J J GARCIA:**

What kind of thing is that money likely to be spent on?

**HON J J HOLLIDAY:**

Railings, signage, rubbish bins.

Subhead 6 – was agreed to and stood part of the Bill.

**Subhead 7 – Beaches, Improvements and Maintenance** –  
was agreed to and stood part of the Bill.

**Subhead 8 – Beaches Development Scheme**

**HON J J BOSSANO:**

Is this dependant on the East Side?

**HON CHIEF MINISTER:**

Almost certainly, if it happens at all, will not happen through the Improvement and Development Fund because this will be one of the obligations undertaken by the East Side developer, to do for us this scheme on our beaches. It is not that the beaches are being included in the Development Scheme but as part of the deal we are negotiating with the developer, he has to do certain works to our beaches.

**HON J J BOSSANO:**

For which there would be no payment because it would be offset against the value of the contract.

**HON CHIEF MINISTER:**

That is one of the issues under discussion, whether there is going to be an allocation with a payment back, or whether it is going to be netted off. That is part of what is still under discussion. Obviously if there is a payment to us, and we have to pay back, then it has got to be accounted for through here.

**HON J J BOSSANO:**

It would come in then as land sales and then go out.

**HON CHIEF MINISTER:**

Yes.

Subhead 8 – was agreed to and stood part of the Bill.

#### **Subhead 9 – Tourist Beautification Projects**

**HON DR J J GARCIA:**

Can the Minister list the projects for which that expenditure has been estimated?

**HON J J HOLLIDAY:**

Yes, there is the balance of John Mackintosh Square, City Centre beautification Phase 4 that has already happened, Catalan Bay, the World War II tunnels and the frontier canopy.

Subhead 9 – was agreed to and stood part of the Bill.

#### **Subhead 10 – Other Development Projects**

**HON DR J J GARCIA:**

Is this entry with specific projects in mind or is this something there just in case anything comes up?

**HON CHIEF MINISTER:**

It is public clocks, which never seem to get done, and floodlighting.

Subhead 10 – was agreed to and stood part of the Bill.

### **Subhead 11 – Employment Service Projects**

**HON F R PICARDO:**

In relation to this particular item £16,000 was estimated last year, of which not a penny has been spent and £46,000 is estimated this year. Is there a specific project for the Employment Service? I see it is in plural, I do not know whether it is more than one.

**HON DR B LINARES:**

It is two projects. One is a noise and gas monitoring equipment for the Health and Safety Inspectors under the Employment Service. I think this is a statutory requirement and the other one is just furniture and equipment, which has been approved. The equipment is £22,000 and the furniture and equipment is £24,000.

Subhead 11 – was agreed to and stood part of the Bill.

### **HEAD 106 – PUBLIC ADMINISTRATION AND ESSENTIAL SERVICES**

**Subheads 1 to 6** – were agreed to and stood part of the Bill.

#### **Subhead 7 – Collector of Customs Equipment**

**HON F R PICARDO:**

Mr Chairman, is this the truncheons?

**HON CHIEF MINISTER:**

It is specialised equipment. I hope it is not £35,000 for the truncheons. It would be included there, surely.

Subhead 7 – was agreed to and stood part of the Bill.

#### **Subhead 8 – Commissioner of Police Equipment**

**HON CHIEF MINISTER:**

The hon Member will be delighted to hear that that is a re-provisioning of the expenditure that they did not manage to make last year and which was therefore vired for other purposes.

Subhead 8 – was agreed to and stood part of the Bill.

**Subhead 9 – Garage, Workshop and Sewers Equipment** – was agreed to and stood part of the Bill.

#### **Subhead 10 – Gibraltar Broadcasting Corporation Equipment**

**HON F R PICARDO:**

Is this the digitilisation equipment, which in the report we are told has slowed down?

**HON C BELTRAN:**

It is a provision that includes a number of digital video editing facilities which they wish to buy, and a further enhancement, including the installation of an enhanced video graphic work station. This is what they require.

Subhead 10 – was agreed to and stood part of the Bill.

**Subhead 11 and 12** – were agreed to and stood part of the Bill.

**Subhead 13 – Strategic Fuel Reserve**

**HON J J BOSSANO:**

Since the £1,000 keeps on appearing and disappearing and reappearing, are we any closer to reality this year than in any of the previous years?

**HON CHIEF MINISTER:**

It is a project the nature of which constantly changes. The latest version of it is that we, as part of the MoD lands deal, have secured a piece of land at the north of the runway, on which to build a tank farm there so that the nature of the provisioning for this strategic fuel reserve is changing. It no longer involves the upgrading or the recovery of the Williams Way Tunnel facility.

**HON J J BOSSANO:**

The Williams Way, which is the initial thing.

**HON CHIEF MINISTER:**

Yes, the problem with the Williams Way Tunnel is that the access to it cannot be made to comply with health and safety, because it is a severe rockfall area. Although the project involved taking pipes up to it and all that, there is still the question of safe access to workers, literally to access the front door of the Williams Way Tunnel opposite the blind spot there. There are such severe rockfalls there that one would have to spend millions of pounds on the rock face. Therefore other projects are being looked at as other means of providing the strategic reserve.

**HON F R PICARDO:**

Does that mean that the area presently occupied in front of the entrance of the tunnel by Shell, will form part of the land transfer if the East Side Project goes ahead?

**HON CHIEF MINISTER:**

No, if the East Side Project goes ahead, it actually involves the realignment of Devil's Tower Road, if anything to take it further away from the rock face.

Subhead 13 – was agreed to and stood part of the Bill.

Question put on clause 5. The House voted.

For the Ayes:	The Hon C Beltran
	The Hon Lt Col E M Britto
	The Hon P R Caruana
	The Hon Mrs Y Del Agua
	The Hon J J Holliday
	The Hon Dr B A Linares

The Hon J J Netto  
The Hon F Vinet  
The Hon T J Bristow  
The Hon R R Rhoda

Abstained:

The Hon J J Bossano  
The Hon C A Bruzon  
The Hon Dr J J Garcia  
The Hon S E Linares  
The Hon Miss M I Montegriffo  
The Hon F R Picardo  
The Hon L A Randall

Clause 5 – stood part of the Bill.

#### **Clause 6**

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

Mr Chairman, of the £2.5 million Supplementary Funding that is being voted, and how it would be reallocated based on the forecast outturn the Leader of the Opposition has got the detail by particular subheads. But accounting for just over £2 million of that, it would in order of size materiality, 9-A the Police would get about £406,000, the Secretariat which is 5-A in the old estimates book, would get £355,000. Housing, Buildings and Works, which was the old vote 3-B would get £295,000.

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

Am I right in thinking that when he was talking about the Heads, in fact it is the Heads as they appeared last year and not as they have been renumbered this year? So one has to go back to last year's figures to find out where they were last year.

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

Well he has given them.

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

He is giving me the Heads of last year.

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

The Supplementary Appropriation relates to last year's estimates. Therefore by Heads, I am telling the House the latest information of how that £2.5 million, the major items, that is, all those items over £50,000.

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

But in this year's draft estimates, we have had Heads that have been moved from one area to the other, or expenditure that has been moved from one Head to another Head, which is not where it was last year.

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

Most of them are not affected. One is. One big one is.

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

Is it possible to obtain a copy of that, or not? Or he can say it and we can have it on the record.

#### HON CHIEF MINISTER:

Well, it is on the record now. It is not in a form that can be handed over. It is a list of nine items.

#### HON FINANCIAL AND DEVELOPMENT SECRETARY:

Let me start again. They are listed in order of materiality, that is, monetary amount and I am only listing all those over £50,000. The Police 9-A would be vired from the additional supplementary funding £406,000. The Old Secretariat Vote 5-A would be vired £355,000. Housing, Buildings and Works 3-B would receive £295,000. Environment 4-A would receive £180,000. Tourism 6-A would receive £147,000. Social Services 5-A would receive £138,000. Customs 8-F would receive £122,000. Housing Administration 3-A would receive £118,000. 6-B Transport, Airport would receive £96,000. 6-D Transport, Port would receive £87,000. Income Tax 8-G would receive £59,000. Those numbers of course, would be subject to departments reconciling their books with the Treasury. Or closing it down within the next few weeks. I think that accounts for just between £2.1 million, and in actual fact, although the supplementary is being pushed for £2.5 million, I think if we added up all the numbers in the book now, only about £2.2 million, £2.3 million is actually needed, as it stands in the forecast outturn. I trust that is helpful Mr Chairman.

Question put on clause 6. The House voted.

For the Ayes:	The Hon C Beltran
	The Hon Lt Col E M Britto
	The Hon P R Caruana
	The Hon Mrs Y Del Agua
	The Hon J J Holliday
	The Hon Dr B A Linares
	The Hon J J Netto
	The Hon F Vinet

The Hon T J Bristow  
The Hon R R Rhoda

Abstained:

The Hon J J Bossano  
The Hon Dr J J Garcia  
The Hon F R Picardo  
The Hon C A Bruzon  
The Hon S E Linares  
The Hon Miss M I Montegriffo  
The Hon L A Randall

Clause 6 – stood part of the Bill.

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

#### THIRD READING

#### HON ATTORNEY GENERAL:

I have the honour to report that the Appropriation Bill 2004, has been considered in Committee and agreed to by a majority without amendments. I now move that it be read a third time and passed.

Question put.

The House voted.

For the Ayes:

The Hon C Beltran
The Hon Lt Col E M Britto
The Hon P R Caruana
The Hon Mrs Y Del Agua
The Hon J J Holliday
The Hon Dr B A Linares
The Hon J J Netto
The Hon F Vinet



The Hon T J Bristow  
The Hon R R Rhoda

**THURSDAY 8<sup>TH</sup> JULY 2004**

Abstained:

The Hon J J Bossano  
The Hon Dr J J Garcia  
The Hon F R Picardo  
The Hon C A Bruzon  
The Hon S E Linares  
The Hon Miss M I Montegriffo  
The Hon L A Randall

The Bill was read a third time and passed.

## **ADJOURNMENT**

### **HON CHIEF MINISTER:**

I beg to move that the House do now adjourn until Thursday 8<sup>th</sup> July at 3.00 pm. Can I just for the record say that when we finish the business of the House, in terms of the legislation that the Government have to do between now and the end, there will be left over the motions for the Freedom of the City for Lords Hoyle and Bethell, and we will carry that over and when we finish the legislation, I will adjourn the House until 4<sup>th</sup> August for what I will describe in the adjournment motion as a Tercentenary special sitting of the House. Then I will adjourn the House sine die at the end of that sitting.

Question put.           Agreed to.

The adjournment of the House was taken at 9.20 pm on Friday 2<sup>nd</sup> July 2004.

The House resumed at 3.00 pm.

### **PRESENT:**

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

### **GOVERNMENT:**

The Hon P R Caruana QC - Chief Minister  
The Hon J J Holliday - Minister for Trade, Industry and  
Communications  
The Hon Dr B A Linares - Minister for Education, Employment  
and Training  
The Hon Lt-Col E M Britto OBE, ED - Minister for Health  
The Hon J J Netto - Minister for Housing  
The Hon Mrs Y Del Agua - Minister for Social and Civic Affairs  
The Hon C Beltran - Minister for Heritage, Culture, Youth and  
Sport  
The Hon F Vinet - Minister for the Environment, Roads and  
Utilities  
The Hon R R Rhoda QC - Attorney General  
The Hon T J Bristow - Financial and Development Secretary

### **OPPOSITION:**

The Hon J J Bossano - Leader of the Opposition  
The Hon Dr J J Garcia  
The Hon F R Picardo  
The Hon C A Bruzon  
The Hon S E Linares

The Hon Miss M I Montegriffo  
The Hon L A Randall

**IN ATTENDANCE:**

P E Martinez - Clerk of the House of Assembly (Ag)

**COMMUNICATIONS FROM THE CHAIR**

**MR SPEAKER:**

I have to make an announcement. I want to put the record complete. Previous to my announcement that I would be retiring, I had informally announced to the Chief Minister, the Leader of the Opposition and His Excellency the Governor, that although I had said in the House that I would like to retire as Speaker, on reaching my 80<sup>th</sup> birthday, I had subsequently realised that it was still a long way off, and wanted to terminate my tenure before that. None expressed surprise or asked me to continue. I said that when there was someone to take my place I would retire as I was getting old. None of the above is connected to the events of 2<sup>nd</sup> July. Those stand by themselves. I would have retired in any case regardless. To put the record straight again, it was not technically a vote of no confidence, it was lack of support which made my position untenable. I have carried on and will carry on at least until 4<sup>th</sup> August, because I do want people coming to Gibraltar for the celebrations to take with them a good impression of Gibraltar, which is all that matters. I do not want any delay in the appointment of a new Speaker/Mayor. As I do not intend to speak again, my best wishes to the new Speaker, a he or a she, why not, and plenty of luck. Thank you.

**DOCUMENTS LAID**

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

- (1) Gibraltar Regulatory Authority Annual Report 2003/2004;
- (2) Import Duty (Integrated Tariff)(Amendment) Regulations 2004.

Ordered to lie.

**SUSPENSION OF STANDING ORDERS**

The Hon the Chief Minister moved under Standing Order 7 (3) to suspend Standing Order 7 (1) in order to proceed to the First and Second Readings of Bills.

**BILLS**

**FIRST AND SECOND READINGS**

**THE CRIMINAL JUSTICE (AMENDMENT) ORDINANCE 2004.**

**HON CHIEF MINISTER:**

I have the honour to move that a Bill for an Ordinance to amend the Criminal Justice Ordinance 1995 for the purposes of transposing into the law of Gibraltar Directive 2001/97/EC of the European Parliament and of the Council of 4<sup>th</sup> December 2001, amending Council Directive 91/308/EEC on prevention of the use

of financial systems for the purpose of money laundering and for related matters, be read a first time.

Question put.                      Agreed to.

## **SECOND READING**

### **HON CHIEF MINISTER:**

I have the honour to move that the Bill be now read a second time. Mr Speaker, the main reason for the Bill before the House is to amend the Criminal Justice Ordinance to transpose into the laws of Gibraltar the second money laundering directive. In addition to this, the Government are taking this opportunity to implement one of the recommendations made by the IMF FATF in their assessment of Gibraltar's Finance Centre. If I may take the House through the various provisions in the Bill, the first substantive one is clause 2(2). This clause inserts a new section 2A and creates the offence of failing to disclose money laundering. The offence is limited in scope to those businesses and activities which fall within the scope of section 8 of the Ordinance, and which are in the Ordinance termed "relevant financial businesses". This limitation is important as relevant financial businesses are required to have certain procedures to prevent money laundering, and other sectors of the business community are not required to have these procedures, and it follows that they should not be subject to the burdens of the offence. I should perhaps comment at this point that the reason for inserting the offence into the legislation now, is that it was something of an omission when the legislation was first passed in 1993 because that legislation spoke of defences to an offence that actually did not exist.

The offence is thus committed if three limbs are satisfied. Namely, that the relevant financial business knows or suspects that another person is engaged in money laundering. And,

acquires that knowledge whilst pursuing trade, profession, business or employment, and fails to disclose the information to the Police or Customs Officer as soon as is reasonably practicable. By way of qualification the House will note that subsection (2) exempts a class, which may be described as professional legal advisers, from the rigours of the offence, where those persons receive information on a client in respect of whom they are advising in relation to the client's legal position or in connection with judicial proceedings.

Paragraph (b) of sub-clause 2(2), qualifies the extent to which immunity is provided to a person making a disclosure, by requiring the person making the disclosure to be acting in good faith. That is not new, there is a requirement to make disclosures, and the novelty is the introduction of the element of good faith, the requirement of good faith, so that the defence of legal compulsion is available to the discloser. This qualification is also inserted by sub-clauses 2(b) and 2(8), now renumbered 2(9), into section 3(5) and (24).

Sub-clause 2(4) recasts the existing section 5(4) defence of tipping off, so as to more precisely define who is a professional legal adviser, and when such a person may rely on the defence. By amending this subsection, consistency is achieved with section 2A(2). Sub-clause 2(5) is purely housekeeping and amends some of the definitions in section 6 of the Criminal Justice Ordinance, to bring these into line with developments since that Ordinance was passed in 1995. Sub-clause 2(6) of the Bill amends section 8 of the Criminal Justice Ordinance and is the main reason for this legislation.

Section 8 lists certain businesses or activities which are termed "relevant financial businesses". Relevant financial businesses are required by the Criminal Justice Ordinance to adopt measures and procedures for the prevention of money laundering through their businesses. The directive and thus this Bill, adds to the current list of businesses caught by the legislation and the additions to the list are, to summarise, audited external accountants and tax advisers, real estate agents,

notaries and other independent legal professionals when they participate, whether (1) by assisting in the planning or execution of transactions for their clients concerning (a) buying and selling of real estate property or business entities; (b) managing of client money, securities or other assets; (c) opening or management of bank, savings or securities accounts; or by acting on behalf of and for their clients in any financial or real estate transaction. Controlled activity, under the Financial Services Ordinance 1988, and that is not a requirement of the directive, that is the implementation of the IMF recommendation. The IMF recommended that controlled activities, company management and that sort of thing, should be caught by money laundering legislation. We have agreed to do that, it is not a requirement of the directive. Dealers in all high value goods whenever payment is made in cash, and in an amount of euros, 15,000 euros or more. Casinos, currency exchange offices/bureaux de change, money transmissions/remittance offices.

Mr Speaker, I believe that the list is self-explanatory. I would just comment in relation to the dealer in higher value goods. Business will be subject to the regime where it takes cash payment of 15,000 euros or more, in respect of a single transaction. I suppose it should not come as a surprise to the House, that one of the ways in which money launderers launder their money is indeed by purchasing high value goods, jewellery, cars, things of that sort, and then in turn convert that into cash, resale or just holding it.

Finally, in relation to sub-clause 2(7), that is another housekeeping measure and updates the definition of authorised credit institution. Sub-clause 2(8)(a) adds two further exemptions from compliance with the identification, commonly known as "know your client procedures," set out in section 14 of the Ordinance. So this exemption applies and therefore the application of a money laundering regime to these businesses does not apply, for example, to casinos where either the customers purchase or sells chips of less than 1,000 euros, or if the casino is State supervised and registers and identifies its customers immediately on entry. Also it does not apply to a

customer which is a customer of a credit or financial institution already subject to the directive's requirement, or is based in a country outside the EU that operates a regime at least equivalent to that of the directive. In other words, there are sort of grandfathering provisions if one could very loosely call them that, whereby customers of regulated organisations do not have to be re-assessed here for these purposes. Sub-clause 2(8)(b) inserts a new subsection 14(3), to relax the identification requirements where payment is effected from an account held in a customer's name with a credit institution subject to the provisions of this directive. Sub-clause 2(9), renumbered 2(10), allows for transitional arrangements.

For those businesses or activities which are now set out in sections 8(1),(h), (i), (j) and (m), the requirements under Part 3, measures to prevent the use of the financial system for purposes of money laundering, do not apply until this Bill becomes law. For those businesses or activities which fall within the definition of 8(1)(k), that is to say controlled activities, the extent to which they have to comply with Part 3 in relation to existing business, shall be set out in supervisory or regulatory guidance. Sub-clause 2(10), renumbered 2(11), inserts a new section 45 which provides a regulation-making power, where these are required to give effect to the Ordinance or by virtue of further EU requirements.

Mr Speaker, I have given written notice of two amendments which I will move at the Committee Stage, and which really just correct typographical errors and do not change the meaning of the legislation before the House. Notice will be given to the hon Members, they have not got it in front of them, but one of them is an obvious error and the other is mis-numbering of some regulations. I commend the Bill to the House.

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

**HON F R PICARDO:**

Yes Mr Speaker, we come to pass the amendments, or to debate the amendments of the Criminal Justice Ordinance of 1995. I note 10 years almost to the day since the first piece of legislation that we are amending was brought to this House, which was the Criminal Justice Ordinance 1995, which was brought to the House and debated on 7<sup>th</sup> July 1995. It was with some trepidation that the Financial Services sector viewed then, I think it is fair to say, how that Ordinance would operate to possibly restrict legitimate business that was being done. As the Chief Minister of the day and the then Leader of the Opposition indicated in that debate, nobody in Gibraltar would wish to countenance giving services in the financial services sector to those who were seeking to launder the proceeds of criminal activity, whatever those who frequently attack us might like the rest of the world to believe. The Leader of the Opposition as he then was, led his party to abstain on the Bill of the Criminal Justice Ordinance to which these amendments are now brought. I think that with the rest of the financial services sector, we can all happily say that the passing of that Bill into the Ordinance which we are now amending, which was passed by the Government majority then, actually did nothing to restrict the work of the financial services sector but actually enhanced its reputation internationally, leading the Foreign Secretary of the United Kingdom, Mr Robin Cook, as he was in the late 90s, to say that Gibraltar was, "the benchmark jurisdiction for the regulation of financial services and one of the best regulated finance centres in the then, referred to as offshore, world".

Mr Speaker, I think that the introduction of the elements of good faith and the clarification of when professional advisers are required to act under the provisions of the Ordinance will be much welcomed. I think there was an element of trepidation also about how the Ordinance was going to work, and how any individual who found himself with a suspicion, which may not necessarily have been borne out, would have to act to ensure that he protected his own position should things go awry in the long term. I think that concern was cleared with the practice of

the professionals in dealing with the legislation, and it is welcome now that the statute will give even greater clarity, based as it is on the clarification in the new and second money laundering directive. There was, certainly in my view, a gaping gap in the legislation in its failure to apply to bureaux de change and to money transmission institutions, and I think it is very welcome that those should be now shut as firmly in statute as they are in practice in this jurisdiction to the money launderer. I have to say that those who deal in high value goods should themselves have been applying the provisions of the legislation as it was, and in my view have. I think the House would find very few dealers in high value goods in Gibraltar who had been taking in cash in any substantial amounts since 1995, and even before 1995, whatever our international critics may wish to say. I want to add at this stage and before we get to the third reading, that the directive that we are transposing provides the units of currency in euro, and we have provided those units of currency in euro in the amendments that we bring to the principal Ordinance. Much of the principal Ordinance, at least the draft that I have, still refers to ECU which is what the first directive referred to. But obviously it is a different unit of currency and I think, in the long term, it might be a good idea for the Government to amend those pieces of legislation that still refer to that now defunct ECU, clearly in Euro, even if we have passed a directive in another parliament or in this parliament, a regulation to clarify that, I think. The Ordinance on its own is presently referring to two different types of units of currency, we may want to do that tidying up exercise, although if it has been done already by general legislation or regulation, I would urge that it be done to the Ordinance in itself so that it can read as one piece of legislation referring to one unit of currency. Other than that I do not see anything else that I can add which would be useful, or any reason to object to this Bill.

**HON CHIEF MINISTER:**

Mr Speaker, I am grateful for what I take to be an indication by the hon Members that they will be supporting the Bill. It is true, and I agree with the hon Member, that there was trepidation in

the industry. I do not recall the reasons and I have not gone back in Hansard to check the reason why we abstained. It certainly was not on the question of whether there should be legislation covering money laundering. But it is certainly true that there was trepidation at that time, just as indeed hon Members will recall that money laundering was the first wave of international impact on financial services, and that the next wave related to regulatory standards. I suppose now we are all subject to a third wave of sort of fiscal measures. At each wave there has been a concern as to what effect it would have on financial services. The concern, in my experience, has usually been not on the substance of the legislation but on whether it would operate fairly across all the territories. In other words, are those law-abiding territories that fall into line, are they going to be at a disadvantage, because the more rogue territories do not apply the legislation and siphon off business. I do not think even that has materialised, in fact, and I agree with the assessment of the hon Member that not just our money laundering legislation but indeed our regulatory legislation has been a positive factor for the development of financial services in Gibraltar, and not the negative factor that was more or less feared to varying degrees within the industry. The only other point that I would just like to comment on is his suggestion that we might amend the principal Ordinance at some stage to alter the reference from ECU to Euros. I was just being advised, when he was making the point, that there is an EC Regulation published in 2000, and which has direct territorial application throughout the Community, saying that when any legislation refers to ECU it shall be read as a reference to Euro. I am advised that a Government Notice was published in Gibraltar at that time, to that effect. So in fact there may be a presentational interest in changing it but there is no legalistic requirement, given that for legal statutory interpretation purposes, the change has already been made, but it may assist readers of the legislation in the future who may not know that, and I suppose that next time that the law is updated or consolidated or even reprinted, that that could be taken into account.

Question put.

Agreed to.

The Bill was read a second time.

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

Mr Speaker, with relation to the Committee Stages on these Bills, it is my intention to the extent if we do not finish some of this business today to come back tomorrow. But of course I do not know how contentious some of this legislation is going to be, I therefore do not know whether we would have time today for some of the Committee Stages. So can I say that I beg to move that the Committee Stage be taken today if there is time, and otherwise on another date.

Question put.

Agreed to.

#### **THE CIVIL JURISDICTION AND JUDGMENTS (AMENDMENT) ORDINANCE 2004**

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

I have the honour to move that a Bill for an Ordinance to amend the Civil Jurisdiction and Judgments Ordinance 1993, consequential to the coming into force of Council Regulation EC No. 44/2001 of 22<sup>nd</sup> December 2000 on jurisdiction and the enforcement of judgments in civil and commercial matters, to make new provisions as respects jurisdiction and the enforcement of judgments between the United Kingdom and Gibraltar, and for matters ancillary thereto, be read a first time.

Question put.

Agreed to.

## SECOND READING

### HON CHIEF MINISTER:

I have the honour to move that the Bill be now read a second time. Mr Speaker, the Bill makes the necessary amendments following the coming into force in Gibraltar on 1<sup>st</sup> March 2002, of Council Regulation 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, which I will hereinafter refer to as the regulation. The regulation has direct effect in Gibraltar, as a Council Regulation, and requires no further implementation legislation. In this address on the general principles of the Bill, I will just outline the rules governing jurisdiction put in place by the regulation, and outline the intended effect of the Bill. The regulation replaces the 1968 Brussels Convention as between all Member States of the Community, except Denmark. Relations with Denmark will remain governed by the Brussels Convention, already implemented by the Civil Jurisdiction and Judgments Ordinance. In other words, Denmark has opted out of the regulation, the EC Regulation, and therefore whilst the Ordinance is disapplied from all the other Member States, because that is now covered by the regulation, the Ordinance remains active in so far as the Brussels Convention is concerned, only in respect of Denmark because all the other subscribers to Brussels are Member States of the Community now covered by the regulation. This effect is achieved by amending the definition in the Bill of Brussels contracting state and regulation state inserted into that Ordinance by clause 2(2) of the Bill, and by making a distinction throughout the Ordinance between provisions relating to "regulation States" and those relating to Brussels contracting State. But Brussels contracting State is now defined as being only Denmark.

The regulation does not apply to revenue, customs and administrative matters, to the status or legal capacity of natural persons, matrimonial matters, wills and succession, bankruptcy, social security or arbitration. The regulation does not apply

bilaterally between the United Kingdom and Gibraltar, because of this other Member State point. Nevertheless, by clause 2(11) of the Bill, we are inserting a new Part 5 into the Ordinance. The effect of this is to ensure that the regulation operates as between the United Kingdom and Gibraltar, as if both were separate regulation States. In other words, we re-create the regime of the regulation, which applies to Member States, we as a matter of domestic law choice, choose to have the same regime as between the UK and Gibraltar by what is now domestic law, on the basis that we are treating each other as separate regulation States, so that we do not have to set out the entire substantive provisions again as between Gibraltar and the UK. The fact that Gibraltar is not a separate regulation State under EC law, means that ECJ Case law would not be a consideration in interpreting the regulation as between the UK and Gibraltar. To avoid that being so, clause 39(2) establishes ECJ Case law as persuasive. The regulation does not concern which country's law applies to the substance of a dispute. This is the subject of other legislation, such as the 1980 Rome Convention implemented in Gibraltar through the Contracts (Applicable Law) Ordinance. The regulation's interest is with rules on jurisdiction in civil and commercial disputes, such as where one party sues another for failure to deliver under a contract. Like the rules set out in the Brussels and Lugano Conventions, the rules in the Bill are most likely to come into play in disputes between businesses. They apply equally, however, to consumer contracts and contain special provisions about consumer contracts.

The general rules on the Civil Jurisdictions and Judgments Ordinance remain unchanged. Article 2 of the Brussels Convention, as implemented by that Ordinance, sets the following rule. Subject to the provisions of the Convention, persons domiciled in a contracting State, shall whatever their nationality be sued in the courts of that State. That remains the underlying philosophy of the regulations as well. This means that an individual, including for example a sole trader or a partner in a business, sued in his own respect, can be sued where his principal residence is. Article 60 provides that the domicile of a company or other association including a partnership, is where it

has its statutory seat, that is its registered office, its central administration or its principal place of business. Article 5(1) and 5(5) of the Brussels Convention, which set additional rules for all contract cases, are also unchanged. They provide that a person domiciled in a contracting State, may in another contracting State, be sued (1) in a matter relating to contract in the courts for the place of performance of the obligations in question; and as regards a dispute arising out of the operations of a branch, agency or other establishment, in the courts for the place in which the branch, agency or other establishment is situated. This provision that I have just read out means, for example, that a case could be heard in the country where a loan was to be repaid. Article 23 of the Convention provides, however, that the parties to a contract are free to agree to depart from the above provisions in article 5. This could be done through a clause in the traders standard contract saying that in the event of any dispute, the Gibraltar courts or the courts of any other country in the world will have jurisdiction.

The regulation introduces alternative rules of jurisdiction with respect to the following matters. Matters relating to contracts but excluding contracts of employment. Matters relating to maintenance, matters relating to tort, a civil claim for damages or restitution following an infringement, the operation of a branch, agency or other establishment, payment of remuneration, claim in respect of the salvage of a cargo or freight. Similarly there are provisions for rules regarding co-defendants, actions on a warranty or guarantee, or a third party proceedings, counter claims and matters relating to a contract if the action may be combined with an action relating to rights in immovable property. Special rules are laid down regarding matters relating to insurance, to consumer contracts, to individual contracts of employment, to exclusive jurisdiction clauses, to prorogation of jurisdiction and to provisional and protective measures. The regulation aims to simplify the formalities for recognition and swift enforcement of any judgment delivered by a court in another Member State, by a simple and uniform procedure. It lays down the basic principle of automatic recognition of judgments, where a party against whom judgment has been given in another

country, contests recognition, provision is made for a special procedure to be followed in order to obtain a declaration of enforceability of a judgment in the other Member State. The procedure is unilateral initially and is intended to be efficient and quick. The Supreme Court would simply make a formal check of the documents accompanying an application. A model certificate, containing all the information needed for a rapid decision on recognition or enforcement, is annexed to the regulation. No additional legalisation in respect of documents is required. No security bond or deposit may be required of a party who applies for enforcement of a judgment, given on the grounds that he is a foreign national or that he is not resident in the Member State in which enforcement is sought. The regulation confers additional jurisdiction over a contractual dispute between a consumer and a business, on the courts of the consumer's country of domicile, when certain tests are met. These articles replace article 13 to 15 of the Brussels Convention and makes certain changes. The rationale for special consumer rules is that the consumer is usually the weaker party, especially if he or she has paid in advance. The consumer rules do not prevent a consumer from suing under article 2 or 5 should he or she prefer. Under article 16, proceedings may only be brought against consumers in the court of the Member State where the consumer is domiciled. Article 17 of the regulation prevents the parties to a consumer contract from agreeing to depart from this provision before a dispute has arisen. So for example, a business would not be allowed to enforce a contractual term in which the consumer had waived the right to be sued in his or her own country's courts in the event of a dispute. Article 15(1)(c) raises a question about when an internet website could be said to be directed to one or more Member States. There are no detailed rules and no case law. The Council and the Commission issued a joint statement, which covers article 15, but it is of limited use in interpreting the provisions. Ultimately, it would be for the European Court of Justice to decide what constituted directed activities. Clause 2(5)(b) and (c) are the only non regulation related provisions of the Bill. In other words, that the only provisions of the Bill that are not required by the regulation. This is a technical amendment to the Supreme Court's jurisdictional



powers, which the Government have agreed to take forward following a recommendation by a leading firm at the Bar, upon which the Government have consulted widely the rest of the Bar, and there is a wide consensus of support for this measure.

The effect of the amendment as introduced by clause 2(5)(b) and (c) of the Bill, is to give the Supreme Court power, which it does not presently have, to grant interim relief in circumstances where such relief would not be obtainable under the legislation as it stands today. In other words, (1) where proceedings are commenced in a non Brussels, Lugano or regulation State, in other words, there are proceedings outside Brussels, Lugano, or now regulation State, the Supreme Court did not have power to make interim relief, injunctive relief in support of any such proceedings and the commercial bar in Gibraltar, particularly feels that it is important that Gibraltar's courts should have power to grant interim relief, even in cases where there are no proceedings in Gibraltar and those proceedings are commenced outside a Brussels, Lugano or regulation State. Secondly, where proceedings are not within the scope of Brussels or Lugano or the regulation, even when the proceedings are commenced in a Brussels, Lugano or regulation State.

Mr Speaker, no consulted party and it was widely, no party consulted expressed the view that this was not favourable for Gibraltar and therefore the Government have happily brought the amendment to the House. I commend the Bill to the House.

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

#### **HON F R PICARDO:**

Mr Speaker, this Bill as the Explanatory Memorandum clearly states, and as the Chief Minister has clarified, seeks to amend the principal Ordinance by reflecting the fact that except in relation to Denmark, jurisdiction and enforcement of judgments within the EU in civil and commercial matters, no longer and quite contrary to what the present Ordinance states, are

governed by the 1968 Brussels Convention but by the Council Regulation. The regulation is almost an entire reflection of the Brussels Convention. It is only in a few areas, for example, in relation to the performance of contracts, that it differs slightly. But it is somewhat unfortunate that although the regulation entered into force on 1<sup>st</sup> March 2002, as is provided for by article 76 of the regulation, and was in fact as the Chief Minister has indicated directly applicable from that date, it has taken us over two years to bring the amending legislation to our Ordinance, to reflect what is in fact has been since then the legal reality. In fact, I am told that this has led to some lawyers actually invoking the Convention in its Brussels Convention present Ordinance guise, although the regulation had clearly by then already taken over. Obviously that failure has added cost to parties which is an issue that needs to be resolved elsewhere. But certainly, although the regulation was directly effective, because we have an Ordinance that would appear to contradict it, I would have urged the Government to bring the legislation to amend the principal Ordinance, sooner.

In fact in the United Kingdom, the Civil Jurisdictions and Judgments Order 2001, was brought on 11<sup>th</sup> December 2001, in anticipation of the regulation coming into effect in March 2002. But perhaps the greatest significance of the legislation is one of the aspects of the Bill that the Chief Minister has alluded to, which is the amendment of section 17 of the Ordinance to enable the Supreme Court to grant free standing interim relief in aid of proceedings commenced outside Convention, as they were, or regulation States. The best way I can think of explaining that is that now, in effect, the Supreme Court will have jurisdiction to act in aid of proceedings issued, for example, in the United States. I think that adds an important string to the court's arsenal in dealing with matters of civil litigation. That, was a power that has been in place in the United Kingdom for over seven years even before these provisions in the Order of 2001 were brought into place.

Mr Speaker, the Chief Minister alluded to the provisions of the new Part 5, which gives, he said, effect for the first time as a

result of a conscious decision on our part to treat the United Kingdom as a separate Member State, but to give effect to the provisions between us. In fact, the existing Ordinance already bore that provision. If I misunderstood him I am sorry but the principal Ordinance that we are amending already bore that provision in relation to the Brussels Convention.

Mr Speaker, I find that the description in what will be the new definitions of domicile, which I have been looking at, in section or paragraph 9 of the Schedule, dealing with the provisions of article 22 of the regulation, may not provide sufficient clarity as to what is the position of companies, I am looking at page 211, the position of companies that are either redomiciled into Gibraltar or Part 9 companies that establish a place of business in Gibraltar. Now that may be something which is provided for in the regulation itself. It may be in relation to redomiciliations in particular that there is no provision in Community law, because redomiciliations are really something that is countenanced only in relation to common law States, other common law States. Therefore that may be a specific UK/Gibraltar animal that has to be addressed. But certainly, I would be grateful if an element of clarification could be provided in that respect, perhaps before we get to the Third Reading, and if we need to make any changes there we can do so in time, to specifically provide for Part 9 companies or companies redomiciled into Gibraltar. Apart from that I do not think there is anything else that I can usefully say.

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

Well Mr Speaker, if I could just start with that point, since it is fresh in everybody's mind. I mean, it is not my reading of article 9 of what is going to be Schedule 10, is not that it suffers from the lack of clarity that the hon Member suggests. The reference in 9(2) and 9(3) is not by reference to the place of incorporation only. It is either (a) it was incorporated or formed under the law of Gibraltar, or its central management and control is exercised in that State, Gibraltar. So in the case of a Part IX company, or a company that has been inwardly redomiciled, its central

management and control may be exercised in Gibraltar, but if it is not exercised in Gibraltar, it would not be caught. In other words, in the case of a company incorporated in Gibraltar, it is caught regardless of where its central management and control is exercised. But if it is a company not incorporated or formed under the laws of Gibraltar, then it is caught only if the central management and control is exercised in Gibraltar. Now these provisions are not made in Gibraltar. These are provisions that, as the hon Member will see, we have lifted from the UK, I do not know if the UK probably does not have an equivalent of Part IX. It may have redomiciliation, I do not know.

But in any event, turning to some of the hon Member's other points, on the question of the two year delay and the fact that lawyers may have been misquoting the legal position, the hon Member rightly himself identifies that there has been no legal consequence because the law of Gibraltar was the regulation from the moment the regulation came in, because unlike a directive which requires to be made law of Gibraltar by this House, whatever the EU issues by way of regulation does not, because that has automatic legal effect on the entire territory of the Community. I have not heard of any case in which a member of the Bar has failed to take cognisance of what the correct law of the land is. That is what lawyers are trained for. It was not done in order to create a trap for lawyers, but when there is pressure on the Government's legislative drafting resources, and there are things which we have to do which place those resources under strain, which do affect what the law of Gibraltar is, it is almost understandable that items of legislation that do not actually affect what the law of Gibraltar is just slip down the priority list. Nothing, well very little of what we are doing here today, actually changes the law of Gibraltar. It really is just bringing our Statute, making it consistent with what is already overriding law, and overrode our Ordinance, namely this overriding EU Regulation.

So whilst I accept that in an ideal world it might have been done on a more timely basis, I think when one has a small administration like Gibraltar, even a disproportionately large

drafting resource, I mean Gibraltar has per capita a much larger legislation drafting resource than other Member States of the European Community. But it is really not surprising that things that do not affect the law sort of slip down the list of priorities. There is however one suggestion which has come to us from the Bar only last week. Therefore it was too late for us to incorporate it into the Bill, and which I think would be a help to whatever lawyer the hon Member had in mind as not being very heartened doing his homework. That is that it would be helpful if the texts of the Regulation of the Brussels Convention, and indeed of the Lugano Convention, were set out in Schedules to this Bill. So that when lawyers of the sort that the hon Member may have had in mind, when he spoke, have to advise clients on this not particularly complicated area of the law, the number of places that they have to have recourse to research is limited to our law. Fine, legislation should be as easy to refer to as possible, and as self explanatory as possible, but we have not wanted to delay this Bill to do that, which is a considerable administrative effort, but we will consider at some future date.

**HON F R PICARDO:**

If the Chief Minister could give way. Hours of litigation fun can be had on the first issue that we discussed, but can I just point out so the Chief Minister might wish to get back to those lawyers who came to him, that the Lugano Convention and the Brussels Convention already appear at the back of our law. They are on page 77 of the reprint that I have got.

**HON CHIEF MINISTER:**

Well there we are, the lawyer that wrote to me making this suggestion, did not even know that it was already there. So I think what is generally required is an all round improvement in the research effort rather than anything else. I do think that the hon Member partly misunderstood what I said about the application to the UK being new. I had not intended to suggest

that the previous regime did not apply bilaterally between Gibraltar and the UK on a separate I think it was then called participating State, or something like that, basis when it was the Brussels Convention. What I had intended to indicate is that this, which is now a Community measure, through the regulation, is also being done bilaterally and on a separate Member State regulation State basis. I had not intended to indicate to the Hon Member that there was any element of novelty in the voluntary application of the regime bilaterally between Gibraltar and the UK. And so it should be. I think it would be wholly inappropriate that matters of cooperation and the enforcement of judgments and the recognition of judgments should be easier and more fluid between Gibraltar and say Germany, than it should be between Gibraltar and the United Kingdom. So it is for good reason that it has always been so. So I am glad, which I deduce from the points which he has made, that the Hon Members regard this legislation as uncontentious and will be supporting it.

Question put.                      Agreed to.

The Bill was read a second time.

**HON CHIEF MINISTER:**

With the leave of the House, if I can move the motion in the same terms, given that this is uncontentious legislation, that we can take the Committee Stage later today if there is time.

Question put.                      Agreed to.

## **THE INSURERS (REORGANISATION AND WINDING UP) ORDINANCE 2004**

### **HON CHIEF MINISTER:**

I have the honour to move that a Bill for an Ordinance to implement in the law of Gibraltar Directive 2001/17/EC of the European Parliament and the Council on the reorganisation and winding-up of insurance undertakings, 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, directive 2001/17/EC of the Parliament and the Council, on the reorganisation and winding up of insurance undertakings, provides for coordination within the EC in relation to winding up and reorganisation of insurance companies. The life insurance and non-life insurance directives provide for a single passport of authorisation. It is therefore appropriate that any winding up proceedings or reorganisation measure taken in order to avoid a winding up, should be governed by the law of the home State of the insurance company. The Bill follows closely the UK regulation implementing this directive.

Section 2 provides definitions. In particular, it should be noted that proceedings or reorganisation measures commenced before 20<sup>th</sup> April 2003, which is when the directive entered into operation, are to be recognised in Gibraltar. Sections 3 and 4 are the core of the Bill. Section 3 prevents a Gibraltar court making a winding up order in respect of an EEA insurer. That is to say an insurer whose head office is in an EEA State but which

has a branch in Gibraltar. That is the core principle that winding up measures and reorganisation measures should be taken in the home State and not in any host State of any branch. That is the underlying principle of this Bill. Except where proceedings were commenced, or a provisional liquidator was appointed before the Ordinance comes into operation. In fact, I believe there are none. It should be noted that this date will be when the Ordinance is passed. Although the directive entered into force on 20<sup>th</sup> April 2003, we cannot undo proceedings already commenced. So any measures taken in another State, which will be recognised in Gibraltar, will continue in tandem with the Gibraltar proceedings. As I understand it, we believe there are none, so that is just in theory.

Section 4 provides for an EEA insolvency measure to have effect in Gibraltar. An EEA insolvency measure is one made under the directive in the home State of the insurer. Further, a competent officer or a qualifying agent may exercise in Gibraltar powers he would have had in his home State, provided that he follows certain Gibraltar procedures. The likelihood is that a qualifying agent will be appointed in Gibraltar by the competent officer, to act on behalf of the competent officer in relation to the Gibraltar branch. In other words, if there is in the home State a reorganisation measure, the insurance company would appoint a competent officer, who then has authority in all the Member States in which that company has a branch. He can either exercise that authority himself, or he can appoint an agent, a qualifying agent, to exercise them for him.

Sections 5 to 10 deal with notification and publication in respect of winding up proceedings in relation to a Gibraltar insurer. The Commissioner of Insurance will notify all the other EEA regulators of any appointment of a liquidator, or any decision and the general effect of the decision, when it is a Gibraltar insurer, obviously. For instance, appointments of a liquidator will have the effect that any creditors' rights are temporarily frozen and the creditor must prove his claim in the liquidation. The Commissioner of Insurance will inform his counterparts of this. The liquidator must then inform all known creditors in the EEA, of

the effect of the proceedings on their rights in the liquidation. In particular, how to prove their claims. A creditor in the EEA may use his own language in submitting his claim, with the heading, only the heading, being in English. It will then be for the liquidator in Gibraltar to translate the details of the claim into English. The liquidator must send a report, at least every year, or more often if the order appointing him so provides, to all known creditors on how the matter is progressing. If he fails to do so, he is guilty of an offence. All notices may be sent by post or by electronic means if an e-mail address has been provided by the creditor, or the liquidator reasonably believes that an e-mail will reach the creditor. Further, with the agreement of the creditor, notification may be by the creditor himself accessing a website set up for the purpose. Finally, information received by the Commissioner of Insurance is made subject to Schedule 16 of the Insurance Companies Ordinance, which prohibits unauthorised disclosure of information.

Sections 11 to 12 deal with priority of payments to creditors. Depending on the type of insurance business carried on, priority is generally given to preferential debts. That is to say, tax, social security, salaries and contributions to pension schemes. That is an option that we have exercised, set out in the directive. The directive does not require preference priority to be given to these preferential debts, but it allows Member States to give priority to such preferential debts. Since we have a tradition in our existing legislation, of giving priority to these sorts of things, we thought that for consistency we would exercise the option in that way. Then insurance debts and then any others, that is the order of priority. There are specific provisions made for ranking of debts in relation to long term and general business. Essentially, assets relating to long term business, are to be used to settle preferential debts, followed by long term debts. General assets then follow the same priority. The unsecured creditor is left at the end of the queue, but this represents no change in the existing system.

Sections 23 to 33 are concerned with the applicable law in the case of winding up. Section 23 provides that the law of Gibraltar

applies to procedural matters and contractual matters. In particular, the Protected Cell Companies Ordinance is not specifically referred to in section 23, but it forms part of the general law of Gibraltar, which is what there is a reference for in section 23, relating to the assets which form part of the estate of the affected insurer. So hon Members might see that paragraph 3(a) will be subject to the Protected Cell Companies Ordinance and therefore only the assets of the protected cell would be affected. Further, a protected cell company set up under contract, rather than under the Ordinance, will be protected by paragraph 3(e). Sections 23 to 33 deal with the relevant law to apply to employment contracts, rights in rem, reservation of title agreements and such, which essentially fall to be dealt with under the law of the State, where that relationship arose, the property situated or the account or register is kept.

Sections 34 and 35 provide for the Ordinance to apply to a Gibraltar branch of an insurer whose head office is outside the EEA. Although where such an insurer has branches in other Member States, all the branches in each Member State will be treated separately. The Commissioner of Insurance and any liquidator appointed to branches in those various EEA States, will attempt to coordinate their actions with the authorities in the other Member States concerned in such a case. I will inform the House that the industry has been consulted, is content with the terms of the Bill and the Bill goes no further than the directive requires. I commend the Bill to the House.

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

#### **HON F R PICARDO:**

Mr Speaker, I will start at the end to say that I am very pleased that the provisions of this directive are welcomed by the industry. This is an industry in respect of which the Chief Minister and I had a bit of an exchange during the course of our budget debate. Leaving well enough alone, includes ensuring that our legislative copy book is up to date in relation to the issues that affect this

particular industry, and I am very glad to see that we are doing that. So this Bill will have a fair wind in this House.

I think that one of the issues that is highlighted by this Bill, dealing as it does with the reorganisations and administrations in other Member States, of insurance undertakings that have their head offices there, is that there are no provisions in Gibraltar for reorganisation and administration of companies. I think that that is something that we need to look at, at some stage fairly soon, if the Government are not already looking at it. Certainly it will be an issue that will be very welcome by practitioners in the field of liquidations, where our Companies Ordinance has fallen way behind the provisions of the English Insolvency Acts. Really we need, still, the appointment of liquidators and there is no provision for voluntary arrangements, as I see that there is a reference in the legislation now.

Mr Speaker, the importance of industry specific provision for insolvency, is perhaps evidence of the fact that the Framework Insolvency Directive remains, as I understand it, still caught up with the Spanish failure to accept the Gibraltarian competent authorities. I think it is important to highlight that. Industry specific provisions for insolvency become all the more important because of that, and that just serves to highlight how, I was going to say bloody minded but that is perhaps not the most parliamentary term, our neighbours can be when it comes to Gibraltar, even if that creates a problem for undertakings throughout the rest of the European Union. I also welcome the provisions on priority not just because traditionally our law is expressing those terms when it comes to insolvency, even under the existing provisions in the Companies Ordinance, but because that will have the effect of ensuring that certain debts, which all of us agree should have priority, should be paid first in time and those will be Gibraltarian debts in relation to these insolvencies. So that is particularly welcome. I have nothing else that I can usefully add.

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

I have nothing to say in response directly arising from the hon Member's comments on this Bill, but I will indicate to him that the Government are indeed minded and are engaged in an updating of our laws, to allow for companies being placed into administration, as opposed to having to be liquidated. Indeed, we are also looking and updating Gibraltar's personal bankruptcy legislation, in addition, to bring both up to date at the same time.

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 TAXATION (SAVINGS INCOME) ORDINANCE 2004**

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

I have the honour to move that a Bill for an Ordinance to transpose into the law of Gibraltar Council Directive 2003/48/EC of 3<sup>rd</sup> June 2003 on taxation of savings income in the form of interest payments, 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, I have to admit that this is a piece of legislation that I move in this House with a heavy heart and a degree of reluctance. Not because we would wish to avoid or be exempt from a measure that has Community-wide application but because we have been treated, I believe, unfairly compared not to other Crown Dependencies and Overseas Territories about which it may be possible to say well they are not in the EU and therefore they are in a different case, but because we have been treated unfairly compared to three full Member States of the European Community. Here we are passing legislation which sets out in gory detail the advantages that have been given to Austria, Luxembourg and Belgium, when in Gibraltar, we would dearly have loved and we had sought to be given the same transitional measure, and the word transitional is something of a misnomer in the directive and in the legislation, because transition is normally fixed in time. This transition is not fixed in time. The transition in favour of Austria, Luxembourg and Belgium, to choose on a client by client basis whether they withhold tax or provide information, exists and persists until Switzerland and other countries agree to exchange information under the OECD Code, on a non request basis. Switzerland, which is one of the 26 full members of the OECD, has not even agreed to sign up to the report on harmful tax practices. So they are much more than seven years away from agreeing to exchange the information. Indeed, this point may become relevant in certain circumstances. Therefore, I think it is important to record in Hansard on the debate in this Bill, although we have had occasion to mention this issue in the House, that I think the United Kingdom has failed to treat Gibraltar even handedly, when it comes to protecting our particular type of finance centre.

However, having turned the whole EU regime on its head to protect London's type of finance centre through the bond market because hon Members will remember that the original EC model for this, was the so-called co-existence model, when all Member States were free to accept to choose between, and that did not suit them for their bond market, so they get the whole of the Community to accept the exchange of information model and then at the eleventh hour give three Member States the right to choose, that we would all have had, had we kept the co-existence model in the first place. It is for good reason that Gibraltar seeks and sought to have its Finance Centre protected from this directive. It is the same reason that has caused Austria, Luxembourg and Belgium to seek it for themselves. That is that their finance centres are set up, doing business much more sensitive to exchanging information than the City of London does. That is the same reason why Luxembourg, Switzerland, Liechtenstein, Andorra, San Marino and all the other sequencing countries as they are called, also held out and obtained the co-existence model. So it is not us who are inventing a sensitivity to exchange of information, all our competitors in Europe have the same sensitivity and have had them protected. We asked the United Kingdom to protect our industry's sensitivity to exchanging information, in the same measure as the United Kingdom was willing to concede to the Crown Dependencies, to the Caribbean territories and to three full partners in the European Community, and they persistently and consistently, without good reason, declined to do so. The reason given was that having argued for the elimination of withholding tax in favour of exchange of information, they now did not want to argue in favour of it for Gibraltar. My view, that reasoning, if ever it was a good reason, which I think it never was, but if ever it was a good reason, went out of the window when the negotiations started to give precisely that choice to the Crown Dependencies and to the Caribbean overseas territories. So the UK did not seem to blush then and that is what it should have done.

Mr Speaker, the policy behind the directive is simple enough. The objective of the directive is that savings income in the form

of interest payments from debt claims, constitute taxable income, or should constitute taxable income for residents of all Member States. And that the directive is intended to enable savings income in that form, made in one Member State to beneficial owners of the income who are individuals resident in another Member State, should be made subject to effective taxation in accordance with the laws of the latter's Member State. The paying agent is defined as the economic operator, who pays the interest to or secures the payment of interest for the immediate benefit of the beneficial owner. So that if the paying agent is in Gibraltar, it matters not that the debt itself, which attracts the interest, is based outside of Gibraltar. What is relevant is not the domicile of the debt, so to speak, but the residence of the paying agent of the interest. The directive requires paying agents to disclose interest payments made to beneficial owners who are resident in another Member State. The proponents of this measure take the view that exchange of information between tax authorities is the best way to ensure that individuals pay the right amount of tax on cross-border income from savings. That is unless one's name is Belgium, Luxembourg or Austria. The practical effect of this will be, that it would be incumbent on beneficial owners to maximise their disclosures to their home tax authorities, or face sanctions. This is because the tax authorities of the beneficial owner's home State, will receive information about savings income to the person concerned, that he may receive in Gibraltar. This will be supplied by the competent authority of the country in which the paying agent is based, so where there is a paying agent based in Gibraltar, the Gibraltar competent authority will have to inform, automatically, the competent authority in the Member State where the recipient, the beneficial recipient, is resident so long as another EU country does not have to do it when the recipient is resident in a non-EEC country. The home tax authority will then be free to compare the information with that which the person has actually disclosed in his tax return and hence it becomes important for that purpose. The Bill follows the provisions of the directive to the letter and where there are options, we have taken the option that best suits the interests of Gibraltar.

Clauses 1 and 2 constitute standard preliminary provisions. Clause 3 transposes article 2 of the directive. Clause 3(1) defines the beneficial owner for the purposes of the Bill. Clause 3(2) states that where a paying agent has information suggesting that the recipient of the interest payment may not be the beneficial owner, it should take reasonable steps to establish the identity of the true beneficial owner. Clause 4 transposes article 4 of the directive. Clause 4(2) defines the paying agent as the economic operator who actually pays the interest to, or secures the interest for, the beneficial owner. Article 4(3) identifies certain entities, which have to be disclosed under the directive. If an economic operator believes, on the basis of official evidence presented by the entity, that it has to be disclosed, and the entity is established in another Member State, it must disclose details of the entity's name and address, plus the interest paid, to their tax authority. This information is then passed on to the competent authority in Gibraltar. This information is then passed on by the competent authority in Gibraltar to the tax authority where the entity is established. These reportable entities are deemed to be paying agents on receipt of interest payments. Clause 4(6) allows such entities the option of being treated as UCITS, that is undertakings for collective investment in transferable securities, for the purposes of the Bill. Article 4(4) of the directive requires Member States to provide rules to ensure that entities, deemed to be paying agents on receipt of interest, receiving payments from economic operators based in the same country, also properly fulfil any obligations they may have as a deemed paying agent. These rules are set out in clause 5. Article 4(5) of the directive provides that two types of Finnish and Swedish legal persons, are to be treated as paying agents on receipt. This is transposed by clause 4(4).

Clause 6 transposes article 5 of the directive. This defines the competent authority for the purposes of this directive. This definition is necessary for interpreting articles 3, 9 and 13. The hon Member will see that we have reserved to a Minister, I do not know it may even be the Chief Minister, because we have not yet decided and we want to consult with the industry, as to whether they regard it as an advantage that our competent



authority should be our tax authority, or whether perhaps they think it should be some other authority. For example, the Chief Secretary or some other authority. When we have finished our consultation with the industry on that point, we will designate one or the other. Clause 7 transposes article 6 of the directive. Clause 7(1)(a) to (d) define the four types of interest payments which are caught by the Bill. Clause 7(4) and (5) provide rules to help paying agents identify what amount to report, if they do not have the detailed information to allow them to identify the precise amount of interest involved. Clause 7(2) limits the definition of interest payment to interest received by an entity that is considered to be a paying agent on receipt of the interest. Clause 7(3) establishes the possibility of excluding undertakings that invest predominantly in assets other than debt instruments. Clause 7(7) changes the debt equity ratio used to define a reportable fund from 1<sup>st</sup> January. That is a reportable fund when there is a fund that invests partly in debt and partly in non debt investments, what proportion has to be in debt before the whole fund is reportable. That figure, which I think starts at 40 per cent, reduces to 25 per cent in January 2011. Clause 7(8) specifies how the debt equity ratio is to be determined. Article 6(5) of the directive gives Member States the option of requiring paying agents in their territory, to annualise the interest over annual periods for the purposes of reporting. That is when one has a fund that rolls up the interest, there is an option which we have not taken, to require the fund, for reporting purposes, to annualise the interest.

Clause 8 transposes article 3 of the directive. This provides the rules by which paying agents are to identify beneficial owners. Clause 8(2) sets out the minimum requirements for establishing the identity of the beneficial owner. Different rules apply where the beneficial owner has a contractual relationship with the paying agent before 1<sup>st</sup> January 2004 or after 1<sup>st</sup> January 2004. That is to say the steps that have to be taken to try and identify the identity of the beneficial owner varies depending on when the contractual relationship began. Clause 8(5) sets out the minimum requirements for establishing the residence of the beneficial owner. Again, there are different rules applicable,

depending on whether the contractual relationship existed before 1<sup>st</sup> January 2004. Clause 9 transposes article 8 of the directive. Clause 9(1) sets out the information the paying agent must report. Clause 9(2) sets out the details to be reported by the paying agent, concerning the different categories of interest payment. Clause 10 transposes article 9 of the directive. Clause 10(2) sets out the procedures and article 9(2), the timetable for exchange of the reported information between competent authorities. Clause 10(3) transposes article 9(3). The effect of this is that all the provisions, including the confidentiality provisions of the Mutual Assistance Directive, save for article 8, apply to the exchange of information under this directive. Article 8 of that directive only allows the provision of information on a reciprocal basis. Clause 11 transposes article 13(2) of the directive. Article 13(1) only applies to Belgium, Luxembourg and Austria, and they are the special deal that was done for them.

In essence it provides that Belgium, Luxembourg and Austria must set up procedures to allow beneficial owners to opt not to pay withholding tax, either by authorising the paying agent to report the information, or by providing a tax certificate drawn up by their competent authority. Article 13(2) sets out what a valid certificate from the competent authority of the Member State of the beneficial owner must contain. Clause 12 transposes article 15. Clause 12(1) provides that certain negotiable debt securities shall not be considered as debt claims within the meaning of the Bill for the transitional period, or until 31<sup>st</sup> December 2010, whichever is the earlier. The ensuing provisions of the clause put in place different rules for Government and Government-related entity bonds. Clause 13 enables the Chief Minister to make regulations to the enforcement of the Bill. Clause 14 is a separate regulation, making power to be used to implement arrangements made by the EU with third countries, making equivalent provision to this Directive. Article 14 of the Directive imposes a general obligation on the Member State of residence of beneficial owner to eliminate any double taxation which may result from the imposition of this withholding tax. No specific implementation of this article was considered necessary, in as much as we already comply with it by virtue of rule 26 of the

Income Tax (Allowances, Deductions and Exemption) Rules 1992.

Finally, the Schedules reproduce relevant provisions of the directive for greater ease of reference by the public. I commend the Bill to the House.

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

**HON F R PICARDO:**

Mr Speaker, I have already highlighted in my budget address, how we feel about the failure to secure these derogations for Gibraltar that the Chief Minister has outlined, and where we feel that national, political responsibility for that must lie. But I will not take that any further at this stage because I think the whole House will share the Chief Minister's view that we will legislate in relation to this directive with a heavy heart and a degree of reluctance. I think I am using his words there. Especially, in light of how we can see our competitors, even our European competitors, positioning themselves. Austria, which is the example the Chief Minister has highlighted with Belgium and Luxembourg, not just in relation to the withholding tax option, but also in relation to the lowering of its corporate tax rates to 25 per cent, which I also had occasion to highlight last week. I think it is fair to say that the whole House will join in, what in effect is, a condemnation of the way the United Kingdom has treated Gibraltar in relation to this directive.

Mr Speaker, I also heard the Chief Minister say that he was talking about Gibraltar having, to use his words, seeks or sought, seeks I think is an encouraging word to use because we were told during the budget debate that potentially, the transposition will take effect perhaps not in January but in July of next year, and that still gives us a period of time during which the Chief Minister can say that this is causing him a national political problem, because he is being told it is his fault, and he can go to the UK to tell them to stop interfering in our national politics by

giving him the derogations that everybody else has been able to have. Mr Speaker, I want to highlight two particular aspects of the directive and the Bill.

The first is that specific reference in article 7 of the directive to Gibraltar, although the word Gibraltar is not mentioned. We see in the directive that article 7 says, territorial scope, this directive shall apply to interest paid by a paying agent established, and the interesting words come now, within the territory, singular, to which the Treaty applies, by virtue of article 299 thereof. We do not frequently see that language. I think it is almost unprecedented and when directives do not mention the 299 territory, we have legislated in this House to give them effect as if that were necessary. Perhaps we can now take the view that when they do not mention us directly, we do not have to transpose. But it seems, certainly, a very particular and precise decision to use that language, designed to bring Gibraltar, not just within the UK's definition of what we should be doing, but within the whole Council's definition, the whole Commission's definition, of what we should be doing so that there is no way out without Council unanimity. And that certainly bears highlighting, I think adds to the way that the Chief Minister has highlighted, we have been shabbily treated by the United Kingdom, and that is my word not his, in relation to this directive.

Mr Speaker, the other point I want to deal with is a fairly technical point. It may be that we want to get on to it at the time of Third Reading, but I am looking at section 7(1), and reading it with section 7(5). At section 7(1)(d) when we are dealing with the definition of interest payments, we read that interest payments include income realised upon the sale, refund or redemption of shares, or units in undertakings and entities set out in paragraph (c)(ii), and those are UCITS in effect. In 7(5) in respect of interest payments described in 1(d), where there is no information concerning the percentage of assets, the percentage shall be considered to be above 40 per cent, or where the paying agent cannot determine the amount of income realised by the beneficial owner, the income shall be deemed to correspond to the proceeds of sale. That is not intended, as I read it, neither is

any part of the directive intended, to amount to a capital gains tax. But I think that mischievously read, because the word shares appears first, it could be read as income realised upon the sale, refund or redemption of shares, or units in undertakings and entities which are UCITS. For that reason what I would propose to the House, and perhaps the Chief Minister could consider this issue between now and Third Reading, although this wording comes directly from the directive, and it comes directly from article 6(1)(b), where the definition of interest payments is, I think we should not change our obligations in any way so as to put the UK in failure to comply with the directive. But simply clarify the wording by turning 7(1)(d) into this, income realised upon the sale, refund or redemption of units or shares in undertakings and entities set out in paragraph (c)(i). I think that would put even beyond the most mischievous reading, which perhaps is my reading, of what this amounts to and that it is certainly not a capital gains tax on the sale of shares so that it would be impossible to read the shares there, simply as shares at large in any, for example, quoted company. It would be very clear, because quoted companies do not have units, they only have shares, that they would only be shares in UCITS. That is all I think is possible to say at this stage, except to say that of course, the House will certainly approach this piece of legislation with trepidation.

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

Mr Speaker, I think the hon Member is wrong on his first point. I think he has failed to take note that article 7 refers to article 299, not article 299(4) and therefore, it is not Gibraltar specific. The territorial scope clause simply says that it applies to the whole of the territory to which the Treaty applies, by virtue of article 299. Article 299 in its various parts, one, two, three, four, five, is the whole of the Community including the Member State, which are covered by 299(1), Faroes or something 299(2), I cannot remember who is 299(3), Jersey and Isle of Man I think are 299(5). To mean what the hon Member thought it meant, it

would have had to read article 299(4) thereof, and that is not the case.

I hope the hon Member does not tighten up his own belt and braces as tightly as he is suggesting that we should tighten up our belts and braces in this piece of legislation. I would be terribly worried if the hon Member could not easily and properly breathe. Of course the essence of it is, the essence of the directive is, that shares and units in funds are to be treated as income when it is just the way of concealing income. For example, through roll up funds and any other type of fund that postpones, defers or the payment of interest. So there is no doubt that those shares or units are to be treated on sale, or on redemption, or on expiry, as income. I am not sure that the concern that the hon Member's suggestion is intended to safeguard, arises at all. In fact I am certain it does not. I think it is a case of him tightening his belt and his braces too much. Nor do I think that, switching the order of the words, does any safeguarding. But if it makes him happier to change the order of the words, I mean it cannot do any harm, whether we speak of income realised upon the sale or redemption, refund or redemption of shares or units, or whether we speak of units or shares, seems to me to be not germane to the proper interpretation of those words, but nor do I think that the proper interpretation of those words is crucial in the way that the hon Member thinks it might be. But I am quite happy, it does no harm, it certainly does not render the implementation suspect, so if he wants to move that amendment.

Question put.

Agreed to.

The Bill was read a second time.

**HON CHIEF MINISTER:**

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

Question put.                      Agreed to.

**THE EMPLOYMENT ORDINANCE**

**HON DR B A LINARES:**

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

Question put.                      Agreed to.

**SECOND READING**

**HON DR B A LINARES:**

I have the honour to move that the Bill be now read a second time. Mr Speaker, the purpose of this amendment to the Employment Ordinance, which I announced during my budget speech only recently, is to introduce the principle of constructive dismissal in our local legislation. We do so by introducing a new paragraph (c) to section 64 subsection (2) of the Employment Ordinance. The paragraph follows the UK's legislation in this matter, contained in section 95(1)(c) of the Employment Rights Act 1996. We have chosen to proceed in this way in order to enable Gibraltar employees to benefit from the wealth of case law which has been built up on this issue in the UK's courts and tribunals.

Mr Speaker, the House will recall that at an earlier stage the Chief Minister stated that the Government proposed legislation would be submitted to a process of consultation with relevant parties, and this was done at a meeting on 22<sup>nd</sup> April this year, of the Labour Advisory Board, which represents the social partners, the Chamber of Commerce, the Federation of Small Businesses, the Transport and General Workers Union, Prospect and the Gibraltar Trades Council. Following this process of consultation the Government are now ready to proceed with this piece of legislation which, in a broad social context, is an important element in establishing the rights and the protection of working people in their contractual relationships with their employers.

Constructive dismissal invariably happens where the employer has made the employee's life very difficult and the employee feels that they cannot remain in their job, although he has not been formally dismissed. When this happens, the employee's resignation is treated as an actual dismissal by the employer, so the employee can claim unfair dismissal. This situation can arise, for instance, when the employer commits a fundamental breach of a term in the employment contract, or the employer's conduct is such that an employee could not reasonably be expected to continue working. It is in this spirit that the Government are pleased to propose that the principle of constructive dismissal be incorporated into the Employment Ordinance.

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

**HON F R PICARDO:**

As I have already indicated publicly, this Bill is very, very welcome in this House by the Opposition Members. It is in terms identical to the amendment which I moved in relation to the Third Reading of the Employment (Amendment) Ordinance which the Chief Minister brought, but did not proceed with, and it is something which is going to be very welcome by employees who now find themselves in the situations in which the Hon Dr Linares

has described, and without a remedy as a result of the clarification by the Court of Appeal of what the statutory provisions in Gibraltar actually did cover, despite contrary practice earlier in the Industrial Tribunal which had been acting as if these provisions were in place, if not by statute certainly by common law. I think the important issue to take now in relation to the legislation, short of welcoming this amendment, is to say that there are other provisions of amendment which are required to our Employment Ordinance and which the Chief Minister provided for in his earlier Employment (Amendment) Ordinance, which need to also come before us as soon as possible so that the Equal Opportunities Ordinance is given full effect, full tooth to, so to speak, in terms of what the Industrial Tribunal can and cannot do, and can and cannot deal with. I think, at the moment, we are left with an element of lacuna. But in relation to this particular provision, it is extremely welcome and I commend the Bill to the House. I know that all the Trade Unions have been wanting this, that most of the employers are not afraid of it, certainly all the Trade Unions that I have consulted with, and I think I have consulted them all, are in favour, including the GTA, the Teachers Union, which I do not think is represented in the Labour Advisory Board, but which has indicated in writing to me already that they are very much in favour. So it is a Bill that is going to have more than just a fair wind in this House.

**HON DR B A LINARES:**

Mr Speaker, just simply to say that I am glad this piece of legislation meets with the consensus of the House. The question of pending amendments to the Employment Ordinance, flowing from the Equal Opportunities Bill, I did mention in my budget speech drafting is at work at the moment to introduce, particularly in the areas of age and disability discrimination. The GTA Teachers Union is a member of the Gibraltar Trades Council, so they are really represented formally in the Labour Advisory Board.

Question put. Agreed to.

The Bill was read a second time.

**HON DR B A LINARES:**

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

Question put. Agreed to.

**THE WEAPONS OF MASS DESTRUCTION ORDINANCE 2004**

**HON F VINET:**

I have the honour to move that a Bill for an Ordinance to make provision for the purposes of prohibiting the development, production, acquisition and possession of certain weapons of mass destruction; implementing in Gibraltar the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and their Destruction, signed at Washington, London and Moscow on 10<sup>th</sup> April, 1972 and the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, signed at Paris on 13<sup>th</sup> January 1993; and for connected purposes, be read a first time.

Question put. Agreed to.

## SECOND READING

### HON F VINET:

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill before the House, makes provision prohibiting the development, production, acquisition and possession of certain weapons of mass destruction. The Bill makes equivalent provision to Part 6 of the Anti-Terrorism Crime and Security Act 2001 of the United Kingdom. Part 6 of the Act deals with weapons of mass destruction. It amends the Biological Weapons Act 1974 and the Chemical Weapons Act 1996, and provides for the control of nuclear weapons. The Biological Weapons Act 1974 was extended to Gibraltar by the Biological Weapons Act of 1974 (Overseas Territories) Order 1975. This Order in Council is required to be revoked at the time of coming into operation of this Ordinance. Part 2 of this Bill implements the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, signed at Washington, London and Moscow on 10<sup>th</sup> April 1972, which came into force on 26<sup>th</sup> March 1975. This part of the Bill makes equivalent provision to the Biological Weapons Act 1974 (Overseas Territories) Order 1975 and the Biological Weapons Act 1974 as amended by the Anti-Terrorism, Crime and Security Act 2001. Part 2 of the Bill prohibits the development, production, stockpiling, acquiring and retaining of any biological agent or toxin that has no justification for peaceful purposes. In the same way, it prohibits the transfer of any biological agent or toxin to another person, or entering into an agreement or making arrangements for a third person to do so. The penalty for violation has been prescribed for life imprisonment. The prohibition covers not only Gibraltarians but also any person normally resident in Gibraltar.

Part 3 and the Schedules to this Bill implement the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, signed

at Paris on 13<sup>th</sup> January 1993, which came into force on 29<sup>th</sup> April 1997, insofar as legislative measures are concerned. Part 3 makes equivalent provisions to the Chemical Weapons Act of 1996, as amended by the Anti-Terrorism, Crime and Security Act 2001. Chemical weapons are specified in section 9 and it has been made clear that an object is not a chemical weapon, that their use or intended use is only for permitted purposes. Permitted purposes are peaceful purposes, purposes related to protection against toxic chemicals, legitimate military purposes and purposes enforcing the law. The use, development, production, having in possession, participating in the transfer of, or engaging in military preparations of chemical weapons are prohibited by virtue of sections 10 and 27.

The Governor has been given a wide range of powers for the purposes of this Ordinance. He has been given the powers of dealing with an object that has been suspected as a chemical weapon and order for its destruction. He has also been made a licensing authority under this Ordinance. The Governor may issue an authorisation to carry out an inspection for the purposes of this Ordinance.

Schedule 4 reproduces the Annex on implementation and verification to the Chemical Weapons Convention, which will be very useful for implementing that Convention. Part 4 of this Bill makes equivalent provisions to Part 6 of the Anti-Terrorism, Crime and Security Act 2001, so far as that Part provides for nuclear weapons. The causing of a nuclear weapon explosion, development, production, having in possession of, participating in the transfer of, or engaging in military preparations of nuclear weapons, are prohibited by virtue of section 43, except in the cases authorised by the Governor under section 44. Section 5 of the Bill permits the Attorney General to institute proceedings for biological weapons. Section 39 allows the Attorney General to institute proceedings for chemical weapons. Section 49 allows the Attorney General to institute proceedings for nuclear weapons in cases involving the movement of such weapons across the border.

Mr Speaker, the Bill will help the control of any development, production, acquisition, transfer or having in possession of biological, chemical and nuclear weapons in Gibraltar, and fulfils Gibraltar's international obligations under the above Conventions. I shall be moving some amendments to the Bill during Committee Stage, I believe they have already been circulated to the Members of the House. These are very minor in nature, mainly dealing with numbering issues and with correcting the wording of the headings of certain clauses. They do not affect the substance of the Bill in any way. I commend the Bill to the House.

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

Question put.            Agreed to.

The Bill was read a second time.

**HON F VINET:**

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

Question put.            All agreed.

**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 Weapons of Mass Destruction Bill 2004;
- (2) The Criminal Justice (Amendment) Bill 2004;
- (3) The Civil Jurisdiction and Judgments (Amendment) Bill 2004;
- (4) The Insurers (Reorganisation and Winding Up) Bill 2004;
- (5) The Taxation (Savings Income) Bill 2004;
- (6) The Employment Ordinance (Amendment) Bill 2004.

**THE CRIMINAL JUSTICE ( AMENDMENT ) BILL 2004**

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

**Clause 2**

**HON CHIEF MINISTER:**

In clause 2(8)(b) which is at page 403, but actually it is over the page on 204 that is relevant, I wish to move an amendment. The last two words "this Ordinance", should read "the Money Laundering Directive". Because it refers to a credit institution in another country, and in another country it would not be subject to this Ordinance, it would be subject to the same regime under the Money Laundering Directive.

**HON F R PICARDO:**

Can I just on that say that it may be that I have not found it, but I cannot find the definition of the Money Laundering Directive. It is clear that it is Directive 91/308 but we now have another directive which is also a money laundering directive, which in effect amends 91/308. In other circumstances like this we have a definition in the principal Ordinance which we do not have in this principal Ordinance, of the directive for example, which in this Ordinance should be the Money Laundering Directive which says

Directive 91/308/EEC and any other directives which amend it. We have not got that here. The definition, in particular, of credit institution is actually in the new directive, in the way that it amends the first directive. So perhaps we could consider including such a definition. That is not the only place where the words “Money Laundering Directive” appear. But perhaps I am about to be helped on that.

**HON CHIEF MINISTER:**

Yes, the hon Member I am sure is not forgetting that this Bill is amending the principal Ordinance. The principal Ordinance has a definition of “the Money Laundering Directive” in section 6(4).

**HON F R PICARDO:**

The Chief Minister is right. I looked for it at the beginning and at the end, I did not look for it in the middle. I am obliged. But perhaps now we need to change that definition to say “and any Directives which amend it”.

**HON CHIEF MINISTER:**

Well, “as amended from time to time”. So that would be an amendment not to the Bill, so we would have to amend the Bill to include a new clause to amend the definition of “the Money Laundering Directive” in section 6(1) to add the words “as amended from time to time”.

**HON F R PICARDO:**

I will move that amendment.

**HON CHIEF MINISTER:**

Mr Chairman, the hon Member’s amendment might be, to add a new clause 3 to the Bill to read as follows: “in section 6(1) of the principal Ordinance, amend the definition of “the Money Laundering Directive” to add at the end the words “as the same may from time to time be amended”.

There is another amendment to clause 2. A small amendment to clause 2 arising from a replication of paragraph numbers in clause 2(8), clause 2(8) appears twice. There is a clause 2(8) on page 403 and there is another, clause 2(8) again appears on page 404 and the amendment is that the second reference to sub-clause (8) on page 404, should become (9) and therefore present (9) and (10) become (10) and (11). Are the hon Members with me? There are two clauses numbered (8).

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

**New Clause 3**

**HON F R PICARDO:**

In section 6(1) of the Principal Ordinance amend the definition of the Money Laundering Directive to add at the end “ as the same may from time to time be amended.”

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

**The Long Title** – was agreed to and stood part of the Bill.



**THE CIVIL JURISDICTION AND JUDGMENTS (AMENDMENT)  
BILL 2004**

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

**Clause 2**

**HON F R PICARDO:**

There is no definition which I can find at that caveat, given my experience a moment ago, in the existing Civil Jurisdiction and Judgments Ordinance, of European Court, which appears in the Bill at the new section 39(2). There are obviously two European courts, the European Court of Justice and the European Court of Human Rights. In fact there are two references to European Court. I just wonder whether in fact we would wish to ensure that it is clear that in relation to this particular piece of legislation, the European Court, without having to refer back to the Regulation, is the European Court of Justice. I do not think that it is a major amendment. I think it just serves to clarify exactly which court it is that we are referring to. The reference is at the new 39(2) and also in section 2(4) the new (c) that is being inserted there.

**HON CHIEF MINISTER:**

Mr Chairman, I see the hon Member's point but I do not think it is necessary. The European court is something which is established by a supervening piece of legislation, which is the European Treaty and regulations made under it. It has got a fixed meaning and of course, the European court does not necessarily mean the European Court of Justice. It could be the European Court of First Instance. It is whichever is the appropriate European court under the European court procedures and jurisdiction rules. This is a traditional way of doing it, it is the way it appears in other legislation and the

Government do not think it is necessary to define what is the European court.

**HON F R PICARDO:**

No I will give notice of the amendment because I think I take it differently. I think it would be better to have clarity of definition in relation to the European Court. Obviously that amendment will not have a fair wind but I will put it anyway because I am not happy with it.

**HON CHIEF MINISTER:**

The hon Member may wish to consider that the reference in (c) is to the European Court under Article 68 of the Treaty establishing the European Community.

**HON F R PICARDO:**

There yes, but not in the other one. In the other one it is just the European court.

**HON CHIEF MINISTER:**

Draft it as briefly as possible because it is not going to prosper so do not spend too much time on it.

**HON F R PICARDO:**

I beg to give notice to add the words "of Justice" after the words "European court" in section 39 (2) of the principal Ordinance, which appears in section 2(10) of the Bill.

Question put.            The House voted.

For the Ayes:            The Hon J J Bossano  
                                 The Hon C A Bruzon  
                                 The Hon Dr J J Garcia  
                                 The Hon S E Linares  
                                 The Hon Miss M I Montegriffo  
                                 The Hon F R Picardo  
                                 The Hon L A Randall

For the Noes:            The Hon C Beltran  
                                 The Hon Lt Col E M Britto  
                                 The Hon P R Caruana  
                                 The Hon Mrs Y Del Agua  
                                 The Hon J J Holliday  
                                 The Hon Dr B A Linares  
                                 The Hon J J Netto  
                                 The Hon F Vinet  
                                 The Hon R R Rhoda  
                                 The Hon T J Bristow

Clause 2, stood part of the Bill.

**The Long Title** – was agreed to and stood part of the Bill.

**THE INSURERS (REORGANISATION AND WINDING UP)  
BILL 2004**

**Clauses 1 to 36 and the Long Title** – were agreed to and stood part of the Bill.

**THE TAXATION ( SAVINGS INCOME ) BILL 2004**

**Clause 1**

**HON CHIEF MINISTER:**

Yes Mr Chairman, it is not strictly necessary an amendment, because I am not likely to bring this into effect before I have to. But of course the Bill was drafted and published at a time when the commencement date was going to be 1<sup>st</sup> January 2005, and that is what it says in the commencement clause at 1(2) it says, this Ordinance comes into operation on such date not being earlier than 1<sup>st</sup> January 2005. I suppose we could say not being earlier than 1<sup>st</sup> July 2005, in case I should take leave of my senses in this matter and choose to bring it upon us before time. I think it is just as well to make it clear that it should not be brought into effect before it needs to be brought into effect. I would therefore suggest that we change January to July.

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

**Clauses 2 to 6** – were agreed to and stood part of the Bill.

**Clause 7**

**HON F R PICARDO:**

There were two amendments to move here I think. The first is the simple repositioning of the words “shares and units” where they appear, which is what I suggested during the Second Reading, and which the Government said they would be prepared to agree. 7(1)(d). The next one. I do not think it is necessary to move a formal amendment in relation to either of these, especially the next one, which is that in 7(3), (a) and (b) there is a reference to sub-section 1(c) which I think should be a reference to sub-section (1)(c), that appears four times in those

two paragraphs. If the Chief Minister looks at sub-section (3)(a), there is a reference there to subsection 1(c). That 1 should be in brackets itself, not just the (c). So throughout that paragraph and the next paragraph. I think we can safely call that a typographical error to which I bring the House's attention, rather than move it formally as an amendment.

**HON CHIEF MINISTER:**

Well, Mr Chairman, on the first amendment, the Government will not oppose it. We think it is wholly unnecessary, we think it is completely to no effect. But if he thinks it is to some effect, we will support it on the basis that it can do no harm.

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

**Clauses 8 to 14, Schedules 1 and 2 and the Long Title** – were agreed to and stood part of the Bill.

**THE EMPLOYMENT ORDINANCE (AMENDMENT) BILL 2004**

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

**THE WEAPONS OF MASS DESTRUCTION BILL 2004**

**HON F VINET:**

Mr Chairman, if I may, even before clause 1, in the arrangement of clauses, there is a reference to two number 52s. The second of those will of course read 53.

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

**Clause 2**

**HON F VINET:**

Mr Chairman, in the definition of “Gibraltarian”, it presently reads “means a person who is registered as a Gibraltarian under the Gibraltar Status Ordinance”. That should read the Gibraltarian Status Ordinance.

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

**Clauses 3 and 4** – were agreed to and stood part of the Bill.

**Clause 5**

**HON F VINET:**

Mr Chairman, I would like to move an amendment to the heading of clause 5, the deletion of the word “Customs”. To retain the present wording would not be indicative of the contents of the clause itself. The heading of clause 5 presently reads, “Customs prosecutions for biological weapons” and I moving the deletion of the word “Customs”.

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

**Clauses 6 to 38** – were agreed to and stood part of the Bill.

**Clause 39**

**HON F VINET:**

Mr Chairman, similar to the previous amendment, I move the deletion of the words “Customs and Excise” from the heading of clause 39.

Clause 39, as amended, was agreed to and stood part of the Bill.

**Clauses 40 to 47** – were agreed to and stood part of the Bill..

**Clause 48**

**HON F VINET:**

Mr Chairman, at subsection (6), the first line presently reads, “a person guilty of an offence under subsection (6) is liable”. That ought to read subsection (5), it refers to the previous preceding subsection.

Clause 48, as amended, was agreed to and stood part of the Bill.

**Clause 49**

**HON F VINET:**

Mr Chairman, again the deletion of the word “Customs” in the heading of the section.

Clause 49, as amended, was agreed to and stood part of the Bill.

**Clauses 50 to 57** – were agreed to and stood part of the Bill.

**Clause 52**

**HON F VINET:**

Mr Chairman, the word “its” at the end of the opening line is unnecessary since it appears in each of the following subsections.

Clause 52, as amended, was agreed to and stood part of the Bill.

**Schedules 1 to 4 and The Long Title** – were agreed to and stood part of the Bill.

**THIRD READING**

**HON ATTORNEY GENERAL:**

I have the honour to report that the Weapons of Mass Destruction Bill 2004, the Criminal Justice (Amendment) Bill 2004, the Civil Jurisdiction and Judgments (Amendment) Bill 2004, the Insurers (Reorganisation and Winding Up) Bill 2004, the Taxation (Savings Income) Bill 2004 and the Employment Ordinance (Amendment) Bill 2004 have been considered in Committee and agreed to with amendments and I now move that they be read a Third Time and passed.

Question put.

The Weapons of Mass Destruction Bill 2004; the Criminal Justice ( Amendment ) Bill 2004; the Civil Jurisdiction and Judgments ( Amendment ) Bill 2004; the Insurers ( Reorganisation and Winding up ) Bill 2004; the Taxation ( Savings Income ) Bill 2004; and the Employment Ordinance ( Amendment ) Bill 2004; were read a third time and passed.

### **ADJOURNMENT**

The Hon the Chief Minister moved the adjournment of the House to Monday 26<sup>th</sup> July 2004 at 10.00 am.

Question put                      Agreed to.

The adjournment of the House was taken at 6.00 pm on Thursday 8<sup>th</sup> July 2004.

### **MONDAY 26<sup>TH</sup> JULY 2004**

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 J J Holliday - Minister for Trade, Industry and  
Communications

The Hon Dr B A Linares - Minister for Education, Employment  
and Training  
The Hon Lt-Col E M Britto OBE , ED - Minister for Health  
The Hon J J Netto - Minister for Housing  
The Hon Mrs Y Del Agua - Minister for Social and Civic Affairs  
The Hon C Beltran - Minister for Heritage, Culture, Youth and  
Sport  
The Hon F Vinet - Minister for the Environment, Roads and  
Utilities  
The Hon R R Rhoda QC - Attorney General  
The Hon T J Bristow - Financial and Development Secretary

### **OPPOSITION:**

The Hon J J Bossano - Leader of the Opposition  
The Hon Dr J J Garcia  
The Hon C A Bruzon  
The Hon S E Linares  
The Hon L A Randall

### **ABSENT:**

The Hon F R Picardo  
The Hon Miss M I Montegriffo

### **IN ATTENDANCE:**

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

## **MOTIONS**

### **HON CHIEF MINISTER:**

Mr Speaker, before moving the motion and with Mr Speaker's indulgence, could I welcome the Clerk back to the House after, what I think everybody will agree, was the organisation of an event of the usual high standards in Gibraltar, which has been the subject of very positive comment by the Electoral Authorities in the combined constituencies. The European Election was organised to the standard that we have grown accustomed to in Gibraltar and it is pleasing to note that that is thought to be to a higher standard than in the United Kingdom.

I beg to move the motion standing in my name and which reads: "This House resolves, pursuant to Section 4 of the Public Services Ombudsman Ordinance 1998, that a salary of £41,200 (effective from 1<sup>st</sup> October 2004) per annum be paid to the Ombudsman, with increases in accordance with the annual Civil Service Pay Award, and that an additional sum up to £138,800 be provided to the Ombudsman in respect of the expenses of his Office, including the personal emoluments of staff and other operating expenses,"

Mr Speaker, hon Members will be aware that the amount of subvention of the Ombudsman required from the Consolidated Fund was reflected in the Estimates booklet, albeit that it is a charge on the Consolidated Fund and the House actually did not require to vote on it. Nevertheless, I think the information was included in an annex to the booklet, setting out the expenses, albeit that it was not something that the House could vote on. Nevertheless, the Ordinance establishing the Ombudsman, the Public Services Ombudsman Ordinance, requires this House to approve by motions, such as is before the House right now, the resourcing, the financial resourcing of the Ombudsman, and only when this House has approved it in this form, does it become a charge on the Consolidated Fund. In other words, it is not

monies that we vote in the appropriation mechanism but the House still has to approve the funding of the Ombudsman through this motion.

Mr Speaker, the salary of the Ombudsman, which is dealt with separately in the motion as the hon Members will see, has been the subject of negotiation and agreement between the Ombudsman and the Government, as indeed has his budget. I commend the motion to the House.

Question proposed.

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

Mr Speaker, may I also preface my remarks by welcoming back our Clerk, and I think it is also worth recording that we are happy with the service that we had with his replacement, while he was otherwise engaged, and I think it maintains the standards that this House is lucky to have had consistently in the Clerk's dedication and in the commitment to serving Members on both sides. Can I say we look forward to receiving the Approved Estimates of Expenditure when the book is finally printed, without incidents. I think, as far as the motion is concerned, it is straightforward and obviously we support it. I just wonder whether the Chief Minister will clarify, given his reference to negotiations that have taken place, whether in fact the £41,200 therefore means that the link is any different from what it was when we last voted the money. Because of course, the wording of this motion like the wording of the last one, implies that the House will not need to vote on a motion every year to give an annual increase. In fact, this is the second time since the Ombudsman Office has been created, that the motion has come before the House, and this one like the other one provides for a salary to be linked to increases in accordance with the Civil Service Pay Award, which seems perfectly reasonable. Therefore I should like clarification whether the £41,200 is in fact what has happened as a result of Civil Service Pay Awards,

which was provided the last time. I think the last time the figure was £38,000 and then it went on to say plus increases. I also wonder whether the ceiling that we put here needs to be so tight in the context of the amount we have in the annex to the Estimates because presumably, up to a point there is an element of contradiction in that on the one hand if for some reason the Office of the Ombudsman have a need to incur additional expenses during the course of the financial year, presumably that will become an automatic charge on the Consolidated Fund without requiring a vote in the House. But unlike any other head of expenditure in the Estimates, it cannot be supplemented from the Head 12 Supplementary Funding vote. So it seems that there is, if the ceiling we place is very close to the figure in the book, it would seem to me that potentially there is a situation that could arise where on the one hand the Ombudsman is entitled to expect the money to be approved by the Financial Secretary as a direct charge on the Consolidated Fund, but we would then have a problem with the ceiling we provide in the House.

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

If I could just start with the last point that the hon Member made. In fact it is not correct that if the Ombudsman requires excess expenditure during the year, he can have it as a charge on the Consolidated Fund. That is not the mechanism created by the Ombudsman Ordinance. The Ombudsman can only spend such monies as this House, through this motion, approves for it. Any expenditure over and above that, remember this is not Consolidated Fund appropriation, so if he spends more because he has got cash left over from a previous year or something, or does not, he can hold his invoices and pay it out of next year's funding. So it is not like the other Consolidated Fund charges where the Financial Secretary or the Accountant General rather, simply pays out whatever payment vouchers come in from that head, pensions, legal aid et cetera et cetera. This only becomes a charge on the Consolidated Fund to the extent that the House has previously approved the amount in this motion so the only sum that is a charge of the Consolidated Fund is the figure. Any

sum that he spends over and above that figure is not a charge on the Consolidated Fund. There is a few thousand pounds leeway, the hon Member will see, the motion does not have to give a breakdown of his salary and the rest of the expenses, it is just given there by way of breakdown on information, and the amount of the leeway is roughly the amount, which is only a few thousand pounds, but which in past years he tends to have a need to overspend.

So the hon Member will see that last year, in this motion, we authorised £162,000 and the forecast outturn for last year says that it is going to be £165,000. So most of his expenses are very fixed costs and it is actually quite unusual for the Ombudsman to have to exceed his expenditure. Frankly, my view after the three or four years that the Ombudsman has now been running, is that for the cost of it, £177,000 a year, it is a very useful addition to the canopy of civil human rights facilities in this small community of ours. So I think the Ombudsman is to be commended for running quite tight ship financially, and the result being that his requests for finance are usually taken seriously rather than submitted to the sort of departmental treatment that there is an assumption that there is a ratcheting up of the bid, in the knowledge that they all think they are going to be cut and therefore they ask for more. It is not that sort of situation. My recollection is that the salary was negotiated in isolation from any analogue and that the analoguing comes in only in its linkage to pay increases. So I do not think the £41,200 is analogued to any Civil Service pay. The question of the analoguing is only in relation to the amount of the annual reviews, in other words, the same percentage increase. I do not think that the increase from this motion to the previous one is accountable only by the application of pay rises, because there was a negotiation, I do not remember the detail of it, but there was a negotiation with the Ombudsman at the time that he extended.

Question put. The motion was carried unanimously.

## **BILLS**

### **FIRST AND SECOND READINGS**

#### **THE DEVELOPMENT AID (AMENDMENT) ORDINANCE 2004**

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

I beg to move that a Bill for an Ordinance to amend the Development Aid Ordinance, be read a first time.

Question put.                      Agreed to.

#### **SECOND READING**

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

I have the honour to move that the Bill be now read a second time. Mr Speaker, this is a short Bill. Section 15A of the Development Aid Ordinance as it currently stands, makes provisions for goods imported for the purposes of a project in respect of which a development aid licence has been granted to be free of duty. Development aid licences are granted for a wide variety of purposes and for varying reasons. It is the Government's view that granting one size fits all privileges without consideration of the wider economic and social context in which the development aid licence concerns will operate, represents an unfair burden on the public purse. The proposed new section 15A therefore, substitutes that regime with a public interest test which the licensee concerned will have to pass. There is some question as to whether this Bill is strictly necessary. The Ordinance as it is presently drafted is couched in the language of the import duty exemption being in respect of

projects which in effect are new or add value to the economy. But in the practice, there has grown to be an expectation that import duty is available as a standard feature of the Development Aid Ordinance. The Government have recently, in the last couple of years, introduced import duty for example on building materials, and we want to make it clear in statute that the exemptions from import duty will be available on a case by case basis, when there is a certification of public interest in the importation of the goods. There is not intended to be any other change in relation to the other elements of the development aid regime, except this one in relation to import duty. A view has been expressed that this could have been achieved by the interpretation of the existing words, but just to make the situation clear beyond doubt, we have decided to proceed with putting it on a more clear statutory basis. 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, as the Chief Minister has said the Bill replaces existing section 15A of the Development Aid Ordinance and the existing section which we are replacing reads as follows:- where the conditions of a licence that has been issued to a licensee pursuant to section 10(2)(a)(iv), 10(2)(b), 10(2)(c) and 10(2)(d) have been complied with, the licensee shall not be liable to pay duty on the importation of goods into Gibraltar which the Financial and Development Secretary certifies are required for the purpose of setting up a project in respect of which the licence is granted. The existing section 15A and this amending Ordinance before the House today both deal with the conditions of a licence issued pursuant to sections 10(2)(a)(iv), 10(2)(b), 10(2)(c) and 10(2)(d). Therefore this in itself does not change. Those sections deal with a new project to provide any new industry in Gibraltar which is for the economic benefit of Gibraltar and which will be completed in a given time scale and cost given



amounts, and for which the management shall be such as to be likely to be effective and competent, this remains in the amending legislation. Remember there are obviously a number of differences between the existing legislation and its intended replacement. As the explanatory memorandum to the Bill explains, the exemption from import duty is automatic in all cases that meet the established conditions of the licence as the law now stands. The Bill before the House would change this to make the exemption from the payment of import duty apply when the Chief Minister of the day considers it appropriate to apply it in the public interest. There is however no definition of the public interest.

Mr Speaker, there are a number of other areas where we think the Bill requires some clarification, and one of these refers to the fact that it is the Chief Minister of the day and not the Minister responsible for the rest of the Ordinance that actually is given those powers under section 15A. The original definitions at the front of the original Ordinance referred to the word Minister, meaning the Minister responsible for economic development, and it is the Minister responsible for economic development who under sections 10, 11, 12 and 13 who considers applications for development aid, it is the Minister who grants the licence and who attaches conditions to the licence and who also makes amendment to the licences. What we would like to know is why the Government have chosen to vest this power in the Chief Minister, or any Chief Minister of the day, and not the Minister for economic development who is the one responsible for most of the rest of the Ordinance.

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

Mr Speaker, if I could deal with the points in the order in which the hon Member has made them. Applicants argue that all new buildings are new projects and I do not think that that is the intention. The intention is that the exemption should be for economic activity of a sustainable, durable type perhaps that creates employment, and this is intended to make it clear that

any denial of import duty exemption to somebody who wants to build a block of luxury flats, is not challengeable on judicial review as being a discriminatory exemption, perhaps because an import duty exemption has been given to somebody to build low cost housing, for example. Precisely the quotes that the hon Member made from the existing law, is the area where there is not, as I said it is open to interpretation, and the existing words are capable of being interpreted to mean that the Government are free to decide which projects they allow and which projects they do not allow. But it is on interpretation and this is perhaps an unnecessary piece of legislation but we have wanted to put it in to prevent the Government from legal challenge. I think the hon Members will probably agree with the underlying sentiment of the legislation, which is exemption from import duty should be limited to those projects that Gibraltar really should be making fiscal concessions to, and not simply available as a run of the mill to property developers in what is a pretty frothy market anyway, that is the basis. His second point was why has this power been given to the Chief Minister and not to the Minister that administers the Ordinance, the Minister for Trade and Industry. The reason for that is that this is basically a matter of public revenue, and import duty is one of the Government's important sources of revenue and the decision whether one cuts or does not cut public revenue, or whether public revenue froze on this scale, ought to be taken centrally. Of course it goes without saying that the Chief Minister of the day could really only make this judgement on the basis of consultation with and advice from the Minister, because by necessity the Chief Minister would not have in front of him the details of the application or the analysis of the economic case, although Gibraltar is a small place and most people get to hear about things including the Chief Minister even though he may not be dealing with it. It is not appropriate, the Government feel, to delegate to a department, to a Minister, the ability to affect the levels of public revenue in this way and that is the reason. I do not think there has been any great change in that, to the extent that the Financial and Development Secretary has an involvement in the administration of the Ordinance, one has to assume that he would take into account the implications on public finances before he does it. I do not

think that anything sinister turns on. I know that the hon Members for some reason think that giving the, the Chief Minister is after all a Minister, therefore there is nothing objectionable in principle in giving powers to the Chief Minister. Especially not when they affect a centralised function such as overall control of public finances and the state of Government revenues and expenses.

Question put.            The House voted.

For the Ayes:            The Hon C Beltran  
                                 The Hon Lt Col E M Britto  
                                 The Hon P R Caruana  
                                 The Hon Mrs Y Del Agua  
                                 The Hon J J Holliday  
                                 The Hon Dr B A Linares  
                                 The Hon J J Netto  
                                 The Hon F Vinet  
                                 The Hon R R Rhoda  
                                 The Hon T J Bristow

Abstained:                The Hon J J Bossano  
                                 The Hon C A Bruzon  
                                 The Hon Dr J J Garcia  
                                 The Hon S E Linares  
                                 The Hon L A Randall

Absent from the Chamber:    The Hon Miss M I Montegriffo  
   The Hon F R Picardo

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 EUROPEAN COMMUNITIES (AMENDMENT) (ACCESSION COUNTRIES) ORDINANCE 2004**

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

I have the honour to move that a Bill for an Ordinance to amend the European Communities Ordinance in connection with the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union, be read a first time.

Question put.            Agreed to.

#### **SECOND READING**

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

I have the honour to move that the Bill be now read a second time. Mr Speaker, the hon Members will have noticed from the Long Title to the various Bills, that several of the Bills before the House this morning result from the accommodation in our legislation of the recent enlargement of the European Community and do not actually represent a great substantive change, either by EU compulsion or indeed by domestic policy. The Bill

amends our legislation to accommodate the 10 new States. Those countries will form part of the European Union as from the 1<sup>st</sup> May 2004, of course a date that has passed.

The Bill thus amends the European Communities Ordinance to make the following provisions for those States. Clause 2(1) amends the European Communities Ordinance. The main amendment is to insert a reference to section 2(1) to the Treaty concerning the accession of the 10 accession States. The hon Members may remember that in previous accessions, there has been similar amending legislation locally. The effect will be that the definition of the Treaties, or the Community Treaties will include that Accession Treaty. Clause 2(2) and 2(3), insert a new Schedule 3 to the Ordinance setting out a list of all the European Economic Area States, for the convenience of users of the legislation. I commend the Bill to the House.

Discussion invited on the general principles and merits of 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 the same day.

Question put.                      Agreed to.

### **THE INTERPRETATION AND GENERAL CLAUSES (AMENDMENT) ORDINANCE 2004**

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

I have the honour to move that a Bill for an Ordinance to amend the Interpretation and General Clauses Ordinance to include a definition of the Agreement on the European Economic Area, be read a first time.

Question put.                      Agreed to.

#### **SECOND READING**

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

I have the honour to move that the Bill be now read a second time. Mr Speaker, this is another in the batch of Bills dealing with enlargement. The Bill introduces one amendment to our existing Ordinance, which is clause 2, which amends the Interpretation and General Clauses Ordinance, by inserting a new section 5A. The new section 5A provides that references to the European Economic Area Agreement shall be construed as referring to the Agreement as adjusted or amended. The amendment is needed as a result of the 10 new European Union Members, who as a result of an Agreement dated 11<sup>th</sup> November 2003, will also become Members of the EEA and party to the EEA Agreement. I commend the Bill to the House.

Discussion invited on the general principles and merits of 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 today.

Question put.                      Agreed to.

**THE SUPREME COURT (ACCESSION COUNTRIES)  
(AMENDMENT) ORDINANCE 2004**

**HON CHIEF MINISTER:**

I have the honour to move that a Bill for an Ordinance to amend the Supreme Court Ordinance in connection with the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union, 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, here again, it follows in the series of the other Bills. The purpose of this particular Bill is to add the description of the respective titles for legal practitioners that have to be

recognised by our legislation, in respect of each of the new Accession countries. The hon Members will see that they are published as the Accession Treaty requires, in the language of the country concerned, which makes it somewhat unintelligible to the Members of the House, but they are the sort of the equivalent of barrister-at-law or solicitor in the various Accession States. They are the professions that those particular regulations that we are amending, require to be recognised and that is the purpose of the legislation. This legislation obviously already exists in respect of those equivalent titles for the previously existing other 14 Member States of the Community.

Discussion invited on the general principles and merits of 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 today.

Question put.                      Agreed to.

**THE WORKING TIME (AMENDMENT) ORDINANCE 2004**

**HON DR B A LINARES:**

I have the honour to move that a Bill for an Ordinance to amend the Working Time Ordinance 1999 to implement in Gibraltar the provisions of Council Directive 94/33/EC on the protection of

young people at work and Council Directive 2000/34/EC amending Council Directive 93/104/EC on certain aspects of the organisation of working time, and Council Directive 2000/79/EC on the working time of workers in civil aviation, be read a first time.

Question put.                      Agreed to

## **SECOND READING**

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

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill brings into the ambit of the current Working Time Ordinance 1999, regulations affecting the working time arrangements for certain categories of workers not covered entirely by the existing legislation, that is young workers between the ages of 15 and 18, mobile workers in road transport and civil aviation and doctors in training. The arrangements for the working time of young persons come under Directive 94/33. New sections 4A and 5A deal with this and provide that no young worker, of at least 15 but under 18, works more than a 40 hour week and does not work during the so-called restricted period, that is to say, between 10.00 pm and 6.00 am. Directive 2000/34 amended the original Working Time Directive to bring in certain mobile workers within its provisions and also to lay down the hours of doctors in training.

The Bill adds new sections 17A and 17B to the Ordinance. Section 17A deals with mobile workers not covered by the specific directive dealing with mobile workers in civil aviation, to which I will refer in a moment, and in road transport activities and provides for them to receive adequate rest. Mobile workers in rail transport, inland waterway transport and sea fishermen, while covered in this directive, are not included in our Ordinance, given Gibraltar's lack of railways and inland waterways and commercial

sea fishermen. Section 17B deals with the working time of doctors in training. These were originally exempted from the directive but are now included but with longer hours permitted until 2009. This came about mainly at the UK's insistence. It is not envisaged that the gradual reduction in working hours will cause any difficulties in Gibraltar. There is a new Part 2A which inserted by clause 3, which reflects Council Directive 2000/79, and it deals with the working time in civil aviation. Given that at present the only airlines coming to Gibraltar are UK-based, and these rules already apply in the UK, there will be no practical effect on Gibraltar. Essentially, the provisions are that there should be a minimum of four weeks paid leave, regular health assessments, which may lead to a reduction in night work, health and safety protection, including organising patterns of work so that adequate rest is afforded. Annual working time is restricted to 2000 hours, which includes being on stand-by and lot flying time, that is the time actually spent on the aircraft from moving off to parking. This must not exceed 900 hours. In addition, a crew member must have at least seven days rest in every month, and not less than 96 rest days in a year. The remaining provisions in this Ordinance deal with offences. I commend the Bill to the House.

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

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

Opposition Members will be voting in favour of this Bill since it transposes Council Directives as stated in the title. But when this Bill was introduced in 1999, my hon Colleague Pepe Baldachino brought out the fact that there seems to be a bit of a contradiction between the Employment Ordinance and the Working Time Ordinance. It is to do with the fact that the Employment Ordinance defines young people, as the Minister has just said, from the ages of 15 to 18. But when we come to the Working Time Ordinance there is one clause, that is the clause which in this Bill now which we are presenting, states that section after section 12, meaning that section 12 is going to stay

and stand and section 12 says employment in dangerous industries, no person under the age of 16 years. So it would have been a good opportunity because the argument then between the Hon Pepe Baldachino and the then Minister for Employment, the Hon Mr Netto, was that there would seem to be some contradiction between one law and the other. So it would be beneficial if the Minister can either explain why he has not used this opportunity where all these amendments have come in, to have either repealed that section, or could have amended it by saying no person under the age of 18. So basically we will be voting in favour but we still, as the Hon Pepe Baldachino had at the time that problem with the ages, we still have that problem with the ages.

**HON CHIEF MINISTER:**

Mr Speaker, the Government could have done what the hon Member has suggested. He can change any age related provisions, particularly when they are domestic legislation driven, can be changed, and the provision to which he is relating is a historical domestic provision and could have been changed. The Government Bill before the House is to implement a directive requirement. The directive speaks of the ages mentioned in this Bill. If the result is that there are different age provisions for different types of activity, as they affect what we could loosely call young workers, that is not an inconsistency. Whilst the legislation could, if it chooses to, define young person in the same way for all purposes covered by legislation, it is not a requirement or it is not compulsory to do so. Before altering an existing piece of legislation in the way that he has suggested, the Government will have to carry out a lengthy consultation process which has not been carried out, to see to what extent anything may be affected by the change in terms of existing practice. The Government do not have a view, either for or against raising the age in the previous section to 18. But this provides a range of ages as required by the directives. To be entirely consistent, which the hon Member is making really a consistency point, we would have to adopt not an age but a range of ages, because if

we just change it from 16 to 18 there would still be the potential for difference between these two events. So it is just a point which despite the fact that it has been debated across the floor of the House in the past by previous Ministers on both sides responsible for employment, it has not been pursued and when it has come to the legislation it has just been done on the basis of transposing the directive. It is not that there has been a conscious look at it and a decision not to do it has been taken. It has just not been considered at the stage of drafting the legislation.

**HON J J BOSSANO:**

Mr Speaker, the section in the existing law to which we are referring reads as follows. No person under the age of 16 shall be admitted to any employment which by its nature or circumstances in which it is carried on is dangerous to life, health or morals of the persons employed therein. Now it is difficult why we need to have a lengthy consultation process to come to the conclusion as to whether the morals and the health and the life of 17 year olds should be protected, as well as those of 16 year olds. It appears to us that if we consider that people under the age of 18 require a level of protection, because we consider that at 18 they are adults and therefore they need less protection, I would have thought that protecting them from jobs which are dangerous to health, to life and to morals would be equally applicable. In fact, we did not get a satisfactory explanation for why 16 was there in 1999, and had we had the explanation then we would not have raised it now, that is why we homed in on this one when we were looking at what was being done. Given that if everything that is coming out of the EEC requires us to provide protection at the age of 18, and I do not know whether in fact the protection here was EU driven, but the Working Time Directive 1999 was in fact to implement EU obligations. So we are talking about a law that was done in 1999, a law that was done in respect of working time, we see this new law as coming in on the basis that further progress has been made in the European Union in extending working time freedom in terms of what the

employer may or may not require an employee to do, and I think we need to remember that in fact the Working Time Directive finished up in the European Union being done as a health and safety measure. It is conceivable that one could argue that a particular job might be considered to be more dangerous to a 17 years old than to a 19 years old, but I do not know whether there is any logic to that. But if the implication is that, our school leaving age is 15, nobody is allowed to employ somebody under 15, effectively we are saying once the guy hits 16, after the first year in employment it is all right if he does unhealthy, immoral and dangerous work. I will give way to the Chief Minister.

**HON CHIEF MINISTER:**

Yes, and I would immediately agree on the immoral but I am not sure there is any age at which immorality is okay. I would not like to debate with the hon Member whether it should be 16, 18 or any age. My view is that immorality is immorality regardless of the age. Now the consultation process that I related to, I think derives the need for it would derive from what I think lies at the bottom of this. It is the words unhealthy or dangerous which could be, by raising the age of the previous section 12 to 18, we could be excluding young persons aged between 15 and 18 from a whole range of activities, jobs in the market, which may be unhealthy and may be dangerous, which is a very relative term which would then have to be very carefully defined to make sure that we are not excluding our 17 year olds for example, from being employed in the Buildings and Works Sewers Department, which is dangerous, I mean going down a drain is not an undangerous thing. If dangerous is anything that imports any degree of danger, there are many jobs that have a degree of danger. Then we would have to have a consultation about just what jobs in the economy fall on the wrong side of the definition of unhealthy and dangerous, from which we would at a stroke be excluding all 16 and 17 year olds. I am not saying that that is an impossible thing to do, but it requires careful consideration. In other words, one would first have to understand the full impact of the effect of what one is doing and it is not the sort of measure

that one could introduce without first being sure, because we cannot just consider dangerous to be things which are obviously very dangerous, the definition of dangerous is I am sure to be struck lower for the purposes of the directive. Whether the Working Time Directive placed this at 16, and I am now speculating, because that is the age at which one can be recruited into armed forces for example, and I suppose if the Working Time Directive was struck at 18, then the concept of the cadets or the boy soldier would be excluded because I suppose whatever debate might take place about what is the definition of unhealthy or dangerous in the context of activities, I think we would all probably immediately agree that serving in the armed forces is intrinsically dangerous. Therefore, before the Government might consider raising the age of restricting unhealthy, immoral or dangerous activities to people above the age of 18, we would have to be satisfied following a careful study, that we were not inadvertently making it unlawful for young people to obtain certain types of employment which they have traditionally climbed onto the ladder of so to speak, at the junior level, post 16 school leaver. The sort of work that school leavers in Gibraltar that do not go into further education, have historically aspired to do. If the House would like further information on this the Government would be happy to carry out that exercise, that study, to see just what the implications of that would be and we can debate it at a later date. But we certainly would not think it safe to amend the legislation in the way the hon Members propose, without that study and without understanding what the exclusion implications would be.

**HON J J BOSSANO:**

We have not actually moved an amendment, we have just flagged the issue because it seems an obvious thing to do, given that if this is amending an Ordinance that we debated in this House on 21<sup>st</sup> September 1999, what we have done is gone back to the Hansard of that debate. We find that there is an unaddressed issue that we raised then. Obviously it has been overlooked but I think, given the fact that it is now five years

since we last raised the matter, we are raising it again today because the opportunity exists again. I take the point the Chief Minister has said that why should something that is dangerous to the morals of the persons employed be limited to 18. Well, look, we did not draft this, it was the Government that did so they were the ones who decided, apparently, that they should protect the morals of 16 years old and not 17 year olds. I dare say that there are people who will think that being a soldier is not a very moral thing, apart from it being dangerous to health and to life. So it is a peculiar clause in our legislation, something that the society or the parliament considers affects the morals of the people employed therein should be age barred at 16. It may well be that the 16 years old has come into this law because in other places, particularly in the United Kingdom, compulsory education is until the age of 16, but ours is till 15. So if in fact what we are doing here is saying one cannot employ a 16 years old because we have followed, maybe something comparable in the United Kingdom, where at the age of 16 one cannot be employed at all, then in our case it should not apply because people are able to take up apprenticeships at 15. So everything the Chief Minister has said, which is really speculative because the Government do not really know why it is there, but if one argues "well look, you might be stopping somebody at the age of 16 from entering into an apprenticeship on a building site, or in the ship repair yard, well look exactly the same thing in our case applies to a 15 year old. Given that at the age of 15 people can leave school and enter into vocational training." I believe certainly the Government should take a look at this and try and find a rational explanation and perhaps there is not.

Mr Speaker, my Colleague has drawn my attention to the fact that, which was the point made by Pepe Baldachino by the way in 1999 when we debated it, which is he was arguing then, how can it be that in the Employment Ordinance we put a restriction on employment in industrial undertakings, and we say no child shall be employed in an industrial undertaking which carries activities dangerous to life, health or the morals of the persons employed. Here it is 18. So how can we say in the Employment Ordinance that a child may not be employed in an industrial

undertaking which is carried in a way which is dangerous to life, health or morals. So obviously this is something that has a longer tradition than the EEC and yet in this one, on the Working Time Directive, we are saying no person under the age of 16. Well look, if one employs somebody between 16 and 18 on the basis that one is permitted to do it by the Working Time Directive, one would still be acting illegally under the Employment Ordinance. That was the point made in 1999 and in fact that appears to be the case and I certainly think that needs to be looked at because if that is indeed the case then in fact, even if we do not change the existing law, presumably the Minister's Employment Department would be in a situation where they would have to prosecute employers who would not be in breach of section 12 of the Working Time Directive but would be in breach of section 30 of the Employment Ordinance. If that is indeed the case, certainly it is very peculiar.

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

Mr Speaker, first of all I am glad the Opposition Members are voting in favour of this amendment because it includes important issues of social legislation affecting the welfare of working people, particularly young working people. My contribution to the debate which has ensued in terms of consistency between one Ordinance and the other, I perhaps rather simplistically take the view that this current legislation that we are putting before the House, is simply protection for young working people in terms of working time. The fact that section 12 of the existing current Working Time Ordinance provides additional protection for under 16s in terms of health and danger to life, I would think it is quite logical. I would say that under 16s are more exposed to these dangers than the 16 to 18 year olds, and one thing does not necessarily contrast with the other. As regards the small point raised by the Leader of the Opposition about vocational training, contrasting it with actual work in say Buildings and Works, vocational training of course is a monitored and supervised and protected form of training rather than just actually being involved



directly in the operation task of a job, which could be much more dangerous. I think that is as much as I have to say.

Question put.                      Agreed to.

The Bill was read a second time.

**HON DR B A LINARES:**

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

Question put.                      Agreed to.

**THE EMPLOYMENT (ARCHITECTS) (EEA QUALIFICATIONS)  
(ACCESSION COUNTRIES) (AMENDMENT) ORDINANCE  
2004**

**HON DR B A LINARES:**

I have the honour to move that a Bill for an Ordinance to amend the Employment (Architects) (EEA Qualifications) Ordinance, in connection with the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union, be read a first time.

Question put.                      Agreed to.

**SECOND READING**

**HON DR B A LINARES:**

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill is necessary because of the enlargement of the European Union, to include 10 new countries. The countries, as already stated are, the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic. These countries joined the European Union on 1<sup>st</sup> May 2004 and this Bill amends the Employment (Architects) (EEA Qualifications) Ordinance 1996 in order to make provision for those countries. The amendments are as follows. Clause 2 includes a new section (3), which explains the references to articles in the Schedule as being references to the appropriate articles in the Architects Directive. Clause 3 amends the definition of an EEA State in section 3 of the Ordinance, in order to take into account the new Accession Treaty. Clause 4 has the effect of dividing the Schedule to the Ordinance into two parts. Part 1 is amended to include the entries for the new Member countries, and to explain which qualifications in this field are recognised. The new Part 2 deals with specific aspects relating to qualifications issued in a number of the new countries. I commend the Bill to the House.

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

Question put.                      Agreed to.

The Bill was read a second time.

**HON DR B A LINARES:**

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

Question put.                      Agreed to.

**THE GIBRALTAR HEALTH AUTHORITY (COMPLAINTS REVIEW PANEL) ORDINANCE 2004**

**HON LT COL E M BRITTO:**

I have the honour to move that a Bill for an Ordinance to make provision for the appointment of an Independent Review panel to consider complaints from users of the medical and health services provided by the Gibraltar Health Authority, to give such users the right to refer their complaints to the independent review panel, to regulate the function thereof, and for purposes connected therewith, 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 Government have publicly announced that they have accepted the recommendations of the Health Care Review Development Team, for a new transparent, speedy and effective complaints process for the GHA. The first stage of that complaints process is internally operated by the GHA and

provides for two types of complaints. Firstly, an oral, informal complaints process and, secondly, a written, formal complaints process. It requires the GHA to provide a full response to written complaints by a maximum period of eight weeks, in complex cases, and 20 days in non complex cases. This new complaints process is important for patients and their families who rightly want their complaints dealt with thoroughly, effectively and quickly. But it is also important for GHA to ensure that it learns from its mistakes and takes timely and effective remedial action to avoid repetition of errors. The Government are therefore introducing a second stage to the GHA complaints process, a review stage, which will be operated externally to the GHA by an independent panel of people, exercising statutory powers of investigation, similar to those employed by the Ombudsman. This will ensure that the complaints do not remain blocked within the GHA, and are open to external independent review. The aim of this independent review stage is to ensure a truly transparent process, that is subjected to external independent scrutiny. It will allow any person who has made a formal written complaint under the GHA complaints process, to ask for their complaint to be referred to this independent review panel. The conditions of referral are as follows :-

Firstly, failure of the GHA to provide a full and final response within eight weeks. Secondly, dissatisfaction with the outcome. A request for a review panel will not be considered in the following circumstances. Firstly, where the complaint is the subject matter of litigation, or where an intention to litigate against the GHA has been expressed. Secondly, where the complaint refers to an action which reflects, implements or complies with any policy of the GHA or the Government.

Mr Speaker, for this purpose the Bill before the House, if passed, will set up the Gibraltar Health Authority Complaints Review Panel Ordinance, which will give the panel wide-ranging legal powers of access to witnesses and to documents. The main provisions of the Bill can be summarised as follows. Part 2 of the Bill gives the Minister of Health powers to appoint people by notice in the Gazette, to a general panel. Part 3 of the Bill covers

the procedure for the investigation of complaints. Any person who has made a formal, written complaint under the GHA's own complaints process, and who has not received a final response from GHA within eight weeks of having made it, or if not satisfied with the response received and asked the Ombudsman to appoint a review panel to investigate the complaint. Such a request for the appointment of the review panel must be made within 28 days of receipt by the person aggrieved, of the GHA's final written response to the complaint. The Ombudsman may authorise the investigation by the review panel of the complaint not referred within this time period, if he considers that there are special circumstances to be considered. However, the Ombudsman shall not do so more than three months after the date of the GHA's final response to the complaint. On receipt of such a request, the Ombudsman will appoint within seven days, three persons from the general panel appointed by the Minister, to constitute a review panel to conduct an investigation into the particular complaint.

When requested by the review panel, the Minister will appoint an independent clinical assessor to advise the panel on clinical issues arising from the complaint. The review panel so nominated by the Ombudsman must convene and initiate its investigation within 14 days of its nomination, must conclude the investigation within 12 weeks and must send a written report to the parties within 14 weeks. If the review panel is unable to complete the investigation within the time stipulated, it shall nevertheless produce its report stating the reasons why it has been unable to complete its investigation. The review panel will have all the powers enjoyed by the Supreme Court to call witnesses and demand the production of evidence and all records. The GHA has to provide all medical records and cannot claim confidentiality. GHA staff have to cooperate with the review panel. However, the panel is not a tribunal. It will be an offence to obstruct the panel in the conduct of its investigation. I commend the Bill to the House.

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

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

Mr Speaker, on the general principles of the Bill, as the Minister has indicated and as indeed it makes clear in the explanation on the face of the Bill itself, this is the result of the recommendation of the Health Care Review Development Team, which the Government have accepted and decided to implement. The House is aware that we hold a different view from the Government on the Health Care Review Development Team, and therefore, as far as we are concerned, we shall abstain on this Bill and monitor its progress and see whether in fact it brings about the improvements that the Government are apparently hoping will result from the introduction of this further system of investigating complaints. On the details of it, it is not something we are concerned with, the principles.

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

I think the Government wish to record their views on the position being adopted by the Opposition. In other words, they do not say whether they think it is a good idea or a bad idea that patients of the Health Authority should have the opportunity to have their complaints assessed externally. They express no view on that one way or the other despite the fact that they spent the last four years chastising the Government for not giving them a proper opportunity to do so. They abstain, not on the grounds that they object, that they agree, or that they are not sure whether they agree or not, on the grounds that it is the fruit, it is a recommendation of a review which they do not approve of. In other words, because they do not approve of the Health Review, they are going to abstain on a piece of legislation which does something which can only be positive, because it is the result of the review. I think that public opinion in Gibraltar is entitled to have that extraordinary lack of logic brought into sharp focus.

The Hon Members could abstain on the grounds, for example, that they support part of the principles of the Bill but do not support some of the principles in other parts of the Bill. But to

abstain to legislation designed to give the users of the Health Authority the sort of right of recourse, externally administered and monitored, on the same basis as the Ombudsman has powers, against the administration, to fail to support that, not on the basis that there is something in the Bill that the hon Members do not like, but rather because it is the fruit of the Health Review which they say they disapprove, even though they press the Government to publish the reports. Well look, I do not see how the hon Members can disapprove of the review, nevertheless call the Government to publish the reports, cross-examine, rightly in our opinion, the Government on and ask dozens of questions on the basis of the report. But when it comes to bringing legislation to the House, to introduce one of the measures that were recommended, they abstain. Not because they are opposed to the measure, but simply because it reflects a recommendation of the House. I think that it is regrettable that the hon Members are not willing to consider this legislation on its merits or demerits. The hon Members may have views about this section or that section, or this part or that part, that is what the legislative process is about. But I think that simply to not express a view one way or the other, because this is linked to the review, I think with the greatest of respect to them, is an extraordinary position. Unless the hon Members' inability to comment on the Bill is due to the fact that their spokesman for health happens to be absent from the House today. If that had been the case, the Bill might have been rescheduled for another occasion. In fact, a bit difficult, because we are running out of time now before the August ceremonial. But certainly the Government regret that the hon Members appear not to be willing. It is a matter of regret to the Government that the hon Members do not wish to address the content of the Bill, for the reason that the hon Member has expressed. I will give way to the hon Member.

**HON J J BOSSANO:**

Mr Speaker, since the Chief Minister has chosen to make reference to the fact that the Opposition spokesman on health is not present, I think for the record and for the information of the

public, my Colleague wrote to you saying that since the Leader of the House had first indicated that we were coming back on 4<sup>th</sup> August, she had arranged to be away from Gibraltar and that then subsequently, when the date was changed, she was not able to make the arrangements and indeed at the time, this Bill had not been published. Let me say that I am just saying that in case the reference to her absence should be misunderstood or misinterpreted. It would not have altered the position had she been here, and all that I have said is that I understand that because it has been recommended, they have decided to proceed with its implementation. We would not be under any such obligations since we would not have set up the machinery they have set up in the first place. What I have said is that we are abstaining because we will wait and see whether in fact if this works or not. We have our own views on whether it will work but we will give it the benefit of the doubt. It seems that even that is too harsh a judgement for the Chief Minister who feels obliged to attack, even when he is not attacked. So be it.

**HON CHIEF MINISTER:**

No, that is not correct if the hon Members wish to allow legislation in this House to proceed without them even looking at it, on the basis that they think that the Government are bringing it in some sort of robotic form, as a result of the recommendation of the Health Review Team, I think this House is not doing its legislative work properly. Of course it would get through the House by Government majority. We know that and they know that, and he is wrong when he says this is not a question of attack or not being attacked, I am criticising the Opposition Members for adopting the stance that they have adopted. That is to say, I abstain, not because I agree or disagree with this or that section of the Bill, but I abstain because it is the result of the Health Review Team's recommendations. I think that that posture by the hon Members is worthy of criticism. If the hon Member wishes to use a motion or language to suggest that I have attacked him, if that is his definition of attack, then I think it is attack well made. But he is wrong, even if his reasons, which

are themselves wrong, for the position that he has adopted. This legislation is not brought by the Government because it has been recommended. We have explained in this House, various times now, that the procedure is that the review team after consultation, makes recommendations. The Government receive the recommendations and consider whether they accept them or not. If we accept them we implement them, and if we do not we say why we are not accepting and implementing them. He has had that explanation several times and therefore, this is not brought to the House because it has been recommended, it is brought to the House because it has been recommended and following its recommendations, the Government have considered the recommendations and have made the decision to accept them. Now, that is not converting the House, or rather allowing the recommenders to be the legislators which is what is implicit in the hon Member's articulation of his reason, they make recommendations, for example he will see soon that there is a recommendation that they are making which we are not accepting, and that we would much enjoy explaining to him why we will not be accepting a particular recommendation in a particular work stream. Therefore, all that I would say to the hon Members, despite the fact that they do not appear to wish to address the substantive provisions of the Bill, just to add to what the Minister has said, the hon Members if they have read the Bill, may have noticed that it follows very closely the regime of the Ombudsman legislation. It is really the Ombudsman's Bill tailor made to a medical review panel and in effect, creates a medical ombudsman for complaints but in corporate form rather than in individual form. In other words, instead of a complaints, at the moment one makes a complaint to the Ombudsman against a particular Government department and it is investigated by one person. This is a panel of three people, selected by the Ombudsman on a case by case basis from a longer list of people to be appointed by the Minister. I think that the hon Members, whatever they may think the provenance of the suggestion might be, should welcome the fact that this Bill hugely empowers the user of the Health Service, and their families, when dealing against a much larger and much more powerful body than them. That is something that should be either welcomed or not

welcomed on its merits but not ignored on the basis that it is the fruit of a process that they do not approve of.

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

I will just reiterate that I share the Chief Minister's opinion in everything that has been said. What I will highlight is my own regrets, for whatever the reason that the Opposition Member for Health is not here, because I would have been looking forward to hearing, she who is so ready to criticise, to hear her opinion on the merits of the Bill. I do not accept the reasons given by the Opposition as sufficient grounds for not addressing the content of the Bill, and I think to boot, to say at the end that the intention is to wait and see if it works, or words to that effect, is just adding insult to injury. Government present a Bill, the Opposition should take a position on the merits of the Bill and on the Bill itself, whether they agree with the principles of it or not. But to abstain is tantamount to saying, although maybe it is not the intention, but it is tantamount to saying, well if it works we will then agree with it and if it does not work we will then criticise it. It is a matter of personal regret because there has been a lot of work put into developing, designing and producing this complaints process and the review stage that we are dealing with. It is being done with the interests of the patients and the interests of the public at large and not with the interests of the Minister or the GHA. Anyone who reads this Bill can see for themselves that it gives the complainant, or the future complainant, great rights, a way of dragging the GHA, and if necessary the Minister, if the Minister is at fault, one would expect that not to be the case, it would be more a question of clinicians or staff, but it gives the future complainant the ability to pursue the complaint to the end and get to the bottom of it. It denies the GHA any possibility of trying to hide or trying to produce any smokescreen. So in that sense, it is a matter of profound disappointment to me as Minister for Health, that the Opposition is not jumping up in glee and accepting the principles of the Bill, and backing it because I stress that it is designed to protect the interests of the patient and the interests of the public.

Question put.            The House voted.

For the Ayes:            The Hon C Beltran  
                                 The Hon Lt Col E M Britto  
                                 The Hon P R Caruana  
                                 The Hon Mrs Y Del Agua  
                                 The Hon J J Holliday  
                                 The Hon Dr B A Linares  
                                 The Hon J J Netto  
                                 The Hon F Vinet  
                                 The Hon R R Rhoda  
                                 The Hon T J Bristow

Abstained:                The Hon J J Bossano  
                                 The Hon C A Bruzon  
                                 The Hon Dr J J Garcia  
                                 The Hon S E Linares  
                                 The Hon L A Randall

Absent from the Chamber:    The Hon F R Picardo  
   The Hon Miss M I Montegriffo

The Bill was read a second time.

**HON LT COL E M BRITTO:**

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

Question put.            Agreed to.

**THE ANIMALS AND BIRDS (AMENDMENT) ORDINANCE 2004**

**HON F VINET:**

I have the honour to move that a Bill for an Ordinance to amend the Animals and Birds Ordinance to give further effect to Regulation (EC) No 998/2003 of the European Parliament and of the Council of 26 May 2003 on the animal health requirements applicable to the non-commercial movement of pet animals and amending Council Directive 92/65/EC as amended by Commission Regulation (EC) No 592/2004 of 30 March 2004 amending the Regulation (EC) No 998/2003 of the European Parliament and of the Council as regards the lists of countries and territories and for other purposes related to the Ordinance, be read a first time.

Question put.            Agreed to.

**SECOND READING**

**HON F VINET:**

I have the honour to move that the Bill be now read a second time. Mr Speaker, this short Bill amends the existing Ordinance in order to give further effect to Regulation (EC) No. 998/2003 of the European Parliament and of the Council of 26 May 2003, on the animal health requirements applicable to the non commercial movement of pet animals and amending Council Directive 92/65/EC as amended by Commission Regulation (EC) No. 592/2004 of 30 March 2004, amending Regulation (EC) 998/2003 of the European Parliament and of the Council as regards the list of countries and territories. We have also taken this opportunity to modernise and clarify the language of the existing Ordinance. Regulation (EC) No. 998/2003 contains

provisions relating to the movement of pet animals between Member States of the European Union and into the European Union from third States. The term pet animal is defined in the Regulation and is to dogs, cats, ferrets, invertebrates and tropical fish, birds (except poultry), rodents and domestic rabbits. The amendments introduced by the Bill are as follows. Section 2A introduces a number of new definitions in order to reflect the requirements of the Regulation and to modernise and clarify our legislation. The definition of Government veterinary practitioner is consistent with our medical legislation. The definition of vaccination comes from Regulation (EC) No. 998/2003. Section 2B changes the word Governor to Minister for the Environment to reflect the fact that animals and birds are defined domestic matters. Sections 2C and 2D modernise the wording of the old ones. Section 2E clarifies that a dog licence will be required for every dog which is kept in Gibraltar for over three months. Section 2F increases the level of penalties which may be imposed by the Rules made under the principal Ordinance. Sections 2G and 2H contain provisions giving further effect to Regulation (EC) No. 998/2003. In particular, it gives authorised officers the powers to require persons entering Gibraltar with animals to prove that they comply with the Regulation. Section 2I inserts a power to make rules for the purposes of complying with European Union obligations.

Mr Speaker, I give the House notice that rules relating to importation of animals and birds into Gibraltar, contained in subsidiary legislation, will also be changed in order to comply with Regulation (EC) No. 998/2003. We shall be publishing the Animals and Birds Rules (Amendment 4) (Importation of Birds, Poultry and Hatching Eggs) Rules 2004 and the Cats and Dogs Notice 2004. The effects of the Regulation, the Bill and the new Rules to be published in the future, will be that an importation licence will no longer be required to import pet animals into Gibraltar, where those animals comply with the requirements of the Regulation. However, an importation licence will still be required for commercial importation and importation of non pet animals. In addition, a person who seeks to bring a pet animal into Gibraltar, which is under the age of three months and

unvaccinated, will require the written authorisation of the Environmental Agency. To recap, this short Bill will enable us to meet our European obligations with regards to the movement of pet animals within and into the European Union and to clarify and modify our legislation. 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, as the Minister has said this Bill stems from an EU requirement and is a straightforward piece of legislation, so the Opposition have no difficulty in supporting it.

Question put.                      Agreed to.

The Bill was read a second time.

**HON F VINET:**

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

Question put.                      Agreed to.

**THE INSURANCE (MOTOR VEHICLES) (THIRD PARTY RISKS) (AMENDMENT) (EU ACCESSION COUNTRIES) ORDINANCE 2004**

**HON F VINET:**

I have the honour to move that a Bill for an Ordinance to amend the Insurance (Motor Vehicles) (Third Party Risks) Ordinance in connection with the accession of the Czech Republic, the Republic of Hungary, and the Slovak Republic to the European Union, be read a first time.

Question put.                      Agreed to.

**SECOND READING:**

**HON F VINET:**

I have the honour to move that the Bill be now read a second time. Mr Speaker, this simple Bill introduces one amendment to our existing Ordinance, namely that the words Czechoslovakia and Hungary are deleted from the definition of relevant foreign State. The amendment is needed as a result of the Accession Treaty, by virtue of which the Czech Republic and the Slovak Republic, that is the old Czechoslovakia, as well as Hungary, became Members of the European Union on 1<sup>st</sup> May 2004. I commend the Bill to the House.

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

Question put.                      Agreed to.

The Bill was read a second time.

**HON F VINET:**

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

Question put.                      Agreed to.

**THE VETERINARY SURGEONS (EEA QUALIFICATIONS) (ACCESSION COUNTRIES) (AMENDMENT) ORDINANCE 2004**

**HON F VINET:**

I have the honour to move that a Bill for an Ordinance to amend the Veterinary Surgeons (EEA Qualifications) Ordinance 1996, in connection with the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union, be read a first time.

Question put.                      Agreed to.

**SECOND READING**

**HON F VINET:**

I have the honour to move that the Bill be now read a second time. Mr Speaker, this Bill is necessary because of the



enlargement of 1<sup>st</sup> May 2004 of the European Union, to include the 10 new countries just defined. This Bill amends the Ordinance to make provision for those countries. The amendments are as follows. Clause 2 amends the definition of an EEA State in section 3 of the Ordinance, in order to take into account the new Accession Treaty. Clause 3 has the effect of splitting the Schedule to the Ordinance into two parts. The existing Schedule, which lists the titles of recognised qualifications and the awarding body of each Member State becomes Part 1, and is amended to include the new countries. Part 2 deals with specific aspects relating to qualifications issued in a number of the new countries. I commend the Bill to the House.

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

Question put.            Agreed to.

The Bill was read a second time.

#### **HON F VINET:**

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

Question put.            Agreed to.

The House recessed at 11.50 am.

The House resumed at 12.05 pm.

### **COMMITTEE STAGE**

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

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

- (1) The Development Aid (Amendment) Bill 2004;
- (2) The European Communities (Amendment) (Accession Countries) Bill 2004;
- (3) The Interpretation and General Clauses (Amendment) Bill 2004;
- (4) The Supreme Court (Accession Countries) (Amendment) Bill 2004;
- (5) The Working Time (Amendment) Bill 2004;
- (6) The Gibraltar Health Authority (Complaints Review Panel) Bill 2004;
- (7) The Employment (Architects) (EEA Qualifications) (Accession Countries) (Amendment) Bill 2004;
- (8) The Animals and Birds (Amendment) Bill 2004;
- (9) The Insurance (Motor Vehicles) (Third Party Risks) (Amendment) (EU Accession Countries) Bill 2004;
- (10) The Veterinary Surgeons (EEA Qualifications) (Accession Countries) (Amendment) Bill 2004;
- (11) The Income Tax (Amendment) Bill 2004.

## **THE DEVELOPMENT AID (AMENDMENT) BILL 2004**

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

Question put.                      The House voted.

For the Ayes:                      The Hon C Beltran  
The Hon Lt Col E M Britto  
The Hon P R Caruana  
The Hon Mrs Y Del Agua  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon J J Netto  
The Hon F Vinet  
The Hon R R Rhoda  
The Hon T J Bristow

Abstained:                      The Hon J J Bossano  
The Hon C A Bruzon  
The Hon Dr J J Garcia  
The Hon S E Linares  
The Hon L A Randall

Absent from the Chamber:      The Hon F R Picardo  
The Hon Miss M I Montegriffo

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

## **THE EUROPEAN COMMUNITIES (AMENDMENT) (ACCESSION COUNTRIES) BILL 2004.**

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

## **THE INTERPRETATION AND GENERAL CLAUSES (AMENDMENT) BILL 2004**

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

## **THE SUPREME COURT (ACCESSION COUNTRIES) (AMENDMENT) BILL 2004**

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

## **THE WORKING TIME (AMENDMENT) BILL 2004**

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

## **THE GIBRALTAR HEALTH AUTHORITY (COMPLAINTS REVIEW PANEL) BILL 2004**

**Clauses 1 to 20 and the Long Title** –

Question put.                      The House voted.

For the Ayes:                      The Hon C Beltran  
The Hon Lt Col E M Britto  
The Hon P R Caruana  
The Hon Mrs Y Del Agua  
The Hon J J Holliday  
The Hon Dr B A Linares

The Hon J J Netto  
The Hon F Vinet  
The Hon R R Rhoda  
The Hon T J Bristow

Abstained:

The Hon J J Bossano  
The Hon C A Bruzon  
The Hon Dr J J Garcia  
The Hon S E Linares  
The Hon L A Randall

Absent from the Chamber: The Hon F R Picardo  
The Hon Miss M I Montegriffo

Clauses 1 to 20 and the Long Title – stood part of the Bill.

**THE EMPLOYMENT (ARCHITECTS) (EEA QUALIFICATIONS)  
(ACCESSION COUNTRIES) (AMENDMENT) BILL 2004**

**Clauses 1 to 4 and the Long Title** – were agreed to and stood part of the Bill.

**THE ANIMALS AND BIRDS (AMENDMENT) BILL 2004**

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

**Clause 2**

**HON F VINET:**

There is a minor amendment at sub-section (h). The reference to the words “the EC Regulations” ought to read “or the EC Regulations”. The effect would be that section 23 would read “by

this Ordinance or the EC Regulations”. So therefore, the inclusion of the word “or” prior to the word “the” within the apostrophes.

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

**The Long Title** – was agreed to and stood part of the Bill.

**THE INSURANCE (MOTOR VEHICLES) (THIRD PARTY  
RISKS) (AMENDMENT) (EU ACCESSION COUNTRIES) BILL  
2004**

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

**THE VETERINARY SURGEONS (EEA QUALIFICATIONS)  
(ACCESSION COUNTRIES) (AMENDMENT) BILL 2004**

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

**THE INCOME TAX (AMENDMENT) BILL 2004**

**Clauses 1 and 2 and the Long Title** –

Question put.

The House Voted.

For the Ayes:

The Hon C Balban  
The Hon Lt Col E M Britto

The Hon P R Caruana  
 The Hon Y Del Agua  
 The Hon J J Holliday  
 The Hon Dr B A Linares  
 The Hon J J Netto  
 The Hon F Vinet  
 The Hon R R Rhoda  
 The Hon T J Bristow

Abstained:

The Hon J J Bossano  
 The Hon C A Bruzon  
 The Hon Dr J J Garcia  
 The Hon S E Linares  
 The Hon L A Randall

Absent from the Chamber:

The Hon F R Picardo  
 The Hon Miss M I Montegriffo

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

### THIRD READING

#### HON ATTORNEY GENERAL:

I have the honour to report that:

- (1) The Development Aid (Amendment) Bill 2004;
- (2) The European Communities (Amendment) (Accession Countries) Bill 2004;
- (3) The Interpretation and General Clauses (Amendment) Bill 2004;
- (4) The Supreme Court (Accession Countries) (Amendment) Bill 2004;
- (5) The Working Time (Amendment) Bill 2004;
- (6) The Gibraltar Health Authority (Complaints Review Panel) Bill 2004;

- (7) The Employment (Architects) (EEA Qualifications) (Accession Countries) (Amendment) Bill 2004;
- (8) The Animals and Birds (Amendment) Bill 2004;
- (9) The Insurance (Motor Vehicles) (Third Party Risks) (Amendment) (EU Accession Countries) Bill 2004;
- (10) The Veterinary Surgeons (EEA Qualifications) (Accession Countries) (Amendment) Bill 2004; and
- (11) The Income Tax (Amendment) Bill 2004;

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

Question put.

- (1) The European Communities (Amendment) (Accession Countries) Bill 2004;
- (2) The Interpretation and General Clauses (Amendment) Bill 2004;
- (3) The Supreme Court (Accession Countries) (Amendment) Bill 2004;
- (4) The Working Time (Amendment) Bill 2004;
- (5) The Employment (Architects) (EEA Qualifications) (Accession Countries) (Amendment) Bill 2004;
- (6) The Animals and Birds (Amendment) Bill 2004;
- (7) The Insurance (Motor Vehicles) (Third Party Risks) (Amendment) (EU Accession Countries) Bill 2004;
- (8) The Veterinary Surgeons (EEA Qualifications) (Accession Countries) (Amendment) Bill 2004;

were agreed to and read a third time and passed.

- (1) The Development Aid (Amendment) Bill 2004;
- (2) The Gibraltar Health Authority (Complaints Review Panel) Bill 2004; and
- (3) The Income Tax (Amendment) Bill 2004.

The House voted.

For the Ayes:

The Hon C A Beltran  
The Hon Lt Col E M Britto  
The Hon P R Caruana  
The Hon Mrs Y Del Agua  
The Hon J J Holliday  
The Hon Dr B A Linares  
The Hon J J Netto  
The Hon F Vinet  
The Hon R R Rhoda  
The Hon T J Bristow

Abtsained:

The Hon J J Bossano  
The Hon C A Bruzon  
The Hon Dr J J Garcia  
The Hon S E Linares  
The Hon L A Randall

Absent from the Chamber:

The Hon F R Picardo  
The Hon Miss M I Montegriffo

The Bills were read a third time and passed.

## **ADJOURNMENT**

The Hon the Chief Minister moved the adjournment of the House to Wednesday 4<sup>TH</sup> August 2004, at 12.00 noon.

Question put.            Agreed to.

The adjournment of the House was taken at 12.20 pm on Monday 26<sup>TH</sup> July 2004.

**WEDNESDAY 4<sup>TH</sup> AUGUST 2004**

The House resumed at 12.00 noon.

## **PRESENT:**

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

## **GOVERNMENT:**

The Hon P R Caruana QC - Chief Minister  
The Hon J J Holliday - Minister for Trade, Industry and Communications  
The Hon Dr B A Linares - Minister for Education, Employment and Training  
The Hon Lt-Col E M Britto OBE, ED - Minister for Health  
The Hon J J Netto - Minister for Housing  
The Hon Mrs Y Del Agua - Minister for Social and Civic Affairs  
The Hon C Beltran - Minister for Heritage, Culture, Youth and Sport  
The Hon F Vinet - Minister for the Environment, Roads and Utilities  
The Hon R R Rhoda QC - Attorney General  
The Hon T J Bristow - Financial and Development Secretary

## **OPPOSITION:**

The Hon J J Bossano - Leader of the Opposition  
The Hon Dr J J Garcia  
The Hon F R Picardo  
The Hon C A Bruzon  
The Hon S E Linares  
The Hon Miss M I Montegriffo  
The Hon L A Randall

### **IN ATTENDANCE:**

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

### **MOTIONS**

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

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

- (1) Acknowledges the sustained and persistent support over many decades of Lord Hoyle (Douglas Hoyle) and Lord Bethell (Nicholas Bethell) for the aspirations and interests of Gibraltar and its people, and their defence and promotion within and without the House of Lords,
- (2) and in recognition thereof and gratitude therefore resolves to bestow on them the Honorary Freedom of the City of Gibraltar."

Mr Speaker, Lord Hoyle was first elected to Parliament in 1974 as Member for Cole and Nelson in Lancashire. His interest in the defence of the people of Gibraltar can be traced back to his early Parliamentary days and his forthright support in the defence of the wishes of Gibraltar and its people continues to this very day. During his Parliamentary career, both in all the posts that he has held most notably as a member of the Labour Party National Executive, as Chairman of the Parliamentary Labour Party and as a Member of the Shadow Cabinet, Lord Hoyle has always been true to the defence of and respect for the rights and aspirations of Gibraltar and its people. Lord Hoyle, Doug Hoyle to his very many friends in Gibraltar, is a regular visitor to us, and has developed many, many friendships here. Not content with having systematically stood up for Gibraltar and

its interests and concerns, he has made sure that the torch is passed to his son Lindsay Hoyle, Member of Parliament in his own right and who is with us here today. And Lindsay, like his father, has shown a huge respect and support for Gibraltar and its people, and Gibraltar indeed has much to be grateful to the Hoyle family for.

Mr Speaker, Nick Bethell, Lord Bethell, is also well known to the whole of Gibraltar as one of our foremost supporters and defenders, in common and in like manner as Lord Hoyle. He has been known for not just his steadfast issue after issue defence of Gibraltar, its problems, its wishes, its aspirations, but also for the conduct of specific campaigns on behalf of Gibraltar, as has been his almost tireless efforts on our behalf to secure our enfranchisement at the European Elections, and I know that he will have been delighted to have seen us participate in those Elections for the first time in the recent European Parliamentary Elections. Nick Bethell also has, in all the positions that he has held, in all the Parliaments that he has served in, which is not just the House of Lords but also the European Parliament, shown every regard and consideration for Gibraltar and its people, and has always been willing to take up the cause of a people that he has always believed to have been less able to defend their rights than those that would attack them had power themselves and has always sought, to the measure of his ability, to redress that balance.

Mr Speaker, both Lord Hoyle and Lord Bethell have put principle over expediency. Both have put democracy over size or geographical considerations. Both have often put Gibraltar and its interests before their own party political loyalty. Both are true friends of Gibraltar. We can ask no more of people than these two honourable men have done for us over many, many decades. It is right now that we should honour them by giving them the highest accolade the Gibraltarians can give, which is the Freedom of this our Beloved City and homeland, that they should both live for very many years to come to enjoy that freedom, and Gibraltar will be very fortunate indeed if they both continue to defend and protect our interests as they have done

until now. I much look forward, following the adoption of this motion by the House, that on 10<sup>th</sup> September they will both come in person to receive the Freedom of the City, and thereby enjoy and experience the opportunity of allowing the people of Gibraltar to demonstrate to them gratitude as only the people of Gibraltar know how to express. I commend the motion to the House.

Question proposed.

**HON J J BOSSANO:**

Mr Speaker, the motion which has been of course the subject of prior discussion between the two sides of the House, is one that gives me enormous pleasure to support, since I happen to have shared much of my years of political involvement in defence of Gibraltar, with both Nicholas Bethell and Dougie Hoyle. In fact, in Dougie Hoyle we have somebody whose interest in Gibraltar has been there through the Trade Union movement and through the Labour Party, even before he was able to help us as a Member of Parliament and now in the House of Lords. It is also very gratifying that Lindsay, his son, has followed in his father's footsteps. It is something that we in Gibraltar attach a great deal of importance to, because we ourselves transmit our views on the future of Gibraltar to our grandchildren and children, as we ourselves have inherited from past generations of Gibraltarians. Therefore, it is a good example that the Hoyle dynasty is giving Gibraltar that we recommend to our many other friends in the United Kingdom, that have defended us over the years.

Nicholas Bethell of course, was coming to Gibraltar, was a close friend of Sir Joshua Hassan, his involvement in Gibraltar I think, was due to Sir Joshua, and he was instrumental in the creation of the Parliamentary representation group that we have in the European Parliament, in all the years that we were seeking the right to vote, which he defended totally. It is also important that the motion before the House represents the fact that the Friends

of Gibraltar in the United Kingdom encompass the whole political spectrum. That is as it should be, because the commitment to Gibraltar and to its people that there is in the United Kingdom, cuts across political affiliation at the level of the people of the United Kingdom, at the level of the electorate, and therefore it is right that Members of Parliament elected by the people of the United Kingdom, irrespective of which party they belong to, should defend what their constituents defend, which is the right of our people to retain our links with the United Kingdom, the links we shall be recognising in the subsequent motion on the Order Paper. Although Lindsay and Dougie Hoyle are our friends as a family, and they have got a family relationship with us, and Nicholas Bethell is someone that has been with us so long that it is long overdue that the recognition be there, they are only two of many friends that we have. In fact, if we were really to recognise all the friends, all the supporters, all the people that are with us in the United Kingdom, we would have to be sitting permanently in this House granting the Freedom of the City to many others. Therefore it is with enormous satisfaction and pleasure that we welcome this motion in the House and we welcome the opportunity to speak in its support and to vote in its favour.

Question put.                      The motion was passed unanimously.

**JOINT MOTION**

**HON CHIEF MINISTER:**

I beg to move, on behalf of myself and the Leader of the Opposition, the motion standing in our joint names and which reads:

"This House, the Parliament of the People of Gibraltar, with pride and satisfaction, this 4<sup>th</sup> day of August 2004:-

1. Commemorates and celebrates the 300<sup>th</sup> Anniversary of British Sovereignty of Gibraltar following the events of 4<sup>th</sup> August 1704;
2. Expresses its warmest appreciation to Her Royal Highness The Princess Royal for her recent visit to share with the People of Gibraltar this important landmark in Gibraltar's history;
3. Remembers with gratitude the courage of the many generations of British servicemen who from 1704 to date have defended, and served in, Gibraltar and celebrates the close links between Gibraltar and the British Armed Forces;
4. Remembers with gratitude previous generations of Gibraltarians whose suffering, sacrifices, courage and determination established Gibraltar as the homeland of the Gibraltarians;
5. Remembers with appreciation and affection the many fruits of our 300 years of British Sovereignty and the mutually beneficial relationship between Gibraltar and United Kingdom;
6. Pledges to resist and oppose any discussion or negotiation against the wishes of the people of Gibraltar for the transfer to Spain of any part of the Sovereignty of Gibraltar;
7. Asserts the inalienable right to self determination of the people of Gibraltar and calls upon the British Government and the Spanish Government to respect this right, which precludes them from negotiating our future other than at our request and with our consent;

Looks forward to the modernisation of the relationship between Gibraltar and the United Kingdom by the agreement of a new

de-colonising constitution providing the maximum possible level of self government and guaranteeing exclusive British Sovereignty over the whole of the territory of Gibraltar for so long as the people of Gibraltar should so desire it."

Mr Speaker, today is our 300<sup>th</sup> birthday. The tercentenary of British Sovereignty of Gibraltar and thus a hugely significant anniversary by any measure. Three hundred years is a long time, even in the history of nations. There are few countries in the world that have already celebrated their tercentenary. It is therefore entirely appropriate that this House should mark the occasion by this special tercentenary meeting.

On behalf of the Government I wish to express again, so that it may be recorded in Hansard, our warm appreciation and that of the people of Gibraltar for the recent visit of Her Royal Highness the Princess Royal to participate with us in the celebration of this tercentenary. Her Royal Highness continued with the visit despite the regrettable but usual protest from our neighbours. Gibraltar is part of Her Majesty's Realms and Dominions. Visits by members of her family to Gibraltar, therefore raise no issue which is the business of any foreign country. During the Princess Royal's visit I said to her, that grateful and delighted as we were for her presence as part of our tercentenary celebrations, what the people of Gibraltar wished was for another visit from the Queen, who has not visited here since 1954. Regrettably, I understand that successive British Governments have declined to advise Her Majesty that she should visit us. I do hope that this policy will change. I asked the Princess Royal to convey these sentiments to the Queen, and also to convey to Her Majesty the greetings and best wishes of the people of Gibraltar who are among her most loyal subjects. I understand that the Princess Royal has done exactly what she was asked. In turn, during her visit, the Princess Royal brought us the Queen's personal greetings and congratulations to Gibraltar on the occasion of our tercentenary.

Mr Speaker, history is history. The political and geographical map of the world today reflects the events of history. Some much more recent than 1704. Gibraltar cannot be made an



exception to this. Our history and the natural consequences of it, cannot be denied to us, nor our freedom and natural desire to celebrate and commemorate it. So, on this our tercentenary, we remember those British soldiers and sailors who gave or risked their lives in Gibraltar, in the summer of 1704. We remember also with gratitude the British soldiers and sailors who gave or risked their lives in the heroic defences and reliefs of Gibraltar during the 18<sup>th</sup> century. Finally, we remember those British armed service men and women, who in more recent decades have served in Gibraltar and formed a valuable part of our community.

The historical and current relationship between Gibraltar and the Armed Forces is legendary. We have been and continue to be a home from home for them. They in turn have provided the foundation upon which the people of Gibraltar have been able to build a viable, prosperous and modern economy and community. The Armed Forces remain a valued and valuable part of our community and of our economy. We hope that it will remain so for many, many centuries and indeed decades and centuries to come.

It is therefore entirely appropriate that we should welcome here today the Secretary of State for Defence Geoff Hoon. I believe that Geoff Hoon knows and understands Gibraltar and the aspirations of its people, and that he is a friend. I believe too that he appreciates the continued value of Gibraltar to the Armed Forces and to British defence interests for which he has the highest ministerial responsibility.

Just as it is appropriate that we should have among us today Sir Alan West, the First Sea Lord, who later today receives the Freedom of the City of Gibraltar for the Royal Navy as part of our tercentenary celebrations. A fitting but curiously overdue honour, given the Royal Navy's importance to every single day of Gibraltar's history, from 4<sup>th</sup> August 1704 to this very day. No single entity has been more ever present and important in Gibraltar's affairs than the Royal Navy. We welcome also Michael Howard, Leader of the Opposition, and Michael Ancram

Shadow Foreign Secretary. Their support for and commitment to Gibraltar has been well demonstrated and hugely appreciated by the people of Gibraltar. As is the support of so many Members of Parliament, from all its sides and all its political parties. We are blessed to enjoy cross party support in the House of Commons and elsewhere, on the scale that we do. It is important that this should continue to be so. Welcome then to you all, including of course Lindsay Hoyle, the Labour Member of Parliament for Chorley and Chairman of the All Party Gibraltar Group in the House of Commons, for his steadfast unselfish and often courageous stand in our defence.

Mr Speaker, on this very special day we remember also previous generations of Gibraltarians who have suffered and sacrificed much, and shown a resoluteness and determination, which we have inherited, and without all of which we would not have what we have and what we enjoy today. Life for Gibraltarians in a military fortress during the 18<sup>th</sup> and 19<sup>th</sup> centuries was not comfortable. There was much hardship. Even during the 20<sup>th</sup> century our forefathers endured living conditions and standards of living which are but a shadow of what we enjoy today. Let us remember too the war time evacuees. Men, women, children, displaced from their homes for years, often living abroad in wretched conditions, away from their beloved homeland and loved ones, and not knowing when or whether they would ever return. To their love for and commitment to their homeland and their gritty determination to return to it, we owe everything. Even though it is more recent and most of us lived through it, let our younger generations not forget the sacrifices and steadfastness of the closed frontier generations. All of this history has brought us closer together as a people, reinforced our identity and endowed us with a resoluteness and determination which is, to this day, and will always be, our best defensive shield and our guarantee of future prosperity and success as a community.

Gibraltar has always been a beacon of hope and liberty over suppression. It welcomed and provided a haven for Jews when others expelled and persecuted them. It was the only piece of continental Europe that retained liberty and democracy

throughout the entire Second World War. To this day we are, I believe rightly, known for our warmth and hospitality to visitors, for the genuine peaceful co-existence of people regardless of race, religion, ethnic origin or political view. These are things which are in our chemistry as a people and are the result of our history. We should be proud of that. We are a small country with a small population. Despite that, we have established a vibrant, self-sufficient economy in the face of adversity which underpins a just and extensive welfare State. We practice a modern and vibrant parliamentary democracy, we enjoy very extensive self-government. Of all these things too, we should be proud.

Mr Speaker, in our tercentenary year we commemorate and celebrate our 300 years of British Sovereignty and the many, many fruits of our relationship with Britain. Although the relationship has been mutually beneficial over the centuries, our own harvest from it has been huge. To it we owe our democratic values, our mature and vibrant political process, our systems of government, laws, administration of justice and education. To it we owe the huge amount of physical heritage that Gibraltar contains, and also our intangible heritage which we share in common with Britain.

Mr Speaker, to know who you are and where you are going, you must know and understand your history. Indeed, your history establishes your future rights and underpins your aspirations to the future. We are proud of our history. We make no apology for it and we will not allow others to disqualify it. So today, we do not just look back with gratitude to our past, but we also look forward with confidence into our future. A confidence based on the certain knowledge that our aspirations, based as they are in democratic principles and human rights, is unanswerable and right. We are small and lack political, economic or diplomatic power. But these handicaps strengthen rather than weaken our resolve to promote and defend our political rights as a people in the face of challenge and denial. We are fortified in our endeavour by the huge store of support that there is for Gibraltar

in Parliament and amongst ordinary citizens in the United Kingdom.

Gibraltar is not and should not be regarded by anybody as an irritating problem to be solved for reasons of political or diplomatic expediency. It is a case of democratic rights waiting to be fully respected by others. It is simply not the British way to put expediency over principle, to put geography over democracy or to put size over human rights. That is why I believe that Gibraltar enjoys the huge amount of support that it does in all corners of the United Kingdom. Apart from the fact, of course, that we are part of each others heritage.

So Mr Speaker, we will never betray or surrender our right to self-determination as a people. That is the right, our right, to freely and democratically decide our own future. If we choose as we do, to exercise that right to remain British, then all others in this democratic day and age must respect that, however much they may disagree. So today, when it carries the motion that we are debating, this House will have renewed our pledge to resist and oppose any discussion or negotiation against the wishes of the people of Gibraltar, for the transfer to Spain of any part of the sovereignty of Gibraltar. Our inalienable right to self-determination precludes all others from negotiating our future, other than at our request and with our consent. As one of our recent Governors, the late General Sir William Jackson said, and I quote him, "Gibraltar is neither Spain's to have nor Britain's to give away. It is the homeland of the people of Gibraltar".

Mr Speaker, the people of Gibraltar value and wish to retain their British sovereignty and their constitutional links with Britain. Constitutional links that we wish to modernise and thus bring about our decolonisation, which no international treaty prevents. If I could just depart from my prepared text, and report to the House that this morning I had a leading Foreign Affairs spokesman for the Spanish Government explain to the people of Spain over the radio, that there was a treaty, the Treaty of Utrecht, that prevented the decolonisation of Gibraltar unless it was handed over to Spain, that that is a wholly erroneous and

misconceived interpretation even of the Treaty of Utrecht that we regard as democratically irrelevant in the 21<sup>st</sup> century. The Treaty of Utrecht does not say, whatever the level of its present validity might be, the Treaty of Utrecht does not say that Gibraltar has to remain a colony or otherwise revert to Spain. Indeed Gibraltar was not a colony at the time that the Treaty of Utrecht was signed in 1713. Gibraltar did not become a colony until more than a hundred years later in 1830. The Treaty of Utrecht is simply not concerned with questions of colonisation and decolonisation. It is concerned, I repeat to the extent that it remains valid, it is concerned with sovereignty, not decolonisation. As we feel that it is perfectly possible to decolonise Gibraltar without surrendering British Sovereignty, which in any event we do not want to surrender, the decolonisation of Gibraltar is, not only not prevented by the Treaty of Utrecht, indeed the Treaty of Utrecht is wholly irrelevant to it, and it is symptomatic of the legal, political and democratic weakness of Spain's case in relation to Gibraltar that she has to misquote even the facts, in order to try and win support for her point of view.

Mr Speaker, we therefore look forward to engaging with Her Majesty's Government in such a process of constitutional reform and modernisation in the autumn of this year. We also value friendly and constructive relations with our neighbour, Spain, and are equally willing to work to maximise the opportunities in that regard. But between democratic peoples and countries, relations must be based on mutual respect and we hope that that will be possible in the future. We certainly are happy to commit to that process.

Finally Mr Speaker, I thank all those who have joined us in these celebrations. Particularly those of you who have done so in the face of controversy. No offence is meant to anybody by these celebrations but we cannot help it if offence is nevertheless taken. A clear distinction needs to be drawn between offensive behaviour on the one hand, and inoffensive, reasonable and proper behaviour on the other, from which others anachronistically, controversially and without justification choose

to derive offence where there is none. We will not apologise for our history of which we are proud, nor will we allow it or its celebration in these dignified ways, to be disqualified or spoilt.

Mr Speaker, before sitting down I wish to note and record the fact that this is the last sitting of the House over which you will preside. I wish to record the Government's thanks and appreciation for your eight years of service to this House, and indeed to the community as Mayor, I wish you every health and happiness in retirement. I commend the motion to the House.

Question proposed..

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

Mr Speaker, in moving this motion jointly with the Government, the text of which has been agreed beforehand, we are following in respect of our rights as a people, a tradition that has been there not just since the House of Assembly was created as a result of the last Constitution, but indeed that was there before under previous Constitutions. The motion gives this occasion the importance and the solemnity that it should have, and that it has, and that is reflected in the presence in the Gallery, the very welcome presence, of our Minister for Defence, Geoff Hoon, and of Michael Ancram and Michael Howard, and of course also of Simon Hughes, of the Liberal Party, reflecting the support that there is in the House of Commons, at all levels, and within all parties in the back benches. They are here to join us in celebrating something that we cannot get away from which appears to be what gives, in our view, unjustified offence to our neighbours.

There is only one thing that happened today 300 years ago. That is that Gibraltar was captured and that the Spanish flag was lowered, and that it has remained since that event, under British Sovereignty and that we, the people of Gibraltar, would not exist if the battle had gone the other way. Indeed, not just our own

history but probably a big chunk of European history would not have been the same. Gibraltar is not just a place that is very important for us but what happened 300 years ago was very important to the whole course of European history and of the history of the United Kingdom. All that has happened is that we came of age a very long time ago. All that has happened is that the course that was followed by successive British Governments in recognising the right of self-determination of the people that were the inhabitants of the British Colonies, whether they were people that were there already when they became colonies, or people that arrived after they became colonies, has led to the exercise of the right of self-determination in all cases except in ours.

We need to remember that in 1964, 40 years ago, the elected representatives of the people of Gibraltar, by unanimity, together with those that had served in the Legislative Council prior to the coming into effect on 10<sup>th</sup> September 1964 of the 1964 Constitution, jointly signed a document which has since been supported by the House of Assembly, in which in the clearest possible terms it was stated that the people of Gibraltar have the right to self-determination, and that the people of Gibraltar wanted to seek decolonisation by virtue of establishing an association with the United Kingdom which was not colonial and which retained British Sovereignty for as long as that was the wishes of the people. The concluding paragraph of the motion before the House today, effectively shows that in the 40 years we have not changed our mind, and that this House, like all previous Houses, is fully committed to ensuring that the sovereignty of Gibraltar remains exclusively British over the whole of the territory. This House rejects the concept which appeared for the first time in the text of the Brussels Joint Declaration, which purported to distinguish sovereignty as divided into two separate issues.

For us there is one issue and the issue is that this is our homeland, that we are a British people and that we are Gibraltarians, and that absolutely no one has got the right to debate or discuss our future, unless we want it. Therefore, the

United Kingdom Government has to acknowledge that indeed the intention of the Preamble of the Constitution, the spirit of the Preamble of the Constitution requires them not to make any move, however much some people may argue it is good for us, unless it is what we want and what we ask for. Ideally any such request, in our view, should carry the unanimous support of the House. But at the very least, it should have the full support of the majority party in the House, before the United Kingdom sits down with any foreign power to discuss the future of our homeland and the future of our people. The reason why we are taking this opportunity to say that in the context of a motion that celebrates our 300 year history, is because that history we owe to the United Kingdom and particularly, as the motion says, to the events that followed 1704 and to the many, many hundreds of servicemen that put their lives at risk and that sacrificed their lives to ensure the territorial integrity of our country, and to ensure the continuation of the Union Jack over our Rock.

For us it is very clear. Sovereignty is not discussable, let alone negotiable. It is interesting that in the latest statement by the Minister for Foreign Affairs of the Kingdom of Spain, he has just said that no one can deny the Gibraltarians the right to commemorate their own history. Well, it seems to us that that is a step in the right direction. At least they acknowledge that we have got the right to commemorate our own history. But what they do not seem yet to have come round to accepting, is that we have got the right also to write our future history. The future of Gibraltar is entirely in our own hands and the friends and defenders that we have in the United Kingdom, defend us precisely on the basis of that principle.

Mr Speaker, when the negotiating process was launched 20 years ago, in 1984, everything that affects us seems to end in 4 I do not know why. In fact, it was an agreement at referendum to this House, the trigger for that process to start was a Resolution accepting it in the House of Assembly. I think, in that respect, at the very least, the Government of the day were committed not to proceed with that unless there was support for it in this House. The Government of Gibraltar that supported that, we did not on

this side of the House, even then entered a reservation on the fact that it referred to sovereignty and made clear that they were supporting the agreement but they were not in agreement with the sovereignty part of it. So there has never really been, in Gibraltar, other than by people trying to persuade us to move in a direction that we did not want to go, any desire, any request, any wish for the United Kingdom to engage in that area. Therefore, when the United Kingdom tells us what is best for us, if they are really looking after our interests, then we should look carefully at what they advise. But at the end of the day we are now grown up, and they have to accept that as equals, for many years now the United Kingdom has been talking about the relationship between the Overseas Territories and the administering power being one of partnership. We are now in the second decade for the eradication of colonialism. The United Kingdom has no choice but to grasp the nettle this House agreed in 2002, to support unanimously the recommendations of the Select Committee of the House, that have spent a number of years formulating the draft of a new constitution, that has been reaffirmed since the last Election in the first meeting of this year, and therefore, the United Kingdom has to make clear to the Kingdom of Spain that they have the same obligation to this colony as they have to every other one, and that they have to proceed with settling our future with us, exclusively with us. Spain has got no part to play in that process and nothing to say about it. That is not an act of hostility, that is something that Senor Moratinos has to recognise is as valid as what he has just recognised, which is our right to celebrate our 300 years of history. Or does he not think that if we are celebrating 300 years of being British, automatically we are also celebrating 300 years of not being Spanish.

Mr Speaker, the Leader of the House has expressed the strong views in Gibraltar, both of welcome and appreciation for Her Royal Highness on her recent visit, and for the fact that we look forward to the day when Her Majesty the Queen comes again. It is now 50 years again, 1954. Of course, we know what happened in 1954. In 1954 what was then an undemocratic regime in Spain, took offence at Her Majesty exercising her right

to visit one of her possessions and to visit her loyal subjects in Gibraltar. They introduced a number of sanctions, some of which remain to this day. The problems with our neighbours have been there periodically on and off. They signed a Treaty but the ink was hardly dry on a peace treaty, ceding Gibraltar in perpetuity, before they started trying to take it back by force. So much for observing treaties. But when Her Majesty visited us, nobody in Gibraltar questioned the wisdom of that. Nobody in Gibraltar complained about the price that had to be paid for the pleasure of having Her Majesty among us. Nobody in Gibraltar does anything other than welcome the fact that the Minister for Defence, the Secretary of State for Defence is with us. Therefore, if we want him to be here and if he enjoys being here, what does it matter if the neighbouring country is not happy. Would the Ministers in the Spanish Government or His Majesty the King of Spain be put off from visiting Ceuta and Melilla because it might upset Morocco? I would think not. I would think any government in Spain that suggested that the sensibility of the Moroccan Government is more important than asserting their right to their possessions in North Africa, would get short shrift from the media and the parliament of the Kingdom of Spain. Therefore, it is only to be expected that our feelings on this subject should be no different from what theirs would be if the shoe were on the other foot.

There are many links between Gibraltar and the United Kingdom and many things we have learnt from them. In the years when I had the privilege to be in office, I dealt with a number of Secretaries of State for Foreign Affairs. I used to remind friends like Douglas Hurd that if they felt sometimes uncomfortable with the bolshies of the Gibraltarians, they only had themselves to blame because that is part of our heritage, that is what they taught us. They taught us that as free people, as free British citizens, in a place under British sovereignty, we have the right to express our views and the right to campaign for our rights, and that is what we do. We behave here as we would if we were living in the United Kingdom because that is the culture they have exported to us. There are many people who feel that the British Empire had lots of things wrong with it, but it also had lots

of things right with it. It exported an ethos, a code of conduct, an administration which survives still today throughout the Commonwealth, and has been there from the colonial days. There were lots of dedicated United Kingdom citizens who went to the colonies and then went native, and ended up fighting their own head offices in London, the Colonial Office in London, to stand up for the rights of the colonial people because they saw it as their duty to serve the people that they had been sent not to rule.

We stopped being a part of Spain on 4<sup>th</sup> August 1704 and we are celebrating it on 4<sup>th</sup> August 2004 and will be here to celebrate it in a thousand years time. I am not so sure that the Kingdom of Spain will survive that long. Indeed, not just in the rule of law, not just in the parliamentary practice, not just in the fact that we have got a vibrant democracy and vibrant parliamentary debates, maybe a bit too vibrant at times but also in many of the institutions of Gibraltar, we have got a lot to be grateful for. In my particular respect, given my own trajectory in life, I think the Trade Union movement is something we owe a great deal to the United Kingdom for. In Gibraltar the organisation of labour and the negotiating process that we have, are all learned from them. The GSLP, speaking for my own party, owes its existence to the British Labour Party and we are extremely proud of that particular link. So the heritage is a heritage that affects every facet of our lives. I think what we have in Gibraltar is something that is not unique to Gibraltar, but is true of many other colonies and former colonies, the British exported a political, social and economic system, it reached Gibraltar because Gibraltar, as has already been mentioned, in the case of the Navy was the first port of call and the last port of call and therefore it is a home from home.

But like a plant that is transported to a different climate and a different soil, we have given it a different flavour. We are a hybrid and that hybrid, in my judgement and in the judgement of any of us, preserves the best of British values and adds a few Gibraltarians to the chemistry of it. Those Gibraltarian values and those British values are what is today the identity of the

people of Gibraltar, that we have seen reflected on the streets today with the holding of hands, that we see reflected in National Day, as has been happening since 1992 and that shows that the Gibraltarian is here to stay and that the Rock of Gibraltar is here to stay under the British flag, with a new relationship, where finally we will achieve what we have always wanted. At the end of the day what is clear is that we are only able to do that thanks to the courage, the determination and the military efficiency of the Royal Marines and the Royal Navy, that took the place in 1704. So without them we would not be here to tell the story.

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

Mr Speaker, I too welcome the opportunity to say a few words on this motion. I would like to start by welcoming to Gibraltar all those many friends who are here to celebrate the tercentenary with us, including the representatives of the three main UK parties, the Labour, Conservative and Liberal Democrat Party. The motion in front of this House spells out a number of different things that are being celebrated, commemorated or remembered today.

The first point in the motion mentions 300 years of British sovereignty but it gives no explanation as to how that British sovereignty came about. Other than through a passing reference in the motion which describes the events, as the events of the 4<sup>th</sup> August 1704. It is no secret that those events were a successful military assault by a force of Anglo/Dutch marines, which captured the Rock from the Spanish defenders. Today what we commemorate is the anniversary of that capture, which happened on this day 300 years ago during the War of the Spanish Succession. This is precisely why Tercentenary Day is today. Little did Charles II of Spain know that when he died childless in 1700, his death would precipitate a chain of events that would prove to be essential to the formation of the Gibraltarian identity as we know it today.

Centuries earlier Queen Isabella la Catolica had urged Spaniards never to lose control over Gibraltar. It is one of those ironies of history that the death of Charles II led to the War of the Spanish Succession, which in turn was the conflict where Spain actually lost Gibraltar for ever more. Indeed it is important to stress that without this basic fact of history, nothing else in this motion would follow. There would have been no Gibraltarians. There would have been no colonial people. There would have been no demands for self-determination and decolonisation. Had Admiral Rooke and the Prince of Hesse failed in their assault on Gibraltar or succeeded in the previous attacks on Cadiz instead, I submit that history would have been very different. The value of Gibraltar to the trading links of the Empire would never have been realised. Its strategic importance in military conflicts from the Peninsular War to the two World Wars, the Falklands and two Gulf Wars, would never have materialised. Indeed, without Gibraltar how could General Eisenhower have launched Operation Torch, the Allied offensive into North Africa. And how much more dangerous would a Gibraltar in the hands of General Franco have been to the cause of the Allied effort at the time when Franco was flirting with Hitler.

Mr Speaker, we have already made clear that as far as the Opposition is concerned, in 1704 the territory of Gibraltar was liberated, or freed, from the control of the Spanish Bourbons. I note that in an article yesterday in the daily El Pais, the Spanish Foreign Minister says that it is, and I quote, sarcastic if not insulting that in Gibraltar we should dare to express this view. I have to say I did not know what he finds so offensive. This is a basic fact of history which is entirely accurate. The Rock was taken in the name of the Hapsburg pretender to the Spanish throne, the Archduke Charles of Austria. The first non Spanish Governor was the Prince of Hesse who represented him. Therefore after 4<sup>th</sup> August the Bourbon King of Spain no longer controlled, governed in or was sovereign over the territory of Gibraltar in any way. The Spanish Foreign Minister would do well to re-assess these facts. He has not appreciated that the term liberation refers to the territory and not to the people.

Mr Speaker, the modern day Gibraltarians have every right to celebrate the military action that gave them their homeland and their country. There is nothing to be embarrassed about. Spain has no reason to take offence nor do we have any reason to re-write our own history. What happened, happened. Indeed last week plans were unveiled in Britain for the celebration to commemorate the Battle of Trafalgar. Are the potential sensibilities of Madrid or Paris being placed before the commemoration of a great naval victory? The answer is no. The visit by the Princess Royal, the recent call by HMS Tireless and the Tercentenary commemorations have shaken the Spanish political establishment to the core. Once again we have been subjected to a barrage of anti-Gibraltar rhetoric.

Mr Speaker, is it not about time that they came to terms with the fact that they lost Gibraltar 300 years ago and they are never going to get it back. Do they not understand that British royalty are our royalty too. Have they still not learnt that the British military are as home here as they would be in the United Kingdom itself. It was the Royal Navy and the Royal Marines who captured Gibraltar along with other forces. The Royal Marines retained Gibraltar as a battle honour on their colours to this day. The Royal Navy will be conferred with the Freedom of the City later this evening. The Motion before this House rightly recalls the sacrifices made by those servicemen who have lost their lives over the centuries in order to keep Gibraltar British. Indeed it is important to know that Spain wasted little time in laying siege to the Rock, only a few months after she had lost it in 1704, and that next year we will be commemorating 300 years of the failure of the first siege.

Mr Speaker, it is also fitting that the motion should make reference to the many Gibraltarians who have contributed to the creation of the Gibraltar of today. Without them we would not be who we are. The motion pledges that this House will resist and oppose any discussion or negotiation against the wishes of the people of Gibraltar, for the transfer to Spain of any part of the sovereignty of Gibraltar. Many of us, myself included, would go further than this. The 2002 Referendum produced a resounding

no to sharing the sovereignty of Gibraltar with Spain in any percentage or in any shape or form. Therefore, as far as we are concerned, there is nothing more to discuss. The people have spoken. As far as we are concerned sovereignty is not transferable, not negotiable and not discussable. This is the same position that the United Kingdom has adopted to this day over the Falkland Islands and nobody thinks that this is an unreasonable stand.

Mr Speaker, Spain has to learn that we are no longer living in the days of Louis XIV, Queen Anne and Admiral Rooke. Times have moved on since 1704. Territories and people can no longer be bandied about from one monarch to another like pawns in a chess game. Madrid has to learn that the principle of self-determination is sacrosanct. In a colonial context this means that the future of a territory can only be decided by the people of that territory. In our case this means the people of Gibraltar. Successive Spanish Governments of all political colours have refused to recognise the right to self-determination of the people of Gibraltar. Instead they have embarked on a series of political and economic sanctions against us, which continue to this day. True democracy will not be established in Spain at a political level until they learn that a small colonial people cannot be bullied into forming part of that country. One thing we have learnt from our long and valued links with Britain, is never to give in to bullies and we never will whether the bully is in London or in Madrid or in both places. There is no doubt that as a colonial people we have now come of age. It is totally unacceptable that since 1969 we have remained stuck in a colonial straight jacket. Restricted by a constitution that we have long outgrown. This is now bursting at the seams. A patching up exercise to repair the damage done is not the answer. We need a wholesale reform which turns our existing political structure on its head. By making the Gibraltarians masters in their own country and which decolonises Gibraltar in a new relationship with Britain.

Looking at the past I have already explained how the Rock was liberated from Spanish Bourbon rule 300 years ago. Looking to the future there is no doubt that the time has now come once and

for all to free the Rock and its people from colonial rule so that we can celebrate many hundreds of years more as a decolonised British territory. Thank you Mr Speaker.

#### **HON C A BRUZON:**

This House of Assembly, which is at the very heart of democracy in Gibraltar, unanimously welcomes this motion. I am part of this House, I have been in the House only for seven months but I also want to pay tribute to you Mr Speaker, as I know that you are finishing your term of office and I want to thank you. We remember with gratitude and emotion, I certainly do, not only the many generations of British servicemen, who during the past 300 years served in and defended Gibraltar, but also the many generations of Gibraltarians, whose sacrifices and sheer determination have enabled us to reach the point in our history that we now enjoy. The many flags in the King's Chapel, which I often look at, remind me of the different regiments and battalions that have served in Gibraltar since 1704, and standing there amongst them is the most recent addition, and it is the flag of HMS Calpe, which to me symbolises Gibraltar's own contribution to the Royal Navy. But we as a people must look forward to the modernisation of our relationship with the United Kingdom. We must look forward to this without fear of hurting the sensibilities of our big neighbour. We are indeed unanimous, and I am happy to be part of this, in granting the Freedom of the City to the Royal Navy, and they well deserve it. But the people of Gibraltar also yearn for freedom. That kind of freedom that takes full note of our dignity as a people. So whilst honouring the memory of past generations of Gibraltarians, and in the name of the vast majority of today's inhabitants of Gibraltar, I say, Gibraltar is united in its rejection of any kind of shared sovereignty with Spain, Gibraltar is united in wanting to retain its links with Britain, Gibraltar is united in desiring the maximum possible self-government. Gibraltar is united in wanting to be recognised as a people in its own right. Gibraltar is united in its passionate love and affection for the Rock on which we live. Gibraltar is united in its struggle to have our right to self-determination respected and not just



acknowledged. Gibraltar is united in wanting to be de-listed from the United Nations list of non self-governing territories. Finally, Gibraltar is united in its yearning to be free and God knows we have earned it.

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

Mr Speaker, it is quite an honour for me to be able to address this House on the motion before us today, when we are celebrating 300 years of British Gibraltar. Mr Speaker is aware that I have been a Member of this House since 1984, 20 years. I decided to join the Gibraltar Socialist Labour Party and become involved in local politics for the sole purpose of wanting to serve my people and defend our country as best as I could. Gibraltar has been through many, many sieges since it became British 300 years ago and many British servicemen have given their lives to keep the Rock British. The people of Gibraltar are greatly indebted to them. Moreover, we have always had an extremely good relationship with the Armed Forces, stationed for so many years in Gibraltar. We have always expressed to them our admiration and our gratitude. In return, we have also shown 100 per cent loyalty to the British people and to the Royal family. Their Royal family is our Royal family. Similarly, the people of Gibraltar have proved their loyalty to the United Kingdom on many, many occasions. When a member of the Royal family visits us, we show them our warmth and our gratitude for their support to the people of Gibraltar.

Mr Speaker, the Gibraltarian race came about as a result of quite a number of Mediterranean peoples that came to settle in Gibraltar. Our links with the United Kingdom and the British people have made us into quite a unique race. But of course, we have been taught the British way, we love our British heritage and we love our Rock. I say the following phrase with passion and I hope that my message will go beyond our frontiers. No one, but no one, will ever succeed in taking Gibraltar away from us. It is our homeland and when so many democratic nations today speak of the rights of the people to decide their future, it

cannot mean that Gibraltar has to be excluded, otherwise we are talking about a democracy that is false, because it will only be applied by governments when it suits them. No government has a right therefore, to determine the future of a people.

As far as Spain is concerned, what can I say except but to tell them, when are they going to grow up? When are they going to learn? My homeland is not for sale. The people of Gibraltar have spoken in a referendum twice, saying no, we do not wish to give up not even an inch of our land, or should I say not even a centimetre. Spain closed the border and it did not work. Spain has gone and can go ballistic and still it will not work. Spain can try to woo us, they can do whatever they like and still they will not succeed. We are as determined today as we were fifty, a hundred or two hundred years ago, united as we are and together with the invaluable support that we receive from our friends in Parliament and the people of Britain, we have always survived against Spanish attempts to destroy our resolve. Now Mr Speaker, we have a Gibraltar which has grown of age. A Gibraltar which has been self sufficient since the border opened and the support and sustain policy from the UK ceased. We have a people who want to move forward and who rightly yearn for their right to determine their own future.

As in previous battles, we will succeed, I am absolutely confident of this. However, once again in this House, I reiterate that a new constitution for us must mean that Gibraltar will be decolonised and then we can be struck off from the United Nations list of colonies. It is extremely important that this happens, otherwise Spain will be able to continue with her campaign that we are still an anachronism being the only colony left in Europe. When she no longer has this argument, she will lose credibility internationally. It is therefore the people of Gibraltar and not any government who should exercise the right to decide their own future. When we exercise our right to self-determination Mr Speaker, it should be exercised by referendum. But I am sure that the status we choose will be one that still maintains links with our mother country. It is now up to our mother country to realise that we, as others, are just as entitled to that right. Only

when this happens, will we have won the final battle and then the words, alls well the fortress is secure, will have its real true meaning. Because only then can we give the long-lasting security that all past generations of Gibraltarians have been fighting for.

Finally Mr Speaker, I wish to thank the many thousands of Gibraltarians and other residents that turned out this morning in what was a really important, symbolic gesture. That of embracing our country. This event will go down in history and it proves beyond any reasonable doubt, how much we love this Rock of ours. Thank you Mr Speaker.

#### **HON L A RANDALL:**

Mr Speaker, I wish to thank the people of Gibraltar for affording me the honour and privilege of addressing this House on this important milestone in the history of our country, the tercentenary of our independence from Spain. My thanks also go to the many generations of Gibraltarians and British servicemen and civilians who made this possible. I would remind the House that it was the government of the United Kingdom who chose to include Gibraltar in the United Nations list of colonies, and that the list was created for one purpose and one purpose only, to hand over total control of the colonial territories to the inhabitants. I therefore expect that the negotiations which will commence this autumn with the United Kingdom Government, regarding the modernisation of Gibraltar's relationship with the United Kingdom, should result in our country being decolonised. Additionally, these negotiations should be exclusively between this House and the United Kingdom. That is to say, without any reference to or input from the Kingdom of Spain, regardless of the level of their protestations and strength of their representations.

This morning we witnessed a wonderful and emotional expression of unity by our people, when the vast majority formed a human chain around Gibraltar. It was yet another

manifestation of the wish of the people of Gibraltar to remain British and not to allow the Kingdom of Spain to have any say over the future of our country.

Finally Mr Speaker, I take this opportunity to wish the people of the United Kingdom, the Members of this House and the people of Gibraltar many happy returns on this day. May God bless Queen Elizabeth II, her heirs, successors and subjects, and all who wish them well. Thank you Mr Speaker.

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

Mr Speaker, I would also like to express our warmest appreciation to Her Royal Highness the Princess Royal for her recent visit, and whilst the Chief Minister rightly asked her to extend her visit to Her Majesty the Queen, I in the year 2000, in a Commonwealth Parliamentary Association Plenary Conference, had the pleasure of meeting Her Majesty the Queen, and I told her in no uncertain terms that the people of Gibraltar were awaiting her visit, and I added the fact that she should do so despite the advice from the Foreign Office for her not to come because her visit would hurt the sensibility of our neighbours. I think it is about time that the Foreign Office learns a simple fact of life, that we are not out to touch the sensibilities or hurt the sensibilities of anyone but if Spain still gets annoyed, so be it. No one in the Foreign Office takes into account our sensibilities when Spain bullies, cajoles and insults us. So we must all here in Gibraltar continue to secure our future in the manner it has been mentioned in this motion, in the last paragraph, which reads, and I just want to repeat it because it is important, looks forward to the modernisation of the relationship between Gibraltar and the United Kingdom, no one else, by agreement of a new decolonising constitution providing the maximum possible level of self-government and guaranteeing exclusive British sovereignty over the whole of the territory of Gibraltar, for so long as the people of Gibraltar so wish. Thank you Mr Speaker.

**HON F R PICARDO:**

Mr Speaker, 300 years ago today, at about this time, the Anglo Dutch battle for the conquest of Gibraltar was unfolding and reaching its height. Today we commemorate that conquest by our friends in the Royal Navy and the Royal Marines, not for military pride but for all that followed from it. Essentially, that was the genesis of the Gibraltar we know today and of the Gibraltarians. The birth of an indivisible union of people and their territory. The first faltering steps of our nation. That is what we truly celebrate today, with great pride. Many years later a treaty was signed which purported to transfer sovereignty over Gibraltar to Britain. But let us make absolutely no mistake about it, title to this land is British by right of conquest and exclusively Gibraltarian by dint of modern international law.

This morning we have heard cannon ring out again over our land, but this time in a peaceful call for all hands to duty. The cannon that shot today called all foot soldiers of the Gibraltarian cause to order, and heralded a much happier event than 300 years ago. The symbolic encircling of our territory. Our territory by our people. After three hundred years of development as a people, it is right that we should express our unencumbered title to our land in that way, in a physical expression of our political aspirations. It is right that we should do that with friends from the United Kingdom. In these past 300 years, it has already been alluded to already in many of the speeches this morning, Gibraltar and the United Kingdom have fulfilled many historic assignments together. In the fourth paragraph of the motion before the House we have rightly remembered the sacrifice of previous generations of Gibraltarians who have helped establish our homeland. Those previous generations also formed the backbone of this fortress when it played its important role in events such as the taking of North Africa in the Second World War, and the sailing of the task force to the South Atlantic. But that is the story of the last 300 years.

For the future we have greater challenges facing us than perhaps ever before but that is not something which we do not

share with any other modern society. There is no doubt in my mind therefore, that we shall face off those challenges as we have seen off those of the past, with a stern resolve designed to ensure that the whole of the territory of Gibraltar remains exclusively ours. It is in that way that the next generations of Gibraltarians will carve for themselves a proud future in a Europe now, thankfully and finally, at peace with itself and in a world with security challenges, the like of which we have never seen before. All of that must be in the context of a modern decolonised partnership with Britain. A partnership of friendship, of comity and which must be one of mutual respect.

Mr Speaker, that we shall have to progress our political cause under a cloud of hostility will do absolutely nothing to deter us. In fact, the hostility that we face to our reasonable political aspirations will only steel our resolve as a people, as it has done to date. It is to all those who have played a part in the events that has led us to this day, that we pay true tribute today. Our past Elected Members, many of them in this House. Our past Governors, many of them also in this House. Our past and very present friends in the British Cabinet, and particularly to those generations of Gibraltarians, of all ethnic origins and of all religions, who have come before, thank you from the generation of Gibraltarians that will take the torch forward.

A special thank you also Mr Speaker, to you. In your speech accepting your post, you said that you would approach your role with a sense of civic duty. You defined that sense of civic duty by reference to the words of a now deceased president of the United States of America, by saying that we should ask not what Gibraltar can do for us, but what we can do for Gibraltar. You have led by example Mr Speaker. It is that spirit and sense of civic duty which will see us safely through the challenges that face our people now. All that remains for me to say, to all Gibraltarians, is to wish us all a very happy birthday and very many happy returns of the day. Long may we flourish in peace in this land of ours.

Question put.            The motion was passed unanimously.

## **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 1.20pm on Wednesday 4<sup>th</sup> August 2004.